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APPEAL PETITION No. P/57/2017
(Present: A.S. Dasappan)
Dated: 30th August 2017

Appellant	:	Sri. Ajimon S., Paramvila Veedu, Kambaladi, Poruvazhy P.O., Kollam
Respondent	:	The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd., Kottarakkara, Kollam.

ORDER

Background of the case:

The appellant is an industrial consumer under LT IV A tariff in Electrical Section, Puthoor vide Cons No. 9018, with a connected load of 108 kW. The appellant is running a granite crushing unit in the premises. The APTS Unit of Kollam conducted an inspection in the premises on 22-07-2016 along with Sub Engineer of Electrical Section, Puthoor and found that the energy used in one phase (out of 3 phases) was not recording in the meter. Accordingly, the appellant was served with a provisional short assessment bill, assessing for the period from 07/2014 to 06/2016, when the meter was found recording less than the actual, so as to recover the unrecorded portion of energy, for Rs. 4,62,368/-. The consumer lodged complaint before the Assistant Engineer, the Assessing Officer on 30-07-2016, against the said assessment on 27-07-2016 and it was finalized the provisional amount assessed, on 22-09-2016, after conducting a hearing by the Assistant Engineer. Being not satisfied with the decision of the Assistant Engineer, the consumer approached the CGRF, Kottarakkara, with Petition No. OP 262/2016 and the Forum upheld the final bill issued and directed to remit the amount. Aggrieved by the decision, the appellant has submitted the appeal petition before this Forum.

Arguments of the appellant:

1. The appellant is under demand based LT Industrial tariff where a maximum demand indicator meter is provided including CT secondary current and other electrical units. A Sub Engineer, Electrical Section, Puthoor, who is the authorized officer of the licensee for inspection, regularly inspected, checked and took meter reading on this connection and bills were issued accordingly. Electricity charges thus demanded were remitted and no arrear is outstanding towards electricity charges. There was no report for the preceding period of two years to 22-07-2016 after checking the meter every month by such a Sub Engineer that, the meter is not recording full electricity consumed or meter is defective. Whereas, all along the period the meter was reported working and good in the bills issued. This unit works only as per the demand of the product and thereby there may not be uniform consumption for all times.

2. While so, on 22-07-2016, Mr. Binoy. S.S, Sub Engineer Electrical Section, Puthoor inspected the premises and checked the meter in the presence of APTS Unit of KSEBL Kollam and prepared a mahazar under his name and signature, witnessing the APTS officials. It was stated in Exhibit PI mahazar that, the meter at the premises is a CT operated one and it is found defective at the time of inspection as detailed in short here under. While the crusher unit is working in full swing, the meter displayed Vl-231, V2- 231, V3-233 volts and current Al-2.61, A2-0, A32.80. When it was tested using a clip on meter the secondary current reading was same as above. However, when the current of the cables from the secondary of the transformer to the crusher unit was measured the current was 104.4 A, 102 A, and 112.4 A respectively. While this crusher unit was functioning, the current in one power cable (CT primary) had a current of 102 A, in the meter the current of it was shown "0 A" (zero A). Thereby it was inferred that, only one third of the energy consumed and maximum demand drawn is only recording in the meter. Then the meter was replaced with another meter, and while the unit was functioning in full and then observed that, current in A1,A2, and A3 shown 1.95, 0, 2.6 respectively in the meter display and while tested with clip on meter in CT secondary. At the same time when tested CT primary cable it was 78 A, 80 A and 104 ampere. From this it was inferred that the second phase CT is not working. This Hon: Ombudsman may note that at both times of test/check even though it is stated that it were done in full working condition of the unit but the reading are not the same and at both times of check if the unit was functioning in full both readings should be the same.

3. The Assistant Engineer Electrical Section, Puthoor issued an order dated 27-07-2016, stating that "**2016** ജൂലൈ **22-)o** തിയ്യതി കൊല്ലം **APTS** നടത്തിയ പരിശോധനയിൽ താങ്കളുടെ പ്രിമിസാസിലുള്ള **Con. No. 9018** ന്റെ വൈദ്യുതി കണക്ഷനിൽ

1 phase work ചെയ്യുന്നില്ലായെന്നു കണ്ടെത്തി. തല്ഫനലമായി താങ്കൾ ഉപയോഗിച്ച വൈദ്യുതി 1/3 മീറ്ററിൽ രേഖപ്പെടുത്താതെ പോയി ". Then he stated that, due to that, the Electricity Board has a loss of Rs. 462368.00. As per Electricity Supply Code Regulation 152(1) (3) the licensee shall collect the amount in short collected towards electricity charges from the consumer etc. This was accompanied with a calculation statement assessing an amount of Rs. 4,62,368.00 for the preceding period of 24 months from 07-2014 to 6-2016 (Exhibit P2 & P3).

4. The Assistant Engineer has stated that P2 order & P3 statement are issued based on APTS inspection dated 22-07-2016. However, there is no evidence in document that they are issued based on APTS inspection. It is admitted under Exhibit PI mahazar that the inspection was conducted by Mr. Binoy. S.S., Sub Engineer, Electrical Section, Puthoor in the presence of APTS unit Kollam. Thereby, the statement under Exhibit P2 is not correct and assessment is also wrong.

5. Thereafter, this appellant submitted an objection dated 30-07-2017 and after hearing the Assistant Engineer issued a notice along with a bill dated 22-09-2016, demanding to remit Rs. 4,62,368.00, on or before 07-10-2016, otherwise the service will be disconnected (Exhibit P4 & P5). Thereafter, this appellant filed a complaint before the Consumer Grievance Redressal Forum (south) under complaint OP No.262/2016 and thereafter submitted a written statement as directed by the Forum dated 10-12-2016. (Exhibit P6 & P7) After hearing the Forum issued its order and delivered it to this appellant dated 19-04-2017 (Exhibit P8). After filing the above complaint and during the proceedings of the CGRF, the Assistant Engineer issued a proceedings dated nil stating that, the assessment for 24 months is revised for one year and 142 days amounting to Rs. 2,99,855.00 without stating any reasons. In these proceedings the reason for issuing this assessment was changed to Clause 134 (1) and 152 of Supply Code, 2014. It was accompanied with a statement also amounting to Rs. 2,99,855.00 (Exhibit P 9 & P10). In this order it was stated that the final bill was issued regulation 134 (1) and 152 of Supply Code, 2014.

