

## STATE ELECTRICITY OMBUDSMAN

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### REPRESENTATION No: P 79/09

Appellant : M/s Freeze Engineering Industries(P) Ltd,  
XVI/1109 Fisheries Harbour , Cochin 5

Respondent: Kerala State Electricity Board  
*Represented by*  
The Assistant Executive Engineer  
Electrical Sub Division Thoppumpadi Cochin

### ORDER

M/s Freeze Engineering Industries(P) Ltd, (Consumer Number : 55620107919), Fisheries Harbour ,Cochin 5 submitted a representation on 26.5.2009 seeking the following relief :

1. *Set aside the order no: CGRF-CR/Comp.74/08-09/816/dated 11.5.2009 of CGRF Ernakulam*
2. *Direct that the complainant may be continued to be charged under LT IV Industry Category*

Counter statements of the Respondent was obtained and hearing of both the parties conducted on 4.8.2009 .

The Appellant have two electrical connections Consumer Number 7919 and 13982 under Electrical Section Thoppumpady. The connections were under LT IV Industrial tariff upto 11/2007. The tariff of these two connections were changed to LT VII A from 12/2007 in accordance with the Tariff notification dated 27.11.2007. Later KSERC in the order dated 29.8.2008 in DP 39 of 2008 clarified that all sea food processing units are to be classified under LT IV tariff and freezing/cold storage units are to be categorized under LT VII A. Accordingly Cons No: 13982 was assigned LT IV as the unit was engaged in Sea food processing activities .Cons: No: 7919 was retained under LT VII A . Aggrieved by this the Appellant approached the CGRF.

Again the KSERC in the order dated 23.4.2009 in clarification petition 1/08 on DP 39/08 clarified that if separate connection is taken for cold storage /freezing it shall be put under LT VII A. The CGRF dismissed the complaint against categorizing them under LT VII A and the Respondent is billing the above consumer under LT VII A.

The representation with the pleas noted above is submitted to the under signed in the above back ground.

The contentions/arguments/points raised by the Appellant in the representation , during the hearing and in the Argument Note are summarized below:

1. The Appellant is a private limited company engaged in sea food processing and export .The Appellant have two processing plants and cold storage attached to it in the very same compound at Fisheries Harbour Cochin and have two separate connections 7919 and 13982 .The units are in the same compound under same management with two door numbers.
2. Both the units are sea food processing units and are interconnected. The Appellant connection no: 7919 can not be treated as cold storage alone and where as it is a unit of sea food processing .
3. The cold storage alone can not be segregated on the reason that it has separate connection. In the said building also sea food processing activities are carried out. It can only be treated as a single unit for all purposes.
4. The Appellant connection 7919 can not be treated as cold storage and where as it is one unit of the sea food processing unit and processing activities are carried out in the said premises.
5. In both the units activities like procuring of raw materials washing, icing, beheading, etc up to freezing are carried out . In fact the petitioner is having the activity of sea food processing in both the premises in one compound and in two electrical connections. The Appellant can not be treated as an independent cold storage unit. All the activities of processing are done in both the units.
6. Both the units are having processing hall , freezing plant, etc and both units are sea food processing plants.
7. No material is kept or stored other than manufactured by the petitioner's own unit and is an integral part of the processing unit

The contentions/arguments/points raised by the Respondent in the counterstatement and during the hearing are summarized below:

1. Consumer no: 13982 was given for conducting sea food processing unit in the door no: 16/1109 with connected load 74.2KW which was enhanced to 80.738KW . Consumer number 7919 was existing at that time in the same compound as a an ice manufacturing SSI unit with name as Freeze Ice and the company had reported that these are two independent buildings.
2. A site inspection was carried out on 9.6.2009.During the inspection it was seen that the Appellant had altered the installations without the knowledge of KSEB in order to fabricate a favorable situation for claiming industrial tariff .The sanctioned load of 7919 originally was 75KW and this unit was functioning as a

separate SSI unit. Later the Appellant connected up 100 MT cold storage ,11 MT tunnel freezer etc to this service after demolishing the ice plant. Now the Appellant has connected one processing hall also to 7919. This processing hall was part of 13982 originally as can be seen the wiring completion documents. They have connected processing hall ,tunnel freezer no:3 , cold storage 2 nos to the consumer no: 7919.These rooms were part of 13982 originally. The premises plan with the position of all electrical equipment submitted by the company during the enhancement of connected load of 13982 would prove that these alterations have been carried out now for getting the industrial tariff.

3. The Appellant now argued that he has two sea food processing plants and cold storages attached to it in the very same premises having separate electrical connections. The installations have been changed from the premises plan and the connected load statement of consumer number 13982.
4. In the petition dated 27.11.2008 to the CGRF the Appellant himself had stated that the company has two LT connections with consumer no: 13982 and 7919 in the same compound for the processing plant and cold storage respectively. Now they have changed the argument that sea food processing activities are carried out in both the premises and the activities are interconnected. The Appellant has deliberately changed their argument to mislead this authority.
5. The claim of the Appellant that they are using the cold storages connected to 7919 exclusively for the storing of their own products is wrong. The MPEDA endorsement on the certificate of registration dated 18.8.2006 show that they had a valid agreement with M/s Baby Marine Exports for using the surplus capacity of their cold storage until 31.7.2008.This shows that they are using the cold storages connected to 7919 on commercial basis.

