

THE STATE ELECTRICITY OMBUDSMAN

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**Appeal Petition No. P/083/2024
(Present A. Chandrakumaran Nair)
Dated: 25-02-2025**

Appellant : Shri. Swapnaraj Ravikumar,
Regional Manager, State Bank of India
Regional Business Office
Thiruvalla, Pathanamthitta.

Respondent : The Assistant Executive Engineer, Electrical
Sub Division, KSE Board Ltd,
Thiruvalla, Pathanamthitta (Dist.)

ORDER

Background of the case

A three phase LT service connection bearing Consumer No. 1146179025563 has been given to Stephen Chacko, Pandiyalil Thiruvalla on 30/03/2019. The connected load was 53.38 KW and the purpose was for functioning of Regional Office of the State Bank of India. And the tariff was LT VIC. The occupant of the premises is the Regional Manager of SBI and the consumer has authorised the occupant to file the petition and connected proceedings. The metering was done by a CT connected meter with CT ratio 100/5. On 21/12/2023, a surprise inspection was conducted by APTS along with the officials of the electrical section and found that current in the Y phase was not recorded by the meter. Then the consumption recorded by the meter was 1/3rd less than the actual consumption. The short assessment bill for Rs.4,60,378/- has been prepared and the same is demanded from the appellant for a period from 06/2021 to 12/2023 which is for 31 months. This has been contented by the appellant and filed petition to CGRF. CGRF had issued order on 08/11/2024 on completing the procedures. Aggrieved with the order, this petition is filed as an appeal petition to the CGRF order.

Arguments of the Appellant

The complainant is an occupant of tenant premises wherein the Regional Office of State Bank of India, Tiruvalla is functioning. The Complainant is a Consumer of the Licensee/KSEBL, and using the said premises vide Consumer No: 1146179025563. The Complainant is a valued consumer of the Licensee and pays Electricity Bill without default or delay. The licensee issues a Monthly Electricity bill to the Complainant and remits it within the time limit. The Licensee issues the Bill after taking periodic readings by the licensee's Authority and inspecting the Meter installed by the Licensee. That the said consumer premises are taken on a rental basis by State Bank of India, Regional Business Office, Thiruvalla, herein after stated as "Bank", and I am the Regional Manager of the said Bank and I am authorized to represent on behalf of the Bank.

That on 21.12.2023 an inspection was conducted regarding the functionality of the electric meter on behalf of the Bank, Sri. Dileep was forced to sign a paper alleged to be mahassar, without permitting to read the same. Then and there the Bank questioned the said act and the alleged APTS team was reluctant to reveal what was stated in the Mahassar. Since the inspection day was a working day and during the peak hours of Banking business the alleged APTS team conducted the inspection and that forced the Bank to sign the said alleged mahassar. A short assessment bill dated 17.02.2024 along with the copy of the above-mentioned alleged mahassar was handed to our Bank, stating that, the meter maintained in the complainant's premises is faulty and for short assessment, a bill amounting to Rs 5,72,709/- was issued for the short assessment period from 6/2021 to 12/2023, long period of 31 months. On perusing the mahassar dated 21.12.2023 it was alleged that one of the phase of three phase meter is not functioning. The said allegation is absolutely false and it is pertinent to note that, on every month, the meter reader from KSEB used to visit our premises and take readings without fault. Based on the consumption of electricity, the Bank used to pay the bill on time.

The said short assessment and details narrated in the alleged Mahassar are against prevailing law. As such the Bill dated 17.02.2024 is illegal. Against the said assessment, we had given a representation to the Assistant Engineer, KSEB. Thiruvalla dated 15.03.2024 and against the Order of the AE, another representation was given to the Assistant Executive Engineer, Electrical Sub Division, Thiruvalla. Both the representation was not considered properly based on facts and law, and the same was rejected and directed to remit the bill amount within the specified time. Against the Order passed by the Assistant Executive Engineer, Electrical Sub Division, Thiruvalla we preferred a complaint before the Consumer Grievance Redressal Forum, Kottarakkara vide O.P No: 48 of 2024, which was not properly considered and disposed vide direction to remit the alleged amount

stated in the bill and also directed to pay the same in suitable installments if the complainant/ appellant desires, against the said Order the Appellant is preferring this appeal on the following grounds.

