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REVIEW PETITION No. P-342/2013

(Present: Sri. V.V. Sathyarajan)

Dated: 07<sup>th</sup> September 2015

Review Appellant : Sri. Raveendran G  
M/s Hotel Sree Aryas  
Bakery Junction,  
Kottayam

Review Respondent : The Assistant Executive Engineer  
KSEB Ltd., Electrical Sub division,  
Kottayam Central

**ORDER**

**Background of the Case**

The review appellant herein in P/342/2013 is running a hotel in the name of M/s Hotel Sree Aryas having electricity consumer number 6536 under Electrical Section, Kottayam Central. The premises of the review appellant was inspected by the KSEB officials on 23-05-2009 and found the connected load as 16 KW against the sanctioned load 15 KW. It was also found that the energy consumption in one phase is not recording in the meter. The review respondent has issued a short assessment bill for Rs. 1,63,802/-. Against the short assessment bill, the review appellant filed objection before the Assessing Officer who disposed the petition by enhancing the bill amount to Rs. 1,83,493/-, vide his final order dated 13-06-12. Aggrieved by this the review appellant approached the CGRF, Kottarakkara in Petition No. 833/2012. The CGRF disposed the petition by directing Board to conduct a detailed enquiry, since serious procedural irregularities and negligence on the part of Board officials in the matter. Not satisfied with the decision of the CGRF, the review appellant filed a petition before this Authority which was disposed as follows:

1. The Assessing Officer is directed to review the penal bill raised for the UAL of 1 KW, by taking into consideration the clause 51 ( 4) of KSEB T& C of Supply,

which prevents the penalization for availing less than 10% variation in connected load, within 60 days of this order, with an opportunity given to consumer for hearing him.

- Regarding the meter faulty period reassessment, the short fall in the meter recordings, due to one phase fault is determined as (592units x 12 months) 7104 units instead of 18949 units assessed by respondent and directed the respondent to revise the bill accordingly. Now the review appellant has submitted this review petition with a plea to review the second part of the decision taken in the appeal petition no. P/342/2013.

**Arguments of the review appellant:**

According to the Order of Hon. Ombudsman when the average of 5 months before and after replacing the Energy Meter is compared it is seen that the amount after replacing is lower than the average prior to the replacement and the details are as follows.

Consumption Before Replacement	Consumption After Replacement
2739	2775
2347	3470
3712	2564
3009	3024
3071	2994
Total: 14978	Total: 14827
Average: 2995.6	Average: 2965.4

This shows that there was a reduction of consumption @ 30 units per month. Since the exact date of meter became faulty (if it is so) is not known, we can rely only upon the readings after the replacement of meter with a new one. It is pertinent to note that the KSEB has not tested the meter for its accuracy and the faulty meter have been running faster instead of running slow so the consumer is eligible for refund. Hence the review appellant requested to reconsider these facts and to revise the order taking into consideration of the average consumption after replacement with a correct meter.

**Arguments of the review respondent:**

The review respondent stated that the review appellant is a consumer under Electrical Section Kottayam Central and his con No: is 6536. The appeal filed by the review appellant vide appeal petition No: P-342/2013 was already disposed by this

Authority on 9-12-2013. Now this review petition is filed on an experimental basis and there is no locus standi in filing this Review Petition before this Authority.

The appellant's energy meter was tested at TMR Division, Pallom and established the fact of non recording of energy in one phase. The copy of the test report is already produced before this Authority. The review appellant has not disputed these facts such as the mahazar prepared during the site inspection and the Test Report of energy meter conducted at TMR, Pallom. As per Regulation 9 of Terms and Conditions of Supply, 2005 consumers having connected load of more than 5000 watts must wire their electrical installations in three phase manner with three circuits keeping separate load balancing as far as possible. This consumer is bound to obey the Regulations of the Terms and Conditions of the licensee. In other words this regulation is applicable to this consumer also. In a three phase balanced system the power consumption in one phase shall be  $1/3^{\text{rd}}$  of the total consumption. Hence the assessment made by the licensee is correct and sustainable before the law.

