

THE STATE ELECTRICITY OMBUDSMAN

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Appeal Petition No. P/048/2023 (Present A. Chandrakumaran Nair) Dated: December-07-2023

Appellant : Smt. Geetha Varghese, Vachappilly
House, Adatt P.O., Thrissur (dist)-680551.

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
Kerala State Electricity Board Ltd.,
Muthuvara, Thrissur.

ORDER

Background of the case

The appellant is a domestic consumer under Electrical Section Muthuvara, Thrissur with connected load 4.633 kW. The appellant installed a Grid interactive solar panel with capacity 3 kW on 25/06/2021. Then the billing have been changed from bi- monthly to monthly. The net metering has been introduced which used to record import as well as export of power. The appellant's one allegation is about doubling of fixed charge which is not correct. On October 2022 it is found the reading taken from the net meter was inter changed. The export was recorded as import and import was recorded as export while taking the meter reading. Accordingly a short assessment bill was prepared and served to the appellant for Rs. 13,606/-. The appellant have contented the demand and filed petition to the CGRF Central Zone. CGRF issued order dated 23/06/2023 stating that the appellant is liable to pay the short assessment bill. Aggrieved by the decision of CGRF, this appeal petition is filed to this authority.

Arguments of the Appellant

The appellant has an electricity connection under Electrical Section Muthuvara with consumer number 1156858002184 having a connected load of 4633 W. The appellant has installed an on-grid solar power plant with a capacity of 3kW. On 27-12- 2022, the licensee issued a short assessment bill for an amount of Rs.4926 mentioning the reason that the

Import and Export readings were wrongly entered (interchanged) while preparing the electricity bill for the period from 05/2022 to 09/2022 and later it got revised on 10-03-2023 to an amount of Rs.13434/-, calculated for the period from 05/2022 to 12/2022. Aggrieved by this, the appellant approached The Consumer Grievance Redressal Forum to cancel this short assessment bill. But the grievance has not been redressed by the forum.

The appellant, Smt. Geetha Varghese had installed a solar power plant which generates about eight units of electricity per day. The appellant states that she regularly remitted the electricity bills without any delay until the dispute arose. The appellant also states that the electricity bills came in every two months before the installation of the solar power plant, but now she has to pay a fixed charge on every month. Previously the appellant paid this fixed charge six times a year, but now she has to pay it 12 times a year. It was later the appellant learned that these fixed charges are for the cost of generating electricity. The appellant even states that she had to bear all the expense for the purchase of solar panels and other expenses and KSEB did not give any amount for its expenses to the appellant. The appellant complains that without presenting an accurate bill amount, the respondent, for the mistake on their part, now demands the appellant to remit Rs 13500/-, Thus the appellant requests this Ombudsman to cancel this short assessment bill and set aside the order of The Consumer Grievance Redressal Forum.

The Order of the Consumer Grievance Redressal Forum is contrary to law, facts and evidence adduced in the case and is wrong. The Consumer Grievance Redressal Forum has not applied its mind to the contentions raised by the complainant and has not addressed the same and therefore the judgment is violative of the principles of natural justice, equity and good conscience. The reasons given by the Consumer Grievance Redressal Forum for rejecting the complaint are incorrect and are based on wrong appreciation of facts. The Consumer Grievance Redressal Forum has wrongly considered the plea of the Electricity Board ignoring the claims of the complainant. The Consumer Grievance Redressal Forum failed to appreciate the fact that there was deliberate wilful negligence latches and default on the part of the KSEB authorities while issuing the bills and for the deficiency of the service on the part of the KSEB, the complainant could not have been penalised even assuming that the contentions taken by the KSEB are true and genuine which not for a moment admitted. The assessment of consumption for a broken period as claimed by the KSEB is wrong and has been deliberately made just to victimise the complainant. The Consumer Grievance Redressal Forum failed to appreciate the fact that the complainant has been a consumer of the KSEEB for the past 20 years and the usage of the electric energy has been on an average the same all through, the present billing shows an increased use of electricity energy which is wrong and probably foisted on the complainant for the sole reason

to avoid the benefit of sale of electric energy by the complainant to the KSEB through the solar panels.