The CGRF ought to have found that the Order/ Direction No: DB-18/2024-25/ESDTVLA/45 dated 27.07.2024 issued by the Assistant Executive Engineer, Electrical Sub Division, Thiruvalla is illegal and against the provisions of Electricity Laws. The CGRF ought to have found that the Short Assessment Bill for a period from 6/2021 to 12/2023 dated 17.02.2024 for an amount of Rs 5,72,709/- issued by the Assistant Engineer, Electrical Section, KSEBL, Thiruvalla is illegal and without any basis. The short assessment averred in the said Bill is not correct and not based on actual facts and against the provisions of Electricity Laws. Subsequent to the said Bill dated 17.02.2024, another Letter vide No:BB/ESTVLA/2024-25/34 dated 24.06.2024 and Letter No: ESTVLA/REV/2024-25/35 dated 24.06.2024 was issued by Assistant Engineer, Electrical Section, Thiruvalla to the Complainant stating that the short assessment is not Rs 5,72,709/-, and an amount of Rs 4,60,378/- has to be remitted for short assessment. Based on the representation given by the Complainant, Assistant Executive Engineer, Thiruvalla, vide Letter No:DB-18/2024-25/ESDTVLA/45 dated 27.07.2024, stated that the observation of Assistant Engineer, Thiruvalla, based on the Complainant's representation, is correct and also directed to remit the short assessment amount of Rs 4,60,378/-. The average calculation stated in the said Bill is not correct and the said averaging of consumption by the Licensee itself, shows that the said bill is not based on actual facts.

The licensee alleges that the Y phase is not recording the actual consumption is not recorded. The said version is not correct. The Licensee's employ used to visit the Complainant's premises every month and reading was taken. Then and there the employee should have noticed if there is any recording of actual consumption either from the meter reading or from the previous data available in the licensee's office. The Licensee's allegation is not true. Even if the allegation is true/ not admitting/ then the provision 125 of the Kerala Electricity Supply Code, 2014 will apply, the provisions says "**125. Procedure for billing in the case of defective or damaged meter-** (1) *In the case of defective or damaged meter, the consumer shall be billed on the basis of average consumption of the past three billing cycles immediately preceding the date of meter being found or reported defective*". Moreover, if the assessment is made as stated above, then the charges to be levied by the Licensee is clearly mentioned in provision (2) of Section 125 of the Kerala Electricity Supply Code, 2014, "(2) *Charges based on the average consumption as computed above shall be levied only for a maximum period of two billing cycles during which time the licensee shall replace the defective or damaged meter with correct meter*". As such, even if the meter found defective, the Licensee is bound to take average consumption of energy based on three past billing cycles immediately preceding the date of meter being found or reported

defective and based on that maximum period of two billing cycles has to be levied from the Bank. The provisions itself is very clear and the Licensee who are dealing with the same, illegally to harass the Bank issued such an exorbitant bill without any basis.

The provision of Section 116 of the of the Kerala Electricity Supply Code, 2014, clearly speaks the procedure to be adopted for a defective meter by the Licensee; "116. *Replacement of defective meter:- (1) the Licensee shall periodically inspect and check the meter and associated apparatus. (2) if the meter is found defective, the Licensee may test it at site, if feasible, and if not feasible, the meter shall be replaced with a correct meter and defective meter shall be got tested in an accredited laboratory or in an approved laboratory*". The said provision also is well clear that the burden is cast upon the Licensee to make sure that the meter is functioning properly. Here in this case, the Licensee is claiming the meter was defective long back from 6/2021 and issuing a bill for short assessment for a period of 31 months. This is purely illegal and against the provisions of prevailing Law. The provision 110 (11) (12) of the Kerala Electricity Supply Code, 2014, speaks clearly about how to deal with an occasion when the reading is unable to record. The said provisions were not also complied with by the Licensee. Based on the objection raised by the Complainant, the Assistant Engineer without hearing our part, passed an arbitrary Order rejecting our contention vide Letter No: BB/ESTVLA/2024-25/34 dated 24.06.2024 issued by AE, Electrical Section, Thiruvalla and issued a Bill amounting to Rs 4,0378/-. Against the Order passed by the AE, Electrical Section, Thiruvalla, the Complainant/Bank preferred a representation to the AXE, Electrical Sub Division, Thiruvalla on 20.07.2024 and by the Order dated 27.07.2024 dismissed the Complainant/Bank's representation of reconsidering the assessed bill and direct the Bank to pay the bill amounting to Rs 4,60,378/- and the copy of the said Order was provided to the Bank on 29.07.204. By the provisions averred above, it is crystal clear that the claim raised in the alleged bill dated 17.02.2024, 24.06.2024 and 27.07.2024 are illegal and against the provisions of prevailing Law, as evident from the different figures was claimed by the Licensee. By providing bill for different amount by the alleged bill dated 17.02.2024, 24.06.2024 and 27.07.2024, it is evident that the Licensee is having a different opinion regarding assessment and acting illegally. It is respectfully submitted that periodic inspection was conducted by the Electrical Inspectorate and they never pointed out any defect in the meter or any electrical apparatus in the premises. This was also highlighted in the representation given to the Licensee. The complaint before the CGRF, Kottarakkara was filed on 27.08.2024. After filing the said complaint before CGRF, Kottarakkara, the Licensee sent the meter for testing on 12.09.2024 and the meter was tested on 13.09.2024. **While sending for testing the meter the Licensee did not comply with the provisions contemplated under 113(5)(6)(7)(9).** The licensee deliberately not intimate the Complainant regarding the sending of the meter for testing or provide the copy of the meter testing report. Only at the time of filing version to the

