



A consumer is the important visitor on our premises.
He is not dependent on us. We are dependent on him.

-Mahatma Gandhi

TAMIL NADU ELECTRICITY OMBUDSMAN

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Before The Tamil Nadu Electricity Ombudsman, Chennai
Present : Thiru. S. Devarajan, Electricity Ombudsman

A.P.No. 86 of 2021

Thiru S. Ganeshan,
F/o. Janani Ganeshan,
Plot 38, B-2, Elegant Enclave Annex,
III Main Road, Swaminathan Nagar,
Kottivakkam,
Chennai – 600 041.

. Appellant
(Thiru S. Ganeshan)

Vs.

The Executive Engineer/O&M/Maraimalainagar,
Chengalpet Electricity Distribution Circle,
TANGEDCO,
110 KV SS Complex, GST Road,
Maraimalai Nagar - 603209.

. . . . Respondent
(Rep. by Thiru R. Gopu, AEE/O&M/Kelambakkam,
Thiru G. Selvakumar, AE/Padur, (i/c))

Petition Received on: 24-11-2021

Date of hearing: 12-01-2022

Date of order: 28-02-2022

The Appeal Petition received on 24.11.2021 filed by Thiru S. Ganeshan, F/o. Janani Ganeshan, Plot 38, B-2, Elegant Enclave Annex, III Main Road, Swaminathan Nagar, Kottivakkam, Chennai – 600 041 was registered as Appeal Petition No. 86 of 2021. The above appeal petition came up for hearing before the Electricity Ombudsman on 12.01.2022. Upon perusing the Appeal Petition, Counter affidavit, written argument and the oral submission made on the hearing date from both the parties, the Electricity Ombudsman passes the following order.

ORDER

1. Prayer of the Appellant:

The Appellant has prayed to refund the excess amount collected in his SC No. 585-008-384.

2.0 Brief History of the case:

2.1 The Appellant has stated that he let out his flat for rent and the flat was vacated in June-July 2020 due to covid-19. During May 2021 he was shocked to note that his EB consumption bill is for Rs. 1267/-.

2.2 When the Appellant checked up with EB Officials, Padur he came to know the tariff for the flat has been revised to commercial. Thereafter he made a complaint with EB officials but they failed to give results. Hence he approached the Chengalpet EDC to refund the amount paid in excess.

2.2 The CGRF of Chengalpet EDC has issued an order dated 27.08.2021. Aggrieved over the order, the appellant has preferred this appeal petition before the Electricity Ombudsman.

3.0 Orders of the CGRF :

3.1 The CGRF of Chengalpet Electricity Distribution Circle have issued its order on 27.08.2021. The relevant portion of the order is extracted below :-

“Order: (Operative portion)

In view of findings by the forum, it is decided that the existing tariff change from IA to V on March 2020 by the licensee on site inspection is correct in LT SC No. 585-008-384, and hence the petition closed. No costs.”

4.0 Hearing held by the Electricity Ombudsman:

4.1 To enable the Appellant and the Respondent to put forth their arguments, a hearing was conducted on 12.01.2022 through video conferencing.

4.2 The Appellant Thiru S. Ganeshan has attended the hearing and put forth

his arguments.

4.3 On behalf of the respondent Thiru R. Gopu, AEE/O&M/Kelambakkam and Thiru G. Selvakumar, AE/Padur, (i/c) of Chengalpet Electricity Distribution Circle have attended the hearing and put forth their arguments.

4.4 As the Electricity Ombudsman is the appellate authority, only the prayers which were submitted before the CGRF are considered for issuing order. Further the prayer which requires relief under the Regulations for CGRF and Electricity Ombudsman, 2004 alone are discussed hereunder.

5.0 Arguments of the Appellant :

5.1 The Appellant has stated that he is the father of Ms. Janani Ganeshan, owner of the residential apartment C-501, Radiance Shine, Kazhipattur OMR, Chennai - 603103 from 2015. They let out the flat for rent for four bachelor employees of few IT firms in SIPCOT complex. Tenants self-cook, stay and share the rent and maintenance charges.

