

THE STATE ELECTRICITY OMBUDSMAN

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**Appeal Petition No. P/042/2024
(Present A. Chandrakumaran Nair)
Dated:18-09-2024**

Appellant : Sri. Mohammed M.P
MeethalePazhayaveettil,
Vakayad P.O, Naduvannur
Kozhikode Dist.,

Respondent : The Assistant Executive Engineer
Electrical Sub Division
KSE Board Ltd, Balussery,
Kozhikode Dist.,

ORDER

Background of the case

The appellant Shri. Mohammed M.P is a consumer of the licensee under their Section Electrical section, Balusserry with consumer number 1166138041578. The three phase service connection under the tariff LT.7A with connected load 39.928 Kw was connected on 16/01/2018. The power is availed for the working of a Gold and Jewellery shop named as 'M/s. Diya Gold and Diamonds'. Anti Power Theft Squad (APTS) conducted an inspection on 09/11/2023 and found that B phase current was recorded zero by the meter. This is only because of the B phase terminal of 'CT' is not connected to the meter terminal. The meter was recorded 2/3rd of the actual consumption and the fault occurred since 06/03/20218 and the same was rectified on 27/11/2023. After the rectification the meter started recording the actual consumption. The site mahazar was prepared and a copy was landed over to the representative of the consumer. The licensee was prepared the bill for the short assessment for Rs. 11,19,440/- and send as demand notice. The appellant filed the petition to CGRF and CGRF has ordered to revise the short assessment calculating the average consumption before and after the rectification. Accordingly the short assessment has been revised to Rs. 6,35,437/-. The CGRF ordered that the appellant is liable to pay the amount as per the revised short assessment bill. Aggrieved by the decision of CGRF, this appeal petition was filed to this Authority.

Arguments of the Appellant

1. In spite of the fact that no mistake is committed by the Consumer as he was paying the bill amount regularly and had not tampered the meter in any way the electricity board has unilaterally imposed the 4, liability to pay large amount to the tune of 6,35,437/- under the garb of short assessment bill which amounts to total denial of natural justice to the complainant.

2. Regulation 104 of the Supply Code 2014 in fact provides that the licensee shall not supply electricity except through a correct meter installed in accordance with the provisions of the Central Electricity Authority (Installation and Operation of Meters) regulation, 2006, as amended from time to time. After the installation the meter during 2018, the defect was found during the inspection of ATPS during November 2023. It means a defective meter was installed in 2018 which amounts to violation of Regulation 104. Without any justification on the part of the electricity board for violation of the statute comprising of clear and specific procedure the complainant/consumer is unilaterally taken to task by imposing a large amount as short assessment bill. This aspect ought to be in the active consideration of CGRF.

3. It is the established procedure as per rule /statute that in every billing cycle it is possible to verify whether the Meter is recording the actual supply or not and to take steps for any rectification if required. The authority has not complied with the provision for six years. For the lapse of the Board the consumer is to suffer. Though contented this aspect is totally overlooked by the CGRF. As per Regulation 115 (9) of the Supply Code 2014, In case the meter is found to be faulty, revision of 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. In spite of the specific provision/regulation the CGRF, brushing aside the contentions of the complainant imposed a liability of Rs.6,35,437/- spanning over a period of more than 6 years.

5. Regulation 116 (1) and (2) provides for Replacement of defective Meters and to replace the defective Meter. However, the said regulation mandates the defective Meter shall be tested in an accredited laboratory or in an approved laboratory. Since there is no such testing has been carried out, the non compliance of the said regulation is visible and the entire proceedings of the short billing is vitiated. Regulation 125 provides for the procedure for billing in the case of defective or damaged meter- And also Sub-Regulation 125(1) provides that 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. Regulation 125(2) provides that Charges based on the average consumption as computed above shall be levied only for a maximum period of two billing cycles during which time the licensee shall replace the

defective or damaged meter with a correct meter. The CGRF has not considered the contentions as above raised by in this case and discarding the provisions of the law confirmed the liability charged for a period from March 2018 to November 2023 almost 69 months which is not supported by any regulation of the Supply Code 2014.

