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APPEAL PETITION No. P/037/2017  
(Present: A.S. Dasappan)  
Dated: 20<sup>th</sup> July 2017

Appellant : Sri. Aliyar K.P.,  
Kokkadan Plywoods,  
Pettmala,  
Aimury, Perumbavoor,  
Ernakulam

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division,  
KSE Board Ltd.,  
Kuruppampady,  
Ernakulam.

### **ORDER**

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

The appellant is running a plywood manufacturing unit named Kokkadan Plywoods, at Aimury, under the jurisdiction of Electrical Section, Kuruppampady having consumer number 15020, the tariff assigned is LT IV A and the sanctioned load is 81845 watts. While so on 04-10-2016, the APTS of KSEB conducted an inspection in the premises and found that the energy used in one phase (out of 3 phases) was not recording in the TOD meter from June 2016 onwards. Accordingly, the party was served with a provisional short assessment bill, assessing for the period of 06/2016 to 09/2016, when the meter was found recording less than the actual, so as to recover the unrecorded portion of energy, for Rs. 1,44,510/-. The consumer lodged complaint before the Assessing Officer, the Asst. Engineer, against the said assessment on 14-10-2016 and it was finalized to Rs.130802/- on 20-10-2016, after conducting a hearing by the Assistant Engineer on 17-10-2016. Being not satisfied with the decision of the AE, the consumer approached the CGRF, Ernakulam, with Petition No. 101/2016-17 and the Forum directed the

respondent to revise the period from 26-08-2016 to 04-10-2016 and to issue revised bill accordingly vide its order dated 15-02-2017. Aggrieved by the decision, the appellant has submitted the Appeal petition before this Forum.

**Arguments of the appellant:-**

Appellant was conducting a plywood manufacturing unit named Kokkadan Plywoods at Aimury, Pettamala under the jurisdiction of Electrical Section, Kuruppampady. The consumer number of the petitioner is No. 15020 under LT4A tariff. The sanctioned load was only 81845 watts. On 04-10-2016 APTS, Ernakulam conducted an inspection. During the inspection it was found that B phase voltage and current not recording in the ToD meter from June 2016 onwards. The site mahazar prepared and served with a short assessment bill of Rs. 1,44,510/-.

The allegation is that on detailed examination it was found that the voltage in B-phase on the display on the electric meter was not properly shown. The current on the B phase is also not being recorded. And another contention that on detailed examination it was seen that the maximum consumption from June 2016 was reciprocatively low. These are the notings in the site mahazar. The site mahazar states that the safety seals of the Meter box and the meter were seen to be in proper condition. Appellant filed a petition before the respondent. As per the direction Petitioner filed objection on 14-10-2016 and the hearing was conducted on 17-10-2016. Respondent passed an order dated 20-10-2016 and revised the bill Rs. 1,30,802/- and also directed the petitioner to pay the bill within one month from the date of order. Aggrieved by the order dated 20-10-2016 appellant approached the Consumer Grievance Redressal Forum. In between the respondent changed the meter. And after that they stated that CT was complaint. As per their direction CT was also changed. Even after the replacement, there was no change in the bill amount issued. And the Hon'ble CGRF passed an order dated 15-02-2017 to pay the bill between 26-08-2016 to 04-10-2016. Aggrieved by the order dated 15-02.2017 this appeal is filed.

Reliefs sought for:

- a) Quash the order of the Consumer Grievance Redressal Forum No. CGRF-CR/Comp.101/2016-17/584 dated 15-02-2017.
- b) Quash the order of the -Assistant Engineer dated the order NO.DB37/16-17/AE-KRPDY/179 dated 20-10-2016 and the letter issued by the Assistant Engineer on 24-01-2017 including penal interest.
- c) Direct the authorities to repay additional amounts paid by the complainant or adjust it towards future payments.

- d) Issue an interim order of stay directing the Assistant Engineer not to collect excess amount, but assess only on the basis of actual meter reading, conducted through the new meter.
- e) Grant such other relief, which are just and equitable and nature of the case require.

**Arguments of the respondent:-**

1. This complaint is against the short assessment bill issued to Sri. Aliyar K.P., (Con. no. 15020) under Electrical Section, Kuruppampady), Kokkadan Plywoods, Pettamala, Aimury

2. On 04-10-2016, an inspection has been conducted by APTS, Ernakulam along with section officials in the premises of the Petitioner. During the inspection the energy meter of the consumer was found reading only R & Y phases current and voltage, and that of the B phase was zero. The meter data has been downloaded using the software and it was found that the event of non-recording of B phase current and voltage had started from June, 2016 onwards. From this it is clear that the energy meter was recording only 2/3 of the original consumption.

