

**Before the Ombudsman**  
**KPFC BHAVAN, C.V.Raman Pillai Road , Vellayambalam,**  
**Thiruvananthapuram-695 010.**

**Order Dated 11<sup>th</sup> January 2007**

Present: M.Sivathanu Pillai, Ombudsman-in Charge.

Appeal petition No 8 of 2006.

CGRF order OP No.124/2006 dated 23<sup>rd</sup> November 2006.

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The Secretary

Rev.George Mathan Mission Hospital,  
Mallappally East, Pathanamthitta

Petitioner

Vs

Assistant Executive Engineer  
Electrical Sub Division, KSEB,  
Mallappally

Respondent

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**Date of hearing: 11<sup>th</sup> January 2007.**

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Petitioner has stated that Rev.George Mathan Mission Hospital, Mallappally East, Pathanamthitta is a charitable hospital registered under the Travancore – Cochin Literary Scientific and Charitable Societies Act 1955 with registration No.A-121/77. It is a Mission Project of CSI Holy Immanuel Church, Madhya Kerala Diocese. The hospital was rightly categorized under LT VI-A tariff category of the Kerala Sate Electricity Board (hereinafter called Board) Tariff Order till 5/2005.

The hospital being established for charitable purpose is stated to be exempted from the payment of income tax as per sec.10(23-c) (iii)(ae) of the Income Tax act 1961. Under the above said provision, no separate registration under the Income Tax Act was necessary to avail the benefit of exemption as the gross receipts of the hospital was below Rs. one crore. As such no separate registration was obtained from the Income Tax Department till the year 2002-2003. Subsequently the gross receipts of the hospital exceeded Rs. one crore during the period 2003-2004. As a result the hospital applied for a registration under sec.10 (23)(vi) and (via) of the Income Tax Act to avail the benefit of tax exemption. The application vide form 56-D was submitted as early as on 26-02-2004. The said application has to be processed at the Income Tax offices at Thiruvalla, Kottayam, Chief Commissioner's office at Thiruvananthapuram and then forwarded to the Director General (Exemptions) Gaziabad who has to grant the

certificate. In spite of all earnest efforts from the part of the hospital the application is still pending before the Income Tax authorities. The tax authorities have assured that the processing will be expedited and the same will be granted without much delay.

Meanwhile, on 24-06-2006 the hospital received a letter from the Assistant Engineer, Electrical Section, Mallappally stating that the hospital will be relegated to LT VI-b category tariff from LT VI-a unless the income tax exemption certificate and the registration under the charitable societies act is produced within 15 days. Further the letter stated that an arrear of Rs. 1,26,166/- would have to be paid by the hospital. A reply was issued by the hospital on 27-06-2006 informing that the registration under the Income Tax Act will be produced as soon as it is received. The registration under the Charitable Societies Act as well as a certificate from the Chartered Accountant stating that the hospital was exempt from the Income Tax Act were produced along with the letter.

In spite of the reply and explanation given, the Assistant Engineer had issued a short assessment bill-F462300005479 dated 31-10-2006 demanding an amount of Rs.1,34,424/- A covering letter was also issued threatening disconnection if the bill amount was not paid before 30-11-2006.

Further Board is charging electricity charges under the LT VI-b category for the hospital from 6/2005 onwards. The said levy of electricity charges under LT VI-b tariff is illegal. As per the calculation of the hospital an amount of Rs.68071/-, has been excessively collected by Board, which they are bound to refund to the hospital.

The Low Tension Tariff Orders of Board does not require production of a Tax exemption certificate from the Income Tax Department for availing concessional tariff under LT VI-a tariff category. The proposition of the law contrary to that is wrong. The only requirement is that the consumer should be exempted from the payment of Income Tax. It is impossible for the hospital to produce exemption certificate from the Income Tax Department for availing concessional tariff under LT VI-a tariff category. The Proposition of law contrary to that is wrong. The only requirement is that the consumer should be exempted from the payment of Income Tax. It is impossible for the hospital to produce exemption certificate for the period till 31-02-2003, as the Income Tax Act does not require the hospital to obtain an exemption certificate for the period from 1-04-2003 as soon as the same is received.

It is further stated that Board authorities have enough documentary evidence before them to find that the hospital is exempt from Income tax.

Further the demand raised through the short Assessment Bill No. F46230005479 is barred under limitation as the same covers a period of more than two years as provided under section 56(2) of the Indian Electricity Act 2003.

The above are the statement given by the petitioner.

The petition was heard on 11<sup>th</sup> January 2007.

Counsel for petitioner stated that from the time of inception (in 1977) till May 2001 the tariff applied was LT VI.a. From June of 2005 the tariff applied is stated as LT VI b. The arrear bill was served in June of 2006 and it is at this time petitioner became aware of application of LT VIb tariff. Counsels for petitioner argued that as per section 56.2 of Electricity Act 2003 arrears for the period prior to 02-04-04 cannot be claimed by Board. Counsel argued that as per clause 24.2,24.3 and 24.5 of Supply Code interest for disputed bill couldn't be claimed.

Respondent stated that from June 2005 LT VI b was effected. No proof regarding issue of any intimation to petitioner on tariff change is available.

Counsel for petitioner stated that the income tax exemption certificate will be produced within three months positively and requested for time to pay the arrears.

Respondent pointed out that the revision of arrear bill was due to error in the calculation of fixed charges and not inclusion of interest.

The tariff notification was discussed and the doubt of the counsel for petitioner regarding the necessity of income tax certificate cleared.

Counsel for petitioner finally agreed to remit the arrears in ten equal consecutive monthly installments starting from February 2007.

Considering all aspects, especially of the fact that the petitioner is a charitable hospital as certified by District Collector, and the monthly current charge bill paid now, the request for paying the arrears in ten equal monthly installments starting from February 2007 is granted. Petition is disposed off.

**Sd/-**  
OMBUDSMAN

**P 8/2006/.....Dated**

Forwarded to

The Secretary  
REv.George Mathan Mission Hospital,  
Mallappally East, Pathanamthitta 689 584.

The Chief Engineer(Electrical)  
Disrtibution(South), KSEB,  
Power House Bldgs, Thiruvananthapuram.

Assistant Executive Engineer  
Electrical Sub Division, KSEB,  
Mallappally,Pathanamthitta.

Secretary-in-Charge