

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION No. P/063/2021**(Present: A.S. Dasappan)****Dated: 10th January 2021**

Appellant : Sri. Thomas Jomon,
Proprietor,
TOP GRIP RETREADERS
Vechoochira P.O.,
Ranni,
Pathanamthitta Dist. - 686511

Respondent : Asst. Executive Engineer,
Electrical Sub Division, KSEB Ltd.,
Ranni South, Pathanamthitta Dist.

ORDER

The appellant is a Low Tension (LT) three-phase consumer with consumer number 114660007584 of Electrical Section, KSEB Ltd., Vechoochira under LT IVA-Industry tariff, having a CT operated metering system. The nature of activity in the premises by name "Top Grip Retreaders" is tyre retreading. The industrial unit is situated at Kumbithode in Pathanamthitta District. The Anti Power Theft Squad (APTS) of KSEB Ltd. conducted an inspection in the premises of the appellant on 17-02-2021 and detected that the Multiplication Factor (M.F) used for arriving at the actual consumption was '20' instead of '40'. In order to compensate the revenue loss sustained to the Licensee, a short assessment bill amounting to Rs.6,45,798/- for the period from 10/2015 to 02/2021 was issued to the appellant. The appellant approached the Consumer Grievance Redressal Forum (CGRF), Southern Region, Kottarakkara with a petition for the cancellation of the bill amount. The Forum registered the petition vide OP No. 28/2021 and issued order on 13-07-2021 as follows:

- (1) The short-assessment bill for Rs.6,45,798/- is quashed.
- (2) The respondent is directed to revise the short assessment bill by limiting a period of twenty-four months without any interest and to allow suitable installments to the petitioner for making payment, if the petitioner desires.

The appellant is not satisfied with the order of the Forum, the instant Appeal Petition was filed before this Authority.

The appeal petition referred to the wrong multiplication factor used by the Licensee for computing the actual energy consumption in the premises and thereby a short-assessment bill was issued to the appellant. The appellant wants to cancel the bill amount and not ready to remit the amount even for 24 months.

The argument of the appellant is as follows:

On 17-02-2021, the APTS of KSEB Ltd. inspected the transformer, Meter Board, all machineries and electric connection in the premises of the appellant. After the inspection, the Squad informed that the Multiplication Factor of the meter was wrongly used and hence, KSEB Ltd. sustained a revenue loss. The Squad also pointed out that there was no problem in metering system and no dispute in connected load in the premises. Since KSEB Ltd. had installed all the equipments, provided electric connection and determined the Multiplication Factor, the Licensee is responsible for any defects occurred in the premises. On 26-02-2021, the respondent had issued a notice along with an electricity bill for Rs.6,45,798/- giving 30 days' time for remittance. A petition was filed before CGRF, Kottarakkara on 11-03-2021 against the bill and the Forum limited the period for short-assessment for 24 months as per Regulation 152 (3) of Kerala Electricity Supply Code 2014 with instalment facility for remittance. But the Forum had not allowed the request of the appellant. The appellant is usually realizing the expenditure towards the electricity bill, cost of the raw materials required for the industry, wages of employees etc. from the customers of the industry. Since the appellant cannot realize any amount from the customers further, the bill amount may be cancelled in total.

The argument of the respondent is as follow:

The complaint is regarding the short assessment bill issued to the appellant subsequent to the findings made during the inspection conducted by the officials of Electrical Section, Vechoochira and the Anti-power Theft Squad, Thiruvalla at the premises of the appellant. During the inspection, the currents in the CT secondary circuits of the RYB Phases were found to be 0.331A, 0.366A and 0.334A, while the corresponding values in the primary were 13.94A, 14.2A & 13.35A respectively. The nominal values of the multiplication factor(ratio) of the CTs are found to be 40. The MF on the name plate is 40. But the MF recorded in the office register is only 20 which was being used for billing from 10/2015 to 02/2021, Hence undercharged. As per Regulation 134 of Supply Code 2014, 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. The short assessment bill issued to the appellant is only for recovering the uncharged amount towards the actual consumption drawn by the appellant. From the electrical testing of the CTs and details on the CT name plates, it is confirmed the actual MF is 40 instead of 20.

The bills were being issued to the appellant by taking multiplication factor 20 instead of 40 by mistake. On realization of the mistake the KSEB Ltd. served final short assessment Rs.6,45,798 as per Regulation 134 of Supply Code 2014 for a period from 10/2015 to 02/2021.

