

**THE STATE ELECTRICITY OMBUDSMAN**

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**APPEAL PETITION No. P/054/2021****(Present: A.S. Dasappan)****Dated: 08<sup>th</sup> December, 2021**

Appellant : **Sri. Varghese Kurian,**  
Madampparambil Sand and Metals,  
Sasthampara, 11/108,  
Muthalakkodam. P.O.,  
Thodupuzha, Idukki Dist.

Respondent : Assistant Executive Engineer,  
Electrical Sub Division, KSEB Ltd.,  
Thodupuzha East, Idukki Dist.

**ORDER****Background of the case:**

The appellant is a consumer of Electrical Section, Thodupuzha No. II with consumer number 1156204016687 under LT IVA industrial tariff category. The appellant's premises is a Metal Crusher unit with a connected load of 76.659 kW and Contract Demand 86 kVA in ToD billing system. The Anti-Power Theft Squad (APTS) of KSEB Ltd., Vazhathope unit conducted an inspection in the premises on 03-12-2020 and detected that connection of the 'R' phase CT terminals to the energy meter was incorrect and hence, 13.5% of the actual energy consumption is not recorded in the meter. As such, a short-assessment bill for Rs.1,05,934/- was prepared for the period from 24-03-2019 to 07-12-2020 and issued to the appellant for remittance. The appellant approached the Consumer Grievance Redressal Forum (CGRF), Central Region for exemption from the remittance of the bill amount and the Forum registered the petition vide OP No. 76/2020-21. The Forum vide its order dated 30-03-2021, dismissed the petition due to lack of merit.

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

**Arguments of the appellant:**

On 03.12.2020 APTS, Idukki, Vazhathoppu Unit, together with the officials of KSEBL, Elec. Section No. II, Thodupuzha inspected the appellant's unit and prepared a site Mahazar, stating that a shortage of reading 13.50%. Subsequently a short assessment bill for Rs.1,05,934/- was issued for the period 24.03.2019 to 07.12.2020. The appellant doesn't know how the time period was arrived by KSEBL. The respondent was simply putting the blame on the meter and harassing the appellant by claiming additional charge from 24.3.2019 to 07.12.2020. This is totally illegal and injustice.

The calculation given by KSEBL is totally wrong. The Act, Rule or Regulation does not permit collection of electricity charge as per thumb rule calculation. It permits only the collection of electricity charge as per the accurate reading of a correct meter which is having error within the specified limit. If the error is suspected the only solution is to collect the average of 3 months when the meter is correct and then apply it to the suspected period.

As per Supply Code Reg.125 (1) Procedure for billing in the case of defective or damaged meter.- (1) In the case of defective or damaged meter, the consumer shall be billed on the basis of average consumption of the past three billing cycles immediately preceding the date of the meter being found or reported defective: Provided that, the average shall be computed from the three billing cycles after the meter is replaced if required details pertaining to previous billing cycles are not available, hence KSEBL cannot penalize the appellant without proper evidence.

The periodic inspection and testing of metering equipment are mandatory. KSEBL is not doing it properly and intimating the consumer. Hence consumer cannot be held responsible for the correctness of connection inside the meter box.

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/voltage 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 with 13.50% error for certain periods and they have assessed the full consumption percentage from 24.3.2019 to 07.12.2020. The KSEBL have not tested the meter and CT in standard test lab and produced the test certificate.

As per Electricity Act Sec.55 (1) 'No license 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. It is their duty to check the healthiness of the meter by opening the sealed cover. The detected defect is visible and for detecting the same, no complicated machinery or equipment is required. If it was done, the appellant 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 in accredited laboratory and the MRI data are not downloaded to conclude the error. A poor consumer cannot be made liable for noncompliance of the directive of KSERC, CEA, etc. by the KSEB officials such as,

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.

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 is it 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.

Here KSEBL was trying to find the error of the existing CT and meter by connecting a parallel meter. This type of testing procedure is not defined in any regulation or standards. Hence it is not acceptable. The KSEBL can always take out the meter along with CT and get it tested anywhere in a NABL Accredited lab. Even if a connection is reversed or CT connection is not given the percentage error of the meter will change, because of the in-balance created due to this phase failure of reversed of current.

#### Relief sought

Ombudsman may direct KSEBL not to disconnect appellant's power supply, cancel the CGRF Order NO. CGRF-CR/OP No.76/2020-21, to take the average of three or six months when the meter is correct and workout for six months during the suspected period, and to cancel the impugned bill.

