

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION No. P/079/2021

(Present: A.S. Dasappan)

Dated: 17th March, 2022

Appellant	:	Smt. Naseema. S.L.P., M/s. Nazimarine Exports, Pee Veas Building, Edakochi, Ernakulam Dist. 682 010
Respondent	:	Assistant Executive Engineer, Electrical Sub Division, KSEBLtd., Palluruthy, Ernakulam Dist.

ORDER

Background of the case:

The appellant is a Low Tension (LT) consumer of Electrical Section, KSEB Ltd., Palluruthy with consumer number 1155595011144 under LT VIIA tariff. The connected load in the premises is 106.032 kVA and the Contract Demand is 99 kVA. On 16-08-2021, the Anti Power Theft Squad (APTS) of KSEB Ltd. inspected the premises of the appellant and found defects in the metering system, which led to the non-recording of actual consumption in the premises. In order to compensate the revenue loss, the appellant was given a short assessment bill for Rs.5,57,705/- for the period from 09/2019 to 08/2021 to compensate the revenue loss. Though the appellant was ready to remit the amount in 24 monthly instalments if the instalment was granted without any interest or surcharge, the Licensee did not allow relaxation in interest or surcharge. Aggrieved by the decision of the Licensee, the appellant approached the Consumer Grievance Redressal Forum (CGRF), Central Region within thirty days. The Forum vide its order dated 20-11-2021 in OP No. 31/2021-22 rejected the request.

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

Arguments of the appellant:

In the inspection time of the premises, the APTS officials informed that the meter and CT Chamber was perfectly in sealed state and lapses of the KSEB Ltd. was the reason for the improper connection in the metering system. The defect in the metering system, interchanging of Current Transformer (CT) terminals, was convinced by the APTS and which was stated in the site mahazar. The said metering system was purchased by the appellant and installed in the premises by KSEBL in the month of 09/2019. Though the lapses were on the part of the Licensee, the appellant was given a short assessment bill for Rs.5,57,705/-. The inspection was conducted after 24 months, even before no inspection was conducted by Assistant Executive Engineer, Assistant Engineer, Senior Superintendent or Sub Engineer and they could not bring any defect of the metering system to the notice of the appellant.

The premises had been run by a company by name "Star Fish Exports" from the year 2006 to 2016 and from the year 2018 onwards the premises was handed over for running another company by name "Blue Sea Exports" on rental basis. Again, the premises was given for running a company "Keshodwala Foods" for the period from 09/2019 to 08/2021. If the Licensee had inspected the premises during the above period, the short-assessed amount could have been realized from the concerned company personnel. Nevertheless, the appellant was ready to remit the amount in 24 monthly instalments if the appellant was exempted from interest or surcharge and the Assistant Engineer was informed accordingly. The respondent had allowed 24 instalments, but interest was included in the amount for remittance. The appellant requested for granting 24 numbers instalments without interest or surcharge.

Arguments of the respondent:

On 16.08.2021, APTS, Ernakulam with Palluruthy Section officials inspected the premises and found that the CT connections of the existing three phase CTmeter was not connected properly and hence a Site Mahazar was prepared. The meter details are L&T make, SI. No.055590018036118, 2500 imp/kwh, -/5A capacity, with 4 Nos. of 200/5A CT with M.F 40, class I type. The

abnormalities noted in the CT Meter connection was (1) S2 of Y Phase CT terminal was given to the S1 of B Phase terminal of meter. (2) S2 of B Phase CT terminal was given to the S1 of Y Phase terminal of meter. The voltage terminals were connected correctly, and the meter chamber was under sealed condition. The meter was checked with the calibrated standard meter and the data was downloaded. As the secondary's of 'Y' and 'B' phase was interchanged and not connected correctly with the meter, it was showing a negative error in recording the actual energy consumed by the appellant.

As per Regulation 134 (1) of KERALA ELECTRICITY 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 and in such cases at least thirty days shall be given to the consumer for making payment of the bill.