7. The average consumption after rectification taken on a basis of three months and the average before the rectification was taken on a basis of six months. Based on this the consumption is arrived on presumption against which charges are levied which aspect also did not get sufficient attention by CGRF. Section 113 of the Kerala Electricity supply code 2014 mandates testing of meter at periodical intervals. The said testing as per the code is mandatory which is not complied by electricity board. The gross omission on the part of the electricity board explained on flimsy reason is given a go by and the CGRF has burdened the complainant. For the reasons stated above, it is crystal clear that the short billing for the period of March 2018 to November 2023 for an amount of 6,35,437/- as claimed by the Electricity Board is not sustainable in the eye of law and the claim as raised may be disallowed and the complainant may be compensated for the inconvenience and stress he has been put to.

Arguments of the Respondent

Consumer No. 1166138041578 is registered in the name of Shri. Mohammed.M.P, Meethale Pazhaya Veettil, Vakayad.P.O,Naduvannur, Kozhikode, the petitioner in the above matter but it is being used for running a jewelery shop in the name of M/s Diya Gold & Diamonds by his tenant. The said connection is a three phase connection and it is coming under Electrical Section, Balussery. It is registered under LT 7A tariff with a connected load of 39928 Watts. The above connection was effected on 16- 01-2018.

On 09-11-2023 Anti Power Theft Squad (APTS), Kozhikode unit conducted a surprise inspection on the premises of the consumer. The memory data of the meter was examined and it was found that while the R phase and Y phase showed 2.04 A and 1.40 A respectively the B phase recorded zero. It was found that, B phase of the CT, started to record zero from 06-03-2018 onwards. The problem was that, the CT, that was attached to the B phase did not have any connection with the meter. As a result, that phase current was missing in the Meter. Hence the meter recorded only 2/3 rd of actual consumption from 06-03-2018 onwards. The defect was cured on 27-11-2023, and after which, the meter started to record the full consumption. As part of the inspection, a mahassar was prepared and a copy of which was served on the consumer. (Copy of the said mahassar is attached herewith as Exbt.1) The under reading for the period from 06-03-2018 to 27.11.2023 caused huge loss to the licensee. Therefore a short assessment bill (dtd 19-12-2023) was prepared for an amount of Rs 11,19,440/- (Rupees Eleven

lakhs Nineteen thousand Four hundred and Fourty Only) for the period from 06-03-2018 to 27.11.2023 and served to the consumer. (Copy of the bill is produced as Exbt.2)

The short assessment bill was prepared as per provisions contained in regulation 134(1) which clearly says that "if the licensee establishes either by review or otherwise that it has under charged the consumer, the licensee may recover the amount so under charged from the consumer by issuing a bill and in such case at least 30 days shall be given to the consumer for making payment of the bill". In the instant case, the bill issued to the consumer is for the amount short assessed due to missing of one phase current from 06- 03-2018 to 27.11.2023 and no interest or penalty is charged. Hence the bill issued to the consumer is just and fair and the consumer is legally liable to pay the amount within the stipulated period. The anomaly in the above matter was noted in the month of November 2023. Three months consumption, prior to the inspection month ie, 10/2023, 09/2023, 08/2023 are conducted on 3750 units, 4860 units, and 4728 units respectively. The inspection was 09/11/2023 and the anomaly corrected on 27/11/2023. The readings after correcting the anomaly,ie consumption during 12/2023 and 01/2024 are 5360 and 5044 respectively. The average daily consumption after the defect was cured is 173 units while it is 148 units prior to the inspection month, when the meter did not record one phase current.

As mentioned above, the connected load of the consumer is 39928 Watts and he is running a commercial shop. In such a scenario if the consumption is assessed using the load factor (50% for non domestic) the daily consumption would come to be 199units (Units assessed $L \times D \times H \times F = 39.928 \times 1 \times 10 \times 0.5$, where L = Load in kW, D = period of assessment in days, H = Average Number of hours per day, F = Load factor). But consumption not anywhere near to 199 units was recorded during the period for which the short assessment bill was raised. This aspect of the matter also reveals that one phase consumption was not being recorded in the meter and hence the consumer remained undercharged for a long period of time. The short assessment bill issued by the licensee is not barred by limitation also. In Civil Appeal No. 1672/2020 with 1673/2020 (Asst. Engineer, Ajmer Vidyut Nigam Ltd and another Vs. Rahmathulla Khan) the Hon'ble Supreme Court of India has held that the period of limitation would commence from the date of discovery of the mistake. In the case at hand, the mistake was detected on 09-11-2023.

