

THE STATE ELECTRICITY OMBUDSMAN
Charangattu Bhavan, Building No.34/895, Mamangalam-Anchumana Road,
Edappally, Kochi-682 024
www.keralaeo.org Ph: 0484 2346488, Mob: 91 9447576208
Email:ombudsman.electricity@gmail.com

APPEAL PETITION No. P/001/2017
(Present: A.S. Dasappan)
Dated: 25th May 2017

Appellant : Sri Asokan Vasu,
M/s Mangalath Hotel & Resorts,
Chadayamangalam,
Kollam.

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd, Ayoor,
Kollam

ORDER

Background of the case:

The appellant is running a hotel in the name and style M/s Mangalath Hotels and Resorts, Chadayamangalam having consumer number 5762 under the jurisdiction of Electrical Section, Chadayamangalam with a connected load of 3830 Watts. On 20-12-2011, the appellant had submitted an application for a load of 68 kW, after remitting the required application fee and Rs. 3,64,314.00 being the estimate charges for installing one 100 kVA transformer after constructing 100 metres of 11 kV line and after complying with all necessary formalities. On completion of the work on 06-11-2012, the respondent conducted a physical verification in the premises which revealed the actual connected load in the premises was 141 kW instead of 74.853 kW as per completion report submitted by the appellant. Hence he was directed to avail HT connection after observing all formalities or to physically dismantle the load beyond LT limit. The appellant was directed to remit Rs. 16,320.00 and Rs. 40,800.00 being the unconnected minimum charges (UCM) vide letters dated 24-05-2013 and 10-10-2013, as he has not regularized the additional load or not availed HT connection as directed. The appellant filed a Writ Petition No.31413/2013 before the Hon'ble High Court of Kerala challenging the demand and recovery and requesting to provide electric connection under LT category. The Hon'ble court issued an interim stay on the UCM demand. Later the appellant had submitted an application dated 20-01-2014 stating the connected load was reduced to below 80kW and for effecting the supply under LT category. Since the respondent did not effect connection, the appellant again approached the Hon'ble High Court. The Hon'ble Court issued interim orders in the writ petition directing the Board to conduct an inspection in the premises and to apprise the facts regarding air conditioners as well as cable connection stated by the appellant. An inspection report was prepared based on the statement, site mahazar and the observations and an order was issued by the

Assistant Executive Engineer, Electrical Sub Division, Ayoor rejecting the request of the consumer.

On 30-01-2016, Kottarakkara Electrical Division Squad inspected the premises of the Consumer No. 5762 and an unauthorised additional load of 75378 Watts was detected and a provisional assessment for Rs.7, 72,007.00 for the entire period i.e. from 12/2013 to 12/2015 was prepared and issued to the appellant. The appellant had filed an objection dated 10.02.2016 against the provisional assessment before the Assessing Officer. Considering the facts raised by the consumer, the Assessing Officer reassessed the Provisional Bill and reduced to Rs. 2,37,120.00 (Rupees Two Lakhs Thirty Seven Thousand one hundred and Twenty) and final bill issued on 29-02-2016. Aggrieved by this the consumer filed another writ petition before the Honourable High Court vide WP(C) No 10261/2016 and the Honourable High Court in its Judgement dated 30-03-2016 ordered that "recovery steps for recovery of amounts confirmed against the petitioner shall be kept in abeyance for a period of two weeks, so as to enable the petitioner to move the Consumer Redressal Forum for appropriate relief."

Accordingly the appellant approached the CGRF (South) vide OP No.124/2016. The CGRF dismissed the petition as it is found no merit in the contentions of the appellant; vide order dated 05-12-2016. Aggrieved by the order passed by the CGRF, the appellant has filed appeal petition before this Authority.

Arguments of the appellant:

The appellant has put forward the following arguments in the appeal petition preferred by him.

