

BEFORE THE ELECTRICITY OMBUDSMAN

9/2, 6th Floor, Mahalakshmi Chambers, M.G Road, Bangalore – 560 001

**Present: B.N.Krishnaiah
Electricity Ombudsman**

Case No.OMB/H/G-115/2011

Dated : 21-10-2016

Between :

1. Dr.V.M.Kerudi
S/o late Malleshappa,
Aged about 74 years,
Kerudi Complex, Ashok Circle,
Ranebennur – 581 115
Haveri District

2. Sri S.V.Kerudi,
S/o V.M.Kerudi,
Aged about 39 years, Kerudi Complex,
Ashok Circle, Ranebennur – 581 115
Haveri District

... Appellants

(Party in person)

- Vs -

1. Assistant Executive Engineer,
O & M sub-division, HESCOM
Ranebennur, Haveri District

2. Consumer Grievances Redressal Forum,
HESCOM, Tabib Land, Hubballi
By its Chairman

... Respondents

(R-1 by Sri H.V.Devaraj, Advocate)

1. This case is taken up again by this Authority as per directions of the Hon'ble High Court issued in their order dated 21.04.2016 in W.P.27065-66/2012 (GM-KEB) filed by Dr. V.M.Kerudi and Mr.S.V.Kerudi of Bangalore against the order of the Ombudsman dated 19.12.2011. As directed by the Hon'ble High Court the appellant Dr V.M.Kerudi appeared in person on 12.05.2016 before this Authority. The facts of the case is as follows :

(a) Dr.V.M.Kerudi and Sri S.V.Kerudi had filed an appeal before the Ombudsman against the order of the CGRF, Hubli, dated 04.05.2011. After detailed enquiry the Electricity Ombudsman vide order dated 19.12.2011 upheld the order of CGRF and dismissed the appeal. Aggrieved by this Dr.V.M.Kerudi and Sri S.V.Kerudi approached the Hon'ble High Court in W.P.27065-66 of 2012 (GM-KEB). The Hon'ble High Court in their order dated 21.04.2016 have ordered vide para 7,8 and 9 as follows :

"7. I have heard the party in person appearing for the petitioners and Mr.Kamate, learned Counsel appearing for the respondents and perused the orders under challenge.

8. The issue that was raised for consideration by the Appellate Authority – Electricity Ombudsman was `whether the respondent – Assistant Executive Engineer, HESCOM, Ranebennur, had levied and collected excess amount from the appellant while sanctioned power at various points of time'?

9.The Appellate Authority has not applied its mind to the official memorandum dated 08.05.2002 vide Annexure F, whereunder the

specified load of one of the buildings had been enhanced from 14 KW to 21 KW. It has not applied its mind to the fact that as per Clause 3.1.7(c), as long as the requested additional load is within the specified load already sanctioned load already sanctioned to the installation, then as per ES & D 2001-01, if the applicant had already remitted the cost of service line at the rates prevailing on the date, there would be no necessity of collecting service line cost for the additional load. Petitioner is fortified in this contention by the internal communication of the General manager addressed to the Superintending Engineer on 25.08.2008 produced at Annexure-M, wherein reference has been made to the provisions contained in Clause 3.17(c). According to the petitioner, if his contentions are accepted, then there would be no necessity at all to collect augmentation and other charges of Rs.1,17,000/- towards supply of 18 KW of additional load during the year 2008 and another sum of Rs.1,17,000/- towards supply of additional load to the third floor during the year 2009. This aspect of the matter has to be re-considered by the Appellate Authority”.

2. As ordered by the Hon'ble High Court one of the appellant Dr.V.M.Kerudi appeared in person on 12.05.2016 and filed the appeal memo along with documents. On behalf of the Respondent Sri H.V.Devaraj, Advocate, has filed the vakalath. The case was taken up for further enquiry on different dates.

3. The appellant Sri V.M.Kerudi appeared in person on 12.05.2016 and has submitted written arguments - orally reiterated the same and submitted to consider his plea.

