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Appeal Petition No. P/046/2024 (Present A. Chandrakumaran Nair) Dated: 30-09-2024

Appellant : Shri. Biji Sony, Aerath Business Corporation, Ramapuram.P.O, Kottayam Dist.,

Respondent : The Assistant Executive Engineer, Electrical Sub Division, Kerala State Electricity Board Ltd., Ramapuram, Kottayam Dist.,

ORDER

Background of the case

The appellant Shri. Biji Sony is an industrial consumer of the licensee (KSEBL) under their electrical section Ramapuram which is under electrical sub division, Ramapuram. The service connection was with consumer no: 1156292019111 in LT IV AH tariff affected on 08/08/2021. The LT 3 phase connection was with contract demand 93 KVA and connected load 83 Kw. The 3 phase CT meter was connected for this consumer on 02/12/2019 with CT ratio 200/5 and accordingly the multiplication factor was 40. APTS had conducted an inspection on 11/12/2023 at this premises and found that the current in R phase of meter is recording as zero though there was current in the R phase on testing with long tester. The correctness of the meter was tested with a calibrated meter and found that the existing meter is recording 29.75% less than the actual consumption. A short assessment bill for Rs. 68,261/- was issued for a period of one year from 01/2023 to 12/2023. The APTS informed that the R Phase CT was damaged on 28/09/2019. Then the meter and CT were tested in TMR lab of the licensee. Then the short assessment bill was revised for Rs. 2,42,684/- for a period for 12/2019 to 12/2023. The appellant has contented the demand and filed petition to CGRF, CGRF issued order dated 11/06/2024. Aggrieved with the decision of the order of CGRF, this appeal petition was filed.

Arguments of the Appellant

The Anti-Power Theft Squad of KSEBL conducted an inspection in the premises of Con No: 1156292019111 of the petitioner on 11.12.2023. During the above inspection it is found that Voltage in the three phases are being correctly recorded as 237.84, 239.85, 239.85. The R phase of the energy meter the current is found to be 0.00A. On detailed examination by connecting a portable standard reference meter it was found that there is 29.73% missing reading in the 1st phase due to alleged defects in the wiring of C.T. In other words the energy meter is recording only 70.027 units when 100 units were actually consumed and that is the finding. The storage data in the memory of the energy meter was downloaded for detailed verification during the inspection. Later the downloaded data as per the Licensee indicated that 29.73% missing is established w.e.f 28/09/2019, 12.27 hours to 11/12/2023 i.e. the date of inspection. But this petitioner was shocked to notice that the subject energy meter A0084896 of Landis +GYR was installed in the premises only on 02.12.2019 whereas the alleged missing as per the download data is w.e.f 28/09/2019. Therefore it is crystal clear that the meter download data is not a reliable proposition or evidence for issuing short assessment bills for the reason that the downloaded data indicated the alleged missing w.e.f 28//09/2019 onwards whereas the subject energy meter was installed in the premises only on 02.12.2019. This Hon'ble Appellate Authority may kindly notice that the sole evidence relied by the Licensee for issuing short assessment bills is the meter download data.

The Licensee KSEB Ltd hastily replaced the subject energy meter on 13.12.2023 without adhering to any protocol. No site mahassar was prepared and no action taken for detailed testing of the energy meter. This is irrespective of the fact that the finding of the inspection is that 29.73% missing is solely due to the defect in the wiring of the current transformer. This consumer was never taken into confidence while replacing the energy meter. The petitioner was also kept in dark about the rectification of alleged defects in the current transformer on account of which it is alleged to have resulted in the 29.73% missing for which a short assessment bill was issued. Apart from this no action was taken by the licensee for the detailed testing of energy meter in the presence of the petitioner. From the above actions it is clear that the officers of the Licensee acted in violation of statutory obligations and acted in haste in destroying all crucial evidence for resolving the dispute and acted unilaterally oblivious of the statutory obligations. In case the meter download data relied upon by the Licensee the KSEBL is to be taken for granted there is clear and gross violation of Regulation 113(1) of Kerala Electricity Supply Code 2014 read as follows "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.