complaint lodged before the CGRF, Kottarakkara, the licensee provided a copy of the same as Annexure P3. The said act is illegal. It is the duty cast upon the Licensee to intimate the complainant, regarding sending of meter for testing. The Licensee alleges that, they had charged as per the provision of Section 134 and 152 of the Kerala Electricity Supply Code, 2014. Here in this case the Licensee has not established that the Complainant is undercharged beyond doubt. Instead, the licensee arbitrarily acted and issued the bill for 31 months. This issuance of 31 months billing is against the provisions of Section 152 (3). The said provision states that, "provided also that realization of electricity charges short collected shall be limited for a maximum period of twenty-four months, even if the period during which such anomaly persisted is found to be more than twenty-four months". As such, the provision clearly states that the maximum period is only 24 months and not 31 months. Here the alleged short assessment is for 31 months which is purely illegal. The alleged assessment is barred by limitation. Without considering the above facts and law the Consumer Grievance Redressal Forum, Kottarakkara, dismissed the complaint.

- 1) To set aside the Order in O.P No: 48 of 2024 passed by the CGRF, Kottarakkara.
- 2) To set aside the Order No: BB/ESTVLA/2024-25/34/ dated 24.06.2024 issued by the Assistant Engineer, Electrical Section KSEBL, Thiruvalla and Order No: DB-18/2024-25/ESD TVLA/45 dated 27.07.2024 Issued by the Assistant Executive Engineer, Electrical Sub Division, Thiruvalla.
- 3) To permit to adduce evidence and produce documentary evidence.
- 4) And such other relief seek at the time of hearing.

Arguments of the Respondent

The 3phase service connection bearing consumer no 1146179025563, effected from Electrical Section, Thiruvalla, on 30/03/2019 having a connected load of 53380W under LT VIC tariff registered to the name of Stephen Chacko, Pandiyalil, Ani Villa, Thukalassery, Thiruvalla, is used for the functioning of Regional Office of State Bank of India. Current Transformer(CT) connected meter is used to record energy consumption at the premises.

For service connections with CT meters, the transformer supply is fed to the bus bar and then through separate cable to CT (RYB), then the CT secondary to Meter RYB.

Transformer supply→ Bus Bar→ CT (RYB) and CT secondary→ Meter RYB

A surprise site inspection was jointly conducted by the Anti Power Theft Squad (APTS) Unit Thiruvalla and Section Squad of Electrical Section, Thiruvalla, at the aforementioned premises of consumer no.1146179025563

on 21/12/2023 wherein it was found and recorded that current is not being recorded in the Y phase of the CT (RY B).

As zero current was recorded on Y phase CT, corresponding consumption recorded in the CT energy meter at the premises therefore was zero. That is, the CT energy meter at the premises recorded the consumption corresponding to only two phases (ie., 'R' and 'B' phases) out of three and thereby the respective metering equipment reflects only the 2/3rd of the actual energy consumed at the premises causing huge loss to this Licensee. Copy of 'site mahassar' submitted herewith as prepared at the time of inspection Sri. Dileep G, Chief Manager Maintenance, SBI Regional Office Thiruvalla was present during the inspection and was made aware of the findings therein. Sri Dileep G had read and signed the site mahassar as can be seen in the Exhibit.