4. The case was taken up for enquiry on different dates. During the enquiry, the appellant has filed his points of arguments in writing along with copies of relevant rules and calculation sheets in support of his stand. It is as follows :

- (a) The Chief Engineer, Hubli, HESCOM, and Ombudsman have not dealt the case as per rules and have failed to deliver the justice;
- (b) The main complaint is regarding augmentation charges which was collected against the Board Regulations, while sanctioning additional loads each time;
- (c) To observe KEB, original order and letters documents dated 23.08.2000, 21.10.2000, 08.05.2002, 05.08.2002, 30.03.2007 and 23.04.2007;
- (d) Under this documents the specified load sanctioned was 28 KW later enhanced on 08. 05.2002 to 35 KW load to 1st floor B Block old premises under regulation rules dated 04.11.1998 rule 9.00 – 9.02 a+b note & 9.03 B note. The calculation of augmentation ask to follow only Circular dated 18.11.1998 rule 9.04 para 8a & 9. The authority sanctioned the power to individual separate owners of the building situated in the 1st floor D Block premises with separate meters and ask to collect the amount separately to the meter No.RR No.11550 14 KW commercial and RR No.13824 & 2867/A 21 KW commercial. While collecting augmentation charges they clubbed load under 8b as 14+14 = 28 and collected Rs.28750 but later for the enhanced load i.e. 35 KW the officer never collected any amount till today. Asper the Circular dated 18.11.1998 they have to collect charges under 8A and 9 only.

Rule 9 says augmentation shall be collected as per installationwise while sanctioning the power;

(e) During 2008 in the same D Block premises in the 2nd floor 18 KW additional load was asked to sanction under regulation rules dated 12.01.2006 and under 3.17C dated 21.05.2008. The Managing Director, Hubli, on detailed enquiry issued orders dated 03.12.2008 considering D Block as separate one applying the amended regulation rules 3.15 & 3.15 note 4 and sanctioned the load. But due to non-availability of the original competent authority orders issued on 25.10.2000 under which 1st floor D Block was considered a separate one with sanctioning specified load 35 KW under ES & D code 2000-01, and collected augmentation charges Rs.28,750/- as per that day rules with allowing existing load 10 KW. This report was not submitted intentionally during dated 21.07.2008. Due to this error Managing Director, HESCOM, asked to collect augmentation charges under 3.17 only as $\text{Rs.}6500 \times 18 = 1,17,000/-$.

(f) Previously sanctioned specified load was 35 KW in the first floor of D Block premises with allowing existing load 10 KW and additional load 18 KW was asked in the second floor D Block premises which was sanctioned on 03.12.2008. Total load is $10 + 18 = 28$ KW which is less than the sanctioned specified load 35 KW. Therefore as per the amended rules dated 12.01.2006 under 3.17C the Department cannot collect service line charges for the sanctioned additional load. In this respect, Managing Director, HESCOM, dated 25.09.2008 clarified to the respondent letter dated 01.09.2008 that in similar cases follow only amended rules 3.17C and not to collect service charges. Here the total

load is 28 KW and sanctioned load is 35 KW and therefore the appellant's claim under rule 3.17C is regular. During 2009 respondent was knowing that D Block premises was considered previously a separate one while sanctioning additional loads during 25.10.2000 and 03.12.2008.

(g) Respondent himself submitted a report to the higher authority dated 01.08.2009 stating that D Block is already considered a separate premises. Till then while sanctioning additional 10 KW load to the 3rd floor same D Block premises he had issued following irregular order against the Board Rule.

- 10 KW additional load sanctioned to 3rd floor D Block premises on 12.11.2009.
- 4 KW additional load sanctioned to the 1st floor old D Block premises previously was asked to reduce and it was sanctioned on 12.11.2009 i.e. 10 minus 4 = 6 KW.

Respondent should have considered to collect the augmentation charges as per Board rules for 6 KW additional load. Instead of this respondent calculated as stated below.

6KW 3rd floor D Block premises for this respondent clubbed 3 KW additional load of different owners block premises called C Block which is a separate premises from the beginning separate meter not attached to the D Block or no common stair case or no common passage or not interconnected between C & D Block. This is the separate Block built up area is 346 sq. mtrs less than 500 sq. mtrs. As per respondent report

dated 21.07.2008 and existing load 6 KW + 3 KW additional load = 9 KW. Less than 25 KW.

(h) As per the Board rules 3.15 Note 4 clubbing of above blocked is against the rule but the respondent calculated as $6+3 = 9$ for this 9 KW Rs.13000 per KW and collected augmentation charges against the rule.

