

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION No. P/068/2021**(Present: A.S. Dasappan)****Dated: 25th February, 2022**

Appellant : Sri. Jibu C. Jamal
M/s. Pioneer Wood Products,
Allapra
Perumbavoor,
Ernakulam Dist.

Respondent : Special Officer (Revenue),
KSEBL, Vyduthi Bhavanam,
Pattom, Thiruvananthapuram

Dy. Chief Engineer, KSE Board,
Electrical Circle,
Perumbavoor, Ernakulam Dist.

ORDER**Background of the case:**

The appellant is a High Tension (HT) consumer of Electrical Section, Vengola of KSEB Ltd. with Consumer Code LCN26/4760 under HT I(A) tariff category. The appellant is running an industrial unit by name "M/s. Pioneer Wood Products" at Allapra. In the inspection conducted by the Licensee, KSEB Ltd. on 07-05-2021, the metering system was found defective and disconnected the power supply to the premises. The appellant requested the respondent for reconnection with unmetered supply on 07-05-2021 and the same was effected on the same day itself for 15 days or till the date of providing new metering system whichever is earlier as per the provisions contained in Regulations of Kerala Electricity Supply Code 2014. The appellant was willing to remit the energy charge during the period of unmetered supply based on the previous average of the recorded consumption. On 10-08-2021, the appellant was given a short assessment bill for the period from 03/2021

to 05/2021 revising from Rs.1,97,217/- to Rs.2,35,802/-, Rs.1,23,401/- to Rs.2,40,785/- and Rs.1,82,546/- to Rs.2,36,470/- respectively. Since the revision of bills was not acceptable, the appellant filed a petition in Consumer Grievance Redressal Forum (CGRF), Central Region vide OP No. 14/2021-22 and the Forum in its order dated 10-09-2021, rejected the request of the appellant.

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

Arguments of the appellant:

In the TMR inspection conducted on 07-05-2021 it was found that the appellant has an old metering scheme. The electricity to the premises was disconnected and the appellant was asked to replace the meter with that of the new scheme. The appellant took steps to replace the meter.

Meanwhile, the appellant requested for granting un-metered supply agreeing to the condition that average shall be charged during the period of unmetered supply. However, it was pointed out that from 08-05-2021 the State Government have declared complete lockdown in the State due to the Second Wave of Covid-19 pandemic and that the Company is not working. It was stated that only lighting load alone will be used by the Company during the lockdown period and that the said fact may be taken into consideration while assessing the average bill. All these proceedings took place on 07-05-2021.

The request of the appellant was forwarded by the Asst. Engineer, Vengola Section to the Deputy Chief Engineer, Electrical Circle, Perumbavoor on 07-05-2021 itself and unmetered connection was granted on the same day.

The lockdown started on 08-05-2021. The Company was not working during the lockdown period. Only lighting load was used. Hence, the appellant again filed another representation before the Asst. Engineer, Vengola Section and the Deputy Chief Engineer, Electrical Circle, Perumbavoor on 24-05-2021 pointing out the above facts and requesting for issuing bill only for the electricity consumed.

On 28-05-2021, the new meter was obtained from TMR Section, Angamaly after testing. The appellant submitted a request on 31-05-2021 praying for installing the new meter before the Deputy Chief Engineer, Electrical Circle, Perumbavoor and Asst. Engineer, Vengola Section.

However, a Bill dated 02-06-2021 has been served on the appellant demanding to pay an amount of Rs.1,82,546/- towards the electricity charges for the period from 30-04-2021 to 31-05-2021 along with the admitted arrears of the last month which would come to an amount of Rs.305947/-. This is illegal, arbitrary and unsustainable. The appellant was asked to pay charges for electricity that has not been consumed by it. Charging of average electricity charge even during the lockdown period is illegal.

There was no fault on the part of the appellant regarding the meter. The alleged failure in the metering equipment was not because of any deliberate laches on the part of the appellant. The Board has no case that the fault of PT was because of any deliberate action on the part of the appellant.

The finding of the Forum that the Petitioner was aware about the lockdown at the time of applying unmetered supply on 07-05-2021 and gave the consent for billing based on average consumption is not correct. In the application for unmetered supply itself, the appellant pointed out about the lockdown and stated that only lighting load alone will be used. It was requested to give emergent attention to the same and grant relief. The last sentence in the said application agreeing for average bill was added only because of the insistence of the officials of the KSEB.

