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കേരള ഗസറ്റ്
KERALA GAZETTE

അസാധാരണം
EXTRAORDINARY

ആധികാരികമായി പ്രസിദ്ധപ്പെടുത്തുന്നത്
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GOVERNMENT OF KERALA

Abstract

POWER DEPARTMENT—RE-VESTING OF THE ASSETS AND LIABILITIES OF ERSTWHILE KERALA STATE ELECTRICITY BOARD TO THE KERALA STATE ELECTRICITY BOARD LIMITED—NETTING OFF OF DUES BETWEEN GOVERNMENT AND KSEB AS ON 31-10-2013, THE DATE OF RE-VESTING—APPROVED—ORDERS ISSUED

POWER (C) DEPARTMENT

G. O. (Ms.) No. 17/2015/PD. *Dated, Thiruvananthapuram, 13th May, 2015.*

Read:—1. G. O. (Ms.) No. 27/98/PD. dated 14-9-1998.
2. G. O. (Ms.) No. 25/02/PD. dated 9-10-2002
3. G. O. (Ms.) No. 36/08/PD. dated 19-9-2008.
4. G. O. (Ms.) No. 35/10/PD. dated 13-12-2010.
5. G. O. (Ms.) No. 37/08/PD. dated 25-9-2008.
6. G. O. (Ms.) No. 42/11/PD. dated 3-11-2011.

7. G. O. (Ms.) No. 46/2013/PD. dated 31-10-2013.
8. G. O. (P) No. 3/15/PD. dated 28-1-2015.
9. Letter No. Annual Accounts/Netting off dues/2014 dated 24-10-2014 from the Chairman and Managing Director, KSEB Limited.
10. Letter No. Annual Accounts/Netting off dues/2014 dated 13-11-2014 from the Director (Finance), KSEB Limited.

ORDER

As per G. O., read as first paper above, Government had ordered that an amount of ₹ 1553 crore, inclusive of the loan amount of ₹ 1025 crore, availed by KSEB from Government as on 31-3-1998 and its interest of ₹ 528 crore as on 31-3-1997 be converted as equity of Government. As per G. O. read as second paper above, it was ordered to net off the dues as on 31-3-2002 without cash transaction by converting the portion of loan to grant, after taking into account the final audited figures in respect of electricity duty.

2. As per G. O. (Ms.) No. 20/2005/PD dated 16-7-2005, a committee was constituted under the Chairmanship of the Chief Secretary for examining the issue of providing Government subsidy to KSEB, as ordered by the Kerala State Electricity Regulatory Commission. The following suggestions for netting off dues were mainly evolved in the meeting held by the Principal Secretary, Finance Department on 25-11-2006:—

(a) KSEB shall stop the practice of booking 3% Rate of Return from the financial year 2006-07 onwards.

(b) As per the audited Balance Sheet as on 31-3-2006 the net balance due to the Board from the State Government is ₹ 2002.30 crore. This amount will be written off by KSEB in 5 years starting from 2006-07 @ ₹ 400 crore each year.

(c) If the Board goes into revenue deficit in any of these 5 years after such writing off, the gap in revenue as ordered by Kerala State Electricity Regulatory Commission will be recovered by Government by providing subsidy.

(d) The Board has to remit electricity duty collected promptly with effect from 1-4-2006.

3. Accordingly the Board filed the ARR & ERC (Aggregate Revenue Requirement and Expected Revenue from Charges) for 2008-09 before the State Electricity Regulatory Commission with the proposal for writing off that year's arrear installment of ₹ 400 crore. However, the Regulatory Commission did not approve the proposal. If the KSERC had approved proposal for writing of

arrears, it would have resulted in upward revision of tariff. Therefore, it was suggested to adjust the amount due from Government to the Board in the coming years. The issue was examined by Government and as per G. O., read as third paper above, it was decided to place the matter before the Council of Ministers after examination by a Committee comprising the Chairman, KSEB, Secretary, Power and Principal Secretary, Finance.

4. Considering the request of the Chairman, to re-consider the aforesaid G. O. dated 9-10-2002, as it was based on provisional figures and conversion of equity into grant would have had serious consequences on the Board, Government examined the matter and it was ordered in G. O. read as fourth paper above, that the equity of ₹ 1553 crore would continue to be treated as Government's capital in KSEB and that netting off of dues would be done after reconciling the final audited figures furnised by KSEB with the Government account.

