

FORM 1

[See Regulation 24(3)]

General Heading for petitions

BEFORE THE KERALA STATE ELECTRICITY REGULATORY COMMISSION

PETITION NO: ( To be filled by the Office, if number has not earlier been assigned)

IN THE MATTER OF: *Tariff Petition*

Tariff Petition filed by IT Enabled Services company under Regulation 22 of the Kerala State Electricity Regulatory Commission (Conduct & Business) Regulations, 2003, as per the Judgement of the Honorable High Court of Kerala in WP (C) NO. 19726 of 2021 WP (C) 16603 of 2011 praying to direct KSEB to charge LT IV Industrial tariff.

NAME(S) AND FULL ADDRESS(ES) OF PETITIONER(S)/APPLICANT(S) NAME(S)

Petitioner: AGISOL TECHNOLOGIES PRIVATE LIMITED  
( previously : I SCRIBES INDIA ( P ) LTD )  
TC 23/805, 'SIVAPRASAD', Valiasala Street, Thiruvananthapuram- 695 036  
represented by its Managing Director, KN Venkateswaran

AND

- Respondents:
1. Kerala State Electricity Board, represented by its Chairman and Managing Director, Vydyuthi Bhavan, Pattom, Thiruvananthapuram- 695004
  2. Deputy Chief Engineer, Power House Road, Electrical Circle, Thiruvananthapuram
  3. The Executive Engineer, Electrical Division, Thiruvananthapuram
  4. The Assistant Executive Engineer, Electrical Sub Division, Puthenchantha, Thiruvananthapuram - 695 014
  5. The Assistant Engineer, KSEB - Thycaud Section, Thiruvananthapuram.

FORM 2

[See Regulation 24(5)]

BEFORE THE KERALA STATE ELECTRICITY REGULATORY COMMISSION

PETITION NO:

IN THE MATTER OF: Tariff Petition

Tariff Petition filed by IT Enabled Services company under Regulation 22 of the Kerala State Electricity Regulatory Commission (Conduct & Business) Regulations, 2003, as per the Judgement of the Honorable High Court of Kerala in WP (C) NO. 19726 of 2021 WP (C) 16603 of 2011 praying to direct KSEB to charge LT IV Industrial tariff.

Name(s) and Full address(es) of the Petitioner(s) /

AGISOL TECHNOLOGIES (P) LTD, TC 23/805, 'SIVAPRASAD', Valiasala Street, Thiruvananthapuram-36, Represented by its Managing Director, KN Venkateswaran and

Name(s) and Full address(es) of the Respondent(s)

1. Kerala State Electricity Board, represented by its Chairman and Managin Director, Vydyuthi Bhavan, Pattom, Thiruvananthapuram- 695004
2. Deputy Chief Engineer, Power House Road, Electrical Circle, Thiruvananthapuram
3. The Executive Engineer, Electrical Division, Thiruvananthapuram
4. The Assistant Executive Engineer, Electrical Sub Division, Puthenchantha, Thiruvananthapuram – 695 014
5. The Assistant Engineer, KSEB – Thycaud Section, Thiruvananthapuram.

**Affidavit verifying the Tariff petition**

I, K.N. Venkateswaran, son of Late KV Narayana Iyer, aged 58, residing at TC 23/805, 'SIVAPRASAD', Valiasala Street, Thiruvananthapuram, do solemnly affirm and state as follows:

I am the Managing Director of AGISOL TECHNOLOGIES (P) LTD (previously I SCRIBES INDIA (P) LTD), the petitioner in the above matter and am duly authorised by the said petitioner to make this affidavit on its behalf.

1. The statements made in paragraphs 1 to 13 of the petition herein now shown to me and marked with the letter "A" are true to my knowledge and the statements made in paragraphs 1 to 13 are based on information received and I believe them to be true.

Solemnly affirmed at Thiruvananthapuram on this day of **12<sup>th</sup>** January 2024, that the contents of the above affidavit are true to my knowledge, no part of it is false and nothing material has been concealed therefrom.

For AGISOL TECHNOLOGIES PRIVATE LIMITED

*KN Venkateswaran*  
11/11/2024  
Managing Director,  
Petitioner



*Before me.*  
*Rita Nair*  
*11/11/2024*

**RITA NAIR.P.N.**  
Advocate & Notary  
Thiruvananthapuram Corporation,  
KERALA STATE, INDIA  
Reg. No: 80/97/TVM  
[Notary Expiry Date 24-02-2027]



### Statement of Facts:-

1. The Petitioner is Private Limited Company registered under The Companies Act 1956 and is in to IT and IT Enabled Services (engaged in Software Development and Health Care IT Services like Medical Transcription, Medical Billing & Coding services, which involves preparation of medical records, and other services for hospitals in USA and other foreign countries using Computer hardware and Software, and delivered to the hospitals in foreign countries using Information Communications Technology (ICT), thereby realizing value addition and 100% earnings in foreign currencies (US Dollars).
2. The petitioner company name was changed from I SCRIBES INDIA (P) LTD to AGISOL TECHNOLOGIES (P) LTD on 17-11-2022. Copy of the Certificate of Incorporation issued by The Registrar of Companies, Ernakulam is enclosed.
3. The dispute pertains to the tariff categorization for two consumer numbers, **Consumer No 1145055009731** and **Consumer Number 1145058004321** of the petitioner.
4. The petitioner applied for electricity connection with KSEB, stating in the application that the company is engaged in software development and IT Enabled Services. The Respondents inspected the petitioner's premises, and after getting fully convinced that the petitioner is engaged in the activity of IT and ITES, provided the connection with Consumer No 1145055009731 under the LT IV (Industrial) tariff plan..

Copy of the passbook issued by KSEB Dt 20-12-2005 is enclosed herewith and marked as -----**Exhibit P 1**

5. When there arose a need for more space for the business, the Petitioner took on rent the adjacent building in March 2008 that had Electricity connection with Consumer number 1145058004321 under Tariff 1a (domestic) and applied with the Respondents on 18-3-2008 to change the tariff to LT IV (Industrial). However, the 5th Respondent rejected the application vide Letter No DB/5/Tariff/08-09/139/Dt 14-07-2008 and kept charging at LT VII (Commercial) tariff from January 2008 till July 2016, till the Petitioner vacated this building.