The Hon'ble High Court of Kerala in its judgment in WP No.28669/2013 unequivocally held that the licensee can recover the loss sustained from unrecorded energy. In the above WPC the meter showed a reduction of 60% in reading. The meter in question was installed in the year 2006 and it was changed in the year 2012 only. However the Hon'ble High Court found that KSEB could assess the period during which there was a short assessment

and the court further observed that the period need not be limited to 12 months. In the above case the action of KSEB in raising the short assessment bill for the escaped energy was upheld by the Hon'ble High Court and the consumer was granted installments to clear the dues. Going by the above judgments in the instant case, the KSEBL is entitled to realize from the consumer the short assessed amount. The short assessment bill served on the consumer cannot be considered to be a penalty inflicted on him. On the other hand it is actually current charge for the energy consumed by the petitioner which the licensee happened to omit to collect from him in time. The short assessed bill was served without any surcharge also. A consumer cannot be allowed to exploit to his benefit an omission on the part of the licensee in collecting current charge from him in time.

The amount of Rs 11,19,440/- (Rupees Eleven lakhs Nineteen thousand Four hundred and Fourty Only) has been calculated as short assessment. The Honourable CGRF considered the matter in detail and ordered to revise the arrear to an amount of Rs 6,35,437/- considering the average usage of consumer before and after rectifying the defect noticed during inspection. In this case, the short assessment bill was prepared due to missing of one phase current (B phase) to the meter. No natural justice was denied to the complainant.

Regulation 104 of supply code 2014 referred to the metering of energy used by the consumer. The rule says that, the licensee shall not supply electricity except though a correct meter installed in accordance with the provisions of the Central Electricity Authority (installation and Operation of meters) regulation 2006 as amended from time to time. In this case the meter is not a defective one. During the inspection, the meter and CT chamber was sealed properly. The meter is reading good. But the R phase and Y phase showed 2.04 A and 1.40 A respectively the B phase recorded zero. The problem was that, the CT, that was attached to the B phase did not have any connection with the meter. As a result, that phase current was missing to the Meter .Thereby the meter recorded 2/3 rd of the actual reading. In regulation 105(a) of supply code 2014, at the time of seeking a new connection,the consumer shall have the options to purchase meter and associated equipment himself from a vendor. In this case the meter and associated equipment were purchased by the consumer itself. After rectification of the defect observed, during the inspection, the same meter is using for recording the energy consumed by the consumer. Now the meter is recording energy consumed in all the phases.

In this case, the meter was recording the energy,except the energy consumed in B phase of the consumer. The periodical inspection or testing was delayed due to Covid-19 Pandemic. With reference to regulation 115(9) of the supply code 2014, it is submitted that in this case, the meter is working good. The same meter is now connected and working well after rectifying the defects of missing of B phase CT connections. Regulation

116(1). Here the meter itself is not defective. Since the meter and associated equipment were borne by the consumer, the licensee shall require the consumer to replace the meter and associated equipment at the cost of the consumer. Since the meter was not defective, licensee did not request the consumer to replace the meter as it was not required.

Regulation. 125(1) provides the procedure for billing in the case of defective or damaged meter. Here the meter itself is not defective. Hence the method of taking average consumption in the case of defective meter is not applicable here. Here the meter was reading less due to missing of one phase (B Phase) of CT to the meter. For calculating escaped energy due to missing of one phase CT, average consumption is taken. Since monthly energy consumption of the consumer is varying in wide range, (more than 1000units in some months) average consumption can not be ascertained by taking consumption during 3 months only. Hence the average consumption prior to the inspection is taken by taking previous 6 months. After rectification of the defects, only three months readings were available for taking average. For calculating escaped energy due to missing of one phase CT, average consumption was taken. Since monthly energy consumption of the consumer is varying in wide range, (more than 1000units in some months) average consumption can not be taken by taking consumption for 3 months only. Hence the average consumption prior to the inspection was calculated by taking previous 6 months consumption. Only three months readings were available for taking average consumption after rectification of the defects.

