

KERALA STATE ELECTRICITY REGULATORY COMMISSION THIRUVANANTHAPURAM

**Present: Shri. Preman Dinaraj, Chairman
Adv. A.J Wilson, Member (Law)**

OP No : 64/2021

In the matter of : Petition seeking clarification on the term "Colour lab" and the activities therein for favour of assigning electricity tariff

Petitioner : M/s KSEB Ltd.

Petitioner represented by : Sri Suresh EE, TRAC
Sri Rajesh R AEE, TRAC

Respondent : M/s Capital Color Park & Digital Press
Vendermukku, Kollam

Respondent represented by : Sri. Prasanna Kumar

Date of Hearing : 25.02.2022

Order dated 25.03.2022

1. M/s Kerala State Electricity Board Ltd (hereinafter referred to as KSEB Ltd or the petitioner) filed a petition dated 08.10.2021 before the Commission with the following prayers:
 - i) *To issue a clarification on the term 'Colour Lab' and the activities therein, for favour of unambiguously categorising the consumers under industrial and commercial tariff, as per the prevailing tariff order.*
 - ii) *To issue direction on the matter of tariff to be applied on the electric connection provided to M/s Capital Colour Park & Digital Press under Electrical Section, Palimukku.*
2. Summary of the petition filed by the KSEB Ltd is given below:
 - (i) The respondent, M/s Capital Color Park and Digital Press Vendermukku, Kollam is an LT IV (A) consumer of KSEB Ltd from 02.08.2018 onwards. On 18.01.2020 Anti Power Theft Squad (ASPTS) of KSEB Ltd inspected the Respondent's premises and found that the activities of the unit included computerized photo designing, digital printing, lamination and sales. The main machine used for digital photo printing was found to be a multipurpose machine and the process of this machine was seen equivalent to the process of the color lab. A site mahazar was prepared by the inspection team.

- (ii) The present tariff which was in force while effecting the service connection to M/s Capital Color Park and Digital Press was LT IV (A). Based on the inspection conducted by APTS, the tariff of the consumer was changed from LT IV(A) tariff to LT VII(A) tariff. A short assessment bill for incorrect application of tariff was issued to the consumer for an amount of ₹1,95,393/- for the period from 07/2019 to 01/2020 as per Regulation 134(1) of Kerala Electricity Supply Code, 2014 by the KSEB Ltd.
- (iii) The respondent filed an appeal before the assessing officer on 27.01.2020. After conducting a personal hearing, the assessing officer confirmed the applicability of LT VIIA tariff.
- (iv) The respondent M/s Capital Color Park has filed a complaint before the 'The Kerala State Single Window Clearance Board (KSSWCB)', chaired by the Chief Secretary, Government of Kerala. The KSSWCB constituted a high-level Committee having Chairman and two Members, to conduct site inspection and to furnish a report.
1. Chief Engineer (Dist. South) KSEB Ltd., Chairman
 2. General Manager, District Industries Centre, Kollam, Member
 3. Deputy Electrical Inspector, Kollam, Member
- (v) The Committee visited the premises on 11.01.2021 and reported that the activities seen in the establishment were photo printing, designing, digital album making, binding, lamination, printing and cutting of letters/cards/brochure. It was also reported that there was no studio facility seen in the establishment and at the time of inspection it could not be ascertained whether any retail/sale activity exists in the establishment. The Committee observed that the definition of 'colour lab' is the key factor in this case for categorizing in industrial or commercial tariff and that more explicit definition is required for the term 'colour lab' especially in the light of the fact that the colour lab is excluded from Industrial tariff category as per the 'Tariff notification in force'. The Committee further reported that, earlier when films was used for taking photographs, the washing and processing of the films are carried out in the colour lab. Now in the era of digital photography, the process of colour lab is not easy to be defined explicitly. Hence, the Committee recommended to take up the matter with the Hon'ble Commission for obtaining a clarification regarding the definition of colour lab and activities therein.
- (vi) The Kerala State Single Window Clearance Board (KSSWCB) directed KSEB Ltd to get clarification from Commission regarding the tariff applicable to the consumer. In the meeting held on 03.08.2021, KSSWCB decided to obtain an undertaking from the consumer M/s Capital Colour Park that he will defray the tariff as finally advised by the Hon'ble Commission and till that time, industrial tariff may be allowed to the consumer. KSEB Ltd requested the Commission to issue a clarification and the Commission had directed KSEB Ltd to file the request for clarification as a petition.
- (vii) The respondent M/s Capital Color Park has also filed a complaint before CGRF, Kottarakara, but CGRF disposed the complaint as per Order dated 19.02.2021 upholding the short assessment bill issued to the respondent at LT-VII A.