Copy of the 5<sup>th</sup> Respondent's Letter No DB/5/Tariff/08-09/139/Dt 14-07-2008 is enclosed herewith and marked as -----**Exhibit P 2**

6. For Consumer Number 1145055009731, the Petitioner was being charged under the LT IV tariff by the Respondents till 2009, when the 5<sup>th</sup> Respondent vide letter No DB/AG/Tariff/09-10/ Dt 20.8.09 issued a short assessment notice stating that the appellant does not come under the LT IV (Industrial) tariff plan, but under the LT VII (Commercial) tariff, and slapped a huge bill for Rs. 2,30,312/- as short assessment with retrospective effect for the period January 2008 to August 2009.

Copy of the letter No DB/AG/tariff/09-10/20.8.09 of the AE Thycaud is appended herewith and marked as----- **Exhibit P 3**

7. On the Petitioner's representation, the 5<sup>th</sup> Respondent, replied that: - *"Further upon the query raised by you, I am to inform that as per the tariff notification issued by the Hon.*



*Kerala State Electricity Regulatory Commission vide Gazette notification No 2148 Dt 27-11-2007, 'IT Enabled Services' are not included in LT IV (Industrial) category, since the fact that such units are functioning purely commercial in nature. As you said in the letter, yours's is a IT Enabled Service and the LT IV tariff cannot be allowed".*

Copy of the letter no DB/AG/Tariff/09-10/3.10.2009 of the Assistant Engineer, Thycaud is appended herewith and marked as ----- **Exhibit P 4.**

8. The Petitioner filed a petition before the KSEB Consumer Grievance Redressal Forum (South) in FORM-A vide OP 470/2010 dated 29-10-2009. The Consumer Grievance Redressal Forum (South) gave a split order vide its order no CGRF/KTR/OP.No.470/2010/233 Dt 17-05-2010, with the Chairperson and one Member dismissing the complaint while another Member gave a dissenting order allowing the appellants prayer.

9. Aggrieved by the KSEB Consumer Grievance Redressal Forum's order the Petitioner filed appeal before the State Electricity Ombudsman vide Representation No P 136/10 on 27-5-2010. The State Electricity Ombudsman vide order Dt 6-10-2010 set aside the CGRF's order and ordered as follows:-

- “1. The majority order of the CGRF Kottarakkara on OP 470/2010 is set aside and the Respondent shall restore tariff LT IV Industrial to the Appellant unit.*
- 2. The amounts collected under LT VII A Commercial tariff if any shall be refunded without interest by adjustments in future bills.*
- 3. No order on costs.”*

10 The Respondents filed WP (C) 16603/2011 before the Honorable High Court of Kerala, against The State Electricity Ombudsman's order and the Petitioner filed WP (C) 19726/2021. The Honorable High Court vide Judgement Dt 24<sup>th</sup> January 2023, directing as follows:

*“The petitioner in WP(C) No.19726 of 2021 is free to submit an application before the Kerala State Electricity Tariff Regulatory Commission within one month from the date of receipt of a copy of this judgment”*

Copy of the said Judgement is appended and marked as ----- **Exhibit P5.**

11. The Respondents have relied on the tariff notification issued by the Hon Kerala State Electricity Regulatory Commission vide gazette notification no. 2148, dated 27.11.2007, to claim before the Honorable High Court that IT Enabled Services are not included in LT IV (industrial) category. This tariff notification is the basis on which the Respondents have collected LT VII Commercial tariff from the petitioner for Consumer No **1145058004321** from January 2008 to July 2016 and continue to collect LT VII Commercial tariff for Consumer No **1145055009731**.

Copy of Page No 89, Chapter VIII and Pages 99 and 100 in Chapter IX of the Tariff notification 2148 Dt 27-11-2007 of the Kerala State Electricity Regulatory Commission is appended and marked as ----- **Exhibits P6(1) and P6 (2).**



12. The Respondents are liable to refund more than Rs twenty lacs collected from the petitioner along with interest for both consumer numbers together.
13. This Petition is filed in the above circumstances. The delay in filing this petition is due to a lack of proper communication wherein the Petitioner was not aware of the Honorable High Court's judgement until the Petitioner received the 4<sup>th</sup> Respondent's Letter No DB 7/AEE PTCHA/Case/2023-24/ 173 Dt 24-11-2023. The Petitioner humbly appeals to the Honorable KSERC to kindly condone the delay.

### GROUNDS

- i. The Respondents admit that Medical Transcription is an IT Enabled Service. The Respondents however claim that IT Enabled Services doesn't come under LT IV (Industrial) tariff, but comes under LT VII (A) Commercial tariff. The claim that IT Enabled Services does not come under LT IV (Industrial ) tariff is in violation of the Exhibit P6 tariff notification order of The H'ble KSERC.
- ii. The Respondents have misinterpreted the H'ble Kerala State Electricity Regulatory Commission's tariff notification Dt 27-11-2008 to arrive at the below conclusion stated in Exhibit P 4 letter Dt 3-10-2009 by the 5<sup>th</sup> Respondent: -

*"as per the tariff notification issued by the Hon. Kerala State Electricity Regulatory Commission vide Gazette notification No 2148 Dt 27-11-2007, 'IT Enabled Services' are not included in LT IV (Industrial) category since the fact that such units are functioning purely commercial in nature. As you said in the letter, your's is a IT Enabled Service and the LT IV tariff cannot be allowed".*

- iii. In the said tariff categorization, The H'ble KSERC has nowhere stated that IT Enabled Services are purely commercial in nature and not included in LT IV (Industrial) tariff. On the contrary, the H'ble KSERC, in page 99 of the said tariff notification, has clearly categorized computer consultancy service units with SSI registration engaged in software services and data processing activities and desktop publishing, software units etc under LT IV -Industry tariff. The petitioner clearly comes under this category and The Respondents are bound to abide by the tariff categorization fixed by the H'ble KSERC.
- iv. Exhibits P 6(1) and P 6(2) tariff notification by The H'ble KSERC clearly state that only consumers such as freezing plants, cold storage, audio/video/CD recording/duplication units, and marble cutting units have been shifted from LT IV to LT VII (A), and that, recognized self-financing educational institutions, seafood processing, milk chilling plants and call centres have been recognized as new consumer groups and included them under appropriate Commercial Category (LT VII A / HT IV). The Respondents do not have the authority to shift IT Enabled Services to the LT VII (A) consumer category , without the approval of the H'ble KSERC.
- v. As per Section 62 (6) of The Electricity Act 2003, if any licensee or a generating company recovers a price or charge exceeding the tariff determined under this section,



the excess amount shall be recoverable by the person who has paid such price or charge along with interest equivalent to the bank rate. The Respondents have been collecting excess amount from the Petitioner all these years, and are liable to repay the excess amount to the Petitioner with bank interest rates applicable at that time.