#### **Arguments of the respondent:**

The billing of the appellant is done monthly as per the consumption recorded in the energy meter installed in the premises. The energy meter installed at the premises is of CT type with Larsen & Turbo make, ER300P model. The connected CTs are of 200/5A and hence the consumption recorded in the meter shall be multiplied with the Multiplication Factor 40 to arrive at the actual consumption in the premises.

On 03-12-2020, the officials of the Anti-Power Theft Squad, Vazhathope unit along with the Sub Engineer of Electrical Section, Thodupuzha No.II had conducted an inspection in the premises of Consumer No. 1156204016687. The APTS unit while checking the accuracy of the meter by Accuracy-check testing kit; found that the

energy consumption being recorded by the energy meter was 13.5% less than that of the actual consumption. On further examination, the APTS unit found that the connection of the R phase CT terminals to the meter was found incorrect, as stated in the site mahazar.

From the records available in the Office, the APTS team from Thrissur unit has already inspected the premises on 22-03-2019, and certified the healthiness of the meter.

The Kerala State Electricity Board Limited has sustained loss due to the discrepancy of recording consumption by the meter by 13.5% less than the actual consumption. Hence, a site mahazar was prepared and short assessment bill for Rs.1,05,934/- and calculation sheet for the period from 24.03.2019 to 07.12.2020, was prepared without any interest and issued to the appellant as per Section 152(3) of the Supply Code 2014.

On rectifying the discrepancies in the CT connection, the energy meter was retested on the spot on 04-02-2021 by the A.P.T.S. Punnapra and the error was found within the limits as per test report. This clearly indicate that on rectifying the anomaly in the CT connection, the same energy meter continued to record actual consumption.

The appellant is also liable to remit the amount as provided under Regulation 134 of Supply Code 2014.

The Hon'ble Supreme Court in its decision; Assistant Engineer (Dl) Ajmer Vidyut Vitaran Nigam Limited Vs Rahmatullakhan in Civil Appeal No.1672 of 2020 dated. 18-02-2020 (2020 (4) SCC 650) held that Section 56(2) did not preclude the licensee company from raising an additional or supplementary demand after the expiry of the limitation period under Section 56 (2) in the case of a mistake or bona fide error and it was also held that the amount will become due only when the bill is issued and Section 56 (2) will not be applicable to additional or supplementary bill.

During the inspection on 03/12/2020, the meter was not found defective or faulty, but was recording less by 13.5% with discrepancies in CT connection as stated in the site mahazar. Hence, the short assessment bill was prepared as per regulation 152 of supply code 2014.

The regulation 113 (6) stipulates that the licensee shall test the three-phase meter once in 3 years. The appellant premises and the energy meter was inspected by the APTS, Thrissur unit on 22-03-2019 reported no anomalies. Hence, the APTS Vazhathoppe unit along with the staff of the respondent had conducted inspection of the meter at the appellant's premises within the time limit prescribed by the Kerala State Electricity Regulatory Commission.

There was no fault reported by the APTS on 03-12-2020 in the connection between CT and Meter, but reported only discrepancy in the manner of connection between the CT terminals and Meter terminal on R phase. The meter was also inspected on 22-03-2019 and anomalies were not found. Hence, it cannot be claimed that the meter is faulty; but was recording less energy and also KSEBL has not declared the meter as faulty. Due to this reason, there was no need for testing the meter in standard lab.

The Sub Engineers of the concerned electrical section are duty bound to visit the premises of industrial consumers every month for taking meter 'readings only. The percentage error of 13.5% less can only be ascertained on testing the meter with calibrated standard equipments which can be done by the authorized agencies having the required facility as done by the APTS.

The KSEB Ltd. has complied with the relevant Provisions/Sections of the Regulations/Codes/ Acts that are in force in assessing the appellant, which are evident from the facts stated above.

Regulation 113 of the supply code, depicts details about testing of energy meters and its Sub clause (3) proclaims that the periodical testing of the consumer meter normally done at site. Also Sub clause (7) of Regulation 113 of Supply Code proclaims that "Where ever applicable CT and PT and wiring connections shall also be tested. Also, Indian Standard IS 15707:2006 - Testing, Evaluation, Installation and Maintenance of Electricity Meters Code and Practice" Sec:12, defines the maintaining and in service testing methods. The Kerala State Electricity Board Limited has tested the meter with testing instruments having valid calibration certificates. Investigations conducted to find cause of the error revealed the discrepancy in CT connections to the meter and it was immediately rectified. Also

testing after correcting the discrepancy in the CT wiring proved that the errors are within the acceptable limits.