However, since the matter was pending before the KSSWCB, no further action based on the Hon'ble CGRF was taken by KSEB Ltd.

- (viii) M/s Capital Color Park has further filed an appeal petition in front of the State Electricity Ombudsman, with appeal petition No. P/007/2021. The Ombudsman set aside the Order of the CGRF Order dated 03.11.2020 and decided as follows.

“The premises of “Capital Colour Park” was inspected by this Authority on 23-07-2021 in presence of the appellant and the Assistant Engineer, Electrical Section, Karunagapally. In the inspection, it is observed that the unit is intended to accept digital copy of the photographs from individuals or other institutions involved in photography field and returned to them in the form of photo albums. In between the acceptance of the digital copy and returning of photo albums, a lot of activities are going on, for which arrangements are made by the appellant. The “reception counter” in the premises accepted the orders from the customers and selected the model of the photo albums to be prepared and for which certain models without photographs are displayed in the counter. The digital copy of the photo is processed through the “HP Indigo Digital Press” in a computerized system. The output of the digital press is photo sheets and which are laminated and shaped in another room. The photo album is made with these photo sheets and returned to the respective individuals or institutions’ process of this unit is just like a “digital printing press”. This Authority could not see any “sales counter” in the premises and the Assistant Engineer of KSEB Ltd is also not aware of it. There is no photo studio functioning in the premises and hence, no further processing units like labs. The body of the photo albums are also prepared in the premises. As such I am of the view that the “Capital Colour Park” is a unit engaged in computerised colour photo printing and making albums for specific customers.

- (x) The Commission vide Order dated 06.02.2019 (Petitioner KSEB Ltd & Respondent M/s Ajantha Colour Lab), has categorically stated that only an independent connection availed for computerized colour printing can come under LT IV Industrial tariff and in case there is a sales counter and related activities along with the computerized colour printing, then the premises comes under LT VII(A) Commercial tariff.

3. The Commission admitted the petition as OP No: 64/2021. The hearing of the petition was held on 25.02.2022 through video conference. Sri. Suresh Executive Engineer TRAC and Sri. Rajesh R Assistant Executive Engineer TRAC had presented the petition on behalf of KSEB Ltd. Sri Prasannakumar represented the respondent. The summary of the deliberations during the hearing is given below.

- (1) KSEB Ltd submitted that, the present petition was filed for getting a clarification on the term ‘Colour Lab’. KSEB Ltd had given an LT connection to Capital Colour Park & Digital Press at 2018 by considering the respondent as computerized photo printing Unit. The Commission vide Tariff Order dated 08.07.2019 had excluded photo studios and colour labs from LT -IV (A). On APTS inspection, they found that the name board of the unit contains

the word Colour Lab and changed the tariff category to LT VII-(A). The Respondent represented before the assessing officer and assessing officer confirmed the tariff as LT VII – (A). In mean time the Respondent also filed a complaint before the Kerala State Single Window Clearance Board (SSWCB). SSWCB constituted a high-level Committee including the Sri. Raj Kumar, the then Chief Engineer (Dist. South) KSEB Ltd., Deputy Electrical Inspector and a member from Industrial Department. The Committee conducted site inspection and furnished a report. The Committee observed that clarification is required on the word Colour Lab for fixing the tariff category and directed KSEB Ltd. to approach the Commission.

KSEB Ltd also submitted that according to the tariff Order dated 08.07.2019, photo studios and colour labs are excluded from LT IV(A) tariff category and included in LT-VII (A) category. Further, the Commission, while issuing Order dated 06.02.2019 in the petition filed by Ajanta colour Lab has ordered that computerized photo printing can be provided with LT-IV(A) category. The Commission further clarified that, if the computerized colour printing units engaged in commercial activities, they should segregate the load for commercial activities and avail a commercial connection for the same. In case of clubbed usage, the entire premise will categorized under LT VII (A) tariff category. At present, as per the direction of the KSSWCB, the consumer is billed at LT-IV(A) tariff and the respondent has already given an undertaking that they will abide the final Order of Commission, in this matter.

- (2) Sri Prasannakumar, on behalf of M/s Capital Colour Park & Digital Press submitted that they have two units, each at Kollam and Karunagapally. APTS inspected both the units on the same day. In the case of Karunagapally unit, Ombudsman set aside the orders of CGRF and KSEB Ltd and also ordered that final decision will be taken by the Hon'ble Commission. The Commission vide Order dated 06.02.2019 clarified that, the tariff applicable to the computerized photo printing is LT-IV (A) Industrial category.

