

ELECTRICITY CGRF
(Under The Electricity Act, 2003)
ANDAMAN & NICOBAR ISLANDS
PORT BLAIR

Before :

Shri. R. Ravichandar, Chairman.
Shri. Narayan Chandra Baroi, Member (Licensee).
Smt. Biji Thomas, Independent Member (JERC Nominated).

In the matter of :

The Director, M/s Silver Line Vincom, Coral Reef Resort Pvt. Ltd., R/o Vijaya Nagar, Swaraj Dweep, South Andaman (Mobile No.9434285241) bearing Consumer No. Z/3709 (Commercial).

.... Complainant

Versus

The Electricity Department, A & N Administration, Port Blair.

.....Respondent

Complaint No. : ANI/CGRF/308/23-24/40 dated 08/12/2023
Complaint : Excess Billing bearing A/c No. Z/3709 (Commercial)
Date of Hearing : 23/02/2024
Date of Order : 16/04/2024



ORDER

Background

The complainant Director, M/s Silver Line Vincom, Coral Reef Resort Pvt. Ltd., R/o Vijaya Nagar, Swaraj Dweep, A&N Islands filed a complaint vide R.D. No. 319 dated 08/12/2023 regarding category change, due to which excess billing bearing Consumer No. Z/3709 (Commercial).

The complaint was forwarded on 08/12/2023 to the Assistant Engineer (W/shop), Nodal Officer (CGRF), Executive Engineer (SAD), Assistant Engineer (SH-SW), Electricity Department for submitting reply/comments and intimated for attending the Hearing fixed on 23/02/2024 at 10:30 a.m. in the Hearing Hall of the Electricity CGRF, A&N Islands, Horticulture Road, Haddo, Port Blair with relevant documents to depose before the Forum. Also intimated to the complainant for attending the Hearing on 23/02/2024 at 10.30 a.m.

The Respondent on behalf of Licensee (ED) i.e. Assistant Engineer (SH/SW), Electricity Department filed his reply/comments letter No. EL/AE/SH-SW/1-55/2023-24/21 dated 11/01/2024, which was received by the Forum on 16/01/2024, which is kept in case file **(Exbt. -1)**.

Hearing on 23/02/2024

The Hearing was held on 23/02/2024 in the Hearing Hall, Electricity CGRF at 10:30 a.m. The following were present: -

- 1) Shri. Ayush Kandoi, Complainant.
- 2) Smti. Nisha Munshi Kandoi, Asst. Complainant.
- 3) Shri. Suresh Kumar, NO, Elect. Dept.

The EE (SAD) informed vide letter dated 22/02/2024 that the AE(SH-SW) is unable to attend the Hearing due to VVIP (Hon'ble President of India) visit on Swaraj Dweep w.e.f. 21/02/2024 to 23/02/2024.

Statement of the Complainant

The Director, M/s Coral Reef Resort Pvt. Ltd., stated in his complaint letter vide R.D. No. 319 dated 08/12/2024 that "we have been facing a persistent issue with the electricity department regarding the categorization of our property, Coral Reef Resort Pvt Ltd. We have been classified under the commercial category in our electricity bills, and despite our repeated efforts, the necessary correction has not been made from August 2022 to July 2023.

Details of Property: -

Property Name : Coral Reef Resort Pvt. Ltd.
Address : No. 5, Vijaya Nagar, Swaraj Dweep
Consumer Number : Z/3709 [SILVER LINE VINCOM (PVT) (LTD)
Billing Period : August 2022 to July 2023

We have approached the local electricity department on numerous occasions (The reference letter is enclosed) to rectify this error and update our billing category from commercial to hotel & resort. Our property clearly falls under the latter category for which we had received the notice from the department on September 2022, the copy of which has been attached for your reference, and the incorrect classification is not only causing financial discrepancies but also affecting the overall efficiency of our operations.