6. There was a fire accident at the premises on 09-12-2015 which affected the transformer and the meter board. In this mater, the Station Officer, Fire & Rescue Station, Sasthamkota issued a report dated 09-12-2015 (Exhibit P 11). It is evident from the report that, this fire mishap affected the transformer and meter board. It was repaired and put back in to service. Later snags developed in the transformer and replacing of transformer become essential. The Assistant Engineer told this appellant that, since department vehicle could not be made available for transporting transformer, this appellant may transport the transformer at his expenses. No way was available to this appellant for restoration of supply, this appellant arranged a lorry bearing No. KL 23 L 1964

at his expenses to transport the faulty 160kVA faulty transformer No. KEL 49718 from site to TMR, Thirumala, and back from there the repaired 160 kVA transformer No. VSJ 2018/1331 to site. Then the repaired transported to site was erected and supply restored. Copy of the Gate pass of TMR Division, Thirumala dated 02-03-2016 ATN for faulty transformer returned and repaired transformer received and erected are produced (Exhibit P 12 & P I3). There by it is evident that, immediately after the fire accident dated 09-12-2015 and on 0-03-2016 or on next date, the officials including the Assistant Engineer inspected and tested the whole electrical system at the premises. These dates are within the assessment period of 02-2015 and 06-2016 under Exhibit P9 proceedings and Exhibit P 10 statement and during this period the meter was never found and recorded defective due to any reasons. Moreover, at no time before the inspection of Mr. Binoy S.S., Sub Engineer dated 22-07-2016, the meter was never detected defective and recorded. There by the defect in meter occurred only during the period after regular check and reading during 07/2016 and 22-07-2016 only. Therefore, the remedy available under regulations is only as provided under Clause 125 of Supply Code, 2014. Thereby, under Exhibit P2 assessment, Exhibit P4 assessment for Rs. 4,62,368.00 and Exhibit P9 assessment proceedings for Rs.2,99,855.00 are illegal.

7. The Assistant Engineer issued Exhibit P9 assessment proceedings for Rs. 2,99,855.00 stated to be under "Regulation 134(1) and 152 of Supply-Code, 2014". Stating among other things it was stated that, the assessment is for a period of 1 year and 142 days, which is 1/3rd more for energy and demand of the recorded reading pleading one CT current is missing. The Assistant Engineer never disclosed under Exhibit P9 proceedings, on what basis he has arrived at the conclusion that 1/3 of the energy and maximum demand is not recorded in the meter for the preceding two years or 1 year and 142 days of inspection dated 22-07-2016, while no such allegation was there ever before despite having checking of meter every month or during the inspections dated 09-12-2015 and 02-03-2016 or the next day at the time of fire accident and replacing of transformer. No scientific data is produced or said relied to do so. There by, it is only his presumption that 1/3rd of energy consumed are not recorded in the meter. Also it was never ascertained and revealed through a proper test as required under CEA (Installation and Operation of Meters) Regulations, 2006 or as required under Supply Code, 2014, whether this meter is a type of meter which records less consumption than the actual or how much consumption will be recorded due to missing of one phase current. It is also not ascertained, whether this is a meter which records, the whole consumption even if one phase current is missing and two phase current and the three phase voltages are available. Types of meters are available such that, even if one phase current is missing or one phase voltage is missing, the full energy consumed is recorded. In theory of meters, functioning of such meters is detailed. Thereby, no proven scientific data is available before this Assistant Engineer to charge this appellant for another 1/3rd of the recorded

consumption for both energy and maximum demand. Thereby, the assessments are arbitrary and illegal and hence Exhibit P9 proceedings and hence demand is not an "amount due" and hence not payable by this appellant.

8. The statement of facts of the opposite party before the CGRF and connected documents were never communicated to this appellant by the CGRF or by the opposite party. This violates the very principle of fare hearing. Frantic request of this appellant to the CGRF to issue copy of the statement of facts and defence documents, it was never heard. The reply of the Forum was that, you may argue the case with your documents and the licensee may argue the case with their documents. Despite this, appellant requested to record the objection and make it part of the order was also rejected. The licensee pleaded before the Hon: CGRF that, the assessment were issued under Clause 134(1), 152 of Supply Code, 2014 and pleaded that, these regulations enables the licensee to issue short assessment bills for meter defect for the preceding periods and in this case actions under Clause 125 of Supply Code, 2014 is not applicable. However, the facts and legal position under statutes is different from the averments of the opposite party. However the CGRF accepting the wrong averments of the opposite party and issued its order against this appellant.

9. The status of the meter reported in Exhibit PI mahazar is nothing but defective. Clause 134 (1) of Supply Code, 2014 is not at all applicable in this case of meter defective case. This Clause 134 (1) of supply Code, 2014 is almost a verbatim reproduction of Clause 24 (5) of Supply Code, 2005. Clause 24 (5) of Supply Code, 2005 and Clause 134 (1) of Supply Code, 2014 is extracted here under for ready reference.

> ***Clause 24 (5) of Supply Code, 2005****:- If the Licensee establishes that it has undercharged the consumer either by review or otherwise, the Licensee may recover the amount undercharged from the consumer by issuing a bill and in such cases at least 30 days shall be given for the consumer to make payment against the bill. While issuing the bill, the Licensee shall specify the amount to be recovered as a separate item in the subsequent bill or as a separate bill with an explanation on this account.*
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> ***Clause 134 (1) of Supply Code, 2014****:- 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.*

In the judgment in WA. No. 114 of 2013 in WP(C) 5614/2007 dated 13-02-2014, the Hon: High Court of Kerala ordered and held that:-

5. Insofar as Clause 24(5) of the Supply Code is concerned, that provision states that if the licensee establishes that it has undercharged the consumer either by review of the bill or otherwise, the licensee may recover the amount undercharged from the consumer. It is true as contended by the learned counsel for the appellant this provision does not specify any limitation on the period up to which the recovery is permitted. However this provision also may not have much relevance insofar as this case is concerned because this provision takes in only a case where the licensee has undercharged the consumer which means that the meter has recorded the actual consumption, but the licensee has not realised its charges accurately. Therefore, none of the aforesaid three provisions pointed out by both the sides specifically deal with a situation where the meter is inaccurately recording the energy consumed on account of a wrong connection given to the meter.

Copy of the judgment above is produced (Exhibit PI5). On the grounds above, it is evident that short assessment for electricity charges could not be issued by the Assistant Engineer in reliance with Clause 134 (1) of supply Code, 2014 and hence it is not sustained.

10. Clause 152 of Supply Code, 2014 also does not entitle the licensee to issue assessment proceedings under Exhibit P9. Sub Clause (2) and (3) have no self existence without Sub Clause (1) and it was never stated before the CGRF during the hearing, how Sub Clause (l) (2) and (3) is applicable in this short assessment for meter defect case detected by a Sub Engineer dated 22-07-2016 after regular check of meter on a previous date in the same month in which meter was found good and which is well recoded in the bill for the month of 07-2016. The regulation is extracted here under for ready reference.