According to the appellant, at the time of purchasing the property by him there was an energy connection in the premises having connected load of 3830 Watts. The CGRF has not examined the facts, the legal grounds raised and have not considered the documents produced by the appellant. During the period from 20-12-2011 to 05-09-2016, the hotel was functioning within the connected load of 3830 Watts. This can be proved by examining the consumption pattern of the consumer during this period. By consuming 3830 Watts for one hour there will be a consumption of 3.83 units and thereby the consumption for 24 hours comes to 91.92 units. The maximum consumption for 60 days for 3830 Watts is 5512.2 units. As per the KSEB records, the consumption of the appellant for 12/2013 was shown 5083 units. The appellant can consume 5515.2 units with the connected load of 3830 Watts. This shows that the appellant has never connected the additional load as alleged by the respondent. The appellant has lower consumption during the period from 02/14 to 12/15. The fixed charge for 3830 Watts has been remitted regularly. The KSEB has not provided supply of load requested as per the application dated 20-12-2011 for the period from 07-04-2012 to 05-09-2016. During all these period the functioning of the firm was with the connected load of 3830 Watts. The firm has availed a loan of 2 crores from SBT, Varkala. According to the appellant, the inordinate delay caused to provide load requested for under LT tariff had resulted adverse in functioning of the hotel, which consequently resulted in default in payment of bank loan and subsequently sustained heavy loss.

The appellant's contention is that the respondent delayed to effect the load for 4 years. The load was given only on 05-09-2016, after a period of 4 years, though he remitted the cost of transformer and other expenses.

Arguments of the respondent:

1. M/s Mangalath Hotels and Resorts, Chadayamangalam is a Low Tension (LT) consumer under Electrical Section Chadayamangalam vide Consumer number 5762 (Initially the registered owner was Smt. Shyla Fazaludeen, Nita Cottage, Chadayamangalam with a connected load of 3830 Watts). Sri Asokan Vasu, proprietor, M/s Mangalath Hotels and Resorts applied for a load of 68 kW on 20-12-2011 and remitted Rs 3,64,314.00 on 07-04-2012, as per the demand based on regulation 5(5) of KSEB Terms and conditions of supply 2005, being the estimate charges for installing one 100 KVA Transformer after constructing 100 metres of 11 kV line. The work was completed on 06-11-2012 and intimations were issued to the consumer to avail the requested power after observing all formalities.

2. On 18-08-2013 the appellant had submitted an application with a completion report for 74.853 kW and based on this, while conducting a physical verification it was found that the actual connected load in the premises was 141 kW instead of 74.853 kW. Even after avoiding the fire fighting system load of 25.7 kW, load exceeds 100 kVA. Hence he was directed to avail HT connection after observing all formalities or to physically dismantle the load beyond LT limit. But neither he regularized the additional load nor availed the HT connection, hence he was directed to remit Rs. 16,320.00 and Rs. 40,800.00 being the Unconnected Minimum Charges (UCM) vide letters dated 24-05-2013 and 10-10-2013.

3 Challenging the above, he filed a Writ Petition (WP(c) No.31413/2013) before the Hon'ble High Court of Kerala with a prayer for providing electric connection as LT and to stay the demand and recovery. The Hon'ble Court vide its interim order) dated 18-12-2013 ordered an interim stay on the UCM demand.

4 Meanwhile the appellant vide his letter dated 20-01-2014 had submitted an application before the Assistant Engineer, Electrical Section, Chadayamangalam stating that the connected load was reduced to below 80 kW by reducing 36.88 kW from the earlier connected load and then the supply could be given in LT category. Since there was no physical removal of excess load, the matter was intimated vide letter dated 24-01-2014 to the appellant that his request to provide electric connection under LT category can be entertained only after physical dismantling and removing of all loads above 80 kW. Dissatisfied by this, the appellant had approached the Hon'ble High court of Kerala, seeking relief.

5 The Honourable High Court of Kerala vide interim-order dated 06-02-2014 ordered to "conduct an inspection in the petitioners premises to verify whether what he has stated regarding Air Conditioners as well as cable connection, are correct and to pass necessary orders with in a period of two weeks".

6 Based on the direction of the Hon'ble High Court, after several attempts for a joint inspection with the appellant's convenience was not succeeded, an intimation was given vide letter dated 10-07-2014 to the appellant and an

inspection was carried out by The Assistant Executive Engineer, Electrical Sub Division Ayoor along with the Assistant Engineers of Electrical Section Chadayamangalam and Electrical Section Ayoor on 30-07-2015, a site mahazar was prepared and the statement of the appellant also was taken .