3. The meter data downloaded and provided by APTS, KSEB, Ernakulam - Load Survey for the period from 26-08-2016 to 04-10-2016 is attached as Annexure-1. The meter data for the previous months starting from the month of June, 2016 was not available in the meter history.

4. The KSB34357 - Readings attached as Annexure-2 shows the Maximum Demand that has occurred during each month. From this data, it is found that the maximum demand that has occurred in June is Abs Active- 1.93 kW and Abs Apparent-2.2 kVA. Comparing the readings in May.2016 which are 2.67 and 3.57 respectively, it is clear that the meter has read almost 2/3 of the previous month's reading in June, 2016. Since the maximum value that has occurred in June is 1.93 kW it is understood that the non reading of B phase has started before June, 2016 itself.

5. The meter was changed and the connections were renewed on 2/11/2016 only after taking the reading for the month of October. Hence only 2/3<sup>rd</sup> of the consumption has been recorded during the month of October, 2016 also. The replaced meter is under the custody of Electrical Section Kuruppampady. Hence, the short assessment bills given by KSE Board Ltd. for the months from June to October, 2016 considering the entire month are correct and justified. The consumer has been issued the short assessment bill under normal rate for the period June, 2016 to October, 2016 for a total amount of Rs. 1,30,802/- without any penalisation as per the Regulation

134(1) & 152 of the Electricity Supply Code 2014 which allows the licensee to realise the amount short assessed due to damaged or defective metering.

6. After replacing the meter which was suspected faulty and renewing the connections at CT terminals on 02-11-2016, the meter was found recording events in all the three phases. The APTS has inspected the consumer premises once again on 06-01-2017. During the inspection, the CT was found broken. From the downloaded data it was found that the non-recording of B phase current started again from 18-11-2016 onwards. (Tamper data report attached as Annexure-3). From the above, it is clear that the meter has correctly recorded all the three phases only for 17 days from 02-11-2016 to 18-11-2016.

7. The CT has been replaced on 01-02-2017.

The detailed calculation of the short assessment bills which is under dispute is given below

Sl. No.	Month of 2016	CC amount billed	Proportionate amount = CC x 1.5	Duty @ 10%	Total	CC Paid	Duty paid	pf penalty	Balance to be paid = Total - CC paid - Duty paid
1	June	68536	102804	10280.4	113084.4	68536	6853.6		37695
2	July	52806	79209	7920.9	87129.9	52806	5280.6		29043
3	August	64870	97305	9730.5	107035.5	64870	6487		35679
4	September	51610	77415	7741.5	85156.5	51610	5161		28386
									130802
5	October	66872	100308	10030.8	110338.8	66872	6687.2	3039.45	39819

8. Regulation 125 & 152 of the Electricity Supply Code 2014 allows the licensee to realise the amount short assessed due to damaged or defective metering. Accordingly the consumer has been issued with the short assessment bill under normal rate for the period June, 2016 to September, 2016. No penalisation was done in this billing.

9. The bill dated 05-11-2016 for an amount of Rs. 1,27,939 towards the month of October 2016 is including the balance amount Rs. 39,819/- under normal rate without penalisation that is to be paid based on the short assessed amount.

**Analysis and Findings: -**

The hearing of the case was conducted on 23-06-2017, in my Chamber at Edappally, Kochi, and the appellant was represented by Smt. K.N. Rajani, advocate, and the respondent by the Assistant Executive Engineer of the Kuruppampady Sub Division, Smt. Kavitha C.K. and they have argued the case, mainly on the lines stated above.

On examining the Petition and argument notes filed by the appellant, the statement of facts of the Respondent, perusing all the documents and considering all the facts and circumstances of the case, this Authority comes to the following conclusions and findings leading to the final decisions thereof.

The issue arising for consideration in this appeal is whether the appellant is liable for the payment of short assessment amounts for Rs. 1,30,802/- for the period from 26-08-2016 to 04-10-2016, Rs. 39,819/- for the period from 04-10-2016 to 02-11-2016, Rs. 49,547/- for the period from 18-11-2016 to 06-01-2017, and Rs. 28,886/- from 06-01-2017 to 31-01-2017 issued by the respondent.

