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APPEAL PETITION No. P/038/2017  
(Present: A.S. Dasappan)  
Dated: 30<sup>th</sup> June 2017

Appellant : The Manager,  
Rubber wood Factory,  
Kodumon Group Estate, Koodal,  
Pathanamthitta.

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

### **ORDER**

#### **Background of the case:**

The appellant is a HT consumer having consumer number 3458 LCN 2/252 under Electrical Section, Kalanjoor. The grievance of the appellant is that the energy bills issued to him during the period from 05/2012 to 11/2012 was highly excess and abnormal. The disputed bills were revised on the basis of the average consumption recorded during the period from 11/2011 to 04/2012 and it was decided to adjust the excess amount collected in the future bills of the consumer. The CGRF, in the petition filed by the appellant in OP No.222/2016, it was held that the case was settled and the petitioner has no grievance at all and accordingly disposed of the petition. The appellant has filed this appeal petition with a request to sanction interest on the excess amount collected by the respondent.

#### **Arguments of the appellant:**

Kodumon Group of Estate is the prime unit of the Plantation Corporation of Kerala Ltd., which is a fully owned Government Company. The Rubberwood Factory is functioning in the said estate which is a consumer having HT connection with consumer No.1346120003458 LCN2/252. The meter installed in the factory was found faulty from May 2012 to November 2012 as a result of which huge amount was to be paid as energy charges. On the request made,

the Assistant Engineer checked the meter and found that it is faulty and the meter was replaced. Consequently, the consumption was reduced and the energy came down to the normal rate. Even though, request was made for refund of the said amount, it was not replied.

Hence, a complaint was filed before the Forum as O.P.No.222/16 for appropriate orders for the refund of the amount collected excessively or to adjust the amount in the forthcoming bills. Later, by way of a separate submission, it was also requested to direct payment of the interest on the amount which was so collected.

1. On 29.12.16, the Consumer Grievance Redressal Forum, has passed an order by settling the case and closing the petition on the basis of the stand taken by the respondent that excess amount collected will be adjusted in the forth coming bills of the consumer. But there is no finding on the request of the consumer for payment of interest.
2. From the order impugned, it is clear that the Consumer Grievance Redressal Forum has not entered into a finding on the request made for interest on the amount collected excessively. The respondent has admitted that the amount will be adjusted in the forthcoming bills. The total amount due is Rs.4,30,805/-. Naturally, the complainant is entitled to get interest on the amount so collected since the Board is illegally enriched by the same.

Hence it is prayed the Hon'ble Ombudsman may be pleased to direct payment of interest to the complaint on Rs.4,30,805/- at the same rate as charged by the Board from the defaulting consumers.

**Arguments of the respondent:**

- (1) The Honourable CGRF, Kottarakkara vide its order dated 29-12-2016 in OP No.222/2016 had closed and dismissed the petition on the finding that the respondent had stated that the claim by the petitioner in the OP regarding the excess amount collected during the meter faulty period due to fault of recording in excess, would be adjusted in the succeeding bills of the consumer. The appellant has averred in the appeal that his claim for interest made latter before the CGRF in a separate submission had not been considered.
- (2) Regarding relief sought by the appellant in this appeal as per regulation 115 (9) of the Electricity Supply Code 2014." In case the meter is found to be faulty revision of bill on the basis of the test report shall be done for a maximum period of six months or from the date of last testing, whichever is shorter and the excess or deficit charges on account of such revision shall be adjusted in the two subsequent bills". The regulation relates to procedure for testing of meter. In this case when the meter of the

appellant consumer was found faulty it was tested and declared faulty. On seeing the drastic fall in consumption after the replacement of the faulty meter previous average consumption was taken and accordingly excess consumption recorded in the faulty meter was revised and excess payment made by the consumer on account of such excess recording in the faulty meter was admitted by the respondent. It has been intimated to the appellant that the respondent would adjust the payment found in excess in subsequent current charge bills.

It is submitted that it was not at the fault of the defendant the excess consumption had been recorded in the meter and bill and these defendants cannot be held liable for it. Regulation 115 (9) does not provide for payment of interest on such excess payments but for refund of the actual amount paid in excess. Therefore the Honourable CGRF decided the case correctly. The allegation by the appellant that the CGRF had not considered appellant's subsequent petition for interest is not correct.

In the light of the above it is humbly prayed that the honourable forum may be pleased to dismiss this appeal, confirming the order of the CGRF.

### **Analysis and findings**

The hearing of the case was conducted on 20-06-2017 in the Court Hall of CGRF, Kottarakkara and Sri. Rajesh N, advocate represented for the appellant's side and Smt. Joy T, Assistant Executive Engineer of Electrical Sub Division, Ezhamkulam and Sri. K. Sukumaran, Accounts Officer, O/O the Special Officer (Revenue), KSEBL, appeared for the respondent's side. On examining the petition and the arguments filed by the appellant, the statement of facts of the respondent, perusing the documents attached and considering all the facts and circumstances of the case, this Authority comes to the following conclusions leading to the decision.

