

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION NO.P/087/2014

(Present: Sri. V.V. Sathyarajan)

Dated: 26th June 2015

Appellant : Sri. C.Y. Meeran,
Managing Partner
M/s Travancore Bio-fuels
Rayonpuram,
Perumbavoor

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd.
Perumbavoor

ORDER**Background of the case**

The appellant, Sri C.Y. Meeran is the Managing Partner of M/s Travancore Bio-Fuels with consumer No. 13540 (old No. 5494) under Electrical Section, Perumbavoor. The appellant states that he has been running the above industry in manufacturing bio fuels since 1997. He was granted 99 hp power allocation in respect of the unit and the subsequently submitted an application to enhance the same to 170 hp. He purchased and erected machineries and completed the statutory formalities for regularising the additional loads. While so he was served with a short assessment bill for Rs. 4,74,509.00 for a period from 11/1999 to 02/2001 on account of wrong application of multiplication factor 40 instead of 20.

Against the short assessment bill the appellant filed OP No. 14127/2001 (D) before the Hon'ble High Court of Kerala and the Hon'ble High Court vide judgment dated: 18-02-2014 directed the appellant to submit a detailed representation raising all his grievances before the Executive Engineer, Electrical Division, Perumbavoor. Accordingly the appellant filed a petition dated: 13-03-2014 before the Executive Engineer which was disposed of without allowing any relief. Subsequently the Assistant Engineer, Electrical Section, Perumbavoor issued a revised bill for Rs. 31,07,106.00 including surcharge on 04-07-2014 based on the proceedings of Executive Engineer, Electrical Division, Perumbavoor. Aggrieved against this bill, the appellant approached CGRF, Central Region, Ernakulam on 02-08-2014 requesting for cancellation of said impugned bill. But the Forum observed that Executive Engineer has decided the matter as per the direction of Hon'ble High Court. As such the Forum has no jurisdiction in this

matter and hence dismissed the petition. Aggrieved against this, the appellant filed this petition before this Authority.

Arguments of the appellant

The appellant stated that the service connection for his industrial unit was given during 1997. Initially his connected load was only 99 hp and subsequently enhanced to 170 hp. While the expansion of his unit was in progress he was issued a huge bill for Rs. 4,74,509.00 towards the short assessment bill for a period from 11/1999 to 2/2001. Against this bill the appellant approached the Hon'ble High Court and the Hon'ble Court in its judgment in OP No. 1497 of 2001 dated: 18-02-2014 directed the Executive Engineer, Electrical Division, Perumbavoor to consider the grievances of the appellant and dispose of the same on merits.

The appellant argued that the impugned bill was served after submission of application for enhancement of connected load and the works were in progress. It is alleged that the CTs installed in his premises was changed on 28-10-1999 with new one of CT ratio of 200/5. In fact there was no change of CTs on 28-10-1999, as argued by the respondent. The appellant further stated that it is mandatory that the replacement of Meter / CTs is to be recorded in the Meter Changing Register. In this case the respondent failed to produce the Meter Changing Register.

The CTs installed in his premises was changed as per the direction of Assistant Executive Engineer vide his letter No. DB-14/98-99/51 dated: 21-06-2000 after submission of application for enhancement of connected load. The contention of the respondent that they had verified the load current during first week of October, 1999 and found exceeded 5 Ampere is totally wrong and false because full load current even with a diversity factor of 0.6 will only be 3.75 Ampere and the consumption pattern during the period shows that the CT current will be less than 5 Ampere. The appellant has purchased the CTs in order to enhance the load was tested at the TMR Division, Pallom only on 24-07-2000. The allegation of the faulty meter period is also totally wrong because the CT was changed during the meter faulty period and there were no records for the meter change. The CT to be used for loads below 100 kVA is 100/5 and for load above 100 kVA is 200/5. The initial load of the appellant was below 100 kVA which itself proved that the CTs was of 100/5. It is also pertinent to note that the respondent has not compared the test certificate produced by the appellant with the new CTs name plate, serial number and make etc. The appellant argued that the CT change occurred in his premises was at the time of enhancing the connected load to 170 hp. The Executive Engineer while taking decision have simply narrated the statements of KSEB official and passed the impugned order. Hence the appellant requested for cancelling the bill for Rs. 31,07,106.00.