152. 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 of Section 135 of the Act.*

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

(3) The amount of electricity charges short collected for the entire period during which such anomalies persisted, may be realised by the licensee without any interest:

Provided that, if the period of such short collection due to the anomalies is not known or cannot be reliably assessed, the period of assessment of such short collection of electricity charges shall be limited to twelve months:

Provided further that while assessing the period of such short collection the factors as specified in sub regulation (8) of regulation 155 shall be considered:

Provided also that realisation of electricity charges short collected shall be limited for a maximum period of twenty four months, even if the period during which such anomaly persisted is found to be more than twenty four months.

Here in this case the meter was reported effective since one phase current was missing. Under the extracted Regulation above, under Sub Clause (1) defect in meter is not at all included, thereby Clause 152 of (2) and (3) of Supply Code, 2014 are not at all applicable to issue assessment and bill pleading the meter was fault even before 22-07-2016. "Inaccuracies in metering" means only accurate meter reading is not taken or the meter reading is erroneous and hence billing is erroneous or billing is erroneous in some other way. “Inaccuracies in metering” cannot and shall not be translated to defect in meter. If "inaccuracies in metering " also meant defect in meter, or improper recording of consumption in the meter due to some imperfection, fault in any of the components of the meter, there was no need for the KSERC to bring in Clause 125 of Supply Code, 2014, exclusively for the case of "defective or damaged" meter in which, the method of billing for defective period etc are well explained. For convenience Clause 125 of Supply Code, 2014 is extracted here under.

125. Procedure for billing in the case of defective or damaged meter.- (1) In the case of defective or damaged meter, the consumer shall be billed on the basis of average consumption of the past three billing cycles immediately preceding the date of the meter being found or reported defective:

Provided that, the average shall be computed from the three 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.

Therefore, Clause 152 of Supply Code, 2014 also doesn't come to the rescue of Exhibit P9 proceedings demanding to remit Rs. 2,99,855.00. Hence also, Exhibit P9 proceedings and Exhibit P10 assessment are illegal.

11. The opposite party had an argument before the CGRF that, the meter is not defective, to attract Clause 125 of Supply Code, 214. The fact of the matter is, the meter was defective since one CT was defective and hence one phase current was missing in the meter. Meter defined as under Supply Code, 2014 is extracted here under for ready reference,

*2. (57) "**meter**" means a device suitable for measuring, indicating and recording consumption of electricity or any other quantity related with electrical system; and shall include, wherever applicable, other equipment such as current transformer (CT), voltage transformer (VT), or capacitance voltage transformer (CVT) necessary for such purpose;*

The meter is not a recording or display unit only but as defined above all the components above including lead wires include a meter. Moreover, this is not a whole current meter but a CT operated meter, where external CT is connect with metering unit using lead wires and phase voltage from all three phases are tapped from the source of supply and then connected with the same metering unit. There by wiring is also there for this metering system. This coordinates for computing energy is lead to the processing unit of the meter unit from different components of the meter then various electrical quantities are processed then recorded cumulative or otherwise and displayed in the display unit. Any defect in any part or component of meter is defect in meter. It is with this position; the KSERC has brought in Clause 113 of Supply Code, 2014. This regulation is extracted here under for ready reference.

***113. Testing of meter**.- (1) It shall be the responsibility of the licensee to satisfy itself regarding the accuracy of the meter before it is installed and the licensee shall test them or get them tested in an accredited laboratory or in an approved laboratory.*

(2) The licensee shall also conduct periodical inspection or testing or both and calibration of the meters, as specified in the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, as amended from time to time.

(3) The periodical testing of consumer meters shall normally be done at site.

(4) The licensee may, instead of testing the meter at site, remove the meter to be tested, replace the same with a correct meter and test the removed meter in an accredited laboratory or in an approved laboratory.

(5) When the consumer opts to purchase the meter, the licensee shall receive it and test the same in an accredited laboratory or in an approved laboratory and install it as per the following time schedule: - LT meters - within a maximum of fifteen days, HT or EHT meters - within a maximum of twenty days

(6) The licensee shall conduct periodical inspection or testing or both of the meters as per the following schedule: - single phase meters - once in every five years, LT3-phase meters - once in every three years, HT or EHT meters including maximum demand indicator (MQI) - once in every year

7) Wherever applicable, Current Transformer (CT) and Potential Transformer (PT) and the wiring connections shall also be tested along with meters.

Under the regulation above, Sub Clause (7) requires the licensee to test the CT, PT and the wiring connections, where ever applicable while testing the meter. It is sure such checks has been conducted on 09-12-2015 & 02-03-2016 or near dates since on that dates there was repair in transformer and meter board and replacement of transformer. Therefore, reading of Clause2 (57) and Clause 113 of Supply Code, 2014 together make it clear that missing of one phase current due to defect in it is meter defect. Therefore, Clause 125 of Supply Code, 2014 is the only regulation applicable in this instant dispute. The findings in the Exhibit PI mahazar are such that one CT was defective. Thereby, it is nothing but defect in meter. Therefore, there is no substance in the argument of the licensee. There by appropriate action for which the licensee is entitled to is, to take actions as required under Clause 125 of Supply Code, 2014 only. The licensee is not at all entitled take action either under Clause 134 (1) or l52 of Supply Code, 2014. Hence, Exhibit P9 proceedings is illegal.

12. The inspection, checking of meter and meter reading at the premises was always done by a Sub Engineer who is the authorized officer of the licensee. Immediately before the inspection and preparation of mahazar dated 22-07-2016 by Mr. Binoy S. S., Sub Engineer, a Sub Engineer inspected, checked and

read the meter dated 02-07-2016 and accordingly bill for the month of 07/2016 was issued. In this bill or in the previous bills there was no remark that the meter is defective or in the display in meter one phase current is not showing. There were no such other reports as reported in Exhibit PI mahazar. Whereas, the status of the meter is recorded CN/Working, OK/AA, which is according to the licensee the meter is defect free or good in all respects. It is respectfully submitted that, no sensible person can believe, that the meter display above could not be seen by the Sub Engineer/ Sub Engineers who checked and read the meter all along the preceding period of two years and on 02-07-2017 also, on which date the just previous inspection, checking of meter and reading was taken before 22-07-2016. Therefore, it is a well established fact that the meter became defective by missing of one phase current after the last meter checking and reading date of 02-07-2016, based on which the bill for the month of 07/2016 was issued. Thereby, there is no base for the presumption of the Assistant Engineer that, the meter was defective from a date unknown and to limit the period of assessment to one year and 142 days. If any authenticated scientific data of accredited laboratory is available to prove that, the meter was defective for unknown periods before or was defective for some periods before. Even if such data is available then also, there are no enabling regulations for the licensee to issue short assessment bills. It is simply because of the reason that the licensee is duty bound to supply electricity only through a good meter and various regulations under supply Code, 2014 requires the licensee to check, and test the meter periodically. There by it is only because of that reason the licensee has entrusted regular reading of this meter with a Sub Engineer who is well qualified to check the meter, to report the imperfections noticed and to rectify it. If such an officer/ officers failed in that endeavour, it is a systemic failure and for that failure this appellant could not be held responsible and amounts could not be demanded by way of short assessment bills and for which there is no enabling regulations. Thereby also Exhibit P9 proceedings are illegal.

