

**THE STATE ELECTRICITY OMBUDSMAN**

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**Appeal Petition No. P/073/2024  
(Present A. Chandrakumaran Nair)  
Dated: 10-01-2025**

Appellant : Sri. Ravichandran.R  
Director (G) & HoD,  
Geological Survey of India  
Manikanteshwaram P.O  
Thiruvananthapuram - 695013

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division, KSE Board Limited,  
Vellayambalam, Thiruvananthapuram.

**ORDER**

**Background of the case**

The appellant is the Director of Geological Survey of India, office situated at Manikanteshwaram, Thiruvananthapuram. The Geological Survey of India, Trivandrum is a Consumer of Licensee under their Electrical Section, Kachani, Thiruvananthapuram and the tariff applicable is LT 6B. On 21/12/2023, the Anti Power Theft Squad of Licensee had conducted an inspection and found that the connection of secondary sides of CTs are interchanged between R & B phases causing an error under recordings of the energy consumption. The under recording was around 44% less of the actual consumption. A short assessment for Rs. 22,25,660/- for a period from 2013 to 2023. The appellant has disputed the Short Assessment Bill and the petition is filed to the CGRF. CGRF had issued the order dated 18/09/2024 on completing the procedures. This petition is filed to this office as the appeal to the CGRF order as appellant is aggrieved by the decision of CGRF.

## **Arguments of the Appellant**

Being aggrieved by the Short Assessment Bill (SAB) dated December 28, 2023, issued by the Assistant Executive Engineer, Electrical Sub-Division, Vellayambalam, for Rs.22,25,660/-, the petitioner, Geological Survey of India, Kerala and Lakshadweep Unit, filed a complaint before the Consumer Grievance Redressal Forum (CGRF). The SAB was issued based on an inspection conducted by the Anti-Power Theft Squad (APTS) of KSEB on December 21, 2023, revealing a 44% under-recording of electricity consumption due to a wiring fault. Hon'ble CGRF, in its impugned order dated September 18, 2024, upheld the validity of the SAB, allowing only the option of payment in installments. Aggrieved by this decision, the petitioner now challenges the said order..

The petitioner, Geological Survey of India (GSI), Kerala and Lakshadweep Unit, located at Manikanteswaram P.O., Thiruvananthapuram, is a high-tension (HT) electricity consumer of the Kerala State Electricity Board (KSEB) under consumer number 1146910001854. On December 21, 2023, the Anti-Power Theft Squad (APTS) of KSEB conducted an inspection at the premises of the petitioner. During this inspection, significant discrepancies in electricity consumption were identified, which were attributed to a technical fault in the wiring associated with the transformer-energy meter. The inspection revealed that the R and B phases of the current transformers (CTs) were incorrectly associated, resulting in an under-recording of actual electricity consumption by 44%. This technical fault persisted for an extensive duration, from December 5, 2013, to December 1, 2023, leading to a substantial under-billing of electricity usage over the ten-year period. Consequently, on December 28, 2023, KSEB issued a Short Assessment Bill (SAB) amounting to 22,25,660/- to the petitioner. KSEB based this bill on Regulation 134(1) of the Kerala Electricity Supply Code, 2014, which permits the licensee to recover undercharged amounts from consumers.

The petitioner contested this bill, arguing that the under-recording of electricity consumption was solely due to KSEB's failure to properly maintain and inspect its equipment. The petitioner emphasized that they had no access to or control over the transformer and associated wiring, which remained the sole responsibility of KSEB for maintenance and operation. Therefore, the petitioner contended that it should not be held liable for the discrepancies arising from KSEB's negligence. To further substantiate their case, the petitioner pointed out that KSEB had failed to conduct regular inspections as mandated by Regulation 113(6) and (7) of the Kerala Electricity Supply Code, 2014. This regulation explicitly requires KSEB to inspect LT three-phase meters every three years. However, despite this clear regulatory obligation, KSEB neglected to perform any inspections for an entire decade, allowing the faulty phase association to go undetected.

