

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION No. P/013/2022**(Present: A.S. Dasappan)****Dated: 21st April, 2022**

Appellant : Sri. Thomas John Cherukara,
CBC Ford, NH 66,
Kommadi, Thumpoli. P.O.,
Alappuzha Dist. 688008

Respondent : Assistant Executive Engineer,
Electrical Sub Division, KSEB Ltd.,
Alappuzha North, Alappuzha Dist.

ORDER**Background of the case:**

The appellant is a Low Tension (LT) consumer of Electrical Section, KSEB Ltd., Alappuzha North with consumer number 1155018029905. The tariff allotted is LT VIIA with connected load 37951 watts. The service connection was effected on 02-09-2017 and average monthly consumption during the period from 09/2017 to 10/2001 is 2407 units. An inspection was conducted in the premises of the appellant on 28-10-2021 by Anti-Power Theft Squad (APTS) of KSEB Ltd. and found improper voltage connection to the energy meter, which led to the non-recording of actual energy consumption in the premises. The inspection team found an unrecording of 44.35% of the actual consumption to be recorded. The appellant was given a short assessment bill, after preparing a site mahazar, for Rs.4,77,751/- as per Regulation 152 of Kerala Electricity Supply Code 2014 by the respondent for compensating the revenue loss sustained to the Licensee. Since the respondent had not reconsidered the short assessment bill, the appellant filed a petition in Consumer Grievance Redressal Forum (CGRF), Central Region, Ernakulam vide OP No. 52/2021-22 and the Forum in its order dated 02-02-2022 rejected the petition.

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

Arguments of the appellant:

The appellant approached the CGRF against the illegal and arbitrary demand of Rs. 4,77,751/- as per short assessment bill dated 6/11/2021 issued by the Assistant Engineer, Electrical Section, KSEBL, Alappuzha North based on an inspection "mahazer dated 28-10-2021 in which neither the appellant nor his representative have affixed signature. It was a unilaterally prepared mahazer without convincing the appellant or his representative about the findings therein.

In the short assessment, it is alleged that as per the inspection and site mahazer prepared on 28/10/2021, it is proved that in the recording of the electricity meter, there is a shortage of 44.35% than the actual consumption. It is further stated in the short assessment that the actual consumption of the appellant during the period 11/2019 to 10/2021 was 105301 units out of which 46701 units was not recorded in the meter and billed. It is further stated in the assessment order that Rs.4,77,751/- is demanded as current charge for the said 46701 units under Regulation 152 of the Kerala Electricity Supply Code 2014 which was directed to be paid within thirty days of date of receipt of the notice failing which the supply to the premises will be disconnected on 7/12/2021.

A perusal of the mahazer dated 28/10/2021 shows that the inspection was conducted after operating all the equipments in the appellant's premises simultaneously resulting in totally wrong and baseless calculation of 44.5% deficit in metering. According to the mahazer, the meter in the premises is CT operated with connected load of the premises 37451 watts. There is no allegation of any abnormality attributable to the appellant. Then it is stated in the mahazer that the tapping from line to R-Phase is correct whereas tapping from lines to Y and B phases are not correct and hence the terminals connected to Y and B phases in the meter are different from the CT secondary circuits and consequently the units recorded in the meter will be less than the actual consumed units. In order trace out that deficit, a parallel standardized referral meter was connected. Then the equipments in the premises were operated for some time.

Initial reading in the consumer meter is recorded as 6575.18 kWh

Final reading in the consumer meter is recorded as 6575.28 kW

Hence, the consumption recorded in the consumer meter is calculated as
 $6575.28 \text{ kWh} - 6575.18 \text{ kWh} = 0.10 \text{ kWh}$

Then it is blindly stated in the mahazer that the consumption recorded in the parallel standard reference meter was 0.179691 kWh. Surprisingly, the initial or final reading in that reference meter is not recorded in the mahazer. Therefore, that reading cannot be accepted. On the basis of that assumed consumption in the parallel meter, the alleged deficit in recorded consumption is calculated as follows in the mahazer:

$$\text{Em-Es/Es} = 0.10 - 0.17961/0.17961 = -0.44348 \times 100 = 44.35\%.$$

And concluded in the mahazer that the units recorded in the appellant's meter is less by 44.35% than the actual consumption. The appellant was not present at the time of inspection. It is stated in the mahazer that representatives of the appellant refused to read and sign the mahazer.

The mahazer was followed by the short assessment demand dated 6/11/2021 with the following calculation sheet.

Nature of abnormality - Meter is not recording 44.35% of actual consumption.