Arguments of the respondent

The respondent stated that the letter dated: 21-06-2000 was issued by the Assistant Executive Engineer in connection with the enhancement of connected load above 100 kVA. The said enhancement of connected load necessitated the conversion of appellant's service to the deemed HT service category. As per the rule in force then, the appellant had to purchase the metering equipments including CTs at his own cost and to replace the existing meter and CTs. The respondent's argument is that the existing

200/5 CTs installed in the appellant's premises by the KSEB ought to have replaced with another CTs of the same capacity by the appellant at his own cost for getting converted to deemed HT category. The Assistant Executive Engineer issued the letter for serving the said purpose only.

Admittedly it is true that the Assistant Executive Engineer has issued a letter No. DB-14/98-99/51 dated: 21-06-2000 directing the appellant to produce the meter and CTs along with Test Certificates in connection with the enhancement of connected load. This is as per the Board Order No. 2299/99 (Plg.Com 3776/99) dated: 23-10-1999 deals with the Purchase and Maintenance of the Meters and CTs by the consumer having connected load between 100 kVA and 150 kVA and allied matters. The above Board Order supports the argument of KSE Board that the letter dated: 20-06-2000 of the Assistant Executive Engineer, Electrical Major Section, Perumbavoor was only intended to inform the appellant regarding his obligation to procure the meter and CTs having prescribed specification at his cost. The appellant's service was converted to deemed HT category with effect from 24-09-2001 and the contention of the appellant that the CT of 200/5 Ampere capacity was got installed only on 24-09-2001. The Assistant Engineer, Meter Inspection, Electrical Division, Perumbavoor on inspection on 05-04-2001 found that the existing CTs was of ratio 200/5 Ampere. Again during another inspection by APTS officials on 27-07-2001 also found that the CTs having ratio of 200/5 Ampere. The site mahazar prepared by the APTS on 27-07-2001 was also witnessed by the appellant. Hence the contention of the appellant that the CTs of 200/5 ratio was installed only upon the conversion to deemed HT category on 24-09-2001 is false.

Analysis and findings

The hearing of the case was conducted on 14-05-2015 in my Chamber at Edappally, Kochi and Sri C.Y. Meeran and Sri Shaji Sebastian appeared for the appellant's side and Sri John Varghese, Assistant Executive Engineer, Electrical Sub Division, Perumbavoor appeared for the respondent's side. On examining the petition and the argument note filed by the appellant, the statement of facts of the respondent, perusing the document attached and considering all the facts and circumstances of the case this Authority comes to the following conclusions leading to the decisions.

Apart from the assertions, the only material produced by the respondent in this case is the site mahazar dated: 05-04-2001. The bill dated: 26-04-2001 is seen issued relying on the site mahazar. Now on close perusal of the site mahazar shows that the only defect noticed is meter faultiness. Nowhere it is stated in the mahazar the CT ratio, serial number and make etc. The details of equipments installed in the appellant's premises and its connected load is also not described in the site mahazar. There is no detail as to how the Assistant Engineer arrived at the figure 103.5 hp is the connected load of the appellant at the time of inspection. It is also stated in the mahazar that 59.5 hp erected but is not connected to the system.

It is also relevant in this aspect that in the proceedings of Executive Engineer, Electrical Division, Perumbavoor dated: 28-04-2014, it is stated that the statement of Sri. M.P. Sadanandan, Sub Engineer, at the relevant time and Sri K.S. Aliyar, Assistant Engineer at the relevant time were taken. On going through the above proceedings, it can be seen that the conclusion is arrived at primarily relying on those two statements.