The petitioner argued that this significant lapse on the part of KSEB directly contributed to the accumulation of the billing shortfall and asserted that it was fundamentally unjust to impose such a hefty bill on them for KSEB's oversight. Given these circumstances, the petitioner approached the Consumer Grievance Redressal Forum (CGRF) to seek Redressal. The petitioner filed a complaint (OP No. 38/2024) challenging the validity of the Short Assessment Bill. The CGRF conducted a hearing and, in its order dated September 18, 2024, upheld the validity of the SAB while allowing the petitioner to pay the assessed amount in installments. The CGRF recognized the failure of KSEB to conduct proper inspections but ultimately ruled that KSEB retained the right to recover the undercharged amount under the applicable regulations.

The Consumer Grievance Redressal Forum (CGRF) issued its order on September 18, 2024, regarding the complaint filed by the petitioner, Geological Survey of India (GSI), challenging the validity of the Short Assessment Bill (SAB) from KSEB. The CGRF acknowledged KSEB's failure to conduct the mandatory inspections of the LT three-phase meter for a decade, violating Regulation 113(6) and (7) of the Kerala Electricity Supply Code, 2014. Despite recognizing this negligence, the CGRF upheld KSEB's right to recover the undercharged amounts under Regulation 134(1). This ruling is inconsistent, as it penalizes the petitioner for an error that arose from KSEB's operational shortcomings. While the CGRF allowed the petitioner to pay the assessed amount in installments, this measure does not address the fundamental issue of accountability for KSEB's negligence. The decision undermines consumer rights, as the petitioner, having no control over the faulty equipment should not bear the financial repercussions of KSEB's failures. The CGRF's ruling emphasizes the need for utility accountability but ultimately fails to ensure fairness and equity for consumers in the face of such negligence.

Regulation 113(6) and (7) of the Kerala Electricity Supply Code, 2014 mandates that KSEB conduct regular inspections of LT three-phase meters at least once every three years. This regulation ensures that any defects or inaccuracies in the functioning of the meter or associated wiring are identified and rectified in a timely manner. In this case, no inspection was conducted for a decade (from December 5, 2013, to December 1, 2023), which is a clear violation of this statutory obligation. The Complainant is not responsible for the maintenance or inspection of the energy meter and the associated transformer. The duty to inspect and ensure proper functioning lies solely with KSEB. The failure of KSEB to conduct timely inspections resulted in the phase association error between the R and B phases of the current transformers (CTs) remaining undetected for ten years. This negligence directly caused the under-recording of energy consumption, which was beyond the Complainant's control. Compliance with inspection obligations under the Kerala Electricity Supply Code would have detected the discrepancy in energy recording earlier, preventing the accumulation of

a significant shortfall in billing. The liability for this error lies entirely with KSEB for failing to comply with its statutory duties.

The Complainant, Geological Survey of India (GSI), does not have access to or control over the transformer or the wiring associated with the energy meter. The transformer and the wiring inside the energy meter chamber are part of KSEB's infrastructure and are solely maintained by KSEB. As a consumer, GSI relies on KSEB to manage and maintain this equipment and ensure accurate billing. The wiring fault that caused the under-recording of energy consumption occurred within KSEB's equipment, meaning GSI cannot be held responsible for technical errors that went undetected. The error in phase association (incorrect wiring of the R and B phases) was due to KSEB's own infrastructure faults and not something that the Complainant could have identified or rectified. Holding the Complainant liable for a situation over which it had no control contradicts the principle that the party responsible for maintaining the equipment (in this case, KSEB) should bear the consequences of any failures in that responsibility.

