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APPEAL PETITION NO. P/009/2016  
(Present: V.V. Sathyarajan)  
Dated: 11<sup>th</sup> May 2016

Appellant : Mother Superior,  
Nirmala Bhavan Convent,  
A.K. Nagar, Nenmara P.O.,  
Palakkad

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division,  
KSE Board Ltd, Vadakkancherry,  
Palakkad

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## ORDER

### Background of the case:

The appellant is a three phase consumer having consumer number 6403 under Electrical Section, Nenmara. The appellant was issued with an additional bill dated 17-8-2015 for Rs. 26,100.00 being the loss incurred to the respondent, KSEB Limited due to the error occurred in the calculation of actual connected load for the period from 7/2008 to 9/2015. Aggrieved against this bill, the appellant approached the Consumer Grievance Redressal Forum (Northern Region), Kozhikode by filing a complaint No. 80/2015-16 which was disposed of vide order dated 21-12-2015. The Forum held that "The bill amount of Rs. 26,100.00 is found to be demanded in compliance to Regulation 134 (1) of Kerala Electricity Supply Code 2014 and hence holds good". Still aggrieved with the above decision of CGRF the appellant has approached this Authority with this appeal petition.

### Arguments of the appellant:

The gist of the grievance of the appellant is as follows.

Based on an audit report, the respondent issued an additional bill amounting to Rs. 26,100.00 to the appellant due to the error occurred in the calculation of actual connected load for the period from 7/2008 to 9/2015(87 months). The appellant was received another two additional bills dated 21-11-2013 and 29-06-2015 for Rs.1,798.00 and Rs. 3,525.00 respectively and remitted the amounts in time. The periods covered by these bills were 7/2012 to 1/2013 and 9/2012 to 11/2013. These bills were issued for recovering the loss sustained by the licensee due to meter faultiness and the period mentioned in the first additional bill was also included in the second bill issued by the respondent. Aggrieved with these bills, the appellant approached the CGRF, and the impugned bills amounting to Rs. 1,798.00 and Rs. 3,525.00 were quashed by the Forum. According to the appellant, the additional bill issued for Rs. 26,100.00 for the period from 7/2008 to 9/2015 (87 months) under Regulation 152 of Supply Code, 2014 is not in order and illegal. The appellant has requested to limit the short assessment for a period of 24 months.

**Argument of the respondent:**

The contention of the respondent is that the registered connected load of the appellant is 6820 Watts. During the audit conducted in the Section Office an anomaly was found that the appellant was being billed for 4 kW from 7/2008 onwards instead of 7 kW. This error happened while transferring the data into the system. A short assessment bill for Rs. 26,100.00 was issued for the period from 7/2008 to 9/2015 on 17-08-2015. The respondent has conducted a physical verification of connected at the premises, confirmed the connected load and explained the reason for issuance of the additional bill. Regarding the back assessment amounts for Rs.1,798.00 and Rs. 3,525.00, the period covered were 7/2012 to 1/2013 and 7/2013 to 11/2013 and there was no overlapping of period as alleged by the appellant. The short assessment bill for Rs. 26,100.00 was assessed as per the provision under Regulation 134 of the Supply Code, 2014 and the appellant is legally bound to remit the amount.

**Analysis and Findings:**

A hearing of the case was conducted in my chamber at Edappally, Kochi on 03-05-2016. Sr. Meera, Mother Superior of Nirmala Bhavan Convent represented for the appellant's side and Sri Rama Prakash K.V., Assistant Executive Engineer, Electrical Sub Division, Vadakkancherry represented for the respondent's side. Both sides have presented their arguments on the lines as stated above. On examining the petition of the appellant, the statement of facts filed by the respondent, the arguments in the hearing and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions.

The argument of the appellant is that she was penalized for the mistake on the part of officials of the licensee. The respondent admitted that there was an omission on their part while assessing the fixed charges for the connected load. Further, the respondent stated that they have collected fixed charges only for 4 kW against the actual connected load of 6820 Watts (7 kW) which was detected by the Regional Audit Officer during 2015. Accordingly short assessment bill for an amount of Rs. 26,100.00 issued towards the fixed charges alone for the period from 07/2008 to 09/2015 which is found in order as per Regulation 33(2) of KSEB Terms & Conditions of Supply, 2005 and also as per Regulation 134 of Supply Code, 2014.