5. In exercise of the powers conferred under Section 131 and 133 of the Electricity Act, 2003, Government notified the Kerala Electricity First Transfer Scheme, 2008, as per G. O., vesting the assest and liabilities of the erstwhile Kerala State Electricity Board in Government.

6. In October, 2010 the Special Officer of the Managing Committee, KSEB, submitted the draft Second Transfer Scheme (Re-vesting) based on the assessment of the liabilities and actuarial valuation of the unfunded and unaccounted terminal liabilities as on 31-3-2009 to Government for approval and proposed to meet the pension liability of the existing pensioners and employees of the Electricity Board by way of creating a Master Trust/Pension Fund. The unfunded terminal liability of KSEB as on 31-3-2009 was estimated at ₹ 4520 crores. The total amount of ₹ 2500 crore proposed to be funded by Government was the sum of ₹ 1599.82 crore (rounded to 1600 crore), payable by Government to KSEB, on netting off of the amount due to the Board on account of the earlier orders issued by Government and the amount payable to Government towards electricity duty and surcharge etc. as on 31-3-2008 plus its interest component of ₹ 900 crore. The statement of netting off of dues up to 31-3-2008, furnished by KSEB is attached as **Annexure I**

7. As per G. O. read as sixth paper above, Government accorded in principal approval for the Kerala Electricity Second Transfer Scheme (Re-vesting), 2011 for re-vesting the assets and liabilities of the erstwhile KSEB, vested with the Government to the newly incorporated company and ordered that the aforesaid amount of ₹ 2500 crore will be provided to the Company for funding the terminal liabilities.

8. As per G. O., read as seventh paper above, Government have notified the Kerala Electricity Second Transfer Scheme (Re-vesting), re-vesting the assets and liabilities of the erstwhile KSE Board into the Kerala State Electricity Board Limited, a fully owned Government Company, constituted under the Companies Act, 1956. Clause 6 (9) (d) of the said Scheme provides that the electricity duty collected by KSEB for the period from 1-4-2008 to 31-3-2012 will be permitted to be retained in KSEB Ltd., as Government's contribution for funding the terminal liability.

9. As per G. O., read as eighth paper above, Government have notified the Kerala Electricity Second Transfer (Amendment) Scheme (Re-vesting), 2015 finalizing the arrangements for funding the pension liabilities of KSEB Ltd. as on 31-10-2013. The figures on 'Other Current Liabilities' in the Balance Sheet of KSEB Ltd. as on 1-11-2013, incorporated in Part II of Schedule A to the Second Transfer Scheme, includes the aforesaid balance amount of Electricity Duty of ₹ 435.62 crore. As per the amended scheme, the Government will fund ₹ 5861 crore over a period of next 10 years from the date of transfer to the KSEB Ltd. on annual basis for meeting the unfunded terminal liabilities by way of retention of electricity duty.

10. As per letter, read as ninth paper above, the Chairman and Managing Director, KSEB Limited furnished proposal for adjusting subsidy etc. receivable by KSEB Ltd. from the Electricity Duty of ₹ 2396.36 crore, collected from 2008-09 to 31-10-2013. After examining the matter, Government directed KSEB Limited to rework the proposal on the basis of Clause 6 (9) (d) the Second Transfer Scheme and to submit revised proposal. Accordingly, in his letter read as tenth paper above, the Director (Finance), KSEB Ltd. furnished the revised netting off proposal as on 31-10-2013, as given below:—

(₹ in crore)

Electricity Duty collected from 2008-09 to 31-10-2013		2396.36
Less:		1960.74
(i) Electricity Duty allowed to be retained in KSEB Ltd. from 1-4-2008–31-3-2012	1522.53	
(ii) Subsidy receivable by KSEB Ltd. up to 31-10-2013	438.21	
Balance Electricity Duty available with KSEB Ltd. as on 31-10-2013		435.62

11. The details in respect of the aforesaid electricity duty of ₹ 2396.36 crore and subsidy of ₹ 438.21 crore is attached as **Annexure II.** The Director (Finance), KSEB Ltd. informed that as per the provisional figures, after netting off dues as on 31-12-2014, the balance amount of electricity duty due to be paid to Government by KSEB Ltd. will be ₹ 88.79 crore. It was proposed that the above amount can be utilised for setting off subsidy of ₹ 96 crore for the next three months up to March, 2015 (32 × 3).