A perusal of the electricity consumption in April 2020 in which there was complete lockdown would reveal the fact that the consumption of electricity is very low. In the month of May 2021 in which there was complete lockdown from 08-05-2020 till 17-06-2020. During the lockdown period no raw material will be available for operating the company. Hence, there was no production in the company and the consumption of electricity was very low. Only lighting load was used.

The finding of the Forum that the consumption of June 2021, i.e. after meter replacement, matches the average consumption billed for unmetered period, May 2021 is incorrect and illegal.

In retaliation of the complaint filed before the CGRF now revised bills dated 10-08-2021 have been issued by the KSEB for the electricity consumed for the months of March, April and May, 2021 alleged to be calculated as per Regulation

125(2) and (3) of the Kerala Electricity Supply Code, 2014. The entire calculation made is incorrect, illegal and against the provision of law.

The appellant is not liable to pay the enhanced amount covered by the revised bills dated 10-08-2021 for April, May and June, 2021. The appellant had paid all the regular bills issued by the Board and there is no arrears in that regard.

Nature of relief sought

1. Set aside Order No. CGRF-CR/OP No.14/2021-22/146 dated 10-09-2021 of the Consumer Grievance Redressal Forum.
2. Direct the Deputy Chief Engineer, Electrical Circle, Perumbavoor and the Asst. Engineer, Vengola Section may be directed to recall the bill dated 02-06-2021 for the month of June, 2021 and the bills dated 10-08-2021 for April, May and June, 2021 and re-assess the bills considering the fact of lockdown in the State and non-working of the Company from 08-05-2021 and issue the new bill accordingly.

Arguments of the respondent:

The appellant had been drawing HT power with ToD Meter of L&T make 5A, of Class 0.5s using a CT of current ratio 10/5 and a PT of voltage ratio 11 kV/110V.

The energy meter of the appellant showed a lower voltage against the parameter U1 on the meter display while taking monthly reading on 01-04-2021. The voltage recorded by the meter was 8356 volts only. At the same time, the voltage shows by the meter against parameter U2 was 11190 volts. Again, on 03-05-2021, the energy meter showed lower voltage against U1. The voltage recorded this time was 8400 Volts, whereas recorded voltage against parameter U2 was 11054 Volts. From recordings of the low voltages against U1 parameter both on 01-04-2021 and 03-05-2021, it was confirmed that there was something wrong with the metering system and hence, the matter was reported to TMR.

TMR, Ankamaly had conducted an inspection on 07-05-2021 and found that the PT was faulty and recommended to change the metering scheme to 3 phase 4 wire of 0.2s class accuracy.

Since the PT was found faulty, the power to the appellant was disconnected and requested them to rectify the defects. The appellant had submitted an application dated 07-05-2021 to the Dy. Chief Engineer for unmetered supply and

effected unmetered supply on 07-05-2021 itself. In the application, the appellant had expressed their willingness for average billing during the period of unmetered supply as per Supply Code 2014 and also confirmed that they require the supply in the factory. It was informed to the appellant that during the period of unmetered supply, the consumption will be computed based on the average consumption during the previous billing cycles as per Regulation 118 (2) and the appellant had agreed to remit the electricity bill based on the average consumption in the letter dated 07-05-2021. The appellant has not given any documents to prove that their factory was not working.

The unmetered supply was provided for a period of 15 days from 07-05-2021 to 21-05-2021 or till the date of reinstalling the metering equipments whichever is earlier.

Unmetered supply was provided to the appellant and average was charged as per the regulations under Regulation 118 of the Electricity Supply Code 2014, which are reproduced here as follows:

- (1) If a meter is found damaged either on the complaint of the consumer or upon inspection by the licensee, the meter shall immediately be replaced by the licensee with a correct meter and if it is not possible, the supply shall be restored by the licensee, bypassing the damaged meter after ensuring that necessary preventive action at site is taken to avoid future damage and obtaining an undertaking from the consumer to make good the loss if any sustained by the licensee.
- (2) The consumption during such period in which the supply was restored as per the above Regulation shall be computed based on the average consumption during the previous billing cycle.
- (3) The bypassing shall be removed by replacement with a correct meter within the least possible time, at any rate within three working days for LT meters and within fifteen days for HT meters.