#### Discussion and Findings:

1. The issues to be decided in this case is whether the service connection number 7919 had been a sea food processing unit with cold storage or whether it had only cold storage/freezing plant units in it. If it had been a sea food processing unit with cold storage it would be eligible for LT IV tariff. If not it would be under LT VII.
2. A comparison of the wiring installation plans produced by the Appellant for obtaining additional load approval of the connection number 13982 and the present plans produced for this case shows that, the Appellant has connected one processing hall also to 7919. This processing hall was part of 13982 originally as can be seen the wiring completion documents. They have connected processing hall, tunnel freezer no:3 , cold storage 2 nos to the consumer no: 7919.These rooms were part of 13982 originally.
3. Subsequent to the Tariff revision in 2007 and the order of the KSERC dated 29.8.2008 the Appellant had sent one letter dated 25.11.2008 to the Assistant Engineer Thoppumpady .In the letter the Appellant said : *'We are having a processing plant and cold storage in the very same premises in a compound at*

- Fisheries Harbour Kochi and is having separate LT connection as Consumer No: 55620013982 in the name of one of its Director Hashim for the processing plant and Consumer No: 556207919 for the cold storage* .The Appellant also claimed that the processing , freezing and cold storage activity of a sea food processing unit was an integral activity which can not be segregated. They also claimed that the cold storage do not have an independent existence as it is a part of the sea food processing unit .
4. In their petition to CGRF on 27.11.2008 also the Appellant had stated ‘the petitioner is having a processing plant and cold storage in the very same compound at Fisheries Harbor Thoppumpadi Cochin and is having separate LT connection as consumer no: 55620013982 in the name of one of its Director Hashim for the processing plant and Consumer number 556207919 for the cold storage’. They stated that ‘the cold storage alone can not be segregated *on the reason that it has separate electricity connection*’. They also pointed out that the connection can not be discriminated on the reason that it is having *separate electricity connection* when the activity carried out by the petitioner is a continuous connected activity.
  5. The Respondent has pointed out that the MPEDA endorsement on the certificate of registration dated 18.8.2006 that they had a valid agreement with M/s Baby Marine Exports for using the surplus capacity of their cold storage until 31.7.2008 clearly shows that they had been using the cold storages connected to 7919 for storing the products of other manufacturers also. The Appellant contention that agreement executed with M/s Baby Marine Exports was for the purpose of MPEDA registration only and no surplus capacity had actually been hired out has not been supported by any evidence and hence cannot be accepted on its face value.
  6. The Appellant was one of the parties (serial number 6) who had submitted the clarification petition 1/08 on DP39/08 to the KSERC wherein the Petitioners had inter-alia pointed out that ‘freezing and cold storage being intrinsic and integral part of the sea food processing industry it can not be segregated on the ground that they are *having two different electric connections or it is placed in two different buildings* and two different premises’(KSERC Order). They had also argued against ‘treating *the electrical connection to the cold storage as independent* stand alone cold storage which are either situated adjacent or in the opposite side of the road and only because they are having separate door number - --- etc’. The Commission ordered on 23.4.2009 that if a separate connection is taken for the purpose of cold storage /freezing it shall be deemed to be billed under LT VII A commercial.
  7. It is interesting to note that the Appellant had put forward the contention that activities like procuring of raw materials washing, icing, beheading, etc up to freezing are carried out in Cons: No: 7919 also only after the above order dated 23.4.2009 of the KSERC. I have not come across any documents or statements dated prior to 23.4.2009 wherein the Appellant claims that such activities are carried out in the premises of Cons: No: 7919 also. Had it been the case earlier , that is, if the sea food processing activities were going on in the premises of

Cons: No: 7919 earlier, they need not have approached the KSERC with the clarification petition .

8. Under the above circumstances I am inclined to concur with the view expressed by the Respondent that the Appellant has put up this contention, now before the undersigned, only for claiming benefits of LT IV tariff form this forum. Hence having considered all aspects of the matter I conclude that the Consumer Number 7919 of the Appellant had only cold storage/freezing plant when the Tariff revision of 2007 came into effect and the action of the Respondent in having applied LT VII A tariff to the service connection is in order.
9. The Appellant *now* claims that they have sea food processing activities also in the premises of the cons: no: 7919. They have every right to commence such activities in this connection also since it is conceived as a separate 'premises' with independent door number. As per the Supply Code 2005 Amendment IV , 'premises include any land building, structure or part of it , situated in an immovable property , details of which have been *specified in the applications or agreements prescribed for grant of electric connection*'. But the company will have to stop the present practice of running both units as an 'integrated' entity and to keep the activities of both connections separate in all respects: separated functionally, electrically and both units keeping separate and independent records of all transactions. If the Appellant completes all the above formalities, obtain approval from the concerned statutory authorities and approaches the Respondent with necessary installation modification documents to the satisfaction of the respondent , the Respondent shall allocate LT IV tariff to the connection .Until then the applicable tariff shall continue to be LT VII A.
10. But as a relief to the consumers to mitigate the effect of tariff shock the respondents are directed to allow installments for the payment of arrears and interest liberally, provided they pay the regular monthly charges under the LT VII A tariff regularly

Orders:

Under the circum stances explained above and after carefully examining all the evidences, arguments and points furnished by the Appellant and Respondent on the matter, the representation is disposed off with the following orders:

1. *The arguments/claims/points raised by the Appellant in support of the reliefs sought for are devoid of merit and hence the reliefs are not allowed and the representation is dismissed*
2. *No order on costs.*

Dated this the 21st day of August 2009 ,

P.PARAMESWARAN  
Electricity Ombudsman

No P 79 /09/ 331 / dated 24.08.2009

- Forwarded to:
- 1 M/s Freeze Engineering Industries(P) Ltd,  
XVI/1109 Fisheries Harbour , Cochin 5
  2. The Assistant Executive Engineer  
Electrical Sub Division Thoppumpadi Cochin

Copy to :

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2. The Secretary ,KSE Board,  
VaidyuthiBhavanam ,Thiruvananthapuram 695004
3. The Chairman , CGRF,KSE Board ,  
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