12. The aspect of issuing formal orders on netting off of dues of KSEB towards Government on account of electricity duty and surcharge, collected from consumers and payable to Government by KSEB and the arrears to be paid to KSEB by Government, such as various subsidies on account of 3% Rate of Return (RoR) and exemption from revised tariff/thermal surcharge; MD waiver etc, as on 31-10-2013, the date of re-vesting the assets and liabilities of erstwhile KSEB into KSEB Limited has been examined in detail. Levying of penal interest on delayed payment/non-payment of electricity duty and surcharge is statutory as per the provisions of the Kerala Electricity Duty Act, 1963 and the Kerala State Electricity Surcharge (Levy and Collection) Act, 1989 respectively and non inclusion of interest portion in the accounts brings sizeable difference in the dues payable by KSEB. However, as borne out from the records, at any point of time over the years the amount payable to the Board was much more than the Electricity Duty payable by KSEB to Government and KSEB has been of the stand that if Government had released the subsidy amount in the past in the relevant years, the Board would have paid the electricity duty in time and there would not have been any scope for levy of penal interest against the Board for non-payment of duty. According to the Board the interest against non-release of subsidy by Government should also be taken into account, if Government insist for interest on electricity duty. The figures of Electricity duty and Surcharge as furnished by the KSEB Limited and the figures in the reconciliation statement forwarded by the CEI substantively differ to the extent of penal interest on delayed/non-payment of electricity duty and surcharge only. As no interest was given on the sums payable to KSEB including the dues of ₹ 1600 crore after adjustment as on 31-3-2008 and various subsidies due to be provided by Government in advance as stipulated under Section 65 of the Electricity Act, 2003, imposition of interest only on duty arrears of KSEB may not be reasonable, as the Board had to borrow from financial institutions by paying interest for capital expenditure due to non-receipt of amounts due from Government in time.

13. In the aforesaid circumstances, Government are pleased order as follows in the matter:—

(i) The proposal of KSEB Ltd. for finalizing accounts after netting off of dues between KSEB and Government, up to 31-10-2013, the date of re-vesting the assets and liabilities of erstwhile KSEB into the Kerala State Electricity Board Limited stands approved. The netting off of accounts has been done on the basis of the principal figures of Electriciry Duty and Surcharge (excluding penal interest on non-payment of Electricity Duty and Surcharge), as furnished by the KSEB Limited and after the adjustment, the balance Electricity Duty available with KSEB Ltd. as on 31-10-2013 is ₹ 435.62 crore.

(ii) The accounts of KSEB Limited in respect of Electricity Duty and Surcharge as on 31-10-2013 is approved as reconciled with the respective Government figures, accepting the accounts on netting off of liabilities.

(iii) In continuation to the adjustment of dues as on 31-10-2013, the dues between Government and KSEB Limited up to 31-12-2014 stands provisionally netted off, on the basis of the provisional figures furnished by KSEB Ltd. regarding electricity duty to be paid to Government by KSEB Ltd. as on 31-12-2014. After netting off dues, the balance amount of electricity duty payable by KSEB Limited is ₹ 88.79 crore. The details are given below:—

(Amount in crore)

1	Balance electricity duty available with KSEB Ltd. as on 31-10-2013			435.62
2	*Add:* electricity duty collected from 1-11-2013 to 31-12-2014 (estimated 47.14 × 14)			659.96
A	**Total amount due to Government**			**1095.58**
Less:				
B	Subsidy on tariff concession @ ₹ 32 crore per month × 14 months		448.00	
	Less: subsidy received			
	from 1-11-2013 to 31-3-2014	75.00		
	from 1-4-2014 to 31-12-2014	50.00	125.00	
			323.00	323.00
	Balance subsidy receivable from Government			
C	Pension liability due from Government			
	1-11-2013 to 31-3-2014			
	→ 5/12 × 586.10 = 244.21		244.21	
	1-4-2014 to 31-12-2014			
	→ 9/12 × 586.10 = 439.58		439.58	683.79
D	**Balance amount due to Government as on 31-12-2014 [A-B-C]**			**88.79**

(iv) Government have decided that the revenue deficit of ₹ 32 crore per month on account of exemption of domestic consumers with monthly consumption below 120 units and agricultural consumers from enhanced tariff for 2012-13, will be compensated by Government by providing the amount as advance cash subsidy to KSEB Limited, as provided under Section 65 of the Electricity Act, 2003 from January, 2015 onwards. Thus an amount of ₹ 96 crore is due to be provided to KSEB for the three months from 2015 January-March. Therefore, the electricity duty of ₹ 88.79 crore will be adjusted against the subsidy of ₹ 96 crore.