**PRAYER**

1. Direct the Respondents to restore the tariff category for **Consumer No 1145055009731** to LT IV Industrial tariff.
2. Direct the respondents to refund within a month, the excess amount collected from the petitioner under LT VII (Commercial) tariff for **Consumer No 1145055009731 and Consumer No 1145058004321**, plus interest at the extent bank interest rates, from the date of collection of the respective amounts.
3. Order a Cost of Rs 50,000/-from the Respondents to the Petitioner.

Dated this the 11th day of January 2024

For AGISOL TECHNOLOGIES PRIVATE LIMITED

  
11/1/2024  
Petitioner **Managing Director**

K.N. Venkateswaran  
Managing Director  
Agisol Technologies (P) Ltd



ഈ കാർഡ് നിങ്ങളുടെ  
വൈദ്യുത കണക്ഷന്റെ  
ആധികാരിക രേഖയാണ്

വൈദ്യുതി അമൂല്യമാണ്  
പാഴാക്കരുത്.  
ആവശ്യം കഴിഞ്ഞാലുടൻ  
സിച്ച് ഓഫ് ചെയ്യുക.

വൈകുന്നേരങ്ങളിൽ മെച്ചപ്പെട്ട  
വൈദ്യുതി ലഭ്യമാക്കാൻ സഹകരിക്കുക.  
ഇസ്തിരി, പമ്പ്, ഹീറ്റർ തുടങ്ങിയ  
ഉപകരണങ്ങൾ ഉപയോഗിക്കുന്നത്  
വൈകുന്നേരങ്ങളിൽ കഴിവതും  
ഒഴിവാക്കുക.

കൺസ്യൂമർ നമ്പർ 9731 917751

കണക്ഷൻ നൽകിയ തീയതി 20-12-05

പേര്: K.V. Venketaraman.

മേൽ വിലാസം: Tc 23/805

Siva Prasad  
Valiyunna.

ഉപഭോക്താവിന്റെ ഫോൺ നമ്പർ:

ഉടമസ്ഥൻ/കൈവശക്കാരൻ:

പഞ്ചായത്ത്/മുനിസിപ്പാലിറ്റി/കോർപ്പറേഷൻ: തിരു

ജില്ല: തിരുവനന്തപുരം

ഇലക്ട്രിക്കൽ സർക്കിൾ/ഡിവിഷൻ: തിരു-ആഞ്ചൽ

ഇലക്ട്രിക്കൽ മേജർ സെക്ഷൻ/സെക്ഷൻ: തിരുവനന്തപുരം

സെക്ഷൻ ഓഫീസിലെ ഫോൺ നമ്പർ: 2321346

സർവ്വീസ് കണക്ഷൻ ചാർജ്ജ്: രൂപ

കസീത് നമ്പർ/തീയതി:

ഒ. ടി. പി. / നോർമൽ:

തരം: AT IV

ഉപയോഗം: Industrial

കണക്ഷൻ വോൾട്ട്: 11880 watts.

സീംഗിൾ ഫേസ്/ത്രി ഫേസ്: Three

ട്രാൻസ്ഫോർമർ: 250 kVA Silver Sand

പോസ്റ്റ് നമ്പർ: US 142

ലൈനിന്റെ നീളം: OH NU WP 2X25m  
LAW 1 Pole in 50m m 30m

പ്രതിമാസ മിനിമം ഗ്യാരണ്ടി തുക/റേറ്റ്:

ഒ. വൈ. ഇ. സി. തുക: Rs. 2800/2  
(ബാധകമാണെങ്കിൽ) At 368/2586/14.25  
(for WP supply)

ഉപഭോക്താവിന്റെ ഒപ്പ്:

അസി. എഞ്ചിനീയർ/അസി. എക്സി. എഞ്ചിനീയറുടെ ഒപ്പ്:

ഉടമസ്ഥാവകാശ മാറ്റം  
നിലവിലുള്ള ഉടമസ്ഥന്റെ പേരും മേൽവിലാസവും

പുതിയ ഉടമസ്ഥന്റെ പേരും മേൽവിലാസവും

ഉത്തരവ് നമ്പർ:

പുതിയ ഉപഭോക്താവ് എഗ്രിമെന്റ് വച്ച തീയതി:

ഒപ്പ്: എ.ഇ.എ.ഇ.ഇ

നിലവിലുള്ള ഉടമസ്ഥന്റെ പേരും മേൽവിലാസവും

പുതിയ ഉടമസ്ഥന്റെ പേരും മേൽവിലാസവും

ഉത്തരവ് നമ്പർ:

പുതിയ ഉപഭോക്താവ് എഗ്രിമെന്റ് വച്ച തീയതി:

ഒപ്പ്: എ.ഇ.എ.ഇ.ഇ

കെട്ടിടത്തിന്റെ ഉടമസ്ഥാവകാശം  
മാറുമ്പോൾ വൈദ്യുത കണക്ഷൻ  
പുതിയ എഗ്രിമെന്റ് വയ്ക്കേണ്ടതാണ്

True Copy

**KERALA STATE ELECTRICITY BOARD**

Office of The Assistant Engineer Electrical Section Thycaud

No. DB-5/Tariff/08-09/139/14-07-2008

To

K>N. Venkateswaran,  
T.C. 23/805, Valiayasala.

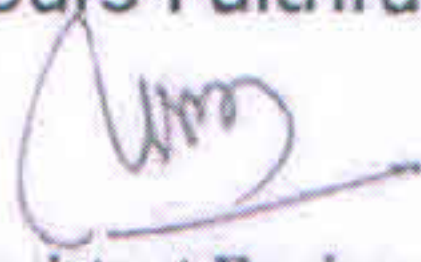
Sir

Con.No. 4321

Sub: Tariff changing reg-  
Ref: Your application dt- 22-03-2008

As per your application vide reference above the premises was inspected by Sub Engineer of this office and reported that the energy is using by Consumer Number 4321 is for the work of Medical Transcription. As per existing rules in force with KSEB, tariff applicable to Medical Transcription work is of VII-A. Since the existing tariff is VII-A, it may not be changed. Hence your application for tariff change cannot be considered.

