

**THE STATE ELECTRICITY OMBUDSMAN**

D.H. Road & Offshore Road Junction, Near Gandhi Square,  
Ernakulam, Kerala-682 016

Ph: 0484 2346488, Mob: 8714356488

[www.keralaeo.org](http://www.keralaeo.org) Email: ombudsman.electricity@gmail.

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**APPEAL PETITION No. P/036/2022****(Present: A. Chandrakumaran Nair)****Dated: 14<sup>th</sup> July, 2022**

Appellant : Sri. Aboosalih,  
TC No.84/290-1, Diyamobikes,  
Diya Square, Eanchakkal,  
Vallakkadvu,  
Thiruvananthapuram Dist. 695008

Respondent : Asst. Executive Engineer,  
Electrical Sub Division, KSEB Ltd.,  
Beach, Thiruvananthapuram Dist.

**ORDER****Background of the case:**

Sri. Aboosalih (appellant) is the owner of M/s. Diyamobikes and he had availed a service connection with Consumer No. 11451551015869 under LT VIF tariff for construction purpose. The registered connected load was 5.940 kW and later revised to 41.675 kW on 19-03-2016. On 27-06-2018, the Anti-Power Theft Squad (APTS) unit of KSEBL conducted a surprise inspection and detected an unauthorized additional connected load of 32 kW in the premises. An assessment order dated 28-07-2018 was issued to the appellant demanding an amount of Rs.6,99,046/-. Appellant filed an appeal before Kerala State Electricity Appellate Authority, and the Authority ordered to uphold the decision of Licensee to penalize the unauthorized additional load and set aside the assessment on misuse of tariff. Licensee had revised the bill only demanding the penal assessment amount of Rs.3,27,782/-, challenging this order, the Licensee filed a petition before the Hon'ble High Court of Kerala vide WP (c) No.41455/2018.

The appellant submitted an application for regularization of additional load of 32 kW. As the transformer capacity was not adequate, the Licensee has not sanctioned the additional load and directed the appellant to pay Rs.3,10,315/- for drawing a new line from another transformer. The appellant issued a lawyer notice, stating that the additional load (total load of 74 kW) was used by the appellant for more than two years. Licensee issued one notice for regularizing the additional load and another notice for disconnection of the power if the additional load is not removed. The appellant obtained the stay order from the Court. In connection with IPDS Scheme, one new transformer has been installed with 250 kVA capacity and then the additional load regularization has been done without any additional line on 22-05-2020. As the fixed charges for unauthorized additional load used was not remitted during the period from 28-06-2018 to 21-05-2020, a short-assessment of Rs.95,360/- has been demanded from the appellant. This was challenged in the Hon'ble High Court of Kerala and Hon'ble High Court has disposed the case reserving the liberty of the appellant to prefer an appeal to the appropriate authority.

The appellant filed the petition to the Consumer Grievance Redressal Forum (CGRF), Southern Region, Kottarakkara and the Forum ordered vide OP No. 77/2022 dated 06-04-2022 that the short assessment bill is liable to be paid by the appellant.

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

**Arguments of the appellant:**

Following the inspection on 27.06.2018 by the Anti Power Theft Squad, Kollam unit of the KSEB Ltd., the Sub Engineer had prepared a Mahazar, containing precisely the details of every equipment and their capacity installed there. Though the said Mahazar does not disclose any unauthorized use of the electricity, the Sub Engineer concerned, alleged that there was use of an unauthorized additional load of 32 kW, over and above the registered connected load of 42 kW, warranting invocation of Section 126 of the Electricity Act.

The respondent, Electrical Sub Section, Chakka, had relying on the mahazar and further without any basis, rhyme or reason had by notice No.

DB/ESD- BCH/Sv-15869/2018-19/158 dated 30-06-2018, arbitrarily assessed, provisionally an amount of Rs. 7,50,112/- and that the appellant was directed to submit his objection, if any, to the aforesaid assessment.