The meter and CT were tested and approved in accredited lab at the time of installation and the testing team of APTS team from Thrissur found out no abnormalities while their inspection on 22-03-2019. Also, neither the meter nor the CTs are faulty.

Any non- realization of the charges for the energy actually consumed by the appellant is detrimental to the interest of the other consumers for the reason that the same will be booked as transmission loss and recoverable from other innocent consumers under tariff hike. Therefore, it is of fore-most importance and incumbent upon the Licensee to identify such bona fide errors and recover all dues connected with the energy actually consumed from the respective consumers itself. The spirit of the order passed by the Hon'ble Apex Court in the Civil Appeal No.1672 of 2020 dated. 18-02-2020 (2020 (4) SCC 650) fully endorses the legitimacy of the short assessment bill raised by this licensee Kerala State Electricity Board Limited.

The appellant may not be permitted to raise any fresh grounds in the appeal other than those raised in the petition filed in the CGRF, Ernakulam in O.P No.76/2020-21.

The Appeal is filed on false, frivolous and vexatious grounds and therefore it is requested to dismiss the appeal petition.

**Analysis and findings:**

The hearing of the Appeal Petition was conducted on 25-11-2021 in the office of the Electricity Ombudsman, Edappally, Kochi. Sri. Shaji Sebastian from the appellant's side and Sri. M.R. Manoj, Assistant Executive Engineer, Electrical Subdivision, KSEB Ltd., Thodupuzha (East) from the respondent's side attended the hearing. 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.

The Anti-Power Theft Squad (APTS) of KSEB Ltd. inspected the appellant's premises on 03-12-2020 and found improper Current Transformer (CT) connections



in the metering system. The connected load of the appellant in the premises is 77 kW and Contract Demand 86 kVA. A site mahazar was prepared and the meter data was downloaded by the inspection team. As per the data downloaded, the current reversal in 'Y' phase and 'B' phase occurred. The inspection team tested the premises metering system with a calibrated test meter and found an error of 13.50% in the recording of energy consumption and hence, the appellant was given a short-assessment bill amount to Rs.1,05,934/- for a period from 04/2019 to 12/2020. The Consumer Grievance Redressal Forum has observed that the short-assessment bill issued to the appellant is genuine and sustainable and hence, dismissed the petition.

The appellant's contention is that the period fixed for the short-assessment is not known to him and the appellant is not responsible for the improper meter connections, if any, inside the meter box. Also, it is not the correct method to reassess the consumption based on the error of the energy meter. Further argued that the meter and CTs were not tested in the standard testing laboratory and test certificates were not obtained by the respondent. The detected defect in the metering system is visible and for detecting the same, no complicated machinery or equipment is required. The method of testing the meter with another meter is not acceptable to the appellant since such methods are not specified in any regulations or standards.

Refuting the above contention, the respondent has averred that due to the discrepancy of recording consumption by the meter by 13.5% less than the actual consumption, the Licensee has sustained revenue loss. There is no defect in CTs or meter. The metering system had been tested prior to the inspection dated 03-12-2020 and found the metering system good. Also, the meter was tested after rectifying the defects noted on 03-12-2020 and found healthy. As per Regulation 152 (3) and 134 of Kerala Electricity Supply Code 2014, the Licensee can recover the cost of energy unrecorded due to the defect in the metering system.

Normally, the respondent is bound to rectify the defect of the metering system, if it is found defective after informing the consumer. The load connected in the premises in three-phase in nature. The appellant was assessed for Rs.1,05,934/- for non-recording of energy due to improper connections in the metering system kept inside the box, which is sealed by the respondent, for the period from 04/2019 to 12/2020 by taking lost energy as 13.5% of actual energy consumed in the premises.



On perusing the site mahazar dated 03-12-2020, this Authority feels that there was improper connection in the metering system. In the site mahazar, it is stated that the security seals provided by the respondent for the metering system was perfect and hence, the appellant has no role on it. The site mahazar shows that the improper connection in the metering system is visible. The respondent revealed that the same metering system was inspected and tested by the inspection team on 22-03-2019 and no anomalies were detected. Hence, this Authority observe the reason for the period selected for the reassessment by the respondent on the assumption that the metering system might have become defective from the next day of the inspection dated 22-03-2019. The inspection team had not conducted any other test or measurement in connection with the inspection.