Yours Faithfully



Assistant Engineer  
Electrical Section  
Thycaud

Copy submitted to

1. The Assistant Executive Engineer, Electrical Sub Division, Puthanchanthal.

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Electrical Section Thycaud

Phone - 0471 2321346

True copy. 



VS-1 x

**KERALA STATE ELECTRICITY BOARD**

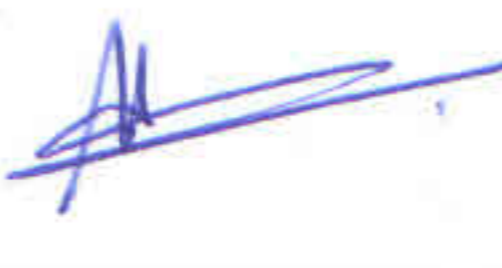
Office of the Assistant Engineer, Electrical Section, Thycaud

No: DB/AG/Tariff/09-10/20.8.09

From  
Assistant EngineerTo  
Venketeswaram  
Con No 9731Sir,  
Sub: Tariff misuse- shortassessment in proper tariff -reg.

It is observed during the inspection of AG, your firm is engaged in the business not come under the LT 4 tariff, which come under LT 7 tariff. Hence you are directed to pay the short assessment bill. Also you are directed to make necessary arrangements in the wiring to connect the loads in the light meter to power meter and inform this office to dismantle the light meter at the earliest.

Yours faith fully

  
Assistant EngineerThycaud  
20.8.2009True copy. 

Audit Report by ACP dt. 25/10/09 3841867  
 Annual Bill - Staff Account 1108 - 7/09  
**കേരള സംസ്ഥാന വൈദ്യുതി ബോർഡ്**

ഇലക്ട്രിസിറ്റി ആക്ട് 2003 ഖണ്ഡിക 56 പ്രകാരമുള്ള ഡിമാന്റ് & ഡിസ്കണാക്ഷൻ നോട്ടീസ്

സെക്ഷൻ <b>Thycaud</b>		ഫോൺ	
കൺസ്യൂമർ നമ്പർ <b>9731</b>	പേര്		
താരിഫ് <b>15 F 7 A</b>	കണക്ടഡ് ലോഡ് (വാട്സ്)	പോസ്റ്റ് നമ്പർ	
ഫേസ്	താരിഫ് മിനിമം	ട്രാൻസ്ഫോമർ	
ബിൽ നമ്പർ <b>1</b>	പിഴകൂടാതെ പണം അടയ്ക്കാനുള്ള അവസാനതീയതി	വൈദ്യുതി വിച്ഛേദിക്കാതിരിക്കാൻ പണം അടയ്ക്കേണ്ട അവസാനതീയതി	
ബിൽ തീയതി <b>25/10/09</b>			
ബിൽ ഏരിയ			
മുൻ മീറ്റർ റീഡിംഗ് തീയതി :		LEMG	
മുൻ സ്റ്റാറ്റസ്		ബിൽ വിവരങ്ങൾ	
മുൻ ബിൽ തുക		തുക	
അടച്ച തുക		ലൈൻ വാടക / SCMG	
വൈദ്യുതി ഉപഭോഗ വിവരങ്ങൾ		ഫിക്സഡ് ചാർജ്ജ് <b>12540</b>	
		എനർജി ചാർജ്ജ് <b>196804</b>	
ഇപ്പോഴത്തെ റീഡിംഗ്	മെയിൻ/പവർ മീറ്റർ	സബ് മീറ്റർ	ഡ്യൂട്ടി <b>20908</b>
മുൻ റീഡിംഗ്			മീറ്റർ വാടക
ഉപഭോഗം			അധിക ഫിക്സഡ് ചാർജ്ജ്
ശരാശരി ഉപഭോഗം			അധിക എനർജി ചാർജ്ജ്
നിലവിലുള്ള സെക്യൂരിറ്റി ഡിപ്പോസിറ്റ്		മറ്റിനം	
മറ്റ് വിവരങ്ങൾ		ആകെ തുക <b>230312</b>	
		ആകെ തുക	
		കൂട്ടിച്ചിട്ട് (+)	
		അഡ്വാൻസ് (-)	
		ആകെ അടയ്ക്കേണ്ട തുക <b>230312</b>	
		<p><i>Re: 1108 14675 1109 1109 1109</i>  <i>1109 1109 1109 1109 1109</i></p> <p>സ്പോട്ട് ബില്ലർ / സീനിയർ സൂപ്പ്രണ്ട് <i>[Signature]</i></p>	

NB: 1. നിശ്ചിത തീയതിക്കകം പണമടച്ചില്ലെങ്കിൽ പിന്നീട് അടയ്ക്കുന്ന തീയതി വരെയുള്ള പലിശ നിശ്ചിത നിരക്കിൽ ഈടാക്കുന്നതാണ്.  
 2. വീട് / സ്ഥാപനം പുതിയതിരിക്കുന്നതിനാൽ ഇത്തരവണ റീഡിംഗ് ലഭ്യമാകുന്നില്ലെങ്കിൽ അടുത്ത തവണ വീട് / സ്ഥാപനം തുറന്ന് വെച്ച് റീഡിംഗ് ലഭ്യമാക്കേണ്ടതാണ്. അല്ലാത്തപക്ഷം ഇല: കണ്ട്രീഷൻസ് ഓഫ് സപ്ലൈ 33 (5) അനുസരിച്ച് ഡിസ്കണാക്ഷൻ തുടങ്ങിയ നടപടി കൾക്ക് വിധേയമാകുന്നതായിരിക്കും.

