

## THE STATE ELECTRICITY OMBUDSMAN

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### APPEAL PETITION NO. P/352/2013.

(Present: T.P. Vivekanandan)

Appellant : Sri. C A Basheer,  
M/S. Wood Tech Industries, Valayanchirangara.P.O,  
Poonoor, Perumbavoor. Pin - 682 031.

Respondent : The Assistant Executive Engineer.  
Electrical Sub Division, KSEBoard,  
Velloorkkunnam, Ernakulum.

### ORDER.

#### Background of the Case: -

The appellant is the industrial consumer No 4987, under Electrical Section, Valayanchiranagra. While being so, on 23.11.2012 he was issued with a short assessment bill for Rs. 4,56,126/- , on the ground that he was undercharged in the monthly Bills, due to wrong application of multiplication factor (MF) for the period from 8/2010 to 11/2011. That is to say, the MF used for billing purpose was 20 instead of the actual value of 30. Being aggrieved by the bill, he filed petition before the CGRF, Ernakulum and not satisfied by its decision in order No. CGRF-CR/Comp.115/12-13 dated 07.02.2013, the appellant has filed the Appeal petition before this Forum.

#### Arguments of the Appellant: -

The appellant's averments in the appeal petition are the following.

- (1). A short assessment bill for Rs.4, 56, 126/- was issued on 20.11.2012, by Senior Superintendent of the Section with last date of payment noted as 19.11.2012. Since there was no provision for this claim as per the Act, this appeal petition is being filed. The reasons are;
  - (i) The Asst. Engineer and Senior Superintendent are not authorized to initiate any additional claims.
  - (ii). As per CEA Regulation and Electricity Act, the responsibility of correct meter, correct reading, collection of correct charges etc. is the bound duty of the Licensee. As per CEA Regulation, the CT, PT and its wiring are integral part of the meter.
  - (iii). As per clause 21 of the Terms and Conditions of Supply, it is the bound duty of licensee to provide a meter card with the full information of the consumer meter, tariff etc. Here the meter card

is not provided. The consumer is required to witness the sealing register maintain by the Board. No sealing register is produced.

(iv). The consumer is running the business of job work and is receiving the payment based on the actual cost and expenditure. His annual income is less than one lakh. Since there is no provision and opportunity for him to recoup the expenditure, he will never be able to pay Rs.4, 56, 126/- which is almost to his four year's income.

(v). Hon CGRF, Ernakulum was pleased to release the order without giving any reduction in short assessment bill but allowing 12 equal installments. The CGRF did not consider the fact that the period during which the CT was considered as wrong, is to be considered as meter faulty period. He will never be able to pay this huge amount cumulated due to wrong meter and lapses from the part of KSEBoard. The appellant's prayer is to cancel the impugned bill.

Relief sought: -

(1). Set aside the Impugned bill.

**Arguments of the Respondent: -**

(1). The Consumer No.4987, C.A. Basheer, is an industrial Consumer with connected load of 90 KW. Originally, the CT's provided in his meter was of the ratio, 100/5 and so the multiplication factor (MF) was 20. But during 9/2010, the CT meter of the consumer was replaced with CT's of the ratio 150/5, thus multiplication factor became 30. But, due to mistake, the bills were prepared with the previous MF as 20 instead of 30. This omission was continued up to 11/2011, resulting in short assessment of Energy charges amounting to Rs.4, 56, 126/-. Hence a short assessment invoice was served on the consumer for recovering the loss.

(2). The Assistant Engineer and the Senior Superintendent is competent to assess any short assessment due to any clerical error and additional claims if any.

(3). Neither the Appellant nor the licensee has ever questioned the correctness of the CT/PT and healthiness of the metering unit.

(4). Licensee has every right to assess and recover the short amount, if any and the consumer is liable to pay the bill.

(5). At the time of effecting service connection, premises card is issued from the Board. The consumer is provided with invoice every month indicating present reading, previous reading, consumption, connected load and thus the consumer is provided with, the vital information required, every month.

(6). Licensee and the consumer have not argued that meter is tampered, hence the argument of the consumer is required to witness in the sealing register maintained by the Board is irrelevant.

(7). On 05.12.2012, the APTS, Vazhathope, inspected the premises of the consumer and the metering equipment and found that the meter is working properly and the actual multiplication factor is 30. Hence the argument of the appellant to consider the meter as faulty shall not be allowed. The APTS also detected 20 KW Unauthorized Additional Load (UAL). The Consumer was served with a penal bill for Rs.212449/- and he has not paid the bill so far. Further, the consumer is remitting more than Rs.

one lakh, as monthly energy charges from 5/2010 onwards, but from 9/2010 onwards, the energy charges showed a significant reduction due to this wrong MF. The consumer is aware of this fact.