(i) D Block is a separate one for which already existing load in the first floor is 10 KW and sanctioned existing load in the 2nd floor is 18 KW and now additional load sanctioned in the 3rd floor is 10 KW. Total load was $10+18+10 = 38$ KW in this respondent reduced 4 KW sanctioned load on 12.11.2009 i.e. $38 - 4 = 34$ KW which is less than the previous sanctioned specified load 35 KW. Therefore under the rule 3.17 C dated 12.01.2006 no service line cost shall be collected for the sanctioned additional load.

Further, during the of enquiry the Appellant has submitted his further requests, memo of calculation, with copies of letters, regulations issued by the KERC. His ultimate claim and the prayer is to consider the D Block premises as a separate unit, and calculate the relevant charges for augmentation keeping in mind the sanctioned load of 35 KW.

Contentions of the Respondent

5. The Advocate for Respondent Sri H.V.Devaraju has submitted a detailed written reply and has prayed to set aside the plea of the Appellant . It is as follows :

(a) The appellant is the owner of the complex situated at Ranebennur, Haveri District, having five blocks and B, C, D and E blocks are

interconnected and A-Block is separate unit and all the Blocks have a common entrance and exit, even in accordance with sanctioned plan and thereby availed number of installations earlier to 06.10.1995 and the same are as follows:

- i. The sanctioned load of 7 KW for the Installation bearing R.R. AEH 366, serviced to the ground floor and first floor constructed area of 211.32 square meters in the `A` Block;
- ii. The sanctioned load of 3 KW for the installation bearing RR No.AEH 534 serviced to the ground floor constructed area of 96.33 square meters in the `B` Block ;
- iii. The sanctioned load of 3 KW for the installation bearing R.R.No. AEH 533, serviced to the first floor constructed area of 96.33 square metres in the `B` Block ;
- iv. Sanctioned load of 3 KW for the installation bearing R.R.No.AEH 195, serviced to the ground floor constructed area of 85 square meters in the `C` Block ;
- v. Sanctioned load of 3 KW for the installation bearing RR No.AEH 1706 serviced to the first floor constructed area of 85 square meters in the `C` Block ;
- vi. Sanctioned load of 4 KW for the installation bearing R.R.No.8650, serviced to the ground floor for the commercial purpose to the constructed area of 293.80 square meters in the `D` Block ;

- vii. Sanctioned load of 3 KW for the installation bearing RR No.AEH 1602, and sanctioned load of 3 KW for the installation bearing RR No. AEH 1603 serviced to the ground floor constructed area of 175.15 square meters in the `D` Block ;
- viii. Sanctioned load of 0.22 KW for the installation bearing RR No.9269 and sanctioned load of 0.22 KW for the installation bearing Rr No.9270 serviced to the ground floor for commercial purpose to the constructed area of 36.52 square meters in the `E` Block;

Thus, the commercial constructed area of 330.32 square meters in the `D` Block to an extent of 293.80 square meters and `E` Block to an extent of 36.52 square meters. The residential constructed area of 759.98 square meters in the A, B, C and D as stated above.

(b) When the matter stood thus, the appellant has constructed 50.03 square meters in the 1st floor of `E` Block, the specified load of 2.50 KW and however, the appellant was seeking sanction load of 0.52 KW on 28.10.1996 and while sanctioning the required load of 0.52 KW as per the Regulation 9.02 of amended regulation provides, the sub-divisional officer required to assess for domestic installation and commercial installation separately and added and as per the Regulation 9.03, the specified load of the premises in case of existing building, which is already having power supply and coming under the purview of this Regulation and when additional/fresh power supply is applied for either to the existing building or addition to the existing building, the existing sanctioned load or the assessed load of the existing Building including that required for the new extension whichever is higher and

Note (2) Regulation 9.03 provides that in case the sanctioned Plan indicates two or more multistoried Buildings in the same premises, they shall be clubbed together to assess the specified load. The five Blocks situated within one premises and the same have been shown in the sanctioned plan and therefore, they shall be clubbed together to assess the specified load and if the same was applied to assess the specified it would be the specified load of 64.73 KW as follows :

