



GOVERNMENT OF KERALA

Abstract

Power Department - Judgement 08/06/2022 of the Hon'ble High Court of Kerala in I.A.No.1/2022 in WP(C)No.20741/2021 filed by Sri. K.S. Joseph, Managing Partner, Friends Electro Colouring - Complied with – Orders Issued

POWER (A) DEPARTMENT

G.O.(Rt)No.44/2024/POWER Dated,Thiruvananthapuram, 12-03-2024

- Read 1 GO(Ms) No. 27/2018/DMD dated 17.12.2018
- 2 G.O(Rt)No.67/2020/PD dated 01/06/2020
- 3 G.O(Rt)No.84/2021/PD dated 28/06/2021
- 4 GO(Rt) No. 666/2021/ID dated 30.06.2021
- 5 Representation dated 27/07/2022 from the Managing Partner, Friends Electro Colouring (Ext.P6).
Judgement dated 08/06/2022 of the Hon'ble High Court of Kerala in
- 6 I.A.No.1/2022 inWP(C)No.20741/2021 filed by Sri. K.S. Joseph, Managing Partner, Friends Electro Colouring.
- 7 Letter No.SOR/HTB.26/6716/2022-23/52 dated 23/08/2022 from the Deputy Secretary (Admn.), KSEBL.

ORDER

The Hon'ble High Court of Kerala as per the judgement read as 6th paper above in I.A.No.1/2022 in WP(C)No.20741/2021 filed by Sri. K.S. Joseph, Managing Partner, Friends Electro Colouring, has directed the additional 4th respondent (Principal Secretary, Power Department) to consider Ext.P6 representation pending before the said respondent, as expeditiously as possible, at any rate, within a period of two months from the date of receipt of a copy of the order. In the said IA No.1/2022 in WP(C) 20741/2021 the Principal Secretary, Power Department is arrayed as 4th Respondent. The Ext-P6 is the representation submitted before the State Govt by the petitioner, seeking waiver of fixed charges from April 2020 to August,2021, interest portion of bills and adjustment of arrears to security deposit and reduction in the current CD by half for their business closed down due to pandemic.

(2) A hearing of representatives of the petitioners as well as the officers concerned of KSEB Ltd. was conducted on 27/09/2022 by Joint Secretary, Power Department as authorized by the Principal Secretary, Power Department. During the hearing representatives of Petitioner Organisation informed that their business relates to job works in aluminum powder coating and electrocolouring and wood lamination. They have been in this business since 2010 and have been HT Consumers since 2014 having HT Connection No.26/6716.

(3) Petitioners also submitted that there has been no default prior to Covid ie from March 2020 onwards. On account of pandemic induced State declared lock down measures brought into operation, whereby no business activities were permitted to be conducted, they became entitled to the benefit under Regulation 60 of Kerala Electricity Supply Code, 2014 which reads as follows,

"Failure of the applicant to avail supply due to reasons beyond his control.- If the applicant fails to avail supply due to reasons beyond his control such as natural calamity, order of a Court or of any other competent authority, public resistant and change in Law, the applicant shall not be liable to pay any compensation or charges to the licensee on account of such failure to avail supply of electricity"

(4) Petitioners submitted that Covid-19 being a natural calamity, failure to avail supply ensues. Therefore, benefit of Regulation 60 must be available to them. Petitioners also submitted that the closure of their business due to mounting debts and to revise the claim of the KSEBL in order to grant benefit to them.

(5) Representatives from KSEBL, said that M/s Friends Electro Colourings an H.T I A consumer in Thiruvilwamala Electrical Section under Electrical Circle Thrissur with a contract demand of 175 KVA and connected load of 243.69 KW. As per the HT agreement executed by the consumer, KSEBL is empowered to collect demand charges and other eligible charges from the consumer. Also it is informed that as per Govt. decision, KSEBL has allowed rebate in MD charges to the consumers vide Board orders No.B.O(FTD) No.363/2020/KSEB/TRAC-D/Covid Pandemic-Tariff concession/2020-21 dated 30/05/2020 & B.O(FTD)No.511/2021(KSEB/TRAC-D/Covid Pandemic-Tariff Concession/2021-22 dated 02/07/2021.

(6) Due to Covid 19 pandemic and financial crisis, KSEBL neither demanded additional cash deposit nor refunded excess cash deposit for the financial year 2020-21. But had given the interest on Cash deposit to the consumers. This consumer has defaulted the current charges from 04/2020 onward.

(7) As per G.O read as 2nd paper above KSEBL vide B.O(FTD) No.363/2020/KSEB/TRAC-D/Covid Pandemic-Tariff concession/2020-21 dated 30/05/2020 allowed a rebate of 25% of demand charges for the month of March, April and May 2020 and to defer the payment of balance demand charges (75%) of these months up to 15/12/2020 without levying interest during the deferred period. The rebate amount of Rs.33,406/- and interest of Rs.30,519/- on cash deposit (FY 2019-20) is deducted from the bill of 07/2020.