The fact that the error persisted for ten years, from December 5, 2013, to December 1, 2023, without being detected by KSEB, raises serious concerns about the adequacy and efficiency of their inspection and monitoring processes. A technical fault of this magnitude should have been identified much earlier if KSEB had followed its regulations regarding regular meter inspections. The delay in detecting the fault is excessive and unreasonable. Consumers should not be phase association error has caused significant prejudice to the Complainant, who had no penalized for KSEB's oversight in managing its own equipment. The delay in identifying the knowledge of the under-recording of electricity. Regulation 136(3) of the Kerala Electricity Supply Code, 2014 provides a limitation period for recovering charges, stating that claims related to the undercharging of electricity should not exceed two years from the date the error was detected. In this case, KSEB's attempt to recover charges retrospectively for a ten-year period violates the two-year limitation period. The demand for payment is thus time-barred by limitation, and KSEB cannot recover any charges beyond the two-year period.

The short assessment bill (SAB) issued by KSEB on December 28, 2023, amounts to 22,25,660/- for a ten-year period of under-recorded electricity consumption. Imposing such a massive financial liability on the Complainant, despite the fault being entirely attributable to KSEB's failure to inspect and maintain its equipment, is unjust and disproportionate. The Complainant has been a consistent consumer, paying the bills issued by KSEB in good faith without any knowledge of the under-recording of electricity usage. Now, after a decade, being suddenly burdened with a demand to pay such a large sum retrospectively places an unreasonable financial strain on the Complainant. The CGRF's decision to allow the payment of this amount in installments does not adequately address the

fairness of imposing such a liability in the first place. The financial burden should be borne by KSEB, as the fault and the delay in detection were solely due to its own negligence in performing its statutory duties of inspection and maintenance.

There are multiple judicial precedents where courts have held that consumers should not be penalized for errors or faults that are entirely attributable to the electricity supplier's negligence. For instance, courts have ruled in favor of consumers in cases where technical faults in the energy meter or associated equipment were found to be the sole responsibility of the electricity board or supplier. The principle of limitation under Regulation 136(3) should be strictly applied to prevent KSEB from demanding retrospective payments beyond the two-year period. The Complainant has been billed and has paid for electricity in good faith, without any suspicion of under-recording. The imposition of retrospective charges for a ten-year period is not only legally questionable but also contrary to principles of natural justice. Demand Barred by Limitation under Regulation 136(3) of Kerala Electricity Supply Code, 2014. The Complainant contends that the impugned demand is barred by limitation as per Regulation 136(3) of the Kerala Electricity Supply Code, 2014, which states: No sum due from the consumer on account of default in payment shall be recoverable after a period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied. In the present case, the alleged shortfall pertains to a period starting from 2013, which is far beyond the two-year limitation period prescribed by Regulation 136(3). The respondents have not shown the amount as recoverable within the limitation period, and hence, the demand raised after ten years is legally unsustainable and barred by limitation.

1. Violation of Regulation 113(6) & (7) of Kerala Electricity Supply Code, 2014

The Complainant submits that the short assessment bill issued by the respondent is contrary to the mandatory provisions laid down in Regulation 113(6) and 113(7) of the Kerala Electricity Supply Code, 2014. These provisions impose an obligation on the licensee to inspect LT 3-phase meters every three years. However, in the present case, no such inspection was conducted for over ten years. This failure by the respondents to comply with statutory obligations cannot be shifted onto the Complainant.

2. Faulty Meter Installation Not Attributable to Complainant

It is acknowledged that the error in phase association and faulty wiring occurred at the time of meter replacement in 2013, and this error was entirely due to the negligence of the respondents. The Complainant had no control over the installation or maintenance of the meter and, therefore, cannot be held liable for the consequences of this error.

### 3. Unreasonable Delay in Detection of Fault

The fault in the meter installation occurred in 2013, but the respondents only detected it in December 2023. This delay of ten years in identifying the issue shows gross negligence by the respondents. Such an unreasonable delay in discovering the error precludes them from retrospectively billing the Complainant for such an extended period.

### 4. Retrospective Billing Not Justified

As per Regulation 134(1) of the Kerala Electricity Supply Code, 2014, the licensee is permitted to recover undercharged amounts. However, the exercise of this power must be done reasonably and fairly. In the present case, the demand for a short assessment bill covering a period of ten years is arbitrary and unreasonable, placing an undue financial burden on the Complainant for a fault that was not within his knowledge or control.