- i. Existing specified load for domestic purpose is 37.46 KW + the specified load is 2.5 KW to the 1st floor of the 'E' Block and thus, the total specified load is 39.96 KW ;
 - ii. The existing specified load for commercial purpose is 24.77 KW. and thus, the total specified load is 64.73 KW and therefore, as per the Regulation 9.05 Note (b) provides the payment of augmentation charges at Rs.2,500-00 per KW in excess of the existing sanctioned load shall be payable by the consumer. In the present case, the appellant is required to pay the augmentation charges to the specified load of 2.5 (3) which is sanctioned load x 2,500-00 = Rs,7,500-00 and wherein, the sanctioning authority by oversight has not collected and however, the installation bearing RR No.11034 as required load of 0.52 was serviced on 06.12.1996;
- (c) The appellant has constructed an area of 185.39 square meters in the 1st floor of 'D' Block and specified load of 14 KW and however, the appellant was seeking sanctioned load of 1.5 KW for commercial purpose vide his application dated 19.12.1997, while sanctioning the required load and the same has been considered as 2 KW. As per Regulation 9.02, the sub-divisional officer required to assess for

domestic installation and for commercial installation separately and added as per the Regulation 9.03, the specified load of the premises in case of existing building, which is already having power supply and coming under the purview of this Regulation and when additional fresh power supply is applied for either to the existing building or addition to the existing building, the existing sanctioned load or the assessed load of the existing building including that required for the new extension whichever is higher and Note 2 of Regulation 9.03 provides that in case the sanctioned plan indicates also if two or more multistoried buildings in the same premises, they shall be clubbed together to assess the specified load. The five Blocks situated within one premises and the same have been shown in the sanctioned plan and therefore, they shall be clubbed together to assess the specified load and the total specified load would be 78.73 KW as follows :

- i. The existing specified load for domestic purpose is 39.96 KW
- ii. The existing specified load for commercial purpose is 24.77 KW + the proposed specified load is 14 KW = 38.77 KW for commercial purpose.

and thus the total specified load is 78.73 KW as per the Regulation 9.05 Note (b) provides the payment of augmentation charges at Rs.2,500-00 per KW in excess of the existing sanctioned load shall be payable by the consumer. In the present case the applicant is required to pay the augmentation charges to the specified load of 14 KW x Rs.2,500 = Rs.35,000-00 and wherein, the sanctioning authority by oversight has not collected and however the same has been serviced the installation bearing RR No.11550 as required load of 2 KW serviced on 18.01.1998.

(d) The installation serviced prior to 25.08.2005 in respect of the Blocks A to E is as follows :

`A' Block Existing installation bearing R.R. No.AEH 366 to an extent of sanctioned load of 7 KW in respect of ground and first floor for domestic, built up area 211.32 sq. meters.

`B' Block Ground Floor existing installation bearing RR No.AEH 533 to an extent of sanctioned load of 3 KW, for domestic, built up area 96.33 sq. meters.

First floor existing installation bearing Rr No.AEH 534 to an extent of sanctioned load of 3 KW, for domestic, built up area 96.33 sq. meters.

`C' Block Ground floor existing installation bearing RR No.AEH 195 to an extent of sanctioned load of 3 KW, for domestic, built up area 85 sq. meters.

First floor existing installation bearing RR No.AEH 1706 to an extent of sanctioned load of 3 KW for domestic. Built up area 85 square meters.

`D' Block Ground floor existing installation bearing RR No.8650 to an extent of sanctioned load of 4 KW, for commercial, built up area 293.8 sq. meters.

On 25.05.2005 additional load 6 KW was sanctioned on the existing installation bearing RR No.8650 and thus total sanctioned load for commercial 10 KW.

Ground floor existing installation bearing

RR No.AEH 1602 sanctioned load of 3 KW

RR No.AEH 1603 sanctioned load of 3 KW

Total built up area 175.15 sq. meters for domestic

First floor existing installation bearing RR No.11550 to an extent of sanctioned load of 2 KW, for commercial, built up area 185.35 sq. meters.

First floor existing installation bearing

RR No.AEH 2867 sanctioned load of 3 KW

RR No.13824 sanctioned load of 1 KW

Total built up area 281.37 sq. meters, for domestic.

The service of additional load after the date 25.08.2005

The additional load of 4 KW to the existing installation Bearing RR 11550 and thus the total load of the said installation is 6 KW.

`E' Block Ground floor existing installation bearing RR No.9269. The sanctioned load of 0.22 KW and RR No.9270. The sanctioned load of 0.22 KW for commercial, the total built up area 36.52 sq. meters.