The Consumer Grievance Redressal Forum failed to appreciate the fact that after finding that a mistake has occurred during October 2022 itself the long delay in rectifying the mistakes for a period of 2 years speaks volumes of the falsity of the case of the KSEB. The Consumer Grievance Redressal Forum wrongly dismissed the petition filed by the appellant without considering the merits of the case. The Consumer Grievance Redressal Forum failed to appreciate the inconsistent and contradictory claims regarding the use of the electricity energy raised by the KSEB authorities. The copy of the agreement entered into between the complainant and the KSEB has not been issued to the complainant.

The Consumer Grievance Redressal Forum has failed to consider the fact that the obligations contained in the said agreement has not been complied by the KSEB and therefore there was breach of contract. The Consumer Grievance Redressal Forum has failed to consider the fact that the solar energy from the complainant's building in the month of May 2022 and the complainant was entitled to the amount due in respect of the energy transferred to KSEB which has not been paid till date and the bill has been deliberately raised by the KSEB to avoid the said payment. The Consumer Grievance Redressal Forum had not fastened the liability upon the respondents for wrongly calculating the bill amounts. The Consumer Grievance Redressal Forum ought to have set aside the impugned order for the reason that the appellant was put to unnecessary hardships. The Consumer Grievance Redressal Forum ought to have reduced the bill amount which was wrongly calculated by the respondents. The Consumer Grievance Redressal Forum has gone wrong appreciating the fact that the appellant is a bonafide subscriber of the KSEB.

RELIEFS PRAYED FOR:

a. To issue an order setting aside the order dated 23.06.2023

by The Consumer Grievance Redressal Forum.

b. To fasten the liability upon the respondents for wrongly calculating the bill amount and direct payment of compensation for the mental agony and suffering undergone by the complainant for the wrong billing on the part of the opposite party.

c. Grant appropriate compensation for illegal disconnection of the electricity supply to the complainant's residence to be realised from the opposite party and its employees.

d. Grant such other relief which are appropriate and incidental to the proceedings.

Arguments of the Respondent

All the averments and allegations in the Petition except those which are specifically admitted here under are not true and hence denied by these Respondents. The Petition is not maintainable either in law or facts. The Petition is filed against the order dated 23-6-2023 beyond the statutory period for filing the Appeal as per the Regulations so as to drag the matter and is liable to be dismissed on that score itself. The complainant is a domestic consumer bearing consumer No.1156858002184 under Electrical Section, Muthuvara and is a prosumer bearing SPIN:**568500105** with effect from 25-6-2021 and since then the billing is carried out based on the monthly reading in the net meter installed in the premises having the facility to record the IMPORT and EXPORT reading. The registered connected load is 4633 W and the ON Grid solar plant capacity is 3 kW.

The charges for electricity are demanded as per the prevailing tariff orders and net metering regulations issued by Hon'ble KSERC from time to time and the consumer paid the electricity charges till September 2022 as per the bills issued from the Electrical Section Office, Muthuvara. The allegation regarding the doubling of the fixed charge due to the change from the bi monthly to monthly billing consequent to the pricing type change is not true. The monthly as well as bimonthly consumers are billed with the same tariff rate notified by the Hon'ble KSERC and will not cause any hike in the fixed charges for the monthly billed consumers as alleged in the complaint. Even though it is true that the solar panels are installed at the consumer's expenses, the allegation regarding levying of fixed charges from the consumers installed solar panel at their own expenses is without realizing the fact that the tariff including the fixed charges are determined in due process by the Hon'ble Commission in which KSEB Ltd. is not having any authority and the amount being demanded from the consumer towards the fixed charges is in accordance with the prevailing tariff notification issued by Hon'ble KSERC.