7. Based on the inspection, the following observations were made..
- i. In the top floor of the building, an auditorium is functioning whose air conditioners (3X10.5 kW) only were energized by a standby Generator supply.
 - ii. The lights, fans and lifts in the auditorium were energized by Kerala State Electricity Board supply and the same generator is functioning as standby for the above load. In short different sources of supply in the same floor of a building under normal operating conditions, with one source feeding some portion and the rest portion with other source.
 - iii. The sub distribution board SB1 had a load of 48.39 kW and this load can be energized either by KSEB supply or by standby generator. The normal feeding is from KSEB supply.
 - iv. The sub distribution board SB2 has a load of 29.4 kW and this load is energized only by KSEB supply and there is no standby facility.
 - v. The sub distribution board SB3 has a load of 31.5 kW and this load is energized only by standby generator. Moreover SB3 has 6 outputs and the output No 4 is feeding SB1 panel with change over facility. In a situation when there is a failure of KSEB supply the appellant can avail his entire load on SB 1 panel through generator supply with the help of the change over supply from SB3 panel.
 - vi. The consumer had obtained scheme approval for availing generator supply for the load of air conditioners (31.5 kW) in the auditorium.
 - vii. Nothing is mentioned in Kerala Electricity Supply Code 2014 regarding different sources of supply in same floor of a building under normal operating conditions with one source feeding one portion and the rest portion with other source.
 - viii. Safety is at concern since there are two different sources in the auditorium at the same time with one source feeding one portion and the rest portion with other source. An auditorium is a place where people from different walk of life gather for a function and any mal operation result in heavy loss to life and property.
 - ix. The scheme approval of Electrical Inspector limits only to the request of the applicant and is not in any way connected with the formalities and responsibilities of the licensee. All the equipments are within the premises of the consumer and are under his custody and he can in any way change the operation of equipments. Here in this case he can alter the functioning of the change over facility at any time and thus feed power to the portion

which is not included as per the service connection agreement easily. It is not at all practical to inspect each time whether the consumer is availing KSEB supply for the air conditioners.

8 Based on the inspection report, an order was issued by the Assistant Executive Engineer, Electrical Sub Division, Ayoor as directed by Hon'ble High court and is as follows

"As per the existing rules, safety aspects and in the broad interest of KSEB Limited, I am not in a position to allow the request of the consumer to allow a part of his connected load to be energized only with the supply from standby Generator even though he can avail KSEB Ltd supply" The WP(C) No. 31413/2013 is still pending before the Hon'ble High Court of Kerala.

9. In the meantime, on 30-01-2016 Kottarakkara Electrical Division Squad inspected the premises of the Consumer No. 5762 and an unauthorised additional load of 75378 Watts was detected. (Except the load of 3 numbers of Air conditioners)

Registered Load	3830 Watts
Total Load detected	79208 Watts
Unauthorised Additional Load	75378 Watts

10. On verifying the records and the consumption pattern from 5-12-2013, it is revealed that the Unauthorised Additional Load was being used through this connection. Also the consumer vide his application dated 18-8-2013 clearly stated that his connected load is 74853 Watts. Based on the consumption pattern and the application of the consumer the Assessing Officer reached the conclusion that the appellant had indulged in unauthorised use of electricity. Hence a provisional assessment for Rs.7, 72,007/- was made for the entire period i.e. from 12/2013 to 12/2015 and informed the consumer with detailed calculation sheet.

11. On receiving the provisional assessment, the appellant had filed a complaint on 10.02.2016 before the Assessing Officer. Considering the facts raised by the consumer, the Assessing Officer reassessed the Provisional Bill to Rs. 2,37,120/- (Rupees Two Lakhs Thirty Seven Thousand one hundred and Twenty). Final order was issued on 29-02-2016 for an amount of Rs. 2,37,120/- taking into consideration the following facts.

The consumer remitted the fixed charge for 4 kW only during the period from 12/2013 to 12/2015. In his application for new service connection dated 18-8-2013 he has clearly mentioned that his connected load is 80 kW.

From 12/2013 to 12/2015		
Total load as per his application dated 18-8-2013	=	80 kW
Presently billing	=	4 kW
Amount to pay	=	Rs 120 X 2(80-4) X 13
	=	Rs 18240 X 13
	=	Rs 2,37,120.00

(Normal Fixed Charge for 76 kW from 12/2013 to 12/2015)

12. The dispute regarding the connected load for energisation of transformer and the connected load at his premises inspected by the Division squad is entirely different. The appellant had connected a load 79208 W and remitting only fixed charges for 4 kW. As per Board's existing rule the Fixed charge is calculated based on the Connected Load installed in the premises. Hence the appellant is liable to remit the Fixed Charge for the entire Load at his premises (79208 W). Hence an amount of Rs. 18,240.00 (i.e. Fixed Charge for 76 kW bimonthly) is to be remitted in addition to the fixed charge for 4 kW already claimed in the regular bill from 1/2016 onwards. But the consumers failed to remit the same. Aggrieved by this the consumer filed another writ petition before the Honourable High Court vide WP(C) No 10261/2016 and the Honourable Court in its Judgement dated 30-03-2016 ordered that "recovery steps for recovery of amounts confirmed against the petitioner shall be kept in abeyance for a period of two weeks, so as to enable the petitioner to move the Consumer Redressal Forum for appropriate relief."

