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APPEAL PETITION No. P/072/2019
(Present: A.S. Dasappan)
Dated: 18th November 2019

Appellant: Sri. Paul. P.O,
Mariya Plastics,
Pavarattykaran House,
Manakkody P.O.,
Thrissur-680012

Respondent: The Assistant Executive Engineer,
Electrical Sub Division,
KSEBL, Ayyanthole
Thrissur

ORDER

Background of the case:

The Appellant Sri. Paul. P.O., Pavarattykkaran House, Manakkody P.O., Thrissur, is a consumer with LT 3 phase connection with consumer No. 1156792014166 under Electrical Section, Arimbur billed under LT IV A Tariff with a sanctioned connected load of 64514 watts. According to the respondent, the Appellant enhanced the contract demand from 42 kVA to 55 kVA and executed another agreement on 01.12.2015, but the consumer was continued to be billed based on the Contract Demand of 42 kVA only.

The error in billing was noticed during the internal audit by the Regional Audit office Thrissur and a demand notice for the under charged amount of Rs. 23,477/- for the period from 01/2016 to 06/2017 was served to the consumer on 2-2-2018. Another demand for the short assessment for the period from 07/2017 to 11/2018 amounting to Rs. 25,500/- was raised and an Invoice for Rs. 48,977/- including the earlier demand of Rs. 23,447/- was served to the consumer on 13/12/2018.

Aggrieved by this, the consumer filed a complaint before the CGRF, Central Region, Ernakulam and the Forum issued an Order vide OP No.87/2018-19 dated 30.03.2019 by quashing the demand notice dated 13/12/2018 for Rs. 48,977/-. Aggrieved by this order the respondent filed a Review Petition as RP.1/2019-20 and the Forum allowed the petition and modified the earlier order

vide order no. RP. No. 1/19-20 /202 Dated 30.07.2019 by directing to issue revised bill by limiting the short assessment period from 1/2016 to 11/2018 and also adjust or refund the excess amount seen collected during 11/2015. Against the above order of the Forum, the appellant filed this appeal before this Authority on 06-09-2019.

Arguments of the appellant:

The appellant is running an industry by name, "Mariya Plastics" in Arimbur Panchayat of Thrissur District. He received two notices from the KSEB Office, Arimbur on 02-02-2018 and 13-12-2018 demanding Rs. 23,477/- and 25,500/- respectively for remittance. The appellant is not responsible for the above. The appellant having a connected load of more than 20 kW received a letter from Assistant Engineer on 12-12-2017 directing to execute an agreement for required contract demand in stamp paper worth Rs. 200/- for fixing a minimum demand charge. At the time the appellant had already a contractual demand of 42 kVA, which was being entered manually in the electricity bill. Again the appellant received a letter on 13-12-2018 intimating that as per the agreement dated 11-12-2015, the Contract Demand was enhanced to 55 kVA and entered in the reading register but the bills were not prepared accordingly due to some technical reasons.

It is true that the appellant had applied for the enhancement of contract demand to 55 kVA. The then Assistant Executive Engineer verified the computer history and the average contractual demand was less than 30 kVA and hence intimated the appellant that there was no need to enhance the contract demand from the existing 42 kVA to 55 kVA. Hence, the appellant decided not to make any enhancement of contract demand and the Assistant Executive Engineer unsigned the agreement paper. The present demand charge is arrived at from the wrong entries made in the computer system and reading register.

The appellant had filed petition before the CGRF, Kalamassery and the appellant was exempted from the remittances of demand charge vide order dated 30-03-2019. Later, the respondent filed a review petition in CGRF and the Forum ordered to remit the amount without any hearing.

Arguments of the respondent:

The connection was being billed under ToD tariff as per the prevailed tariff order with effect from 08.07.2014 based on the agreement executed for a contract demand of 42 kVA. As per the prevailing tariff order, the Demand charges of a ToD billed consumer during a particular month shall be assessed based on the recorded maximum demand during that month or 75% of the contract demand whichever is higher.

Later the Appellant enhanced the contract demand from 42 kVA to 55 kVA and executed another agreement on 01.12.2015. The enhanced contract demand of 55 kVA had been entered in system by the section authorities on 01-12- 2015 itself. But due to the error in software, the system calculated the demand charges based on the previous contract demand of 42 kVA and the consumer was continued to be billed with the demand charges accordingly.

The error in billing was noticed during the internal audit by the Regional Audit Office Thrissur and a demand notice with detailed calculation statement for the under charged amount of Rs. 23,477/- (Rupees Twenty three Thousand four hundred and seventy seven only) for the period from 01/2016 to 06/2017 was served to the consumer on 2-2-2018. Against this demand notice, the consumer has filed an objection vide letter dated 7/2/2018.