Before the Hon'ble CGRF Kottarakkara the petitioner made a prayer to call for the above test reports from the Licensee KSEBL for a decision which was not adhered to in gross denial of the principles of natural justice. The above test reports are a document of permanent nature to be maintained by the Licensee and to be shared with the consumer. It is shocking to notice that Asst Exe Engineer Ramapuram who was present before the Hon'ble C.G.R.F Kottarakkara during the hearing took the position that only two phases of the energy meter was only tested prior to the installation of the same in the premises which shows the callous nature and attitude of the officers of the Licensee. The written version filed by the Asst Exe Engineer clearly indicates that there are serious lapses from the part of the Licensee in meeting statutory obligations. As per Regulation 113(2) "The Licensee shall also conduct periodical inspection or testing or both and calibration of the meter as specified in the Central Electricity Authority (Installation and operation of Meters) Regulations 2006 as amended from time to time.

It is not disputed that the subject energy meter was installed in the premises on 02.12.2019. As per regulation 113(6) the L.T-3 phase energy meters to be tested once in every 3 years. Therefore by the three year completion i.e. on 01.12.2022 at least one mandatory testing to be conducted by the Licensee in the premises and keep the records. Our prayer to call for the above mandatory test reports were also denied by the Hon'ble C.G.R.F. Kottarakkara without any fair application of mind while deciding upon the case. This also results in denial of the principles of natural justice. There are serious lapses from the part of Licensee in complying with Regulations 113(1) 113(2) and 113(6) of the Kerala State Electricity Supply Code which also tantamount to deficiency of service. In case the above statutory regulations are complied with it would have obliterated the alleged reasons if any relied by the Licensee for short assessment in a time bound manner. The consumer cannot be saddled with huge liability for the serious violation of statutes and omissions committed by the Licensee KSEBL. The Licensee KSEBL has resorted to short assessment weF 02.12.2019 the date of installation of the subject energy meter in the premises solely on the basis of the meter download data. The meter download data indicates that the missing 29.73% with effect from 28/09/2019 onwards. Therefore it is clear that the download data is not reliable and cannot be used as reliable evidence for short assessment.

As per Central Electricity Authority metering regulation Amendment in 2019. Regulation 2(VII) (P) define "Meter" means a device suitable for measuring, indicating, and recording the conveyance of electricity as any other quantity related with electrical system and shall include, wherever applicable other equipment such as Instrument Transformer necessary for the purpose of correct measurement and also mean correct meter if it is complies with standards as specified in the schedule to these regulation.

In case the above yard sticks relied upon by the Licensee KSEBL for short assessment, is to be accepted, it means that they have affected the electric

supply to the premises with an incorrect or faulty meter which amounts to serious violation of statutory regulations for which the consumer cannot be saddled with short assessment. Besides this the reliability of meter download data is at stake and as licensee, KSEBL should have resorted to detailed testing of the energy meter including the C.T. The alleged rectification of C.T. without taking into confidence the consumer indicates that KSEBL and its officers have several things to hide. Now according to the Licensee KSEBL the alleged defects in the current Transformer are corrected. It may be kindly noticed that the learnt findings of the Licensee KSEBL is that the 29.73% missing of current is solely due to the defects in the wiring of the 'R' phase of the current transformer. In case the energy meter is not recording actual consumption due to the alleged defect in the C.T., there is no case for replacing the energy meter, simply the alleged defects in the C.T have to be rectified taking into confidence the consumer.

Therefore the order dated 11.06.2024 of the Hon'ble C.G.R.F Kottarakkara in OP No; 14/2024 leaving liberty to the Licensee to send the meter to Electrical Inspectorate and re-testing of the energy meter can be done in the presence of the petitioner for short assessment if any at this belated point of time amounts to a farce exercise without the backing of the statutes and for the following reasons. The findings of the Licensee KSEBL is that there is 29.73% missing in the one phase of the energy meter due to the alleged defects in the wiring of the current transformer which they claim to have rectified as on date. Therefore nothing can be adduced on testing the energy meter which stands removed from the premises on 13.12.2023. Only testing of meter including C.T. prior to the rectification of alleged defects would have made sense. Now such a logical resolution of the dispute stands thwarted by the officers of KSEBL since they claim to have rectified the alleged defects.