The CGRF limited the period of short assessment for 24 months and hence, KSEB Ltd. decided to file writ Petition before the Hon'ble High Court of Kerala for which Vakalath has been forwarded to the Standing Counsel of KSEB Ltd. As such, the respondent requests to drop further action in the Appeal Petition filed by the appellant.

Analysis and findings:

An online hearing was conducted at 11AM on 05-01-2022 with prior intimation to both the appellant and the respondent. Sri. Thomas Jomon attended the hearing for the appellant and Smt. Sherin Philip, Assistant

Executive Engineer, Electrical Subdivision, Ranni South attended the hearing from the respondent's side. On examining the petition, the counterstatement of the respondent, the documents attached and the arguments made during the hearing 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 appeal petition pertains to the wrong Multiplication Factor (M.F.) used by the respondent in arriving at the actual consumption in the premises of the appellant while issuing monthly bills and later identified the mistake and issued short-assessment bill for the consumption escaped from the monthly billing.

The appellant argued that KSEB Ltd. had installed the metering system in the premises and hence, the Licensee is responsible to the defects, if any, in the metering system. Also, argued that there is no possibility of realizing any further amount from the customers by way of extra cost of the products once sold. The appellant wants to completely quash the short-assessment bill and exempt from paying the entire amount.

According to the respondent, the short-assessment for the period from 10/2015 to 02/2021 was issued in accordance with Regulation 134 of Kerala Electricity Supply Code 2014 and the respondent is trying to recover the under charged amount from the appellant. Moreover, KSEB Ltd. decided to file petition before the Hon'ble High Court of Kerala for which all the documents were prepared and sent to the Legal Wing of the Licensee. As such, the respondent requested to drop further action in this Appeal Petition.

In this case, the appellant was given a short-assessment bill for Rs.6,45,798/- for the period from 10/2015 to 02/2021 on 25-02-2021 following an inspection of the Licensee in the premises of the appellant. The appellant filed a petition before CGRF, Southern Region for the cancellation of the bill amount and the Forum observed that as per Regulation 152 (3) of Kerala Electricity Supply Code 2014, the realization of amount in the entire period is not sustainable. As such, the Forum limited the period of short-assessment for 24 months as per Regulation 152 (3) of Kerala Electricity Supply Code 2014. The appellant approached before this Authority with a request to set aside the

order of CGRF and exempt from remitting the entire amount. At the same time, the respondent revealed that action is being taken to file the subject matter before the Hon'ble High Court of Kerala.

Regulation 152 of Kerala Electricity Supply Code 2014 says,

Regulation 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 sub-regulation (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.

The CGRF, Southern Region issued the order in the petition filed by the appellant within the provision contained in the Kerala Electricity Supply Code 2014, by limiting the period of short-assessment for 24 months. The appellant wants exemption from remitting the short-assessment bill for 24 months also, as ordered by CGRF and respondent wants to realize the short-assessed amount for the entire period 10/2015 to 02/2021 by filing petition before Hon'ble High Court of Kerala.

In the hearing conducted on 05-01-2022, the respondent revealed that KSEB Ltd. had filed the writ petition before the Hon'ble High Court of Kerala vide WP (C) No.21981 of 2021 against the order dated 13-07-2021 of CGRF, Southern Region in OP No. 28/2021 of CGRF, Southern Region and the Hon'ble Court passed an interim order on 12-10-2021.

Decision: -

In view of the above discussions, it is decided as follows:

A writ petition is filed by the respondent for KSEB Ltd. before the Hon'ble High Court of Kerala vide WP (C) No.21981 of 2021 against the order dated 13-07-2021 issued by Consumer Grievance Redressal Forum, Southern Region in OP No. 28/2021 and hence, the request of the appellant for the exemption from remitting the short-assessment bill is subject to the judgement of the Hon'ble High Court of Kerala in the said writ petition.

The appeal petition filed by the appellant is disposed of accordingly. Having concluded and decided as above, it is ordered accordingly. No order on costs.

ELECTRICITY OMBUDSMAN

P/063/2021/_____ dated _____.

Delivered to:

1. Sri. Thomas Jomon, Proprietor, TOP GRIP RETREADERS, Vechoochira P.O., Ranni, Pathanamthitta Dist. - 686511
2. Asst. Executive Engineer, Electrical Sub Division, KSEB Ltd., Ranni South, 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, Vydhyuthi Bhavanam, KSE Board Ltd, Kottarakkara - 691 506.