This error in billing continued up to 11/2018 till it was rectified In the system and hence another demand for the short assessment for this period from 07/2017 to 11/2018 amounting to Rs. 25,500/- (Rupees Twenty five thousand and five hundred only) was raised and an invoice for Rs. 48,977/- (Rupees forty eight thousand nine hundred and seventy seven only) including the earlier demand of Rs. 23,447/- (Rupees twenty three thousand four hundred and forty seven only) was served to the consumer on 13/12/2018 with a due date of 30 days as per rules without any interest or surcharge.

The demand raised against the consumer is the under charged amount for the demand charges which would have been collected for the contract demand as per the agreement executed by the Consumer without any interest or surcharge as per the provisions of Regulation 134 of Kerala Electricity Supply Code 2014 and is liable to be remitted by the consumer.

There is no merits in any of the grounds in the Appeal petition and this Appeal is filed to escape from the liability to remit the charges as per the demand which is issued in accordance with law as per the prevailing Tariff Order.

Analysis and Findings: -

The Hearing of the case was conducted on 05-11-2019, in my chamber at Edappally. Sri. Paul P.O., appellant appeared for the hearing and Sri. K.B. Shaji Kumar, Assistant Executive Engineer, Electrical Sub Division, Ayyanthole, Thrissur, represented the respondent's side. On perusing the Appeal Petition, the counter of the Respondent, the documents submitted, arguments during the hearing and considering the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions there of.

As per the appellant, the connected load was enhanced to 65 kW in 2014 and requested the Assistant Executive Engineer, Electrical Sub Division, Ayyanthole for an enhancement of Contract Demand to 55 kVA on 01-12-2015. But as directed by the Assistant Executive Engineer, the contract Demand was not enhanced and as such a fresh agreement was not executed for the enhancement of the Contract Demand on 01-12-2015.

The original Contract Demand in 08-07-2014 was 42 kVA which was reduced to 38 kVA on 26-06-2019. On examining the recorded demand details, it is found that the Recorded Maximum Demand of the appellant never exceeded 30 kVA except for 4/2016 and 5/2016 during the disputed period. The recorded Maximum Demand for the months of 4/2016 and 5/2016 were 35 kVA and 32 kVA respectively and the respondent had collected demand charges for the above and 75% of the contract demand of 42 kVA for the remaining period. Clause 4 of the Supplementary agreement says:

“The consumer also agrees that when the Recorded Maximum Demand (RMD) for any three consecutive months exceeds the contract demand as specified in this agreement and the Board and the consumer have not entered into a new agreement for a higher contract demand which is greater than or equal to the above said Recorded Maximum Demand, the supply to the consumer shall be disconnected without notice. The consumer also liable to pay the excess charges at a percentage as shown in the tariff notification in force from time to time”.

Though the respondent produced a copy of the supplementary agreement made on 1st December 2015 in between the Assistant Executive Engineer, Electrical Sub Division, Ayyanthole and the consumer, the same was not signed by the Assistant Executive Engineer and a copy was never handed over to the appellant by the respondent.

The appellant had already remitted the contract demand charge for the months of 04/2016 and 05/2016 for the agreed contract demand of 42 kVA and hence there is no need to remit any additional amount raised by the respondent noticing a new contract demand entered in their register maintained by them, without entering a valid agreement between the appellant and the Board. In short, there was no valid agreement for contract demand of 55 kVA on 01-12-2015.

Decision:

From the analysis done and the findings and conclusions arrived at, which are detailed above, this Authority take the following decision.

The arrear amount for Rs. 48,977/-, issued by the respondent as not maintainable before law and as such quash the same.

Having concluded and decided as above, it is ordered accordingly. The Appeal Petition filed by the appellant is allowed as it is found having merits and the petition stands disposed of accordingly. The order of CGRF, Ernakulam vide order no. RP. No. 1/19-20 /202 Dated 30.07.2019 is set aside. No order on costs.

ELECTRICITY OMBUDSMAN

P/072/2019/_____ /Dated: _____

Delivered to:

1. Sri. Paul. P.O, Mariya Plastics, Pavarattykaran House, Manakkody P.O., Thrissur-680012
2. The Assistant Executive Engineer, Electrical Sub Division, KSEBL, Ayyanthole. Thrissur

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthi Bhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, CGRF-CR, 220 kV Substation Compound, KSE Board Limited, HMT Colony P.O., Kalamassery, PIN: 683 503.