The claim of the Licensee is that the alleged defects in the C.T. which stands rectified and the same continues to be connected in the premises. The alleged defects were inferred solely on the basis of meter download data which is now found not at all reliable as the same indicates the missing is from 28/09/2019 way back from the installation of the energy meter in the subject premises that is on 02/12/2019. There are no statutory provisions in related regulation to refer the testing of energy meters to the Electrical Inspector. The Licensee shall test the same on the accredited testing laboratory that is what statues refer. Therefore the orders passed by the Hon'ble C.G.R.F. have no statutory backing.

The orders passed by the Hon'ble C.G.R.F. Kottarakara is infructuous in nature and there is no case by the Licensee about the accuracy of the energy meter till date. What is disputed is the accuracy of the meter download data which is proved to have no reliability and cannot be used as a sustainable ground for short assessment. For the above reason itself the short assessment bill ought to be withdrawn especially on the backdrop of the blatant omissions made by the Licensee in affecting service connection with

a correct meter and also lapse made in the periodical testing of the energy meter once in every three years which stands proved to have not been done. The consumer cannot be held liable for the violation of statutes which is obligatory to the Licensee in rendering service to consumers. The alleged defects in the C.T. stands rectified as claimed by the Licensee. The testing of the meter including the C.T. prior to the rectification of alleged defects can only provide evidence for resolving the matter in hand. Therefore all sources for resolving the matter were wilfully destroyed by the Licensee KSEBL for which this petitioner cannot be held responsible. On the basis of the above it is most humbly prayed that this Hon'ble Authority may be pleased to set aside the order dated 11.06.2024 of the Hon'ble C.G.R.F. Kottarakara in OP No: 14/2024 filed by this petitioner and also set aside the short assessment bill for Rs. 2,42,684/- as the same were issued without any valid and bonafide grounds.

Arguments of the Respondent

The petitioner, Sri. Biji Sony, is an industrial consumer under Electrical Section, Ramapuram bearing Consumer Number, 1156292019111 in LT IVA tariff (date of connection: 12-01-2009) with three phase LT CT meter connection effected on 08-08-2016. This meter was later replaced with 3 phase LT CT type TOD meter of Landis+Gyr Ltd. with Sl no. A0084896 (year of manufacture, May 2018) on 02-12-2019. Registered contract demand is 93 kVA and of connected load 83 KW. The connected CTs were of 200/5A and with the Multiplication Factor of 40. On 11-12-2023 APTS, Kottayam conducted an inspection at the above premises, when the firm was functional. On inspection it was seen that the voltage displayed by the energy meter in the R,Y and B phases, were 237.84 V, 239.85 V and 239.85 V and that of current were 0 A, 0.297 A and 0.431 A respectively. In other words, no current was being recorded on R phase. But when checked with a Tong tester across the LT cable, values of current on R,Y and B phases were shown as 19.8 A, 11.4 A and 17.5 A respectively which means that all the phases are actually taking currents, but the actual consumption in R phase was not being recorded in meter, whereas consumption of other two phases was being recorded in it. (Exhibit-1) The correctness of the existing consumer's meter with sl no. A0084896 and allied equipments (meter circuit) was checked with a NABL accredited MTE make 2.3 GenX model portable standard reference meter by the APTS inspection team and found an error of -29.75%. This means that the meter was recording 29.75 % less than the actual consumption. Due to the anomaly related to the CT, energy consumption was not being recorded properly. Therefore, a short assessment bill dt 12-12-23 amounting to Rs.68,261/- (Exhibit-2) for the period of 1 year from 1-2023 to 12-2023 without any interest was issued as per Regulation 134 of the Kerala Electricity Supply Code 2014, which states that undercharged amount can be recovered from the consumer.

Regulation 152 also states that electricity charges short collected due to anomalies attributable to the licensee detected on inspection, can be realized from the consumer and that if period of such short collection due to anomalies is not known period of short collection shall be fixed to 12 months.

