

STATE ELECTRICITY OMBUDSMAN

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REPRESENTATION No: P45/09

Appellant : Sri Ajay Zachariah, Managing Partner
Kuttanadu Coir & Rubber Products
KIDANGARA (Po) Alleppy Dt

Respondent: Kerala State Electricity Board
Represented by
The Assistant Executive Engineer
Electrical Sub Division MANKOMBU Alleppy Dt

ORDER

Sri Ajay Zachariah, Managing Partner, Kuttanadu Coir & Rubber Products, KIDANGARA , Alleppy Dt submitted a representation on 28.1.2009 seeking the following relief :

To set aside the order dated 23.12.2008 of CGRF Ernakulam and Bill dated 11.9.2007 of KSEB

Counter statements of the Respondent was obtained and hearing of both the parties conducted on 26.6.2009 and 15.7.2009.

The Appellant is an LT industrial consumer under Kidangara Section with consumer number 3394 running a rubber mats production unit .On 4.9.2007 the APTS Kottayam unit inspected the unit and found that the power meter was not recording actual consumption due to error in connection. The meter installed was ABB make CT operated 3 phase 4 wire meter . The connection of Y and B phase to the meter was seen interchanged resulting in negative error. It was also seen that the Y phase voltage was not getting properly on the meter due to oxidization on the connection point . Hence it was computed that the meter was recording only 54.5% of the actual consumption. The site mahazar prepared was witnessed by the Appellant himself. The Respondent concluded that the erroneous wiring and short-recording continued from the date on which the meter was changed in January 2001. But the short assessment was limited to a period of two years from 9/2005 to 8/2007 amounting to Rs 5,88,171/-. Aggrieved by the demand the

Appellant filed an appeal to the Deputy Chief Engineer after paying 50% of the bill amount. The appeal was dismissed by the Deputy Chief Engineer. The Appellant filed appeal before the Hon: High Court and got direction to approach the CGRF . The CGRF also upheld the demand of KSEB.

The representation with the pleas noted above is submitted to the under signed in the above back ground.

The contentions/arguments/points raised by the Appellant in the representation, argument notes and during the hearing are summarized below:

1. The wiring in the meter can not be said to be improper from 8.01.2001 or even from 9/2005 due to the fact that the staff of the local KSEB were inspecting the working condition of the meter in each phase while recording the monthly consumption every month. The meter readings are to be noted after examining each phase in the meter and they are duty bound for this as per Section 28 of the Conditions of Supply of Electrical Energy. They had never raised any complaint on the matter. Since there is no such complaint from local officials it has to be believed that there was no defect in the wiring in the meter earlier or the alleged wrong wiring was created by APTS during the inspection itself by their own negligence or oversight .
2. There is no law or regulation stating that the loss sustained to KSEB due to wrong or negligent acts of the employees should be recovered from the consumer. Such loss has to be recovered from the concerned field staff or official ,but not from the consumer.
3. Sri Rejith S/o Karunakaran, an employee of the Appellant, had filed an affidavit on 12.12.2008 stating that an APTS team composed of 3 men had inspected the unit at night ,few months before the date of alleged mahazar crossing across the compound wall and at that time they never raised any complaint against the wrong wiring in the meter .
4. The Appellant in his letter dated 17.9.2007 lodged before the Dy Chief Engineer Alappuzha specifically states that APTS inspected the site on 3 occasions during the 1 ½ years prior to 04.09.2007 and one such inspection was done by APTS Trivandrum and there was no complaint on wiring during these inspections. The Respondents' claim that the APTS Kottayam unit had inspected only on 04.09.2007 and that the APTS Kollam and Trivandrum units had never inspected the units prior to 04.09.2007 are contrary to reality .
5. The affidavit dated 12.12.2008 of the employee and the letter dated 17.9.2007 of Appellant are to be believed and relied upon which establish that the APTS had no complaint against the working of the meter or the mode of wiring during the inspections carried out prior to 04.09.2007. Consequently the demand to pay penal bill from September 2005 is wrong, arbitrary and unjust.
6. The Appellant had filed a chart showing the production and the electricity charges during FY 2006-07 to 2008-09 . This chart shows that the rate of production and consumption of electricity before and after the execution of mahazar are almost the same which shows that the demand made can not be justified.
7. The Respondent did not follow the mandatory procedure as per Section 31 C of the Conditions of Supply of Electrical Energy which provides for obtaining the report of

the Electrical Inspector on disputes related to correctness of Meter. Since the Appellant still disputes the bill the course to follow is to refer the matter to the Electrical Inspector after setting aside the Bill.

