

**GUJARAT ELECTRICITY REGULATORY COMMISSION
BEFORE THE ELECTRICITY OMBUDSMAN, GUJARAT STATE
Polytechnic Compound, Barrack No.3, Ambawadi,
Ahmedabad-380015**

**CASE NO.62/2018
(UNDER REVIEW)**

Appellant: Executive Engineer,
Paschim Gujarat Vij Company Limited
Division Office, Morbi-363642.

Represented by: Shri N.D.Panara, EE, PGVCL, Morbi Div. Office.

V/s.

Respondent: M/s. Salon Ceramic Pvt. Ltd.
Old Ghuntu Road, Morbi-363642

Represented by: Shri Vikram Shah, Authorized representative.
Shri V.V.Patel, Partner

:::PROCEEDINGS:::

- 1.0. The Appellant had submitted review representation aggrieving with the order No.265 dated 05.09.18 in case No. 62/2018 passed by Ombudsman. The hearing of this case was kept on 06.12.2018. Appellant has represented the case as under.
- ૨.૦. સુનવણી દરમ્યાન અરજદારે નીચે મુજબ રજૂઆત કરી.
- ૨.૧. અરજદારે વિદ્યુત લોકપાલના તા.૧૫.૦૯.૨૦૧૮ના હુકમ નં.૨૬૫ થી નારાજ થઈ Notification No.2/2011, Clause No.3.45 અન્વયે સદર હુકમને રીવ્યુ કરવા અરજ દાખલ કરી.
- ૨.૨. સામાવાળાનું, એટલે કે મે. સલોન સીરામિક પ્રાઇવેટ લિમિટેડનું વીજ જોડાણ અરજદારે તા.૦૮.૦૬.૨૦૦૪ ના રોજ release કરેલ છે. સદર વીજ જોડાણમાં વીજ જોડાણ ચાલુ કર્યા તારીખથી ઓગષ્ટ,૨૦૧૦ સુધીના સમયગાળા દરમ્યાન night hours rebate ની માંગણી સામાવાળાએ કરેલ છે.

સદર રજૂઆતની વિદ્યુત લોકપાલ સમક્ષની સુનવણી દરમ્યાન થયેલ ચર્ચા અન્વયે અરજદાર દ્વારા તા.૦૫.૦૯.૧૮ ના પત્રથી સદર વીજ જોડાણમાં સ્થાપિત મીટરના ચેકિંગ શીટની વિગતો રજૂ કરેલ, જેને વિદ્યુત લોકપાલના હુકમના પેરા નં. ૪.૬ માં નોંધેલ છે.

૨.૩. વિદ્યુત લોકપાલના હુકમમાં દર્શાવેલ આદેશ અન્વયે નીચે મુજબના મુદ્દા ઉપસ્થિત થાય છે.

મુદ્દા નં.૧:

નાઈટ રીબેટ ટેરીફમાં જે તે મહિનાના કુલ યુનિટના ત્રીજા ભાગના યુનિટ કરતાં નાઈટમાં જેટલા યુનિટ વધારે આવેલ હોય તેટલા યુનિટની રકમ એનર્જી ચાર્જમાંથી બાદ કરવામાં આવે છે, આથી દરેક માસના KWH યુનિટ અને નાઈટના યુનિટ જરૂરી છે.

સામાવાળાની કચેરી દ્વારા જે લેબોરેટરી ચેકિંગ શીટ અને બિલીંગનો ડેટા આપવામાં આવેલ તે મુજબ ચેકિંગ જે તારીખે થયેલ હોય તે દિવસના રિડિંગ તેમાં હોય, પરંતુ તેના પરથી દરેક માસના યુનિટ તેમાંથી મળે શકે નહીં.

મુદ્દા નં.૨:

નાઈટ રીબેટ માટે જે તે માસના Power Factor (P.F. Rebate/P.F. penalty) નાઈટ રીબેટની રકમમાં પાવર ફેક્ટરની પણ અસર આપવી પડે પછી નાઈટ રીબેટ આપી શકાય. પરંતુ મંથલી બિલીંગ ડેટા ન હોવાથી પાવર ફેક્ટરની ગણતરી મંથલી મળી શકે નહીં. આમ, નાઈટ રીબેટની દર માસની ગણતરી માત્ર ચેકિંગના ડેટાને આધારે થઈ શકે નહીં.

3.0. Respondent has represented the case as under.

3.1. Respondent M/s. Salon Ceramic Pvt. Ltd. has filed his reply vide letter dated 05.11.2018. It is said that Clause No.3.45(1), under which review application is made, is as under:

3.45(1):

The Ombudsman may review its order either on its motion, at any time, or on the application of any of the parties to the original proceedings within 30 days of the order on the following grounds:

- (i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the knowledge of the person seeking the review or could not be produced by him at the time the order was made; or

The review can be asked only if new evidence is found after order is issued. In this case there is no new matter or evidence is produced by Appellant PGVCL and therefore Appeal for review is not eligible.