The review appellant's argument to the effect that there is no increase in recorded consumption after replacing the challenged meter and hence there is no scope for the short assessment in terms of non recording of energy is not correct and hence denied. The consumer has every freedom to regulate his electricity consumption by adopting various methods like, replacing old equipments using energy efficient equipments, replacing damaged/unhealthy wiring, etc. As the review appellant has not challenged the Meter Test Report, there is no legal validity in his argument. Since the defect of the meter is already established, there is no relevance in comparing the energy consumptions before and after the meter changing. Hon'ble Ombudsman may kindly note that as per the Regulation 42 of the Terms and Conditions of Supply, 2005 the comparison of consumptions during the succeeding period is necessitated only when the previous consumption is not available. In this case previous consumption is available. Hence the argument of the review appellant may not be accepted. Under the above circumstance it is humbly prayed to consider the above facts and dismiss the review petition filed by the review appellant, otherwise the licensee will be put into irreparable losses.

**Analysis and findings:**

Hearing of the case was conducted on 30-06-2015 in my chamber at Edappally, Kochi. Sri Shaji Sebastine represented the review appellant and Sri. Viji Prabhakaran, Assistant Executive Engineer, Electrical Sub Division, Kottayam Central appeared for the review respondent and argued the case on the above mentioned lines. On perusing the review petition, the statement of facts filed by the review respondent, the arguments of both sides in hearing and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions thereof.

The review appellant has argued that there was a reduction of consumption @ 30 units per month after replacement of the faulty meter. He has made a comparison of consumption for 5 months before and after the replacement of the meter. According to him, the average consumption for 5 months before changing the meter is 2995.6 units and after changing the meter the consumption for 5 months is 2965.4 units resulting a reduction in consumption of 30 units per month. Another argument of the review appellant is the faulty meter was not tested for its accuracy and the faulty meter have been running faster instead of running slow so the consumer is eligible for refund.

The review respondent has argued that the appellant's energy meter was tested at TMR Division, Pallom and established the fact of non recording of energy in one phase. The review appellant has not disputed the Test Report of energy meter conducted at TMR, Pallom. Further it is contended that the review appellant has every freedom to regulate his electricity consumption by adopting various methods like, replacing old equipments using energy efficient equipments, replacing damaged /unhealthy wiring etc. after replacing the faulty meter.

This Authority had already examined the arguments of both sides while disposing the appeal petition and allowed the appeal to the extent as ordered since it is found having some merits. It is clearly proved that one phase in the meter is not recording energy while testing the energy meter at TMR Division Pallom. An average energy consumption of 3750 units was recorded before the meter faulty period (25 months from 5/2006 to 5/2008) and during the meter faulty period (5/2008 to 4/2009), the consumption was of 3158 units. Hence it was noticed that a shortfall in recording the consumption due to fault in one phase of the meter as  $(3750-3158)$  592 units per month and accordingly the total shortfall is calculated as  $(592 \text{ units} \times 12 \text{ months}) = 7104$  units, instead of 18949 units as assessed by the respondent. The faulty meter of the review respondent was changed on 24-05-2009. During the period from 5/2008 to 4/2009, the meter was not recording energy in one phase of the meter and this was confirmed in the meter test at TMR, Pallom. Hence the argument of the review respondent that a comparison of the consumption during the period of meter faulty period and after the replacement of the meter cannot be considered is having some merits and can be accepted.

Further, Regulation 42 (3) of KSEB Terms and Conditions of Supply reads: "If the existing meter after having found faulty is replaced with a new one, 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 the meter." In this case, the meter was reported to be faulty during 5/2008 and prior to that period the meter was working in good condition. Hence this Authority while disposing the petition has taken the consumption prior to 5/2008 for arriving average consumption.

On going through the details of this case, no glaring errors on the face of the record, on the order dated 09-12-2013 of this Authority, in Appeal No 342/2013, were pointed out by the review appellant here. The arguments now raised cannot be considered for a review, as it was considered, decided and order issued accordingly earlier. Hence there is no cause or sufficient reason established by the review appellant, for the review of the order already issued.

### **Decision**

So in view of the facts that in the review petition, nothing is pointed out by the review appellant which escaped the notice of this Authority while disposing the appeal No. P-342/2013 on 09-12-2013, I hold that the review petition is not maintainable and hence rejected.

**ELECTRICITY OMBUDSMAN**

Review Petition No. P/342/2013

Dated:

Forwarded to:

1. Sri. Raveendran G., M/s Hotel Sree Aryas, Bakery Junction, Kottayam
2. The Assistant Executive Engineer, KSEB Ltd., Electrical Sub division, Kottayam Central.

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, CV Raman Pillai Road, Thiruvananthapuram-10.
2. The Secretary, KSE B Ltd, Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthibhavanam, KSE Board Ltd, Kottarakkara - 691 506.