8. In the mahazar dated 4.9.2007 it is stated that Y phase voltage was not getting properly at the meter terminal due to oxidized connection and hence the meter was recording only 54.5% of the actual consumption . But the Respondents are not stating as to when the defect had commenced to develop. Oxidization used to develop only during monsoon due to high humidity in the air. So this must have developed during on or two months prior to 9/2007. Hence penalizing for two years on this account is not proper.

The contentions/arguments/points raised by the Respondent in the counterstatement and during the hearing are summarized below:

1. The meter installed in the premises of the Appellant is an ABB 3 phase 4 wire CT meter. During inspection by APTS on 4.9.2007 it was seen the Y and B phases connection to the meter had interchanged resulting in negative error. It was also found that the Y phase voltage was not getting properly at the meter terminal due to oxidized connection .Due to the defective wiring the negative error shall be 33.33 % or the short recording shall be 50% of the recorded units. Due to the effect of the oxidized joint on the Y terminal the APTS assessed that a cumulative error of 45.5% had occurred in the readings registered by the meter. In other words when 100 units were consumed by the plant only 54.5 units were recoded in the meter due to the combined effect of both the defects.
2. The defect in wiring must have occurred while changing the meter on 8.1.2001. But the short assessment consequent to the defective wiring , at 50% of the recorded consumption, was limited to Two years prior to the date of inspection. Short assessment due to the oxidization effect was limited to 6 months prior to the date of inspection. The period for which oxidization of contacts had resulted in under recording in the meter can not be ascertained and hence a period of 6 months have been assumed as a general rule.
3. The argument of the Appellant that the meter was to be tested by Electrical Inspector is not correct since the correctness or accuracy of the meter was not in dispute. Here the error had occurred due to connections only. Section 25(4) of the Kerala Supply Code permits the licensee to recover the amount under-charged from the consumers by issuing a bill.
4. The staff of the KSEB like Sub Engineers, Meter Readers or field officers who visit the premises to record readings can not normally find out such abnormalities. This type of erroneous connections in the meter can not be easily found out since the seals of the meter terminal and meter box were found intact. Inspections by breaking seals are normally done by inspecting squads like APTS, Circle squad etc. There is no display of error of interchanging the phases in this type of ABB meters and officials visiting the premises for taking readings etc can not identify the defective connections. Hence the consumer can not take refuge behind the fact that the defective connections and oxidized joint were not found out and reported by local officials.

5. APTS team of KSEB is a qualified and competent authority exclusively designated to carry out inspection of meters. The allegation that the wrong wiring was created by the APTS itself is absolutely wrong.
6. The allegation that the APTS teams of KSEB had inspected the premises earlier made in the affidavit of an employee of the Appellant as well as by the Appellant himself is baseless. The APTS teams at Kottayam, Kollam and Thiruvananthapuram have submitted written reports denying any such earlier inspections. There is no evidence to establish that the meter terminal cover was opened any time between 8.1.2001 and 4.9.2007 by any KSEB officials.
7. The meter-reading figures after rectifying the defects show hike in consumption .This is relevant especially in view of the statement of the Appellant himself that the production was in the same rate after the defects-rectification.
8. The consumer has not been penalized in any way. The actual current charges due from him has only been demanded. Even though the consumer had enjoyed the benefit of under-recording from 8.1.2001 to 4.9.2007 the short assessment bill had been issued for a period of two years only.
9. The consumer had utilized unauthorized additional load to the extent of 36KW with effect from August 2004.

Discussion and Findings:

- A. The details provided in the scene mahazar prepared on 4.9.2007 have not been disputed by the Appellant. He had signed as a witness in the same. Hence the technical details provided in the scene mahazar and the quantum of under-recording discovered and recorded during the inspection can be relied upon without dispute. The Appellant has argued that the correctness of the meter had to be decided by Electrical Inspector. But the Respondent had not anywhere claimed that the meter was not working properly. The issue of correctness of the meter is technically as well as logically different from the improper recording of the meter *due to errors in connections given to the meter*. The statutes provide for remedies where any difference or dispute arises as to the correctness of the meter. Error in connection is something to be found out by actual inspection at site. The basic principles of Electrical Technology states that when the voltages supplied to two terminals of the 3 phase 4 wire meter is interchanged the net energy recorded in the meter shall normally be 66.67% of the actuals. The attempt of the Appellant to mix up the two scenarios does not seem to be proper. Hence I am not inclined to approve the contention raised on the matter by the Appellant.
- B. The Appellant had produced a statement showing the production figures in the factory for the period from April 2006 to September 2009 along with Electricity Bill amounts for the months concerned for comparative analysis. But I feel that the bill amounts may not reflect the actual consumption of electricity for the concerned month as there is a time lag between the actual consumption and raising of bills by the KSEB. Hence the comparison may not provide a realistic picture. The Respondent had submitted month-wise readings and consumption of electricity from

01/1999 onwards. The production figures given by the Appellant and the electricity-consumption figures given by the Respondent was compared for the period from April 2006 to September 2009 . The following observations are made:

- The average electricity consumption for 13 months prior to September 2007 was 11429 units per month where as the same for 13 months after September 2007 was 14318 units.
- The electricity consumed per unit of production prior to September 2007 was 5.312 units and the same after September 2007 was 6.288 units
- The average electricity consumption shows an increase of around 25 % and the electricity consumed per unit of production shows an increase of around 18% after the defects in the connections to the meter was rectified (assuming that the figures provided by the Appellant are true).

