

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/076/2017
(Present: A.S. Dasappan)
Dated: 12th October 2017

Appellant : Sri Aboobacker P.J.
M/s Vennakkad Granites,
High School Road, Nedumala,
Koduvally, Kozhikode

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd, Thamarassery,
Kozhikode

ORDER

Background of the case:

M/s Vennakkad Granites is a LT-IV industrial consumer, under Electrical Section, Koduvally, Kozhikode, having consumer No. 28187. The registered connected load in the premises is 79803 Watts. The consumer is a stone crushing unit registered in the name of Sri. Aboobacker P.J., the appellant. The said service connection was effected on 19-02-2015. The Regional Audit Officer of Kerala State Electricity Board conducted inspection at Electrical Section, Koduvally during the month of November 2016, and noticed an error that the Current Transformer (CT) ratio of the metering circuit is taken as 1 instead of the multiplication factor (MF) 30. On verifying the regular energy bills issued to the consumer, it was found that the bills were issued wrongly taken as MF 1 instead of 30 from 19-02-2015 onwards. Hence a short assessment bill to recover the loss, amounting to Rs. 7,42,715/- was served to the consumer on 09-12-2016. Against this, the consumer had filed a complaint before the CGRF in OP No. 156/2016-17. This was disposed of by allowing 22 monthly equal instalments without any surcharge. Aggrieved by this order, the appellant preferred this appeal before this Authority.

Arguments of the appellant:

The appellant is urging the following grounds to be considered by this Authority.

1. The redressal forum has directed this appellant to remit a sum of Rs. 7,42,715/- i.e. the entire short assessment bill, in instalments.
2. The short assessment bill was issued as the anomaly was detected by auditing office of KSEB. In any circumstances, nobody can find any fault with the appellant and hence direction to the appellant to make payment for the fault of others cannot be justified.
3. The Forum has not redressed the grievances of the appellant.
4. The Forum has failed to issue certificate copy of order within time as contemplated under Section 12(2) of the Act.
5. The Forum has omitted to order any cost to the appellant, as the order to remit a huge amount has caused much inconvenience to the appellant.
6. The Grievance Redressal Forum ought to have taken into account that industrial activity is not being fully carried out in his premise, due to want to raw materials.
7. The Forum ought to have taken into account the recession in the industrial establishment during this season.

In the above circumstances the appellant requests to set aside the order of Forum, in the interest of justice

Arguments of the respondent:

Consumer No.1166117028187, Vennakkad Granites is a stone crushing unit registered in the name of Sri. Aboobacker P.J. The said Service connection was effected on 19-02-2015 under LT IV A Industrial tariff with a total connected load of 79803 Watts under Electrical Section, Koduvally.

The energy meter installed in the premises at the time of effecting the service connection is of L&T make, having serial No. 14679083 with a Multiplication Factor of 30. But, while on entering the service connection details to the computer system the Multiplication Factor of CT Meter was wrongly entered as 1 (One) instead of 30 (Thirty) and bills were issued accordingly. The Regional Audit Officer of Kerala State Electricity Board conducted inspection at Electrical Section, Koduvally during the month of November 2016, and noticed the above error. As per the findings of Regional Audit Officer the consumer was short assessed for the period from February 2015 to November 2016 (22 months) (Exhibit 1). It shows that the consumer was billed for 22 months with MF one instead of thirty causing huge loss to the licensee.

Subsequent to this, a site inspection was conducted by the Assistant Engineer or Electrical Section, Koduvally on 01-12-2016 and it was confirmed that the Multiplication Factor of the energy meter is 30. On detecting the anomaly a short assessment bill for Rs. 7,42,415/- was issued to the consumer on 09.12.2016 after calculating the difference between actual bill amount due and the amount already paid by the consumer. The consumer was also given with 30 days time to remit the short assessment bill amount as per rules.

The consumer approached Consumer Grievance Redressal Forum, Kozhikode against the short assessment bill issued to him and the Hon'ble Forum took the petition on its record as OP No. 156/2016-17 the Forum as per its order dated 29" April 2017 disposed of the matter as follows (Exhibit 2).

1. The petition is dismissed, but as the short assessment bill is for a period of 22 months and the appellant is monthly paying consumer, 22 Nos. of equal instalments is granted without any surcharge.
2. Penalty during appeal period is exempted.
3. The licensee can realize any revenue loss in granting instalment facility from the responsible persons, if required.

The following remarks are offered by the respondent.

1. The short assessment bill was prepared as per provisions contained in Regulation 134(1) of Kerala Electricity Supply Code, 2014, which clearly says that *"if the licensee established either by review or otherwise, that it has under charged the consumer, the licensee may recover the amount so under charged 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"*. Also Regulation 152(4) of Supply Code stated that *"the consumer may be given instalment facility by the licensee for a maximum period of 12 months for the remittance of such amount of short collection with interest at the bank rate as on the date of remittance of the instalment"*.