(8) KSEBL also informed that upon the request of the consumer on 4/01/2021, four (4) installments allowed against which this consumer remitted only the 1st installment of Rs.161372/- on 27/1/2021 and then defaulted the installment schedule.

(9) As per G.O read as 3rd paper above KSEBL vide B.O(FTD)No. 511/2021(KSEB/TRAC-D/Covid Pandemic-Tariff Concession/2021-22 dated 02/07/2021 allowed a rebate of 25% on demand charges for the month of May 2021 and allowed to remit the balance dues for May 2021 without interest up to 30/09/21. Thus rebate amount of Rs.11135/- is deducted from the bill for 06/2021 & an interest of Rs.21243/- on cash deposit (FY 2020-21) is deducted in the bill for 07/2021.

(10) KSEBL informed that again their arrears as on 4/2022 amounting to Rs.12,05,527/- was converted into 12 equal monthly installments as per the

order of the Hon'ble High Court on WP(C)No.20741/2021 dated 8/6/2022 and the service connection was reconnected after the payment of first installment. The Hon'ble High Court had directed the consumer to remit the regular current charges along with the aforesaid installments. Since the consumer had failed to remit the second installment the installment facility was cancelled and now the consumer has arrears of Rs.13,34,119/-(Principal amount only) as on 19/08/2022. Also upon the request of the consumer the service connection to the premises was disconnected on 27/7/2022. In this request they have mentioned that they had given a representation before Government of Kerala to waive fixed charges and interest portion of bills from April 2020 to August 2021. Moreover the consumer requested KSEBL to write off the fixed charges at the time of disconnection period.

(11) KSEBL pointed that Regulation 141 of the Kerala Electricity Supply Code 2014 states that the consumer is liable to pay the charges if any as approved by the Commission during the period of disconnection. Moreover clause 16(b) of the Model agreement for the supply of Energy [HT & EHT] also states that in any event the consumer shall be bound to pay to the licensee a fixed minimum charge as approved by the KSERC, irrespective of the question as to whether any energy has been consumed or not, whatever be the reason for non consumption and also irrespective of the actual energy consumed.

(12) The representatives of KSEBL also pointed out that the request of Petitioner to revise the bill in accordance with the Regulation 60 of the Kerala State Electricity Supply Code 2014, is not applicable to the petitioner as the said regulation is relevant in the case of an applicant who fail to take supply pursuant to Regulation 59 of the Kerala State Electricity Supply Code 2014. But in this case the petitioner is a consumer, not an applicant.

(13) Finally KSEBL also mentioned that any relaxation in the prevailing tariff can only be given invoking Section 65 of EA-2003. As per Section 65 of EA-2003 the State Govt. can provide tariff subsidy to any class of consumers on the tariff approved by the State Commission and only if the State Govt. provides the revenue shortfall on account as advance cash subsidy. They also pointed that considering the grave financial burden being under gone by the KSEBL it is very difficult to extend further concessions to any customer category.

(14) The details of the concessions provided to other Departments during the period of pandemic was also taken into consideration. As per GO read as 4th paper above a scheme called COVID-19 Samashwasa Padhathi was announced by Industries Department. Under this scheme, 50% interest subvention for a period of 12 months was provided to MSMEs availing institutional finance. Assistance under Entrepreneur Support Scheme was increased to various categories. KSIDC had announced various concessions to its consumers who have availed loans and were struggling to repay it due to the covid pandemic. KINFRA has freezed the cost of land in its industrial parks at the rate that prevailed in March 2020.

(15) As per G.O read as 1st paper above Disaster Management Department has announced a number of schemes for the benefit of persons affected by the devastating flood in 2018. Under this interest subvention was awarded to persons who wish to re-start their activities for earning their livelihood.

(16) KSEBL has informed in several situations that it is not in a position to provide any more concessions.

(17) On the basis of careful examination of all the elements involved in the

case, the request made by the Managing Partner, Friends Electro Colouring in his representation (Ext P16) read as 5th paper above is hereby rejected and the judgement read as 6th paper above of the Hon'ble High Court of Kerala in I.A.No.1/2022 in WP(C) No.20741/2021 filed by Friends Electro Colouring is complied with accordingly.

(By order of the Governor)
K R JYOTHILAL
ADDITIONAL CHIEF SECRETARY

To:

The Advocate General, Hon'ble High Court of Kerala, Ernakulam (with C/L) .
The Secretary, KSEB Ltd, Vidyuthi Bhavanam, Pattom, Thiruvananthapuram.
The Managing Partner, Friends Electro Colouring, IV/167,Kaniyarkode (P.O),
Thiruvilwamla,Thrissur-680594
The Principal Accountant General (Audit), Kerala, Thiruvananthapuram.
The Accountant General (A&E), Kerala, Thiruvananthapuram.
Information & Public Relations (Web & New Media) Department.
Stock File/Office Copy.

Forwarded /By order

Section Officer