

THE STATE ELECTRICITY OMBUDSMAN

Charangattu Bhavan, Building No.38/2829,
Mamangalam-Anchumana Road,
Edappally, Kochi-682 024
www.keralaeo.org Ph: 0484 2346488, Mob: 91 9539913269
Email: ombudsman.electricity@gmail.com

APPEAL PETITION No. P/010/2022**(Present: A.S. Dasappan)****Dated: 25th April, 2022**

Appellant : Sri. Nandakumar. P.S.,
Komarla Hatcheries,
Nochima,
Manalimukku Sivagiri Road, NAD P.O.,
Edathala, Aluva,
Ernakulam Dist.

Respondent : Assistant Executive Engineer,
Electrical Sub Division, KSEB Ltd.,
Kalamassery, Ernakulam Dist.

ORDER**Background of the case:**

The appellant is a consumer of Electrical Section, KSEB Ltd., Thevakkal with consumer number 1155833001222 under LT IVA tariff. The connected load in the premises of the appellant is 54200 watts. The Ant-Power Theft Squad (APTS) of the KSEB Ltd. conducted an inspection in the premises of the appellant on 14-02-2019 and found that, the 'R' phase of the energy meter was not recording energy consumption, which led to the non-recording of actual consumption in the premises. The inspection team found that the Current Transformer (CT) connected to the 'R' phase of the energy meter was defective. The percentage of the unrecorded portion of energy was computed by the inspection team with their testing instruments and issued a short assessment bill amounting to Rs.17,03,371/- for a period of 24 months prior to the date of inspection. The appellant submitted an application to the Assistant Engineer for reviewing the short assessment bill and the Officer revised the bill to Rs.8,60,423/- limiting the period for 12 months prior to the inspection. Again, the appellant approached the respondent for reconsidering the subject matter, but the respondent revised the bill for

Rs.17,03,371/- as issued in the first time. The appellant filed a petition before Consumer Grievance Redressal Forum (CGRF), Central Region, Ernakulam vide OP No. 34/2021-22 and the Forum in its order dated 18-12-2021 limited the period of short assessment for 12 months.

Aggrieved by the decision of the Forum, the appellant filed the appeal petition before this Authority.

Arguments of the appellant:

An APTS inspection was conducted in the premises of the appellant on 14.02.2019, and subsequently a provisional bill for Rs.17,03,371/- was given along with a notice as per - Sub Section (6) of Section 126 of Electricity Amendment Act 2007 on 13.03.2019. Since the notice and bill was given relaying and depending up on Electricity Act Sec: 126, which is not applicable here, the entire proceedings relaying up on an invalid and irrelevant document will become void and null. Hence, Ombudsman may declare that the claim of KSEBL and their proceedings are illegal and irrelevant.

Even though the proceeding was illegal, taking in to consideration of the request of the AE, the appellant has submitted an objection letter against the illegal claim of Rs.17,03,371/-. After the hearing the AE has given the final order stating that the short assessment is limited to 12 months as Rs.8,60,423/- on 20.06.2019. Subsequently, the appellant has given a letter to Assistant Executive Engineer, as per the direction of the AE. Without any hearing, the AEE enhanced the period of assessment from 12 months to 24 months and re installed the original claim of AE Rs.17,03,371/- as final.

On 21.06.2021, the appellant received a letter from Assistant Engineer, KSEBL, Thevakkal stating that the appellant has to pay Rs.17,03,371/- as per Site Mazhazar dated 14.02.2019 and Proceedings of Assistant Executive Engineer, Sub Division Kalamassery dated 24.05.2021. Even though the original claim was as per section 126 of the Electricity Act the present claim is as per section 134 and 152(3) of Supply Code 2014. Since entire proceeding and claim was as per section 126 of the Act, the new claim as per Section 134 of the Electricity Act and the Supply Code Regulation 152(3) will not stand before law.

Meanwhile entire CTs were replaced by KSEBL on 06.08.2019. the readings after the CT's replacement and before the CT's replacement was same.