### 5. Discrepancies in Consumption Patterns Not Communicated

Throughout the period in question, the respondents failed to communicate any discrepancies in the consumption patterns, even though they were under an obligation to monitor consumption trends. If they had detected any abnormalities earlier, the issue could have been addressed much sooner.

### 6. Lack of Evidence Supporting the Quantum of Shortfall

The calculation of the shortfall has not been clearly explained by the respondents. The demand for Rs. 22, 25,660/- is not substantiated by detailed data or documentation, and the Complainant has not been provided with specific consumption records to justify the amount claimed.

### 7. Doctrine of Estoppel

The Complainant has been regularly paying the electricity bills issued by the respondents for the last ten years in good faith. The respondents, having accepted these payments without objection for such a long period, are estopped from raising a retrospective demand now.

### 8. Demand Barred by Limitation under Regulation 136(3) of Kerala Electricity Supply Code, 2014

The Complainant contends that the impugned demand is barred by limitation as per Regulation 136(3) of the Kerala Electricity Supply Code, 2014, which states: No sum due from the consumer on account of default in payment shall be recoverable after a period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied. In the present case, the alleged shortfall pertains to a period starting from 2013, which is far beyond the two-year limitation period prescribed by Regulation 136(3). The respondents have not shown the amount as recoverable within the limitation period, and hence, the demand raised after ten years is legally unsustainable and barred by limitation.

In light of the above submissions, the Complainant respectfully prays that this Hon'ble Electricity Ombudsman may be pleased to:

Set aside the impugned order of Consumer Grievance Redressal Forum (CGRF) dated 18.09.2024 and thereby Quash the impugned short assessment demand dated 28.12.2023 for Rs. 22,25,660/- issued by the respondents. Declare that the impugned demand is barred by limitation under Regulation 136(3) of the Kerala Electricity Supply Code, 2014.

## **Arguments of the Respondent**

The appellant is a consumer of KSEB Limited. Contrary to the statement in the appeal petition, the said consumer is a low tension (LT) consumer and included under LT-6B tariff applicable to Government consumers. On 21.12.2023 when the electrical installations attached to the said premises was subjected to detailed inspection by the Anti Power Theft Squad of the licensee, it was revealed that the connection of secondary sides of current transformers are interchanged between the phases of R&B, causing an error of under-recording of energy consumption to the tune of -44% which resulted in a loss of 22,25,660/- to the licensee. When steps are invited to realize the said under recorded consumption, the consumer approached the Consumer Grievance Redressal Forum, challenging the same. The respondent herein conclusively established that the meter was found faulty during 2013 and in all probability, the wrong connection happened on rectification of the same. These respondents substantiated their contention of under-recording detailing the fact of marked difference in the recording of consumption after the rectification of wrong connection. The Forum took detailed evidence, appreciated the same diligently and found the demand raised towards under-recording is legal and sustainable and disposed of the complaint, permitting the consumer to honour the demand by way of installments.

As submitted supra, since the lower Forum has appreciated the facts in its entirety and the statutory position involved, it is humbly submitted that there is no real ground for interference and the grounds pleaded as points of challenge are having no sustenance and the same is submitted as follows: The alleged non-compliance of inspection is not true to facts and hence denied. It is submitted that even though the meter and allied structures are inspected in a routine manner, it is common knowledge that serious lacuna/discrepancies in such installations cannot be detected in the said routine inspections. It was taking into consideration of this very fact, the distribution licensees have constituted units/wings specialized in detecting such anomalies/defects which are hidden and not obvious. KSEB Limited is not an exception to the same and accordingly it is also having specialized units like Anti Power Theft Squad, Inspection Wings, Audit etc. As averred by the appellant had such discrepancies are amenable to detection in routine inspections, there is no need to maintain such specialized units by

distribution licensees. It is only in such detailed and elaborate checking by specialized wings, the said discrepancies can be found out and hence averments to the contrary are not true to facts and accordingly the same are denied.