(v) There will not be any cash flow on either side up to 31-3-2015 and the balance amount of ₹ 7.21 crore payable to KSEB Ltd. will be netted off once actual figures are finalized.

(vi) The entire duty collection after 31-12-2014 will be transferred to pension fund account as Government contribution, as provided under Clause 2(2) of the G.O., read as eighth paper above.

(vii) As per the Balance Sheet of KSEB Limited as on 1-11-2013 which forms part of the Kerala Electricity Second Transfer Scheme (re-vesting), 2015, issued as per G. O. read as eighth paper above, the Equity Capital of Government in KSEB Limited, taking into the assets and liabilities of KSEB Ltd. as on 1-4-2012 is ₹ 3499 crore, in the place of ₹ 1553 crore at the time of vesting, as mentioned in the provisional Balance Sheet as at 31-3-2008, incorporated in the Kerala Electricity First Transfer Scheme, 2008, issued as per G. O. read as fifth paper above.

- Taking into consideration that netting off of dues between KSEB Ltd. and Government forms an integral part of re-structuring of KSEB, along with cleaning up of KSEB Limited's Balance Sheet, a part of the duty collected i.e., ₹ 1946 crore stands converted into the increased portion of equity (3499-1553) so as to ensure that the increased equity is a result of cash infusion to KSEB Ltd. by Government, thereby enabling the Government to participate in the increased return on equity in future years.

(viii) The annual contribution of Government towards pension fund is ₹ 586.10 crore and the yearly estimated electricity duty collection will be to the tune of ₹ 590.88 crore. An amount of ₹ 4.78 crore will be payable to the Government by KSEB Ltd. annually towards balance electricity duty. The balance electricity duty collected by KSEB Ltd. in excess of the pension contribution will be paid to Government by KSEB Ltd., by the end of each financial year from 2015-16 onwards after reconciliation of accounts of electricity duty and surcharge collected, without fail.

(ix) KSEB Limited shall ensure that Electricity duty is remitted to Government from the FY 2015-16 onwards, failing which penal interest will be imposed, as provided under the Kerala Electricity Duty Act, 1963 and relevant Government Orders.

(x) If any subsidy is ordered to be provided to KSEB Ltd., Government will release the same as advance cash subsidy from 2015-16 onwards, as per Section 65 of the Electricity Act, 2003.

(xi) As the netting off of dues as on 31-12-2014 has been done on the basis of provisional figures, final orders in the matter will be issued immediately on receipt of the final audited figures of electricity duty and surcharge from KSEB Ltd.

(xii) KSEB Limited will furnish necessary proposal for effecting pro forma book adjustments in respect of payment of equity capital and pension fund contribution and adjustment of electricity duty so as to issue orders in this regard subsequently.

By order of the Governor,

JIJI THOMSON,
Chief Secretary.

To

The Chairman and Managing Director, Kerala State Electricity Board Limited, Thiruvananthapuram.

The Director (Finance), KSEB Limited, Thiruvananthapuram.

The Secretary (Administration), Kerala State Electricity Board Limited, Thiruvananthapuram.

The Chief Electrical Inspector, Thiruvananthapuram.

The Principal Accountant General (Audit), Kerala, Thiruvananthapuram.

The Accountant General (A & E), Kerala, Thiruvananthapuram.

The Secretary, Kerala State Electricity Regulatory Commission, Thiruvananthapuram (with Covering Letter).

The General Administration (SC) Department vide item No. 6674 dated 29-4-2015.

The Finance Department (vide U.O. (n) 27467/PUA2/15/Fin. dated 4-4-2015.

The Information and Public Relations Department.

The information Officer, Web and New Media Section, Information and Public Relations Department (for publishing on the Govt. Website).