The appellant, in response to the above provisional assessment notice, had given a detailed objection, in support of his claim, that there was no use of electricity, unauthorisedly. Notwithstanding the objection, the respondent had by another order No.DB/ESD-BCH/Sv-15869/Final order /208-19/60 dated 28-07-2018, issued the final assessment, whereby the appellant was directed to remit an amount of Rs. 6,99,046/- within 30 days from the date of receipt of the order.

The appellant, challenging the final assessment order dated 28.07.2018, filed an appeal No. 209/2018, under Section 127 of the Electricity Act, before the Kerala State Electricity Appellate Authority. However, the Appellate Authority had by order No AP-209/2018/655 dated 08.11.2018, refused to exonerate the complainant from the liabilities imposed on him. In other words, the appellant had indulged in unauthorisedly using the electricity and therefore liable for assessment under Section 126 of the Electricity Act. The Appellate Authority found that the existence of unauthorized additional load in the premises of the appellant shall be reckoned as unauthorized use of electricity. According to the Appellate Authority, that in the light of the judgment of the Hon'ble High Court of Kerala in W.P. (c) No. 31025/2008, the complainant is liable for assessment under Section 126 of the Act at twice the rate under applicable tariff, for both the fixed charge and energy charges and hence, the respondent was directed to issue the revised assessment within 15 days at two times the rate applicable under LT 7A tariff for both fixed charges and proportionate energy charges, on account of the unauthorized additional load of 32 kW for a period of 12 months prior to the date of inspection.

In pursuance of the aforesaid order, the respondent had by order No. DB/ESD-BCH/Sv-15869/Revised final order/2018-19/102 dated 23.11.2018, and directed the appellant to remit an amount of Rs. 3,27,782/-.

The appellant, challenging the final assessment order, of the Appellate Authority and the consequential order, filed W.P.(c) No. 41455/2018 before the Hon'ble High Court of Kerala and that the same is now pending consideration.

Despite the pendency of the above Writ Petition, the respondent had issued the appellant a short assessment notice No. KSEB/BB/SBM/ Con. No. 15869/2021-22 dated 06.05.2021, alleging that the appellant is liable to remit an amount of Rs. 95,360/- which is a short-assessed amount, as per Regulation 134 (1) of Kerala Electricity Supply Code, 2014, arrived at on the basis that though the appellant requested for Connected Load Change on 29.09.2018, the same was regularized only on 22.05.2020. The appellant was directed to make good the fixed charges for the period from 28.06.2018 to 21.05.2020, for an additional load of 32 KV, which incidentally the complainant had requested for enhancement of the then existing 42 KW to 74 KW, on 29.09.2018. After deliberately keeping idle, the application seeking enhancement of Connected Load from 42 kW to 74 kW, and regularizing the same only on 22.5.2020, it is absolutely arbitrary and illegal to direct the appellant to pay the fixed charges for the period, die said application was under consideration by the respondent. In short, the complainant is liable to pay the Fixed Charges only from 22.05.2020 and that Regulation 134 (1) has absolutely no application, since there is no question of the respondent establishing any undercharging of the appellant. In short, the aforesaid notice will not for a moment be sustainable. Similarly, Regulation 152 cannot also be pressed into service, because, in the first instance no anomalies attributable to the appellant were detected on his inspection at the premises, much less after the date of his request for Connected Load change on 29.09.2018 and the incident that had allegedly occurred prior to the aforesaid date, has not even on his date attained finality and, in this regard, W.P. (c) No. 41455/2018 is pending consideration.

The appellant had in his representation dated 02.06.2021, pointing out specifically that once the application for Connected Load Change, is given, it is the Board who has to change the Connected Load and accordingly he had sought for exonerating him of the said amount.

The appellant submits that the respondent, instead of closing the matter, had issued another letter No. KSEB/BB/3VM/Con.No.15869/2021-22 dated 30.06.2021/ 05.07.2021, reiterating his claim of the fixed charges for 32 kW, allegedly to be the difference between the then existing Connected Load (42 kW) and the changed Connected Load (74 kW), the appellant had sought.