5.2 The flat was vacated in June-July 2020 due to covid- 19 outbreak and is kept vacant till now. During the month of May 2021, the Appellant had noticed that his EB CC charge of Rs.1267/- for the flat with nil consumption of electricity. This has been repeated even for several months from August 2020. When checked up with the Padur EB Officials, understood that the EB tariff for the flat has been revised to commercial since March 2020. He stated that they also showed him a letter reportedly signed by his daughter in Tamil requesting the EB to revise the tariff to commercial. It was also told that they had verified at the complex on the inmates and then only revised the tariff.

5.3 The Appellant has stated that his representation dated 04.05.2021, 06.07.2021 and 18.07.2021 with EB officials failed to give any result and the appellant preferred complaint before the Consumer Grievances Redressal Forum, Chengalpet EDC seeking Justice in his case and a refund of the amount paid in excess based on the commercial tariff.

5.4 The Appellant has stated that in the CGRF order that 5 boys were staying and hence revision of tariff from domestic IA to commercial tariff V is carried out. This was also informed to the tenants is false in the absence of any recorded evidence / proof (letter in writing from EB, to whom that was given etc). Further, the flat owner's present address is not known is unacceptable. The email-id, address, mobile number-etc--all are available in their database. They can very easily hand over / post a letter of communication in the box at the complex.

5.5 The Appellant has requested that the boys who were staying in his flat were using the flat only for residential purpose. No commercial activity has been carried out either in the past or now. Hence, the change of tariff to commercial unilaterally without any prior/post information/confirmation to us is against the consumer. This revision of tariff though rectified now should not be repeated any time to any consumer in future.

5.6 The Appellant has requested that the total calculated excess amount paid by the appellant dated 18.07.2021 works out to Rs.11,199/-. This along with the latest payment of Rs.441/- totals to Rs 11,640/-. This amount of Rs.11,640/- is to be refunded to the appellant.

5.7 The Appellant has requested that the tariff revision from commercial to domestic has been carried out for all the months starting from April 2020 to June 2021 in the database. However, the excess amount paid according to this is to be refunded to him.

6.0 Arguments of the Respondent:

6.1 Radiance Shine Apartments, OMR கழிப்பட்டுர் என்ற முகவரியில் உள்ள மின் இணைப்பு எண் 585-008-384-இல் கடந்த மார்ச் 2020இல் வீட்டு உபயோகத்தில் இருந்து வணிக பயன்பாடாக மின் இணைப்பு வீதப்பட்டி மாற்றம் அங்கீகரிக்கப்படாமல் செய்யப்பட்டுள்ளதாகவும், அவற்றை வீட்டு உபயோகத்திற்கு மாற்றும்படியும், வணிக வீதப்பட்டியில் பெறப்பட்ட தொகையை திரும்ப வழங்குமாறும் 06.07.2021 அன்று நுகர்வோர் குறைதீர்க்கும் மன்றத்தில் மனுதாரர் முறையீடு

செய்ததாக எதிர்மனுதாரர் தெரிவித்துள்ளார்.

6.2 அதன் பேரில், 13.08.2021 அன்று நுகர்வோர் குறைதீர்க்கும் கூட்டம் நடைபெற்று இரு தரப்பு வாதங்கள் கேட்டறிந்ததில் உதவி செயற்பொறியாளர்/இ&ப/கேளம்பாக்கம் அவர்கள் அம்மின் இணைப்பு உள்ள வீட்டில் ஆய்வு மேற்கொள்ளப்பட்டதில், மின் இணைப்பானது வீட்டு பயன்பாட்டில் இல்லை எனவும், வெளி வேலைக்கு செல்லும் நபர்கள் சேர்ந்து தங்கி விடுதி போல வணிக பயன்பாட்டிற்கு உபயோகித்து வருவதாகவும், மேற்படி வீட்டில் உள்ள மின்இணைப்பின் வீதப்பட்டியானது வீட்டு வீதப்பட்டியிலிருந்து வணிக வீதப்பட்டியாக மாற்றம் செய்வது குறித்து தெரிவிக்க மின் இணைப்பு உரிமையாளர் அவ்விடத்தில் இல்லை எனவும், அவரை தொடர்புகொள்ள தொலைபேசி எண்ணும் இல்லாத காரணத்தால் அங்கு தங்கியுள்ள வாடகைதாரரிடம் தெரிவிக்கப்பட்டு கடந்த 04.03.2020 அன்று மாற்றம் செய்யப்பட்டதாக எதிர்மனுதாரர் தெரிவித்துள்ளார்.