It is crystal clear in the Regulation that the proceedings of the Licensee regarding unmetered supply was in order. Sub-regulation (2) mentions clearly that the consumption during such period in which the supply was restored as per sub-regulation (1) shall be computed based on the average consumption during the previous billing cycle. Hence, the question of actual consumption during the period of unmetered supply does not arise.

The appellant used unmetered supply for 24 days from 07-05-2021 to 31-05-2021 since they failed to replace the meter within 15 days as ordered.

The consumption pattern during the lockdown period in 2020, 6 months consumption prior to meter faulty and consumption after the installation of new meter are shown below:

Month	Consumption kwh
February 2020	29236
March 2020	23994
April 2020	8438
May 2020	18094
June 2020	31586
July 2020	32328
August 2020	31444
September 2020	32626
October 2020	33624
November 2020	32212
December 2020	35246

Month	Consumption kwh
January 2021	35722
February 2021	31322
March 2021	28152
April 2021	15326
May 2021	24933
June 2021	24830
July 2021	29718
August 2021	29844
September 2021	30374

The Licensee is not in a position to consider the grievances of the appellant in the light of the above Regulation. Hence, the re-assessment of the bill or relaxations, if any, as requested by the appellant is beyond the discretion of the Licensee.

The appellant's argument that only lighting load was used during the lockdown period has not merit and not produced any documents to prove it. The CGRF has not considered any of his arguments since the appellant was aware of the average billing and expressed willingness to remit the average charges, if supply is effected directly. After taking the benefit of direct supply, it is not justifiable saying that supply is used only for light load. During the CGRF hearings, the appellant had not produced any evidence in support of appellant's arguments for reduced consumptions.

The appellant's argument that no raw material was available during the lock down period for operating the company and therefore, only lighting load was used does not sustain. It is also not clear that whether there was a ready stock of materials in the premises procured well in advance even before the beginning of lockdown. There is every chance by keeping the workforce in the industrial premises to operate the machinery using the stock procured even before the lockdown.

On verifying the consumption for the month of June 2021 after the new meter was installed, it is almost two times of the monthly average consumption during the lockdown period in 2020. The CGRF had observed that there was lockdown in June 2021 too. Actually, the lockdown continued up to 17-06-2021. Hence, the argument that only lighting load was used during the lockdown period is not at all reasonable and hence, it may be ruled out due to lack of merit.

As per Regulations, the Licensee was not in a position to take the appellant's statement dated 07-05-2021 for granted, and issue orders accordingly. The appellant's argument in the application dated 07-05-2021, agreeing for average bill was added only because of the insistence of the officials of the KSEBL, which is not reasonable. KSEBL officials had no other option but to charge the average consumption as per Regulations.

However, vide B.O. (FTD) No. 511/2021(KSEB/TRAG-D/Covid Pandemic Tariff Concession/2021-22 dated Tvpm. 02-07-2021, considering the Covid pandemic-19, KSEBL has given relief to the entire spectrum of consumers to the tune of 25% on fixed charges/demand charges. This is applicable to industrial/commercial consumers also. In this specific case, the appellant is eligible for the relief.

Based on the consumption pattern CGRF observed that the consumption of June 2021, the average consumption billed for unmetered period May 2021. The lockdown and related restrictions were prevailing in June 2021 also. Hence, the Forum views that the appellant's request for reassessing the issued based on average consumption for which the appellant has given consent is not legal and cannot be granted.

The appellant has not paid the revised Electricity bills and regular bills from 08/2021. Hence, appellant is liable to pay the monthly electricity bills including surcharges.

In the inspection, the PT of the meter was found faulty and moreover the meter installed at the premises was not in compliance with the Regulation 6(2)(c) of the Central Electricity Authority (Installation & Operation of Meters) Regulations, 2006. After the inspection, the respondent was directed to revise the bills issued to the appellant for the periods from 3/2021 onwards.

The monthly bill dated 2.6.2021 for the consumption month of 5/2021 to the tune of Rs.1,82,546 was issued to the appellant based on the average consumption.

Later, on 10.8.2021 the bills issued to the appellant for the consumption months of 3/2021 to 5/2021 for Rs. 1,97,217/-, Rs.1,23,401/-, Rs.1,82,546/- were revised as Rs. 2,35,802/-, Rs. 2,40,785/-, Rs. 2,36,470/- based on the average energy consumption of the appellant's firm and served to the appellant as well.

