

# STATE ELECTRICITY OMBUDSMAN

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## REPRESENTATION No: P 41/09

*Appellant* : Sri A.T.Antony , (Proprietor,Libin Ice)  
Anandassery House, Mundamveli, COCHIN 682507

*Respondent:* Kerala State Electricity Board  
*Represented by*  
The Assistant Executive Engineer  
Electrical Sub Division PALLURUTHY Cochin

## ORDER

Sri A.T.Antony , Proprietor,Libin Ice,Perumpadappu ,Cochin  
submitted a representation on 20.1.2009 seeking the following relief :

1. *To set aside the demand to the extent of Rs 3,24,371/- as per order dated 29.9.2006 of AE Palluruthy*
2. *To set aside the Order No CGRF/CR/Comp 100/06-07 dated 25.1.2007 of CGRF Ernakulam*

Counter statements of the Respondent was obtained and hearing of both the parties conducted on 12.3.2009.

The Appellant has a 3 phase connection with Cons.No.14363 and connected load 29KW.The date of connection was 06.05.1998.The power is given through a CT operated static meter and the light circuit has a separate SP meter. The CT ratio is 200/5 .

On 20.8.2006 the APTS found out that the CT-out put-connection to the Meter had been interchanged. The B phase terminal of the meter got voltage from B phase but current from C phase. And vice versa on C Phase terminal. The connections on the A phase was correct. The error in connection was reportedly convinced to the Consumer also. It was also found on testing that the power displayed on the B- phase and C- phase elements of the meter was approximately half of the power displayed on A- phase, the load being almost balanced. When the error in connection was rectified, the display in all the three elements were almost equal.

The Respondent concluded that there had been an under-recording of 50% of the *recorded consumption* in the meter. In other words the recorded consumption was only

around 66.67% of the actual consumption. The Respondent issued an invoice amounting to Rs 3,24,371/- on 16.9.2006 being the short fall in demand for the period from 8/04 to 7/06. The units recorded for the period was 1,84,040 . The shortfall was computed as 92020 which is 50% of the *recorded consumption* and the Energy Charge was assessed at the applicable Tariff for LT IV at 325 paise per unit. In the appeal to the Respondents as well as in the petition to CGRF the computation of the Respondent was upheld. The CGRF had issued orders on 25.1.2007 but the consumer failed to move the Ombudsman in time. When the KSEB initiated punitive action again, late in 10/08, the Consumer obtained an order from the Hon : High Court directing the undersigned to consider and take a decision on the matter.

The representation with the pleas noted above is submitted to the under signed in the above back ground.

The contentions/arguments/points raised by the Appellant in the representation and during the hearing are summarized below:

The Site mahazar shows that there was an S.E.v.000055 error indication on the meter which disappeared on rectification of the error . ‘System pass’ indication on the meter comes when the error is no more. The APTS squad which inspected the meter in 2004 as well as the Sub Engineers of the KSEB who inspected the meter regularly every month to take readings could not have missed this message if it had been there all the time. They would not have recorded the reading if there was an error message .Hence it is clear that the error message had appeared subsequently in June or July 2006.Hence charging for Two months is not fair.

The Mahazar was signed by the Appellant due to compulsion by local staff of the Respondent.

As per the Electricity Act 2003 even if the consumer is found to misuse electricity the assessment shall be done for a period of 6 months. Here the consumer had been charged for two years.

The Appellant can not interchange the connections since the whole box is concealed and sealed. The KSEB staff might have changed the connections in June or July 2006 when there was power failure and the KSEB staff had attended the call.

According to the calculations in the site mahazar the short fall in recording was only 30.6%. Hence recovery of 50% is not correct.

The contentions/arguments/points raised by the Respondent in the counterstatement and during the hearing are summarized below:

There was power failure in June and July 2006 but it was due to blowing of section fuse at the Transformer point. Nothing was done at the meter point at that time by the staff of KSEB.

Demands have been made for the actual energy consumed by the Appellant which went unrecorded. Only appropriate tariff is applied. Penal charges are not demanded.

The Licensee has the right to recover charges for the unrecorded portion of the actual energy consumed as per various High Court rulings.

The staff who take readings every month normally do not inspect the meter in detail. Hence the error indication might have gone un-noticed.