13. It is respectfully submitted that, there are binding regulations under licensing conditions under which distribution license is issued to this licensee. The related regulation is extracted here under.

> **Under sub-clause (1) of Clause (4)** under Part III, General Conditions for distribution licensee, issued by the State Electricity Regulatory Commission, it is specified that, ***"the distribution licensee shall comply with the provisions of the Act, Rules, Regulations and directions issued by Commission from time to time and the provisions of other applicable laws for the time being in force".***

Having stated as above, it is respectfully submitted that, under Clause 104(1) of Supply Code, 2014 and under Section 55 of Electricity Act, 2003, the licensee shall supply electricity through a correct meter installed in accordance with the provisions of CEA (Installation and Operation of Meter) Regulations,

2006. Thereby, the onus for remaining a defective or damaged meter for long periods than permitted under Clause 125 of Supply Code, 2014, rests with the licensee and not with the consumer. There by even if the meter was defective for the periods for one year and 142 days before the inspection dated 22-07-2016 or even before or any time after that, this appellant is not at all responsible for that and thereby not required to pay the arbitrary electricity charges demanded under Exhibit P9 proceedings. More over other regulations mandates the licensee to keep the meter good at all times by taking steps under various provisions under Supply Code, 2014 as detailed here under.

Under Clause 109(20) of Supply Code, 2014, ***it shall be the responsibility of the licensee to maintain the meter and to keep it in good working condition at all times***. Being this a mandating regulation, the onus for any meter remaining defective rests with the licensee only and by virtue of that, this appellant is not at all liable to pay any amount towards electricity charges demanded as in this case for the preceding periods pleading the meter defective. Thereby, also Exhibit P9 proceedings is illegal.

Under Clause 113 Sub Clause (2) of Supply Code, 2014, the licensee shall also conduct periodical inspection or testing or both and calibration of the meters as specified under CEA (Installation and Operation of Meter) Regulations, 2006, Under Sub Clause (3), the periodical testing of meters shall normally be done at site. The licensee may, instead of testing the meter at site, may remove the meter to be tested, replace the same with a correct meter and test the removed meter in accredited laboratory or in an approved laboratory. Under Sub Clause (7) wherever applicable, the CT and PT and wiring connections shall also be tested along with the meters. If ever the licensee failed in the above mandated duties and the meter at the premises remained defective or the wiring connections remained defective as stated in Exhibit PI mahazar for longer periods or brief periods, this consumer could not be held responsible for that by issuing bills.

This consumer belongs to the group of demand based tariff consumers where maximum demand indicator is available for metering. Under Sub Clause (6) of clause 113 of Supply Code, 2014, the licensee shall conduct periodical inspection or testing or both of the meters HT or EHT meters including maximum demand indicator (MDI) - once in every year. The licensee pleads that this meter was been defective for a long time since due to missing of one phase current due to defect in CT and it was detected only on 22-07-2016 and has limited short assessment for a period of one year and 142 days could not be accepted by virtue of regulation above. Here, the licensee have the mandated duty to check the meter periodically and here a qualified person authorized by the licensee checks the meter every month and he never observed the display of zero current in one phase in the meter as reported in Exhibit PI mahazar. Also the licensee is mandated to check or test this meter every year since this meter is having a maximum demand indicator also. It is never revealed such test has

ever been conducted or not. Therefore, despite being mandated to check the correctness of the meter at every instant of inspection every month and there is not even a shred of evidence to prove that the meter was defective before 22-07-2016. If it is proved defective otherwise, the onus for remaining the meter defective rests with the licensee. Therefore, also exhibit P9 proceedings are arbitrary and illegal. If there is any lapses at the hand of the licensee to detect the defect in meter on time it had occurred at the hand of the Sub Engineer and the Assistant Engineer concerned, since the licensee have no case that the meter was tested for its correctness at any time after installation of it at the premises. Thereby the assessment and bill are illegal and not payable by this appellant.

14. Under Clause 116 (1) of Supply Code, 2014, also, the licensee shall periodically inspect and check the meter. Here in this case, in every month a Sub Engineer who is the authorized person of the licensee to inspect and check the meter and to energies LT three phase connections have inspected and checked the meter and took the meter reading. The licensee can never plead that this Sub Engineer's check of meter and reading was not proper, if pleaded so, the inspection and checking of the meter at this instant case causing Exhibit PI mahazar by another Sub Engineer is also wrong. Hence the assessment and bill are illegal.

15. The production cost of the products sold from this unit also includes the cost of electricity used for producing it. This appellant has fixed price of it accordingly and sold it. Now after a very long period the licensee comes up with a statement that the bills issued earlier did not contain the actual cost of electricity supplied, thereby you have pay the remaining cost now. Then this appellant could not collect proportionate amount from the earlier buyers of the product. Therefore also the assessment and bill could not be accepted.

16. On the above reasons and which are to be urged during the hearing Exhibit P9 assessment order is arbitrary and illegal and the amount demanded under it is not an "amount due" and hence not payable by this appellant.

Reliefs sought for:

1. To hold and declare that Exhibit P9 proceedings of the Assistant Engineer and P10 assessment amounting to Rs.2,99,855.00 and Exhibit P8 order of the CGRF in petition OP. No.262/2016 are arbitrary and illegal and to set aside.

2. To issue orders to pay such amounts this Ho: Electricity Ombudsman may find appropriate towards the expenses for this appeal.