The periodical inspection or testing was delayed due to Covid-19 Pandemic and its restrictions. Due to lock downs, the periodical inspections couldn't be completed in time and the inspection was completed in 11/2023. Here the defect cannot be termed as a case of faulty meter. Only CT output current of B phase was missing in the meter. This is rectified and the same meter is being using at the premises. It is submitted that the short assessment issued was for the energy used by the consumer and therefor the consumer is bound to remit the amount. In this light of the above, the Hon'ble Ombudsman may be pleased to pass on order directing the consumer to remit the short assessment bill served on him by the respondents for an amount Rs.11,19,440/-

Counter Argument filed by the Appellant

On 09-11-2023 the Anti Power Theft Squad (APTS) Kozhikode conducted surprise inspection on the above mentioned premises. Accordingly they found some problem with the meter. Consequent to this they served on the petitioner a bill dated 19-12-2023 for an amount of Rs. 11,19440/- being the short billing charges for the period from 03/2018 to 11/2023. Aggrieved by this decision of the Board the petitioner preferred the complaint in the

Honourable CONSUMER GRIEVANCE REDRESSAL FORUM, NORTHERN REGION, KOZHIKODE. The Petition was accepted and numbered as OP No.92/2023-24. On the sitting on 20/03/2024, the Honourable Cell, directed the official of the Board to re calculate the bill for Rs. 11,19,440/- Since there is non compliance of the necessary regulations of the Supply Code. Accordingly a fresh bill was produced for an amount of Rs.6,35,437/- And on 04/05/2024., the matter was finally heard and passed an order to the effect that the petitioner was directed to remit short assessment bill for Rs.6,35,437/-

Dissatisfied with the above mentioned order, the petitioner preferred this appeal before this HONOURABLE KERALA STATE ELECTRICITY OMBUDSMAN for the specific reason there is non compliance on the part of Board of the regulations of The Kerala Electricity Supply Code 2014 on the part of Board. The respondents filed their written statement. Accordingly the petitioner raises the following objections. At the outset, On going through the said order of the Honourable CONSUMER GRIEVANCE REDRESSAL FORUM, NORTHERN REGION, KOZHIKODE., it is to be pointed out that, the order is not in conformity with the relevant regulations provided in The Kerala Electricity Supply Code 2014., The petitioner submits the para wise reply as follows., against the para wise remarks of the respondents.

Short assessment for Rs.11,19,440/- which was revised as Rs.6,35,437/-on the direction of the Honourable CGRF- As per Regulation 113, (6), the licensee shall conduct periodical inspection or testing or both of the meters once in every three years for an LT 3-phase meter. In the instant case the three phase connection was effected during January 2018 and the first inspection was conducted by the Anti Power Theft Squad (ATPS) on 09.11.2023 i.e. after five years. Since the inspection was not carried out in time the Board lost the right to recover any amount towards short assessment for the relevant period. For the said reason alone, What is the justification for the lapse on the Board, to fasten the liability on the consumer for an amount Rs.6,35,437/-towards short billing. Regulation 104 of supply code 2014 referred to the metering of energy used by the consumer and also stated that the meter is not a defective one. -The Board doesn't have a case that the consumer has committed any mistake or lapse on the part of the consumer. Instead on the date of the inspection, the ATPS found that one of the phase in the three phase was not recording the consumption of energy. It is incumbent upon the Board officials to satisfy themselves at the threshold of installation itself to the effect that all the phases are properly recording the actual consumption of energy. Even a man of ordinary diligence can find out whether all the three phases are functioning properly. In fact this point is most relevant, considering the fact that from 2018 Up to November 2023 for every billing cycles the demand notice was served on the petitioner by the official of the Board after checking the Meter. As such there is no justification that, after five years, one phase

was not recording the consumption of energy properly and to make the petitioner liable for short assessment.

In this case, the meter was recording the energy, except the energy consumed in B Phase of the consumer and the periodical inspection or testing was delayed due to the Covid-19 Pandemic- The point here is, for the lapse on the part of the Board, the Board is trying to take shelter under by claiming the Pandemic Covid -19-. The installation was in January 2018. So, it is the responsibility of the board to conduct the periodical inspection after three years i.e. in 2021. In this contest it may be noted that there was total breakdown of all activities from March 2020 up to December 2021 only. However, even the Board conducted the meter reading regularly even during the pandemic period and served the demand notice on the consumer without fail. However, the ATPS conducted the surprise inspection only during the month of November 2023. So the excuse on the ground of pandemic is not tenable. Even the Honourable Consumer Grievance Cell accepted the said contention of the Board and passed the order accordingly. To that extent also the said order is vitiated and liable to be dismissed. Para 4 and 5- the meter is working good and the same meter is connected after rectification- This claim of the Board is self explanatory. i.e. there is no mistake or fault on the part of the petitioner. So there is no justification to fasten the liability of short assessment on the consumer.