The appellant admitted at the time of hearing and duly recorded thereafter by CGRF on 13.8.2021 that there have been hundreds of employees working during the covid induced situation at the premises of the appellant's firm, it is inferred that there has been consumption of energy by the appellant during the lock down period too. Moreover, KSEBL allowed a rebate of twenty five percent on demand charges for the months from 3/2020 to 5/2020 and deferred payment of balance demand charge up to 15.12.2020 and further allowed a rebate of twenty five percent on demand charge for the month of 5/2021 as well as allowed three equal interest free installments to remit the balance demand charge up to 30.9.2021 as per B.O. dated 30.5.2020 and 2.7.2021.

In the wake of the above mentioned facts read with the Regulation 118 of the Kerala State Electricity Supply Code, 2014, it is prayed that the Appeal Petition No. P/068/2021 may kindly be dismissed with cost as it is devoid of any merit.

Analysis and findings:

The hearing of the case was conducted on 16-12-2021 in the Office of the Electricity Ombudsman, Edappally, Kochi. Sri. Jibu. C. Jamal, the appellant and Sri. Titus Daniel, Assistant Engineer-in-charge, Electrical Subdivision, KSEB Ltd., Kizhakkambalam, Sri. P. Pradeep, Superintendent, Office of the Special Officer (Revenue), Thiruvananthapuram and Sri. T.V. Joseph, Nodal Officer, Electrical Circle, Perumbavoor for 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 appeal petition pertains to the revision of monthly electricity bills for the month of 03/2021 and 04/2021 and the average consumption assessed for the month of 05/2021. The appellant was provided unmetered supply from 07-05-2021 to 31-05-2021 and issued a short assessment bill in the above period for Rs.2,09,893/-.

In this case, it is to be decided whether the quantum of energy computed towards the consumption in the premises and the period for which the short assessment was made are in order, and thereby whether the appellant is eligible for any relaxation in both quantum of energy and period of short assessment.

The argument of the appellant is that during the period of unmetered supply from 07-05-2021, the premises of the appellant was under shutdown and only used for lighting purpose. Hence, the average consumption is to be taken in the period of lockdown accordingly. The appellant is not responsible for the defects in the metering system and not liable to remit the bills issued for 04/2021, 05/2021 and 06/2021 dated 10-08-2021.

The argument of the respondent is as follows:

The voltage measured in the premises meter on 01-04-2021 and 03-05-2021 was only 8356 volts against 11190 volts and 8400 volts against 11054 volts respectively. In the inspection conducted by the Licensee on 07-05-2021, the PT of the metering system was found faulty. The unmetered supply was provided with an agreement executed by the appellant that the appellant was willing to remit the energy charge prepared in the period of unmetered supply based on the average consumption in the healthy period of the metering system. The appellant had not produced any documents to prove that the factory was not working in the period of unmetered supply. As such the appellant is liable to remit the bill amount as per Regulation 118 of Kerala Electricity Supply Code 2014. The consumption details for 06/2020 to 12/2021 is as follows:

Consumption Month	Consumption recorded (kwh)		
	Zone-1	Zone-2	Zone-3
06/2020	17010	4830	9746
07/2020	17288	5362	9678
08/2020	17080	5128	9236
09/2020	17710	5438	9478
10/2020	17854	5686	10084
11/2020	17894	5124	9234
12/2020	19022	5726	9898

Consumption Month	Consumption recorded (kwh)		
	Zone-1	Zone-2	Zone-3
01/2021	19910	5576	10230
02/2021	17314	5096	8912
03/2021	16336	4374	7442
04/2021	8812	2500	4014
05/2021	0	0	0
06/2021	13816	3986	7028
07/2021	17230	4686	7802
08/2021	16842	4666	8336
09/2021	17546	4740	8088
10/2021	18474	4954	9040
11/2021	17558	5060	8004
12/2021	18376	5180	8282

On perusing the document file, it is observed as follows:

The appellant was issued bill for Rs.1,97,217/- on 03-04-2021 for a total consumption of 28152 units, which was recorded in the meter. The bill issued on 04-05-2021 was for 15326 units, which was also recorded in the meter, amounting to Rs.1,23,401/-. The bill issued on 02-06-2021 was for Rs.1,82,546/-, the amount calculated based on the average of the consumption recorded in the meter for 02/2021, 03/2021 and 04/2021, which comes to 24933 units. The metering system was set right on 31-05-2021. The Deputy Chief Engineer had given sanction for the unmetered supply from 07-05-2021 to 2105-2021.

