

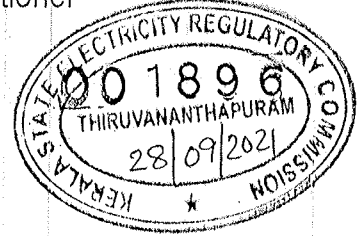
Before the Hon'ble Kerala State Electricity Regulatory Commission,
K.P.F.C. Bhavanam, CV Raman Pillai Rd, Vellayambalam,
Thiruvananthapuram, Kerala 695010

Review Petition: /2021

Between

P.S. Rajendra Prasad,
Managing Partner,
Trinity Movie Max (LCN/18/7176),
Pathanamthitta, Pin- 689 645.

Petitioner



And

1. Kerala State Electricity Board Ltd.,-

Respondents

Represented by the Secretary,
Vydyuthi Bhavan, Pattom,
Thiruvananthapuram, Pin-695 004.

2. Special Officer (Revenue),

Office of the Special Officer (revenue)
Kerala State Electricity Board Ltd.
Vydyuthi Bhavan, Pattom,
Thiruvananthapuram, Pin-695 004.

3. Deputy Chief Engineer,

Kerala State Electricity Board Ltd.
Electrical Circle, Pathanamthitta.

Petition for Reviewing the Demand Notice No.

SOR/HTB.18/7176/2020-21 dated 21.01.2021 issued by the Special
Officer (Revenue) and the Letter No. EC/PTA/AEEI/HT Tariff/2020-
21/1269 dated 07.12.2020 issued by the Deputy Chief Engineer,
Electrical Circle, Pathanamthitta.

Sir,

Sub: Revision of Bills in respect LCN.18/7176 - Effecting Tariff Change
regarding.

P.S. Rajendra Prasad:

(...2)

Ref.-1:- Demand Notice dated 21.01.2021 vide No. SOR/HTB.18/7176/2020-21 issued by the KSEB Special Officer (Revenue).

Ref.-2:- Reply letter received from the KSEB Special Officer (Revenue) dated 22.02.2021 vide No. SOR/HTB.18/7176/2020-21.

Ref.-3:- Tariff Order issued by Kerala State Electricity Regulatory Commission dated 08.07.2019 vide O.A. No. 15/2018

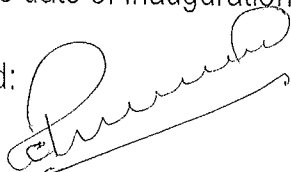
Ref.-4:- Copy of the reply letter received from the KSEB Special Officer (Revenue) dated 27.07.2021 vide No. SOR/HTB.18/7176/2020-21, disposing the revision petition filed on 29.03.2021 by the Petitioner.

STATEMENT OF FACTS

1. The Petitioner is the Managing partner of the Trinity Movie Max, Pathanamthitta. The Trinity Movie Max consists of three Mini Theatres having a seating capacity of 250, 110 and 110 seats respectively, comprised in three floors with a total plinth area of 15,263 Sq.ft. [i.e. 1,418 m² (GF 567.37m² + FF 160.62 m² + SF 567.37m² + MF 122.59m²)], excluding the existing old Aiswarya theatre, as per the building plan approved by the Pathanamthitta Municipality. The said complex is adjacent to the old Aiswarya Theatre, which stands alone. There are no commercial shops operating in the said theatre complex. Due to the wide spread Covid-19 pandemic, the said cinema theatres closed their operation from 08.03.2020 to 13.01.2021 as instructed by the Government of Kerala. Though the said theatres reopened recently, due to fear of Covid-19, only a small audience turn-up for watching the shows. In such a situation the management is trying hard to meet the daily fixed expenses.

2. On 25.01.2021 the Petitioner received the Demand Notice vide Ref.-1 above issued by the 2nd Respondent herein. It is respectfully submitted that the Kerala State Electricity Board Ltd. [hereinafter referred to as the Board] was charging the Trinity Movie Max, Pathanamthitta, having LCN.18/7176, under the tariff category HT-IV(A) since 04.09.2014, the date of Inauguration of the theatres.