#### Discussion and Findings:

There is no dispute on the fact that the CT-out put-connection to the Meter had been interchanged and there was a resultant fall in the recordings in the meter. When the Current and Voltage connections of two phases are interchanged, the theoretical calculations as well as the practical observations establish that only 66.67% of the actual consumption on a 3 phase system will be recorded, provided the loads are balanced. As such the assessment of short-recoding in the meter by the Respondent is correct. The rates applied are only the ruling tariff rates which also are not a point of dispute. The Respondent has no case that the Appellant has interfered with the Metering system and attempted any malpractices.

The main dispute is on the period of assessment. When was the 'error' in connection occurred? The short assessment can commence from the date on which the 'error' had occurred. The Hon :High Court had upheld the right of the KSEB to recover the under assessed current charges on several occasions. Section 24(5) of the Electricity Supply Code also empowers the Licensee to recover the amount under charged provided the under assessment is established.

Hence the dispute boils down to the above question, on the date of occurrence of the 'error', again.

The date of connection was 06.05.1998. Date of installation of the present meter was 04.10.2002. It has also been stated that the Meter and Connections 'have not been repaired/re-installed after meter changing'. This statement has not been challenged by the Appellant. The Appellant has argued that the error in connection might have occurred sometimes in June-July 2006 when there was a power failure and KSEB staff had attended to it. He has not tried to establish that the Meter and the associated systems were rearranged or reconnected by the staff during the repair works. He has not claimed that the complaint in June-July 2006 was related to the Meter and associated systems. As such one cannot conclude that the KSEB Staff had interfered in the CT wiring/connections at the occasion when a normal fuse-off-calls were attended. The claim of KSEB that the repair works were at the Transformer point looks to be genuine. The Appellant has not tried to prove that the interference with the same had been done on any other occasion by the KSEB staff.

The consumption details submitted do not reveal any clear pattern to suspect under-recording from any particular month. Since it has been stated that the installations 'have not been repaired/re-installed after meter changing', it should be concluded that the 'error' had occurred when the new meter was installed on 4.10.2002. In that situation under-recording and under-assessment must have occurred from 4.10.2002 itself.

But the Respondent has gracefully excluded the periods prior to 2 years from assessment on the basis of a wrong interpretation of Section 56(2) of the Electricity Act 2003 even

though the Section 56(2) of the Electricity Act 2003 do not provide any limitation on recovery of under- assessed amounts as per Section 24(5) of the Supply Code. It is not known whether any enquiry/investigation had been conducted by any responsible official of the Respondent to the 'mystery of error' in connection and to fix up responsibility. It is also naïve to state that no-body from KSEB, including the APTS squad who inspected in 2004, noticed the presence of the error indication on the Meter for 4 years. The Appellant has a point when he suggests that the APTS squad which inspected the meter in 2004 as well as the Sub Engineers of the KSEB who inspected the meter regularly every month to take readings could not have missed the error message on the meter. But the ignorance or connivance by the KSEB Staff can not be used as an excuse for non-payment of genuine current charges by a consumer. How ever I do not intend to suggest that the demand be revised from 10/2002 onwards. Under any circumstances it is clear that the Consumer had not paid the actual current charges due from him from 10/2002 onwards. Hence the question of quashing the demand raised by the respondent from 8/2004 do not arise.

Orders:

Under the circum stances explained above and after carefully examining all the evidences, arguments and points furnished by the Appellant and Respondent on the matter, the representation is disposed off with the following orders:

1. *The plea of the Respondent to set aside the demand to the extent of Rs 3,24,371/- as per order dated 29.9.2006 of AE Palluruthy is devoid of any merit sand is hereby dismissed.*
2. *The plea of the Respondent to set aside the Order dated 25.1.2007 of CGRF Ernakulam is not allowed.*
3. *The Respondent shall be free to recover the above demand with interest as per statutes with effect from 30.9.2006*
4. *No order on costs.*

Dated this the 20th day of April 2009 ,

P.PARAMESWARAN  
Electricity Ombudsman

No P 41/09 / 212 / dated 22.4.2009

- Forwarded to:
1. Sri A.T.Antony , (Proprietor,Libin Ice)  
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  2. The Assistant Executive Engineer  
Electrical Sub Division PALLURUTHY Cochin

Copy to :

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The Secretary ,KSE Board,  
VaidyuthiBhavanam ,Thiruvananthapuram 695004

The Chairman  
Consumer Grievance Redressal Forum  
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