The APTS team, Ernakulam conducted an inspection in the premises of the appellant on 04-10-2016. It is reported that the event of non-recording of B phase current and voltage had started from June 2016 onwards. A provisional short assessment for Rs. 1,44,510/- was issued to the appellant for the period from 06/2016 to 09/2016. On filing an objection by the appellant, short assessment bill was finalized to Rs. 1,30,802/-, on 20-10-2016. The respondent had issued another bill dated 05-11-2016 for an amount of Rs. 1,27,939/- towards the month of October 2016 including the balance amount of Rs. 39,819/- being the proportionate amount calculated for the missing of 1/3 energy for 10/2016. The CGRF has observed that the meter data downloaded contains the data only for the period from 26-08-2016 to 04-10-2016. In view of the above findings, the Forum had decided that the short assessment shall be revised for the period from 26-08-2016 to 04-10-2016.

After replacing the meter which was suspected faulty and renewing the connections at CT terminals on 02-11-2016, the meter was found recording events in all three phases. On 06-01-2017, the APTS inspected the premises again and it was found from the downloaded data that the non-recording of B phase current from 18-11-2016 onwards. The respondent issued a short assessment bill for Rs. 69,341/- dated 07-01-2017 for the months of 12/2016 and 01/2017. Again this bill was revised on detecting clerical errors and another bill dated 16-01-2017 for Rs. 49,547/- issued up to the period of 6/1/2017. Thereafter on 23-02-2017, the respondent issued another short assessment bill for Rs. 28,886/- to the appellant for the period up to 31-01-

2017. Aggrieved by this, the appellant has also submitted an interim petition dated 31-05-2017 before this Authority.

The respondent has not produced any test report in connection with the testing of disputed meter at the laboratories accredited by the NABL. Hence revision of the bill on the basis of the test report is not possible in this case. Here in this case, the respondent confirmed the non recording of one phase on the basis of the inspection conducted in the premises and load survey/tamper report down loaded.

Regulation 115(9) of Supply Code reads as *“In case the meter is found to be faulty, revision of bill on the basis of 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”*.

Regulation 152 of the Supply Code, 2014 deals with *Anomalies attributable to the licensee which are detected at the premises of the consumer*.

*(1) 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 inaccuracies in metering shall not attract provisions of Section 126 of the Act or Section 135 of the Act.*

*(2) In such cases the amount of electricity charges short collected by the licensee if any shall only be realized from the consumer under normal tariff applicable to the period during which such anomalies persisted.*

Upon a plain reading, the mark differences in the contents of Regulation 115 and 152 of the Supply Code, 2014 are obvious. They are distinct and different provisions which operate in different fields and have no common premise in law. Regulation 152 gives liberty to the licensee to realize the amount of electricity charges short collected by the licensee from the consumer under normal tariff applicable to the period during such anomalies persisted.

The respondent argues that non recording of one phase of the appellant’s metering equipment in the appellant’s premises was detected by the licensee during the inspection conducted on 04-10-2016 and the tamper report also justifies these facts. In view of the above facts it is clear that the energy meter installed in the appellant’s premises was only recording in two phases of actual consumption.

*As per Regulation 134 (1) if the licensee establishes either by review or otherwise, that it has undercharged the consumer, licensee may recover the*

*amount so undercharged from the consumer by issuing a bill and in such cases at least 30 days shall be given to the consumer for making payment of the bill.*

Regulation 125 of Supply Code, 2014 stipulates the procedure for billing in the case of defective or damaged meter. *In the case of defective or damaged meter, the consumer shall be billed on the basis of average consumption of the past 3 billing cycles immediately preceding the date of meter being found or reported defective.*

*Provided that the average shall be computed from the 3 billing cycles after the meter is replaced if required details pertaining to previous billing cycles are not available.*

*Provided further that any evidence given by consumer about conditions of working and occupancy of the concerned premises during the said period, which might have had a bearing on energy consumption, shall also be considered by the licensee for computing the average.*

*(2) Charges based on the average consumption as computed above shall be levied only for a maximum period of two billing cycles during which time the licensee shall replace the defective or damaged meter with a correct meter.*

*(3) In case, the maximum demand indicator (MDI) of the meter at the installation of the consumer is found to be faulty or not recording at all, the demand charges shall be calculated based on maximum demand during corresponding months or billing cycle of the previous year, when the meter was functional and recording correctly.*

*(4) In case, the recorded maximum demand (MD) of corresponding month or billing cycle of past year is also not available, the average maximum demand as available for lesser period shall be considered:*

*Provided that the above sub regulations shall not be applicable in the case of a tampered meter for which appropriate action under the provisions of the Act shall be initiated by the licensee.*