*Annexure III*

*True copy*

മറുപുറം

**KERALA STATE ELECTRICITY BOARD**

Office of the Assistant Engineer, Electrical Section, Thycaud


No: DB/AG/Tariff/09-10/3.10.2009

From  
Assistant EngineerTo  
The Manager (Human Resource)  
i Scribers India (P) Ltd  
Con No 9731Sir,  
Sub: Tariff misuse- shortassessment in proper tariff -reg.  
Ref:Your letter dtd 1.10.2009

Please refer to your letter cited above, wherein you had requested for time extension for paying short assessment electricity bill. It is therefore informed that considering your request date of remitting the short assessment bill and disconnection date is extended upto 19.10.2009.

Further upon the query raised by you, I am to inform you that as per the tariff notification issued by the Hon, Kerala State Electricity Regulatory Commission vide Gazette Notification No 2148 dtd 27.11.2007, "IT Enabled Service" are not included in the LT IV (Industrial) category, since the fact that such units are functioning purely commercial in nature. As you said in the letter, your's is a IT Enabled service and the LT IV tariff can not be allowed.

Yours faith fully

  
Assistant EngineerThycaud  
3.10.2009True copy 



**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT**

**THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN**

**TUESDAY, THE 24<sup>TH</sup> DAY OF JANUARY 2023 / 4TH MAGHA, 1944**

**WP(C) NO. 16603 OF 2011**

**PETITIONER/S:**

- 1 KERALA STATE ELECTRICITY BOARD & ANR.  
REP.BY ITS SECRETARY, VYDHUTHI BHAVAN,,  
PATTOM, THIRUVANANTHAPURAM
- 2 THE ASSISTANT EXECUTIVE ENGINEER  
KERALA STATE ELECTRICITY BOARD,, ELECTRICAL SUB  
DIVISION, PUTHENCHANTHA,, THIRUVANANTHAPURAM  
BY ADV SRI. ASOK M.CHERIYAN, SC, KSEB

**RESPONDENT/S:**

- 1 THE KERALA STATE ELECTRICITY OMBUDSMAN  
OMBUDSMAN, THAANATH BUILDING CLUB JUNCTION,,  
POOKKATTUPADI ROAD, EDAPPALLY TOLL, KOCHI-682024
- 2 K.N.VENKITESWARAN MANAGING DIRECTOR  
M/S.I SCRIBES INDIA PVT.LTD, TC 23/805, SIVAPRASAD,  
VALLASALA STREET, THIRUVANANTHAPURAM-695036  
BY ADVS.  
P.HARIDAS  
BIJU HARIHARAN  
P.C.SHIJIN  
RISHIKESH HARIDAS

**OTHER PRESENT:**

SRI.RIJI RAJENDRAN, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR  
ADMISSION ON 24.01.2023, ALONG WITH WP(C).19726/2021, THE  
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT**

**THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN**

**TUESDAY, THE 24<sup>TH</sup> DAY OF JANUARY 2023 / 4TH MAGHA, 1944**

**WP(C) NO. 19726 OF 2021**

**PETITIONER/S:**

I SCRIBES INDIA PVT. LTD.  
TC 23/805, SIVAPRASAD, VALIASALA STREET,  
THIRUVANANTHAPURAM-695036, REPRESENTED BY ITS  
MANAGING DIRECTOR, K.N.VENKATESWARAN,  
AGED 56 YEARS, S/O K V NARAYANA IYER, RESIDING  
AT TC 23/805, SIVAPRASAD, VALIASALA STREET,  
THIRUVANANTHAPURAM, PIN-695036.

BY ADVS.  
P.HARIDAS  
BIJU HARIHARAN  
P.C.SHIJIN  
RISHIKESH HARIDAS

**RESPONDENT/S:**

- 1 KERALA STATE ELECTRICITY BOARD  
REPRESENTED BY ITS CHAIRMAN AND MANAGING  
DIRECTOR, VYDYUTHI BHAVAN, PATTOM,  
THIRUVANANTHAPURAM-695004.
- 2 DEPUTY CHIEF ENGINEER,  
POWER HOUSE ROAD, ELECTRICAL CIRCLE,  
THIRUVANANTHAPURAM, PIN-695036.
- 3 THE EXECUTIVE ENGINEER  
ELECTRICAL DIVISION, THIRUVANANTHAPURAM,  
PIN-695004.
- 4 THE ASSISTANT EXECUTIVE ENGINEER  
ELECTRICAL SUB DIVISION, PUTHENCHANTHA,  
THIRUVANANTHAPURAM-695004.
- 5 THE ASSISTANT ENGINEER  
KSEB, THYCAUD SECTION, THIRUVANANTHAPURAM,  
PIN-695014.



2023:KER:5508

-3-

W.P.(C) No.16603 of 2011 & 19726 of 2021

BY ADV N.SATHEESH

**OTHER PRESENT:**

SRI.RIJI RAJENDRAN, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR  
ADMISSION ON 24.01.2023, ALONG WITH WP(C).16603/2011, THE  
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**P.V.KUNHIKRISHNAN, J.**

W.P.(C) No.16603 of 2011 & 19726 of 2021

Dated this the 24<sup>th</sup> day of January, 2023

**JUDGMENT**

These two writ petitions are connected and therefore, I am disposing of these two writ petitions by a common judgment.

2. WP(C) No.16603 of 2011 is filed by the Kerala State Electricity Board (KSEB) and its Assistant Executive Engineer, challenging Ext.P2 order passed by the Kerala State Electricity Ombudsman in representation No.136 of 2010. The 2<sup>nd</sup> respondent herein is an IT enabled service unit engaged in the software development and health care services like medical transcription, medical billing etc., for hospitals in USA and other foreign countries earning foreign currency. It is the case of the petitioners that On 03.11.2005 a Low Tension- IV Tariff connection with consumer No. 9731 under industrial tariff was given in favour of the 2<sup>nd</sup> respondent herein. It is the case of the



petitioners that during audit conducted by the Accountant General during 07/2009, it was found that the 2<sup>nd</sup> respondent is engaged in the activity of medical transcription and is operating purely for commercial purposes and 2<sup>nd</sup> respondent will fall under Tarrif VII-A (commercial) category. It is also the case of the petitioners that, as per the tariff notification issued by the Kerala State Electricity Regulatory Commission vide gazette notification no. 2148, dated 27.11.2007, IT enabled services are not included in LT IV (industrial) category. Accordingly a short assessment bill dated 25.07.2009 for Rs.2,30,312/- was issued for the period from 06/2008 to 07/2009 on 20.08.2009. On 26.09.2009 a final bill for Rs.2,53,824/- was issued which includes the current consumption charges for the month 08/2009. It is the case of the petitioners that though the said bill was challenged before the Consumer Grievances Redressal Forum, the said forum dismissed the same as per Ext. P1 and thereby found that the 2<sup>nd</sup> respondent





herein falls under LT-VII-A (commercial) category. However the 1<sup>st</sup> respondent on appeal found as per Ext. P2 that Ext.P1 order will not sustain and same was set aside. The Forum found that it is not purely a commercial profit making business. Aggrieved by Ext.P2 order, this writ petition is filed by the KSEB with following prayers:

*“i to declare that Ext. P2 order passed by the Kerala State Electricity Ombudsman in representation no. P 136/2010 is illegal, unjust and arbitrary;*

*ii. to call for records leading to Ext. P2 order passed by the Kerala State Electricity Ombudsman in representation no. P 136/2010 dated 06/10/2010 and to issue a writ in the nature of certiorari and to quash the same;*

*iii to issue any other writ, declaration, order or direction appropriate in the circumstances of the case.*

The above writ petition was admitted by this Court on 21.06.2011.



3. WP(C) No.19726 of 2021 was filed by the 2<sup>nd</sup> respondent in WP(C) No.16603 of 2011 with following prayers:

*“i. Declare that since the respondents are liable to pay in lump-sum the entire amount collected from the petitioner in excess along with 12% interest because they wilfully evaded to pay or adjust the amount as directed by ombudsman or Electricity Board and continued to collect excess amount in wilful violation of the said order and to modify Ext P7 accordingly.*

*ii. Issue a writ in the nature of mandamus or any other appropriate writ order or direction commanding the respondents to quantify the amount excessively collected from the petitioner till this date after treating his connection as LT VIIA category instead of LTIV category and to pay such amount along with 12% interest from the date of accrual of the same to the petitioner within a time limit fixed by this hon'ble court.*

*iii. May grant such other reliefs this Hon'ble court deem fit and necessary in the facts and circumstances of the case.” (sic)*

The main prayer of the petitioner in WP(C) No.19726 of 2021 is to declare that the petitioners connection will come within the



category of LT-IV and the lumpsum amount collected from the petitioner is to be refunded with interest.

4. Heard the counsel for the petitioners in both the writ petitions.

5. The Standing Counsel appearing for the KSEB submitted that the Ombudsman has no jurisdiction to entertain the appeal and if the petitioner in WP(C) No.19726 of 2021 is aggrieved by the fixation of tariff, they have to approach the Electricity Regulatory Commission. The Standing Counsel submitted that in the light of Section 62 of the Electricity Act, the proper authority is the Commission. As per Regulation 22 of the Kerala State Electricity Regulatory Commission (Conduct & Business) Regulations, 2003, the petitioner in WP(C) No.19726 of 2021 can approach the Commission. The counsel appearing for the petitioner in WP(C) No.19726 of 2021 submitted that the order was passed by the Ombudsman on 06.10.2011. It is



submitted that even though a writ petition was filed in the year 2011, the process was paid only in 2022 and there was no stay order also in WP(C) No. 16603 of 2011. Therefore, the petitioner in WP(C) No.19726 of 2021 is entitled refund of the excess amount collected.

6. This Court considered the contentions of the petitioners in both these writ petitions. Section 62 of the Electricity Act deals about the determination of tariffs. As per Section 62 of the Act, the appropriate Commission shall determine the Tariff in accordance with the provisions of the Act. Regulation 22 of the Kerala State Electricity Regulatory Commission (Conduct & Business) Regulations, 2003 reads thus:

*“22. Initiation of proceedings.- Proceedings may be initiated under these Regulations in one of the following manners:-*

*(a) Suo motu by the Commission,*

*(b) Upon a petition filed by the Board or a licensee,*



*(c) Upon a petition filed by the Government of Kerala,*

*(d) Upon a petition filed by an affected party.*

*Provided that the Commission shall have the right to decide or order that any party is not an affected party for the purpose of these Regulations. Provided further that the proceedings under (a), (b), (c) and (d) above shall pertain to matters relating to the powers and functions of the Commission as assigned to it under Section 86 and other provisions of the Act.”*

7. In the light of the same, it is clear that if a consumer is aggrieved by the tariff, they can approach the Commission with appropriate application. Admittedly this is a case in which the dispute is whether the petitioner is a consumer under LT-IV or LT-VII. In such circumstances, according to me, this is a matter to be decided by the Kerala State Electricity Tariff Regulatory Commission. To facilitate the Commission to consider the matter afresh, Ext.P2 in WP(C) No.16603 of 2011 can be set aside. But I make it clear that the contentions raised by the petitioner in WP(C) No.19726 of 2021 are left open. This Court has not considered the matter on merit. This Court only directed the



appropriate authority to decide the matter. All the contentions raised by the petitioner in WP(C) No.19726 of 2021 before the Ombudsman and before this Court are left open and the Commission will decide the matter in accordance to law. If an application is filed by the petitioner before the Commission, till final orders are passed in that application by the Commission, the status quo regarding the connection of the petitioner will continue. The counsel for the petitioner in WP(C) No.19726 of 2021 also submitted that the similarly situated companies were given the benefit of LT-II and LT-IV. This also will be considered by the Commission while deciding the matter.

Therefore, these writ petitions are disposed of with following directions:

1. Ext.P2 in WP(C) No.16603 of 2011 (Ext.P7 in WP(C) No.19726 of 2021) is quashed.



2. The petitioner in WP(C) No.19726 of 2021 is free to submit an application before the Kerala State Electricity Tariff Regulatory Commission within one month from the date of receipt of a copy of this judgment.

3. If such an application is received by the Tariff Regulatory Commission, the same will be considered by the Commission, in accordance to law, after giving an opportunity of hearing to the petitioners and pass appropriate orders in it, as expeditiously as possible, at any rate, within two months from the date of receipt of the application.

4. Till final orders are passed as directed above, the status quo regarding the connection of the petitioner in WP(C) No.19726 of 2021 will continue.