During the routine monthly reading of October 2022 the Sub Engineer found that the net meter's import and export readings of the Petitioners connection with consumer No. 1156858002184 appears to be interchanged from the reading for the month of June 2022 For ascertaining the same, zone wise check readings were taken and on verification with the readings entered earlier, the error occurred in noting down the export and import readings was confirmed. The matter was communicated orally to the consumer at site and the report submitted to the billing branch. The billing section verified the billing records and it was confirmed that the mistake in noting down the import and export readings caused undercharging of the consumer during the said period due to the billing based on the wrongly noted readings. Accordingly the consumer was served with a short assessment bill as per Regulation 134 (1) of Kerala Electricity Supply Code

2014 with detailed calculation on December 27 2022, requesting payment of the undercharged amount of Rs. 4,926 (billing month 6/2022 to 9/2022) within 30 days. Bills for October - 5351/-, November - 546/-, and December 2022 2781/- were also issued along with the notice (totaling Rs. 13606/- including surcharge 2/-). On request of the consumer the detailed meter readings with effect from 7/2021 was also served to the consumer with duly acknowledged.

The provision for raising dispute if any was clearly specified in the notice and the consumer neither filed objections nor remitted the amount. Consequently 15 days disconnection notice as per Regulation 138(1) (a) of Kerala Electricity Supply Code 2014 was served on January 28, 2023. By that time the defaulted arrear amount of the dues included the bill dated January 2, 2023. Even though the consumer has not submitted any written complaint in the matter, based on the dispute raised verbally by the consumer with the higher authorities, the Executive Engineer, Electrical Division, Thrissur (West) scheduled a hearing on the 20/02/2023 and was conducted in the postponed date on 27/02/2023 as per inconvenience intimated by the consumer. During the hearing, the consumer requested details of solar generation and import and export units as per actual software meter downloaded data to verify any mistake.

As per our request, for checking the veracity of the mistake in entering the reading, data for the previous one year was downloaded from the meter by the APTS on March 3, 2023, and on analysis of the downloaded readings it was noticed that the IMPORT and EXPORT readings of the net meter were interchanged with effect from reading entry of 05/2022 instead of 06/2022 as found earlier. Accordingly, the short assessment bill was revised for the period from 05/2022 to 12/2022 to Rs. 13,434/- as per the accurate reading from meter software downloaded data, and served to the consumer on March 10, 2023 with a revised calculation statement and willingness to allow installment facility if any required.

As the consumer did not turn out to the office on receipt of the revised bill, the consumer was served with a 15 days disconnection notice as per rules on 21-03- 2023 to remit Rs. 13,214/- deducting the fixed charge of Rs.220/-remitted earlier from the bill amount of Rs. 13,434/- and to remit bills for 1/23(Rs.102/-), 2/23 (Rs.37/-) and 3/23 (Rs.57/-). Meanwhile the consumer approached Hon'ble CGRF and filed complaint No.02/2023-24 dated 10-4-2023. Considering the same all the unpaid bills generated including regular bills from January 2022 were kept in dispute status and disconnection procedure suspended till the disposal of complaint. Hearing was conducted on 30-5-2023 at Vydhyuthi Bhavan, Thrissur by the Hon'ble CGRF. The Hon'ble CGRF examined the complaint in detail and dismissed the same as per Order dated 23-06-2023 wherein it was ascertained that short assessment bill under dispute is liable to be paid by the petitioner.

Consequent to the non remittance of the amount by the Petitioner upon dismissal of the Complaint, 15 days arrear cum disconnection intimation dated 15-7-2023 sent through email dated 19-7-2023 and seven days disconnection notice dated 31/07/2023 was sent via email on the same day in the registered email address as the copies of the same could not be served in person as the premises was in door locked condition. Since the arrear was not cleared within the notice period the supply to the premises was disconnected on 10-8-2023 as per regulation 138, 139 of Kerala Electricity Supply Code 2014.