It is significantly noted that the whole claim of the respondent, to illegally mulct on the appellant an amount of Rs. 95,360/- is on the basis of Regulation 134 (I), which has absolutely no application and hence, cannot be relied on.

The appellant had given a detailed reply wherein stated that the intention behind in the issuance of annexure A1 were principally to defeat the W.P. (c) No.41455/2018, filed by the appellant challenging the order dated 08.11.2018 of the Kerala State Electricity Appellate Authority and the consequential revised final order dated 02.11.2018 of the respondent.

The appellant in his reply had stated as follows: "Notwithstanding the facts stated above, the Board is entitled to collect the fixed charges for the 74 kW, as per the Regulations, only on and with effect from 22.05.2020, regularizing the connected load at 74 kW. The appellant is not bound to pay or made good from any date prior to 22.05.2020, the fixed charges to 74 kW or for that matter the 32 kW and the registered load of 42 kW. The Regulation 134 (1) referred to in respondent's notice, has no application and the same is applicable only in the event the Board establishes that it has under charges the Consumer. In the instant case, there is no question of the Board establishing any such under charging and accordingly, in this view of the matter also, there is absolutely no merit or substance in the notice."

The grievance of the appellant is that the respondent, despite having no answer to the aforesaid contention, and without showing the minimum courtesy, to respond, to Doc.5 reply had most illegally and arbitrarily incorporated as arrears, the amount of Rs. 95,360/- along with his bill for the energy charges, pertaining to October 2021.

The bill to the extent directing the appellant to remit an amount of Rs.95,360/- towards fixed charges from 28.06.2018 to 21.05.2020, for 32 kW, being the so-called difference between the subsequent Connected Load of 74 kW

and the prior registered load of 42 KW, is illegal and liable to be interfered by the appellate authority.

After passing through Regulation 77, dealing with inspection on the premises of the applicant by the Licensee. Regulation 78 concerning rectification of defects found in the inspection, Regulation 80 providing redressal of grievance on the inspection report, the "Regulation 81, whereby the sanctioning of load and issuance of demand note, applicable in the instant case reads as follows:

"81. Sanction of load and issuance of demand note - If no defect is found on inspection or the defects noticed earlier are found on re-inspection, to have been rectified, the licensee shall sanction the load determined in accordance with Annexure - 7 to the Code or the load applied for, whichever is higher, and issue within the timeline specified below, a demand note to the applicant under acknowledgment, intimating him to remit the recoverable expenditure and security deposit.

It is, therefore, evident that the respondent was found to issue the demand note, much less regularize the Connected Load at 74 kW, at any rate within 7 days from the date of receipt of the application on 29.09.2018, in terms of the aforesaid Regulation. On the other hand, the respondent was dragging on the same, without any justification up to 22.05.2020. Since the lapses, in this regard were totally on the part of the respondent, there cannot be any demand of the fixed charges, at Rs. 95,360/- from the complainant and fly accordingly the bill to the extent directing the appellant to remit the aforesaid amount is liable to be interfered by the appellate Authority. Therefore, the complainant filed OP 77/2021 before the Consumer Grievances Redressal Forum, KSEBL-Southern Region.

But the CGRF, without appreciating the facts of the case dismiss the appeal. The Forum went wrong in finding that the appellant was using a connected load of 32 kW in addition to the permitted 42 kW. The real fact is that the allegation of usage of additional load is a disputed fact. Simply because the complainant applied for an enhancement for using connected load in addition to the permitted load to a quantity of 32KW by itself cannot be taken as his admission that he was using that much load in excess. After submitting the application for using additional load, no inspection was made by the KSEBL in the premises of the appellant.