Later based on the data downloaded from the memory card of meter, APTS inti-mated that the tamper current unbalance had occurred had occurred on 28-09-2019 (Exhibit-3). Hence, the meter was replaced with another meter (SI no. A0116685) on 13-12- 2023 and the dismantled meter (SI no.A0084896) was taken up with TMR, Pallom which is the authorized NABL accredited testing center of KSEBL, for detailed verification of downloaded data for ensuring the correctness of affected period. Later as per the reports received from APTS, Kottayam and TMR, Pallom wings of KSEBL, affected period was confirmed as from 12-2019 to 12-2022. Accordingly, an another short assessment bill for the balance period from 12-2019 to 12-2022 for Rs. 1,74,423/- was also issued on 25-01-2024 (Exhibit-4). Total short assessment bill of Rs. 2,42,684/- for the entire period from date of installation 02-12-2019 to 11-12-2023, (date of inspection) was served to the petitioner to make good the amount short collected during the affected period.

But without remitting the amount, petitioner filed a complaint at the CGRF as OP no. 14/2024 (Exhibit-5). The Hon'ble CGRF after conducting a hearing on 11.06.2024 ordered to send the dispute meter to Electrical Inspectorate and to do the retesting of meter in the presence of petitioner. It was also ordered to revise the demand bill, based on the report of meter testing and to issue installments if the petitioner desires so (Exhibit-6).

The licensee has shown transparency in their reports. After knowing the date of occurrence of unbalanced current on R phase as 28.09.2012, it was checked using downloaded details whether the missing data was restored later. Based on the analysis of reports, affected period was confirmed as starting from 2-12 -19. It implies that the referred energy meter has not been subjected repair/ correction ever since 02-12-2019. It can be confirmed from the "zero" count of Cumulative Program Count of the Meter Instantaneous Details as well.

Soon after the conduct of APTS inspection on 11-12-2023, when it came to the understanding of licensee that meter was recording 29.75 % less than the actual bconsumption, short assessment bill was served to the consumer on 12-12-2023 itself, as per regulation 152 (3) of the Kerala Electricity Supply Code 2014. For the purpose of error checking, APTS had used a NABL accredited MTE make 2.3 GenX model portable standard reference meter, calibration of which is being done at an accredited laboratory on yearly basis.

At the time of checking by APTS, petitioner/ their representative was also present to witness the same. As such, the primary references of short assessment were, APTS inspection, their findings and the relevant regulations of Kerala State Electricity Supply Code that were persuading the licensee to retrieve the uncollected portion of current charges without penalizing the consumer.

Later, when intimation regarding current unbalance occurrence on 28-09-2019 was received from APTS on 12-12-2023 (Exhibit-8), this meter was replaced with another meter on 13-12-2023 and taken to TMR, Pallom to download data from meter for detailed verification and confirmation of date. After verification, TMR, Pallom also intimated that missing of current in R phase was happening from the period 28-09-2019 onwards (Exhibit-9) i.e. two different wings of Licensee had arrived to the same data. Finding of APTS inspection was confirmed in TMR analysis too. It may be noted that, no change in the date of commencement of assessment period has occurred even after the meter was sent for downloading data. Here, the downloaded data has acted as only secondary evidence to support the period of short assessment bill and hence the claim that Licensee had relied upon meter downloaded data as Sole evidence for issuing short assessment bills turns to be incorrect.

Regulation: 113 of (3 and 4) of Kerala Electricity Supply Code the 14 allows licensee to conduct periodical testing of meter either at site or remove the meter to be tested, replace the same with a correct meter and test the removed meter in an accredited lab or in an approved lab. In the periodical random inspection by APTS on 11-12-2023 using standard reference meter, it was ascertained that meter was recording 29.75 % less than the actual of consumption. Hence the short assessment bill was served on 12-12-2023. Later from SIM of meter they assessed and intimated that, current unbalance had occurred since 28-09-2019. Hence for conducting detailed analysis, meter was replaced with another meter bearing SI no. A0116685 was sent to NABL Accredited lab of licensee i.e., TMR, Pallom. As the above activity was in continuation to the APTS inspection known to the petitioner no site mahassar but a report was prepared. Site Mahassar was written in presence of petitioner's representative only. In the site mahassar it was clearly mentioned that missing of one phase that has caused 29.73% missing in reading in 1st phase of meter was because of CT in R phase had failed due to its internal fault and not due to fault in wiring.