3. Such other reliefs the appellant prays for, during the course of appeal

Arguments of the respondent:

The appellant was issued with two bills, one for Rs. 1,43,811/- to realize the penal energy charges for unauthorised additional load during the period from 6/2015 to 6/2016 under section 126 of the Electricity Act 2003 and Rs. 4,62,368/- the short assessment charges for non-functioning of current transformer in one phase under regulation 134(1) and 152 of the Kerala State Electricity Supply Code 2014. The abnormality came into light on an inspection held in the premises on 22-07-2016. Against this, the appellant filed petition before the Honourable Consumer Grievance Redressal Forum (South) vide OP No. 262 of 2016. The Honourable Forum in its Judgement dated 31-03-2017 dismissed the petition. (Ext. R1)

The averments regarding inspection conducted is true by facts but the statement that the readings of current should be same in the two testings is false since both the testings are done on loaded condition and the control of the load is purely with the appellant and not with licensee. The bill issued is correct as per regulation 134 (1) of the Kerala State Electricity Supply Code, 2014. The amount reduces from Rs. 4,62,368/- to Rs. 2,99,855/- due to the assessment limited 1 year and 142 days based on the test report.

The statement of the appellant that the fire accident affected the meter board is false since the meter is changed as per office records and the appellant in his petition never mentioned about the replacement of meter board.

On measuring the current in each phase using clip-on meter and simultaneously reading the corresponding current displayed in the energy meter, it was found that current in 1st and 3rd phase are identical and the current displayed in the 2nd phase as zero in the Energy meter while the clip-on meter shows 102A in the same phase. Following this the energy meter in the premises was replaced by an L&T make -/5, 3 Phase TOD meter with serial No. 14678304 and measured simultaneously the current values in each phase using clip-on meter and that in the newly installed meter and observed that current in 1st and 3rd phase are identical and the current displayed in the 2nd phase as zero in the Energy meter while the dip on meter shows 80A in the same phase. It was therefore confirmed that the current transformer PGR Power tech with Serial No. K965 connected in the second phase is faulty and the energy meter is not reading one third of actual energy consumption as well as maximum demand or it reads only 2/3rd of the actual consumption and demand. Also the data from the energy meter was downloaded by Sri. Pathmakumar, Assistant Engineer of TMR Division. Thirumala and arrived at the period of current missing in the second phase as follows. (Ext. R2)

Parameter	Duration			
	year	days	Hours	Minutes
L1 Line Current failure duration	01	165	13	41
L2 Line Current failure duration	02	307	05	56

The crusher unit is functional only if all the three phases are available as major machine are three phase motors. The duration of current failure is maximum for the second phase. There is a difference of 1 year 141 days 16 hours and 15 minutes between the two phases as per the above data downloaded. It is therefore evident that the second phase current value was missing for measurement of energy in the meter for 1 year and 142 days. The report of TMR Thirumala on data downloading is enclosed as Exhibit R2. Moreover the CT found faulty on inspection (PGR Power tech Sl. No K965) was sent for precision testing at standards laboratory under Department of Electrical Inspectorate. The results indicated that the CT is faulty and the secondary winding is open. (Result and CT are enclosed as Ext. R3.)

A. Details of kWH reading from 06/2013 to 10/2016.

Month	kWH Normal (I)	kWH Peak (II)	kWH Off Peak (III)	Total	Remarks
06/2013	5000	160	0	5160	
07/2013	4960	80	0	5040	
08/2013	5520	200	144	5864	
09/2013	5680	232	128	6040	
10/2013	8592	172	0	8764	
11/2013	6028	136	268	6432	
12/2013	7372	152	96	7620	
01/2014	10764	428	120	11312	
02/2014	7384	420	180	7984	
03/2014	9140	500	248	9888	
04/2014	8080	200	160	8440	
05/2014	8440	200	200	8840	
06/2014	8000	160	200	8360	
07/2014	7240	80	160	7480	
08/2014	4760	200	160	5120	
09/2014	5600	120	160	5880	
10/2014	7560	120	160	7840	
11/2014	6760	160	200	7120	
12/2014	6960	120	160	7240	

01/2015	7360	200	240	7800	
02/2015	4840	200	120	5160	Dip in consumption
03/2015	3520	120	200	3840	
04/2015	3640	80	160	3880	
05/2015	5160	160	160	5480	
06/2015	4440	200	120	4760	
07/2015	5200	80	160	5440	
08/2015	4680	200	120	5000	
09/2015	1920	120	80	2120	
10/2015	4200	80	80	4360	
11/2015	4440	80	80	4600	
12/2015	5720	40	40	5800	
01/2016	4920	80	40	5040	
02/2016	4520	120	0	4640	
03/2016	5440	40	0	5480	
04/2016	5760	0	40	5800	
05/2016	4320	40	40	4400	
06/2016	4160	40	0	4200	
07/2016	5840	80	40	5960	
08/2016	7240	120	120	7480	After changing CT
09/2016	5680	120	120	5920	
10/2016	8400	120	160	8680	
11/2016					

From the above consumption pattern also, it is evident that the consumption falls with effect from 2/2015 to 7/2016 shows that the current missing in the second phase lasts for 18 months. This period is in agreement with the period arrived at by downloading the data by TMR Authorities, i.e., 1 year and 142 days.

B. Details of KVA reading from 06/2013 to 10/2016

Month	KVA Normal (RMDI)	KVA Peak (RMD11)	KVA Off Peak (RMDIII)	KVA Max	Remarks
06/2013	62.4	29.2	0	62.4	
07/2013	82.8	60	0	82.8	
08/2013	114	37.6	2.8	114	
09/2013	74	52	1.2	74	
10/2013	64.8	23.6	1.6	64.8	
11/2013	64.8	23.2	2.4	64.8	
12/2013	76.8	31.6	2.4	76.8	
01/2014	85.2	68.8	2	85.2	
02/2014	76.8	64	12.4	76.8	

03/2014	66.4	60.8	4.8	66.4	
04/2014	65.2	56.4	2.8	65.2	
05/2014	70.8	27.2	2	70.8	
06/2014	69.6	21.2	2	69.6	
07/2014	68	11.2	2	68	
08/2014	64	34.4	2.4	64	
09/2014	68	25.2	3.6	68	
10/2014	64.4	14.8	42.4	64.4	
11/2014	68	15.6	3.2	68	
12/2014	69.2	12	3.2	69.2	
01/2015	62	26	5.2	62	
02/2015	67.2	26	2.4	67.2	
03/2015	62	2.4	2	62	
04/2015	63.6	6	2	63.6	
05/2015	68.4	54	2.4	68.4	
06/2015	68	55.2	2	68	
07/2015	68.8	9.2	2	68.8	
08/2015	77.2	66.4	2	77.2	
09/2015	82	28	1.2	82	
10/2015	81.6	17.2	0.4	81.6	
11/2015	66.8	3-2	2	66.8	
12/2015	67.2	33.6	0	67.2	
01/2016	74	40	6	74	
02/2016	74.8	64	4.4	74.8	
03/2016	79-2	32	0	79.2	
04/2016	76	18	0	76	
05/2016	78	10.4	2.4	78	
06/2016	73.6	27.6	0	73.6	
07/2016	79.6	27.6	0	79.6	
08/2016	116.8	80	1.6	116.8	After changing CT
09/2016	114	12.4	1.2	114	
10/2016	126.4	3.6	40	126.4	

