

D-784

# BEFORE THE ELECTRICITY OMBUDSMAN

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

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

**Case No.OMB/H/G-255/2016**

**Dated : 27-10-2016**

Shridhar Hulmani,  
C/o Tushar M.Baddi,  
Near SBI, Keshwapur,  
Hubballi

... Appellant

**(By Tushar M.Baddi, Authorized Representative)**

V/S

1. The Assistant Executive Engineer(EI),  
O&M, City Sub-Division-3,  
HESCOM,  
Industrial Estate, Gokul Road,  
Hubballi

2. The Chairperson  
CGRF, & Superintending Engineer,  
HESCOM, Tabib Land,  
Hubballi

... Respondents

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

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1. This is an appeal under clause 21.02 of KERC (CGRF & Ombudsman) Regulations, 2004 against the orders passed by CGRF, HESCOM, Hubballi, (herein after referred to as the 2nd Respondent) dated 15.02.2016.

2. Comments were called from the AEE, vide letter dated 23.03.2016. He has submitted his reply vide his letter dated 16.04.2016.

3. Both the parties were informed vide letter dated 05.07.2016 regarding availability of sub-regulation 20(1) of KERC (CGRF & Ombudsman) Regulations, 2004 for settlement by conciliation and mediation which both parties have not availed. Hence, the Authority proceeds to pass the orders on merits.

4. The Authorized Representative has contended as follows :

(a) The installation bearing RR No.MP 408160 was sanctioned power of 7 KW on 01.12.2007 under LT-5 category for cold storage unit. In the cold storage, Ice creams were stored safely and after one or two days, the ice creams were distributed to the sellers indicated by the manufacturer and the appellant is not engaged in any kind of sales activity;

(b) After the visit of the premises by the vigilance squad, on the objections of the appellant to the AEE, the AEE has instructed the Section Officer to inspect the premises and submit a report. The Section Officer has submitted a report stating as per the Tariff Order of KERC, the Cold Storage is charged under LT-5 tariff;

(c) The appellant is engaged in safe keeping of the ice creams and the ice creams were distributed to the distributors indicated by the manufacturer;

(d) The installation is used for cold storage and no other business is conducted by the appellant. The premises adjoining the cold storage unit the appellant had kept a computer and the accounts pertaining to

distribution of the ice creams. This computer is operated by the battery as the power supply to the installation 408419C was cut;

(e) In the instant case wrong tariff has been applied and there has been no misuse of electricity.

5. The learned Advocate for the respondent AEE Sri H.V.Devaraj, defended the orders passed by the CGRF and requested to dismiss the appeal filed by the appellant.

6. In the instant case it is seen that the appellant had filed an appeal before this Authority earlier in the year 2015 on the same subject. This Authority vide orders dated 30.01.2015 had remanded the matter and ordered as follows :

*“For the foregoing reasons, the impugned order passed by the 2<sup>nd</sup> respondent is set aside. The case is hereby remanded to the 1<sup>st</sup> respondent to pass final assessment order within one month from the date of issue of this order on the objections already filed by the appellant without issuing any further notice. The appellant is at liberty to approach the Competent Authority, if he is aggrieved by the final assessment order passed by the 1<sup>st</sup> respondent. In the result the appeal succeeds”*

From the records available and also in the order of the CGRF no mention is made about the compliance of the order issued by this Authority. Hence, the appeal is allowed and the matter is remanded to the AEE with a direction to comply the orders of this Authority dated 30.01.2015 already issued within one month as per law.

Sd/-  
**(B.N. Krishnaiah)**  
**Electricity Ombudsman**

**To :**

1. Sri Tushar M.Baddi, Near SBI, keshwapur, Hubballi.
2. Sri H.V.Devaraj, Advocate, No.39, Shop No.24, Mezzanine Floor, A.S.V.N.V.Bhavan, K.G.Road, Bangalore.
3. The Assistant Executive Engineer, City sub-division-3, HESCOM, Industrial Estate, Gokul Road, Hubballi.
4. The Chairperson, CGRF, & Superintending Engineer, HESCOM, Tabib Land, Hubballi
5. Managing Directors of ESCOMs.
6. PS to Hon. Chairman, KERC
7. PS to Hon. Member (A), KERC
8. PS to Hon. Member (M), KERC
9. PS to Secretary, KERC

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