Initially when meter readings were taken, the consumption recorded was low as the bank regional office was not fully operational. Later the covid- 19 pandemic further impacted the bank's operations, resulting in lower electricity consumption. However, when the bank's operations returned to normal after the pandemic lockdown, the consumption increased until 06/2021. But the consumption then decreased significantly from 06/2021 to 12/2023. This was conclusively evidenced on inspection. The consumption patterns prove that the consumer was billed for and was paying only for the 2/3rd of the actual consumption at the premises. On the basis of the aforementioned facts and inferences, invoking Regulation 134 as well as 152 of Kerala Electricity Supply Code 2014, a short assessment invoice amounting to Rs: 460378/- (Rupees Four Lakhs Sixty Thousand Three Hundred and Seventy Eight Only) was assessed in view to make good the loss sustained by KSEB Ltd on account of non recording of the actual consumption through the 'Y' phase in the energy meter at the premises. The invoice is submitted as Exhibit 2. But in the facing paragraph of the assessment notice, clerical error occurred and amount was wrongly entered as 572709/- (Rupees Five Lakhs Seventy Two Thousand Seven Hundred and Nine Only) which was corrected and a new bill was issued to the bank. The CT on the 'Y' phase was replaced and the current in Y phase started being displayed. Energy meter therefore was taken out for down loading the meter data. Meter data was down loaded on 03/01/2024 by the Transformer and Meter Testing Repair Unit Pallom (TMR Pallom) and is who is authorised to do so. From the downloaded data it is understood that the current in the Y phase CT secondary was zero, that is only two- thirds of the consumption was recorded in the energy meter. Also the error report of the meter with standard reference meter confirmed the dip in consumption. There was a proportionate rise in the consumptions recorded at the premises in successive months after the replacement of Y phase of CT. It is therefore inferred that 1/3rd portion of the actual energy consumption at the premises was left unrecorded in the metering equipment.

In an institution like a bank, if the connected load remains unchanged, the consumption pattern remains uniform every month. The consumption after 30 days of replacing the meter was 2882 units and was taken as average

consumption for ascertaining the actual consumption from 06/2021 to 12/2023. The short assessment bill amounting to 460378/- (Rupees Four Lakhs Sixty Thousand Three Hundred and Seventy Eight Only) prepared as per regulation 134 and 152 of the Kerala Electricity Supply Code 2014 shows the amount of bill actually undercharged in the previous period. No penalty or interest has been charged.

Only the electricity charges, short collected by this licensee, under normal tariff applicable to the period from 06/2021 to 12/2023 during which such anomalies persisted was invoiced. There was dip in consumption during that period.

The Assistant Engineer, Electrical Section Thiruvalla had clarified all the doubts the SBI had about the undercharged invoice. The Assistant Engineer had visited the office of the complainant to delineate the matter. But in the facing paragraph of the assessment notice, the amount wrongly entered as 572709/- (Rupees Five Lakhs Seventy Two Thousand Seven Hundred and Nine Only) and this inadvertent clerical error was corrected. The invoice in question includes the amount actually undercharged alone during the period wherein the actual consumption through 'Y' phase was left unrecorded in the energy meter at the premises. No penalty or interest was levied therein. The consumer is liable to remit the same within the time frame stipulated and ethically liable to make good the actual loss sustained to the Licensee in this connection. Since the bank's argument was not legally tenable, a fresh invoice was issued after the hearing conducted on 26/07/2024 based on the prevailing law, after convincing them of the existing legal aspects of the bill. Sri. Dileep G, Chief Manager SBI had represented the complainant. No documents were submitted by the complainant to elucidate the huge difference in the consumption immediately following the replacement of CT.

The Hon'ble CGRF being a quasi judicial forum functioning as per Consumer Grievance Redressal Forum and Ombudsman Regulations 2005, makes decisions independently as per prevailing laws. The Hon'ble CGRF Kottarakara has good reasons in dismissing the petition affirming the demand letter No.DB 18/24-25/ESD/TVLA/45 dated 27/07/2024 delivered to the consumer along with the corrected short assessment bill prepared by the Assistant Engineer. The short assessment bill amounting to Rs: 460378/- (Rupees Four Lakhs Sixty Thousand Three Hundred and Seventy Eight Only) issued by Assistant Engineer Electrical Section Thiruvalla, shows the amount actually undercharged as per enabling provisions under regulation 134 and 152 of the Kerala Electricity Supply Code 2014. During the hearing, the Assistant Executive Engineer convinced the complainant of the clerical error that crept in the invoice issued on 17/02/2024 by the Assistant Engineer and issued a corrected invoice amounting Rs 460378/- (Rupees Four Lakhs Sixty Thousand Three with letter No.DB Hundred and Seventy along Eight Only) 18/24-25/ESD/TVLA/45 dated 27/07/2024. There as only one bill given in connection with the inspection. The complainant has filed an appeal against this bill issued in connection with the inspection.

