

THE STATE ELECTRICITY OMBUDSMAN

Charangattu Bhavan, Building No.38/2829,
Mamangalam-Anchumana Road,
Edappally, Kochi-682 024

www.keralaeo.org Ph: 0484 2346488, Mob: 91 9539913269

Email: ombudsman.electricity@gmail.com

APPEAL PETITION No. P/072/2021**(Present: A.S. Dasappan)****Dated: 15th February, 2022**

Appellant : Sri. Shiyas Hussain,
Thanal, Peroorchery,
TKMC P.O., Karikode,
Kollam Dist. 691005

Respondent : Asst. Executive Engineer,
Electrical Sub Division, KSEB Ltd.,
Oachira, Kollam Dist.

ORDER**Background of the case:**

The appellant is a 3 phase LT IV(A) Industrial consumer of Electrical Section, Manappally with consumer number 1146585014011. The connected load in the premises is 49 kW. On 16-02-2021, the Anti Power Theft Squad (APTS) of KSEB Ltd. inspected the premises of the appellant and found that the consumption was not recorded in 'B' phase of the CT operated meter due to the improper CT connection in 'B' phase. On detailed analysis it was found that the non-recording of energy consumption started from 09-02-2019. The respondent issued a short-assessed bill for the period from 09-02-2019 to 16-02-2021 amounting to Rs.3,56,393/- to the appellant on 27-02-2021 and hence, the appellant filed a petition before the Consumer Grievance Redressal Forum (CGRF), Southern Region, Kottarakkara vide OP No.44/2021. The Forum in its order dated 20-09-2021 decided as follows:

- (1) The respondent is directed to revise the short assessment bill of Rs.3,56,393/- by limiting the period of short assessment to twenty-four months and to allow 12 monthly instalments to the petitioner without interest for the remittance of the amount, if the petitioner desires.

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

Arguments of the appellant:

The KSEB and CGRF are seen relying on Regulation 134 (1) and 152 (1) to (3) of the Supply Code on the powers of the Licensee to recover such short assessments. Later, the KSEB issued a communication dated 01/10/2021 enclosing a revised bill for Rs.3,53,959/- being short assessment for the period from 09/02/2019 to 09/02/2021 and also interest.

The appellant is not aware of any malfunctioning of the apparatus as claimed by the KSEB. The appellant has not tampered with any of the metering / other equipments. It is to be noted that from 09/02/2019 to 27/2/2021, the Board officials were going on taking the meter readings and issuing the bills. None even suspected any defects. The consumption in factory depends on the volume of work done during the period. When the production is low due to non-availability of raw nuts or other reasons, the consumption would be less. Regulation 152, coming under Chapter IX is not applicable since the chapter deals with theft, unauthorized use and other irregularities committed by the consumer. If at all there was any defect (not being admitted for a moment), the appellant is in no way answerable or liable. Regulation 134 also will not apply to the instant case.

Arguments of the respondent:

The Anti Power Theft Squad (APTS), Kollam along with the officials of Electrical Section, Manappally conducted a surprise inspection in the premise of the appellant on 16/02/2021 and it was found that the actual unit consumed in the 'B Phase' of CT Meter were not recorded in the energy meter. Furthermore inquiry of Voltage and Current in the R.Y. B Phases of energy meter revealed

that Voltage in the meter as R-221V, Y-204V, B-214V and Current as R-1.9A, Y-1.6A, B-0.04A (Zero Ampere). Also, the Voltage at the load centre recorded it as R-220V, Y215V, B208V and the Current recorded measured at R-34A, Y-24A, B-26A. It has depicted that energy consumed in the B Phase has not recorded in the energy meter. The respondent down loaded the data from the CT meter using Genus Urja DLMS Software and it has conclusively proved the finding of the respondents that from the date of 09/02/2019, the connection from the B Phase of CT to the energy meter was missing and it caused for huge revenue loss to the Licensee.

According to the regulation of 152 of the Supply Code, 2014, if any anomalies attributable to the licensee, which are detected on inspection at the premises of the consumer and in such case the amount of electricity short collected for the entire period during which such anomalies persisted, may be realised by the Licensee without any interest. So, a short assessment bill for Rs.3,56,393/- served on 27/02/2021 for the period starting from 09/02/2019 to 16/02/2021 in accordance with the provisions contained in Regulation 134 and 152 of Kerala Electricity Supply Code, 2014.

