

**THE STATE ELECTRICITY OMBUDSMAN**

D.H. Road & Foreshore 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.com](mailto:ombudsman.electricity@gmail.com)

---

Appeal Petition No. P/014/2023  
(Present A. Chandrakumaran Nair)  
Dated: May-24-2023

Appellant : Sri Abdul Shareef. P.,  
Omega Packaging Industry,  
Athani, Panamaram Road,  
Pantheerankavu, Kozhikode.

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division,  
KSEB Limited,  
Mankavu.

**ORDER**

**Background of the case**

The appellant is the consumer of the pantheerankavu section of the licensee with consumer number 1160377028635. The supply is for an industrial concern named as M/s Omega Packaging Industries with LT IV A tariff with a connected load 35.253kw. The Section Squad of electrical section conducted an inspection on this premise on 12 /10/ 2022 and found that the CT installed at the premises in 100/5A and the multiplication factor is 20. It is noticed that the multiplication factor was wrongly recorded in the 'Orumanet' the billing software of the licensee as '1'. The faulty meter was replaced on 2/09/2019, and data wrongly recorded since 09/2019. The short assessment bill from 09/2019 to 10/2022, that is for 38 months for Rs. 5,06,765/- issued to the appellant. As per the regulation 152 of Kerala Electricity Supply Code the assessment would have been limited to 24months and thus the appellant is liable to pay the amount for 24 months. Appellant approached the CGRF, and CGRF ordered that the consumer is liable to pay the amount as per short assessment.

Aggrieved by the decision of CGRF, the appellant filed appeal petition to this authority.

### **Arguments of the Appellant**

1. Abdul Shareef P., Son of Moitheenkutty, aged 57 years, Omega Packaging industry, Athani, Pantheerankavu who runs Omega Packaging Industries at Athani Panamaram Road. He had an electrical service connection bearing Consumer No.1166377028635, registered under LT IV A industrial tariff with a sanctioned Connected Load of 35.293 Kw. The payments as per the billed raised by KSEB were paid regularly. On 12-10-2022, KSEB has inspected his premises and found that the MF was not considered for the billing. Accordingly, a short assessment bill for Rs. 5,29,187/- has been issued for 40 months since 9/2019. As he is unable to pay such a huge amount, we filed a complaint under No. P96/22-23 before the Hon'ble CGRF Kozhikode. But a decision which was not in our favour came from the honourable CGRF. Hence this appeal petition is submitted before the Hon'ble Kerala Electricity Ombudsman for favourable decision.
2. The arrear is calculated for 40 months from 9/2019. But Regulation 152 of Supply Code 2014 clearly states what to do in case of error in multiplication factor. Regulation 152(3) provision 3 reads as follows:  
'Provided also that the realization of electricity charger short collected shall be limit for a maximum period of twenty-four more even if the period during which such amount persisted is found to be more than 24 months.'

It is clear from this that arrears cannot be counted for any reason beyond 24 months. It is also noteworthy that the Hon'ble Ombudsman passed judgment on 5-9-22 in the appeal OP No. 45/22-23. The said judgment gives hope to the beneficiaries who are suffering a lot due to the negligence of the employees of KSEB. It is also a relief that the said judgment is in the appeal filed by Sri. Abdul Sharif, a consumer of Areekode section adjacent to Mankavu sub division of the Electricity Board (include in Farook division). Applying for an order fixing the arrears of 40 months to 24 months from 4/2020 to 10/22 using the same criteria for our institution.

3. It is requested for an order fixing arrears for 24 months under Section 152(3) of the Supply Code, 2014.  
It is requested for applying for 24 months interest free instalments to clear arrears from 11/20 to 10/22.

## **Arguments of the Respondent**

1. Sri, Abdul Shareef, the petitioner is a consumer coming under Electrical Section, Pantheerankavu and running M/s omega packaging Industries bearing Consumer No.1166377028635. This is a three phase CT connected service connection registered under LT IV A industrial tariff with a sanctioned Connected Load of 35.293 Kw / 39.214KVA. The date of connection of this service is 16/02/2010.