The complainant has a dispute over the average consumption taken in the inspection bill. The average was taken based on 30 days of consumption after replacement of the 'Y' phase CT. The average turned out to be was 2882units. If the average had been calculated based on more months of consumption, it would have been even higher. If average of two months is taken, it would be 3670 units and if for three months it would be 3546units. Now the system average of the consumer is 3347 units. 30 days consumption was taken to calculate the average as the inspection bill had to be processed without delay and it turned out to be beneficial for complainant. Accordingly the 30 days consumption obtained after replacing 'Y' phase CT, 2882 units, was taken as average consumption for ascertaining the actual consumption for the period from 06/2021 to 12/2023. In an institution like a bank, if the connected load remains unchanged, the consumption pattern remains uniform every month. Therefore complainant's allegations to the contrary are false.

As per the representation of the complainant a hearing was conducted on 26/07/2024 at the office of the Assistant Executive Engineer Electrical Subdivision Thiruvalla. The technical matters which had to be billed were explained during the hearing and the said matters were further clarified to the complainant who conveyed that he had understood that further steps could be taken to pay the bill. Sri. Dileep G, Chief Manger SBI had represented the complainant. No documents were submitted by the complainant to elucidate the huge difference in the consumption immediately following the replacement of CT. After the hearing a letter No. DB 18/24-25/ESD/TVLA/45 Dated 27/07/2024 was delivered to the consumer along with the corrected short assessment bill prepared by the Assistant Engineer with detailed explanation. The argument given by the complainant was not legally valid.

The bill issued by the Assistant Engineer found has been re- examined and the error in the data entry (no change in calculation statement) has been corrected and the corrected bill has been given along with the reply by the Assistant Engineer.

This inspection was conducted by the licensee as per Regulation 113 (6) of Kerala Electricity Supply Code 2014. Although the Inspectorate conducts periodic inspections, they are an independent body and do not directly issue the reports they provide. The appellant after the hearing had agreed to remit the undercharged amount. The allegation of meter being faulty was raised by the appellant in the complaint filed before the Hon'ble CGRF Kottarakara. The Licensee therefore had no reason to test the meter at the TMR unit until then. Since it was a consumer meter, the complainant was required to send the meter for testing at their expense, but in good faith, the licensee tested the meter at its own expense to verify the meter's working condition. The meter was tested solely for convincing the appellant. The said meter was purchased by the consumer. The meter was sent for testing in compliance with Regulations 113 (5), (6) and (7) of Kerala Electricity Supply Code 2014.

The invoices in question is issued to recover the amount actually undercharged during the said period In Assistant Engineer (D1) Ajmer Vidyut Nigam Limited. vs Rahamatullah Khan Alias Rahamjulla on 18 February, 2020, the Apex Court has held that the words "first due" used in the first part of sub-section (2) of Section 56 (of Electricity Act 2003) is used in the context of the sum quantified by the licensee in the bill; while the second part of sub-section (2) of Section 56 indicates the date when the first bill for the supply of electricity was raised by the licensee under the applicable State Electricity Supply Code. By treating the words "first due" to mean the date of detection of mistake, would dilute the mandate of the two year limitation period provided by Section 56(2) since a mistake may be detected at any point of time.

The invoice therefore is not barred by limitation as the demand was raised on detection of undercharging during the inspection. That is, the starting point of limitation would be from the date when the bill is raised by the licensee company. Also the Hon'ble Apex Court in Civil Appeal No.7235 of 2009 M/s Prem Kotex Vs Uttar Haryana Bijli Vitaran Nigam Ltd. & Ors., perspicuously states that "If a licensee discovers in the course of audit or otherwise that a consumer has been short billed, the licensee is certainly entitled to raise a demand. So long as the consumer does not dispute the correctness of the claim made by the licensee that there was short assessment, it is not open to the consumer to claim that there was any deficiency" and gives liberty to the licensee " to take recourse to any remedy available in law for recovery of the additional demand".