For the reason stated supra, it is submitted that there is no particular substance in the said point of challenge. These respondents never had claim that the consumer had failed in any respect and the only claim they are having is that in the state of things it is not uncommon to detect defects in the installations and once the same are found and rectified, a consumer is bound to replenish them for the actual benefit enjoyed by them. In this context, this Honourable Ombudsman may be pleased to note and record the fact that the appellant is having no claim that they have not consumed the energy for which the demand in question has been raised by these respondents. The fact being so, their claim to the effect that they are having no control over the metering equipment, is in no way absolves their obligation to pay for the electrical energy actually consumed by them and it is prayed accordingly.

The points of challenge stated in para 3 to 6 are not sustainable and hence denied. As already stated, in the electricity industry, there are certain factors or phenomenon which are not amenable to detection in inspections conducted in a routine manner. It is because of the said fact, the entities engaged in the distribution (of electricity) business do maintain specialized wings with persons having domain knowledge along with instruments necessary in detecting such anomalies. As submitted, since the meter was damaged during 2013, the wrong connection would have happened then and which fact stands substantiated by the phenomenal rise in the recording of consumption once the said anomaly has been rectified. Added to that, the Connected load and the activities going on in the premises further substantiate the fact of under recording. Since licensees like KSEB Limited procure electrical energy after making colossal expenditure in establishing generating stations, constructing and maintaining transmission and distribution network, purchasing power from other generating entities etc, it is having every right to realize charges for the electrical energy supplied by it. This is all the more significant, when the consumer is having no case that no such consumption has been made. Regarding the appellant's contentions about the principles of estoppel, law of limitation, alleged penalization etc the following facts are submitted for the kind consideration of this Honourable Ombudsman. As this august Forum is aware, the electricity industry is regulated by the Electricity Act, 2003 and the Apex Court of the land had opportunity to dwell into the scope and impact of Section 56 (2) of the same as well as Section 17 of the Limitation Act, 1973 while deciding Civil Appeal No 1672 of 2020. The Hon'ble Court was pleased to hold that the said statutes do not preclude a distribution licensee from raising an additional or supplementary demand in the case of a mistake or bonafide error. The case law cited as 2020(4) SCC 650 may



kindly be referred to in this context. The Hon'ble High Court of Kerala is consistently following the said position and the judgement in WP(C) No.26153/2016 is an example to the same. As also, in the light of the said category declaration of law by the Apex Court, the Kerala State Electricity Regulatory Commission, who had formulated Kerala Electricity Supply Code, 2014, the specific provision of which are elaborately stated by the appellant herein to establish his cause RP No 3/2021 has categorically held the right of a licensee like KSEB Limited to raise and insist a demand raised on a similar set of facts. The order dated 15.11.2021 of the said Hon'ble Commission in RP No.3/2021 may kindly be referred to in this context. The actual fact being so, one could see that the demand impugned is perfectly sustainable under law and the plea of limitation raised by the appellant is not sustainable and there is no rhyme or reason to interfere with the order of the lower Forum, which had followed the canons of law in its proper perspective.

Now coming to the allegation of undue burden and lack of fairness, it is submitted that the impugned demand raised was towards energy actually consumed by the appellant for a past period and they have been called upon to honour the same belatedly without any penalty. In fact, considering inflation and the gradual deterioration of value of money, places the appellant in a better position than that of these respondents, otherwise who ought to have remitted the said charges years back. Added to that, the lower Forum has permitted the appellant to honour the demand by way of installments also. In the light of the same, in real terms, there is no imposition of undue burden on the appellant and averments to the contrary are denied.

In light of the above, it is submitted that none of the grounds, which are a repetition of the points of challenge in the appeal petition, pleaded by the appellant are not sustainable and there is no valid reason whatsoever to interfere with the order of the lower Forum. None of the relief sought for are allowable. these and other facts to be urged at the time of hearing, this Hon'ble Ombudsman may be pleased to dismiss the present appeal and it is prayed accordingly.