It was a technical error or a bona fide error happened and is a clear case of legally recoverable arrears and comes under the meaning of undercharged bills. The Regulation 134 of Kerala Electricity Supply Code 2014 provides that 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 CGRF dismissed the petition with the observation that "In the instant case, it is not a whole current meter but a CT operated meter. Even if the officials of the licensee regularly visit the premises for taking monthly reading, the missing of B phase current to the energy meter could not be identified and rectified. However, the petitioner is liable to pay the short- collected amount for the energy actually consumed for a period of twenty- four months according to the aforementioned regulations, even though the missing of phase current is not the fault of the appellant.

Hence, the appellant is not entitled for any relief as sought for in the above petition. For these and other reason to be urged at the time of hearing, it is prayed that the Authority may be pleased to accept the contentions of the respondent and the complaint may kindly be disposed with cost, directing the appellant to pay the amount.

Analysis and findings:

The hearing of the case was conducted on 18-01-2022 in the Electrical Sub Division Office, Oachira. Smt. Preethakumari. P. attended the hearing for the appellant and Smt. Ambikakumari. P., Assistant Executive Engineer, Electrical Subdivision, KSEB Ltd., Oachira attended 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 KSEB Ltd. has inspected the appellant's premises on 16-02-2021 and found defect in the CT secondary connection in 'B' phase of the meter, thus, resulting in the recording of a lower consumption than what is actually consumed. The connected load in the premises of the appellant is 49 kW. A site mahazar was prepared and meter data was downloaded. As per downloaded data, the 'B' phase CT current was continuously absent from 09-02-2019. The appellant was issued a short-assessment bill for Rs.3,56,393/- on 27-02-2021 to recover the energy escaped from billing due to CT's fault in one phase for the period from 09-02-2019 to 16-02-2021. The CGRF has observed that the appellant is liable to remit the short-assessment amount for 24 months. Accordingly, the appellant was given the reassessed short-assessment bill for Rs.3,53,959/- for the period from 09-02-2019 to 09-02-2021 along with interest.

The appellant's contention is that the appellant had not tampered with any of the metering or other equipments. The consumption in the factory depends on the volume of work done during the period. Regulation 152, coming under Chapter IX is not applicable since the Chapter deals with theft, unauthorized use and other irregularities committed by the consumer. Also,

Regulation 134 of Kerala Electricity Supply Code 2014 is not applicable to the appellant.

Refuting to the above contentions, the respondent has averred that from the downloaded meter records, it is clear that the CT current to the 'B' phase energy meter was missing from 09-02-2019 to 16-02-2021 and thereby 1/3rd (33.33%) of the total energy consumed for this period is not received and recorded by the energy meter. The demand notice for the actual energy consumed and non-recorded by energy meter is only served on the appellant without any interest or surcharge. It is only the energy charge which the Licensee instructs the appellant to remit and it is the responsibility of the appellant to pay electricity charge for the energy consumed. According to the Regulation 152 of Kerala Electricity Supply Code 2014, the appellant is liable to remit this amount.

Normally, the respondent is bound to rectify the defect of the metering system, if it is found defective / faulty, after informing the consumer. The appellant was assessed for Rs.3,56,393/- for non-recording of energy due to defects of the 'B' phase 'CT' from 09-02-2019 to 16-02-2021 by taking the lost energy as 1/3rd of actual energy consumption. There were also three phase loads connected. On perusing the mahazar, this Authority feels that the contention regarding the current missing in one phase of the meter noticed during inspection by KSEB Ltd. was correct. Thus, it is convinced that the energy recorded in the meter during the disputed period was not correct.

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

The site mahazar dated 16-02-2021 and the downloaded data justifies missing of current in one phase of the appellant's metering equipment in the appellant's premises. In view of the above fact, it is seen that the energy meter installed in the appellant's premises was only recording in two phases from 09-02-2019 to 16-02-2021.

The respondent has issued the short-assessment bill for a period from 09-02-2019 to 16-02-2021 by taking 50% of the recorded consumption following the inspection conducted on 16-02-2021 and detecting of non-recording of energy in one phase by scientific analysis. The meter is not a recording or display unit only but as defined above all the components above including lead wires include a meter. Moreover, this is not a whole current meter but a CT operated meter, where external CT is connected with metering unit using lead wires and phase voltage from all three phases are tapped from the source of supply and then connected with the same metering unit. Thereby wiring is also there for this metering system. This coordinates for computing energy is lead to the processing unit of the meter unit from different components of the meter then various electrical quantities are processed then recorded cumulative or otherwise and displayed in the display unit. Any defect in any part or component of meter is defect in meter. The fact of the matter is the metering system was defective since current in one phase was missing in the meter. Under the regulation 113, sub clause (7) of Supply Code 2014 requires the licensee to test the CT, PT and the wiring connections, where ever applicable while testing the meter.