The maximum demand & Consumption from 01-07-2014 to 31-10-2016 is as follows:-

Month	Recorded Max demand	Actual demand RMDX1.5	Short demand	Amount ( )	Remarks
07/2014	68	102	34	3400	100/KVA
08/2014	64	96	32	3200	100/KVA
09/2014	68	102	34	4250	125/KVA
10/2014	64.4	96.6	32.2	4025	125/KVA
11/2014	68	102	34	4250	125/KVA

12/2014	69.2	103.8	34.6	4325	125/KVA
01/2015	62	93	31	3875	125/KVA
02/2015	67.2	100.2	33.6	4200	125/KVA
03/2015	62	93	31	3875	125/KVA
04/2015	63.6	95.4	31.8	3975	125/KVA
05/2015	68.4	102.6	34.2	4275	125/KVA
06/2015	68	102	34	4250	125/KVA
07/2015	68.8	105.2	34.4	4300	125/KVA
08/2015	77.2	115.8	38.6	4825	125/KVA
09/2015	82	123	41	5125	125/KVA
10/2015	81.6	122.4	40.8	5100	125/KVA
11/2015	66.8	100.2	33.4	4175	125/KVA
12/2015	67.2	100.8	33.6	4200	125/KVA
01/2016	74	110	37	4625	125/KVA
02/2016	74.8	112.2	37.4	4675	125/KVA
03/2016	79.2	118.8	39.6	4950	125/KVA
04/2016	76	114	38	4750	125/KVA
05/2016	78	117	39	4875	125/KVA
06/2016	73.6	110.4	36.8	4600	125/KVA
07/2016	79.6	119.4	39.8	4975	
08/2016	116.8	175.2	58.4	7300	
09/2016	114	171	57	7125	
10/2016	126.4	189.6	63.2	7900	
Total charges					104100

A. Energy charges

Month	Recorded Consumption	Actual consumption RkWHX1.5	Short consumption	Amount ()	Remarks @
07/2014	7480	11220	3740	17578	4.7
08/2014	5120	7680	2560	12032	4.7
09/2014	5880	8820	2940	15288	5.2
10/2014	7840	11760	3920	20384	5.2
11/2014	7120	10680	3560	18512	5.2
12/2014	7240	10860	3620	18824	5.2
01/2015	7800	11700	3900	20280	5.2
02/2015	5160	7740	2580	13416	5.2
03/2015	3840	5760	1920	9984	5.2
04/2015	3880	5820	1940	10088	5.2
05/2015	5480	8220	2740	14248	5.2
06/2015	4760	7140	2380	12376	5.2

07/2015	5440	8160	2720	14144	5.2
08/2015	5000	7500	2500	13000	5.2
09/2015	2120	3180	1060	5512	5.2
10/2015	4360	6540	2180	11336	5.2
11/2015	2600	3900	1300	6760	5.2
12/2015	5800	8700	2900	15080	5.2
01/2016	5040	7560	2520	13104	5.2
02/2016	4640	6960	2320	12064	5.2
03/2016	5480	8220	2740	14248	5.2
04/2016	5800	8700	2900	15080	5.2
05/2016	4400	6600	2200	11440	5.2
06/2016	4200	6300	2100	10920	5.2
07/2016	6000	9000			
08/2016	7480	11220			
09/2016	5920	8880			
10/216	8680	13020			
Total amount					325698

Net amount payable

A. Short assessment for fixed charge = 104100
B. Short assessment for energy charges = 325698
C. Duty @ 10% = 32570
Total amount = A+B+C = 462368.00 (Exhibit R4).

Hence a final bill was served on the consumer amounting to 4,62,368/- after observing all formalities as stipulated in the Regulations of the Kerala State Electricity Supply Code, 2014.

The bill issued to the consumer is for short assessment made in normal rate for the tariff applicable. The Kerala State Electricity Board Limited is empowered by Regulation 134(1) & 152 of the Kerala State Electricity Supply Code, 2014, to recover from the consumer; the amount under charged by issuing bills. Hence the bill issued to the consumer is in order.

During the course of hearing Honourable Forum observed that the short assessment is issued for 24 months but the down loaded data from TMR shows the period as 1 year and 142 days and directed to revise the bill accordingly. The bill was revised to Rs. 2,99,855/- the details are as follows. (Ext. R5)

Month	RMD SHORT	AMOUNT	UNIT	RATE	AMOUNT
2/2015	33.8*125	4200	2580	5.20	13416
3/2015	31.125*125	3875	1920	5.20	9984
4/2015	31.8*125	3975	1940	5.20	10088
5/2015	34.2*125	4275	2740	5.20	14248
6/2015	34*125	4250	2380	5.20	12376
7/2015	34.4*125	4300	2720	5.20	14144
8/2015	38.8*125	4725	2500	5.20	13000
9/2015	41*125	5125	1060	5.20	5512
10/2015	40.8*125	5100	2180	5.20	11336
11/2015	33.4*125	4175	1300	5.20	6760
12/2015	33.8*125	4200	2900	5.20	15080
1/2016	37*125	4625	2520	5.20	13104
2/2016	37.4*125	4675	2320	5.20	12064
3/2016	39.6*125	4950	2740	5.20	14248
4/2016	38*125	4750	2900	5.20	15080
5/2016	39*125	4875	2200	5.20	11440
6/2016	38.8*125	4600	2100	5.20	10920
		78775			202800
17 MONTHS DEMAND CHARGE			76775		
	Energy Charge		202800		
	Duty		20280		
	Total		299855		

The opposite party has given the copy of the version and connected documents to the appellant. The fault is with the current meter only. The appellant is trying to mislead this Honourable Ombudsman. Bill issued as per Regulation 134 (1) and 152 of the Kerala Electricity Supply Code, 2014.

The bill issued to the consumer is for short assessment made in normal rate for the tariff applicable. The Kerala State Electricity Board is empowered by Regulation 134(1) &152 of the Kerala State Electricity Supply Code 2014 to recover from the consumer, the amount under charged by issuing bills. Hence the bill issued to the consumer is in order. The fault is with the current meter only. The same energy meter is still in the appellants premises and hence Regulation 125 of the Kerala State Electricity Supply Code 2014 is not applicable here. The CT found faulty on inspection (PGR Power tech Sl. No K965) was sent for precision testing at Standards laboratory under Department of Electrical Inspectorate. The results indicated that the CT is faulty and the secondary winding is open. Result and CT are enclosed as Ext. R3.