### **Counter Arguments of the appellant**

The Geological Survey of India (GSI) received a Short Assessment Demand (SAB) for Rs. 22,25,660/- from Kerala State Electricity Board (KSEB) for alleged under- recording of electricity consumption due to a wiring error that persisted undetected for ten years. The complainant contends that the retrospective demand violates statutory limitations under Regulation 136(3) of the Kerala Electricity Supply Code, 2014, which restricts recovery to two years, and attributes the fault entirely to KSEB's negligence in maintaining and inspecting the metering infrastructure. Despite paying all bills in good faith, the GSI challenges the demand as illegal, procedurally unfair, and contrary to consumer protection principles. The Short Assessment Bill (SAB)

for Rs. 22,25,660/- issued on 28.12.2023 for alleged under-recording of electricity consumption due to a phase association error in the current transformer (CT) wiring. The CGRF Order dated 18.09.2024, which upheld the SAB despite clear evidence of lapses by KSEB.

Regulation 113(6) and (7) of the Kerala Electricity Supply Code, 2014 mandates periodic inspections of LT three-phase meters at least once every three years. Despite this, KSEB failed to inspect the meter and wiring for over ten years (December 2013 to December 2023). The alleged under-recording of electricity consumption resulted from a wiring fault that went undetected due to KSEB's negligence. The complainant had no role in maintaining or inspecting the energy meter or transformer wiring. The respondents' failure to comply with mandatory inspection obligations invalidates the retrospective assessment and demands.

The transformer and metering equipment, including wiring, fall entirely under KSEB's control. The complainant does not have access or authority to interfere with these installations. The phase association error (incorrect wiring of R and B phases) persisted due to KSEB's inadequate maintenance and inspection practices. Judicial precedents consistently affirm that consumers cannot be penalized for faults or errors within the supplier's domain of responsibility.

Regulation 136(3) of the Kerala Electricity Supply Code, 2014, limits recovery of undercharged amounts to two years from the date of detection. Attempting to recover charges for a ten-year period is a clear violation of this provision. Regulation 152 further restricts retrospective assessments for anomalies attributable to the licensee to two years prior to detection. The alleged phase association error caused during installation in 2013 should limit the assessment period to 2021-2023. The alleged shortfall was not continuously shown as recoverable arrears, invalidating KSEB's claim. The short assessment bill issued by KSEB is unsustainable due to non-compliance with the mandatory provisions of the Kerala Electricity Supply Code, 2014. Regulation 115(5) mandates that the consumer or their authorized representative must be given an advance notice of three days before testing the meter, enabling them to be present during the procedure; this was admittedly not done in this case. Additionally, Regulation 115(9) restricts the revision of bills based on test reports to a maximum period of six months or from the date of the last testing, whichever is shorter. Despite this, the short assessment bill has been arbitrarily calculated for a 12-month period, blatantly violating this regulation. The absence of notice, undue delay in testing, and lack of transparency in determining the date from which the meter became faulty highlight significant procedural lapses. Such deficiencies, attributable to the negligence of the licensee, make the demand legally untenable. Judicial precedents, including \*WP(C) No. 34675 of 2017\* decided by the Hon'ble High Court of Kerala, have consistently reaffirmed that non-compliance with mandatory procedures invalidates

retrospective demands, as liability cannot be shifted to the consumer when anomalies arise from the licensee's own failures.

The short assessment bill issued by KSEB is invalid under Regulation 152 of the Kerala Electricity Supply Code, 2014, as the anomalies identified are attributable to the licensee's negligence. Regulation 152(1) explicitly provides that anomalies such as the wrong application of the multiplication factor, incorrect application of tariff by the licensee (even when there is no change in the consumer's purpose of use), and inaccuracies in metering are anomalies attributable to the licensee and shall not attract the provisions of Section 126 or Section 135 of the Electricity Act. It further mandates that recovery of charges in such cases must be limited to the standard tariff applicable during the anomaly period, and retrospective assessments can only cover a period of two years from the date of detection. In the present case phase association error (incorrect wiring of R and B phases) was found, which is under the control of the licensee, and no effort was made to determine the actual date from which the fault occurred. Judicial precedents, including \*WP(C) No. 34675 of 2017\* by the Hon'ble High Court of Kerala, have emphasized that anomalies arising from the licensee's domain cannot be the basis for extended retrospective claims. The Court held that non-compliance with procedural safeguards and the statutory limitation period under Regulation 152 renders such assessments unsustainable.