In the hearing conducted on 18-01-2022, the appellant revealed that the production in the industry is seasonal. Maximum production is in the month of March, April, May, June and July.

On verifying the consumption details for four years from 01-2018 to 12-2021, the following facts are revealed. The energy consumption in the premises is not consistent.

Period of consumption	Consumption varied between (kwh)		
	Normal	Peak	OFF Peak
Prior to defective period			
01/2018 to 01/2019	80 & 6140	80 & 520	20 & 780
Defective period			
03/2019 to 01/2021	2680 & 6624	94 & 558	180 & 586
After defective period			
03/2021 to 12/2021	1624 & 8880	116 & 442	274 & 700

On analyzing the energy consumption, it is understood that the statement of the appellant regarding the seasonal consumption is not correct.

As per the test result of load current and CT current recorded in the site mahazar dated 16-02-2021 is as follows.

	Load Current	CT Current
R Phase	34 Amps	1.9 Amps
Y Phase	24 Amps	1.6 Amps
B Phase	26 Amps	Zero Amps

Since the CTs used in the metering system is 100/5 rating, it is observed mismatching of load current and CT current in R and Y phases of the meter. Hence, further investigation in the metering system is required.

The argument of the appellant that Regulation 152 of Kerala Electricity Supply Code 2014 is not applicable in this case will not be sustained since the Regulations clarifies, inaccuracies in metering system shall not attract provisions of sections 126 of the Electricity Act or Section 135 of the Act.

The energy consumption in the premises is not consistent and consumption prior and after the disputed period is less than the consumption recorded in the disputed period in various months. Regulation 125 of Kerala Electricity Supply Code 2014 says about the procedure for billing in the case of defective or damaged meter. On perusing the consumption pattern and unbalanced load in the premises, it is not proper to reassess the appellant as done by the respondent.

Decision: -

In view of the discussions and conclusions as above, I take the decision as follows:

I decide to quash the short assessment bill amounting to Rs.3,56,393/- issued to the appellant. The respondent is directed to test the metering system including energy meter and Current Transformers (CTs) as per rules and

ascertain its correctness within 30 days from the date of order. If the metering system is correct, the respondent shall revise the bill under ToD system for 24 months taking the average of the recorded consumption for 03/2021, 04/2021 and 05/2021 and issue to the appellant within fifteen days from the date of receipt of test result of the meter. If the metering system is defective, the respondent shall follow the procedure as per the relevant Regulations of Kerala Electricity Supply Code 2014.

Having concluded and decided as above, it is ordered accordingly. The appeal petition filed by the appellant stands disposed of as such. The order of CGRF, Southern Region, Kottarakkara in OP No.44/2021 dated 20-09-2021 is set aside. No order on costs.

ELECTRICITY OMBUDSMAN

P/072/2021/ _____ dated _____.

Delivered to:

1. Sri. Shiyas Hussain, Thanal, Peroorchery, TKMC P.O., Karikode, Kollam Dist. 691005
2. Asst. Executive Engineer, Electrical Sub Division, KSEB Ltd., Oachira, Kollam 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.

Consumption Month	Energy Consumption			Consumption Month	Energy Consumption		
	Normal	Peak	OFF Peak		Normal	Peak	OFF Peak
01/2018	6140	520	780	07/2019	5908	558	586
02/2018	640	100	240	08/2019	6536	476	500
03/2018	80	80	160	09/2019	3664	226	338
04/2018	2820	260	500	10/2019	6624	412	458
05/2018	4860	4600	600	11/2019	4064	188	266
06/2018	5300	480	640	12/2019	5616	238	384
07/2018	5040	420	540		6328	248	488
08/2018	3020	260	360		4938	166	300
09/2018	4800	320	520		2680	177	285
10/2018	3820	260	420		2680	177	285
11/2018	3420	220	260		3540	142	204
12/2018	2540	220	260		5216	216	244
01/2019	3200	180	200		3796	128	262
02/2019	2060	140	200		3878	150	252
03/2019	1700	120	180		4556	122	214
04/2019	2180	180	260		4000	94	234
05/2019	3968	422	254		2184	118	188
06/2019	4324	356	380		4150	140	306
					3652	116	280
					4150	190	410
					7882	202	632
					3116	142	338
					2520	116	280
					1624	138	274
					4116	230	434
					3422	258	438
					8644	416	654
					8714	442	690
					8650	376	650
					8040	308	700