First floor existing installation bearing RR No.11034

The sanctioned load of 0.52 KW built up area 50.03 sq. meters.

(e) The said facts clearly demonstrates, that the installations serviced earlier to 25.08.2005, the total built up area 1607.05 sq. meters and sanctioned 41.96 KW in respect of `A' to `E' Blocks. On 14.06.2006, the

additional load of 4 KW was sanctioned with existing the installation bearing RR 11550 and the total serviced load was 45.96 KW;

- (f) The aforesaid facts clearly demonstrates that, the appellant has not paid the cost towards service line to the entire specified load at the rates prevailing on that date and however the appellant has paid Rs.28,750/- to the specified load of 28 KW when the power was sanctioned, but his family members have availed the aforesaid installations under common main to the Blocks A to E situated within one premises and even according to the sanctioned plan. It is submitted that, the Blocks B, C, D and E are interconnected and Block A is separate unit and all the Blocks have common ingress and egress and the installations serviced are under common main and therefore, the amended version dated 12.01.2006 the Regulations 3.1.1 of KERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2004, provides that, all the installations clubbed together in the premises standing in the name of one more persons and further, Regulation 3.1.7 of KERC (Recovery of Expenditure for Supply of electricity) Regulations, 2004, provides that for existing consumers serviced prior to 25.08.2005 and seeking additional loads, where addition of such loads makes the total load to be 25 KW or above, sub-clause 3.1.5 is also applicable to existing consumers serviced prior to 25.08.2005, when their total built up area exceeds 500 sq. meters. In such cases, the consumer shall provide space for the transformer as noted under sub-clause 3.1.5 and install the transformer at his own cost.

Note (1) If the applicant is unable to provide the space for erection of transformer, switckgear, and other allied equipments, the licensee

shall arrange power supply to the applicant from the existing transformer or by installing a new transformer duly collecting charges towards electric line and plant for the additional requisitioned load as follows :

And (A) of 3.1.7 provides that, where additional loads are requisitioned for existing installations and addition of such loads makes the total load to be 25 KW or above, the cost towards electric line/plant for the additional load only shall be collected from the applicant.

(g) As on the date of application dated 21.05.2008, the sanction load to the existing buildings was 45.96 KW in respect of Blocks A to E and additional load of 18 KW and directed the applicants to pay Rs.78,000/- as per Clause (II) A of 3.1.7 of the Regulations, 2004. However, the applicants have refused to pay the said amount and have approached the General Manager (Technical and Administration) and thereby, the General Manager, without any authority as against the Statute has treated the Block D as separate and to consider their application as per Clause 3.1.7 and to collect the charges of Rs.1,17,000/- and to provide power supply and accordingly the applicants have availed 18 KW to the 2nd floor for commercial purpose vide RR No.22954 and the same was serviced on 31.01.2009 and thus the serviced load of 63.96 KW in respect of the Blocks A to E and the built up area is more than 500 sq. meters.

(h) It is submitted that, when the matter stood thus, the grievance of the appellant that, the specified load to the 1st floor of 'D' Block is 35 KW and sanctioned load of existing installations of the 1st floor of the 'D' Block is of 10 KW viz.,

- i. Installation bearing RR No.11550 and sanctioned load of 2 KW.
- ii. Installation bearing Rr No.AEH 2867 and sanctioned load of 3 KW.
- iii. Installation bearing RR No.13824 and sanctioned load of 1 KW.
- iv. Additional load of 4 KW was sanctioned to RR No.11550 and thus, the installation bearing RR No.11550, the sanctioned load of 6 KW and seeking for 18 KW requisition load to the 2nd floor of the `D' Block, which comes to total 28 KW which is less than the specified load of 35 KW without including the existing installation to the ground floor which have been serviced under common mains. The existing installations of the ground floor is as follows :

(i) Installation bearing RR No.8650, sanctioned load of 4 KW and additional load of 6 KW was sanctioned on 25.05.2005 to the installation bearing RR No.8650, total 10 KW and;

(ii) Installation bearing RR No.AEH 1602 – sanctioned load of 3 KW and RR No.AEH 1603 – sanctioned load of 3 KW wherein the appellant contending that, he will comes within the purview of Clause (C) of Regulation 3.1.7 of the KERC (Recovery of Expenditure of supply of Electricity) Regulations, 2004.