13. Based on the appeal petition before the Hon'ble CGRF (South) vide OP No. 124/2016 and the Hon'ble Forum after conducting a hearing directed to take necessary actions for regularising the connected load of the consumer other than the disputed connected load . Accordingly the appellant remitted the application fee on 29-07-2016 and on 17-08-2016 remitted the ECSC amount of Rs. 26,109.00 and requested for time extension for remitting the ACD amount and on 05-09-2016 the connected load of 80 kW was regularised and a new energy meter was installed in the premises. The Hon'ble Forum disposed the petition on 05-12-2016 with the following orders,

- i. The petitioner shall remit the amount of Rs. 2,37,120/- within 15 days from the date of receipt of the order.
- ii. The respondent is directed to allow instalment facility, if he desires. The Hon'ble forum had also decided that the appellant is not liable to pay the Unconnected Minimum Charges. In the hearing of the CGRF itself the appellant consented to remit the amount, as his major grievance was rectified by regularising the connected load. The Hon'ble forum also mentioned the same in its order. Even after the said order the appellant hadn't turn up for remitting the amount or not made any request for instalments for remitting the dues. (Total amount due as on 01/16 comes to Rs 3,94,201/- i.e., inspn bill-Rs 2,37,120/- + bill dated 04/16 – Rs. 36,480/- + bill dated 6/16-Rs. 18,240/- + bill dated 08/16 – Rs. 18,240/- + ACD dated 17/10 – Rs. 40,661/- + Surcharge- Rs 43,460/-) and filed this appeal challenging the order of the Hon'ble CGRF (South). In this appeal the appellant's main argument regarding the connected load and consumption is only for escaping from remitting the actual amount due to the licensee. The licence has demanded only the actual fixed charge that is recoverable by the licence. No penalty was imposed on the appellant.
- iii. The appellant's main grievance was rectified by enhancing the connected load.

- iv. The matter of dispute regarding the connected load of three numbers of 10.5 kW of air conditioning units and the same is subject to the final direction of the Hon'ble High Court in WP(C) 31413/2013.
- v. No penalization was done but demanded only the short assessment of the escaped Fixed Charges, even though the load was found connected unauthorisedly.

In the light of the above facts, the respondent requests to dismiss this appeal as this appeal lack any merit.

Analysis and findings:

The Hearing of the case was conducted on 15-05-2017 in the Court Hall of CGRF (South), Kottarakkara and Sri Asokan Vasu, represented the appellant's side and Sri A.M. Nizar, Assistant Executive Engineer, Electrical Sub Division, Ayoor, represented for the respondent's side. On examining the petition, the counter statement of the respondent, perusing the documents attached and the arguments in the hearing and considering the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions.

The dispute to be settled is whether the appellant had unauthorisedly connected the load of 76 kW in his premises during the period from 12/2013 to 12/2015 and whether the appellant is liable to remit the bill amount of Rs. 2,37,120/- being the short assessment of fixed charge for the above period.

It was contended by the appellant that he had not connected the unauthorized additional load during the period in question and this fact can be proved by verifying the consumption of the appellant. Since the licensee has not provided the load requested as per the application dated 20-12-2011 till 05-09-2016, the functioning of the firm was with the connected load of 3830 Watts.

According to the contentions of the respondent, The appellant's main grievance was rectified by enhancing the connected load and no penalization was done but demanded only the short assessment of the escaped Fixed Charges, even though the load was found connected unauthorisedly. Another contention of the respondent is that the matter of dispute regarding the connected load of three numbers of 10.5 kW of air conditioning units and the same is subject to the final direction of the Hon'ble High Court in WP (C) 31413/2013. There is no need to examine this aspect of connected load by this Authority since the Division squad had admitted 80 kW of load in the premises and the appellant remitted required fees and security deposit and the respondent regularised the load.