The section squad of Electrical Section, Pantheerankavu inspected the above premises on 12.10.2022 and found that the CT installed at the premise is of 100/5 A and its multiplication factor is 20. It was also noticed that this multiplication factor was wrongly recorded in ORUMANET billing software as '1' instead of '20'. The energy bills were issued to the petitioner with this MF '1' since 9/2019. On verifying the data in ORUMANET it is found that this happened when their faulty meter was replaced on 02.09.2019.

2. Consequent to the inspection a site mahazar was prepared and a copy of the same was handed over to the petitioner and got acknowledged. In order to recover the amount short collected due to the application of wrong Multiplication Factor, a short assessment bill for 38 months from 09/2019 to 10/2022 amounting to Rs.5,06,765/- (Rupees Five Lakhs six thousand seven hundred and sixty-five only) was prepared and served on the petitioner on 18.10.2022.

As per the Regulation 152 (1) of Kerala Electricity supply Code, 2014 "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 Electricity Act."

3. However, Regulation 125(2) provides that "In such cases, the amount of electricity charges short collected by the licensee, if any, shall only be realised from the consumer under normal tariff applicable to the period during which such anomalies persisted"

The appellants have made a contention that the short collection should be restricted to 24 months. However, the Hon'ble Supreme Court has made it clear that such contentions on the Part of consumers will not stand.

In this connection kind attention of this Hon'ble ombudsman is invited to an order dt. 05-10-2021 of the Hon'ble Supreme court in civil Appeal No. 7235 of 2009 (Prem Cotte vs Haryana Bijli vitaran Nigam Ltd & others)

where the Hon'ble Supreme court has held (citing Rahamatullai Khan case) that the obligation to pay would arise only when the bill is raised by the licensee and that, therefore electricity charges would become first due only after the bill is issued. Therefore, going by the above observations of

the supreme court it can be seen that the contention of the appellant that the period of omission should be restricted to 24months does not have any support of law and the licensee on the other hand is entitled to recover the short-assessed amount for a period even if that exceeds 24 months.

4. The Hon. Supreme Court vide its order dated 02-18-2020 in Civil Appeal No. 1672/2020 with 1673/2020 has also held that "the obligation to pay would arise when the bill is issued by the licensee company quantifying the charges to be paid. Electricity charges would become 'first due' only after the bill is issued to the consumer even though the liability would have arisen on consumption. The period of limitation of two years would commence from the date on which the electricity charges become first due under Section 56 (2). The Hon. Supreme Court also held that Section 56(2) does not preclude a licensee from rising on additional or supplementary demand after the expiry of period of limitation in the case of a mistake or bonafied error."

The above orders made it clear that the licensee can collect the amount for the entire period of such anomaly if it is established. The bill amount has been shown in his regular bills from its bill date continuously and hence his argument regarding the limitation period will not stand.

5. Further The Hon'ble High Court of Kerala in its judgment in WP (C) No.28669/2013 unequivocally held that the licensee can recover the loss sustained from unrecorded energy. In the above WP (C) the meter showed a reduction of 60% in reading. The meter in question in the above case was installed in the year 2006 and it was changed in the year 2012 only. However, the Hon'ble High Court found that KSEBL was in a position to estimate the period during which there was a short assessment and the court further observed that the period need not be limited to 12 months. In the above case the action of KSEBL in raising the short assessment bill for the escaped energy was upheld by the Hon'ble High Court and the consumer was granted instalments to clear the dues.

Going by the above judgment of the Hon'ble High Court of Kerala in WP (C) No.28669/2013, in the instant case also KSEBL is entitled to realize from the consumer the short-assessed amount.

6. Regulation 134 (1) of Kerala Electricity Supply Code, 2014 states that "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."

