

THE STATE ELECTRICITY OMBUDSMAN

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Appeal petition No. P/ 226/ 2011

(Present T.P. Vivekanandan)

Appellant : M/S. Saj Flight Services (P) Ltd.  
FCI Road, Airport,  
Thiruvananthapuram-695 006.

Respondent : 1).The Special Officer (Revenue),  
KSEBoard, Vidyuthi Bhavanam,  
Pattom, Thiruvananthapuram-4

2). The Deputy Chief Engineer,  
Electrical Circle, KSEBoard,  
Thodupuzha.

**ORDER.**

Background of the Case: -

The appellant is a HT consumer under Electrical Circle, Thodupuzha, with code No. 16/4137 and having a connected load 161.17 KW and contract demand of 100 KVA. The Electric connection was effected to the consumer on 24-12-2004 under HT-IV commercial tariff. The consumer had requested to reduce the contract demand from 100 KVA to 50 KVA vide letter dated 24-7-08 before the Deputy Chief Engineer, Electrical Circle, Thodupuzha. As his contract demand was not reduced, the consumer filed a complaint before the CGRF on 23-4-09 and the CGRF ordered to reduce the contract demand to 50 KVA. Further, as per the order dated 25-4-2011 of this Forum, the date of effect of contract demand reduction to 50 KVA was given with effect from 1-2-09 and directed to revise the bills issued from 2/09 to 1/10. It was ordered to revise the invoices, billed in LT VIIA tariff for 11/09 to 1/10, in HT IV tariff itself and to adjust the excess amount against the invoices for the month of June 11 onwards. The energy meter of the consumer was taken for testing by the TMR Division (KSEB), Pallom and the Executive Engineer, TMR, reported that the metering equipment was faulty. Accordingly the bills for December 2009 and January 2010 were revised for an average consumption of 1858 units each. The appellant was charged additional amount of Rs. 9645/- by the respondent as penalty for the meter faulty period. The appellant's contention is that the average calculation as per the agreement should be for 1101 units and the contract demand should be 38 KVA instead of 50 KVA were wrong. Being

aggrieved against the impugned bill, the petitioner had filed a complaint before the CGRF on 20-10-2010. The CGRF had dismissed the Petition since it found the bill issued by the respondent is in order and the petition is devoid of any merits. Not satisfied of the decision of CGRF, the appellant has submitted the Appeal petition before this Authority.

Arguments of the Appellant: -

M/s Vagamon Hide Out is a unit of M/s Saj Flight Services (P) Ltd and having consumer code no: 16/4137. The appellant had applied for reduction of contract demand which was not considered by the KSEBoard. So the consumer had approached CGRF and the Hon Forum on 01.08.2009 ordered to reduce the contract demand from 01.02.2009 onwards. After that the bills of Nov: 2009, Dec: 2009 & 2010 were incorrect and the consumer lodged a complaint in this regard. Without considering the request, due to non payment of electricity bill, the connection was disconnected on 01.04.2010. The appellant has already requested KSEB to give the average bills and the TMR reports, the KSEB never gave the same. Finally in May, the respondent has issued the rectified average bill.

On 21.05.2010 the appellant have requested to issue the copy of TMR report. In June another letter was sent to the respondent. Finally, the new meter was installed only by July. Even though the appellant have taken pain and effort for replacing the meter, the KSEBoard has charged Rs.9645/- as additional charges in the month of August which is under challenge in this petition.

As per the tariff order dated 27.11.2007, the contract demand can be charged as per maximum demand or 75% of the contract demand whichever is higher. Accordingly, all the bills have to be rectified as KSEBoard has charged 50 KVA instead of 38 KVA.

The appellant have filed a complaint before CGRF on 14.10.2010, but the Hon Forum has only partly allowed the petition. The CGRF have not considered the details of contentions regarding the additional charges. It is very clearly mentioned that the Assistant Engineer has to intimate the consumer to change the meter and they refused to do so. In this case no intimation has been served on the appellant. During the hearing KSEBoard claimed that they have served a letter on 25.02.2010. The appellant challenged the genuineness of the letter as TMR Pallom has dispatched the report only on 03.03.2010. The appellant also challenges the action of the Asst. Engineer for disconnecting the supply on 1-4-2010, if he has known the meter as faulty. The average consumption as per TMR is 1858 units whereas KSEBoard charged for 1919 units. The contention raised regarding the contract demand has not been considered at all.

The appellant's prayers are to rectify all bills from November to August and also to remove the additional charges.

During the Hearing the appellant summarized his complaint as follows.

- (1). Our bills should be revised to 38 KVA for the period Feb: 2009 to August 2010 and
- (2). No Meter faulty notice was issued and hence the penalty imposed in the Bill of 8/2010 for Rs. 9645/ has to be set aside.