Without prejudice to the above submissions, the appellant may be permitted to submit that by virtue of code 99 of die Kerala Electricity Supply code 2014 if the licensee does not intimate its decision on the application for enhancement of load within the stipulated period it shall be deemed to have to same been granted to the applicant. Therefore, in the case in hand it has to be deemed that sanction was granted for the use of additional load from the 31 '@' day of submission of application. In such circumstances by virtue of code 136 the fixed charges cannot be recovered after the period of two years. Therefore, the claim of the respondent is barred by limitation.

Now the second respondent is taking hasty steps to recover Rs.95,360/- from the Appellant, issuing notice No. KSEB/BB/SVM/Con.No.15869/2022-23 dated 20.04.2022 demanding the payment of Rs. 95,360/- including surcharge within 15 days, else the electricity connection will be disconnected. The appellant is not liable to pay the amount.

**Arguments of the respondent:**

Based on the site mahassar, report from the Assistant Engineer and verification of system records, and after hearing the consumer assessment was finalized vide Final assessment order No: DB/ESD-BCH/Svhm-15869/Final order/ 2018-19/60, dated 28-07-2018 of the Assistant Executive Engineer, Electrical Sub Division, Beach after, deducting the duty already paid and the appellant was requested to remit the assessed amount of Rs.6,99,046/- in full within seven days of date of the order. The appellant filed appeal petition before the Kerala State Electricity Appellate Authority, challenging the final assessment order issued by the Assessing officer, Electrical Sub Division Beach, Thiruvananthapuram. The Authority vide Order No. AP-209/2018/655 dated 08/11/2018 decided the petition upholding the use of unauthorised load by the consumer and declining the assessment on misuse of tariff Authority also directed to issue revised assessment within 15 days at two times the rate applicable under LT VII A tariff for both fixed charges and proportionate energy charges on account of the unauthorised additional load (UAL) of 32kW for a period of 12 months prior to the date of inspection in light of dictum made by the Hon'ble High Court of Kerala in WP(C) No.31025 of 2008. In compliance of the order of the Hon'ble

Appellate Authority, the Assistant Executive Engineer, "Electrical Sub Division Beach revised the assessed amount vide order No. DB/ESD/Beach/SV15869/revised Final Order/2018-2019/102 dated 23/11/2018 from Rs.6,99,406/- to Rs.3,27,782/- for the proportionate amount remitted as current charges in VI.F tariff. An amount of Rs.3,49,523/- was remitted by the consumer at the time of appeal and the revised amount demanded as per the decision of Hon'ble Appellate Authority was only Rs.3.27,782/-.

The WP (C) No 41455/2018 filed by the petitioner challenging the order of the Appellate Authority vide No.AP-209/2018/655 dated 08/11/2018 and the revised assessment amount Rs.3,27,782/- vide order no. DB/ESD/Beach/SV 15869/revised Final Order/ 2018-2019/102 dated 23/11/2018 of the Assistant Executive Engineer, Electrical Sub Division, Beach is pending before this Hon'ble Court for consideration.

The appellant submitted an application on 29/09/2018 to increase the connected load from 42 KW to 74 KW and the total load mentioned in the application submitted by the appellant at Electrical Section, Sreevaraham was 74kW (ie.73444 Watts) Including the unauthorised additional load already connected to the system and in use to the tune of 32 kW. The catering capacity of the 315 KVA Enchakkal transformers was in the optimum level and located at a distance of about 0.75kM from Enchakkal Transformer to the consumer premises. The total load capacity of the 315 KVA transformers at Eanchackal junction has already been allocated to various consumers and in fact the transformer is over loaded. That position necessitated to feed the consumer from 160 kVA Transformer at Thondukadavu on allocating total load of 74 kW including the unauthorised additional load of 32 KW to regularise. For availing power, from Thondukadavu Transformer necessitated construction of a new independent line from the Thondukadavu transformer to the appellant's premises. An Estimate amounting to Rs.3,10,315/- was prepared for the same and Assistant Engineer, Electrical Section, Sreevaraham vide Ltr No:AE-5/2018-19/Estimate/Diya/161 dated 23-01-2019 requested the appellant to remit the estimate amount for executing the work to regularise the unauthorised additional load of 32 kW. In response to the same, the appellant has casted a lawyer notice on 06.02.2019 and in the said notice, the appellant has



clearly stated that he has been utilising the excess load of 32 KW totalling to 74 kW for more than 2 years.

