

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION No. P/038/2022**(Present: A. Chandrakumaran Nair)****Dated: 18th July, 2022**

Appellant : Sri. Sree Rajesh. G.,
Pine Tree - 10.D,
Heera Swiss Town,
Sasthamangalam,
Thiruvnanthapuram Dist.-10

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

ORDER**Background of the case:**

The appellant Sri. Sree Rajesh. G. is the owner of the Flat 3 C, Maple Leaf, Heera Swiss Town Maruthumkuzhy and a domestic consumer with Consumer No. 1145090029410 under Electrical Section, Vattiyoorkavu. It is a three-phase domestic connection having connected load 16.4 kW. The Anti-Power Theft Squad (APTS) conducted an inspection and exorbitant bill amounting to Rs.1,73,893/- was issued on 09-09-2021, stating that the meter was faulty from 11/2020 to 09/2021. The appellant filed an objection to the Assistant Executive Engineer, Vellayambalam. A hearing was conducted by the Assistant Executive Engineer on 28-09-2021 and the assessment amount was confirmed indicating the reason that the meter reading recorded from 11/2020 to 09/2021 was not in accordance with the consumption. Then the appellant filed the petition to the Consumer Grievance Redressal Forum (CGRF), Southern Region, Kottarakkara and the Forum squashed the bill and ordered vide OP No. 71/2021 dated 21-03-2022 to issue a short assessment bill for a period from 09/2020 to 09/2021 based on the average consumption of the three billing cycles immediately preceding the billing month of 09/2021. Accordingly, a revised bill for

Rs.48,956/- has been prepared by the Section Office of the Licensee and issued to the appellant.

Aggrieved by the decision of the Forum, the appellant approached this Authority by filing the appeal petition.

Arguments of the appellant:

On 9th Sep 2021, the appellant received an order from KSEB - Vattiyoorkavu, Trivandrum, to pay an assessment bill amount of RS. 173,893.00 against residential flat electricity Consumer Number -1145090029410, due to low consumption reading.

But the assessment amount quoted was not acceptable to the appellant and Mr. Hari kumar (tenant) was never intimated about the faulty reading done by KSEB officials; who assess the reading physically. Any malpractice/faulty meter issues can only be detected by KSEBL. The meter issue was found from 11/2020 till 09/2021 why wasn't a notice/letter issued then. Moreover, the flat was vacant since 2018 as it was on sale. During 2019, the appellant purchased the flat since then the tenants from Alapuzha were not staying there on regular basis due to pandemic situation. Hence, on 28th Sep 2021, attended the meeting at Electrical sub-division, Vellayambalam, Trivandrum conducted by the Assistant Executive Engineer & objected the above assessment and requested for a complete waive off as KSE6 is guilty.

Since there was no positive outcome from Assistant Executive Engineer's office, the appellant approached Consumer Grievance Redressal Forum, Kottarakkara in order to waive off the bill amount. Based on the online Zoom meeting dated 21/01/2022 & the documents provided, proves that the tenant was not staying due to pandemic situation and before that the flat was on sale. Considering the genuinity and the documents provided, the assessed bill amount is reduced to Rs. 48,956.00.

However, the appellant are not liable to pay this amount as they were not timely intimated the faulty meter reading which was an ignorance from the KSEB executives. Kindly note the mentioned assessed amount reduced by GCRF from Rs. 1,73,893.00 to Rs. 48,956.00 shows the huge variation, which itself proves the assumption is not based on actual facts, but random numbers. Therefore,

considering the above facts, we plead not to be guilty and kindly waive off the remaining assessed amount of Rs.48,956.00 at the earliest.

As per the order of KSEBL Vellayambalam - Electrical Sub-division states, the meter was faulty from 2016 onwards based on the respondent's office records and have provided the consumed unit for that year. Hence, this clearly shows the ignorance from KSEBL by not intimating about the same and waited until the Anti-Theft Squad to come and hold us guilty for KSEBL mistake. Hereby concluded to under the negligence from KSEBL, it is requested to waive off the assessed amount of Rs. 48,956.00

The appellant purchased this flat on 01.09.2021 and hence, considering the above facts and the ignorance occurred, KSEBL cannot put any random charges on the appellant. This action taken is absolutely inappropriate and outrageous.