Hence the fact that there had been under-recording for a long period before September 2007 remains undisputable.

C. Another important question to be decided is the period for which the under-recording has happened. The Appellant has contended that the period shall be much shorter based upon the following points:

- The APTS squad them-selves might have done the wrong wiring by mistake or negligence.
- An APTS squad had inspected the unit at night ,few months before the date of alleged mahazar , crossing across the compound wall but had not made any complaint on wrong connections.
- The APTS inspected the site on 3 occasions during the 1 ½ years prior to 04.09.2007 and one such inspection was done by APTS Trivandrum and there was no complaint on wiring during these inspections.

The signed affidavits and letter produced by the Appellant to establish the above statements are marked by vagueness. Neither the affidavit nor the letter give specific details such as time, date and month of the so-called APTS inspections. No supporting evidence is produced. No convincing explanations were provided. The affidavit given by the employee of the Appellant state that the APTS Officers visited the factory a few months before 9/2007 ‘sometimes in night after jumping over the compound walls’ of the factory! This looks to be an outrageous statement. The Appellant produces these evidences to establish that the factory was inspected ‘a few months’ prior to 9/2007 by APTS and no complaints were reported then.

Against this the Respondent produced copies of signed official reports of the officers in charge of the APTS squads at Kottayam, Thiruvananthapuram and Kollam denying any such inspections prior to 9/2007 in the premises. I am inclined to believe the official reports of the officers of APTS issued with official seal and signature than the vague and unclear statements of the interested individuals on the matter. The Appellant has failed to establish his contention that the premises were inspected by other APTS teams a few months earlier. The allegation that the error would have been done by the APTS squad on 4.9.2007 itself also do not have any valid basis.

D. The Appellant also argues that the staff of the local KSEB were inspecting the working condition of the meter in each phase while recording the monthly

consumption every month and they are duty bound for this as per Section 28 of the Conditions of Supply of Electrical Energy. They had never raised any complaint on the matter. But the Respondent states that the staff of the KSEB who visit the premises to record readings can not normally find out abnormalities like this type of erroneous connections in the meter since the seals are found intact and they are not expected to do inspections by breaking seals. It is true that tracing of wiring of CT secondary cables and the examination of correctness of connections on the meter terminal require breaking of seals and opening of the meter box and meter terminals. These activities are not expected to be done by the staff who are engaged for periodical reading of meters. The contention of the Respondent is true to that extent.

- E. So also on the question of oxidization of the contacts, the Appellant contention that the problem could have started during the current year's monsoon do not seem to be correct. The oxidization of connections resulting in a loss of around 127V (difference between the incoming voltage of 217.2V and the recorded voltage of 90.3V as per the scene mahazar) on the Y phase contact point can not develop in one or two months. The assessment done for 6 months on this count is found reasonable.

As such it is concluded and decided that the defective wiring in secondary side of the CT had been existing for the period between January 2001 to September 2007 and the methodology of computation of losses incurred by the KSEB is found to be correct. The assessment consequent to the oxidization of connecting point of Y phase is also found to be reasonable. It is also noted that the Respondent had demanded the actual energy charges lost by them on this account and that no penalty had been demanded.

As per the Clause 24(5) of the Supply Code regulations the Respondent is empowered to recover the under-charged amounts if they could establish such under recovery. In this case the Respondent has established the under recovery and hence the demand against the short assessment is in order.

Orders:

Under the circum stances explained above and after carefully examining all the evidences, arguments and points furnished by the Appellant and Respondent on the matter, the representation is disposed off with the following orders:

1. *The representation submitted by the Appellant is devoid of merits and hence dismissed*
2. No order on costs.

Dated this the 24th day of July 2009,

P.PARAMESWARAN
Electricity Ombudsman

No P 45/09 / 292 / dated 27.7.2009

- Forwarded to: 1. Sri Ajay Zachariah, Managing Partner
Kuttanadu Coir & Rubber Products
KIDANGARA (Po) Alleppy Dt
2. The Assistant Executive Engineer
Electrical Sub Division MANKOMBU Alleppy Dt

Copy to :

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3. The Chairman , CGRF, KSE Board ,
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