It may kindly be noted that the Petitioner neglected to pay even the regular bills from January 2023 till date which also makes liable for supply disconnection u/s 56 of the Electricity Act, r/w Regulation 138 of the Supply Code 2014. The solar incentive up to 9/2021 has been credited during 4/2022 and the matter communicated in the letter. The details of eligible solar incentive from 10/2021 to 3/2023 has also communicated to the complainant through registered post. Solar incentive upto from 10/2021 to 3/2023 amounting to Rs.1315/- was credited to the consumer's arrear on 19/07/2023 and the matter communicated to the consumer through email dated 22-7-2023.

It is submitted that the analysis of the meter data clearly shows that from May 2022 to December 2022, only an average of 3.48 units of solar energy was generated per day (i.e., 104.4 units per month), whereas the average consumption was 338 units per month. The solar generation was reduced from 6/2022 reading and drastically during the readings of 8/2022 & 9/2022. On oral communication with the consumer from the office of Assistant Engineer, Electrical Section, Muthuvara possibility of defective solar panels were pointed out. The solar generation seen increased to around 200 units per month with effect from March 2023. Nowadays the details of per day solar generation can be monitored by the Solar consumers regularly through the mobile Applications and other means. The details of consumption and meter readings from 6/2019 (prior to ON GRID solar plant installation) to 10-8-2023 (disconnection date) is tabulated below.

Consumption Month	Bill Month	Import units	Export units	Ongri d Solar genera lion	Actual Consumption	Consumption to be billed	Billed consu mption	Remarks
6/ 19-8/ 19	8/2019	NA	NA	NA	146	146	146	
8/ 19-10/ 19	10/2019	NA	NA	NA	185	185	185	

10/ 19-12/ 19	12/2019	NA	NA	NA .	162	162	162	
1/20-2/20	2/2020	NA	NA	NA	187	187	187	
3/20-4/20	4/2020	NA	NA	NA	367	367	367	
5/20-6/20	6/2020	NA	NA	NA	284	284	284	
7/20-8/20	8/2020	NA	NA	NA	208	208	208	
9/20-10/20	10/2020	NA	NA	NA	214	214	214	
11/20-12/20	12/2020	NA	NA	NA	239	239	239	
1/21-2/21	2/2021	NA	NA	NA	282	282	282	
3/21-4/21	4/2021	NA	NA	NA	343	343	343	
5/21-6/21	6/2021	NA	NA	NA	271	271	271	Upto 25-6-2021
25-6-21 to 19-7-21	7/2021	25	30	49	44	-5	Nil	ONGRID solar connected on 25/06/2021
19-7-21 to 02-08-21	8/21	99	98	130	131	-4		
8/21	9/21	127	126	161	162	-3		Incentive paid for 3 units @ Rs.3.22 on 05-04-2022
9/21	10/21	129	168	197	158	-39	Nil	
10/21	11/21	129	130	160	159	-40	Nil	
11/21	12/21	108	66	128	170	0	Nil	
12/21	1/22	144	191	192	145	-47	Nil	
1/22	2/22	145	185	212	172	-87	Nil	
2/22	3/22	134	169	206	171	-122	Nil	
3/22	4/22	170	100	156	226	-52	Nil	No discrepancy in regarding taken and downloaded Meter Data.