As per the report of Kollam District Industrial Single Window Clearance Board on 19.03.2020 (19th Committee Decision), it was mentioned that the unit is for offset printing and can be classified as industry. It was reported that Udyog Aadhar Memorandum also indicated that working of this unit is based on the National Industrial Classification 18112, and is a manufacturing activity. Further, the inspection of manuals of main machineries in the unit and after observing the working of the same, it can be concluded that the activity is digital offset printing and hence eligible for Industrial tariff.

The Chief Secretary of Kerala constituted a high-level committee having three members. Chairman of Committee is Chief Engineer, Distribution - South KSEB Ltd and the other two members are General Manager, District Industrial Council and Deputy Electrical Inspector, Kollam. This Committee also inspected the unit and found that there is no commercial activity carried out. The Committee also proposed to obtain the clarification on the word Colour Lab from the Commission.

The respondent further submitted that the petition is not maintainable and entire issue arose due to the negligence of KSEB Ltd. All inspections conducted had concluded that there was no commercial activity and LT IV(A) tariff is the applicable tariff. Since the respondent did not have any commercial activity, the issue of segregation does not arise. KSEB Ltd's suggestion to segregate implies that a LT IV(A) tariff activity, offset printing, is carried out in the unit.

On a query by the Commission, M/s Colour Park clarified that their customers are studios. Hence, the respondent is taking prints of the photos taken by the studios, make required laminations and binding, and prepare album and gives back to them.

The respondent further argued that, the action of KSEB Ltd is on the basis of the 'name board' "colour lab" fixed at the site. The name was used for long time and there is no logic in deciding tariff based on the name, rather than activities carried out. It is a small SSI unit providing employment to nearly 100 people. He pointed out that all these disputes arose during the corona period. Not even a single rupee is pending payment to KSEB Ltd. The respondent therefore requested the Commission for a favorable decision for the existence of the unit.

Analysis and Decision of the Commission:

4. The Commission examined in detail the petition filed by KSEB Ltd, the argument of the respondent, deliberations during the hearing, the provisions of the Electricity Act 2003, and other Rules and Regulations in force, decides as follows:
5. The prayers of the KSEB Ltd in the petition dated 08.10.2021 are the following.
 - (1) Issue a clarification on the term 'Colour lab' and the appropriate electricity tariff, 'industrial or commercial' for colour labs.
 - (2) Tariff to be applied on the electric connection provided to M/s Capital Colour Park & Digital Press under Electrical Section, Pallimukku.
6. **Prayer-1. The first prayer of the petitioner is to issue a clarification on the term 'Colour lab' and the appropriate electricity tariff, 'industrial or commercial' for colour labs**

As per the prevailing Tariff Order dated 08.07.2019 in OP No. 15/2018, LT-VII (A) electricity tariff is assigned to 'photo studios/ colour labs'.

The terms ' photo studios and colour labs' are interchangeably used historically for photography studios. Before the era of digital photography, film rolls were used in the conventional cameras used for photography. In a photography studio, the photographer shoots the photos, develops the photo in the dark room attached with the studio, wash and develops negatives and thereafter print the photos of the desired size. In the colour labs, they receive the photo rolls taken outside the studio

by the photographers, develop the same and print the photographs of the desired size. Only difference between the colour lab and photo studio before the digital era was that, the photographer takes the photo either in the studio or anywhere else at his choice.

However, after the evolvement of the digital camera and photography, the processing of the film rolls in dark rooms and developing negatives are completely eliminated. At present, in the photo studios/ colour labs, the soft copy of the digital photographs from the camera is transferred to the computer and the images are transferred to the printers or other digital output mechanisms. It is a fact that, some of the processes involved in the photography is completely avoided in the digital era, however the basic purpose of the usage of electricity and its commercial purposes have not changed.

However, the SSI units engaged in computerized colour printing excluding 'photo studios and colour labs' are categorized under LT-IV (A) Industrial tariff. The Commission made this categorization on the basis that, the basic purpose of electricity usage in the SSI unit engaged in computerized colour printing is entirely different from the purpose of usage of electricity at the photo studio/ colour lab.

Considering these aspects in detail, the Commission is of the considered view that, no change is required for the tariff assigned to 'photo studios and colour labs'.i.e the existing category LT VII(A) shall continue.

7. The second prayer of the petitioner is to assign appropriate tariff on the electric connection provided to M/s Capital Colur Park & Digital Press under Electrical Section, Pallimukku.