Argument of the Respondent: -

The respondent has filed the statement of facts against the averments raised in the Appeal petition. The main contentions of the respondent are the following.

The revised agreement between the consumer and the agreement authority i.e. the Deputy Chief Engineer, Electrical Circle, Thodupuzha was executed on 27.08.2009, so the status of prior consumer ship was continued till executing the revised agreement as it is clear that change in Contract Demand can be effected only after executing necessary agreement. Later, as per the order dated 25.04.2011 of the Hon Ombudsman, the contract demand was reduced to 50 KVA w.e.f 01.02.2009 & the bills issued from February 2009 to 1/2010 have been revised. The invoices billed in LT VII A tariff for the month of November 2009, December 2009 and January 2010 have been revised in HT IV tariff. The excess amount i.e. Rs. 130992 [Rs.119317+ interest @Rs.11675] will be adjusted against the invoices for the month of June 2011 onwards.

The Executive Engineer TMR Division Pallom vide letter dated 24.02.2010 has reported that the metering equipment of the consumer was faulty and has recommended to revise the bill December 2009 and January 10 for an average consumption of 1858 units based on the loaded data. So the bills December 2009 and January 2010 were revised for an average consumption of 1858 units.

As per gazette dated 28.06.2010 published by KSERC, the maintenance and replacement of faulty meter shall be done by the consumer at their cost. If they fail to do so with in 2 months from the date of intimation they will be charged 50% extra over the rates notified for both fixed charge and energy charge. The above consumer was intimated on 25.02.2010 by the Assistant Engineer that the meter was faulty. But the consumer replaced the faulty meter only on July 2010. The Deputy Chief Engineer, Electrical Circle, Thodupuzha, has reported that since the consumer has been intimated to replace faulty meter by letter dated 25.02.2010 of the Assistant Engineer , Electrical Section, Peerumede , penalty may be imposed as per prevailing rules. So penalty of Rs. 9645/- was charged, on the invoice for the month of August 2010.

With regard to the compliant of the consumer that the Demand Charges can be charged only as per maximum demand or 75% of the contract demand whichever is higher, it is submitted that as per KSERC order 02.12.2009, the TOD tariff of HT and EHT consumers were revised w.e. from 01.01.2010. According to the revised tariff rate, billing demand in normal and off peak period during a month shall be the recorded maximum demand or 75% of the Contract Demand whichever is higher and for peak hours the Billing demand shall be the recorded maximum demand. So from 01.01.2010 onwards, the consumer was billed as per the revised tariff rate. Before 01.1.2010, billing demand for a month shall be recorded maximum demand of the month or 75% of the contract demand or 50 KVA whichever is higher.

Since the meter of the consumer was faulty from December 2009 to July 2010, invoices for December 2009 and January 2010 were revised for an average consumption of 1898 units based on the down loaded data and the MD was charged as per recorded demand. From February 2010 to July 2010, since MD was not recorded, due to meter faulty 50 KVA was taken as the average MD and bill issued. While introducing HT TOD tariff, invoices were issued for 50 KVA, 0 KVA & 38 KVA for normal, peak & off peak period due to an error in the new software. In the case of such consumer's average billing done, was rectified by August 2010. As per order of the CGRF, the invoices from 2/10 to 7/10

has been revised as per the average MD calculated from 6/09 to 11/09 to and Rs.5775.76 will be refunded to the consumer.

The Executive Engineer TMR Division Pallam vide letter dated 24.2.2010 has reported that the metering equipments of the consumer was faulty and has recommended to reverse the bills of December 2009 and January 2010 for an average consumption of 1858 units. As per clause 42 (3) if the meter is found faulty the consumption recorded during the period in which the meter was faulty shall be reassessed based on the average consumption for the previous six months prior to replacement of meter. Thus the consumer was billed for an average of 1919 units from February 2010 to August 2010 based on the consumption from 6/09 to 11/09 prior to the meter became faulty. The penalty charged for non-replacement of faulty meter, Rs.9645 for August 2010 is as per rules as it is the responsibility of the consumer to replace the faulty meter within 2 months.

The SOR has reported that the excess amount collected from the consumer, for the period 2/2009 to 10/2009, with revised MD of 50 KVA is calculated as Rs. 78750/- (Rs. 8750 x 9 months) and from 11/09 to 01/2010 the bills were revised under HT-IV tariff and balance to be refunded is Rs. 40567/- plus interest of Rs.11675, and MD of 38 KVA reckoned from 2/2010 to 7/2010 comes to Rs. 5776/-, totaling to Rs. 136768/-. The said amount has been refunded in the bills of 5/2011 to 11/2011. Later, after the hearing, the SOR reported that the MD charges from 2/2009 were again revised to 38 KVA instead of 50 KVA and as such Rs. 46, 200/- was also found to be refunded.

