

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION No. P/052/2021

(Present: A.S. Dasappan)

Dated: 08th December, 2021

Appellant	:	Sri. Jinnah. M.K., Mundackal House, Vadakkam Mury, Thodupuzha East, Idukki Dist. - 685 585
Respondent	:	Assistant Executive Engineer, Electrical Sub Division, KSEB Ltd., Thodupuzha East, Idukki Dist.

ORDER

Background of the case:

The appellant is a consumer of Electrical Section, Thodupuzha No. II with consumer number 1156205012464 under LT IVA industrial tariff category. The appellant's premises is a plastic production unit in the name and style "Surumi Plastic Industries" with a connected load of 84 kW and Contract Demand 93.33 kVA in ToD billing system. The Anti-Power Theft Squad (APTS) of KSEB Ltd., Vazhothope unit conducted an inspection in the premises on 15-04-2021 and detected that voltage in 'B' phase of the energy meter is missing and hence, 38.61% of the energy consumption is not recorded in the meter. As such, a short-assessment bill for Rs.3,72,038/- was prepared for the period from 15-10-2019 to 15-04-2021 and issued to the appellant for remittance. The appellant approached the Consumer Grievance Redressal Forum (CGRF), Central Region for exemption from the remittance of the bill amount and the Forum registered the petition vide OP No. 09/2021-22. The Forum vide its order dated 23-07-2021, dismissed the petition and advised the appellant to approach the Licensee for availing instalment facility.

Aggrieved by the decision of the Forum, the appellant filed this appeal petition before this Authority.

Arguments of the appellant:

The APTS of Vazhathope unit inspected the industrial premises and informed the appellant that there was complaint in the meter and which started about two months before and the appellant was liable to remit the amount assessed by KSEB Ltd.

This inspection team prepared site mahazar and which was got signed by the appellant. The appellant received a bill for Rs.3,72,038/- on 23-04-2021 giving a period of remittance up to 21-05-2021. The APTS had inspected the premises 6 months before. The meter installed in the premises was provided by KSEB Ltd. and officials of KSEBL are taking meter reading in each month. The appellant was not informed about any defectiveness of the meter in the previous period. The appellant fixed the price of the product considering the energy cost also during the period of short-assessment for the months from 10/2019 to 04/2021. The appellant is not liable to the complaint of the meter and hence, requested to exempt from paying the short-assessment bill amount.

Arguments of the respondent:

The billing of the appellant is done monthly as per the consumption recorded the energy meter installed in the premises. The energy meter installed at the premises is of CT type with Larsen & Toubro make with serial no,13402710. The connected CTs are of 100/5A and hence the consumption recorded in the meter shall be multiplied with the Multiplication Factor 20 to arrive at the actual consumption in the premises. On 15-04-2021, the officials of the Anti- Power Theft Squad, Vazhathope unit along with the Sub Engineer of Electrical Section, Thodupuzha No. II had conducted an inspection in the premises. During inspection, while operating the 3-phase motors as per the connected load in the appellant's premises, it was seen that 'R'-phase and 'Y'-phase voltages are recorded correctly, and 'B'-phase voltage was seen missing.

On detailed inspection by the APTS unit, while checking the accuracy of the meter with the standard reference meter of 'CERA' make; found that the energy consumption being recorded by the energy meter was 38.61% less than that of the actual consumption. This means that only 61.39 units are recorded in the meter when the actual consumption is 100 units. Further investigation revealed that 'B'-phase connection was not proper. The APTS unit downloaded the data from the energy meter installed in the premises using L& T make, downloading software. The 'B'-phase voltage connection was corrected immediately on proper scrutiny and thus the under recording of energy consumed stands rectified.

On verification of the downloaded tamper report of the energy meter, it is ascertained that the under recording of energy consumed by 'B'-phase voltage failure had occurred since 15-10-2019 onwards. The K.S.E.B Limited sustained loss due to the under recording of consumption by the meter to the extent of 38.61% less than the actual consumption recorded. Hence, a short-assessment bill for Rs.3,72,038/- and calculation sheet for the period from 15/10/2019 up to the inspection date 15-04-2021 [the date on which under recording was rectified] was prepared without any interest and issued to the appellant. Only charges for the energy actually consumed by the appellant was demanded and indented to be realized from the appellant. The undercharging of the energy actually consumed by the appellant stands scientifically proved with the meter down load report.

A site mahasar was prepared and K.S.E.B Limited has assessed the appellant from 15-10-2019 as per the Regulation 152 (3) of Kerala Electricity Supply Code 2014, which provides that the amount of electricity charges short collected for the entire period during which such anomalies persisted, may be realized by the Licensee without any interest. The appellant is also liable to remit the amount as provided under Regulation 134 of Kerala Electricity Supply Code 2014.