According to Clause 18(2) of Central Electricity Authority (Installation and Operation of Meters), Regulations, 2006, the testing of consumer meters shall be done at site at least once in five years. The licensee may instead of testing the meter at site can remove the meter and replace the same by a meter duly tested in an accredited test laboratory. In addition, meters installed in the circuit shall be tested if study of consumption pattern changes drastically from the similar months or season of previous years or if there is consumers complaint pertaining to a meter. The standard reference meter of better accuracy class than the meter under test shall be used for site testing of the consumer meters up to 650 Volts. In the instant case, the respondent has not

followed the procedures prescribed above before charging the appellant as meter faulty. Further, there is no mechanism for the appellant to know whether the meter is working properly or not.

On going through the facts and records this Authority finds that the following observations made by the CGRF are not sustainable. According to CGRF, "It may be noted that, in a 3 phase connection, using 3 wattmeter method for the measurement of power, if one voltage is missed, it is by theory; the meter will record only consumption in 2 phases i.e., it record only 2/3<sup>rd</sup> of the actual consumption. There were no complaints by the petitioner for any phase voltage missing continuously, is reported. Hence there was one phase missing in the measurement system only. The fact is that, the petitioner has consumed energy from all the 3 phases, but the energy meter recorded the energy from 2 phases only i.e., there is a shortage of 1/3 of actual energy consumption recorded by the meter. Hence 1.5 times the recorded consumption is established beyond doubt." It is true that certain inaccuracies were existed in Meter/CT as stated by the respondent and as seen in the Load Survey/Tamper reports. But these inaccuracies are not in continuous nature. For example, while going through the 'Load Survey report' from 26-08-2016 to 04-10-2016, the suspected phase shows a voltage variation from 14.4 volts to 216 volts. Voltage at other two phases is more or less same. Similarly in the tamper report from 25-11-2016 to 05-01-2017, no continuous opening of suspected CT is seen.

Though the APTS inspected the premises of the appellant on 04-10-2016 and on 06-01-2017, detected meter faultiness and CT fault, the disputed meter was not tested at the laboratories accredited by the NABL or by installing a parallel meter. Here in this case, the respondent declared the meter as faulty that too even without conducting any testing and replaced the same on 02-11-2016. As per Regulation 109(20) of Supply Code, it shall be the responsibility of the licensee to maintain the meter and keep it in good working conditions at all times. Hence the respondent is duty bound to inspect the meter display of the consumer and make sure that no anomaly exists in the meter. But the period of data downloaded pertains only for the period from 26-8-2016 to 04-10-2016. Similarly in the inspection conducted on 06-01-2017 downloaded the data for the period up to 05-01-2017. Hence it cannot be proved conclusively that 1/3 of the energy missing in the B phase, as alleged by the respondent. The downloaded reports were not getting convinced by the appellant. Further, in the tamper load/load survey report, it cannot be evaluated that 50% of the recorded consumption was lost due to fault of meter or CT. There is no allegation of any willful misuse by the appellant.

At the same time, this Authority feels that the inaccuracy period of meter and CT as stated by the respondent on the strength of inspection by the APTS and of Load Survey/Tamper report can be accepted, but the method of assessment without complying with the provision stipulated in Regulation 125



(1) of Supply Code, 2014 is not admissible and hence rejected. Considering the above facts, I decide that the short assessment bills issued to the appellant are to be revised by taking the average computed from the 3 billing cycles after the meter is replaced on 01-02-2017.

### **Decision**

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

1. The order dated 15-02-2017 issued by the CGRF, Central Region, in Petition No. 101/2016-17 is set aside.
2. The respondent is directed to revise the short assessment bills issued for the meter faulty period from 26-08-2016 to 04-10-2016 and for the CT faulty period from 18-11-2016 to 01-02-2017 based on the average consumption of the three billing cycles after the meter replacement on 01-02-2017.
3. The respondent is directed to revise the bill as decided above and shall issue to the consumer with thirty days time (due date) given for making the payment.

Having concluded and decided as above, it is ordered accordingly. No order on costs.

**ELECTRICITY OMBUDSMAN**

P/037/2017/ \_\_\_\_\_ /Dated: \_\_\_\_\_

Delivered to:

1. Sri. Aliyar K.P., Kokkadan Plywoods, Pettmala, Aimury, Perumbavoor, Ernakulam
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd., Kuruppampady, Ernakulam.

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, CGRF-CR, 220 kV, KSE Board Limited, Substation Compound, HMT Colony P.O., Kalamassery, PIN: 683 503.