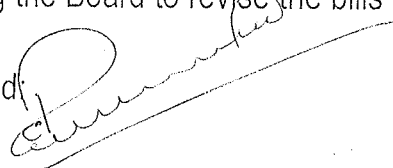
P.S. Rajendra Prasad:



(...3)

3. It is stated in the impugned Ref.-1 Demand notice issued by the 2nd Respondent that the Hon'ble *Kerala State Electricity Regulatory Commission* [herein after referred to as the Hon'ble Commission] vide Ref.-3 tariff order, proposed a group of consumers under commercial category including Hotels, Marriage Halls, Convention Centres, Shopping Malls, Multi Plexes etc. into a separate tariff category under HT-IV. As such a new tariff, HT-IV(B), was introduced for the above said category and the electric connection of Trinity Movie Max is included in the said new tariff category HT-IV(B) as Trinity Movie Max is classified as Multi Plex, which is incorrect. It is also stated therein that the said tariff change to HT-IV(B) has been effected from 01.12.2020 and the bills for 7/2019 to 11/2020 are revised to compensate for short assessment for the period from 7/2019 to 11/2019 as per Regulation 152 of *Kerala Electricity Supply Code, 2014*. Since the tariff change has been effected from 01.12.2020 as stated above, the backdated revision has no legal footing. It is stated in the Ref.-2 reply letter dated 22.02.2021 issued by the 2nd Respondent that the **Deputy Chief Engineer, K.S.E.B, Electrical Circle, Pathanamthitta, the 3rd Respondent herein, vide impugned Letter No. EC/PTA/AEEI/HT Tariff/2020-21/1269'** dated 07.12.2020 has reported that the Trinity Movie Max is a theatre having three Multiplex Screens since the date of inauguration and hence it is re-categorised as afore said. Copy of the said letter dated 07.12.2020 is not furnished to the Petitioner.

4. It is pertinent to note that the word 'Multi Plex' is not defined in the Electricity Act, 2003 and the Kerala State Electricity Regulatory Commission (Terms and Conditions for Determination of Tariff) Regulations, 2018 or any other regulations enabling the Hon'ble Commission to pronounce the Ref.-3 Tariff Order dated 08.07.2019. The said term 'Multi Plex' is also not defined in the *Kerala Electricity Supply Code, 2004* enabling the Board to revise the bills to compensate for the



short assessment for any period. The said term is not defined in the *General Clause Act, 1897* also. But the expression 'Multi Plex' is very well defined/explained in **Rule 18DB-Deduction to Multiplex Theatres** of the *Income Tax Rules, 1962*, which is reproduced as follows:-

"Rule - 18DB, Income-tax Rules, 1962

(1) For the purpose of sub-section (7A) and clause (da) of sub-section (14) of section 80-IB, the multiplex theatre shall have the following area, facilities and amenities:-

(a) The total built-up area occupied by all the cinema theatres comprised in the multiplex shall not be less than 22,500 square feet, and shall consist at least 50% of the total built-up area of the multiplex excluding the area specified for parking.

(b) The multiplex theatres shall be comprised of at least three cinema theatres and at least three commercial shops.

(c) Total seating capacity of all the cinema theatres comprised in the multiplex shall be at least 900 seats, and no cinema theatre should consist of less than 100 seats.

(d) The total built-up area occupied by all the commercial shops comprised in the multiplex theatre shall not be less than 3000 sq. ft., and the minimum built-up area of each shop shall not be less than 250 sq. ft.

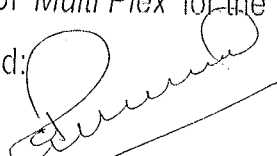
(e) There shall be at least one lobby or foyer in the cinema theatres, whose area shall be at least 3 sq. ft. per seat.

f)"

In the said circumstances the said definitions/explanations provided in the **Rule 18DB** of the *Income Tax Rules, 1962* have to be resorted by the authorities of the Board to determine whether Trinity Movie Max comes under the category of 'Multi Plex', before changing the existing tariff category to the new tariff category HT-IV(B), which they failed to do and erroneously changed the tariff category.