The same energy meter is still in the appellants premises and hence Regulation 125 is not applicable here. The CT found faulty on inspection (PGR Power tech Sl. No K965) was sent for precision testing at Standards laboratory under Department of Electrical Inspectorate. The results indicated that the CT is faulty and the secondary winding is open.

The averments are about the pricing policy of the appellant which is not known to this defendant but the cost of the product with other crushers will be almost same.

The respondent also brought to the notice the following facts.

The Honourable Consumer Grievance Redressal Forum (South) in page 7 of its judgment stated as follows:

"In this case a short assessment bill was issued for the fault of one phase CT. In this matter the forum has some doubt in the statement put forward by the appellant and respondent. The appellant stated that the power transformer was faulty and replaced. But the respondent argued that only CT was faulty. Since the statements of the appellant and the respondent are contradictory, the forum appointed a commission for verifying the correctness of the statement. The commission submitted the report on 30/03/2017 and stated that a site inspection was conducted in Electrical Section, Puthoor and Consumer premises on 27-03-2017 to check the veracity of the supporting documents produced. The following points were noticed.

The complainant stated that the transformer and meter box got fire on 09/12/2015 and the transformer was lifted from the unit for repair work and the same was replaced after several days. CT's were also changed while restoring the supply. But the records maintained in the section office (such as transformer maintenance register, monthly reading dairy) do not support the statement. As per the transformer maintenance register of section page 61 and 65 transformer with Sl. No. 49718 was changed only on 03-03-2016 and the transformer maintenance register of transformer repair unit Kollam page 278 shows that the transformer with SI.No.49718 is found good at site on 11-12-2015. As per the monthly reading of section office one number of CT is seen replaced on 25-07-2016.

Information from transformer maintenance and repair unit Thirumala revealed that no transformer from Puthoor Section was repaired at that unit during 12/2015. Moreover the consumption pattern and downloaded reports of meter are also available for comparison of consumption. Hence it is concluded as follows:-

1. Transformer was not lifted from Puthoor Section to TMR Thiruvananthapuram for repair during 12/2015.

2. Transformer with Sl. No 49718/2004 was good on 11-12-2015. As per the test report of transformer repair unit Kollam it was replaced on 03-03-2016 with VEEYESJAY 160 KVA transformer due to fault occurred on 26-02-2016.

3. As per the records maintained in Puthoor section office, one number CT of the consumer No 9018 was replaced on 25-07-2016 after APTS inspection.

The Forum found that the power transformer was not removed from the premises for repairing by the respondent during 12/2015 and only repaired the bush of the transformer and also the current transformer being faulty was replaced on 25/07/2016. The bill issued is genuine and sustainable as per the documents and the statements provided by the respondent and Commission. Hence the appellant is liable to pay the short assessment bill issued for Rs. 4,62,368/-.

In the above circumstances this Hon'ble Ombudsman may be pleased to dismiss the Appeal Petition.

Analysis and Findings: -

The hearing of the case was conducted on 27-07-2017, in the Court hall of Kottarakkara, and the appellant was represented by Sri. K Anandakuttan Nair and the respondent by the Assistant Executive Engineer of the Kottarakkara Sub Division, Sri G Soni 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 appellant was served with a short assessment bill for Rs. 4,62,368/- towards the non recording of consumption in one phase of the 3 phase meter due to missing of one phase current, as per Regulations 134 (1), 152 (2) and 152 (3) of the Kerala Electricity Supply Code, 2014. The CGRF has observed that the short assessment bill issued by the respondent is genuine and sustainable and hence the consumer is liable to pay the amount.

The appellant has contended that if the failure of the CT connection was from 02/2015 onwards as assumed by the licensee, it could be easily find out by the Sub Engineer who had taken the monthly readings regularly. Since it was not reported by the Sub Engineer during the meter reading of 06/2016 or before, the failure was between the date of meter reading for the month of 07/2016 and the inspection date of 22-07-2016. Further the appellant has also

argued that a fire accident occurred at the premises on 09-12-2015 which affected the transformer and meter board. Later snags developed in the transformer and it was repaired at TMR Division, Thirumala on 02-03-2016. The appellant's version is that on the dates on 09-12-2015 and on 02-03-2016, the officials including the Assistant Engineer inspected and tested the whole electrical system in the premises and the meter was never found and recorded defective on these dates, which establishes the defect in meter occurred after this period.

The appellant also contended that the application of Regulations 152 (2) and 152(3) are not relevant in the case of the applicant. According to him, "Inaccuracies in metering" means only accurate meter reading is not taken or the meter reading is erroneous and hence billing is erroneous or billing is erroneous in some other way. "Inaccuracies in metering" cannot and shall not be translated to defect in meter. If "inaccuracies in metering" also meant defect in meter, or improper recording of consumption due to some imperfection, fault in any of the components of the meter, there was no need for the KSERC to bring in Clause 125 of Supply Code, 2014, exclusively for the case of "defective or damaged" meter in which, the method of billing for defective period etc are well explained.

Further the appellant also contended that Regulation 134 (1) of Supply Code, 2014 is not at all applicable in this case of meter defective case. According to the appellant, this provision applies in only a case where he has undercharged the consumer which means that the meter has recorded the actual consumption, but the licensee has not realised its charges accurately. It is stated that this provision not deals with a situation where the meter is inaccurately recording the energy consumed on account of a wrong connection given to the meter.

Refuting the above contentions, the respondent has averred that the total period of phase failure was obtained while downloading the meter. The respondent relied upon the consumption pattern for establishing the period of phase failure and missing of current in one phase. According to him, the dip in consumption from 02/2015 is the result of the CT failure.It is submitted by the respondent that the meter installed in the premise is not reported as defective or damaged. The terminal of the CT was found missing (somehow) and Regulation 125 of Supply Code 2014 is not applicable in this case. Under charging of prior bill is established due to an anomaly detected at the premises for which Kerala Electricity Supply Code, 2014 Regulation 134(1) and Regulations 152(2) and 152(3) are applicable. It was also contended that the downloaded data was convinced by the CGRF.

The issue arising for consideration in this appeal is whether the period assessed and the quantum of current loss computed are in order and the

appellant is liable for the payment of revised short assessment for Rs. 299855/- as per Regulation 152 of Supply Code, 2014.