Consumption Month	Bill Month	Import units	Export units	Ongrid Solar generation	Actual Consumption	Consumption to be billed	Billed consumption	Remarks
4/22	5/22	198	98	169 <	269	100	Wrongly billed for NIL ti.nits considering as export	Export - Import Readings as per downloaded data from the meter
5/22	6/22	172	58	103	217	114		
6/22	7/22	323	51	119	391	272		
7/22	8/22	319	34	52	337	285		
8/22	9/22	375	49	95	421	326		
9/22	10/22	316	62	100	354	254	Billed along with the short assessment bill	
10/22	11/22	219	63	100	256	156		
11/22	12/22	404	41	98	461	363		
12/22	01/23	120	138	174	156	-18	Nil	
01/23	02/23	23	184	199	38	-161	Nil	
02/23	03/23	40	166	185	59	-126	Nil	—
03/23	04/23	15	199	208	24	-184	Nil	
04/23	05/23	22	176	178	24	-154	Nil	
05/23	06/23	11	147	151	15	-136	Nil	
06/23	07/23	12	121	128	19	-109	Nil	
07/23	08/23	129	92	99	136	37	Nil	Already banked units available
1/08/23	10/8/2023	0	28	29	1	-28	Nil	Up to DC date

The reading register from the ORUMANET software wef 02/2016 and the detailed calculation statement as per downloaded meter data from 1/4/2022 to 1/12/2022 is submitted. The office of the Assistant Engineer, Electrical Section, Muthuvara took all steps to clarify the readings, but the consumer was unavailable at the premises and oral communication over phone was also restricted said to be due to the busy schedule of the consumer. The communications were mostly through registered post, email and whats app. The Executive Engineer's hearing on February 27, 2023 provided a platform for the consumer to present their side of the case and clarify any doubts or discrepancies regarding the undercharged bill served to the consumer. Also APTS squad inspection was carried out to inspect the consumer premises and collected data for ensuring the correctness of the reading and satisfaction of the consumer and was done in the presence of the complainant. The allegation of long delay of 2 years for raising the bill after detection of the mistake raised in the grounds in appeal is not true .It is respectfully submitted that there is no merits in any of the grounds/ allegations raised in the petition regarding monthly billing of solar consumers, collection of fixed charges and short assessment bill issued as all of the matters are being carried out in accordance with relevant regulations/ notifications issued by Hon'ble KSERC and the complaint is liable to be dismissed as such. For the foregoing reasons, it is most humbly prayed that this Hon'ble State Electricity ombudsman may be pleased to dismiss the Petition directing the consumer for remitting the arrears with applicable interest as per rules.

Maintainability of this complaint

The CGRF has issued this order on 23/06/2023 and the appeal has been filed to the State Electricity Ombudsman 21/09/2023 which around 3 months from the date of order of CGRF. As per the Section 21(2) of the KSERC (CGRF and Electricity Ombudsman) Regulation 2005, the appellant would have submitted the appeal petition within 30 days from the date of receipt of the order of of the Forum.

Section 21(2) “Any complaint, who is aggrieved by the non- redressal of his grievances by the Forum may himself or through his representative make a representation to the Ombudsman within Thirty (30) days from the date of the receipt of the order of the Forum. Provided that the Ombudsman may entertain a representation after the expiry of the said period of Thirty (30) days if he is satisfied that there was sufficient cause for not filing it within the said period”.

It is also mentioned Ombudsman may entertain the representation after the expiry of said period of 30 days if he is satisfied that there was sufficient reason for not filing in time.

Here in this case, the appellant was outside the country from 23/02/2023 to 23/08/2023. It is mentioned that the order of the CGRF was received on 11/07/2023 and as she was away from country in New Zealand there was delay in filing the appeal. The passport copy attached shows the emigration stamping of departure on 22/02/2023 and arrival stamping on 22/08/2023. The same has been verified with the original passport and convinced. As the appellant was out of country due to certain emergencies, the delay is condoned and appeal petition is accepted.

Analysis and findings

The hearing of the appeal petition was conducted on 14/11/2023 at 11:30 am in the office of the State Electricity Ombudsman, DH Road & Foreshore Road Junction, near Gandhi Square, Ernakulam south. The hearing was attended by the appellant's representative Adv. Sri. Kiran H., and the respondent Sri. Jinu K Joseph, Asst. Executive Engineer, Electrical Sub Division, Kerala State Electricity Board Ltd., Muthuvara.