(i) Clause (C) of Regulation 3.1.7 of the KEREK (Recovery of Expenditure of Supply of Electricity) Regulations, 2004, provides that, `in case building serviced earlier to 25.08.2005, if the additional load for the existing installations or additional installation under common main is sought and if the total load inclusive of such additional loads within the

specified load already sanctioned as per ES & D Code, 2000-01 for which the applicant has already remitted the cost towards service line at the rates prevailing on that date then in such cases, no service line cost shall be collected for the additional load'. However, the appellant has ;paid the service line cost of Rs.28,750/- to the extent of 28 KW of specified load, where the additional power was sanctioned to the portion of the 1st floor of the `D' Block, for the installations bearing RR No.AEH 2867 and 13824 and where those installations were converted into commercial purpose, wherein the specified load have been increased to 35 KW and however, no service line cost has been paid to the 7 KW as explained above. The serviced load of the `D' Block prior to 25.08.2005 is as follows :

- i. RR No.8650 – sanctioned load 4 KW + additional load of 6 KW sanctioned on 25.05.2005 to the ground floor of `D' Block (buildup area – 293.80 sq. meters).
- ii. RR No.AEH 1602 sanctioned load 3 KW to the ground floor of `D' Block and RR No.AEH 1603 – sanctioned load 3 KW to the ground floor (buildup area – 175.15 sq. meters).
- iii. RR No.11550 – sanctioned load 2 KW to the portion first floor of `D' Block (buildup area – 185.39 sq. meters).
- iv. RR No.AEH 2867 – sanctioned load 3 KW to the first floor and RR No.13824 – sanctioned load of 1 KW to the remaining portion of the first floor of `D' Block (buildup area – 281.37 sq. meters).

- v. The additional load of 4 KW to the existing installation in respect of RR No.11550, which was serviced earlier to 25.08.2005, but the additional load serviced on 14.06.2006;

Thus, the total sanctioned load was 26 KW.

- (j) The appellants have constructed 3rd floor to an extent of 465.56 sq. meters on the 'D' Block and submitted an application for additional load of 10 KW and the applicants have also constructed 2nd and 3rd floor to an extent of 176.18 sq. meters on the 'C' Block and submitted an application for additional load of 3 KW and during the consideration of the said application, the applicants have submitted one more application seeking for deduction of the contract demand from 6 KW to 2 KW in respect of RR No.11550. The sanctioning authority while considering the aforesaid applications, intimated the applicants to pay Rs.1,17,000/- as per Clause (A) of 3.1.7 of KERC (Recovery of Expenditure for Supply of Electricity) Regulations, 2004 and noticed that, the total building area was of 2765.74 sq. meters including Blocks A to E and sanctioned load of 63.96 KW and additional load of 10 KW to the 3rd floor of 'D' Block and reducing the load from 6 KW to 2 KW in respect of installation bearing RR No.11550 and additional load of 3 KW to the 2nd and 3rd floors of the 'C' Block and accordingly, the applicants have deposited a sum of Rs.1,17,000/- and availed the power supply for the installation bearing RR No.23882 for 10 KW to the 3rd floor of the 'D' Block and installation bearing RR No.23883 for 3 KW to the 2nd and 3rd floors of 'C' Block and thus, the total sanctioned load of 72.96 KW and 12 KW which was sanctioned for Aircel Tower;

(k) The appellant has failed to establish his case as to the applicability of Clause (C) of Regulation 3.1.7 of KERC (Recovery of Expenditure of Supply of Electricity) Regulations, 2004, since the appellant has paid service line cost of Rs.28,750/- to an extent of 28 KW of specified load and even though the same was increased to 35 KW of specified load, no service line cost was paid by the appellant to an extent of 7 KW, as such even the 'D' Block taken into account as a separate unit the serviced load earlier to 25.08.2005 was 26 KW and additional load sought for 2nd floor was 18 KW and thus, total load of 44 KW which is more than the specified load of 35 KW and therefore the appellant is not entitled to refund the amount as prayed by him.