We have submitted all the required documents and completed the formalities as instructed by the electricity department to facilitate the change in category. Despite our diligent efforts, the correction has only been implemented from August 2023 onwards and has not been implemented for the months before that, leading to inaccurate billing and unnecessary financial burden to our establishment.

We understand that the Consumer Grievance Redressal Forum (CGRF) plays a crucial role in addressing consumer complaints and ensuring fair and just resolution. Therefore, we kindly request your intervention in this matter to expedite the correction of our billing category from commercial to hotel & resort



for the period from August 2022 to July 2023 and adjust the excess amount paid to the department in the succeeding bills.

Enclosed with this letter, please find copies of all relevant documents, including our letters to JE, Swaraj Dweep for category change and bill correction, acknowledgement receipts, and any other supporting materials.

We hope that CGRF will take prompt action to resolve this issue and bring out the necessary correction in our electricity bills."

The complainant submitted the photocopy of electricity bills from August 2022 to July 2023, acknowledged letter to JE for category classification error, notice received from the electricity department regarding category change and the statement of comparison excess payment made under commercial category, which is kept in the case file (Exbt. -2).

Reply of the Respondent/Licensee (ED)

The Assistant Engineer (SH/SW) on behalf of the Respondent/ Licensee (ED) in his written submission vide letter No. EL/AE/SH-SW/1-55/2023-24/21 dated 11/01/2024 stated that "the contents of the representation dated 08/12/2023 submitted before to the CGRF by M/s. Coral Reef Resort Pvt Ltd. have been examined in details wherein it has been noted that the firm has made contentions that inspite of numerous efforts made their request to rectify the change of category from commercial to resort category as per the new tariff has not been considered by giving retrospective effect i.e. from the date of implementation of new tariff along with introduction of new category of Hotel. Further as per the representation, it has been observed that albeit the notice for change of category was received on 05/11/2022 (Copy enclosed) by the firm which has been duly acknowledged and mentioned in the ibid representation, but the firm has failed to act promptly rather pursued at a very later charge i.e. August 2023 after a lapse of almost nine month period from the date of receipt of the notice issued by this office thus upon receipt of the relevant information by the firm only the change of category has been effected from the month of August 2023 itself.

Moreover, it is pertinent to submit that as per the letter received on 05/08/2023 of the firm which delves that the change of name of hotel has been communicated i.e., from Silverline vincom Pvt. Ltd to Coral Reef Resort Pvt. ltd, which was the main substance for not giving retrospective effect of the determine change in category from commercial to hotel which has been effected only from August 2023. Had the firm informed the status of the hotel earlier then the department might have considered the request for effecting the date of change of category retrospectively i.e. only from the date of receipt of such communication /information in context with the notice issued by this department which was received on 15/11/2022 by the firm.



Therefore, it is to submit that the change of category from commercial to hotel effected from August 2023 stand good on the very premise that the firm has showed very lackadaisical approach towards providing the requisite information in response to the notice received by the firm on 15/11/2022”.

As per the report of the Junior Engineer T&D, Swaraj Dweep dated 28/12/2023 addressed to AE (SW- SH), Electricity Department stated that “in compliance of the direction of the SE’s letter vide EL/PL/10-1/2022/4683 dated 03/09/2022 and approved revised electricity tariff schedule by JERC effective from 01/08/2022 for change of category from Commercial to Hotel/Restaurant /Resort, we had issued notice to the party on September 2022 for the category change and clearance of dues. The party had cleared all the dues and had submitted all the necessary documents of resort and company name change on 05/08/2023. The category from commercial into hotel has been done on August 2023 in software. Now, the party is asking the excess billing amount for the period September 2022 to July 2023 for which the report has been prepared and submitted with the difference billing amount of Commercial and Hotel category with respect to tariff admissible for your kind reference and necessary action please.

The Forum observed that the above brief have been prepared by taking into account of the ingredients received from the Junior Engineer, T&D Swaraj Dweep and as per the JERC Regulation, 2018.