The respondent had issued two notices on 12.04.2019, the first one to regularise the unauthorised additional load after remitting the estimate amounting to Rs.3,10,315/- for executing necessary line works vide letter No: AE-05/2018-19/Estimate. Diya /218 and second one notice for disconnection vide Ltr No: AE-05/2018-19/Estimate. Diya V/217 (Exhibit- R12) if he is not willing to remove the unauthorised load within 15 days from the system as he was not remitted the Estimate amount required for the construction of new line to shift the load from Enchakkal 315 kVA Transformer to Thondukadavu 160 kVA Transformer.

Appellant filed Writ Petition (C) No.13203 of 2019 challenging the demand and disconnection notice issued on 12-04-2019 by KSEBL. Appellant obtained a Stay order in WP(C) 13203 of 2019 and the case is pending before this Hon'ble Court for consideration.

As part of IPDS Project, a Centrally aided scheme, one new transformer has been installed and the existing Thondukadavu transformer is enhanced to 250 kVA capacity. So, vide letter NO.AE-05/2019- 20/REPORT/SVHM/411 dated 19.03.2020 of the respondent has informed that, Connected Load Regularization for Consumer No.15869, M/s. Diya Motors, could be done without drawing a duplicate feeder and manage the load requirement of 74 KW from the nearby Thondukadavu transformer, and the consumer need to remit only the required additional Electricity Connection Supply Cost (ECSC), approved by Kerala State Regulatory Commission, for this purpose. A hearing was conducted by the Assistant Executive Engineer, Beach, Thiruvananthapuram on 05-05-2020 to settle the issue in connection with regularization of additional load. Sri. Shaju A.T, Assistant Manager and Sri. Pramod, Accounts Manager, Diya Motors attended the hearing. In the hearing, the above issues were very well discussed with the personnel of Diya Motors. It is also informed that Board has declared the opportunity for self-disclosure of the connected load; time has been extended up to 30.06.2020 owing to prevailing lock down. In which it was decided to regularize the connected load after collecting the applicable amounts. Moreover, regarding the dispute in connection with the supply availed from Thondukadavu

Transformer it was decided to collect the ECSC from consumer. The matter was communicated to the consumer vide letter No.DB/ESD-BCH/Svhm-15869/2020-21/12 Dated:12/05/2020 by the respondent and in which it was mentioned that if the consumer is willing as discussed in the hearing, he was requested to approach the Sreevaraham Section office for Connected Load Regularisation in Consumer No. 15869, at the earliest.

Accordingly, the appellant remitted only the ECSC Electricity Connection Supply Cost amount of Rs.23,217/- and regularised the connected load on 22-05-2020. Based on the APTS inspection conducted on 27-06-2018 in the premises of Consumer No:11451551015869 unauthorised additional load was detected and the appellant was penalised up to 27-06-2018. The assessing officer. Electrical Sub Division, Beach as per proceedings No. DB/ESD/Beach/SV 15869/revised Final Order/2018-2019/102 dated 23/11/2018 has revised the penalised amount and the consumer remitted the same. The appellant has applied for additional load on 29-09-2018 and the same was regularised only on 22-05-2020 due to the reasons mentioned above. As he did not remit the Fixed Charges for the unauthorised additional load used during the period from 28-06-2018 to 21-05-2020 (23 Months) a short assessment amount of Rs.95,360/- was prepared in conformity with the Regulations 134 (1) and 152 of the Kerala Electricity Supply Code, 2014 and issued to the appellant vide letter No.KSEB/BB/SVM/Con No.15869/2021-22 Dated 06-05-2021 by the respondent. In reply to this letter, the appellant submitted an application on 02-06-2021 to exempt from the payment of short-assessed amount of Rs.95,360/- as the delay in regularising the connected Load was from the part of KSEBL.