5. On 29.03.2021 the Petitioner has filed a petition before KSEB for reviewing the Ref.1 order dated 21.01.2021. But they did not consider that petition and sent Ref.4 letter advising the Petitioner to approach the Hon'ble Commission for redressal. Without prejudice to the contentions above, it is respectfully submitted that the Trinity Movie Max will not come under the definition of 'Multi Plex' for the following among other

P.S. Rajendra Prasad:



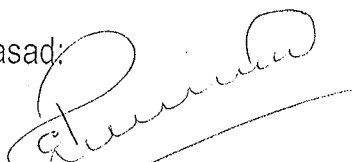
(...5)

GROUNDS

- a) Multiplex (Theatre Complexes) offer various entertainment facilities for the entire family under a single roof, which is not true in the case of Trinity Movie Max. There is no entertainment facility other than Cinema.
- b) The total built-up area occupied by all the three Cinema Theatres comprised in the Trinity Movie Max is 15,263 Sq.ft., which is less than 22,500 sqft., the minimum total built-up area mandated by Rule - 18DB of the *Income Tax Rules, 1962* to be occupied by all the cinema theatres comprised in the multiplex.
- c) There are no commercial shops in the Trinity Movie Max. As per Rule - 18DB of the *Income Tax Rules, 1962* multiplex theatres shall be comprised of at least three commercial shops.
- d) The total seating capacity of all three theatres in Trinity Movie Max is 470 seats. As per Rule - 18DB of the *Income Tax Rules, 1962* the total seating capacity of all the cinema theatres comprised in the multiplex shall be at least 900 seats.
- e) As per Rule - 18DB, the total built-up area occupied by all the commercial shops comprised in the multiplex theatre shall not be less than 3,000 sq. ft., and the minimum built-up area of each shop shall not be less than 250 sq.ft., whereas in the case of Trinity Movie Max there are no commercial shops in the premises.
- f) As per Rule - 18DB, in every multiplex there shall be at least one lobby or foyer in the cinema theatres, whose area shall be at least 3 sq.ft. per seat and in the case of Trinity Movie Max, there is only a small lobby area.

In the light of the above averred grounds, it is clear that the Trinity Movie Max, Pathanamthitta, will not come under category of 'Multi Plex' and the classification and change of tariff has no legal footing. For these as well as other grounds to be urged at the time of hearing it is most respectfully prayed that the impugned Ref.1 Demand Notice No. SOR/HTB.18/7176/2020-21 dated 21.01.2021 issued by the Special

P.S. Rajendra Prasad:



(...6)

Officer (Revenue) and the Letter No. EC/PTA/AEEI/HT Tariff/2020-21/1269 dated 07.12.2020 issued by the Deputy Chief Engineer, K.S.E.B, Electrical Circle, Pathanamthitta, may be reviewed and the arbitrary and unsustainable tariff change effected to the Trinity Movie Max, Pathanamthitta, having LCN.18/7176, from category HT-IV(A) to category HT-IV(B) by the Board may be revoked and the old tariff category HT-IV(A) may be reinstated. The Petitioner may be heard in person or through his counsel before the matter is taken for disposal.

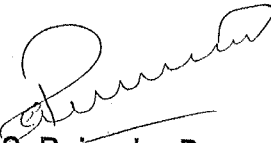
Dated this the 23rd day of September 2021

Faithfully,

P.S. Rajendra Prasad

List of Documents Enclosed

- 1) Copy of Ref.1 Demand Notice dated 21.01.2021 vide No. SOR/HTB.18/7176/2020-21 issued by the Special Officer (Revenue).
- 2) Copy of Ref.-2 Reply letter received from the Special Officer (Revenue) dated 22.02.2021 vide No. SOR/HTB.18/7176/2020-21
3. Copy of Ref.-4:- reply letter received from the KSEB Special Officer (Revenue) dated 27.07.2021 vide No. SOR/HTB.18/7176/2020-21, disposing the revision petition filed on 29.03.2021 by the Petitioner.