As per the details placed before the Commission by the petitioner and respondent, the activities of the respondents is confined to photo printing, designing, digital album making, binding, printing and cutting of letters/ cards/ brochure. The committee engaged by the Kerala State Single Window Clearance Board (KSSWCB) reported after site visit that, there was no studio facility in the establishment. Further they could not establish whether there is any retail sale activity exists in the establishment.

The Commission also examined in detail the 'site mahassar' dated 18.01.2020. The site mahassar has also not reported any sale counter or commercial activities by the respondent. Further, the site mahassar also does not establish that, the activities of the firm involve any 'photo studio activity'.

The Kollam District Industrial Single Window Clearance Board including the Deputy Electrical Inspector, Asst: Engineer, KSEB had visited the premises of the respondent on 25.06.2020, and recommended that, the activities of the respondent is album making and cannot be compared with photo studio/ color lab. Further, as per the Udyog Aadhar Memorandum (UAM No. KL06C008171), the activities of the premises of the respondent is a 'manufacturing activity' as per the National Industrial Classification No. 1812. The Committee also recommended to assign industrial tariff to the unit.

In this matter, the Commission also noted the observation of the State Electricity Ombudsman in its Order dated 3rd August 2021 in Appeal Petition No. P/007/2021. The relevant portion of the Order is extracted below.

“the premises of the ‘Capital Colour Park’ In the inspection, it is observed that the unit is intended to accept digital copy of the photographs from individuals or other institutions involved in photography field and returned to them in the form of photo albums. In between the acceptance of the digital copy and returning of photo albums, a lot of activities are going on, for which arrangements are made by the appellant. The “reception counter” in the premises accepted the orders from the customers and selected the model of the photo albums to be prepared and for which certain models without photographs are displayed in the counter. The digital copy of the photo is processed through the “HP Indigo Digital Press” in a computerized system. The output of the digital press is photo sheets and which are laminated and shaped in another room. The photo album is made with these photo sheets and returned to the respective individuals or institutions’ process of this unit is just like a “digital printing press”. This Authority could not see any “sales counter” in the premises and the Assistant Engineer of KSEB Ltd is also not aware of it. There is no photo studio functioning in the premises and hence, no further processing units like labs. The body of the photo albums are also prepared in the premises. As such I am of the view that the “Capital Colour Park” is a unit engaged in computerised colour photo printing and making albums for specific customers.

8. The Commission examined the entire aspects of the issue in detail. Here the establishment of the respondent is an SSI unit. Further, all the agencies visited the premises of the respondent including the APTS of KSEB Ltd, the high level committee engaged by the Kerala State Single Window Clearance Board (KSSWCB) and the Electricity Ombudsman, confirmed that, there is no photo studio functioning in the premises. Further, all of them clarified that they could not establish any sale counter or commercial activities at the establishment of the respondent. The activities at the establishment of the respondent includes photo printing, designing, digital album making, binding, lamination, printing and cutting of letters/cards/brochure. It is also reported that, there is a reception counter at the establishment for the acceptance of the orders from the customers. The respondent also displayed models of the albums for the selection of the customers for the lamination. Various equipment such as “HP Indigo Digital Press”, printer, laminating machine, chiller, compressor and about 26 computers established at the firm of the respondent. The Commission also noted the recommendation of the Kollam District Industrial Single Window Clearance Board vide the Minutes dated 25.06.2020 and the observation of the Electricity Ombudsman after visiting the premises vide its order dated 03.08.2021.

Considering all these aspects in detail, the Commission is of the considered view that, the activities of the premises of the respondent cannot be compared to that of ‘Photo studio/ colour lab’. The activities of the establishment of the respondent can be classified as a manufacturing process and eligible to get LT-IV (A) Industrial tariff.

Order of the Commission

9. The Commission, after examining the petition filed by the KSEB Ltd, the argument of both the petitioner and the respondent during the hearing held on 25.02.2022, with the provisions of the Electricity Act, 2003 and other facts and records, hereby orders the following.
- (1) As per the tariff Order dated 08.07.2019 in OP No. 15/2018, the tariff applicable to the 'photo studio/ colour labs' is LT-VII(A) Commercial Tariff. This shall be in force till further orders due to the reasons explained under paragraph-6 above.
 - (2) The electric connection provided to M/s Capital Colour Park & Digital Press under Electrical Section, Palimukku Kollam is eligible to get LT-IV (A) Industrial tariff.

The petition is disposed off. Ordered accordingly.

Sd/-
Adv. A J Wilson
Member (Law)

Sd/-
Preman Dinaraj
Chairman

Approved for issue

S/d
C R Satheeshchandran
Secretary