The respondent informed the appellant vide letter No. KSEB/BB/SVM/Con No.15869/2021-22 dated 30-06-2021/ 05-07-2021, that the time allowed for the payment of short assessed amount Rs.95,360/- was expired and further actions will be initiated if the appellant is not paying the amount without further delay. In reply to this letter, appellant sent an explanation letter on 07-07-2021 to withdraw the notice issued by the respondent on 05-07-2021, and to refrain from proceeding with the same, failing which he will be compelled to initiate appropriate legal proceedings.

The short-assessed amount of Rs.95,360/- was included in the bill of appellant as arrear. The appellant filed a Writ Petition (C) No.21591 of 2021 on 08-10-2021 before the Hon'ble High Court of Kerala challenging the short-assessed amount of Rs.95,360/- for the period form 28-06-2018 to 21-05-2020 issued by KSEBL. The Hon'ble High Court of Kerala disposed the WP(C) No.21591 of 2021 on the same date (i.e. 08-10-2021) itself. Hon'ble High Court of Kerala in the above Judgment, petition disposed of reserving the liberty of the appellant to prefer an appeal to the appropriate statutory authority within a period of 30 days and the demand under head arrears in the bill to the extent of Rs.95,360/- was also stayed for 30 days from 08-10-2021.

Accordingly, the appellant filed an appeal before the CGRF, Southern Region, Kottarakkara vide OP No.77/2021 challenging the short-assessed amount of Rs.95,360/- for the period form 28-06-2018 to 21-05-2020 issued by KSEBL. An online hearing was conducted on 23-02-2022 through google meet with both parties and issued order OP No.77/2021, dated 06-04-2022, CGRF-Southern Region, Kottarakkara delivered vide No: CGRF/KTR/OP No.77/2021/106, dated 13/04/2022. Forum viewed that, in accordance with the Regulations 134(1) & 152 of Kerala Electricity Supply Code 2014, the licensee issued the short assessment bill amounting to Rs.95,360/- and is sustainable. Considering the facts and circumstances of the case the Forum ordered as: -

- (1) The short assessment bill issued is legal and sustainable. The appellant is liable to pay the amount Rs.95,360/-
- (2) The respondent is directed to allow sustainable instalments for the payment of the bill, if he desires to make the payment in instalments.

An application was submitted by the appellant on 29/09/2018 to increase the connected load from 42 KW to 74 KW (ie.73444 Watts) including the unauthorised additional load already connected to the system and in use to the tune of 32 kW. On verification of the application submitted by the appellant at Electrical Section Sreevaraham and the load details in it i.e., the list of connected load, name of equipments written, number of equipments connected, their ratings and the total connected load in the site mahasar prepared by the Sub Engineer of Electrical Section, Sreevaraham during the surprise inspection on 27-06-2018 are

exactly same and in same order. The ratings, quantity etc. of the equipments connected and used were clearly recorded in the mahasar and the Assistant General Manager of the establishment had acknowledged the findings by signing in the mahasar, as well and the details of equipments in the application for additional load also exactly the same. The appellant submitted the application for additional load only after detecting the unauthorised load in his premises. Moreover, on verification of the consumption pattern of the Consumer Sri. Aboosalih, Consumer No:11451551015869 reveals that the appellant was enjoying the additional load of 32 kW totalling to a connected load of 74kW without paying the applicable Fixed Charges for the additional load till he regularised the connected load in the complainant's establishment in building No. TC 84/290-1 wherein Diya Motors functioning was provided with Three phase electrical connection bearing consumer No. 11451551015869 of Electrical Section, Sreevaraham in the name of Sri. Aboo Salih. The appellant has casted a lawyer notice on 06.02.2019, and in the said notice, the appellant has clearly stated that he has been utilizing the excess load of 32 KW totalling to 74 kW for more than 2 years. From all these facts mentioned above, it is evident that the appellant was fully aware and enjoying a total load of 74 kW including the unauthorised additional load of 32 kW for the period from 28-06-2018 to 21-05-2020.