Period of assessment - 11/2019 to 10/2021

Units recorded in the appellant's energy meter

during 11/2019 to 10/2012 - 58600

Actual consumption during the above period ... $58600 \times 100 / 55.65 = 105301$

Units not recorded (44.35%) - 46701 units

Current charges for 46701 units 46701X Rs. 9.30 Rs.4,34,319.00

Duty Rs. 43,432.00

Total Rs.4,77,751.00

On receipt of that short assessment demand, the appellant submitted his objection dated 11.11.2021 before the Assistant Engineer. The following specific points were raised in that objection.

a. The test carried out by the KSEBL is not acceptable to the consumer and no steps were taken by the KSEBL to convince the appellant regarding the said test

through which the Board has arrived at a conclusion that there is deficiency in meter recording by 44.35%

b. All meter connections were given by the KSEBL and the allegation is that the meter is not indicating correct reading due to mistake in connection and the consumer is baselessly assessed on surmises and conjectures for a huge amount.

c. The subject meter may be tested for accuracy by a competent testing agency.

But without considering any of the above contentions the Assistant Engineer issued final demand dated 17/11/2021 categorically stating that the bill cannot be revised.

Proceedings are initiated by the Assistant Engineer under Regulation 152 of the Electricity Supply Code 2014 which says that 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 Section 135 of the Act and 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. Therefore, in order to apply this provision, there must be a detection in an inspection at the premises of the consumer:

a. that there is wrong application of multiplication factor

OR

b. incorrect application of tariff by the licensee

OR

c. inaccuracies in metering.

But in the inspection and mahazer dated 28/10/2021 relied on by the Assistant Engineer in this case, the appellant is not convinced regarding such detection and hence, the entire proceedings are without legal basis or evidence and is liable to be set aside by this Authority.

Arguments of the respondent:

An inspection was conducted by the APTS, Alappuzha and found that there has been 44.35% short in recorded consumption. The Y and B phase

voltages connected to the meter interchanged due to installation error. i.e., in the meter terminal with Y Phase Current B phase voltage is connected and with B phase current Y phase voltage is connected. Hence the consumption recorded in the three-phase meter is less than the actual consumption. The error of the three-phase meter is tested by registered Zera made (Model no.MT 310, Sl.No.50043258) Standard Reference Meter. This Zera Meter is calibrated in Government approved Electrical Inspectorate The error hence noted is -44.35%. Hence, the actual consumption is recorded less by 44.35% by this three-phase meter. Hence there recorded a shortage of consumption of 44.35% from date of installation to till date. Vide Regulation 152(3) of the Kerala Electricity Supply Code 2014, the short assessment bill was limited to 24 months i.e, from 11/2019 to 10/2021 with a total amount of Rupees 4,77,751/- The representative of the appellant neither signed the Site Mahazar nor received the copy of the Site Mahazar. As per regulation 151(13) of the Kerala Electricity Supply Code, the Site Mahazar with Provisional Assessment bill and calculation statement was sent to the appellant.

The appellant argued that the inspection was conducted after operating all the equipment. The percentage of error does not affect the Connected Load or consumption in the premises. The IR and FR in the appellant's meter at the time of inspection was 6575.18 kwh and 6575.28 kwh. IR in the appellant meter was set in the Zero meter. The proportionate consumption was shown in the Zera meter was 0.179691.

The bill was calculated based on total consumption from 11/2019 to 10/2021, which can be verified by the appellant from the invoices issued to him in the said period. Therefore, consumption is not based on hypothesis.

Another objection is that the test carried out by the KSEBL is not acceptable to the appellant. The calculation was undoubtedly and vividly stated in the statement attached to the bill. The meter was tested by the authority of KSEB Ltd. No suspicion can be aroused regarding the accuracy of the meter because the testing meter was a Standard Reference Meter calibrated in Government approved Electrical Inspectorate. So, the final demand was given without revising the provisional assessment bill.

The next objection the appellant arises is that, the bill was not revised by the Assistant Engineer. There is no reason for revision because it is only a short assessment bill to be collected from the consumer and the same was issued on specific calculation.

The reply to the other objection is that the bill was issued only to reimburse the short assessment of the cost of energy used by the appellant. Hence the consumer is bound to pay the bill

The proceedings are initiated purely under Regulation 152 of the Electricity Supply Code 2014 and not based on Section 126 or 135 of the Act.

Another argument is that the connection was not rectified till date. The error in connection was rectified on 19.01.2022 after getting direction from the CGRF.

The last point of the objection is the inspection was conducted at peak hours. Actually, the inspection was conducted at 3.30 PM on 28th October 2021 as it is clear from the Site Mahazar. The test was conducted within their Registered Connected Load. Whatever it is, the calculation was based on their consumption and not anything else.

Hence, it is requested the State Electricity Ombudsman to set aside the complaint filed by the appellant and may kindly be directed to remit the short assessment of the cost of energy used by them.