On going through the tamper report of the meter produced by the respondent, two events “Current reversal Y phase with 18 counts and duration of 1073 days” and “Current reversal ‘B’ phase with 77 counts and duration of 1011 days” are in the status “Events ON”. But in the sequential storages of “Events ON” Current reversal ‘Y’ phase for 3 hours 28 minutes 45 seconds and current reversal ‘B’ phase is for 8 minutes 45 seconds are seen. Since the metering system was tested by the inspection team on 22-03-2019, there is no relevance in the duration shown in the tamper report.

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-assessment.

The Consumer Grievance Redressal Forum, Central Region in its order in OP No. 76/2020-21 dated 30-03-2021 has already discussed different Regulations of Kerala Electricity Supply Code 2014, pertains to the billing of defective metering system.

Regulation 152 of Kerala Electricity Supply Code 2014 says about “Anomalies attributable to the Licensee which are detected in the premises of the consumer”.

#### Regulation 152

- (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 realization 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 instalment facility by the licensee for a maximum period of twelve months for the remittance of such amount of short collection with interest at the bank rate as on the date of remittance of the amount of instalment. } Amended by KSERC in its } notification dated 22<sup>nd</sup> January }2020, Thiruvananthapuram, "(4) }The consumer may be given }instalment facility by the }licensee for a maximum period of }twelve months without interest }for the remittance of such }amount of short collection;"

Regulation 125 of Kerala Electricity Supply Code 2014 explains "Procedure for billing in the case of defective or damaged meter:

- 125 (1) - In the case of defective or damaged meter, the consumer shall be billed on the basis of average consumption of the past three billing cycles immediately preceding the date of the meter being found or reported defective:

Provided that, the average shall be computed from the three billing cycles after the meter is replaced if required details pertaining to previous billing cycles are not available:

Provided further that any evidence given by consumer about conditions of working and occupancy of the concerned premises during the said period, which might have had a bearing on energy consumption, shall also be considered by the licensee for computing the average.

Regulation 2 (57) “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 (VT), or capacitance voltage transformer (CVT) necessary for such purpose;

In this case, as per respondent, there is no defect to the components like meter, CTs etc., but there was improper meter connection, which led to the under recording of energy consumption. The argument of the respondent is not acceptable since meter and CTs are the part of metering system and if meter and CTs are good, which does not mean the metering system is good.

The inspection team noticed the under recording of consumption at the rate of 13.5%, which was detected at the time of testing the metering system, but for different loading pattern, the rate of under recording may be varied. For the improper connection and for under recording of consumption, if any, the appellant is not responsible since the defect in the metering system was visible, which was stated in the site mahazar. The period for which the wrong connection was not ascertained by the respondent.

The consumption in the premises is not consistent. As such, the error @ (-)13.5% detected in the inspection to what extent reflected in the recording of consumption in the disputed period could not be found from the consumption pattern. In certain months, the consumption in the healthy period of the meter is less than the consumption recorded in the disputed period.

On going through the records, the following facts are revealed. The monthly consumption varies in the period of short-assessment from 2220 units to 8824 units. The monthly consumption varies from 1782 units to 14027 units, after the inspection dated 03-12-2020, for the period from 01/2021 to 10/2021. The monthly consumption varies from 3199 units to 7500 units for the period from 07/2018 to 03/2019, prior to the inspection dated 03-12-2020.

The monthly average of three months consumption prior to disputed period, i.e. prior to 22-03-2019 is 6373 units. The monthly average of three months after the rectification of defect is 9525 units, which is more than the consumption in the disputed period including the unrecorded portion.

**Decision: -**

From the conclusions arrived at as detailed above, I decide to quash the short-assessment bill for Rs.1,05,934/- issued to the appellant. The respondent is directed to issue the short-assessment bill for the period from 12/2019 to 11/2020 taking the average of the zone-wise recorded consumption from 12/2018 to 02/2019 within 15 days from the date of order. If the short-assessed amount newly arrived at is less than the total bill amount already paid during the revised period for 12 months, the difference in amount shall not be refunded to the appellant.

Having concluded and decided as above, it is ordered accordingly. The Appeal Petition filed by the appellant stands disposed of as such. The order of CGRF, Central Region in OP No.76/2020-21 dated 30-03-2021 is set aside. No order on costs.

**ELECTRICITY OMBUDSMAN**

P/054/2021/ \_\_\_\_\_ dated \_\_\_\_\_.

**Delivered to:**

1. Sri. Varghese Kurian, Madampparambil Sand and Metals, Sasthampara, 11/108, Muthalakkodam. P.O., Thodupuzha, Idukki Dist.
2. Assistant Executive Engineer, Electrical Sub Division, KSEB Ltd., Thodupuzha East, Idukki 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.