**Analysis and Findings: -**

On examining the Petition and argument notes filed by the Appellant, the statement of facts of the Respondent, perusing the documents and considering the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions thereof. The Hearing of the Case was conducted on 24.04.2012 at KSEB, IB, Thiruvananthapuram and Mr. Reji K. Varghese, the appellant and Sri.Shaji Peter Kallada Dy.CE, Thodupuzha, Gopinathan P. K., Special Officer (Revenue) and Sri.C. R. Nambuthiri, Accounts Officer, represented for either side.

There are two issues pending to be decided in this case. The first contention of the appellant is that they are eligible for billing @ 75% of 50 KVA ie., at 38 KVA for the months of 2/09 to 8/10 (both inclusive. The second request is to set aside the penalty fixed in the bill of 8/2010 for Rs.. 9645/- as no notice of meter faulty was issued to the appellant.

As per Tariff Revision Notification B.O. (FM) No. 1462/02/TRAC/T6-12002 dated 24-10-02, item No. VIII of High Tension Tariff, billing demand for a month shall be recorded Maximum Demand for a month or 75% of the Contract Demand or 50 KVA whichever is higher. But in the Tariff Revision Notification effected from 1-12-2007 (order dated 21-11-07), there is no mentioning about the limit of 50 KVA. After considering the matter in detail, the Board has decided on 11-09-2012 to refund the excess MD charged to the consumer in the subsequent bills. Accordingly the respondent has revised MD charges which are given above. From the statement given by the SOR, I think the respondents has refunded the whole excess money collected from the consumer as furnished above.

In this regard the respondent has stated that since the meter was faulty from December 09 to July 10, invoices for 12/09 and 01/10 were revised for an average consumption of 1858 units based on the

down loaded data and MD was charged as per recorded demand. Due to meter faulty MD was not recorded during the period from 02/2010 to 07/2010, 50 KVA was taken as the average MD and bills issued. The consumer was billed for an average of 1919 units from 02/10 to 08/10 based on the consumption from 06/09 to 11/09 prior to the meter became faulty.

Decision : -

It is made clear that, the consumer's MD charges should not be limited to 50 KVA for the said period of 2/2009 to 8/2010 and the consumer can be billed for 38 KVA, if he is eligible for that, except in the case of 'MD indicator' not recording properly or is at fault. The KSEB reports that the excess amount collected by way of MD charges and others has been refunded. If the consumer points out any discrepancy noticed, the respondent shall verify the same and if any amount is to be refunded on that account, it shall be adjusted in the next and succeeding month's bills, with eligible interest.

Regarding the second point of imposing the penalty of Rs. 9645/-, the CGRF upheld the decision of the respondent, since it is the responsibility of the consumer to replace the meter (purchased by him) once it is known that the meter is faulty. Here, there is no proof to suggest that any notice was issued to the consumer, as stipulated by the rules, regarding the meter fault. The TMR tested and found the meter as faulty and should have asked the consumer to replace it within two months. Here the EE, TMR, Pallom, is said to have issued letter dated 24.2.10, informing the meter fault and consequently the AE, Peerumedu, issued notice on 25.2.2010. But the respondents failed to produce any of the said documents, either the letter or the copy of the notice, to verify and confirm it. Hence I am inclined to set aside the decision taken by the CGRF on this point and it is directed that the amount of Rs 9645/- collected from the consumer as penalty shall also be refunded to him within 60 days of this order.

Having concluded and decided as above, it is ordered accordingly. The Appeal Petition filed by the consumer is found having merits and is allowed to the extent ordered. No order on costs.

Dated the 25<sup>th</sup> of January, 2013.

Electricity Ombudsm.

Ref. No. P/226/ 2011/ 1555/Dated 25.01.2013.

- Forwarded to: -
- (1) M/S. Saj Flight Services (P) Ltd.  
FCI Road, Airport, Thiruvananthapuram-695 008.
  - (2). The Special Officer (Revenue), KSEB,  
Vydyuthibhavanam, Pattom, Thiruvananthapuram- 695004.
  - (3). The Deputy Chief Engineer,  
Electrical Circle, KSEBoard, Thodupuzha.
- Copy to:
1. The Secretary, KSERC,  
KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
  2. The Secretary, KSE Board,  
VaidyuthiBhavanam, Pattom, Thiruvananthapuram- 695004.
  3. The Chairperson, CGRF, KSEB, Vydyudi Bhavanam, Kottarakkara.