CONSUMER GRIEVANCE REDRESSAL FORUM
COCHIN SPECIAL ECONOMIC ZONE AUTHORITY (CSEZA)
(Formed U/s 42(5) of The Electricity Act, 2003)
Office of the Chairman, CGRF, CSEZ Administrative Building,
Kakkanad, Kochi – 682037
O. P. No. 2/2022

Dated this the 12th day of January, 2023

Present :- Shri. Boni Prasada Rao, Chairman

Shri Pramodu S, Member

Shri Jefrin Manuel, Member

In the Matter of :-
Cochin Export Processing Zone Industries Association (CEPZIA), Represented by its president Shri. K.K. Pillai ....Complainant

And

Cochin Special Economic Zone Authority (CSEZA)
(Distribution Licensee under Electricity Act, 2003)
CSEZ Administrative Building, Kakkanad
Kochi – 682037, Represented by
Shri. Krishna Varma K Consultant (Power), CSEZA .....Respondent

ORDER

Background

The Hon'ble Kerala State Electricity Regulatory Commission ("KSERC"), while approving ARR and ERC for 2012-13 of the Distribution licensee (CSEZA), had noticed certain abnormalities in distribution loss when compared with the industry standards (i.e., energy sales higher than energy input/purchase) during the period from 2007-08 to 2013-14. Hence, Hon'ble KSERC had issued directions vide order dated 25.04.2012 to conduct an energy audit for the relevant period. Accordingly, the distribution licensee got conducted an energy audit with the help of Kerala State Productivity Council. In the energy audit report, the Hon'ble KSERC noticed serious accuracy errors in the metering system. Accordingly, the Hon'ble KSERC issued directions vide its Order dated 15.05.2013 to take immediate action by the distribution licensee for the calibration of metering system to rectify the errors and to ensure that the consumer meters are in line with the industry standards. Further, as per Order dated 30.04.2014, the Hon'ble KSERC directed the distribution licensee to keep the excess revenue collected due to metering errors in a separate fund. The distribution licensee had estimated the excess revenue collected as Rs.307.11 lakhs and also submitted that the excess amount collected was being kept in a Power Distribution Account to be utilised as per the directions of the Hon'ble KSERC for the common benefit of consumers. Subsequently, the distribution licensee also filed a petition as OP 43/2020 for approval of refund of the above excess revenue in which the Hon'ble KSERC issued the Order dated 03.03.2021. The distribution licensee in compliance with the above Order identified the consumers who were eligible for refund of excess revenue and an amount of Rs. 1,34,08,496.97 was disbursed to these consumers (12 nos.) who were eligible as per the Order dated 03.03.2021 of the Hon'ble KSERC.

On 12.01.2022 the Complainant filed an appeal/representation before the Hon'ble KSERC seeking (1) a revisit of the Order of the Hon'ble KSERC dated 03.03.2021 in OP No. 43/2020 (2) appropriate amendments as redressal to the genuine grievances of the consumers. The above appeal/representation was rejected by the Secretary of Hon'ble KSERC on the ground that the Hon'ble KSERC could not intervene in any dispute between a consumer and a distribution licensee with an advice to approach the CGRF, CSEZA for any redressal as deemed appropriate. Thereafter, the Complainant forwarded the above appeal/representation with a covering letter dated 06.05.2022 as a fresh representation addressed to this Forum. Since the said representation was not in the prescribed format and did not clearly specify the details of the aggrieved consumers and did not contain nominations of the Complainants, the same was rejected by this Forum and communicated vide letter dated 03.08.2022. Thereafter, the Complainant filed a complaint in Form-A dated 13.09.2022 along with the following documents: 1. List of units eligible for re-imbursement with eligible amount 2. List of units who got disbursement already 3. List of units who are yet to receive the refund with their eligible amount 4. Nomination forms received from various CSEZ units 5. Copy of letter No. H-2/01/2-22: CSEZA/2757 of CSEZA dated 03.08.2022.

This Forum heard the submissions made by the representatives of the Complainant and the distribution licensee during the hearing conducted on 27-10-2022.

Observations:

1. The instant complaint seeks a "Refund of balance amount collected in excess from the units as per list. The Complainant has stated that they had earlier filed an appeal dated12.01.2022 before the Hon'ble KSERC seeking a revisit of the Order dated 03.03.2021 in OP No. 43/2020 and also for appropriate amendments, which was rejected vide letter dated 29.04.2022.

2. The distribution licensee has argued that in Form A format of the instant complaint, the Complainant has described the 'details of intimation of grievance by the consumer to the licensee' as *"Complaint letter given to CGRF dated 10.05.2022"*. According to the distribution licensee, this Complaint letter was only a covering letter written by the Complainant to forward the abovementioned appeal (dated12.01.2022 filed before the Hon'ble KSERC) to this Forum. Upon perusing the records, this Forum has found that the said complaint letter addressed to Chairman, CGRF stated - **"we therefore forward this appeal before your good offices for favourable orders")**. Hence, it is true that the appeal dated12.01.2022 and its contents constitute the contents/details of the instant complaint.