6. The observation and orders of the Hon'ble High Court particularly with regard to (a) levy and calculation of excess amount in respect of augmentation and other charges by the AEE, Ranebennur, and very importantly (b) the internal communication of the Superintending Engineer in his letter dated 08.05.2002 and the communication of the General Manager in his letter dated 25.08.2008 to the Superintending Engineer regarding the application of clause 3.17(c) are to be kept in mind to decide the matter.

7. It is seen from the written arguments and also oral submissions made by the learned Advocate for the Respondent, that the appellants have not paid the cost towards specified load at the rates prescribed. The family member of the appellant have availed power to all the installations under common main to the blocks A to E situated within one premises and according to the sanctioned plan. All the Blocks are interconnected and have common ingress and egress. The installations served are under common main. Accordingly keeping in mind the amended regulation dated 12.01.2006 to regulation 3.1.1

and 3.1.7 of KERC (Recovery of Expenditure for Supply of Electricity) Regulations 2004, all the installations are clubbed together in the premises standing in the name of appellants, the proceedings are initiated by the AEE. Accordingly, the calculations are made for additional loads and collected.

8. Further, it is also seen that the additional load of 18 KWs, sanctioned, the calculation of charges was made keeping in mind the sanctioned load to the existing building in Block A, B, C, D and E. Agitating this, the appellants approached the General Manager (T & C), who in turn, it appears has erred in directing the authorities to consider 'D' Block as separate unit. This direction was in violation of Clause 3.1.7 (c) of KERC (Recovery of Expenditure of Supply of Electricity) Regulations, 2004.

9. It is also pointed that in respect of 'D' Block first floor, the appellant had paid only Rs.28,000 for 28 KW of sanctioned load. However, on increase of the specified load to 35 KW, the appellant has not paid for additional 7 KW which resulted in loss to HESCOM.

10. It is observed that the appellant in all his written and oral submissions made before this Authority including the latest letter dated 29.09.2016 has strongly contended that the calculations made were wrong and the authorities had erred in their decisions. His point of argument is to consider 'D' Block as a separate unit. As per the advise given by the Superintending Engineer and Managing Director of HESCOM to direct the authorities for return of augmentation and other charges.

11. The petitioner/appellant has vehemently argued and has submitted his calculation sheets of augmentation and other charges in support of his claim

to treat 'D' Block as a separate unit, whose sanctioned spend load was 35 KWs. The calculation sheets and papers submitted by him shows that, the load sanctioned was within the limits of specified load substantiating his claim in his written memo filed on 26.05.2016. The same is reproduced herein below:

(a) Regarding RR No.23882 3rd floor old D Block premises – 10 KW additional load

Respondent sanctioned 10 KW additional load, collected excess augmentation charges under 3.1.7 D with clubbing other different block 3 KW additional load called as C block against the Board rules. Also on date 12.11.2009 4 KW load which was sanctioned to the first floor old D block premises was reduced. Till then respondent collected excess amount against the rules as below :

10 KW – 4 KW = 6 KW D block + 3 KW C block = 9 KW for this 13000/KW= 1,17,000-00 collected against the rules by the respondent under 3.17 D

(b) Appellant's calculation with explanation under KRC dated 12.01.2006 – 3.1.7C

a. Previously to the 1st floor old D block premises competent authority sanctioned dated 25.10.2000 – 35 KW specified load.

35 KW

b. Existing sanctioned load in the 1st floor D block premises

10 KW

c. Existing sanctioned load in the 2nd floor D block premises

18 KW

d. Additional load 10 KW ask to sanctioned in the 3rd floor D block premises.

10 KW

e. 4 KW in the 1st floor old D block premises asked to reduce

(-)4 KW

- f. Sanctioned total load as on 12.11.2009 34 KW
- g. Augmentation charges paid previously Rs.28,750-00
- h. Built up area is more than 500 sq. mtrs. i.e. 1395 sq. mtrs.
- i. Power was sanctioned earlier to dated 25.08.2005.
- j. Present existing load 28 + additional load 10 KW – reduced 4 KW = 34 KW which is less than the sanctioned specified load 35 KW.

Respondent should have applied Rule 3.1.7 c without collecting service line charges for the sanctioned additional load. But against the previous orders dated 25.10.2000 and 03.12.2008 and 25.09.2008 and 01.08.2009 collected augmentation charges clubbing C block load with D block and collected excess amount.