Regulation 125(1)- Calculation of escaped energy- due to missing of one phase CT- There is no substance in all these claims since there is total lapse on the part of the Board for the non compliance of the Regulation 116(6). The periodical inspection was delayed due to Covid -19- pandemic and its restrictions- It is explicitly clear that there is deliberate lapse on the part of the Board to conduct the periodical inspection as per Regulation 116(6) of the Electricity Supply Code 2014. The installation was in January 2018. So, it is the responsibility of the board to conduct the periodical inspection after three years -at least in 2021. In this contest it may be noted that there was total breakdown of all activities from March 2020 up to December 2021 only. However, even the Board conducted the meter reading regularly even during the pandemic period and served the demand notice on the consumer without fail. It was possible to find out whether all the phases are functioning correctly even by the meter reader. For that omission on the part of the Board the decision to fasten the liability on the consumer is illegal and arbitrary. However, the ATPS conducted the surprise inspection only during the month of November 2023. So the excuse on the ground of pandemic is not tenable. Even the Honourable Consumer Grievance Cell accepted the said contention of the Board and passed the order accordingly. To that extent also the said order is vitiated and liable to be dismissed.

Other grounds:

Regulation 134 of the Supply Code and the Ruling of the Honourable Supreme Court is not applicable in the instant case, since the facts are entirely different.

There is no short billing for the month of 01/2018 and 2/2018, which means the supply was recorded properly in all the three phases. There is no mistake committed by the Consumer as he was paying the bill amount regularly and there is no accusation against him. There is no justification for the recovery of short billing on an average for the period of 2020 March to December 2021, the period which was affected by the Pandemic Covid -19. Since the normal life was paralysed due to the pandemic there was no business activities. Regulation 104 of the Supply Code 2014 provides that the licensee shall not supply electricity except through a correct meter installed in accordance with the provisions of the Central Electricity Authority (Installation and Operation of Meters) regulation, 2006, as amended from time to time. After the installation of the meter during 2018, the defect was found during the inspection of ATPS during November 2023. It means a defective meter was installed in 2018 which amounts to violation of Regulation 114. There is no justification to shift the responsibility to the consumer?

Even in every billing cycle it is possible to verify whether the Meter is recording the actual supply or not and to take steps for any rectification if required, it took nearly six years to rectify the faulty meter and for the lapse of the Board the consumer is to suffer. Whatever be the reason there is no justification to make the consumer liable for short billing. As per Regulation 113 (1) of the Supply Code 2014., 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. In the instant case one may forced to assume that there was no such procedure carried out by the Board before installation and now they are trying to shift their responsibility. As per Regulation 115 (9) of the Supply Code 2014, In case the meter is found to be faulty, revision of 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. Considering the issue, it is pointed out that it is Regulation 115(9) which is applicable and not Regulation 134. Accordingly it is urged that the recovery should be regulated as per Regulation 115(9).

Regulation 116 (1) and (2) provides for Replacement of defective Meters and to replace the defective Meter. However, the said regulation mandates the defective Meter shall be tested in an accredited laboratory or in an approved laboratory. Since there is no such testing has been carried out, the non compliance of the said regulation is visible and the entire proceedings of the

short billing is vitiated. Regulation 125 provides for the procedure for billing in the case of defective or damaged meter- And also Sub-Regulation 125(1) provides that 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. Regulation 125(2) provides that Charges based on the average consumption as computed above shall be levied only for a maximum period of two billing cycles during which time the licensee shall replace the defective or damaged meter with a correct meter. In this case the said regulation has been overlooked and the consumer is charged for a period of March 2018 to November 2023 almost 6.