This short assessment bill was prepared and issued as per the above provisions of Kerala Electricity Supply Code, 2014 and is in order. On receiving the bill, the petitioner submitted a letter showing his grievance for remitting the amount. As a reply to this letter the Assistant Engineer offered 12 equal instalments without interest as per Regulation 152(4) of Kerala Electricity supply code, 2014 amended on 01.08.2019. But the consumer was not ready for this and instead he filed a petition before the Hon. consumer Grievance Redressal Forum (Northern Region), Kozhikode. The Hon. Forum after hearing the appellant and the respondent and verifying the case in detail, passed an order stating that the respondent can collect the short assessment amount for the entire period from the appellant and may allow 24 instalments without interest for remitting the amount if the appellant make request for the same.

7. In this case the bill issued to the petitioner is for the amount short assessed due to wrong application of multiplication factor from 09/2019 to 10/2022 and in this bill no interest or penalty is charged. Hence the bill issued to the petitioner is fair and the petitioner is legally liable to pay the short-assessed amount. It was the actual current charge for the energy consumed by the petitioner, which the licensee happened to omit to collect from him in time.

It is a fact that a mistake was happened on the part of licensee in entering the multiplication factor while changing the faulty meter. A consumer cannot be allowed to exploit a mistake or omission on the part of the licensee in collecting current charges from him in time. It is the duty of an honest consumer to pay the energy charges for the energy used by him.

8. Kind attention of the Hon. ombudsman is invited to the order dated 12.07.2022 in appeal petition No.020/2022 and order dated 30.12.2022 in appeal petition No: 084/2022 passed by this chair. In these two cases the licensee omitted to collect current charge from the consumer for a period of 30 months and 71 months respectively due to wrong application of Multiplication Factor. The Hon. ombudsman after hearing that cases in detail allowed the licensee to collect the short-assessed amount for the entire period without limiting the collection to a lesser period.

Here the appellant is trying to mislead the Hon. ombudsman by quoting the appeal petition No. 045/2022 filed by Sri. Sheriff Abdul of Electrical Section, Areekode. This case is entirely different from the case at hand. The said case involves missing of one phase of CT while recording the consumption in meter.

Moreover, in this quoted case the exact period of missing was not known as the data of the meter could not be downloaded and that was why the licensee restricted the period to twelve months. on the other hand, in the case at hand the period of omission is established and therefore the case cited by the appellant cannot be compared with the present case.

9. In view of what is stated above, the petition filed by the consumer may kindly be dismissed with a direction to him to remit the short-assessed amount of Rs. 5,06,765/- (Rupees Five lakhs six thousand seven hundred and sixty-five only) for which the bill dated 18/10/2022 issued to him.

### **Analysis and findings**

The appellant is running a packaging industry and availed three phase LT connection from the licensee and the connected load is 35.293kw. The metering was done with CT metering with CT ratio 100/5 and hence the MF is 20. The metre has become faulty and the faulty metre replaced on 02/09/2019. While entering the meter particulars in 'Orumanet' the MF was wrongly entered, this was happened since 09/2019. Then the billed consumption was 20 times less than the actual. This error was identified during the section inspection. The mistake happened from the licensee is really very serious. It is very important to note there was no cross verification at any levels for the bills. There is no regular inspection was done by the licensee as stipulated in the Kerala Electricity Supply Code.

The Supply Code section 113(6) *“The licensee shall conduct periodical inspection or testing or both of the meters for LT 3-phase meters – once in three years”* and as per 113(7) *“whenever applicable, current transformer and potential transformer and the wiring shall also be tested along with the meters”*. If the testing would have done in time the error would have located much earlier.

The section 152 of the Supply Code 2014 describes about the anomalies attributable to the licensee which are detected at the premises of the consumer.

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.”*

152(2) *“In such cases the amount of electricity charges short collected by the licensee, if any, shall only be realised from the consumer under normal tariff applicable to the period during which such anomalies persisted.”*

152(3) *“The amount of electricity charges short collected for the entire period during which such anomalies persisted, maybe realised 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 realisation of electricity charges short collected shall be limited for a maximum period of 24 months, even if the period during which such anomaly persisted is found to be more than 24 months.”*

The section 136 of the Supply Code 2014 also relevant here.