The wiring error persisted undetected from December 5, 2013, to December 1, 2023, highlighting KSEB's gross negligence. The delay has caused prejudice to the complainant, who paid bills in good faith based on KSEB's metering records.

The SAB of Rs. 22,25,660/- imposes a disproportionate financial burden on the complainant for a fault beyond their control or knowledge. Retrospective liability undermines fairness and equity, especially when the complainant has consistently paid bills based on the records provided by KSEB. The CGRF's decision to allow installment payments fails to address the core injustice of holding the complainant liable for KSEB's lapses.

The calculation of the shortfall lacks transparency and supporting documentation. KSEB has failed to provide detailed records to justify the assessed amount. An unsubstantiated demand is arbitrary and legally unsustainable.

Judicial precedents consistently affirm that consumers should not be penalized for errors or lapses attributable to the electricity supplier. The doctrine of estoppel applies here, as the complainant paid bills in good faith based on KSEB's metering data. KSEB is estopped from making retrospective claims after such an extended period.

In light of the above points, the complainant respectfully prays that this Hon'ble Ombudsman may be pleased to: Set aside the order of the CGRF

dated 18.09.2024 and quash the Short Assessment Demand dated 28.12.2023 amounting to Rs. 22,25,660/- .Pass such others orders as this Hon'ble Ombudsman may deem fit and proper in the interest of justice.

## **Analysis and findings**

The hearing of this appeal petition was conducted on 12/12/2024 at 10:00 a.m. in the KSEBL IB, Paruthippara, Thiruvananthapuram. The appellant was not attended the hearing. The respondent, Sri. Sreekumar.V, Assistant Executive Engineer, Electrical Sub Division, Vellayambalam, Thiruvananthapuram, was attended the hearing .

The appellant is a Consumer of the Licensee (KSEBL) under the tariff LT 6B. Metering of connection is through a CT connected meter with CT ratio 100/5 & MF : 20 conducted an inspection on 21/12/2023 and found that the Secondary leads of CTs of R & B were interchanged in the meter terminal. The R phase CT was connected to B phase terminal of meter & vice versa. When the polarity of CT's were changed in the meter terminal the reading recorded by the meter will be around 33% lower than the actual in a balanced load condition. Here during the testing with calibrated meter it is noted that the reading was lower by 44%. The short assessment was worked out for Rs. 22,25,660/- and demanded from the appellant. The meter was replaced on 2013 and the wrong connection would have happened at the time of meter replacement. Then the short assessment has been worked out for a period from 2013 to 2023. **The regulation 152 of the Kerala Electricity Supply Code describes about the procedure to be adopted in case of the inaccuracies in the metering.**

### ***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.

(4)The consumer may be given installment facility by the licensee for a maximum period of twelve months without interest for the remittance of such amount of short collection.

The above regulation states that the 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 24 month. However, there is a verdict from the Hon'ble Supreme Court of India in the Civil Appeal no: 7235/2009 which was pronounced on 05/10/2021, states that the limitation period of two years is from the date of first due and the first due is only when the bill is issued.

In **Rahamatullah Khan** (supra), three issues arose for the consideration of this Court. They were (i) what is the meaning to be ascribed to the term "first due" in Section 56(2) of the Act; (ii) in the case of a wrong billing tariff having been applied on account of a mistake, when would the amount become first due; and (iii) whether recourse to disconnection may be taken by the licensee after the lapse of two years in the case of a mistake.