(c) Regarding C block premises – appellant’s explanation as under

Respondent by its report dated 21.07.2008 had calculated for C block built up area is 346 sq.mtrs. Additional load asked to by petitioner is 3 KW+ existing load was 6 KW total 9 KW.

(d) As per new amended regulation Rules

3.1.5 – Requisition load 25 KW built up area more than 500 Sq. mtrs.

The appellant submits that as per the respondent report C block built up area is less than 500 sq. mtrs. And power is less than 25 KW. It is a separate premises, different owner, with separate meter. Under the new regulation 3.1.5 Nolte: 4 and dated 12.01.2006 and 20.10.2011 Board has directly clarified how to club the building while sanctioning load. However, the respondent intentionally avoided all the previous orders and rules clubbed C block load with D block load and collected augmentation charges against the rules, which should be against the regulations.

(e) Regarding A, B, C, D & E blocks

The appellants submit that from the beginning all the 5 blocks premises were constructed in different years with separate permissions and separate installations with different owners. During 1965 only family partition taken place at civil Court. D block premises was the only premises which had a commercial and domestic buildings situated in it.

During the year 2000 while sanctioning additional to this old building dated 25.10.2000 competent authority applied new regulation rules dated 04.11.1998 and considered a separate premises deleting other premises as per the respondent report 23.08.2000.

Competent authority sanctioned each building (installation) $14 + 21 = 35$ KW on 25.10.2000 as per the plan this block had a common entrance, common passage with different owners and separate meters. Therefore under the rule 3.1.5 note 4 sanctioned load considering the D block a separate one issued the orders dated 25.10.2000, 03.10.2008 and 25.09.2008 and 01.08.2009.

12. The Order of the CGRF 04.05.2011 and Ombudsman dated 19.12.2011 are perused. The CGRF has passed the order after conducting a detailed spot inspection though one of the members had a dissent note.

13. The Ombudsman in his order dated 19.12.2011 has considered all the issues in detail vide para 35, 36, 37 and 38 of his orders. He has considered and debated about the directions of the Superintending Engineer dated 21.01.2006 and the Managing Director and has recorded and observed that

the advises given by them were contrary to the prevalent norms of KERC, causing loss to HESCOM.

14. However, on perusal of the records and submissions made by the appellant, there appears to be a slight deviation in the calculation of charges in the light of the norms prevalent then. More importantly the circumstances under which the Superintending Engineer and the Managing Director of HESCOM, gave direction to treat 'D' block as a separate unit is also not forthcoming. They must have had a reason to do so. This needs to be properly checked and ascertained.

15. Hence, all the submissions made by the appellant and calculations placed before this Authority calls for a relook of the entire assessment in respect of the installation. More over, one of the members of the CGRF has also recorded in his inspection note saying that D block should be treated as separate unit. In the light of the observation made by the Hon'ble High Court and the submissions made by the appellant before this Authority, it is felt that there is a necessity to consider the plea of the appellant and reassessment is done by the AEE as per the norms prevalent then.

16. Hence the appeal is allowed and matter is remanded back to the AEE, Ranebennur, with a direction to hear the appellant afresh, by giving reasonable opportunity of time and pass suitable orders at the earliest as per the relevant rules prevalent then.

Sd/-

(B.N. Krishnaiah)
Electricity Ombudsman

To :

1. Dr.V.M.Kerudi, S/o late Malleshappa, Kerudi Complex, Ashok Circle, Ranebennur – 581 115, Haveri District
2. Sri S.V.Kerudi, S/o V.M.Kerudi, Kerudi Complex, Ashok Circle, Ranebennur – 581 115, Haveri District
3. Sri H.V.Devaraj, Advocate, No.39, Shop No.24, Mazzanine Floor, A.S.V.N.V. Bhavan, K.G.Road, Bengaluru – 560 009.
4. The Assistant Executive Engineer, O & M sub-division, Ranebennur, Haveri District
5. The Chairperson, CGRF, O/o of the Superintending Engineer, HESCOM, Tabib land, Hubballi – 580 020
6. The Chairperson, CGRF, O/o the Superintending Engineer, O & M Circle, HESCOM, P.B.Road, Neelanagoudar Complex, HAVERI.
7. Managing Directors of ESCOMs.
8. PS to Hon. Chairman, KERC
9. PS to Hon. Member (A), KERC
10. PS to Hon. Member (M), KERC
11. PS to Secretary, KERC