The Hon'ble Supreme Court in its judgment in Assistant Engineer (D1) Ajmer Vidyut Vitaran Nigam Limited Vs Rahmatullakhan in Civil Appeal No.1672 of 2020 dated 18-02-2020 (2020 (4) SCC 650). held that Section 56 (2) did not

preclude the licensee company from raising an additional or supplementary demand even at the expiry of the limitation period under Section 56 (2) in the case of a mistake or bona fide error and it was also held that the amount will become due only when the bill is issued and Section 56 (2) will not be applicable to additional supplementary bill. Therefore, the Board is entitled to receive the assessment for the entire period without any limitation prescribed under Regulation 152 of Supply Code 2014.

The Sub Engineers of the concerned Electrical Section are duty bound to visit the premises of industrial consumers every month for taking meter readings only and they are not bound to inspect the meter at this time. The percentage error of 38.61% less can only be ascertained on testing the meter with calibrated standard equipment which can be done only by the authorized agencies having the required facility as done by the APTS. The contention of the appellant that the APTS unit of KSEB Limited had inspected their energy meter 6 months before is incorrect. Although the APTS unit had visited the premise in between as a routine section visit, the meter was not inspected by the APTS as they could not download the data due to problem in down loading software which is used to collect the data from the energy meter. No inspection was conducted on the above date and no site mahazar was prepared.

The KSEB Ltd. has complied with the relevant Provisions/Sections of the Regulations/Codes/Acts that are in force in assessing the appellant, which are evident from the facts stated above. Hence, the allegation is denied.

The units corresponding to the energy consumption through the 'B'-phase were not recorded in the meter and not reflected in billing process, This error was actually noticed only in the inspection and the facts are intimated to the appellant, The actual electricity charge of the appellant during 15-10-2019 to 15-04-2021 is the total of the undercharged bills and the short assessment bill, since appellant actually enjoyed the benefit of undercharging by paying less than the required amount for the energy actually consumed.

Any non-realization of charges for the energy actually consumed by the appellant is detrimental to the interests of other consumers for reason that the same will be booked as transmission loss, and recoverable from other innocent consumers under tariff hike. Therefore, it is of far most importance to recover all dues connected with the energy actually consumed from the respective consumers itself by the Licensee.

It is requested to dismiss the petition and allow the respondent to realize the bill.

Analysis and findings:

The hearing of the case was conducted on 25-11-2021 in the office of the Electricity Ombudsman, Edappally, Kochi. Sri. M.K. Jinnah and Sri. M.K. Noushad from the appellant's side and Sri. M.R. Manoj, Assistant Executive Engineer, Electrical Subdivision, KSEB Ltd., Thodupuzha (East) from the respondent's side attended the hearing. On examining the appeal petition, the arguments filed by the appellant, the statement of facts of the respondent, perusing the documents attached and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decision thereof.

The Anti Power Theft Squad (APTS) of KSEB Ltd. inspected the appellant's premises on 15-04-2021 and found that voltage in 'B' phase of the energy meter was missing, thus, resulting in the recording of a lower consumption than what is actually consumed. The connected load of the appellant in the premises is 84 kW and Contract Demand is 93.33 kVA. A site mahazar was prepared and meter data was downloaded. As per the data downloaded, the voltage in the 'B' phase of the meter failed from 15-10-2019. The appellant was issued a short-assessment bill for Rs.3,72,038/- on 23-04-2021 to recover the energy escaped from billing due to the missing of measuring voltage in 'B' phase of the energy meter for the period from 15-10-2019 to 15-04-2021. The CGRF has observed that the short-assessment bill issued by the respondent is genuine and sustainable and hence, dismissed the petition.

The appellant's contention is that he was not informed about any defectiveness of the meter in the previous period. The appellant fixed the price of the product considering the energy cost also during the period of short assessment for the months from 10/2019 to 04/2021.

Refuting the above contention, the respondent has averred that, from the downloaded meter records, it is clear that voltage to the 'B' phase of the meter was missing from 15-10-2019 to 15-04-2021 and thereby 38.61% of the total energy consumed for this period is not recorded by the meter. The demand notice for the actual energy consumed and non-recorded by the energy meter was only served on the appellant without any interest or surcharge. The appellant was given the bill as per Regulation 152 (3) of Kerala Electricity Supply Code 2014. The appellant is also liable to remit the amount as per Regulation 134 of Kerala Electricity Supply Code 2014. The meter was not defective, but was recording 38.61% less energy due to discrepancies of voltage connection.

Normally, the respondent is bound to rectify the defect of the metering system, if it is found defective, after informing the consumer. Almost all the load connected in the premises is of 3 phase in nature. The appellant was assessed for Rs.3,72,038/- for non-recording of energy due to the defects of the 'B' phase from 15-10-2019 to 15-04-2021, by taking lost energy as 38.61% of the actual energy.