P.S. Rajendra Prasad



KERALA STATE ELECTRICITY BOARD LIMITED

(Incorporated under the Companies Act, 1956)

Reg. Office: Vidyuthi Bhavanam, Pattom, Thiruvananthapuram - 695 004, Kerala

CIN : U40100KL2011SGC027424

Website: www.kseb.in

Office of the Special Officer (Revenue)

Phone: +91 471 2514612, 2514437, 2514340

Fax: 0471 2514262

E-mail: sorkseb@kseb.in

No. SOR/HTB.18/7176/2020-21.

Dated: 21.01.2021.

Demand Notice

(As per Regulation 152 of Kerala Electricity Supply Code 2014)

To

M/s. Trinity Movie Max
Cinema Theatre,
XXI/420(1), (2), (6),
Pathanamthitta.

Sir,

Sub:- Revision of bills of respect of LCN.18/7176 - Effecting Tariff change -
Regarding.

Ref:- Tariff order issued by Kerala State Electricity Regulatory Commission
dated 08.07.2019.

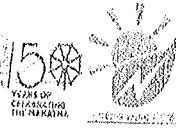
Kindly refer above. Vide order under reference, the Kerala State Electricity Regulatory Commission proposed a group of consumer under commercial category, including Hotels, Marriage Halls, Convention Centers, Shopping Malls, Multi Plexes etc. into a separate tariff category under HT IV. As such a new tariff, HT IV B was introduced and your connection being a multi plex come under HT IV B category. However bills were issued till 11/2020 under HT IV A tariff. Now the tariff changed to IV B with effect from 01.12.2020 and bills for 7/2019 to 11/2020 are revised to compensate for short assessment for the period from 7/2019 to 11/2020 as per the Regulation 152 of Kerala Electricity Supply Code.2014. The details are tabulated below.

A	B	C	D	E = B-C	F = B-D	E+F
Consumption Month	Original bill amount	Revised bill amount due to tariff revision	Amount remitted	Balance to be remitted due to tariff revision	Current charge to be remitted including tariff revision & arrear	Total amount to be remitted
7/2019	274959	282316	274959	7357	Nil	7357
8/2019	347955	359714	347955	11759	Nil	11759
9/2019	402838	416587	402836	13749	Nil	13749
10/2019	344393	355585	344393	10642	Nil	10642
11/2019	335585	346658	335585	11073	Nil	11073
12/2019	364319	376418	364319	12099	Nil	12099
1/2020	470549	486921	470549	16372	(Old due) B-D	16372
2/2020	459284	474896	459282	15614		15612
3/2020	160761	165262	116179	4501	44582	49083
4/2020	79938	80878	16582	940	63356	64296
5/2020	69383	70148	34679	765	34704	35469
6/2020	69644	70441		797	- 5687	797
7/2020	70636	71482	36701	846	33935	34781
8/2020	71666	72546	12973	880	58693	59373
9/2020	66523	67174	0	651	66523	67174
10/2020	68323	69003	0	680	68323	69003
11/2020	67424	68088	0	664	67424	68088
Total				109937	431853	541790

Arrears pending due to bill revision (Difference between tariff changes with effect from 7/2019 to 11/2020)	109937
Old arrear (with effect from 3/2020 to 11/2020)	431853
Total arrears pending	541790

So you are requested to remit the balance amount of ₹5,41,790/- on or before 30.01.2021 revised bills are mailed to the registered E-mail ID.


SPECIAL OFFICER (REVENUE)



KERALA STATE ELECTRICITY BOARD LIMITED

(Incorporated under the Companies Act, 1956)
Reg. Office: Vydyuthi Bhavanam, Pattom, Thiruvananthapuram - 695 004, Kerala
CIN : U40100KL2011SGC027424
Website: www.kseb.in

Office of the Special Officer (Revenue)
Phone: +91 471 2514612, 2514437, 2514340
Fax: 0471 2514262
E-mail: sorkseb@kseb.in

No. SOR/HTB.18/7176/2020-21.