*As per regulation 21(2) of the KSERC (CGRF & Electricity Ombudsman) Regulations, 2005, an application for appeal shall be filed within a period of thirty days from the date of receipt of the order.* In this case the appeal petition against the order dated 29-12-2016 in OP No. 222/2016 of CGRF, Kottarakkara was received only on 28-03-2017. The appellant has submitted an application to condone the delay. Hence the appeal is admitted on satisfying the cause for not filing it within the said period.

On going through the records, it is found that the regular bills issued to the appellant during the disputed period of meter faultiness from 05/2012 to 11/2012 was revised on the basis of average consumption recorded during the period from 11/2011 to 04/2012 and the excess amount, without interest, was credited in consumer's account and was adjusted in his future electricity bills. On the petition filed by the appellant, the CGRF has found that the case was settled and the petitioner has no grievance at all and a further intervention of

the Forum is not necessary and hence decided to close the petition. The appellant, still not satisfied with the order of CGRF has claimed interest for the excess amount of from 05/2012 to 11/2012, in his appeal petition.

The dispute pertains with regard to the entitlement of interest for the excess sum remitted by the appellant and retained by the KSEB till its adjustment. The contention of the appellant is that the Consumer Grievance Redressal Forum has not entered into a finding on the request made for interest on the amount collected excessively and the appellant is entitled to get interest on the amount so collected since the Board is illegally enriched by the same.

The respondent's contention is that Regulation 115 (9) of Supply Code, 2014 does not provide for payment of interest on such excess payments but for refund of the actual amount paid in excess. The instant case relates for the period from 05/2012 to 11/2012 and at that time Supply Code, 2014 was not in force. The existing regulations under Supply Code, 2005 was applicable in the relevant case. As per Regulation 24 (6) of Supply Code, 2005, "If it is established that after payment of the bill, the Licensee has overcharged the consumer, the excess amount shall be repaid within two months with interest at twice the bank rate." Regulation 37(2) of the Terms and Conditions of Supply necessitates that, if after the review of the bill, the consumer is overcharged, the excess amount paid by the consumer shall be refunded to him with interest. It is undisputed that the bill claimed by KSEB was an overcharged bill and that is why the party was forced to pay excess amount. When over charged amount is refunded, the consumer is surely eligible for interest. Regulation 134 (3) of Supply Code, 2014 also allows interest for overcharged amounts.

*"134. Under charged bills and over charged bills.- (1) If the licensee establishes either by review or otherwise, that it has undercharged the consumer, the licensee may recover the amount so undercharged from the consumer by issuing a bill and in such cases at least thirty days shall be given to the consumer for making payment of the bill.*

*(2) If, after payment of any bill, it is established that the licensee has overcharged the consumer, the excess amount shall be refunded to the consumer with interest at bank rate as on the date of remittance of such excess amount.*

*(3) The licensee may refund such overcharged amount along with interest at bank rate as on the date of remittance of such overcharged amount, by way of adjustment in the three subsequent bills and if the adjustment is not possible in the next three bills, the licensee shall refund the balance amount in full by cheque.*

Considering this fact, I also view that the appellant's claim for interest needs to be considered as he has remitted excess amount. Therefore, as far as the question of the maintainability of the case is concerned, there is no merit in

the averment of the respondent. Though the appellant had submitted a representation dated 21-12-2016 requesting interest from 2012 for the amount of Rs. 4,30,805/-, the same has not been considered by the CGRF in the order dated 29-12-2016. The appellant is eligible to get interest for the excess amount paid, from the date of remittance in excess, to the day of adjustment in his electricity bill.

### **Decision**

From the analysis done and the conclusions arrived at, which are detailed above, I take the following decisions.

1. The request of the appellant for the interest on the amount of Rs. 4,30,805/- from 05/2012 to 11/2012 is allowed.
2. The respondent shall pay the interest at bank rate for Rs. 4,30,805/- from 11/2012 till the date of adjustment started and thereafter for the balance amount after adjusting the regular bills till the adjustment is over.

Having concluded and decided as above, it is ordered accordingly. The order of CGRF in OP No. 222/2016 dated 29-12-2016 is modified to this extent. No order on costs.

**ELECTRICITY OMBUDSMAN**

P/038/2017/\_\_\_\_\_ /Dated:\_\_\_\_\_

Delivered to:

1. The Manager, Rubber wood factory, Kodumon Group Estate, Koodal, Pathanamthitta.
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd., Ezhamkulam, Pathanamthitta.

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, Kottarakkara - 691 506.