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ANNEXURE I

Position of Netting off as on 31-3-2008

(Rs. in crores)

	Particulars	*As on 31-3-2008*
	Amount Due to KSB	
(a)	Subsidy for 3% ROR	4098.32
(b)	Subsidy for allowing Pre-'92 tariff	387.03
(c)	Amount receivable on account of reduction in Tariff for 2006-2007 & 2007-2008	222.62
(d)	Amount receivable on account of writing off of dues of Kerala Water Authority as per G. O. dated 26-9-2008	524.00
(e)	Cash Loss suffered by the Board up to 31-3-2011	..
(f)	Concessions allowed to HT/EHT consumers as on 31-3-2011 based on Government Orders	
(g)	Current Charges Arrears from various Government Departments as on 31-3-2011	
(h)	Waiver of minimum demand charges and fixed charge in respect of closed plantations and industrial units claimed as on 31-3-2011	
(i)	Set off current charge arrears of identified tribal colonies	
(A)	**Total dues to KSEB**	**5231.97**
	Amount Due to Government	
(a)	Duty Payable	2731.67
(b)	Guarantee Commission	63.22
(c)	State Government Loan Outstanding	377.69
(d)	Interest on State Government Loan	459.57
(B)	**Total dues to Government**	**3632.15**
(C)	**Balance Due to KSEB (A) - (B)** as on 31-3-2011 as per netting off of dues between Government of Kerala and KSEB	**1599.82**

ANNEXURE II

(i) Details of electricity duty collected by KSEB from April 2008 to 31-10-2013

Year	*Electricity Duty Payable (Rupees in crores)*	*(Rupees in crores)*
2008-09	370.64	1522.53
2009-10	340.91	
2010-11	383.38	
2011-12	427.60	
2012-13	529.15	873.83
Up to 31-10-2013	344.68	
Total	**2396.36**	

(ii) Details of Subsidy payable to KSEB Limited under Section 65 of Electricity Act, 2003

Sl. No.	*Particulars*	*Rupees in crore*
(1)	(2)	(3)
1	*Thermal Surcharge*	26.46
	As per G.O. (Rt.) No. 87/2013/PD dated 21-3-2013 an amount of ₹ 25 crore was sanctioned as cash subsidy to compensate the revenue shortfall on account of exemption of domestic consumers with consumption up to 120 units per month from fuel surcharge already effected by KSEB from 1st October, 2012 to 31st December, 2012	
	₹ 25 crore was the approximate estimated amount required for exemption. However actual amount is ₹ 26.46 crore	
2	(a) *Tariff concession for consumers with monthly consumption up to 120 units*	319.63

(1)	(2)	(3)
	(b) *Tariff Concession for agricultural consumers*	24.06
	Vide G. O. (Ms.) No. 18/2012/PD dated 6-8-2012, it was ordered that the domestic consumers with monthly consumption up to 120 units and agricultural consumer will be exempted from revised tariff for 2012 by providing ₹ 25 crore to KSEB every month in advance with effect from July 2012, to compensate the revenue shortfall.,	
	As per G.O. (Ms.) No. 24/2013/PD dated 28-5-2013, it was ordered to continue cash subsidy of ₹ 25 crore per month. An amount of ₹ 100 crore was released up to October 2013 on account of subsidy.	
3	*Tariff concession for life support system*	0.02
	As per G.O. (Rt.) No. 39/2013/PD dated 8-2-2013, it was ordered inter alia that if life support system require more than 100 units of electricity per month, the revenue shortfall incurring to KSEB on account of extending the benefit of above 100 units per month will be compensated by Government by providing the amount required as advance cash subsidy.	
4	*Balance of Water Authority writeoff*	9.06
	As per G. O. (Ms.) No. 43/11/PD dated 3-11-2011, it was ordered that ₹ 524 crores being the sum receivable by the KSEB from Kerala Water Authority on account of write off of the electricity charges vide G.O. (Ms.) No. 45/08/WRD dated 26-9-2008 will be released to KSEB Limited.	
	An amount of ₹ 533.06 crore had actually been written off. ₹ 9.06 crore represents the difference between the actual amount written off and the estimated one.	
5	*Minimum Demand Waiver ₹ 58.98 crore*	58.98
	The minimum demand charges waived to consumers as per Government Decisions.	
	Total	**438.21**

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