The appellant was short assessed for fixed charges for connecting extra load than the sanctioned load. That is to say, consumer had availed 76 kW of unauthorized additional load (UAL), which was detected during the inspection done on 30-01-2016 by the Division Squad. The appellant had already paid the estimated cost Rs. 3,64,314/- (OYEC charges) for availing the additional load on 07-04-2012, for the work of installing one 100 KVA transformer for obtaining

additional load of 68 kW in his premises. On completion of the work, the appellant submitted application dated 18-08-2013 for energisation of 74.853 kW, but on a physical verification by the respondent the connected load was found as 141 kW and thereby the appellant was directed to avail HT connection or to dismantle the excess load above 80 kW. On 20-01-2014, the appellant intimated the respondent that he had dismantled all load above 80 kW. Since the dispute regarding the connected load was not settled, the appellant approached the Hon'ble High Court for orders to effect the load requested for by him. Due to disputes there was a long delay from the respondent to energize the transformer and on 05-09-2016 respondent regularized the load for 80 kW. The date of application for enhanced load was 20-12-2011 and date of remittance of required fees was 07-04-2012.

The Clause 8 (1) to (10) of the Electricity Supply Code, 2005, specifies a time frame for providing supply of electricity. Under sub clause 8 (3) (c), if the work involved the installation of 11/0.4 KV (Sub Station) alone, the Licensee has to complete the works and release connection within 2 months after receipt of required amount from the applicant. In this case at hand, it is stated that the Licensee has failed to release the connection within two months. The relevant clause of the Supply Code 2014, which is applicable with effect from 01-04-2014 read as under:

99. Enhancement of connected load or contract demand.- (1) *Consumer shall apply to the licensee for enhancement of contract demand in case of consumers under demand based tariff and of connected load in the case of others, in the form specified in Annexure - 11 to the Code and the licensee shall process the application form in accordance with the relevant provisions of the Code.*

(2) *For site inspection as well as issuance and payment of demand note for the estimated cost of work if any, both the licensee and the applicant shall follow, mutatis mutandis the procedure and timelines as laid down in regulations 77 to 83 of the Code.*

(3) *The licensee shall give a written intimation along with the demand note to the consumer which shall include the following:-*

- (a) *whether the additional power can be supplied at the existing supply voltage or at a higher voltage;*
- (b) *addition or alteration, if any, required to be made to the distribution system and the expenditure to be borne by the consumer, on that account;*
- (c) *amount of additional security deposit and expenditure for alteration of service line and apparatus, if any, to be deposited in advance by the consumer;*
- (d) *change in classification of the consumer and applicability of tariff, if required; and*
- (e) *any other information relevant to the issue.*

(4) *The application for enhancement of load shall not be considered if the consumer is in arrears of payment of the dues payable to the licensee.*

(5) *If the enhancement of load is feasible, the consumer shall:-*

(a) *pay additional security deposit, expenditure for alteration of service line and apparatus, if any, required to be made, and the cost to be borne by the consumer for modification for distribution system if any, within fifteen days of receipt of the demand note; and*

(b) *execute a supplementary agreement;*

(6) *If the consumer pays the required charges and executes a supplementary agreement, the licensee shall execute the work of modification of the distribution system, service line or meter and other apparatus within the time line specified under regulation 85, mutatis mutandis, and sanction the additional contract demand or connected load.*

(7) *The licensee shall issue order on the application for the enhancement of load within thirty days from the date of its receipt and intimate the applicant whether or not the enhancement of load is sanctioned.*

(8) *If the licensee does not intimate its decision on the application for the enhancement of load within the above period, sanction for enhancement of load or contract demand, as the case may be, shall be deemed to have been granted with effect from the thirty first day of the date of submission of the application by the consumer*

The procedure to be followed in cases of detection of UAL is detailed under clause 51 of KSEB T &C of Supply, 2005, which reads; “Where a LT consumer exceeds the connected load and/or resorts to UAL and if the connected load exceeds 100 KVA the UAL shall be disconnected by the consumer within 24 hours of detection of the unauthorized load by the Board’s officers or take action to regularize the UAL. If he fails to disconnect the UAL within the time stipulated, the power supply to the premise shall be disconnected after the expiry of 24 hrs.....”.