6.3 அதன்பின் வீடு உபயோகத்தில் இல்லை என நுகர்வோர் குறைதீர்க்கும் மன்ற மனுவில் தெரிவித்ததை தொடர்ந்து மின் இணைப்பானது வணிக வீதப்பட்டியிலிருந்து வீட்டு வீதப்பட்டியாக கடந்த 06.07.2021 அன்று மாற்றம் செய்யப்பட்டதாக தெரிவித்துள்ளார்.

7.0 Findings of the Electricity Ombudsman:

7.1 I have heard the arguments of both the appellant and the Respondent. Based on the arguments and the documents submitted by them the following conclusion is arrived.

7.2 The Appellant in his argument has stated that they let out the flat for rent for four bachelor employees of few IT firms in SIPCOT complex. Tenants self-cook, stay and share the rent and maintenance charges. The flat was vacated in June-July 2020 due to covid- 19 outbreak and is kept vacant till now. During the month of May 2021, the Appellant had noticed that his EB CC charge of Rs.1267/- for the flat with nil consumption of electricity. When checked up with the Padur EB Officials it is found that the EB tariff for the flat

has been revised to commercial since March 2020 without any intimation to the consumer.

7.3 The Appellant has stated that the boys who were staying in his flat used the flat only for residential purpose. No commercial activity has been carried out either in the past or now. The Appellant has requested tariff revision from commercial to domestic has been carried out for all the months starting from April 2020 to June 2021 and also requested for refund of Rs.11,640/- including Rs.442/- paid on 10.11.2021.

7.4 The respondent in his argument has stated the premises connected with the SC No.585-008-384 is not utilized for domestic purpose and has been used a hostel where 5 boys are staying without family. After inspection, the SC was tariff changed from LT Tariff IA to V from March'2020 and the same was informed to the tenants.

7.5 The CGRF of Chenglepet EDC in their findings have concluded that tariff change from IA to V on March'2020 by the licensee on site inspection is correct, since the utilization of energy is not used for domestic purpose and quoted clause 2.2.2.1(a) of the TNERC's tariff order No.1 of 2017, dated 11.08.2017.

7.6 As the matter relates to the applicability of the tariff IA, I would like to refer Tariff order No. 1 of 2017, dt. 11.08.2017. The relevant clause 2.2.2.1 of the said tariff order is extracted below:

“ 2.2.2.1 This tariff is applicable to the following:

(a) Domestic/Residential purposes of lights, fans, Air conditioners, radio/TV and all other home appliances.

7.7 On a plain reading of the said clause 2.2.2.1 of the tariff order No.1 of 2017 dt.11.08.2017, which is relevant to this case, it is noted that tariff IA is applicable to domestic purpose of lights, fans, air conditioners, including radio/TVs and all other home appliances. Further, as per clause 2.2.13, it is noted that the tariff V

is applicable to consumers not categorized under LT IA, IB, IC, IIB(1), IIB(2), IIC, IIIA(1), IIIA(2), IIIB, and IV.