The issue arising for consideration in the Appeal is whether the period assessed and the quantum of energy loss computed are in order and the appellant is liable for the payment of short-assessment.

Regulation 2 (57) "meter" means a device suitable for measuring, indicating and recording consumption of electricity or any other quantity related with electrical system; and shall include, wherever applicable, other equipment such as current transformer (CT), voltage transformer (VT), or capacitance voltage transformer (CVT) necessary for such purpose.

In this case, there is no defect to the components like meter, CTs etc., but measuring voltage is not received in one phase of the meter, which led to the

incorrect recording of energy consumption as per the version of the respondent. But what was the noticed defect in the metering system and how it was rectified are not seen in the site mahazar dated 15-04-2021. The inspection team had to test the meter with different loading in the premises to ascertain the percentage error noted in the site mahazar. Moreover, the Current Transformer (CT) current had to be measured in the time of inspection. In a balanced loading system, if one phase of the three-phase meter is not received voltage or CT current, 1/3rd of the actual consumption will be escaped from the recording in the meter may be with a slight variation.

Month-wise recorded energy consumption of the premises:

Consumption Month	Recorded Consumption	Consumption Month	Recorded Consumption	Consumption Month	Recorded Consumption
03/2019	8200	01/2020	7520	01/2021	4352
04/2019	7420	02/2020	8920	02/2021	4269
05/2019	10300	03/2020	5470	03/2021	4603
06/2019	7380	04/2020	5470	04/2021	4951
07/2019	4700	05/2020	6580	05/2021	5682
08/2019	38	06/2020	4980	06/2021	5327
09/2019	882	07/2020	5020	07/2021	4926
10/2019	3340	08/2020	4480	08/2021	2518
11/2019	3340	09/2020	5540	09/2021	1876
12/2019	5420	10/2020	2940	10/2021	2995
		11/2020	4789		
		12/2020	4384		

On going through the records, the following facts are revealed. The monthly energy consumption varies from 38 units to 10,300 units for the period from 03/2019 to 09/2019. The monthly consumption from 10/2019 to 04/2021 varies from 2940 units to 8920 units. The consumption from 05/2021 to 10/2021 varies from 1876 units to 5682 units.

From the consumption pattern from 10/2019 to 04/2021, this Authority found that the unrecorded portion 38.61% of the actual consumption in the

premises may not be at the same rate prior to 15-04-2021. The reason for which is that in this case, the meter and CTs are free from any defect, but the connection to the meter may not be proper. As such, the short assessment made during the disputed period at the rate of 38.61% may not be a right method for arriving at the actual consumption.

The energy consumption in the premises is not consistent. As such the defect in the metering system noted during the inspection to what extent reflected in the recording of consumption in the disputed period could not be found out. In certain months the consumption in the healthy period of the metering system is less than the consumption recorded in the disputed period.

The monthly average of three months' consumption prior to the disputed period is 1873 units, the monthly average of the three months' consumption after the disputed period is 5312 units and the monthly average of the three months' consumption in the disputed period is more or less 5100 units.

Decision: -

From the analysis done above and conclusions arrived at, this Authority takes the following decision.

The short-assessment bill issued to the appellant for Rs.3,72,038/- is quashed. Since the error of the energy meter @ 38.61% is the value received at the time of testing the meter for a specific load and hence, the reassessment based on the test result for a long period is not proper. The major load in the premises is three-phase in nature. I decide to take lost energy @33.33% of the actual consumption in the premises. Also, the consumption in the premises is not consistent. Also, I decide to limit the period of short-assessment as 12 months prior to the inspection. The respondent is directed to reassess the consumption for 12 months prior to the date of rectification of defect in the metering system taking lost energy as 1/3rd of the consumption to be recorded in a good meter. The respondent shall issue the revised short-assessment bill within 15 days from the date of order. The appellant is allowed instalments for the reassessed amount without interest, as per rules.

Having concluded and decided as above, it is ordered accordingly. The Appeal Petition filed by the appellant is found having some merits and allowed to this extent ordered. The order of CGRF, Central Region in OP No.09/2020-21 dated 23-07-2021 is set aside. No order on costs.

ELECTRICITY OMBUDSMAN

P/052/2021/ _____ dated _____.

Delivered to:

1. Sri. Jinnah. M.K., Mundackal House, Vadakkam Mury, Thodupuzha East, Idukki Dist. - 685 585
2. Assistant Executive Engineer, Electrical Sub Division, KSEB Ltd., Thodupuzha East, Idukki 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, CGRF-CR, 220 kV Substation Compound, KSE Board Limited, HMT Colony P.O., Kalamassery, PIN: 683 503.