The Hon'ble CGRF Kottarakara was right in dismissing the complaint as the facts proved and found as established are sufficient to affirm the undercharged bill issued by the licensee. It may please be noted that the appellant has not produced any valid point substantiating the appeal. The Hon'ble CGRF is quasi judicial forum that makes decisions independently as per prevailing laws. It is beyond strange that the appellant without comprehending the facts, laments about the 'Bank' being 'forced to sign' the mahassar. The appellant representing a reputed institution such as a Nationalised Bank should know better than to make such inane accusations. Also allegation that Mr Dileep G, a bank employee who technically has control over his actions and decisions was forced by the Licensee to sign the mahassar, is extremely bewildering. From the aforementioned facts and substantiating exhibits/ evidences, it is clear that the demand note served solely towards the recovery of amount due to the KSEBLtd is legally and ethically sustainable, as well as strictly on the basis of the Acts and Regulations prevailing. For the above mentioned, and other points to be urged during the hearing, it is humbly prayed that this Hon'ble Ombudsman may please dismiss this appeal in limine.

Counter argument of the Appellant

The licensee issues a Monthly Electricity bill to the Complainant and remits it within the time limit. The Licensee issues the Bill after taking periodic readings by the licensee's Authority and inspecting the Meter installed by the Licensee. 4. That on 21.12.2023 an inspection was conducted regarding the functionality of the electric meter. On behalf of the Bank, Sri. Dileep was forced to sign a paper alleged to be mahassar, without permitting to read the same. Then and there the Bank questioned the said act and the alleged APTS team was reluctant to reveal what was stated in the Mahassar. Since the inspection day was a working day and during the peak hours of Banking business the alleged APTS team conducted the inspection and that forced the Bank to sign the said alleged mahassar.

A short assessment bill dated 17.02.2024 along with the copy of the above-mentioned alleged mahassar was handed to our Bank, stating that, the meter maintained in the complainant's premises is faulty and for short assessment, a bill amounting to Rs 5,72,709/- was issued for the short assessment period from 6/2021 to 12/2023, long period of 31 months. On perusing the mahassar dated 21.12.2023 it was alleged that one of the phase of three phase meter is not functioning. The said allegation is absolutely false and it is pertinent to note that, on every month, the meter reader from KSEB used to visit our premises and take readings without fault. Based on the consumption of electricity, the Bank used to pay the bill on time.

The said short assessment and details narrated in the alleged Mahassar are against prevailing law. As such the Bill dated 17.02.2024 is illegal. Against the said assessment, we had given a representation to the Assistant Engineer, KSEB, Thiruvalla dated 15.03.2024 and against the Order of the AE, another representation was given to the Assistant Executive Engineer, Electrical Sub Division, Thiruvalla. Both the representation was not considered properly based on facts and law, and the same was rejected and directed to remit the bill amount within the specified time. Against the Order passed by the Assistant Executive Engineer, Electrical Sub Division, Thiruvalla the Bank preferred a complaint before the Consumer Grievance Redressal Forum, Kottarakkara vide O.P No: 48 of 2024, which was not properly considered and disposed of vide direction to remit the alleged amount stated in the bill and also directed to pay the same in suitable installments if the complainant/ appellant desires, against the said Order the appeal is preferred. The Order/ Direction No: DB-18/2024-25/ESDTVLA/45 dated 27.07.2024 issued by the Assistant Executive Engineer, Electrical Sub Division, Thiruvalla is illegal and against the provisions of Electricity Laws.

The average calculation stated in the said Bill is not correct and the said averaging of consumption by the Licensee itself, shows that the said bill is not based on actual facts. The licensee alleges that the Y phase is not recording the actual consumption is not recorded. The said version is not

correct. The Licensee's employ used to visit the Complainant's premises every month and reading was taken. Then and there the employee should have noticed if there is any recording of actual consumption either from the meter reading or from the previous data available in the licensee's office. The Licensee's allegation is not true. Even if the allegation is true/ not admitting/ then the provision 125 of the Kerala Electricity Supply Code, 2014 will apply, the provisions says "*125. Procedure for billing in the case of defective or damaged meter- (1) In the case of defective or damaged meter, the consumer shall be billed on the basis of average consumption of the past three billing cycles immediately preceding the date of meter being found or reported defective*". Moreover, if the assessment is made as stated above, then the charges to be levied by the Licensee is clearly mentioned in provision (2) of Section 125 of the Kerala Electricity Supply Code, 2014, "*(2) Charges based on the average consumption as computed above shall be levied only for a maximum period of two billing cycles during which time the licensee shall replace the defective or damaged meter with correct meter*". As such, even if the meter is found defective, the Licensee is bound to take the average consumption of energy based on three past billing cycles immediately preceding the date of the meter being found or reported defective and based on that maximum period of two billing cycles has to be levied from the Bank. The provisions itself is very clear and the Licensee who is dealing with the same, illegally to harass the Bank issued such an exorbitant bill without any basis.