**SD/-**

**P.V.KUNHIKRISHNAN  
JUDGE**

**APPENDIX OF WP(C) 19726/2021**

## PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE ACKNOWLEDGMENT  
REGISTRATION ISSUED BY THE INDUSTRIAL  
DEPARTMENT DATED 24.03.2008.
- Exhibit P2 TRUE COPY OF THE PASSBOOK ISSUED BY  
KSEB DATED 20.12.2005.
- Exhibit P3 TRUE COPY OF THE 5TH RESPONDENT'S  
LETTER NO,DB/5/TSRIFF/08-09/139/DATED  
14.07.2008.
- Exhibit P4 TRUE COPY OF THE LETTER  
NO.DB/AG.TARIFF/09-10/20.08.09 OF THE  
AE THYCAUD.
- Exhibit P5 TRUE COPY OF THE LETTER  
NO.DB/AG/TARIFF/09-10/ 3.10.2009 OF THE  
ASSISTANT ENGINEER, THYCAUD.
- Exhibit P6 TRUE COPY OF THE CGRF ORDER  
NO.CGRF/KTR.OP.NO.470/2010/233 DATED  
17.05.2010.
- Exhibit P7 TRUE COPY OF THE STATE ELECTRICITY  
OMBUDSMAN'S ORDER NO. P 136/10 DATED  
6.10.2010.
- Exhibit P8 TRUE COPY OF THE LETTER  
NO.1239/11/2010/ITD DATED 18.03.2010 OF  
THE INFORMATION TECHNOLOGY (A)  
DEPARTMENT.
- Exhibit P9 TRUE COPY OF THE LETTER  
ETPK/E/GOV/2009-10/805 DATED 9.10.2009  
OF CEO OF TECHNOPARK,  
THIRUVANANTHAPURAM.
- Exhibit P10 TRUE COPY OF THE LETTER OF THE 4TH  
RESPONDENT DB 31/-SCRIBES/PTCHA/2013-  
14/86 DATED 4.06.2013.

-/



**APPENDIX OF WP(C) 16603/2011****P-PETITIONER EXHIBITS-**

- Exhibit P1 TRUE COPY OF THE MAJORITY ORDER DATED  
13.04.2010 OF THE CGRF IN OPNO.470/2009
- Exhibit P2 TRUE COPY OF THE ORDER DATED 06.10.2010  
PASSED BY THE 1ST RESPONDENT IN  
REPRESENTATION NO.P 136/2010

**RESPONDENT'S EXHIBITS**

- Exhibit R2(a) TRUE COPY OF THE ACKNOWLEDGMENT OF  
REGISTRATION ISSUED TO THE COMPANY BY THE  
INDUSTRIAL DEPARTMENT 24.3.2008
- Exhibit R2(b) TRUE COPY OF THE PASSBOOK ISSUED BY THE 1ST  
PETITIONER TO THE CONSUMER  
NO.1145055009731 DATED 20.12.2005
- Exhibit R2(c) TRUE COPY OF THE LETTER NO.DB/5/TARIFF/08-  
09/139/ DATED 14.07.2008 ISSUED BY THE 2ND  
PETITIONER HEREIN TO THIS RESPONDENT
- Exhibit R2(d) TRUE COPY OF THE LETTER  
NO.DB/AG/TARIFF/09-10/20.8.09 DATED  
20.8.2009 OF THE 2ND PETITIONER HEREIN TO  
THIS RESPONDENT
- Exhibit R2(e) TRUE COPY OF THE LETTER  
NO.DB/AG/TARIFF/09-10/3.10.2009 DATED  
3.10.2009 OF THE 2ND PETITIONER HEREIN TO  
THIS RESPONDENT
- Exhibit R2(f) TRUE COPY OF THE LETTER  
NO.1239/A1/2010/ITD OF THE SECRETARIES, IT  
TO THIS RESPONDENT DATED 18.03.2010  
OBTAINED BY THIS RESPONDENT AS PER RIGHT  
TO INFORMATION ACT
- Exhibit R2(g) TRUE COPY OF THE LETTER  
NO.ETPK/E/GOV/2009-10/805 DATED 09.10.2009  
OF CHIEF EXECUTIVE OFFICER, TECHNOPARK, TO  
THE SECRETARY TO THE GOVERNMENT, IT  
DEPARTMENT
- Exhibit R2(h) TRUE COPY OF THE LETTER NO.DB/ 31/I-  
SCRIBES/PTCHA/2013-14/86 OF THE ASSISTANT  
SUB DIVISION, PUTHANCHANTHA TO THIS  
RESPONDENT DATED 4.6.2013.



enhance the tariff of existing power intensive consumers allocated power on or after 17-12-1996 by 50 paise per kWh.

The Board has also proposed recategorisation of many consumer groups from industrial category to commercial category. It is a fact that industrial tariff is comparatively low and many categories of consumers claim to be 'industrial' to avail this benefit of lower tariff. Probably the reason could be the present higher tariff in the commercial category and comparatively lower tariff for industrial category. According to the Commission, definiteness is required on the definition of an industrial category. The Commission is of the view that, the same can be decided after a consultation process by inviting suggestions from the stakeholders. Further, there should also be an effort to bring down the substantial cross subsidies borne by the commercial consumers. The Commission will soon prepare a policy paper on tariff rationalization detailing various issues in the tariff determination and the road map for cost recovery. In the mean time, the Commission has decided that the categories which are apparently commercial in nature, presently categorised in the industrial tariff to be shifted to appropriate commercial category. Thus, consumers charged under LT IV industrial tariff such as freezing plants, cold storage, audio/video/CD recording/duplication units, and marble cutting units are shifted to LT VII (A). In the same logic, Airports are also included under HT IV category. The Commission has also recognized self financing educational institutions, seafood processing, milk chilling plants and call centres as new consumer groups and included them under appropriate Commercial Category (LT VII A / HT IV). Further, institutions engaged in purely charitable and non-profit making activities such as SoS childrens' villages, Palliative care centres, cancer care centres, HIV rehabilitation centres are categorized under LT VI (D). As a rationalization process, it has been also decided to merge the slabs in this tariff category and charge all units at 85 paise/kWh.

The Commission also considered the proposal of KSEB for the Licensees. Since the same would not come under the purview of retail tariff, the Commission has decided to classify the present Grid tariff as bulk supply. As a first step towards rationalization and cost reflection, the Commission has removed the distinction of different category of licensees, and decided to align tariff on the basis of voltage of supply. Hence bulk supply tariff would be benchmarked to respective voltage level industrial tariff. Since the licensees undertake distribution of power, to cover the distribution cost 5% reduction in benchmark energy charges is allowed.