Arguments of the respondent:

Anti-Power Theft Squad, Thiruvananthapuram unit and officials of Electrical Section, Vattiyoorkavu conducted an inspection at the premises of the appellant on 07.09.2021 and detected the meter as faulty. The electric connection was registered in the name and address of Sri. A.R. Babu, Managing Director. Heera Construction Company Limited, Heera Swiss Town, A Block, Flat Number 3C, Maruthankuzhy with a sanctioned load of 10160 watts. The tariff of the appellant is LT 1(A), three-phase. The actual connected load at the time of inspection is 16393 watts. The faulty meter of the appellant was replaced on 09.09.2021, after preparing a site mahazar by the Section officials. The meter was purchased and installed by the appellant, at the time of effecting the electric connection. The faulty meter has been taken by the Section Officials and submitted for testing at TMR Division, Thirumala.

An amount of Rs.1,73,893/- was assessed and served on the appellant as per Regulation 152, Sub Section (3) of Kerala Electricity Supply Code, 2014 by the Assistant engineer, Electrical Section, Vattiyoorkavu, vide Order No. DB 55/AFTS/VTKU/2021-22/107 dated 09.09.2021. The appellant filed an objection before the Assistant Executive Engineer, Electrical Sub Division, Vellayambalam on 23.09.2021, for waiving the assessment of the Assistant Engineer. Hearing was

conducted by the Assistance Executive Engineer. Electrical Sub Division, Vellayambalam in the presence of appellant, tenant, Assistant Engineer, Electrical Section, Vattiyoorkavu, Senior Superintendent, Electrical Section, Vattiyoorkavu and the Sub Engineer, Electrical Sub Division, Vellayambalam on 24.09.2021 and 29.09.2021, respectively. After hearing, the Assistant Executive Engineer, Electrical Sub Division, Vellayambalam fixed the assessment at an amount of Rs.1,73,893/- and issued the proceedings, vide Order No.DB-10/ESD/VBLM/2021-22/03/21 dated 30.09.2021.

From the test report dated 24.09.2021 of the Assistant Executive Engineer, TMR Division, Thirumala, the energy meter of Consumer number: 29410 bearing Serial number:14022476, is declared as faulty.

The appellant, filed a petition before the Consumer Grievance Redressal Forum, Vydyuthi Bhavanam, Kottarakkara, on 20.10.2021 as OP.No.71/2021. After hearing, the Forum ordered that a short assessment bill may be issued for the period from 09/2020 to 09/2021 based on the average consumption of the three billing cycles Immediately preceding the billing month of 09/2020", as per Order No. CGRF/KTR/OP No.71/2021/91 dated 23.03.2022. As per the Order of the Forum and Office Order (DD&IT) No.459/2022 (LD.1/6962/2021), dated 07.04.2022 of the Secretary (Administration), Vydyuthi Bhavanam, Pattern, Thiruvananthapuram, the bill amount has been revised from Rs.1,73,893/- to Rs.48,956/- from this office, vide letter No. AEE/ESD/VBLM/ CGRF-VTKU-29410/Revised Bill/2022-23/03 dated 13.04.2022 and served the same to the appellant through the Assistant Engineer, Electrical Section, Vattiyoorkavu.

As per Oruma NET version 2.3.2 of Consumer Profile of KSEB Limited, the recorded consumption of the appellant from 05.09.2020 to 14.09.2021 is seen completely zero. From the DEED LICENCE and the Statements of the appellant and the tenant, it is clear that the tenant and his family have been occupying the Flat No. 3 C, A Block, Heera Swiss Town. Maruthankuzhy and using the electric connection for their domestic purposes, since 16.07.2019. Due to the meter being faulty, the KSEB Limited has sustained revenue loss due to non-recording of the consumed energy. Considering this fact and as per the prevailing rules and procedures, Consumer Grievance Redressal Forum had issued Orders dated

21.03.2022 and accordingly a revised assessment for Rs.48,956/- has been issued to the appellant, which the consumer is bound to comply.