Here in this case, the respondent declared that one of the phases connected to the meter is detected as missing/abnormal on the basis of the inspection conducted in the premises on 22-07-2016. But he has admitted that the APTS failed to download the data from the meter on the spot. The data is downloaded on 28-07-2016 and the same is found authenticated by the responsible officer of TMR, Thirumala. Here, from the downloaded data, the tamper events viz, current missing starts (L2)/current missing ends (L2) is not available as the faulty CT was replaced on 22-07-2016 itself without downloading the data on the same date. Though the respondent has claimed the failure of one phase current missing from 05/2013 onwards, the load survey data is available from 19-06-2016 onwards. As per the test report furnished by the Executive Engineer, TMR Division, Thirumala, all the phases are out for 1 year 165 days 13 hours and 41 minutes as shown in the following table.

KSB33892 – Readings

Source: KSB3389220160/0120160731.emd

Read on 28/07/2016 13:55:31

EMF (Applied)		
Voltage	Current	Energy
1.00	1.00	1.00

General Information

Meter Serial Number	KSB33892
CLEM Name	A2LS02A
Meter Date-Time	28-07-2016 13:56:10
Current Tariff	K3A1B60
Old Tariff	K3A1B60
Meter Scaling	Primary
Meter Type	C3T - 5 A lb/10A IMax/240 V
Meter Processor Family	E20x
Meter Class	Class 0.5 s
Meter Range	Long
10 Type	0 outputs 0 counters 0 inputs
Owner Type	N/A
Meter Constant	8000 pulses / kWh
Meter P.T. Rating	240 V
Meter C.T. Rating	5A/ 5A
Load Survey	Available

Phase Failure

Parameter	Duration (YY DDD HH MM)
LI Voltage Failure Duration	00 000 00 00
L2 Voltage Failure Duration	00 000 00 00
L3 Voltage Failure Duration	00 000, 00 00
LI Line Current Failure Duration	01 165 13 41
L2 Line Current Failure Duration,	02 307 05 56
L3 Line Current Failure Duration	02 139 20 16

The results of only two phases were furnished by the respondent in their version dated 09-06-2017. From the above data, the short assessment was reassessed for a period of one year and 142 days for Rs.299855/-. Further it is submitted by the respondent that the appellant's crusher unit is functional only if all the three phases are available as major machines are three phase motors and it functions from 7.00 a.m. to 6.p.m. the duration of current failure is maximum for the second phase. There is a difference of 1 year 141 days 16 hours and 15 minutes between the values L1 and L2) as per the above down loaded data. But the respondent has failed to explain the reason for duration of current of current failure of 2 years 139 days 20 hours and 16 minutes in L3 line. The respondent could not place their argument in taking two reading for assessing the period by leaving the 3rd reading. The load survey report is available only for a period from 19-06-2016 to 28-07 2016. It is also found that the consumption of the appellant before and after the disputed period and during the disputed period is not in a consisting pattern. Hence I am of the opinion that the failure period cannot be assessed from the data downloaded.

From the site mahazar, it is revealed that the failure of one phase current was due to missing of one phase of the CT terminal connected to the meter terminal. The meter will record the time and date of tampers, and the same can be downloaded using MRI/Laptop and can be analyzed. Date of occurrence of CT open/bypass/short, voltage missing/low voltage/ unbalance etc can easily be found out using downloaded data. Considering these facts, an assumption of missing of 1/3rd consumption during the disputed period cannot be sustained.

The missing of current in one phase of the appellant's metering equipment in the appellant's premises was detected by the licensee during the inspection conducted on 22-07-2016 and the site mahazar also justifies these facts. In view of the above facts it is clear from the site mahazar that the energy meter installed in the appellant's premises was only recording in two phases of actual consumption on the inspection date of 22-07-2016, but not confirmed the missing of one phase current at the rate of 1/3 from 05/2013 onwards, as argued by the respondent.

Further this Authority is of the opinion that if the data was downloaded during the inspection of the metering system on 22-07-2016 itself, the period of defect could have been detected and convinced by the appellant. Moreover, if the respondent had to inspect the metering system soon after the recorded consumption decreases considerably during the disputed period, it can be easily detected the defect in the metering and to avoid the loss if any occurred to the licensee.

The respondent has issued the short assessment bill for a period of 24 months by taking 50% of the recorded consumption for 24 months following the inspection conducted on 22-07-2016 and detecting of non-recording of energy in one phase. But later the respondent revised the assessment for one year 142 days amounting to Rs. 2,99,855/-. But the consumption for the 3 months prior to 02/2015 is 7800 units, 7240 units, 7120 units and after rectification of the faultiness in 07/2016, it is 7480 units 5920 units and 8680 units per monthly. Hence it is proved that there are no convincing records to charge the short assessment for a period of 24 months.

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 recoding correct consumption.

It is found that the CT was further tested in the Meter Testing and Standards Laboratory at Electrical Inspectorate Lab, Thiruvananthapuram on 14-11-2016 and found the “secondary winding open”. But in the test report, the period from which the secondary winding open could not be found out. Soon after the inspection of the premises the short assessment bill for Rs. 462368/- was seen issued for a period 24 months from 07/2014 to 06/2016, without any basis and studying the consumption pattern of the period. During the period from 07/2014 to 06/2016 the consumption varies from 2120 units to 7840 units. In the fire accident report of the Fire Department, it is seen that the transformer partially and ‘meter board are burnt’ on 09-12-2015 at 15.35 hours. A report regarding the status of the asset of the Board and the inspection conducted in the premises of the appellant during this period is not furnished by the respondent. 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. Further the respondent has argued that the consumption in the appellant's premises has fallen drastically with effect from 01/2017 onwards on account of restrictions imposed on the functioning of quarries in Kollam District. But the consumption pattern of the appellant has not conclusively proved any such drastic decrease in consumption from 01/2017 onwards. Considering the above facts, I am of the opinion that the short assessment bill is to be limited from 09-12-2015 to 22-07-2016.

Decision

From the conclusions arrived at as detailed above, I decide to set aside the short assessment bill amounting to Rs. 2,99,855/- issued to the appellant. The respondent is directed to revise the bills for the consumption of the period from 09/12/2015 to 22-07-2016 by taking an average consumption of 7360 units i.e. the average consumption of 08/2016, 09/2016 and 10/2016 and issue the revised bill to the consumer within fifteen days.

Having concluded and decided as above it is ordered accordingly. The Appeal Petition filed by the Consumer is allowed as ordered and stands disposed of as such. The order of CGRF in OP No. 262/2016-17 dated 30-03-2017 is modified to this extent. No order on costs.

ELECTRICITY OMBUDSMAN

P/57/2017/ /Dated:

Delivered to:

1. Sri. Ajimon S., Paramvila Veedu, Kambaladi, Poruvazhy P.O., Kollam
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd., Kottarakkara, Kollam.

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.