As per KSEBL Site Mahzar, the CT operated Energy Meter installed in the premises was not recording one phase and the actual consumption was not recorded in the meter. Instead of taking the average value for assessing the consumption during meter faulty period limited to six months, the KSEBL have taken all monthly readings for a period from 03/2017 to 02/2019.

As per the CEA Regulation 2006, 2(P) "*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(CVT)necessary for such purpose.*' Here, as per KSEBL the fault is in line connecting the current line which is a part of meter and hence the proceedings for the meter faulty period can only be adapted while claiming the short assessment bill.

The KSEBL, declared the meter as faulty for certain periods and they have assessed proportionating the faulty consumption with the recorded consumption. The recorded consumption as per them is mainly of two phases. As per Site Mahazar the current in R phase is 69A and Y phase is 54 A and B phase is 70A and voltage in R phase is 234V and Y phase is 237V and B phase is 233V, this clearly shows that in each phase the consumption is similar. Then how can they get a conclusion that our one phase is not working?

The KSEBL have not tested the meter and CT in standard test lab. The appellant is having a lot of single-phase load and even the three-phase motor will not be drawing the same current in all the phases continuously. Hence, apportion method will not give an accurate value as per CEA Regulation.

As per Electricity Act Sec.55 (1) "*No licensee shall supply electricity, after the expiry date of two years from the appointed date, except through installation of correct meter in accordance with the regulations to be made in this behalf by the Authority.*' It is the liability of the KSEBL to provide correct meter and maintain it correctly.

Every month the Assistant Engineer/Sub Engineer is coming for taking the reading. On a single glance it will be revealed that the phase is not working (either voltage or current) if it is so. It is also his liability to check the healthiness by monitoring the LED as per Reg.110 (7) of the Supply Code 2014. If it was done, the consumer would not have been in trouble. In every bill it is written that the meter status is ok.

As per Supply Code 2014 Reg.115 (9), which states that *in case the meter is found to be faulty, revision of the bill on the basis of the test report shall be done for a maximum period of six months or from the date of last testing, whichever is shorter and the excess or deficit charges on account of such revision shall be adjusted in the two subsequent bills.* KSEBL cannot charge more than 6 months, if the meter is found faulty. The meter is not tested using MR1 and data are not downloaded to conclude from which date onwards one CT circuit is not recording properly. The KSEBL have tested the existing system with ZERA make standard reference meter, and taken a conclusion that reading in consumption is less than the reference meter. As per Supply Code 2014, KSEBL should have tested the energy meter and reference energy meter with standard laboratory before they arrive a conclusion. But in this case, KSEBL never checked the meter accuracy and concluded that our one phase is not reading. It is not fair and just.

KSEBL have not provided any supporting documents for the period of assessment and unit consumption in actual and less billed units etc. till now.

A poor consumer cannot be made liable for noncompliance of the directive by the KSEB officials such as,

- a. The Regulation 115 (9) which reduces maximum period of back assessment as 6 months, in case of meter faulty even if the meter faulty is more than 6 months.
- b. It is true that Regulation 134(1) permit KSEB to collect the undercharged amount *“If the KSEB 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 case at least thirty days shall be given to the consumer for making payment of the bill’.* But nowhere it is mentioned that KSEBL can have a claim after operational

violation of Regulation and non-compliance of directives. KSEBL can collect the payment only in compliance with Regulations 115(9).

The Electricity Act 2003 sec. 50 is very clear and specific in assigning the duty and responsibility to specify Electricity Supply Code to provide for recovery of electricity charges, intervals for billing of electricity charges, etc., and hence KSEBL cannot have their own discretion in billing and collection of payment. While issuing a bill it has to be as per all Regulations such as 134 (1) which permits licensee to collect the undercharged amount by issuing a bill, Reg. 115 (9), which limits the period of assessment as previous six months. Here KSEBL can collect the undercharged amount as per Reg.134(1) but should be limited for a period of six months as per Reg.115(9).