Against the Order passed by the AE, Electrical Section, Thiruvalla, the Complainant/Bank preferred a representation to the AXE, Electrical Sub Division, Thiruvalla on 20.07.2024 and by the Order dated 27.07.2024 dismissed the Complainant/Bank's representation of reconsidering the assessed bill and direct the Bank to pay the bill amounting to Rs 4,60,378/- and the copy of the said Order was provided to the Bank on 29.07.2024. The complaint before the CGRF, Kottarakkara was filed on 27.08.2024. After filing the said complaint before CGRF, Kottarakkara, the Licensee sent the meter for testing on 12.09.2024 and the meter was tested on 13.09.2024. While sending for testing the meter the Licensee did not comply with the provisions contemplated under 113(5)(6)(7) (9). The licensee deliberately not intimate the Complainant regarding the sending of the meter for testing or provide the copy of the meter testing report. Only at the time of filing version to the complaint lodged before the CGRF, Kottarakkara, the licensee provided a copy of the same as Annexure P3. The said act is illegal. It is the duty cast upon the Licensee to inform the complainant, regarding sending of the meter for testing.

Analysis and findings

The hearing of the case was conducted on 11/02/2025 at 11:00 a.m. in the O/o the State Electricity Ombudsman, DH Road, Foreshore Road Junction, Ernakulam(Dist.). The hearing was attended by the appellant representatives Adv. T.Ajeesh, & Sri.Dileep.G, Chief Manager, Regional Office Thiruvalla, and the respondent Sri.Praseed M.K, Assistant Executive Engineer, Electrical Sub Division, KSEBL, Thiruvalla, Pathanamthitta(Dist.)

The Licensee has extended a 3 phase power supply to the consumer named Shri. Stephen Chacko, Pandiyalil, Thukalassery, Thiruvalla for his building on 30/03/2019. The building was leased to State Bank of India for 10 years for the functioning of its Regional Office. The consumer has authorized the occupant, the Regional Manager, SBI to file the petition being occupier and the user. The LT 3 phase power supply was connected to the premises through CT connected 3 phase meter with CT ratio 100/5 as such the Multiplication factor is 20. During the surprise inspection conducted by Antipower Theft squad along with Section squad on 21/12/2023 it is found that current of Y phase not recorded by the meter. The clamp on meter has been used to measure the current in the Y phase and found that it shows the current flowing is 17.6 Amp. This shows that the secondary of the Y phase is not connected to the meter or the connection would have been broken. Then the recorded consumption is less than the actual consumption. Theoretically this would have been around 1/3rd less but depends on various factors such as un balancing of the load etc. When this defect has occurred? The Licensee had informed that it would have happened since 06/2021 as the consumption was significantly reduced since 06/2021. The meter data was not downloaded and there is no scientific method adopted to fix the date of happening. How they have assessed the quantum of power short measured by the meter? The consumption after 30 days of replacing the meter was 2882 units. The reading difference of each month to that 2882 units was calculated as the short measured units and calculated the short assessment.

According to the **regulation 134 of the Kerala Electricity Supply Code 2014, the Licensee is empowered to raise the demand of the consumer is undercharged.**

134. Under charged bills and over charged bills.-

134(1). *“If the licensee establishes either by review or otherwise, that it has undercharged the consumer, the licensee may recover the amount so undercharged from the consumer by issuing a bill and in such cases at least thirty days shall be given to the consumer for making payment of the bill.”*

There is another regulation which is very appropriate to the situation is regulation 152 of the Supply Code 2014

152. Anomalies attributable to the licensee which are detected at the premises of the consumer.-

(1) Anomalies attributable to the licensee which are detected on inspection at the premises of the consumer, such as wrong application of multiplication factor, incorrect application of tariff by the licensee even while there is no change in the purpose of use of electricity by the consumer and inaccuracies in metering shall not attract provisions of Section 126 of the Act or of Section 135 of the Act.

(2) In such cases, the amount of electricity charges short collected by the licensee, if any, shall only be realised from the consumer under normal tariff applicable to the period during which such anomalies persisted.