The Consumer Grievance Redressal Forum as per Exhibit 1 order directed the appellant to pay the short assessed bill amount of Rs. 7.42.715/- in 22 Nos. of equal instalments without interest. The order of Consumer Grievance Redressal Forum, Kozhikode allowing the appellant to remit the short assessed amount in 22 instalments, that too without interest is against the regulation 152 (4) of Kerala Electricity Supply Code, 2014. It shows that the Hon'ble Consumer Grievance Redressal Forum trespassed its boundary of authority.

2. Here the appellant was directed to remit current charges for the energy he has consumed. Actually the appellant tried to make undue advantage out of an omission committed by the respondents. If the appellant was honest enough, he would certainly have pointed out the short collection and come forward to remit the actual current charges. When the error was detected by the licensee himself and the appellant is requested to remit the short assessed amount, the appellant is trying to escape from his duty to pay current charges.
3. The order of the Consumer Grievance Redressal Forum allowing 22 Nos. of instalments without interest is not within the purview of Kerala Electricity Supply Code, 2014 and as such judgment to be amended to that extend.
4. The respondents are willing to grant instalment facility to the appellant as per the provisions of Kerala Electricity Supply Code, 2014. The licensee is realizing the amount from the appellant towards current charges only which was omitted to be billed earlier. An omission on the part of the respondents cannot be considered as a ground for the appellant to skip payment of electricity charges.

The consumption of the appellant varies from month to month depending upon the demand for material like granites etc. for construction purposes. Hence the statement that Consumer Grievance Redressal Forum had not considered the quantum of industrial activity carried out in the premises is not relevant. The dispute is with regard to multiplying the reading with the factor. So and not on the variation in consumption. Moreover the appellant has been remitting the current charges after applying the multiplication factor 30 without any objection.

It is seen that short assessment bill for 22 months was issued to the appellant on the basis of the power conferred by the Kerala State Electricity Supply Code, 2014. It is only the current charge for the energy actually consumed by the appellant and hence required to remit the bill. Kerala State Electricity Board Limited is a public sector undertaking and it caters to the energy needs of the public. If the consumer like the appellant takes a stand that they are not bound by the provisions of Kerala Electricity Supply Code,

2014 and that would only pay current charges according to their whims and fancies, such a stand is a challenge not only to Kerala State Electricity Board Limited but, also to the public as a whole.

The short assessment bill over which the appeal has been filed is nothing but energy charge for the consumption made by the appellant. It may kindly note that over six months have already elapsed since the bill for short assessment was served on the appellant.

In view of the above, the Hon'ble Ombudsman may be pleased to dismiss the petition with a direction to the appellant to remit the short assessment bill served on him without delay in lump sum or to remit the said amount by availing himself instalment facility which the licensee is willing to grant as per Regulation 152 (4) of Kerala Electricity Supply Code, 2014.

Analysis and findings:

Hearing of the case was conducted on 04/10/2017 in the Court Hall of CGRF, Kozhikode. Sri Aboobacker, the appellant appeared and Sri. Sajeewan K, Assistant Executive Engineer, Electrical Sub Division, Thamarassery appeared for the respondent. Both sides have presented their arguments on the lines as stated above. On examining the petition of the appellant, the statement of facts filed by the respondent, the arguments in the hearing and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions.

The argument of the appellant is that the consumer is penalized for the mistake of the KSEB authorities. Though it was a fault on the part of the KSEB, it cannot be ignored that the party has actually consumed the energy and he is liable to pay for it. He is required to pay the charges only and not any penal amount. But the consumer can be allowed to remit the amount in monthly equal instalments eligible for him. Regarding the contentions of the appellant, it poses no weightage, since the bills were issued for the actual energy used and there is no relevance regarding the industrial activity or recession in the industrial establishment.

There occurs a mistake in the billing (calculation) due to wrong application of MF or may be due to some oversight. Amounts of short payments became due only after realization of mistake. Amounts of the short assessment bill were never demanded earlier and the same cannot be said to be due at any earlier time.

During the Hearing of the case, the appellant was ready to pay the short assessment bill, but requested to enhance the number of instalments without interest. The consumer does not dispute the error in the Multiplication Factor (MF) occurred to KSEB in raising his monthly bills nor its period of

assessment. The consumer is bound to pay the charges for the electricity he has consumed. As per clause 134 (1) of Electricity Supply Code, 2014, if the Licensee establishes that it has under charged the consumer, by review or otherwise, it is open to the Licensee to recover the amount so undercharged from the consumer by issuing a bill. In this case, the respondent has only done that and so it is found that the consumer is liable to honour the bill dated 09-12-2016 for Rs. 7,42,715/-, issued to him. The respondent has requested to cancel the 22 numbers of instalments allowed by the Forum to remit the amount. Since this is a clear laxity or oversight occurred on the part of the licensee for which the consumer cannot be overburdened.

Decision

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

The order dated 29-04-2017 issued by the CGRF, Kozhikode, in Petition No. 156/2016-17 is upheld. Having concluded and decided as above, it is ordered accordingly. No order on costs.

ELECTRICITY OMBUDSMAN

P/076/2017/ _____ /Dated: _____

Delivered to:

1. Sri Aboobacker P.J., M/s Vennakkad Granites, High School Road, Nedumala, Koduvally, Kozhikode
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Thamarassery, Kozhikode

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, Gandhi Road, Kozhikode.