3.2. Appellant is trying to misguide with the matter which is not related with the order of Ombudsman. Respondent M/s. Salon Ceramic Pvt. Ltd. had drawn attention on the fact that similar review appeal was

also filed before CGRF, Rajkot and same is rejected by Forum with noting as under:

“ઉપરોક્ત વિષય અને સંદર્ભ અનુસંધાને જણાવવાનું કે ફોરમ કમિટિ દ્વારા અપાયેલ હુકમ મુજબ ચુકાદો આપેલ છે, જે રજૂઆત અને રજૂ કરાયેલ દસ્તાવેજી પેપર્સ મુજબ આપેલ છે અને પીજીવીસીએલ પાસે ડેટા ઉપલબ્ધ ન હોઈ જીઈઆરસીના વિનિયમો, ૨૦૧૧, જાહેરનામા નં. ૨/૨૦૧૧ના મુદ્દા નં.૨ ના પેટા મુદ્દા નં.૬૨, એટલે કે ૨.૬૨ મુજબની વિગતે આપના દ્વારા કરાયેલ રીવ્યુ અરજી અત્રેના ફોરમ દ્વારા ચલાવી ન શકાય, તેમ ફોરમ કમિટિ દ્વારા નિર્ણિત થયેલ છે.....”

It is stated that Appellant PGVCL is well aware with the grounds for review of appeal, but to misguide the Ombudsman and to delay the procedure for granting refund to Respondent M/s. Salon Ceramic Pvt. Ltd., review appeal is filed by Appellant PGVCL, which is not maintainable.

- 3.3. Respondent had pointed out that non-availability of data related problem arose due to inefficiency of Appellant and consumer cannot be punished for the mistake of the Distribution Licensee i.e. Appellant. It is a duty of Distribution Licensee to collect required data for the purpose of billing every month. The Appellant is very well aware about night charge concession during the period under consideration as same is made available to selected consumer. It is submitted that as per Clause No. 6.5 of Supply Code an average can be considered when data is not available for any reason.
- 3.4. Respondent M/s. Salon Ceramic Pvt. Ltd. had submitted statement of energy consumption, average data and percentage units eligible, per night rebate per month with calculation based on the said formula and period between two checking sheet with available readings as the refund amount can be practically calculated.

Statement showing the details of night rebate calculation as per Data given by PGVCL:

Sr No	Date	Present KWH reading	Past KWH reading	Diff.	MF	Total KWH	1/3 of Total KWH	Total night KWH	Night Unit rebate	% night unite rebate
1	08.06.04	64								
2	06.07.05	397350	64	397286	3	1191858	397286	413088	15802	1.33
3	19.12.06	1006083	397350	608733	4	2434932	811644	860928	49284	2.02
4	16.08.07	1184949	1006083	178866	10	1788660	596220	618990	22770	1.27
5	17.12.07	1311861	1184949	126912	10	1269120	423040	440670	17630	1.39
6	06.05.08	1430032	1311861	118171	10	1181710	393903	409560	15657	1.32
7	06.02.09	1619762	1430032	189730	10	1897300	632433	663790	31357	1.65
8	08.09.09	1776259	1619762	156497	10	1564970	521657	535870	14213	0.91
9	04.07.10	1978874	1776259	202615	10	2026150	675383	702410	27027	1.33
Sr. No	Date	Present night reading	Past night reading	Diff.	MF	Total night KWH				PerKVA night Unit
1	08.06.04	1					275	CTPT 15/5 To 20/5		
2	06.07.05	137697	1	137696	3	413088	325	325+325		48.62
3	19.12.06	352929	137697	215232	4	860928	650			75.82
4	16.08.07	414828	352929	61899	10	618990	650			35.03
5	17.12.07	458895	414828	44067	10	440670	650			27.12
6	06.05.08	499851	458895	40956	10	409560	650			24.09
7	06.02.09	566230	499851	66379	10	663790	650			48.24
8	08.09.09	619817	566230	53587	10	535870	650	CTPT 50/5 To 40/5		21.87
9	04.07.10	690058	619817	70241	10	702410	650			41.58
Sr No	Date	Present KVAH reading	Past KVAH reading	Diff	MF	Total KVAH	Total KWH	PF= KWH/ KVAH	Meter No. 3174541	
1	08.06.04	100								
2	06.07.05	401401	100	401301	3	1203903	1191858	0.990	(1) E.D. was free for first five years, so we are not entitled for E/D refund. (2)Also we are agree to deduct average P.F. rebate charges.	
3	19.12.06	1024963	401401	623562	4	2494248	2434932	0.976		
4	16.08.07	1209362	1024963	184399	10	1843990	1788660	0.970		
5	17.12.07	1337020	1209362	127658	10	1276580	1269120	0.994		
6	06.05.08	1456392	1337020	119372	10	1193720	1181710	0.990		
7	06.02.09	1648985	1456392	192593	10	1925930	1897300	0.985		
8	08.09.09	1808106	1648985	159121	10	1591210	1564970	0.984		
9	04.07.10	2014934	1808106	206828	10	2068280	2026150	0.980		

3.5. On the above mentioned ground, Respondent M/s. Salon Ceramic Pvt. Ltd. has requested that not to admit the review appeal. It is prayed to direct the Appellant PGVCL to release night tariff concession amount as per the order issued by Ombudsman.