The special remarks in the Inspection Report of the meter dated 07-05-2021 by the Meter Testing Unit of TMR Division, Ankamaly is "Inspected as per request dated 04-05-2021 of Assistant Engineer, Electrical Section, Vengola. Found PT faulty. As per register, voltage unbalance observed on 01-04-2021. Hence, the bill for the period March 2021 to till date may be reviewed as per rules." The suggestion of the inspecting personnel was to review the bills issued for the period from March 2021 to 07-05-2021, but the billing officials revised the bills for 03/2021, 04/2021 and 05/2021, taking the average of the consumption for the period from 12/2020 to 02/2021.

The zone-wise meter reading in the premises is as below:

Month	Meter Reading (kwh)			Consumption (kwh)		
	Zone-1	Zone-2	Zone-3	Zone-1	Zone-2	Zone-3
01/2021	617635	186792	232634	19910	5576	10236
02/2021	626292	189340	237090	17314	5096	8912
03/2021	634460	191527	240811	16336	4374	7442
04/2021	638866	192777	242818	8812	2500	4014
05/2021	638866	192777	242818	0	0	0

From the above, it can be observed that the meter became standstill after the consumption month 04/2021 and defectiveness might be started after the consumption month 03/2021. The Licensee had not prepared any site mahazar other than the inspection report. The inspection report of the testing officials had not been reviewed by any officer entrusted by the Licensee at various levels, but revised the bill. It is a fact that the Assistant Engineer, Electrical Section, Vengola had taken timely action in detecting the defect of the metering system by reporting to the competent personnel. In the hearing, the respondent revealed that the defective meter had no facility to extract the history of the meter. On the above ground, the revision of bill for the month 03/2021 is not sustainable.

Regulation 118 of Kerala Electricity Supply Code 2014 says about "Replacement of damaged meter" and Regulation 116 of Kerala Electricity Supply Code 2014 says on "Replacement of defective meter". The respondent had not mentioned about any damages to the metering system and since a site mahazar is not available, the details of damages or defects could not be found out.

A consumer is liable to remit the charges of the electricity used by him, but at the same time, an unnecessary burden should not be given in the form of electricity bills. The re-assessment is made in a period for which an assessment of energy consumption was made earlier. The date from which the defectiveness of the metering system started was not detected by the Licensee. The metering system was replaced on 31-05-2021 with a tested new system and hence, the consumption recorded from 31-05-2021 is not a disputed one to both the appellant and the respondent. As such, the consumption recorded in the new meter will be more proper than the consumption recorded in the old meter for any reassessment of the consumption.

The appellant had not produced any document or evidence to show that the consumption for the period of unmetered supply was only for the lighting load. Prior and after the month 05/2021, there was consumption in the premises and which is more than 24500 units per month. Hence, the argument of the appellant that there was only light load in the premises during the period of unmetered supply is not acceptable.

Decision: -

From the conclusions arrived at as detailed above, I decide to quash the short assessment bills for Rs.2,09,893/- issued to the appellant. The respondent is directed to revise the bill for 04/2021 and 05/2021 taking the average of the monthly energy consumption recorded in the new meter for 06/2021, 07/2021 and 08/2021 under ToD billing to the appellant within fifteen days from the date of order. The respondent shall also revise the demand charge for 04/2021 and 05/2021, taking the demand charge of the same month in the previous year.

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, Central Region in OP No.14/2021-22 dated 10-09-2021 is set aside. No order on costs.

ELECTRICITY OMBUDSMAN

P/068/2021/_____ dated _____.

Delivered to:

1. Sri. Jibu C. Jamal, Pioneer Wood Products, Allapra, Perumbavoor, Ernakulam Dist.
2. Special Officer (Revenue), KSEBL, Vyduthi Bhavanam, Pattom, Thiruvananthapuram
3. Dy. Chief Engineer, KSE Board, Electrical Circle, Perumbavoor, Ernakulam 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.