Further, clause 51 (4) says “In case of Low Tension consumers whose connected load does not exceed 100 kVA but who have exceeded the contracted load by 10% by adding UAL, the procedure stated in clause 50 (1) shall be applicable. The UAL should be got regularized by the consumer within a period of 3 months on application to the Assistant Executive Engineer and after payment of additional security deposit and other charges as per rules. The regularization shall be given effect from the date of collection of additional security deposit and other charges, if any, as per rules. The Assistant Executive Engineer shall issue proceedings to this effect. Penal charges as mentioned in clause 50 (1) shall be paid till the date of payment of additional security deposit”. This clause clearly specifies the steps or procedure to be followed after detection of UAL in the premises of the consumer. It is clear that the Licensee can raise the penal bills against the consumer, for the UAL connected, till the time the UAL is removed or regularized. This was the procedure followed till the date of the Kerala Electricity supply Code 2014 came in force i.e., 01-04-2014. It is pertinent to note that the respondent had not taken any action as detailed above though it was found the connected load as 141 kW. But in this case the appellant refuted the allegation of connecting the additional load of 76 kW in his premises during the period 12/2013 to 12/2015. To substantiate his argument, he has produced his consumption details from 12/2013 to 12/2015 as detailed below.

12-13	5083
02-14	2325
04-14	2390
06-14	3427
08-14	2454
10-14	2478
12-14	1976
02-15	2396
04-15	2206
06-15	2690
08-15	2401
10-15	2109
12-15	1712
Total	33647

The relevant clauses of the Supply Code 2014 read as under:

153. Estimation and regularization of unauthorised additional load.- (1) *If it is detected, on inspection, that additional load in excess of the sanctioned load has been connected to the system without due sanction from the licensee, further action shall be taken in accordance with the following sub regulations.*

(2) *The difference between the total connected load in the premises of the consumer at the time of inspection and the sanctioned load of the consumer shall be reckoned as unauthorised additional load.*

(3) *Connected load shall be determined as per the following clauses:-*

(a) *the rated capacities of all energy consuming devices and apparatus which can be simultaneously used, excluding stand-by load if any, in the premises of the consumer and found connected to the system shall be considered for estimating the total load of the consumer;*

(b) *while estimating the total load of a consumer, the loads of the following equipment and apparatus shall not be taken into account:-*

- i. *standby equipment of consumers, when they are operated through a change over switch;*
- ii. *Firefighting equipment;*
- iii. *Uninterrupted power supply equipment (UPS), switch mode power supply system (SMPS), transformer, voltage stabilizer, inverter, rectifier and measuring devices:*

Provided that the rated capacities of the equipment and apparatus connected to the UPS or SMPS or voltage stabilizer or inverter or rectifier shall be considered for computation of the connected load.

(4) (a) *If the additional load in the case of domestic consumers is of and below twenty percent of the sanctioned load it shall not be reckoned as unauthorised additional load.*

(b) *If the additional load in the case of other consumers is of and below ten percent of the sanctioned load, it shall not be reckoned as unauthorised additional load.*

(c) *The licensee may, suo motu or on application from the consumer, regularize such additional load mentioned in clause (a) and clause (b) above.*

(5) *When the load in excess of sanctioned load exceeds the limit as provided in sub regulation (4) above, the entire load in excess of the sanctioned load shall be treated as unauthorised additional load, if express sanction or deemed sanction under clause (c) of sub regulation (4) has not been obtained for it.*

(6) *In the case of consumers billed under demand based tariff, the total load declared in the test cum completion report of the installation of the consumer, submitted at the time of availing connection or the load mentioned in the energisation approval granted by the Electrical Inspector or the load at the time of revising contract demand or revising the connected load may be taken as the sanctioned connected load.*

(7) *If it is found that any additional load has been connected without due authorization from the licensee or in violation of any of the provisions of the Central Electricity Authority (Measures relating to safety and electric supply) Regulations, 2010, as amended from time to time, the licensee shall direct the consumer to disconnect forthwith such additional load and the consumer shall comply with such direction, failing which the supply of electricity to the consumer shall be disconnected by the licensee.*

(8) *If it is found that no additional load has been connected and recorded maximum demand has been exceeded, the demand charges may be collected for the recorded maximum demand at the rates as approved by the Commission and steps may be initiated to enhance the contract demand as specified in regulation 99 of the Code.*

(9) *If it is found that additional load has been connected without any increase in the contract demand, steps may be initiated to regularize the connected load in accordance with the provisions in the agreement within a time frame as stipulated by the licensee.*

(10) *If it is found that additional load has been connected without due authorization from the licensee and contract demand has been exceeded, steps may be initiated to regularize the additional load and to enhance the contract demand in addition to collection of demand charges as per the agreement conditions, for the recorded maximum demand at the rates approved by the Commission:*

Provided that such regularization of additional load and enhancement of contract demand shall be done only after ensuring that wiring has been done in conformity with the provisions of Central Electricity Authority (Measures relating to safety and electric supply) Regulations, 2010 as amended from time to time.