Hence, the respondent requested to dismiss the petition and the appellant may be directed to remit the revised assessment amount to KSEB Limited, along with interest.

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. The appellant Sri. Sree Rajesh attended the hearing and Sri. Sreekumar. V., Assistant Executive Engineer, Electrical Subdivision, KSEB Ltd., Vellayambalam, 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.

As per the documents produced, the Flat 3C, Maple Leaf was in the possession of the appellant during 2019 and given on rent on 16-07-2019. As per the rental agreement, the electricity charges are to be paid by the Licensee of the 'Deed License'. As per the record of the Licensee, the meter was faulty since 2016.

Regulation 116 of Kerala Electricity Supply Code 2014, states about the replacement of defective meter as follows: -

116 (1) The licensee shall periodically inspect and check the meter and associated apparatus.

116 (2) If the meter is found defective, the licensee may test it at site, if feasible, and if not feasible, the meter shall be replaced with a correct meter and the defective meter shall be got tested in an accredited laboratory or in an approved laboratory.

Regulation 118 (1) of Kerala Electricity Supply Code 2014, states about the replacement of damaged meter as "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”.

In the case in hand, the officials of the Licensee used to take meter reading regularly and the defect of the meter was not brought to the notice of the appellant and also not taken any action to replace the same. Though the meter was defective from the year 2016 onwards, the remedial actions are initiated only after the inspection of the APTS i.e., on 0-09-2021 and the meter was replaced by the Licensee on 09-09-2021. As the meter was faulty since 2016, the readings recorded by the meter before the replacement was wrong and erratic or not reliable.

Regulation 125 (1) of Kerala Electricity Supply Code 2014, states about “Procedure for billing in the case of defective or damaged meter” as follow:

“In the case of defective or damaged meter, the consumer shall be billed on the basis of average consumption of the past three billing cycles immediately preceding the date of the meter being found or reported defective:

Provided that, the average shall be computed from the three billing cycles after the meter is replaced if required details pertaining to previous billing cycles are not available:

Provided further that any evidence given by consumer about conditions of working and occupancy of the concerned premises during the said period, which might have had a bearing on energy consumption, shall also be considered by the licensee for computing the average”.

The procedure for billing in the case of defective or damaged meter is clearly specified in the above Section. In this case though the readings on consumptions recorded preceding the date of meter found defective is only before 2016, and the same may not have any relevance after a period of 6 years. Considering the above facts, Regulation 125 (1) of Kerala Electricity Supply Code 2014 is very relevant and applicable in this case i.e., “Provided that, the average shall be computed from the three billing cycles after the meter is replaced if required details pertaining to previous billing cycles are not available”.

During the hearing, the appellant mentioned that the tenant has vacated the flat, stating that he cannot bear the huge burden of short assessment bill,

which is not at all actual or reliable. Also states that the appellant is a cancer patient and undergoing treatment (necessary certificates produced).

Decision: -

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

- (1) The Licensee has to prepare and issue a short assessment bill from 09/2020 to 09/2021 based on the average consumption of the three billing cycles immediately after the meter has been replaced i.e., after 09/2021.
- (2) The Licensee may grant sufficient numbers of monthly instalments to the appellant for payment of bill.
- (3) The order of CGRF, Southern Region, Kottarakkara in OP No. 71/2021 dated 21-03-2022 is set aside.

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

ELECTRICITY OMBUDSMAN

P/038/2022/ _____ dated _____.

Delivered to:

1. Sri. Sree Rajesh. G., Pine Tree - 10.D, Heera Swiss Town, Sasthamangalam, Thiruvnanthapuram Dist.-10
2. Asst. Executive Engineer, Electrical Sub Division, KSEB Ltd., Vellayambalam, Thiruvnanthapuram Dist.

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvnanthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthi Bhavanam, Pattom, Thiruvnanthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthi Bhavanam, KSE Board Ltd, Kottarakkara - 691 506.