But there is no whisper in the proceedings as to when and where these statements were recorded. On a close reading of the statements will reveal that the Assistant Engineer and Sub Engineer omitted to record the date of change of CT's in the Meter Reading Register or Meter Changing Register. The respondent's failure to produce the relevant documents before this Authority is also conspicuous in the circumstances. The responsible officers of the Licensee who were in charge of the relevant period failed to discharge their duty properly. But they escaped without any blemish in the service.

It is the duty of the licensee to inform the appellant about the change in CTs as and when it is found insufficient in accordance with the connected load. There is no justifiable reason for not intimating the appellant about the change in CTs. Instead, the appellant is mulcted with a heavy demand for a previous period of 14 months which is arbitrary and unreasonable. Further the date of inspection of the Assistant Engineer at the relevant time was not seen recorded either in the Meter Reading Register or in the Meter Changing Register. The respondent failed to produce any documents in this connection to show that the date of change of CTs is as on 28-10-1999. This argument of the respondent is without any documentary evidence and hence cannot be admitted.

In the mahazar dated: 05-04-2001, it is stated that connected load in the appellant's premises is 103.5 hp. Nowhere it is furnished that this figure is arrived at after verifying the ratings of individual equipments installed in the appellant's premises. The respondent has not adduced any evidence to establish that the connected load at the time of inspection was exceeded 100 kVA. In this background there is no justification for issuing such a short assessment bill and loss if any sustained to the licensee, it is only because of the malfunctioning of the responsible officers of the licensee. Hence it is advisable to conduct an enquiry to find out the reason and the person responsible for the issue.

In view of the above factual situations, there is no reasonable justification for issuing such a short assessment bill for Rs. 4,74,509.00 to the appellant. Needless to say that the failure on the officers part of the licensee to discharge their duty is the reason for issuing such a short assessment which now revised to Rs. 31,07,106.00 including surcharge Rs. 23,47,787.00 and arrear bills from 06/2001 to 09/2001 for Rs. 2,84,810.00. It is pertinent to note that the respondent has issued the arrear in respect of monthly bills for the period from 06/2001 to 09/2001 for Rs. 2,84,810.00 only on 04-07-2014 i.e. after a lapse of 13 years, which shows serious lapses on the part of respondent. The appellant cannot be penalized for the failure on the part of respondent in issuing timely bills. So long as there is no allegation that the appellant has tampered the meter or any wilful misuse, he cannot be penalized by way of demanding a huge amount all of a sudden. Here in this case the principle of natural justice is not followed by the respondent.

The CGRF while disposing the petition has stated that the Forum has no jurisdiction since the Executive Engineer, Electrical Division, Perumbavoor has decided the matter based on the direction of Hon'ble High Court. This finding is not a genuine reason for the dismissal of the petition. On the other hand, CGRF has the authority to consider the grievance of the consumer upon the decision of the Licensee, as per rules. The Hon'ble High Court has not mentioned that the decision of Executive Engineer would be final.

Decision

In view of the above discussions, there is no justifiable reason for not intimating the appellant about the change in CTs and hence the short assessment issued for Rs. 4,74,509.00 is hereby quashed. Further the arrear bill from 06/2001 to 09/2001 issued for Rs. 2,84,810.00 after a lapses of about 13 years is without any documentary evidence and found unreasonable, arbitrary and hence quashed. CGRF order dated: 02-08-2014 is set aside. The appeal is allowed to the extent as ordered. No order as to costs.

ELECTRICITY OMBUDSMAN

No.P/087/2014/_____ /Dated:_____

Forwarded to:

1. Sri. C.Y. Meeran, Managing Partner, M/s Travancore Bio-fuels, Rayonpuram, Perumbavoor
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd. Perumbavoor

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, Power House, Power House Buildings, Cemeterymukku, Ernakulam-682 018