For the reasons stated above, it is crystal clear that the short billing for the period of March 2018 to November 2023 for an amount of Rs. 6,35,437/- which was ordered by the Honourable Consumer Grievance Cell is vitiated for the arbitrariness on the part of the Board. There is total violation of Regulation 116(3) of the Supply Code of 2014. The claim is not in conformity with any of the Regulations of the Supply Code of 2014. Hence it is humbly prayed that the Honourable Ombudsman may be pleased to dismiss the claim of the Board forthwith.

Analysis and findings

The hearing of the appeal petition was conducted on 30/08/2024 at 11.00 am in the KSE Board IB Kozhikode. The hearing was attended by the appellant's Advocate Sri. Ramakrishnan V.K and the respondent Sri. Prasanthan K.P., Assistant Executive Engineer, Electrical Sub Division, Balussery, Kozhikode Dist.,

The appellant was having a 3 phase LT commercial connection which was effected on 16/01/2018. The regular meter readings was taken by the licensee and the power charges were remitted without fail. In the surprise inspection conducted by APTS on 09/11/2023, it is noticed that B phase CT was not properly connected to the meter and there fore the meter was not reading the B phase current. Then the connection recorded by the meter could be 1/3rd less than the actual consumption in a balanced three phase load. The inspection was conducted in the presence of the representative of the consumer and the site mahazar was prepared accordingly. The short assessment prepared based on the theoretical calculation and has been revised as per the direction of CGRF by considering the consumption before and after the rectification of the fault.

The regulation 134 of the Supply Code 2014, authorize the licensee to bill the under charged and amount

134 Under charged bills and over charged bills:- (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."*

The regulation 136 of the supply code spelt about the limitation of recovery of arrears.

136. *Recovery of arrears and its limitation:-*

(1) *“The licensee shall be entitled to recover arrears of charges or any other amount due from the consumer along with interest at the rates applicable for belated payments from the date on which such payments became due.”*

2. *“The licensee may prefer a claim for such arrears by issuance of a demand notice and the consumer shall remit the arrear amount within the due date indicated in the demand notice.”*

3. *“No such sum due from any 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 arrear of charges for electricity supplied.”*

This limits the recovery to two years from the date when it became first due.

The regulation 152 of the supply code 2014 describes about the anomalies attributable to the licensee.

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 subregulation (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 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 installment.

Here in the case is hand in about the inaccuracies in the metering. The meter was reading and the reading was not accurate as the B Phase current terminal was not connected. The realization of short collected amount was limited for a period of 24 months. This limitation was superceded by the order of Hon'ble Supreme Court in the Civil Appeal-no: 7235/2009 pronounced on 05/10/2021. This order clearly defines when the amount is first due. The relevant paras of the order is as below:

Para 11. *"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."*

Para 12. *"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."*

Para 13. *"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 Court came to the conclusion that what is barred under Section 56(2) is only the disconnection of supply of electricity. In other*

words, it was held by this Court in 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)."

Para 16. "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 recourse to disconnection 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".

This order is very clearly states that the amount is become first due only on raising the demand by the licensee and period of limitation is applicable only from the date. As such this order of the Apex Court Supercede the regulation 136 and 152 and hence, the appellant is liable to pay the short assessment for the whole period. Here the connection was effected on 16/01/2018 and the next inspection was carried out only on 09/11/2023. which is after 5 years 10 months. The regulation 113 (6) states about the periodical inspection.

113(6) The licensee shall conduct periodical inspection or testing or both of the meters as per the following schedule:-

Single phase meters once in every five years

LT 3-phase meters once in every three years

HT or EHT meters including maximum demand indicator (MDI) once in every year.

The LT 3 phase meters would have been inspected once in every three years. The licensee has totally violated this regulation. The licensee has to find out the officials who is responsible for this lapses and take, necessary action.

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 remit the short assessment for Rs.6,35,437/-
2. The licensee shall grant installment facilities at 12 installment without interest for the remittance of amount.
3. The licensee may find out the official responsible for this lapse and take necessary action.
4. No other costs only.

ELECTRICITY OMBUDSMAN

No. P/042/2024/_____ dated:_____

Delivered to:

1. Sri.Mohammed M.P, meethale pazhayaveetil, Vakayad P.O, Naduvannur, Kozhikode Dist.,
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Balussery, Kozhikode Dist.,

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, Vydhyuthi Bhavanam, KSE Board Limited, Kozhikode Dist.,