**Analysis and Findings: -**

The hearing of the Case was done on 14.8.2013 in my chamber at Edappally, Kochi and Sri. Shaji Sebastian represented for the appellant and Sri. K.C. Jose, Sub Engineer in charge of Asst. Engineer, Electrical Section, Valayanchirangara, appeared for the other side. On examining the Petition, the counter statement of the Respondent, the documents filed and the arguments raised in the hearing and considering all the facts and circumstances of the case, the Forum comes to the following findings and conclusions leading to the decisions, thereof.

**1.0** The first argument of the appellant is that the Asst. Engineer and the Senior Supdt. of Electrical Sections are not the competent authorities to initiate any additional claims, as per rules. He has not quoted any relevant provisions of the rules in support of his argument. The Asst. Engineer is the Head of office of the Electrical Section office that is providing electricity under its area and Senior Supdt. is the official heading the Billing branch preparing the monthly bills under the Section office. The said designation (Senior Supdt.) is seen printed at the bottom of the Bills issued to the consumers, as an authorised signatory for the bills issued by the Distribution Licensee to the consumers. Thus, I find both the Asst. Engineer and the Senior Supdt. of an Electrical Section office, as authorised persons of a Distribution Licensee, to prefer the electricity bills of the consumers under it, on behalf of the Supplier of electricity.

The consumer has been paying the bills and has not raised such objections so far. The main point is that the consumer has to make sure that the 'bill' is in order and issued by the Supplier of electricity itself. If he has any doubt, he can approach the Section office and get it clarified.

**1.1** The second argument of the appellant is that the consumer is penalized for the mistake of the KSEB officials. It is true that there was an omission or mistake on the part of the KSEB, in using the correct Multiplication factor (as per the Meter specifications and the ratio of CT's actually used to measure the 'electric current' fed to the Meter), in the monthly bills issued to the consumer, from 09/2010 onwards, after replacement of the CTs to the Meter. The Billing staff failed to note down the new Multiplication factor (MF) as 30 and instead continued with the old MF of 20 till 11/2011. I feel that, once the party has consumed electricity, he is liable to pay the correct charges for the energy as agreed to in the Supply agreement executed by him with the KSEB. This is allowed under clause 24(5) of the Electricity Supply Code, where it is specifically provided that, "if the licensee establishes that it has undercharged the consumer either by review or otherwise, the Licensee can recover the amount (electricity charge) undercharged from the consumer by issuing a bill.

In brief the consumer is bound to pay the applicable charges of electricity for the true energy he has consumed and such a bill cannot be termed as a penal amount. But the consumer should be allowed suitable instalments to remit such bills in equal monthly instalments.

**1.3.** Regarding the contentions of the appellant that the period during which the CT was calculated wrongly is to be considered as meter faulty, does not deserve any merit, since there is no defects or malfunctioning in the CTs or in the Meter. But the consumer was continued billing, using the previous Multiplication Factor (MF), even after replacing the CT with a ratio of 150/5 (MF=30) in place of 100/5 (MF =20), inadvertently. There may occur a mistake in the billing due to wrong application of MF or may be due to some oversight, which has to be set right, when it is brought to light and is eligible for both sides. Amounts of such short payments became due only after realization of mistake.

**1.4. Meter readings and the energy consumption details of the Consumer for the period 6/09 to 5/20.**

<u>Month</u>	<u>Recordings</u>	<u>Consumed</u> Units	<u>Month</u>	<u>Recordings</u>	<u>Consumed</u> units	<u>Month</u>	<u>Recordings</u>	<u>Consumed</u> units
06/09	1397×20	27940 (CT=	06/10	1558×20	31160	06/11	847×20	16940
07/09	1790×20	35800 (100/5)	07/10	944×20	18880	07/11	820×20	16400
08/09	1011×20	20220	08/10	1475×20	29500	08/11	960×20	19200
09/09	1321×20	26420	09/10	1145×20	22900(CT changed)	09/11	615×20	12300
10/09	1385×20	27700	10/10	931×20	18620 to 150/5=30)	10/11	814×20	16280
11/09	1693×20	33860	11/10	940×20	18800	11/11	536×20	10720
12/09	1208×20	24160	12/10	837×20	16740	12/11	736×30	22080
01/10	1050×20	21000	01/11	1076×20	21520	01/12	912×30	27360
02/10	1050×20	21000	02/11	664×20	13280	02/12	717×30	21510
03/10	2016×20	40320	03/11	899×20	17980	03/12	meter changed	
04/10	1118×20	22360	04/11	758×20	15160	04/12	583×30	17490
05/10	1598×20	31960	05/11	921×20	18420	05/12	774×30	23270

From the above table, the following findings are made out;

- Average energy consumption during 06/2009 to 09/2009 = 27595 units.
- Average energy consumption during 10/2009 to 09/2010 = 27067 units.
- Average energy consumption during 10/2010 to 11/2011 = 16597 units.(Disputed period)
- Average energy consumption during 12/2011 to 05/2012 = 22342 units.