Based on the above changes, the Commission estimates that the changes in tariff would result in increase in revenue Rs. 69.79 Crore. However, for the financial year, the increase would be applicable only for four months which would be Rs. 23.26 Crore. This is against the revenue gap of Rs.30.34 Crore as estimated by the Commission in the previous chapter.

The detailed schedule of terms and conditions of tariff for Retail and Bulk supply to be effective from 1-12-2007 is given in the next Chapter. The Commission directs that the schedule of terms and conditions shall be published by KSEB as provided under Section 45(2) (b) of the Electricity Act 2003.



LT - III Temporary connections	
Energy Charge (Paise/kWh)	1200
OR	
Daily minimum Rs.120 /kW or part thereof of connected load, whichever is higher	

Note: 40% concession in the rates shall be allowed if the connection is for

- exhibitions conducted by Local bodies/Government educational institutions/ recognized private educational institutions
- festivals of public religious worship centers for illumination, public address system and security lighting.

#### LOW TENSION – IV (LT- IV) – INDUSTRY

Tariff applicable for general purpose industrial loads (single or three phase) viz., grinding mills, flour mills, oil mills, rice mills, saw mills, ice factories, rubber smoke houses, prawn peeling units, floriculture activities, tyre vulcanizing/retreading units, workshops using power mainly for production and/or repair, pumping water for non-agricultural purpose, public water works, sewage pumping, power laundries, hatcheries, screen printing of glass ware or ceramic, printing presses, bakeries (where manufacturing process and sales are carried out in the same premises) diamond-cutting units, stone crushing units, book binding units with allied activities, garment making units, electric crematoria, pyrolators installed by local bodies, mushroom farms, shrimp farms, SSI units engaged in computerized colour photo printing, computer consultancy service units with SSI registration engaged in software services and data processing activities and desktop publishing, software units, audio/video cassette/CD manufacturing units, dairy farms, agricultural nurseries (without sale) and tissue culture units.

LT - IV Industrial	
Fixed Charge Rs. per kW or part thereof per Month	45
Energy Charge (Paise/kWh)	325

Note:

- Industries engaged in software development technology and tissue culture units need not segregate industrial load, lighting load and load for air conditioners. No Penalty shall be levied by the Board for non-segregation of the load by these units. However, such consumer shall install static capacitors having ISI certification to improve the power factor of the load of air conditioners if any.
- If ISI approved static capacitors are not installed by such consumers to compensate the inductive load of air conditioners, 25% extra shall be charged on the total fixed charge inclusive of entire connected load



- c. Software technology industries requiring new connection shall be provided connection only if they install ISI approved static capacitors to compensate the inductive load of air conditioners if any.
- d. The entire consumption and connected load of above consumers shall be charged at industrial tariff (LT IV).
- e. The dairy farms/milk chilling plant with or without chilling/freezing/cold storage activity shall be charged under industrial category provided the chilling/freezing/cold storage load is limited to 20% of the total connected load. If it exceeds 20%, LT VII (A) tariff shall be applicable.
- f. Workshops with Automobile service stations shall segregate the workshop load for availing the benefit of industrial tariff.

#### LOW TENSION -V (LT-V) AGRICULTURE

Tariff applicable to poultry farms, silk worm breeding units, agricultural consumers including dewatering and lift irrigation, livestock farms (minimum number of milch cattle shall be five) and combination of livestock and dairy farms, piggery farms (Minimum six breedable adult animals in the farm)

LT - V Agriculture	
Fixed Charge Rs. per kW or part thereof per Month	6
Energy Charge (Paise/kWh)	65

In all cases ISI approved capacitors of recommended value (See Annexure II) shall be installed for inductive load.

#### LOW TENSION -VI ( LT- VI ) NON-DOMESTIC

##### LT VI (A)

Tariff applicable to premises of religious worship, government or aided private educational institutions, libraries and reading rooms of educational institutions, convents, Government Hospitals, X-Ray units, laboratories and mortuaries attached to government hospitals, Private hospitals registered under Cultural, Scientific and Charitable Societies Act and exempted from payment of income tax.

LT - VI (A) Non-Domestic	
Fixed Charge Rs. per kW or part thereof per Month	40
Energy Charge (Paise/kWh)	Upto 500 kWh - 385 Above 500 kWh - 520



सत्यमेव जयते

GOVERNMENT OF INDIA  
MINISTRY OF CORPORATE AFFAIRS

Office of the Registrar of Companies

1st Floor, Company Law Bhawan BMC Road, Ernakulam, Kerala, India, 682021

**Certificate of Incorporation pursuant to change of name**  
*[Pursuant to rule 29 of the Companies (Incorporation) Rules, 2014]*

Corporate Identification Number (CIN): U72501KL2000PTC029075

I hereby certify that the name of the company has been changed from I SCRIBES INDIA PRIVATE LIMITED to AGISOL TECHNOLOGIES PRIVATE LIMITED with effect from the date of this certificate and that the company is limited by shares.

Company was originally incorporated with the name I SCRIBES INDIA PRIVATE LIMITED.

Given under my hand at Ernakulam this Seventeenth day of November two thousand twenty-two.

DS REGISTRAR  
OF COMPANIES,  
KERALA AND  
LAKSHADWEEP 1

Digitally signed by DS REGISTRAR OF COMPANIES, KERALA AND LAKSHADWEEP 1, DN: cn=DS REGISTRAR OF COMPANIES, KERALA AND LAKSHADWEEP 1, postalCode=682021, o=KERALA, ou=REGISTRAR OF COMPANIES, KERALA AND LAKSHADWEEP 1, email=ds@roc.kerala.gov.in, c=IN, serial=1718311040530, reason: I affirm the accuracy and integrity of this document.  
Date: 2022.11.17 18:11:10 +05'30'

Bindu Vergis

Registrar of Companies

RoC - Ernakulam

Mailing Address as per record available in Registrar of Companies office:

AGISOL TECHNOLOGIES PRIVATE LIMITED

T C 23/805, SIVAPRASAD, VALIASALA STREET, THIRUVANANTHAPURAM, Kerala, India,  
695036