As per Regulation 152 (3) of KERALA ELECTRICITY SUPPLY CODE, 2014

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.

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.

In this case, it is seen that the meter and the CT of the consumer was changed on 22.08.2019, and hence it is clear that the reversal of the CT terminals have occurred during this meter change. As the exact period of the abnormality is known and short assessment bill was issued for Rs. 5,57,705/- for the period from 9/19 to 8/21 i.e., for 24 months only.

The existing meter and CT of the consumer No. 11144 was changed with a new meter purchased by the consumer on 22.08.2019. The CT connections was reversely effected by the Board officials at the time of meter changing. The plant was given for rent to STAR FISH EXPORTS owned by George Joseph & Annie Joseph from 2000 to 2016 and they vacated the premises as per the Hon'ble

Supreme Court Order. There is a short assessment bill for the tariff difference amounting Rs.28,04,572/- pending from STAR FISH EXPORTS issued on 16.11.2009. Star Fish Exports have filed WPC 25462/2015 before the Honorable High Court against this bill and the case is still pending before the Hon'ble High Court'. Since the Case WP(C) 25462/2015 is pending before the court the disputed arrear amount is shown in the bills. The appellant had filed complaint before the Assistant Engineer against the short assessment bill on 6/09/2021. Assistant Engineer gave a detailed reply to the appellant in which it is clearly stated that this is a short assessment bill and not a penal bill. The CT terminals connection was reversed the meter was recording lower than the actual energy consumption of the appellant and this shortage in the energy charge is billed and issued to the appellant. The appellant had applied for installment (24 months) to remit the short assessment bill and the same has been sanctioned by the Deputy Chief Engineer, Electrical Circle, Ernakulam vide order No.DCE/EKM/ABVINSTALMMMENT/21-22/1948/dated 26.10.2021.No disconnection has been made till date. Hence, it is prayed that this complaint is without any merit and may be dismissed and KSEB Limited may be allowed to realize the short assessment amount.

Analysis and findings:

An online hearing was conducted on 28-01-2022 with prior intimation to both the appellant and the respondent Sri. Basheer. V.A. attended the hearing for the appellant and Sri. A.J. Jaison, Assistant Executive Engineer, Electrical Subdivision, KSEB Ltd., Palluruthy attended from the respondent's side. 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 APTS of KSEB Ltd. inspected the appellant's premises on 16-08-2021 and found that the Current Transformer (CT) connection to the energy meter was not properly done, thus resulting in the recording of a lower consumption than what was actually consumed. The connected load of the appellant is 106 kW and

Contract Demand is 99 kVA. A site mahazar was prepared and meter data was downloaded. The appellant was issued a short assessment bill for Rs.5,57,705/- on 27-08-2021 for a period of two years to recover the energy escaped from billing due to CT's fault. The Consumer Grievance Redressal Forum 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 if an inspection of the metering system was conducted within a reasonable time, any defect in the metering system could have been rectified in the period of short assessment and the appellant was not the consumer of the premises during the disputed period. The appellant is willing to remit the amount if 24 numbers monthly instalment is granted without any interest or surcharge.

The contention of the respondent is that the meter was not recorded actual consumption in the premises due to the improper connection in the metering system and which was confirmed at the time of inspection. As per Regulation 134 and 152 of Kerala Electricity Supply Code 2014, the appellant is liable to remit the short assessment.

Normally, the respondent is bound to rectify the defect of the metering system if it is found defective after informing the consumer. The appellant was issued a bill for Rs.5,57,705/- for the under-recording of energy due to the defect of the metering system from 09/2019 to 08/2021, by taking the lost energy as 18.91% of the actual consumption to be recorded. This Authority examined the site mahazar prepared by the Licensee at the time of inspection on 16-08-2021. In the site mahazar it is seen that the metering system in the premises was tested with the calibrated meter of the Inspection team and the relevant portion of the site mahazar is noted as follows:

Meter	Initial Reading	Final Reading	Duration	Consumption
Premises Meter	10.89 kwh	10.91 kwh	Not mentioned	$0.52 \times 40 \times 1000 = 800 \text{ wh}$
Test Meter	0 kwh	986.62 kwh		$986.6842 = 986.6242 \text{ wh}$
Difference in consumption				186.6242 wh
% error arrived at by the respondent				$\frac{186.6242}{986.6242} = 18.91\%$

It is to be noted that, in a premises having a connected load of 106 kW and Contract Demand of 99 kVA, the percentage error is calculated based on a test for a very short duration and the reassessment is made for 24 months as per the test result. The respondent assessed that the defect in the metering system was occurred while changing the meter on 22-08-2019. This Authority also verified the energy consumption in the premises from 01-12-2018 to 01-01-2022 on the contention of the appellant that the premises was run by different companies for the year 2018 and from 09/2019 to 08/2021. The meter was changed on 22-08-2019 and prior to that, the monthly energy consumption was below 1000 units. The consumption in the newly installed meter till the inspection was in between 1360 units and 23640 units and which is not consistent. After the inspection the range of energy consumption was within 8720 units and 22080 units.

There is no test report of the meter other than the test result for a short duration (duration was not mentioned in the site mahazar).

On perusing the data downloaded from the energy meter by the Licensee, the current in 'Y' phase is 2.439 A, current in 'R' phase and 'B' phase is -2.436 A and -2.440 A in the instantaneous report collected on 16-08-2021. As such, it is observed that some defects in the metering system found by the Licensee is correct. In the running tamper "event ON" also, there is current reversal in 'B' phase and 'R' phase. But there is no report on the duration of defect exists in the metering system. The respondent argued that the defect started from the date of change of meter on 22-08-2019, but there is no scientific evidence to show that the defect started from 22-08-2019.

Regulation 152 of Kerala Electricity Supply Code 2014, provides "Anomalies attributable to the Licensee, which are detected at the premises of the consumer":

Regulation 152

- (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 realized 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 realized 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 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.

- (4) The consumer may be given installment facility by the licensee for a maximum period of twelve months without interest for the remittance of such amount of short collection. (Amended vide No. 609/D(T)/2018/KSERC dated TVM 22-01-2020 of KSERC)

The consumption recorded in the meter, after the date of inspection 16-08-2021, for 09/2021, 10/2021 and 11/2021 is 22080 units, 8700 units and 10200 units respectively, with an average per month is 13667 units. But the appellant revealed that the disputed period up to the month 08/2021, the factory was run by "M/s. Keshodwala Foods". As such, the consumption after the rectification of the metering system on 16-08-2021 is not that of the consumer, who used energy in the disputed period and hence, it is not proper to take the consumption after 16-08-2021 for the reassessment of energy consumption in the disputed period. This Authority views that, even though the scientific value arrived a

t is through a test for a short duration, it is more proper to reassess the appellant limiting the period of short assessment.

Decision: -

As per the discussions and conclusions arrived at, which are detailed above, I take the following decision:

The short assessment bill for Rs.5,57,705/- for the period from 09/2019 to 08/2021 issued to the appellant is quashed. The respondent is directed to revise the short assessment bill for a period of 12 months prior to the date of inspection and issue the revised bill within 15 days from the date of order. The respondent shall issue 12 equal monthly instalments on the revised bill amount without interest and the appellant shall remit the instalment amount within the due date fixed by the respondent for each instalment.

Having concluded and decided as above, it is ordered accordingly. The order of CGRF, Central Region, Ernakulam in OP No.31/2021-'22 dated 20-11-2021 is set aside. No order on costs.

ELECTRICITY OMBUDSMAN

P/079/2021/_____ dated _____.

Delivered to:

1. Smt. Naseema. S.L.P., M/s. Nazimarine Exports, Pee Veas Building, Edakochi, Ernakulam Dist. 682 010
2. Assistant Executive Engineer, Electrical Sub Division, KSEB Ltd., Palluruthy, 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.