On the first two issues, this Court held that **though the liability to pay arises on the consumption of electricity, the obligation to pay would arise only when the bill is raised by the licensee and that, therefore, electricity charges would become "first due" only after the bill is issued, even though the liability would have arisen on consumption.** On the third issue, this Court held in **Rahamatullah Khan** (supra), that "the period of limitation of two years would commence from the date on which the electricity charges became first due under Section 56(2)". This Court also held that Section 56(2) does not preclude the licensee from raising an additional or supplementary demand after the expiry of the period of limitation in the case of a mistake or bonafide error. To come to such a conclusion, this Court also referred to Section 17(1)(c) of the Limitation Act, 1963 and the decision of this Court in **Mahabir Kishore & Ors. vs. State of Madhya Pradesh.**

Despite holding that electricity charges would become first due only after the bill is issued to the consumer (para 6.9 of the SCC Report) and despite holding that Section 56(2) does not preclude the licensee from raising an additional or supplementary demand after the expiry of the period of limitation prescribed therein in the case of a mistake or bonafide error (Para 9.1 of the SCC Report), this Couection of supply of electricity. In other words, it was held by this Court irt came to the conclusion that what is barred under Section 56(2) is only the disconnn the penultimate paragraph that the licensee may take recourse to any remedy available in law for the recovery of the additional demand, but is barred from taking recourse to disconnection of supply under Section 56(2).

Be that as it may, once it is held that the term "first due" would mean the date on which a bill is issued, (as held in para 6.9 of **Rahamatullah Khan**) and once it is held that the period of limitation would commence from the date of discovery of the

mistake (as held in paragraphs 9.1 to 9.3 of **Rahamatullah Khan**), then the question of allowing licensee to recover the amount by any other mode but not take of supply would not arise. But Rahamatullah Khan says in the penultimate paragraph that "the licensee may take recourse to any remedy available in law for recovery of the additional demand, but barred from taking recourse to disconnection of supply under sub-section (2) of section 56 of the Act".

Here the amount is become first due only on issuing the bills which is happened on 21/12/2023. The error or inaccuracy in the metering was detected on 21/12/2023 and the short assessment bill have been issued on 28/12/2023. Then according to the Electricity Act 2003, Section 56(2), the amount is first due only on 28/12/2023. Then the limitation period is applicable from that date.

The appellant argue that there are series of lapses from the Licensee on detecting this mistake. The CTs were connected in presence of responsible official of the Licensee and CT & meter chamber were sealed by the Licensee. **The regulation 113 of the Supply Code 2014 states about he periodical testing of meters.**

**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.*

*(6) The licensee shall conduct periodical inspection or testing or both of the meters as per the following schedule:-*

<i>single phase meters</i>	<i>once in every five years</i>
<i>LT 3-phase meters</i>	<i>once in every three years</i>
<i>HT or EHT meters including maximum demand indicator (MDI)</i>	<i>once in every year</i>

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

Here in this case the Licensee has not complied with the regulations. If the periodical testing /Inspection would have done, their error would have been located long back.

Though regulation have been violated by the Licensee the order of Supreme Court dated 05/10/2021 the case of M/s Prem Cottex Vs Uttar Haryana Bijil Vitran Nigam Ltd in Civil Appeal no: 7235/2009 supersede the regulation. Then the appellant is liable to pay the Short Assessment Bill.

## **Decision**

On verifying the documents submitted and hearing both the petitioner and respondent and also from the analysis as mentioned above, the following decision are hereby taken.

1. The appellant is Liable to pay the Short Assessment Bill issued by the Licensee for Rs.22,25,660/-.
2. The Licensee shall not charge any interest or surcharge for this Short Assessment Bill.
3. The Licensee shall grant 60 monthly installments for remitting this Short Assessment Bill.
4. No order on cost.

## **ELECTRICITY OMBUDSMAN**

No. P/073/2024/\_\_\_\_\_ dated: 10-01-2025 .

### Delivered to:

1. Sri. Ravichandran. R, Director (G) & HoD, Geological Survey of India, Manikanteshwaram P.O, Thiruvananthapuram
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Limited, Vellayambalam, Thiruvananthapuram

### 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, Consumer Grievance Redressal Forum, Vydhyuthibhavanam, KSE Board Ltd, Kottarakkara - 691 506.