Analysis and findings:

The hearing of the case was conducted on 13-04-2022 in the office of the State Electricity Ombudsman, Edappally, Kochi. Sri. Jose J. Matheikel, Advocate attended the hearing from the appellant's side and Sri. T. Reghunathan, Assistant Executive Engineer, Electrical Subdivision, Alappuzha and Sri. M.A. Shibu, Senior Superintendent, Electrical Section, Alappuzha North 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 connected load in the premises of the appellant is 38 kilowatts and the connection was effected on 02-09-2017 under LT VIIA tariff. The appellant was given a short assessment bill for Rs.4,77,751/- covering a period of two years from

11/2019 to 10/2021 as per Regulations 134 and 152 of Kerala Electricity Supply Code 2014. The percentage error of the metering system was found by the APTS of the Licensee as -45.35% and hence, to compensate the revenue loss sustained to the Licensee, the short assessment bill was issued. In the hearing conducted on 13-04-2022, the respondent revealed that the energy meter installed on 02-09-2017 was not replaced till the date of inspection. The data of the meter was not downloaded. A site mahazar was prepared at the time of inspection.

According to the appellant, the inspection was conducted after operating all the equipments in the premises simultaneously resulting in totally wrong and baseless calculation of 44.5% deficit in metering. Since the initial and final readings of the standard reference meter was recorded in the site mahazar, the consumption 0.17961 kwh is not acceptable to the appellant. The appellant wants to test the meter by a competent testing agency.

The version of the respondent is as follows:

When providing the energy meter in the premises of the appellant, the connections to the terminal to the 'Y' and 'B' phase of the meter was interchanged and which was detected on 28-10-2021. The interchanging of the voltage terminal led to the under recording of energy consumption @44.35%. As such the appellant was given the short assessment bill for two years, limiting the period as per Regulation 152 of Kerala Electricity Supply Code 2014. Hence, the appellant is liable to remit the amount.

Normally, the respondent is bound to rectify the defect of the metering system, if it is found defective/faulty after informing the appellant. In this case, the defect was not rectified by changing the meter connection on the date of inspection and which was done later. This is not a proper action from the part of the respondent.

The issue arising for consideration in this 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-assessed amount.

On going through the document file submitted by both the appellant and the respondent, the following facts are revealed.

The appellant was billed for 46701 units for the period from 11/2019 to 10/2021, which is 44.35% of the actual consumption to be recorded in the premises if the metering system was perfect. The total consumption recorded in the meter for the short-assessed period is 58600 units at an average of 2442 units/month. The actual consumption arrived at by the respondent is 105301 units with an average of 4387 units/month. On verifying the consumption details in the premises from 09/2017 to 03/2022, even after the rectification of defect in the metering system the monthly consumption never exceeded 3546 units except 4220 units in 11/2019. The monthly consumption recorded in the meter after rectification of the defect in the metering system is below 1700 units only. On the basis of the following analysis, the methodology adopted for arriving at the lost energy is not sustainable.

In the site mahazar, the officials who conducted inspection clearly mentioned about the wrong connections in the 'Y' & 'B' phase voltage terminals of the meter. The CT current and load current furnished in the site mahazar for each phase also shows a mismatching, which is to be checked by the respondent. The respondent arrived at the error of the meter as -44.35% based on the tested values received at the time of inspection. For arriving at the error of the meter "100 wh" consumption (1/10th of a unit of energy) is taken, without specifying duration of testing. As such, applying the rate of error obtained in a test conducted for a short duration in the short assessment for a period of 24 months is not proper. The respondent had not produced the download data of the meter. In this case, there is no scope for remitting the short-assessed amount based on the recorded consumption before and after the disputed period. The respondent had not produced any scientific document like downloaded data of the meter.

The requirement of the appellant is to test the meter by a competent authority for ascertaining the accuracy of the metering system. This Authority also observed mismatching of CT current with load current in the site mahazar prepared by the Licensee and hence, the metering system to be tested and further actions to be taken in accordance with the provisions contained in the Regulation 115 of Kerala Electricity Supply Code 2014.

Decision: -

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

The respondent is directed to test the metering system including meter and CTs within 30 days from the date of order. If the metering system is functioning within the limit of errors, the respondent shall revise the short assessment for 24 months taking the lost energy as 33.33% of the actual consumption to be recorded. If the metering system is defective, the respondent shall issue the bill in accordance with the provision contained in Regulation 115 of Kerala Electricity Supply Code 2014. This shall be done within a further period of 15 days from the date of receiving the test report. The appeal petition filed by the appellant is disposed of as such. The order of Consumer Grievance Redressal Forum, Central Region in OP No. 52/2021-22 dated 02-02-2022 is set aside.

Having concluded and decided as above, it is ordered accordingly. No order on costs.

ELECTRICITY OMBUDSMAN

P/013/2022/_____ dated _____.

Delivered to:

1. Sri. Thomas John Cherukara, CBC Ford, NH 66, Kommadi, Thumpoli. P.O., Alappuzha Dist. 688008
2. Assistant Executive Engineer, Electrical Sub Division, KSEB Ltd., Alappuzha North, Alappuzha 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.