(11) The proceedings specified in sub regulations (9) and (10) above, are applicable in the cases where the regularization of unauthorised connected load or enhancement of contract demand will not necessitate enhancement of voltage level of supply or upgradation of the existing distribution system or both.

(12) In case such regularization of unauthorised connected load or enhancement of contract demand will necessitate upgradation of the existing distribution system or enhancement of voltage level of supply, the licensee shall direct the consumer to disconnect forthwith such additional load and to restrict the contract demand within the agreed limit and the consumer shall comply with such direction, failing which the supply of electricity to the consumer shall be disconnected by the licensee.

(13) The regularization of unauthorised additional load as per the sub regulations (9) and (10) above shall be subject to realization of a fee at the rates notified by the Commission in schedule 1 of the Code.

(14) The provisions relating to unauthorised additional load in sub regulations (1) to (13) above shall not be applicable to any domestic consumer if his total connected load including the additional load detected is of and below 10kW.

(15) Unauthorised additional load in the same premises and under same tariff shall not be reckoned as 'unauthorised use of electricity'.

Though the respondent had given an intimation dated 24-01-2014 that the appellant's request to provide electric connection under LT category can be entertained only after physically dismantling and removing all load above 80 kW, they had not verified the connected load of the appellant and convinced the appellant's connected load in the premises, and they failed to produce any documentary evidence to substantiate their argument. Moreover, the bimonthly consumption of the appellant has never surpassed 5083 units which also corroborates to a lesser connected load. In the absence of documentary evidence to prove that the appellant's connected load as 80 kW it is not fair to charge the appellant for such a long period. The physical verification was conducted by the Division Squad only on 30-01-2016 and detected the connected load as 79208 Watts. Since the appellant intimated the removal of excess load above 80 kW on 24-01-2014, the failure of the respondent to conduct a physical verification in the premises and to provide the load is a serious fault. Since those aspects were not considered by the CGRF while disposing the petition, this Authority is of the opinion that realization of the short assessment from 12/2013 to 12/2015 cannot be justified.

The respondent contended that the appellant was not penalized under Section 126 of Electricity Act, 2003, but only the fixed charge was assessed for 76 kW from 12/2013 to 12/2015. On going through the consumption, it is found that the total consumption during the period was 33647 units and the consumption for 12/2015 was 1712 units. The transformer was installed under OYEC by the appellant. Additional requirement of load had to be regularized by the respondent as per the relevant clauses of Terms & Conditions of Supply, 2005 and Supply Code, 2014 within a specified period. The same load request soon after the installation of transformer was regularized by the respondent on 05-09-2016 (80 kW).

Considering the above facts, it cannot be established that the appellant connected 76 kW and used energy. On the above grounds, this Forum feels that the contention of the appellant is sustainable as discussed earlier. Hence this Authority is of the view that the fixed charges for 76 kW has to be realized from the appellant only from 30-01-2016 to 05-09-2016, if not collected.

Regarding the request of compensation for the delay to provide load, this Authority is not empowered to award compensation in the first instance, it is left open to the appellant to approach the authorities of licensee for compensation as per rules.

Decision

In view of the above discussions, the short assessment bill for an amount of Rs. 2,37,120/- is hereby quashed.

The fixed charges must be realized from the appellant from 30-01-2015 to 05-09-2016 for 80 kW, if not collected earlier.

The order of CGRF No. 124/2016 dated 05-12-2016 is set aside. Having concluded and decided as above, it is ordered accordingly. The Appeal Petition filed by the appellant stands disposed of with the decisions ordered as above. No order on costs.

ELECTRICITY OMBUDSMAN

P/001/2017/ _____ /Dated: _____

Delivered to:

1. Sri Asokan Vasu, M/s Mangalath Hotel & Resorts, Chadayamangalam, Kollam.
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Ayoor, Kollam

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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, Kottarakkara - 691 506.