The Respondent/Licensee (ED) has submitted photocopies of enclosures as above stated AE’s letter dated 11/01/2024 and JE’s letter dated 28/12/2023, which are kept in the case file **(Exbt. -3)**.

Forum’s Observation

During the Hearing on 23/02/2024, the Authorised Officer of the Licensee (ED) i.e. AE(SH-SW) is absent due to VVIP visit, which was informed by the EE(SAD). The AE(W/shop), Nodal Officer (CGRF) on behalf of the Respondent/Licensee (ED) submit the documents not in affidavit form as prescribed earlier.

The Forum decided to conduct site inspection to understand whether Silver Line Vincom Pvt. Ltd. and Coral Reef has any connection to be categories as Hotel on 03/04/2024.

As per the JERC tariff order dated 01/08/2022, the commission has introduced a new category Hotel/Restaurant/Resorts with tariff applicable to various Hotels/Restaurants/Resorts establishment in the A&N Islands.

The Assistant Engineer (Swaraj Dweep) submitted his statement vide letter dated 11/01/2024. A communication received from the SE, Port Blair vide letter No. EL/PL/10-1/2022 nil dated directed, all the divisions to take appropriate action in accordance with the JERC tariff order, financial year



2022-23 dated 01/08/2022. Further, direction may be issued to all the concerned officials to identify the Hotels/Resorts/Restaurants and accordingly classify such establishment under the respective category as notified by JERC.

The Forum also observed that the notice issued by the AE(SH&SW) dated nil addressed to M/s Coral Reef Resort Pvt Ltd (Silver Line Vinicom), Havelock, Consumer No. Z/3709, requesting him to clear all the outstanding dues pertaining to the commercial connection, so this Site Office is going to update the change of category w.e.f. 01/08/2022 from Commercial to Hotel. It is very clear that the M/s Coral Reef Resort Pvt. Ltd. (Silver Line Vinicom), Havelock, is running a hotel business, and the consumer is eligible to get the benefit of the Order passed by the JERC vide Tariff Order in the financial year 2022-23 dated 01/08/2022. The Respondent/Licensee (ED) did not produce any proper documents regarding arrears pending as on date and when the arrears are cleared, and the firm is deemed to be eligible for the new category and the same may be eligible for conversion w.e.f. 01/08/2022. The Forum also visited consumer premises during the visit at Swaraj Dweep on 03/04/2024 and observed that activities that happened in these premises related to hotel category. Also, the Forum observed that as per the Electricity Supply Code Regulations under Section 9.3 (1) the licensee may issue disconnection notice in writing as per Section 56 of the Electricity Act, to any consumer who defaults on his payment of dues were not exercised by the Respondent/Licensee (ED) in this case to recover the arrears in time.

It is also observed that as per the Electricity Supply Code 2018 under Section 5.95, 5.96 & 5.97 read as: -

"5.95 If a consumer wishes to change his consumer category, the consumer shall submit an application form to the Licensee in the format given in Annexure VI to this Supply Code, 2018. The Licensee shall process the application form in accordance with Regulations 5.79 to 5.83 of this Supply Code, 2018. For site inspection and issuance and payment of demand note for the estimated cost of works, both the Licensee and applicant shall follow the procedure and timelines as laid down in Regulations 5.40 to 5.51 of this Supply Code, 2018. The Licensee shall also note down the meter reading at the time of inspection. If on inspection, the consumer's request for reclassification is found valid, the Licensee shall change the category within 10 days (about 1 and a half weeks) of receipt of the application.

5.96 If the Licensee does not find the request for reclassification valid, it shall inform the applicant in writing, giving reason(s) for the same, within 10 days (about 1 and a half weeks) from date of inspection.

5.97 For the period in which the consumer's application for reclassification is pending, the consumer shall not be liable for any action on grounds of unauthorized use of electricity".