Based on the APTS inspection conducted on 27-06-2018 in the premises of Consumer NO:11451551015869 unauthorised additional load of 32 kW was detected and the consumer was penalised up to 27-06-2018 only. The assessing officer, Electrical Sub Division, Beach as per proceedings No. DB/ESD/Beach/SV 15869/revised Final Order/2018-2019/102 dated 23/11/2018 has revised the penalised amount and the appellant remitted the same. The appellant has applied for additional load 29-09-2018 and the same was regularised only on 22-05-2020 due to back-to-back legal issues raised / filed by the appellant and the reasons mentioned above. Regularising the unauthorised load detected in system and used by the appellant over a long period of time, on a later stage doesn't have the meaning chat they started using it only from the date of regularisation. Therefore, after regularising the connected load as he did not remit the Fixed Charges for the unauthorised additional load used during the period

form 28-06-2018 to 21-05-2020 (23 Months) a short assessment amount of Rs.95,360/- was prepared in conformity with the Regulations 134 (1) and 152 of the Kerala Electricity Supply Code, 2014 and issued to the appellant vide letter No. KSEB/BB/SVM/Con No.15869/2021-22 dated 6-05-2021 by the respondent.

It is evident that the appellant has used the additional load of 32 kW and he is aware of the same. Hence, the petition may be dismissed and the appellant may be directed to remit the assessed amount with cost, at the earliest.

**Analysis and findings:**

The hearing of the case was conducted on 08-07-2022 at the Court room of Kerala State Electricity Regulatory Commission, Thiruvananthapuram. Sri. M. Unnikrishnan, Advocate attended the hearing from the appellant's side and Sri. Santhosh. E., Assistant Executive Engineer, Electrical Subdivision, KSEB Ltd., Beach, Thiruvananthapuram from 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 appellant was connected additional load to the electrical system of the premises without obtaining the approval of the Licensee. The appellant agreed this in his letter (lawyer notice dated 06-07-2019) that this connected load was using. This unauthorized additional load was detected by the APTS inspection on 27-06-2018. Subsequently, the appellant requested for the enhancement of connected load.

Regulation 64 of Kerala Electricity Supply Code 2014 states on "Extension, alteration and renovation of installation" that (1) If the consumer, at any time, after the supply of electricity has been commenced, proposes to extend, alter or renovate his installation on a temporary or permanent basis or in any way alter the position of his wiring therein, he shall request the licensee and obtain approval for the scheme:

Provided that, this sub-regulation shall not apply to:-

- (i) any domestic consumer availing single phase connection if his total connected load after such extension, alteration or renovation is of and below five kilowatt (kW); and

- (ii) any domestic consumer availing three phase connection if his total connected load after such extension, alteration or renovation is of and below ten kilowatt (kW).

Regulation 153 of Kerala Electricity Supply Code 2014 states on “Estimation and regularisation of unauthorised additional load” that

- (1) If it is detected, on inspection, that additional load in excess of the sanctioned load has been connected to the system without due sanction from the licensee, further action shall be taken in accordance with the following sub-regulations.
- (2) The difference between the total connected load in the premises of the consumer at the time of inspection and the sanctioned load of the consumer shall be reckoned as unauthorised additional load.
- (6) In the case of consumers billed under demand-based tariff, the total load declared in the test cum completion report of the installation of the consumer, submitted at the time of availing connection or the load mentioned in the energisation approval granted by the Electrical Inspector or the load at the time of revising contract demand or revising the connected load may be taken as the sanctioned connected load.
- (7) If it is found that any additional load has been connected without due authorisation from the licensee or in violation of any of the provisions of the Central Electricity Authority (Measures relating to safety and electric supply) Regulations, 2010, as amended from time to time, the licensee shall direct the consumer to disconnect forthwith such additional load and the consumer shall comply with such direction, failing which the supply of electricity to the consumer shall be disconnected by the licensee.