On verification of the average consumption, it is seen that there is no difference other than the seasonal change in pattern. As per Assistant Engineer final order, he mentioned that there are no variations in consumption pattern and he reduced the assessment period to 12months.

The appellant requests to look in to the matter and direct KSEBL to prove the fault and its period.

Relief Sought

1. The Ombudsman may direct KSEBL not to disconnect the supply.
2. Ombudsman may cancel the CGRF Order No.34/2021-22 dated 18.12.2021
3. Ombudsman may cancel the impugned bill
4. Direct KSEBL to take the average of the meter reading after replacing CT for a period of three months, and may be computed for previous six months if the calculated consumption is more or repay the excess collected amount if the calculation is less.

Arguments of the respondent:

APTS, Ernakulam unit with section staff conducted an inspection on 14.02.2019 in the appellant's premises and found the CT(100/5) of R-phase was not recording the current. Accordingly, a short assessment bill amounting to Rs.17,03,371/- was prepared and issued to the appellant by Assistant Engineer, Electrical Section, Thevakkal.

The appellant had submitted an application to the Asst. Engineer, Thevakkal for cancellation of the bill and the bill amount was reduced to Rs.8,60,423/- for a period of 12 months vide order No.DB-21/General/2019-20/dtd.20.06.2019, after conducting a hearing with the appellant.

Against the bill, the appellant complained to the Asst. Executive Engineer, Electrical Sub Division, Kalamassery on 04.07.2019, for cancellation. Accordingly, the premises was inspected by the Asst. Executive Engineer and verified the details and directed to revise the bill. The Asst Engineer issued the bill amounting to Rs.17,03371 on 21.06.2021 based on the proceedings of Asst. Executive Engineer and as per regulation 152 clause 3 para 4 of KESC 2014. Against the decision, the appellant approached Consumer Grievance Redressal Forum and the Forum limited the period for 12 months.

As per regulation 134(1) of Kerala Electricity Supply Code 2014 and relevant clauses in Electricity Act 2003, the licensee has the right to collect the undercharged amount due to the energy actually consumed by the appellant.

On testing with standard reference meter, it was found that the actual consumption is 1.062 times (1296.29Wh/800Wh) higher than that recorded by meter installed at appellant's premises. The current flow was measured in each phase using clamp meter.

On scrutiny of appellant's billing profile, it is a fact that the consumption pattern is of varying nature. Hence it is difficult to analyze from the consumption when the non-recording of R-phase of CT has started. The data available for downloading in the meter memory was from 06-01-2019 to 14-12-2019 only. This does not mean that the R-phase of CT was recording before 06-01-2019. Hence the bill issued.

The CTs at the premises were replaced on 06.08.2019 but the subsequent readings not shown increase. Later on, inspection of the premises by the Assistant Executive Engineer, it was revealed that the new CTs were in the rating of 150/5 instead of 100/5. With MF of '30', the consumption marked an increase. The bill was issued to the appellant as per regulation 152 clause 3 para 4 of supply code 2014.

The bill was issued on an observation that, the duration of non-recording of current in the R-phase was more than two years. Hence the bill was issued as per KESC 2014 regulation 152 (3), limited to 24 months.

The load connected itself substantiate the consumption of the appellant and hence, the appellant is liable to pay the bill.

Therefore, in the light of the aforementioned facts and circumstances, the complaint may be rejected.

Analysis and findings:

The hearing of the case was conducted on 17-03-2022 in the office of the State Electricity Ombudsman, Edappally, Kochi. Sri. Joy Jerald and Smt. Neenu Skaria attended the hearing for the appellant and Sri. P.K. Sunilkumar, Assistant Executive Engineer, Electrical Subdivision, Kalamassery attended the hearing from the respondent's side. On examining the appeal petition, the arguments filed by the appellant, the statement of facts of the respondent, perusing the documents attached and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decision thereof.