**Decision: -**

From the analysis done and the findings and conclusions arrived at, which are detailed above, I take the following decision.

- In this case, the energy Meter was good and the CTs used for the measurement of 'current' to the Meter were working properly and only the Multiplication Factor (MF) used for the computation of actual energy used, for preparing the electricity Bill of the consumer, went wrong. It is a clerical mistake and not a technical error. Hence this is not a case of Meter faulty.

(ii). By a mistake on the part of KSEB (after installing new CTs to the energy Meter in 09/2010), the respondent omitted to use the new Multiplication Factor (MF) according to the new CT's fitted, in the preparation of monthly bills of the consumer and this came to light in an inspection done by KSEB later. This fact of CT's replacement and accordingly, the MF (Multiplication Factor) change from 20 to 30, is not disputed by the appellant.

(iii). It is seen from the energy use (consumption pattern) of the consumer from the Meter readings furnished above, that the average energy consumption has dropped drastically by about  $1/3^{\text{rd}}$ , after the wrong application of MF, from 10/2010 onwards. That is to say, the consumer has recorded an average consumption of 27067 units per month during 10/2009 to 09/ 2010 (12 months), which was reduced to 16597 units during the period of 10/2010 to 11/2011 (14 months), when the MF used was only 20 instead of the actual 30. Had the MF of 30 was used, it would mean an average energy usage (consumption) of 24896 units (i.e.  $16597 \times 30/20$ ), which tallies closely with the previous period rate of consumption of 27067 units. Similarly, for the subsequent period 12/2011 to 05/2012, the average energy consumption has again risen to 22342 units. Hence, it is certain that the energy consumption drop during the disputed period was only due to the wrong application of Multiplication Factor.

(iv). As per Reg. 24(5) of the Kerala Electricity Supply Code, 2005, if the licensee establishes that it has undercharged the consumer either by review or otherwise, the Licensee can recover the amount so (electricity charges) undercharged from the consumer by issuing a bill. The spirit of the clause is that the consumer is bound to pay the charges for the electricity he has actually consumed. There may be chances that, it may occur some 'error or omission' in the preparation of electricity Bill, which should be rectified and set right, when brought to notice, whether it is in favor of the consumer or the Licensee.

(v). In a case, reported as, 2009(1) KHC 945 of Hon High Court of Kerala in W P (C) No. 90 Of 2009 (1), Sunderdas P Vs KSEB, it was decided as follows; "...The scheme of Section 56(2) is that the amount becomes due when the bill is issued".

Also in WP (C) 90 of 2009 (I) [Reported as 2009(1) KHC 945], the Hon High Court has observed that the levy of interests for the installments allowed, is justifiable.

In both Cases referred, the bill was caused due to the wrong application of multiplication factor.

(vi). Here, the action of the respondent in raising the short assessment bill to recover the revenue loss occurred due to wrong application of the Multiplication Factor (MF) in computing the monthly bills from 10/2010 to 11/2011, is found to be in order. The consumer has to pay the Bill, but he is eligible for up to twenty installments, if he applies for the required number of installments and the respondent shall allow the same. The consumer shall pay either the whole amount or 1<sup>st</sup> installment within 30 days of this order. The installments will bear interest as per clause 22(8) of the Electricity Supply Code, 2005, at a rate as applicable in KSEB, for the period from the 30<sup>th</sup> day of this order to

the date of actual payment of instalment. No interest or surcharge is payable by the consumer for the Appeal pending period before this Forum and up to 30<sup>th</sup> day of this order.

Having concluded and decided as above, it is ordered accordingly. The Appeal Petition filed by the consumer is found devoid of merits and hence stands dismissed. The related CGRF order vide, No. CGRF-CR/Comp.115/12-13 dated 07.02.2013 of the CGRF, Ernakulum is set aside. No order on costs. Dated the 29<sup>th</sup> of November 2013.

Electricity Ombudsman.

Ref. No. P/ 352 / 2013 / 2069 / Dated 29.11.2013.

Forwarded to: (1). Sri. C A Basheer,  
M/S.Wood Tech Industries,  
Valayanchirangara.P.O,  
Poonoor, Perumbavoor. Pin - 682 031.

(2). The Assistant Executive Engineer.  
Electrical Sub Division, KSEBoard,  
Velloorkkunnam, Ernakulum.

Copy to :

- 1). The Secretary, Kerala State Electricity Regulatory Commission,  
KPFCBhavanam, Vellayambalam, Thiruvananthapuram-10.
- 2). The Secretary, KSEBoard,  
Vydyuthibhavanam, Pattom, Thiruvananthapuram-4
- 3). The Chairperson, Consumer Grievance Redressal Forum,  
KESBoard, Power House, Ernakulam. Pin - 682018.