Dated: 22.02.2021.

To

M/s. Trinity Movie Max
Cinema Theatre,
XXI/420(1), (2), (6),
Pathanamthitta.

Sir,

Sub:- Revision of bills due to Tariff change - Reply - Regarding.

- Ref:- (1) Letter No. EC/PTA/AEEI/HT Tariff/2020-21/1269 dated 07.12.2020
of Deputy Chief Engineer, Electrical Circle, Pathanamthitta.
(2) This office demand notice dated 21.01.2021.
(3) Your request dated nil.

As per the reference 1st cited above, Deputy Chief Engineer, Electrical Circle, Pathanamthitta reported that the premises of consumer No. LCN.18/7176 M/s. Trinity Movie Max is a theatre having three Multiplex Screens since the date of inauguration. Hence recommended to change the premises to appropriate tariff as per the latest tariff revision order dated 08.07.2019.

Accordingly, the tariff of the consumer No. LCN.18/7176 premises have been changed from HT IV A to HT IV B with effect from 08.07.2019 onwards and demand notice to short assessment for the period from 7/2019 to 11/2020 were issued as per reference 2nd cited above.

Also, as per the note KSEBL/TRAC/G/Tariff revision/2019-20/657 dated 14.02.2020 of Deputy Chief Engineer (Comm. & Planning) with full power of Chief Engineer, it is clarified that HT IVB Commercial Tariff can be assigned for theatre complexes accommodating two or more theatres in the same building, since Kerala State Electricity Regulatory Commission already ordered to categorize multiplex to HT IV B Commercial as per order dated 08.07.2019.

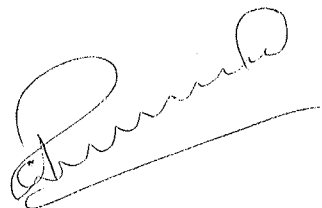
Hence your request as per reference 3rd cited above, to cancel the demand notice done based on the tariff revision order and to change the tariff to HT IV A cannot be considered.

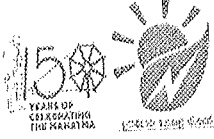
This is for favour information and further necessary action.

Yours faithfully,


SPECIAL OFFICER (REVENUE)


M 20/2 9 25/2 22/02/2021





KERALA STATE ELECTRICITY BOARD LIMITED

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Phone: +91 471 2514612, 2514437, 2514340
Fax: 0471 2514262
E-mail: sorkseb@kseb.in

Dated: 27.07.2021.

No. SOR/HTB.18/7176/2021-22.

To

M.G. Partner,
M/s. Trinity Movie Max
Pathanamthitta.

Sir,

Sub:- Tariff applicable for Multiplexes & Malls -- Clarification - Regarding.

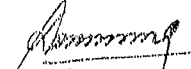
Ref:- (1) Your request dated 29.03.2021.
(2) No. TRAC/GL/Gen-14/Multiplexes/2021-22/172 dated 18.06.2021
of Deputy Chief Engineer (TRAC).

As per your request dated 29.03.2021, clarification was sought from Deputy Chief Engineer, TRAC vide reference 2nd cited above, wherein it is point out that the tariff determination/ revision process comes solely under the purview of the Hon'ble commission. Tariff determination is a quasi judicial process which needs to be done complying with the procedures prescribed under section 64 of the Electricity Act, 2003 and the various Regulations notified by the commission in this regard. Kerala State Electricity Board Limited as a distribution licensee is bounded under the Act to levy and collect electricity charges at the tariff determined and approved by the Hon'ble Kerala State Electricity Regulatory Commission. However, it is understood that the next tariff revision exercise is expected to commence in the coming months.

In this scenario, it is hereby informing that you have any objections regarding the tariff fixed, you can approach the Hon'ble commission.

This is for your information.

Yours faithfully,


SPECIAL OFFICER (REVENUE)

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