7.8 The appellant has stated that the tenants self-cook, stay and share the rent and maintenance charges and utilized the flat only for residential purpose and no commercial activity is carried out. On the other hand, the argument of the respondent is that the flat is occupied by 5 different individuals as hostel and hence categorized the said service connection under LT Tariff V. In this regard, in order to have more clarity, I would like to refer Commission's view on objections / comments / suggestions furnished in Tariff order No.1 of 2012, dated 30.03.2012. Against tariff categorization, the Commission's view was furnished in para 2.1.478 to 2.1.483 of the tariff order. Among the above, the para 2.1.479 deals with commercial tariff. The same is reproduced below:

"Tariff categorization:

2.1.478 Tariff categorization is dealt with in detail within the tariff schedule.

2.1.479 In this context, quite a few consumers have been representing before the Commission during the Public Hearings, stating that they are not undertaking any "commercial" activity or activities for making "profit" within their premises, and hence, they should not be classified under the "commercial" category. It is clarified that the Commercial category actually refers to all "non-residential, non-industrial" purpose, or which has not been classified under any other specific category. For instance, all office establishments (whether Government or private), hospitals, educational institutions, airports, bus-stands, multiplexes, shopping malls, small and big stores, automobile showrooms, etc., are all covered under this categorization, since they cannot be termed as residential or industrial ."

7.9 On a careful reading of the above, it is noted that the Commission has clarified that the commercial category actually refers to all non residential, non industrial purposes or which has not been classified under any other specific category. All office establishment (whether Govt. or private) hospitals, educational institutions, airports, bus stands, multiplex , shopping malls, small and big stores, automobile show room etc., are all covered under commercial category, since they cannot be termed as residential or industrial.

7.10 In the case on hand, it is noted that the flat which are having kitchen, hall and bedroom with bathroom was rented to four individuals on a monthly rental

basis for a lease period of 11 months and electricity charges are paid by the tenants, based on the given documents. Whereas in hostel/Mansion, the rent and other charges paid by each individual and electricity charges are not directly paid by the individual. In the present case, the flat was utilized by the individuals only for the residential purpose and hence could not be categorized as non residential or non industrial so as to treat them as commercial service.

7.11 In view of the above position, the contention of the respondent that the SC No.585-008-384 was to be charged under tariff V for the period from 04/2020 to 07/2021 is not acceptable. Therefore, the respondent is directed to refund the excess charges collected on account of tariff change from 04/2020 to 07/2021. The appellant has requested refund for an amount of Rs.11,640/- including Rs.442/- for the assessment period 08/2021. As there is no consumption recorded for 08/2021, the fixed charges for the period upto tariff change doesn't arise and hence the entire amount of Rs.11,640/- has to be refunded to the appellant.

7.12 Further, as per regulation 9 (2) of TNE supply code, whenever a tariff change is to be effected in a service connection, such change shall be effected only after obtaining a Revised Test Report (RTR) and the reading taken shall be conclusive proof of the electricity consumed till the change of tariff. In the present case, the respondent has not followed the procedure in getting RTR from the consumer as laid down in regulation 9(2) of TNE supply code when effected tariff change for the appellant's service connection which is not in order.

8.0 Conclusion:

8.1 In view of my findings in Para 7 above, I am of the view that the contention of the respondent that the SC No.585-008-384 was to be charged under tariff V for the period from 04/2020 to 07/2021 is not acceptable. Therefore, the respondent is directed to refund the excess charges collected on account of tariff change from 04/2020 to 07/2021. The appellant has prayed refund for an amount of Rs.11,640/- including Rs.442/- for the assessment period 08/2021. As there is no consumption recorded for

08/2021, the fixed charges for the period upto tariff change doesn't arise and hence the entire amount of Rs.11,640/- has to be refunded to the appellant. 30.11.2019 is quashed. Further, the respondent is directed to refund the excess amount paid by the appellant on account of alleged tariff change within 30 days from the date of receipt of this order.

8.2 A compliance report in this regard shall be furnished within 45 days from the date of receipt of this order.

8.3 With the above findings the AP. No.86 of 2021 is finally disposed of by the Electricity Ombudsman. No Costs.

(S. Devarajan)
Electricity Ombudsman

“நுகர்வோர் இல்லையேல், நிறுவனம் இல்லை”
“No Consumer, No Utility”

To

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