(3) The amount of electricity charges short collected for the entire period during which such anomalies persisted, may be realised by the licensee without any interest: Provided that, if the period of such short collection due to the anomalies is not known or cannot be reliably assessed, the period of assessment of such short collection of electricity charges shall be limited to twelve months: Provided further that while assessing the period of such short collection the factors as specified in subregulation (8) of regulation 155 shall be considered: Provided also that realisation of electricity charges short collected shall be limited for a maximum period of twenty four months, even if the period during which such anomaly persisted is found to be more than twenty four months.

(4) The consumer may be given installment facility by the licensee for a maximum period of twelve months for the remittance of such amount of short collection with interest at the bank rate as on the date of remittance of the amount of installment

The above regulation stipulate that the charges short collected is to be realised without any interest. The short collection could be limited 12 months if the period cannot reliably assessable. Then the Licensee can charge for a period of 24 months eventhough the period reliably assessed is more than 24 months. Here in this case the short assessment is to be limited for 24 months.

In the case in hand, the connection was effected on 30/03/2019, and the Licensee assessed that the defect occurred during the month of 06/2021. The meter has not been inspected by the Licensee after the connection till 12/2023. The regulation 113(6) states that the periodical inspection or testing or both of the meter is to be done once in every three years

113(6) The licensee shall conduct periodical inspection or testing or both of the meters as per the following schedule:-

single phase meters	once in every five years
LT 3-phase meters	once in every three years
HT or EHT meters including maximum demand indicator (MDI)	once in every year

Then the meter would have been tested at least in the month of 03/2022 and then the defect would have been noticed and rectification could have been done. This is violation of the regulation from the part of the Licensee .

The appellant has contented the testing of meter conducted by the Licensee. The consumer has not been informed about the testing and chance of witnessing the testing was also not given.

115. **Procedure for testing of meter.-**

(1) *The meter shall normally be tested in the laboratory of the licensee, approved by the Commission.*

(2) *In case the licensee does not have a testing facility approved by the Commission, or if so desired by the consumer, the meter shall be tested at any other laboratory accredited by the National Accreditation Board for Testing and Calibration Laboratories (NABL).*

(5) *Before testing a meter of the consumer, the licensee shall give an advance notice of three days, intimating the date, time and place of testing so that the consumer or his authorised representative can, at his option, be present at the testing.*

(7) *The consumer or his authorised representative and the representative of the licensee present during testing shall affix their signature on the test report issued by the authorised officer of the laboratory as a token of having witnessed the testing: Provided that the licensee and the consumer shall be eligible to get a copy of the test report which shall be despatched to them within two working days of the date of testing, if not delivered in person at the time of affixing their signature.*

The above regulation is very clear about the testing procedure. No advance information was given and consumer has not given the option to witness the testing. This is also a violation of regulation by the Licensee. However the meter testing was done on a KSERC approved and NABL accredited Lab. It has been enquired to the appellant whether they opt for any retesting and the same is not pressed for by the appellant.

The Licensee had quoted about the Hon'ble Supreme Court order on the case of Assistant Engineer Ajmer Vydyuthi Nigam Ltd., Vs Rahamathulla Khan which states that the Licensee can demand the short assesment within two years when the amount become 'first due'. The court has defined the term 'first due' of the Section 56(2) of the Electricity Act 2003. The similar order in the Civil Appeal No. 2235 of 2009 between M/s. Prem Cottex Vs Uttar Haryana Bijli Nigam Ltd. Here the period of assesment is disputed by the appellant and hence this order could not applied in this case. The short assesment as per regulation 136 of Supply Code is limited for two years from the date when the sum became first due. The regulation 152 stipulates that the period for which can be charged is only for two years, and the time when first due is not considered here. As such the short assesment is to be limited for two years.

Decision

On verifying the documents submitted and hearing both the petitioner and respondent and also from the analysis as mentioned above, the following decision are hereby taken.

1. The Short assesment Bill issued by the Licensee is quashed herewith.
2. The Licensee shall prepare short assesment for 24 month only.

3. The Licensee shall permit the appellant to pay the bill as per the order (2) in 12 monthly installments.
4. No other charges allowed.

ELECTRICITY OMBUDSMAN

No. P/083/2024/_____ dated: 21/01/2025.

Delivered to:

1. Sri. Swapnaraj Ravikumar, Regional Manager, State Bank of India, Regional Business Office, Thiruvalla, Pathanamthitta(DT).
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Thiruvalla, Pathanamthitta (Dist.)

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthi bhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, 2nd Floor Vydhyuthi Bhavanam, KSE Board, Kottarakkara - 691506