KSEB Ltd. has inspected the premises of the appellant on 14-02-2019 and found that the Current Transformer (CT) connected to the R-phase of the energy meter was defective, thus resulting in the recording of a lower consumption than what is actually consumed. The connected load in the premises of the appellant is 54 kW and Contract Demand 61 kVA. Site mahazar was prepared and the meter data was downloaded, but the received data was only for 12 months prior to the date of inspection on 14-02-2019. The appellant was issued a short assessment bill for 24 months amounting to Rs.17,03,371/-, revised for 12 months amounting to Rs. 8,60,423/- and again retained the bill for Rs.17,-3,371/- and issued to the appellant. The CGRF, Ernakulam ordered to revise the bill limiting the period of assessment from 24 months to 12 months.

The appellant's contention is that the entire CTs were replaced by KSEB Ltd. on 06-08-2019 and consumption before and after the CT change was same. Instead of reassessing the consumption during the meter faulty period limited to six months, the respondent had reassessed the bill amount for 24 months. The meter and CTs were not tested in a standard lab. The respondent had to check the

healthiness of the meter by monitoring the LED as per Regulation 110 (7) of the Supply Code 2014. The request of the appellant is to look into the matter and direct KSEB Ltd. to prove the fault and its period.

Refuting the above contentions, the respondent has averred that the testing of the meter was done with the standard reference meter, which is a calibrated one. The consumption in the premises is of varying in nature. The respondent could collect the meter data for 12 months only prior to the date of inspection. The respondent issued the bill as per Regulation 152 of Kerala Electricity Supply Code 2014.

Normally, the respondent is bound to rectify the defect of the metering system, if it is found defective/faulty, after informing the consumer. The appellant was assessed for Rs.17,03,371/- for non-recording of energy due to defects of the 'R' phase CT for the period from 03/2017 to 02/2019, by taking the lost energy as 38% of the actual energy to be recorded. On perusing the site mahazar, this Authority feels that the contention regarding the current missing in one phase noticed during the inspection by KSEB Ltd. was correct. This, it is convinced that the energy recorded in the meter was not correct.

The issue arising for consideration in this appeal is whether the period assessed, and the quantum of energy loss computed are in order and the appellant is liable for the payment of short-assessed amount.

The site mahazar dated 14-02-2019 and downloaded data justifies missing of current in one phase of the appellant's metering system in the appellant's premises. In view of the above facts, it is clear that the energy meter installed in the appellant's premises was only recording in two phases. The appellant's argument is mainly on the mode of assessment made by the respondent and its period.

The respondent has issued the short assessment bill for a period of 24 months by taking lost energy as 38% of the recorded consumption, which is not proper. Applying the rate of lost energy obtained at the time of inspection of the metering system in a short duration for the entire period is also not proper and as such the rate of lost energy to be revised. In a balanced three phase system, theoretically the lost energy will be 33.33% of the actual energy consumption, if

one circuit of the metering system became defective.

Decision: -

On the discussions and conclusions arrived at, which are detailed above, I take the following decision:

The short assessment bill issued to the appellant for Rs.17,03,371/- is quashed. The respondent is directed to revise the short assessment taking 33.33% of the actual consumption to be recorded, if the metering system is perfect, instead of 38% taken by the respondent. Also, the period of assessment is limited to 12 months prior to the date of inspection instead of 24 months. The respondent shall issue the revised bill within 15 days from the date of order. The appeal petition is disposed of as such. The order of Consumer Grievance Redressal Forum, Central Region in OP No. 34/2021-22 dated 18-12-2021 is modified to this extent.

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

ELECTRICITY OMBUDSMAN

P/010/2022/_____ dated _____.

Delivered to:

1. Sri. Nandakumar. P.S., Komarla Hatcheries, Nochima, Manalimukku Sivagiri Road, N.A.D. P.O., Edathala, Aluva, Ernakulam Dist.
2. Assistant Executive Engineer, Electrical Sub Division, KSEB Ltd., Kalamassery, Ernakulam Dist.

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.