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APPEAL PETITION NO. P/047/2014

(Present: Sri. V.V. Sathyarajan)

Dated: 20<sup>th</sup> March 2015

Appellant : Sri. Dominic Alexander  
Lokah Restaurant,  
33/2338, Chalikkavattom,  
Vytila By Pass,  
Kochi - 682 019.

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division,  
KSE Board Limited,  
wPalarivattom  
Kochi

**ORDER**

**Background of the case**

The appellant, Sri Dominic Alexander, Lokah Restaurant, 33/2338, Chalikkavattom, Vytila Bypass, Kochi - 682 019 is a commercial consumer with consumer No. 13218 under Electrical Section, Vennala. An inspection was conducted in the appellant's premises by the APTS on 26/06/2012 and unauthorised additional load to the tune of 16 kW was detected. Based on the above findings, a short assessment bill for an amount of Rs. 2,31,654/- was issued on 17/12/2012 for the period from 07/2012 to 05/2013. Aggrieved against the bill, the petitioner approached CGRF on 18/01/2014. The CGRF disposed the petition directing the respondent to revise the assessment by limiting the period of assessment to three months from the date of inspection i.e. 26/06/2012, with a direction to regularise the additional load. Also directed to issue fresh bill for the fixed charges for the additional load regularised from 27/09/2012 till the regularisation of the same. Accordingly, the respondent issued revised bill for an amount of Rs. 70,158/- on 13/08/2014. Not satisfied, the appellant filed this petition.

### **Argument of the appellant**

The appellant stated that an inspection was conducted by the APTS in his premises and penal bill was issued for unauthorised load. Against the bill, appellant submitted a reply in which he confirmed that an application for enhancement of load was being submitted. Subsequently, the appellant remitted an amount of Rs 2,000/- along with application for enhancement on 18/07/2012. The appellant argued that even though he was regularly following up the enhancement, there was no proper response from the part of respondent. He also stated that there would not be further penalization because the appellant was paying excess against as instalments.

The appellant further submitted that the cause of action for penalizing should be upon a site mahazar, which was not complied. Since the proceedings are quasi criminal in nature, the appellant can be penalized once and cannot be penalized continuously, especially after submission of enhancement application.

The appeal cannot be treated as per Section 126 because it is not based on a proper site mahazar. The appellant had no intention to cheat KSEB. Immediately after the detection of Unauthorised Additional Load, the appellant submitted application for regularisation. Hence the appellant argued that there were no lapses on the part of the respondent.

### **Argument of respondent**

The respondent stated that the inspection was conducted by APTS, Vazhathopu, Idukki and UAL to the tune of 16 kW was detected in the appellant's premises. Hence a short assessment bill for the period from 07/2012 to 05/2013 was issued amounting to Rs. 2,31,654/- on 17/02/2013. The respondent contended that even though he remitted Rs. 2,000/- as application fee for power allocation for regularising additional load, he did not submit the Completion Report or remitted Additional Cash Deposit (ACD) and other charges. Hence the respondent could not regularise his additional load.

The respondent further argued that the mahazar was prepared by the Sub Engineer, Electrical Section, Palarivattom in the presence of (APTS) wing. The bill was issued based on the site mahazar. The allegation of the appellant is that the bill issued by the respondent was without any inspection is not correct. Hence the respondent argued that the appellant was liable for the remittance.

### Analysis and findings

The hearing of the case was conducted on 28/01/2015 in my chamber at Edappally, Kochi. Sri Abhishek Nair and Sri Shaji Sebastian attended for the appellant's side and Sri V.P. Mohammed Sherif, Assistant Executive Engineer, Electrical Sub Division, Palarivattom represented the respondent's side. On examining the petitions, the statement of the respondent, copies of documents attached, arguments made by both parties and considering all the facts and circumstances this authority comes to the following findings and conclusions leading to the decisions.

In fact the short assessment bill revised by the respondent against the appellant herein was for Unauthorised Additional Load. The appellant's contention is that the Assessing Officer has not conducted site inspection and also there is a difference noted in the statement of total connected load i.e. 16 or 14 kW and subsequent bill. But the respondent argued that the site inspection was conducted by the Sub Engineer of concerned Electrical Section along with the APTS and bill issued for the UAL in order. As per Board Order (FB) No. 2518/2013 dated: 28/11/2013, the site should be inspected and the mahazar should be prepared by the Assessing Officer or Authorised Officer in the team. However, the Assessing Officer, Authorized Officer and the officials of the external inspection team have equal responsibilities regarding the preparation of mahazar. Hence the inspection and preparation of site mahazar is found in order. But regarding connected load, the respondent has taken different stand, which is to be corrected as per the procedure under Part (Part 1 (C)) of the above referred order.

On going through the records, it can be seen that the respondent had inspected the premises on 26/06/2012. But the short assessment bill issued is only on 17/12/2013, which shows serious lapses on the part of the respondent and against the procedures issued in this regard. Also there are lapses on the part of the respondent in regularising the additional load in the appellant's premises which were also referred in the Forum's findings. Hence the Forum rightly pointed out in the order to regularise the UAL as per Section 51(4) of KSEB Terms and Conditions of Supply, 2005. Moreover, the Forum also considered the lapses on the part of respondent in taking timely action to regularise the additional load for the assessment period limited to 3 months from the date of inspection. Hence this Authority is of the opinion that further intervention in this case is not required.

**Decision**

In view of the above discussion, it is decided to revise the bill for the loads connected additionally for a period of three months from the date of inspection i.e. from 26/06/2012. The respondent is directed to issue fresh bill within 30 days from the date of receipt of this order. Having decided and concluded, it is ordered accordingly. The petition is dismissed. No order on costs.

**ELECTRICITY OMBUDSMAN**

NO.P/047/2014/ /Dated:

Forwarded to:

1. Sri Dominic Alexander, Lokah Restaurant, 33/2338, Chalikkavattom, Kochi - 682 019
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Limited, Palarivattom, Kochi.

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram.
3. The Chairperson, Consumer Grievance Redressal Forum, Power House, Power House Buildings, Cemeterymukku, Ernakulam-682 018.