The appellant is a domestic consumer of the licensee KSEBL and has become a prosumer by installing a Grid interactive roof top solar on 25/06/2021. The metering has been changed to net metering system which record import and export of energy. The billing has been changed from bimonthly billing system to monthly billing system. Then the consumer is complaining that fixed charge is doubled due to monthly billing.

As per the tariff notification of the KSERC, the fixed charges are billed on monthly basis. When the bills are raised on bimonthly the fixed charge would have been the double of the monthly charges. Thus, the contention of the appellant is not correct and hence not sustainable. The fixed charges are chargeable from the consumers for reserving the power infrastructure and also to maintain the same.

The mistake of interchanging of the reading of Import & Export are noted down wrongly and accordingly the data entered in the software also interchanged. The bill was prepared accordingly. The difference on correcting the reading has been charged as the short assessment bill. The Section 134 of the Kerala Electricity Supply Code 2014 describes about the undercharged bills and overcharged bills.

134(1) *“If the licensee 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 cases at least thirty days shall be given to the consumer for making payment of the bill”.*

134(2) *“If, after payment of any bill, it is established that the licensee has overcharged the consumer, the excess amount shall be refunded to the consumer with interest at bank rate as on the date of remittance of such excess amount”.*

134(3) “The licensee may refund such overcharged amount along with interest at bank rate as on the date of remittance of such overcharged amount, by way of adjustment in the three subsequent bills and if the adjustment is not possible in the next three bills, the licensee shall refund the balance amount in full by cheque”.

Here the licensee has found that the consumer was under charged and accordingly the short assessment bill raised.

The appellant claimed the panel would have generate more power than what recorded. Average production from the solar panels in Kerala climatic condition will be 4 units per day while calculating the average generation for the whole years. There are certain factors affecting the generation.

1. Age and condition of the panel
2. There should not be any shade falling on the panel.
3. The regular cleaning of the panel.

The respondent AEE, has noted the following while inspecting the premises which he explained during the hearing.

1. The panels are erected on the top of the truss of the roof and hence there is no provision for proper cleaning
2. The panels used are old panels which are shifted from else where
3. The appellant is also having an off grid solar inverter which is also connected to the portion of this panel.

Then the panels connected to the Grid interactive system may not be 3 kW and it would have been lower capacity as the portion of this is connected an off grid inverter. Then the generation which is recorded may be for the reduced capacity of panel.

It is noted that the licensee has disconnected the power supply as the appellant was not remitted the regular power charges. The Section 138(1)(a) clearly states about the grounds for disconnection.

138(1) *“The licensee shall not disconnect the supply of electricity to any consumer except”*

(a) *“The licensee shall not disconnect the supply of electricity to any consumer except”*

The Electricity Act 56 also describes about the disconnection of supply in default of payment.

56(1) *“ Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee or the generating company may,*

*after giving not less than fifteen clear days' notice in writing, to such person and without prejudice to his rights to recover such charge or other sum by suit, cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of such licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid but no longer :
Provided that the supply of electricity shall not be cut off if such person deposits, under protest,*

- (a) An amount equal to the sum claimed from him, or*
- (b) The electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months, whichever is less, pending disposal of any dispute between him and the licensee.”*

Accordingly, the disconnection of power supply is as per the provisions of the Act and Regulation.

Decision

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.
2. The licensee has to connect the power supply on clearing the defaulted payment.
3. No order on cost.

ELECTRICITY OMBUDSMAN

No. P/048/2023/ _____ dated: 07/12/2023.

Delivered to:

1. Smt. Geetha Varghese, Vachappilly House, Adatt P.O., Thrissur (dist)-680551.

2. The Assistant Executive Engineer, Electrical Sub Division, Kerala State Electricity Board Ltd., Muthuvara, Thrissur.

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, 220 kV Substation Compound, HMT Colony P.O., Kalamassery, Pin- 683 503.