::: ORDER :::

4.0. I have considered the contentions of the Appellant and the contentions of Respondent and the facts, statistics and relevant papers, which are on record, and considering them in detail, my findings are as under.

4.1. As per Para 3.1, Respondent has taken an objection for review of Ombudsman order mentioning Clause 3.45 of Notification No.2 of 2011. In present case, Appellant had previously said that old billing data is not available. Thereafter, during the course of hearing it was

directed to Appellant PGVCL to produce available billing data for respective period. Appellant had produced meter checking sheet and meter reading sheet data based on the installations were checked. On that data, Appellant was directed to give night hours rebate to Respondent vide para No. 4.8 of Ombudsman order dated 15.09.2018.

4.2. The argument was made by Respondent as per Para No. 3.2, along with observations pointed out by CGRF for other case. The said grounds are not having concerned with present case and hence it is not accepted.

4.3. It is studied in detail for deriving night hours eligible consumption with the help of calculation methodology and rebate on it. In consideration of the same, it is seen that energy parameters are required to be recorded along with night hours consumption as recorded by meter.

Night hours rebate can be given on the bases that records of night hours consumption is higher than 1/3rd of total energy consumption during the billing period. Here in this case, period of night hours rebate demanded by Respondent is for the period June,2004 to August,2010. For this period, Appellant, PGVCL is not having monthly billing data as mentioned in Para No.2.3.

4.4. It is right to say that base on checking data as per checking sheet produced by Appellant i.e. PGVCL, and meter reading data, directives were passed vide Para No.4.8 of Ombudsman order. But in view of logic adopted for granting night hours rebate, it is required to have energy parameters data for every billing cycle for the period June,2004 to August,2010. While going through the review appeal, above error came in the knowledge and hence it is said to be a apparent error on face of record.

In view of above observations, it is a matter of new and important aspect in deciding the value of eligible night hours consumption for granting concession as per the relevant provisions of tariff order.

Taking above aspect and in consideration of Clause 3.45(i) and (iii), subject matter is accepted under review filed by Appellant i.e. PGVCL.

- 4.5. It is also noted that night hours rebate was granted by Respondent based on the available energy parameters data with him for the period June,2004 to August,2010.

Respondent is a consumer of Appellant since long period under HT category and receiving energy bills since release of connection. He might be well aware with different component of energy parameters and billing on that parts. On part of night hours concession, Respondent had raised the issue for refund, after long time after availing of electric supply. On other side, it is a duty of Appellant to bill the Respondent as per the specified terms and conditions as approved by GERC in their tariff order in the relevant period.

- 4.6. In the order issued on 16.02.2018 in respect of case No.128/2017, M/s. Sadbhav Ceramics V/s PGVCL, Ombudsman had taken a stand to grant night hours rebate on the basis of available consumption data with Appellant i.e. PGVCL and to implement the directives of CGRF.

- 4.7. The subject issue herein is little different than that of case No.128/2017. In both cases, Respondent has asked night hour rebate after a long period after getting electricity supply. In case No.128/2017, CGRF has already issued directives to give night hour concession to concern consumer and on part of implementation, the grievance was heard by Ombudsman and it was directed as per above Para No.4.6, while in present case, at initial stage, Appellant, PGVCL has submitted that relevant data (energy parameters) for the period June,2004 to August,2010 are not available with him and hence Appellant is not in a position to give refund against night hours consumption. In the data produced by Appellant and as mentioned in Para No.4.6 of original order, is about installation checking sheet and meter reading data at different interval of time,

but it is not monthly billing data, so based on this, night hours rebate cannot be actually derived. The arguments made by Respondent, i.e. M/s. Salon Ceramic Pvt. Limited, with taking the average percentage for the night hours consumption based on the checking sheet for the period June,2004 to August,2010 is not valid in absence of correct billing data.

- 4.8. In the above circumstances, to get the night hours rebate for the period June,2004 to August,2010, Respondent should produce copy of bills to Appellant and on verification of said bills, Appellant may decide night hours consumption and to refund the night hours rebate for disputed period, and if any amount is to be refunded, it should be adjusted in the next monthly billing.
- 4.9. I order accordingly.
- 4.10. No order as to costs.
- 4.11. With this order, representation/Application stands disposed of.

(Dilip Raval)
Electricity Ombudsman
Gujarat State

Ahmedabad.
Date: 18.01.2019.