**The point to be decided in this case is as to whether the issuance of short assessment bill for a long period from 07/2008 to 09/2015 by the respondent is in order or not?**

Regulation 134(1) of the Electricity Supply Code, 2014, states 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 and in such cases at least 30 days shall be given to the consumer for making the payment of bill"*. In such cases the consumer shall be allowed suitable instalments to remit such short assessment bills in equal monthly instalments without interest. As per Regulation 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 rate applicable for belated payment from the date on which such payments became due"*.

In reply to the above, the appellant's argument is that the period of assessment of such short collection of electricity charges shall be limited to maximum period of 24 months as per Regulation 152. Regulation 152(1) states that *"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 in accuracies in metering shall not attract provisions of Section 126 of the Act or Section 135 of the Act"*.

On going through the records it can be seen that the licensee has conducted an audit in the appellant's premises by the Regional Audit Officer during 2013 and issued an assessment for Rs. 1,798.00 for the meter faulty period from 07/2012 to 01/2013. The respondent also issued a short assessment bill for Rs. 3,525.00 for the period from 07/2013 to 12/2013. In addition to that short assessment bill for Rs. 26,100.00 for the period from 07/2008 to 09/2015 was issued based on the audit conducted by the Regional Audit Officer during 2015. It is quite surprising to note that during the audit 2013, the licensee failed to detect the actual connected load in the appellant's premises as 7 kW which is the reason for the whole issue and there is no justification for issuing such a huge assessment all of a sudden to the appellant.

On going through the consumption of the appellant from 2009 onwards as detailed below, it can be seen that the bimonthly consumption has never exceeded 386 units.

MONTH	CONSUMPTION IN UNITS	REMARKS
Sep-08	386	
Nov-08	325	
Jan-09	205	
Mar-09	219	
May-09	315	
Jul-09	280	
Sep-09	254	
Nov-09	284	
Jan-10	170	
Mar-10	213	
May-10	306	
Jul-10	256	
Sep-10	250	
Nov-10	239	
Jan-11	138	
Mar-11	127	
May-11	153	
Jul-11	195	
Sep-11	183	
Nov-11	191	
Jan-12	151	
Mar-12	187	
May-12	103	
Jul-12	0	
Sep-12	96	SF Avg charged
Nov-12	96	SF Avg charged
Jan-13	96	SF Avg charged
Mar-13	96	SF Avg charged
May-13	96	SF Avg charged
Jul-13	96	SF Avg charged
Sep-13	96	SF Avg charged
Nov-13	96	SF Avg charged
Jan-14	174	
Mar-14	237	
May-14	276	
Jul-14	330	
Sep-14	323	
Nov-14	337	
Jan-15	249	
Mar-15	208	
May-15	294	
Jul-15	242	
Sep-15	244	SF Avg charged

Though the respondent stated that they had verified the connected load of the appellant and convinced the appellant's connected load as 7 kW in the premises, they failed to produce any documentary evidence to substantiate their argument. Moreover, the bimonthly consumption of the appellant has never surpassed 386 units which also corroborates to a lesser connected load. In the absence of documentary evidence to prove that the appellant's connected load as 7 kW it is not fair to charge the appellant for such a long period of eight years. Whereas the contentions raised by the appellant can be decided only after a physical verification of the connected load. Since those aspects were not considered by the CGRF while disposing the petition, this Authority is of the opinion that realisation of the short assessment for eight years cannot be justified.

It is the duty of the respondent to issue bimonthly bills to the appellant after verifying whether the consumption is proportional to the connected load. Here in this case, the consumption pattern of the appellant does not match with the connected load and the respondent failed to produce any documentary evidence to prove that the connected load of the appellant's as 7 kW. Further, they also failed to detect the connected load of the appellant during their inspection on 2013. If the officers of the respondent were negligent in the matter of inspection of the same, it is totally unjust to saddle the appellant with the liability to pay huge amount all of a sudden.

### Decision

In view of the above facts, there is no justification for issuing such a huge short assessment for a period of 87 months as long as the appellant had not done anything illegal; it is decided to limit the short assessment for a maximum period of 24 months (for the period from 09/2013 to 09/2015) as per Regulation 152 of Supply Code, 2014. The short assessment bill issued for Rs. 26,100.00 is hereby cancelled.

Having concluded and decided as above it is ordered accordingly. The appeal petition filed by the appellant is allowed. The CGRF order No. 80/2015-16 dated 21-12-2015 is hereby set aside. No order as to costs.

**ELECTRICITY OMBUDSMAN**

P/009/2016/ /Dated: \_\_\_\_\_

Delivered to:

1. Mother Superior, Nirmala Bhavan Convent, A.K. Nagar, Nenmara P.O., Palakkad
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Vadakkancherry, Palakkad

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