Hence, the consumer shall submit an application form to the Licensee (ED) as per the format given in Annexure 6 for reclassification of consumer category. But in this present case, no such application of the consumer is not insisted since, the commission has introduced a separate category for the Hotel Industry consumers and directed the Electricity Department (Andaman & Nicobar Islands) to comply with the Commission's order and applicable tariff schedule.

Hence,

It is Ordered:

After detailed deliberations, submissions, site inspection, discussion, and on the observations so reached, the following is passed: -

1. The Respondent/Licensee (ED) is directed to convert the category of the complainant from Commercial to Hotel Industry consumers as per Tariff Order (FY 2022-23) dated 01/08/2022 approved by JERC after observing all codal formalities as per JERC Regulations.
2. The Respondent/Licensee (ED) is directed to revise the bill from the day of effect onwards for Consumer No. Z/3709 from Commercial to Hotel category, and, if any excess amount so collected may be accordingly adjusted in future bills as per JERC Regulation No. 23/2018 (Electricity Supply Code).
3. The Respondent/Licensee (ED) is directed to revise the bill within five (5) working days and endorsed to the complainant consumer in respect of consumer No. Z/3709, as per JERC Regulation No. 23/2018 (Electricity Supply Code Regulations, 2018) under Clause 7.26.
4. The Complainant is directed to submit the ownership documents and to update the data in the records available with Respondent/Licensee (ED) to avoid any litigation in future regarding ownership.
5. The Complainant is directed to make the payment within 15 days (about 2 weeks) after receipt of the revised bills, if any, received from the Respondent/ Licensee (ED) in respect of Consumer No. Z/3709, as per JERC Regulation No. 23/2018.
6. The Respondent/Licensee (ED) is directed to disconnect the energy meter timely, if found default on non-payment in future to avoid future litigation as per JERC Regulation, which has not been done in this instant case.

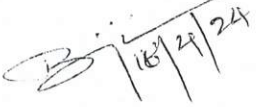


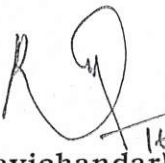
7. The Respondent/Licensee (ED) is directed to submit **compliance report within 15 days** from the date of receipt of this order as per JERC Regulation No. 26/2019 under Clause 27(1). **Further, from Sl. No. 1 to 5 of the above said direction copy is also submit alongwith compliance.**
8. As per JERC Regulation No. 26/2019 under Chapter-IV of 27, non-compliance of the Forum Order shall be treated as violation of the Regulations of the Commission and accordingly liable for action under Section 142 of the Electricity Act 2003.
9. The complainant shall not be harassed overtly or covertly in any manner whatsoever in future for exercising his right by availing the redressal within his jurisdiction.

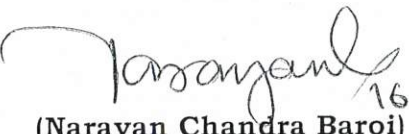
"The complainant, if aggrieved, by non-redressal of his / her grievance by the Forum or non-implementation of CGRF order by the Licensee, may make an Appeal prescribed Annexure-IV, to the **Electricity Ombudsman, Joint Electricity Regulatory Commission for the State of Goa and UTs**, 3rd Floor, Plot No. 55-56, Service Road, Udyog Vihar, Phase-IV, Sector-18, Gurugram - 122015 (Haryana). Phone - 0124-4684708, E-mail : ombudsman.jercuts@gov.in **within one month from the date of receipt of this order**".

[Annexure – IV Appeal Form can be collected from the office of the Forum on any of the working days].

A certified copy of this Order be sent to the Superintending Engineer (Licensee/Respondent), Executive Engineer (SAD), Nodal Officer (CGRF), Assistant Engineer(SH-SW), Electricity Department, Complainant and the Electricity Ombudsman, JERC for the State of Goa & UTs, Gurugram, (Haryana).


(Biji Thomas)
Independent Member
Electricity CGRF


(R. Ravichandar)
Chairman
Electricity CGRF


(Narayan Chandra Baroi)
Member (Licensee)
Electricity CGRF