3. The distribution licensee has argued that the actual grievance in the abovementioned appeal was connected with the objections on the method/manner of execution (by the distribution licensee) of the Order of the Hon'ble KSERC dated 03.03.2021 in OP No. 43/2020.

   The Hon'ble KSERC had directed the distribution licensee to execute the order dated 03.03.2021 in OP No. 43/2020 as follows *(relevant portions are highlighted):*

   a) The licensee has been able to establish that there is a case for refund of the excess amount billed from the consumers during the period 2007-08 to 2013-14. This was due to errors in the metering system of many consumers, as established by the meter Test Reports and consequent replacement of meters.

   b) The proposal of the licensee to refund the excess amount of Rs.3.47 Crore arrived at on a pro rata basis is not agreed to since the metering systems of all consumers were not in error. ***The licensee shall appropriately identify the consumers who had positive errors beyond limit in the metering system based on the Test Reports for the refund.***

   c) The refund amount for such consumers shall be the same amount as arrived at by the licensee for the period from 2007-08 to 2013-14 as given in the petition.

   d) For enabling the refund for the said period, the Hon'ble KSERC in exercise of the powers conferred under Regulation 179(1) of the Supply Code relaxes the provisions of the Supply Code 2014 in public interest purely as a special case. This relaxation shall not be considered as a precedent in any or similar matter in future.

   e) The balance amount after allowing the refund from the total refund amount estimated by the licensee i.e., Rs.3.47 Crore, shall be kept in a separate account by the licensee. Since this balance amount can be attributable to factors other than the metering errors also, it shall be utilised for the common benefit of the licensees' consumers with the approval of the Hon'ble KSERC.

It is also found by this Forum that the Complainant has specifically raised their objections about the execution of the above order by the distribution licensee in their appeal dated 12.01.2022 filed before the Hon'ble KSERC. They had stated in the above appeal as follows:

"So interpreting the order harming the consumers by denying the legal right of the consumer is illegal and injustice and dishonouring the law of the land."

"Now quoting the very words of your good offices order, they have classified the Consumers into two category as positive error consumers and negative error consumers. Method they have adopted to classify into two categories is not made known to us. However this classification is not to the interest of the consumers and not acceptable to us after 7 years of continuous presentation of facts and figures by the authority."

This Forum also concur with the argument of the distribution licensee that the actual grievance in the abovementioned appeal was connected with the objections on the method/manner of execution of the Order of the Hon'ble KSERC dated 03.03.2021 in OP No. 43/2020 as it was found that the Complainant had sought in the abovementioned appeal a **revisit of the Order dated 03.03.2021 in OP No. 43/2020 and also for appropriate amendments.**

It is the opinion of this Forum that in such case where a party to the case has objections about the method or manner of execution of an Order, such objections have to be considered by the adjudicating body who issued the Order (who has the jurisdiction to do so) and not a lower adjudication body. Here, adjudication on the instant complaint involves examining the manner/method of execution of the Order dated 03.03.2021 in OP No. 43/2020. It is the Hon'ble KSERC who alone is empowered to examine the execution of its Order and this Forum has no jurisdiction/powers to do so.

4. Though the Complainant indicated that this Forum may treat the instant Complaint as a fresh consideration of the entire issue of *"refund of the excess amount billed from the consumers during the period 2007-08 to 2013-14"* (the relief sought in the instant complaint is titled as "Refund of balance amount collected in excess from the units as per list"). But the distribution licensee has argued that this issue has already been decided by the Hon'ble KSERC in Order dated 03.03.2021 in OP No. 43/2020 and hence, this Forum being a lower body has no powers to examine such an issue decided by a higher adjudicating body. This Forum is also of the opinion that a fresh

consideration of the matter already decided by the Hon'ble KSERC cannot be adjudicated upon here.

Finding:

In the result, it is found that this Forum has no jurisdiction to entertain the instant complaint and hence the same stands dismissed

Shri. Boni Prasada Rao **Chairman**	Shri Pramodu S **Member**	Shri Jefrin Manuel **Member**

List of Exhibits

Sl No	**Exhibit**	**Description**
1	Exhibit P1	List of units eligible for re-imbursement with eligible amount 4. 5..
2	Exhibit P2	List of units who got disbursement already
3	Exhibit P3	List of units who are yet to receive the refund with their eligible amount
4	Exhibit P4	Nomination forms received from various CSEZ units
5	Exhibit P5	Copy of letter No. H-2/01/2-22: CSEZA/2757 of CSEZA dated 03.08.2022