As per the above provisions, the consumer has to get the approval of the Licensee for connecting any additional load. In the case in hand, it is not happened, and hence, it is treated as the unauthorized loads.

As per the Section 45 of Indian Electricity Act 2003 (Power to recover charges):

Section 45 (1) : Subject to the provisions of this section, the prices to be charged by a distribution licensee for the supply of electricity by him in pursuance of section 43 shall be in accordance with such tariffs fixed from time to time and conditions of his license.”

Section 45 (3) : The charges for electricity supplied by a distribution licensee may include:-

- (a) a fixed charge in addition to the charge for the actual electricity supplied;

- (b) a rent or other charges in respect of any electric meter or electrical plant provided by the distribution licensee.

The Licensee is empowered to collect the charges, that is the fixed charges and charges for energy consumed.

There was a delay from the Licensee in regularizing the additional load. As the transformer of Elanchakkal was fully loaded and there was no provision to add any additional load, an alternate solution was suggested by the Licensee by drawing an independent line for the appellant for which the cost of drawing the line is to be met by the appellant. This was not made by the appellant.

As per Section 36 of Kerala Electricity Supply Code 2014 states : The expenditure for extension or upgradation or both of the distribution system undertaken exclusively for giving new service connection to any person or a collective body of persons or a developer or a builder, or for enhancing the load demand of a consumer or a collective body of consumers or a developer or a builder, shall be borne by the respective applicant or consumer or collective body of consumers or developer or builder, as the case may be, in the following cases:-

- (v) for meeting the demand of power intensive unit irrespective of its demand.

As per Section 46 of Indian Electricity Act 2003 (Power to recover expenditure):

The State Commission may, by regulations, authorize a distribution licensee to charge from a person requiring a supply of electricity in pursuance of section 43 any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply.

By the above provisions, the Licensee has to recover the cost of drawing the lines to meet additional connected load demand, from the consumer which was not agreed and hence, the delay in regularizing the additional load.

In the short assessment demand notice raised by the Licensee, the amount demanded is only the demand charges for the additional connected load which was used by the appellant as required.

Fixed charges from 07/2018 to 06/2019			
	= 32 x 120 x 12	=	Rs.46,080/-
Fixed charges from 07/2018 to 05/2020			
	= 32 x 140 x 11	=	<u>Rs.49,280/-</u>
Total amount		=	Rs.95,360/- =====

If the additional load would have been sanctioned by the Licensee, without any delay, then also the appellant is bound to pay the fixed charges. After the regularization, the appellant is paying the fixed charges for 74 kW. As per the Section 134(1) of the Kerala Electricity Supply Code 2014, the amount due on undercharging is to be charged by the Licensee.

**Decision: -**

From the analysis done and the conclusions arrived at as detailed above, following decisions are hereby taken:

- (1) The appellant is liable to pay the short assessment bill amount.
- (2) The respondent shall grant 12 numbers of monthly instalments to the appellant for payment of bill.
- (3) The order of CGRF, Southern Region, Kottarakkara in OP No. 77/2022 dated 06-04-2022 is modified to this extent.

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

**ELECTRICITY OMBUDSMAN**

P/036/2022/\_\_\_\_\_ dated \_\_\_\_\_.

Delivered to:

1. Sri. Aboosalih, TC No.84/290-1, Diyamobikes, Diya Square, Eanchakkal, Vallakkadvu, Thiruvananthapuram Dist. 695008
2. Asst. Executive Engineer, Electrical Sub Division, KSEB Ltd., Beach, Thiruvananthapuram 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.