136(1) *“The licensee shall be entitled to recover arrears of charges or any other amount due from the consumer along with interest at the rates applicable for belated payments from the date on which such payments became due”.*

136(2) *“The licensee may prefer a claim for such arrears by issuance of a demand notice and the consumer shall remit the arrear amount within the due date indicated in the demand notice”.*

136(3) *“No such sum due from any customer, on account of default in payment shall be recoverable after a period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable arrear of charges for electricity supplied”.*

According to both the section above, the licensee is not empowered to recover the amount beyond two years of the amount become first due. When this amount is become first due is very clearly defined by the honourable Supreme Court in the appeal no. 7235/2002 i.e., M/s Prem Cotter Vs Uttar Haryana Bijili Vitaran Nigam Ltd., which was pronounced on 5/10/2021.

As per the Supreme Court Order

Para 11 *“In Rahamathullah Khan (supra), three issues arose for the consideration of this court. They were (i) what is the meaning to be ascribed to the term first due in section 56(2) of the Act; (ii) in the case of a wrong billing tariff having been applied on account of a mistake, when would the amount become first due; and (iii) whether recourse to disconnection may be taken by the licensee after the lapse of two years in the case of the mistake.”*

Para 12 *“On the first two issues, this court held that though the liability to pay arises on the consumption of electricity, the obligation to pay would arise only when the bill is raised by the licensee and that, therefore, electricity charges would become “first due” only after the bill is issued, even though the liability would have arisen on consumption. On the third issue, this court held*

in Rahamathullah Khan (Supra), that the period of limitation of two years would commence from the date on which the electricity charges became first due under section 52(2) does not preclude the licensee from raising an additional or supplementary demand after the expiry of the period of limitation in the case of a mistake or bonafides error. To come to such a conclusion, this court also referred to section 17(1)(c) of the Limitation Act, 1963 and the decision of this court in Mahabir Kishore & Ors. Vs State of Madhya Pradesh 2.”

Para16 “ Be that as it may, once it is held that the term “first due” would mean the date on which a bill is issued, (as held in para 6.9 of Rahamathullah Khan), and once it is held that the period of limitation would commence from the date of discovery of the mistake (as held in paragraphs 9.1 to 9.3 of Rahamathullah Khan), then the question of allowing licensee to recover the amount by any other mode but not take recourse to disconnection of supply would not arise. But Rahamathullah Khan says in penultimate paragraph that the “the licensee may take recourse to any remedy available in law for recovery of the additional demand, but barred from taking recourse to disconnection of supply under sub section (2) of section 56 of the Act.

This order is very clear that the amount is first due when the short assessment bill is issued. Then the limitation period of 24 months is from the date of issuing the bills. The period for which the bill could be issued is not becoming relevant as such. The appellant mentioned about the order issued by this authority in the appeal no. 45/22 which is totally a different matter and not having any relevance with the case in hand.

However, there is serious mistake happened from the officials who has wrongly entered the MF. The licensee has suffered the leavy loss by way of interest and this has to be recovered from the officials who was responsible for this order.

### **Decision**

On verifying the documents submitted and hearing both the petitioner and respondent and also from the analysis as mentioned above, the following decision are hereby taken.

1. The appellant is liable to pay the short assessment bill.
2. The licensee shall grand 36 instalments for making the payment.
3. The order of CGRF is modified accordingly.
4. The licensee has to find out the official who is responsible for this error and recover the interest loss suffered.
5. No order on cost.

**ELECTRICITY OMBUDSMAN**



Delivered to:

1. Sri Abdul Shareef. P., Omega Packaging Industry, Athani, Panamaram Road, Pantheerankavu, Kozhikode.
2. The Assistant Executive Engineer, Electrical Section, KSEB Limited, Pantheerankavu.

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthibhavanam, KSE Board Ltd, Gandhi Road, Kozhikode-673011.