To confirm the date of unbalance, to get the detailed report and to test the correctness only, meter as well as CT was replaced. This replacement was necessitated in continuation to the APTS inspection in which it was found that due to the anomaly related to CT, energy consumption was not being recorded properly. The whole inspection activity conducted by APTS was witnessed by the petitioner/ representative and the site Mahassar was signed. In the hearing conducted by the Hon'ble Chairperson, CGRF,

Kottarakkara it was intimidated by the licensee that the disputed meter can be tested again in the presence of petitioner if they desires so. The matter was communicated to the petitioner according to the order released by the Hon'ble Chairperson, CGRF, Kottarakkara (Exhibit 10). The testing facility was enquired with the Electrical Inspectorate and their reply was collected as well (Exhibit 11). But no reply was received from the petitioner.

The petitioner is claiming that the licensee had destroyed crucial evidence. This claim is incorrect due to the following points.

1. If licensee had done anything to destroy the evidences as claimed by the petitioner the same can be read from the downloaded reports produced from the TMR.
2. In such case licensee must have hesitated in sharing the downloaded datas of κ dispute meter received from TMR Pallom to the petitioner.
3. The downloaded details received from Meter checked by different wings of KSEB, APTS, Kottayam and TMR Division, Pallom showed same results.
4. If petitioner is thinking that the meter was faulty earlier and licensee has done some activity to correct it, they are wrong. Because the missing of R phase in meter was due to the defect of CT connected in R phase only.

At TMR, Pallom, when the same meter data was downloaded, it showed commencement of unbalance current in R phase on 28-09 2019 which means that on the R phase input side, some current unbalance had occurred. This situation continued at the petitioner's end due to the fault of CT connected. The meter has shown current unbalance on R phase since the CT connected on this phase had become faulty. Due to this meter can not be recognized as faulty. At TMR 3 nos. of CTs were also been checked and found one number failing (Exhibit 12). At the same time the meter underwent detailed testing as per IS 14697-2021 and found complying with requirements as per standards (Exhibit 13).

As per available records no adverse remarks or failure reports were present regarding this meter. The meters undergo detailed testing at manufacturer's side and sample testing at the time of purchase at an accredited laboratory. It is not possible for detailed testing at the time of allocation to field. But physical verification regarding it's workability is checked at the time of installation at consumer's side. The downloaded datas were already been shared with petitioner. Other details such as test reports of meter, CT and inspection reports are available with licensee for verification.

Testing of meter.- (1) It shall be the responsibility of the licensee to satisfy itself regarding the accuracy of the meter before it is installed and the licensee shall test them or get them tested in an accredited laboratory or in an approved laboratory.

The meters undergo detailed testing at manufacturer's side and sample testing at the time of allocation to field. However physical verification regarding it's workability is checked at the time of installation at consumer's side.

- 113 (2) The licensee shall also conduct periodical inspection or testing or both and calibration of the meters, as specified in the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, as amended from time to time. Periodical inspections were done by licensee, copy of inspection reports are attached. The inspection conducted by the APTS wing was for the very same purpose since they are more equipped with required tools and testing facilities. 113 (6) The licensee shall conduct periodical inspection or testing or both of the LT 3-phase meters once in every three years.

Complied with requirements as mentioned above.

In addition to the above, Regulation: 113 of (3 and 4) of Kerala Electricity Supply Code 2014 allows the licensee to conduct periodical testing of meter either at site or remove the meter to be tested, replace the same with a correct meter and test the removed meter in an accredited lab or in an approve lab. Here, the licensee has followed the above regulation to keep the meter appropriately. The inspection conducted by APTS using their equipment and meter as well as CT test reports have supported short assessment other than downloaded data.

Energy meter was not faulty but the one of the 3 CTs connected on R phase was faulty. The bill under dispute was issued for the energy consumption of consumer but for the unrecorded portion as per rule. Therefore, the consumer can not be made free from the short assessment bill amounting to Rs. 2,42,684/- which they are liable to pay. Meter was removed for analyzing the downloaded datas to fix the assessment period and for testing its accuracy to confirm that the fault was only with CT. The Hon'ble Chairperson, CGRF has taken a lenient view on the matter and has ordered to test the meter again in the presence of consumer if they desires so, since they have raised question regarding transparency of meter testing and to if the petitioner is against the testing of meter thinking that licensee has corrected faulty meter before testing, such malpractices would have been visible on reports. It can be confirmed from the "zero" count of Cumulative Program Count of the 5 Meter Instantaneous Details. If the meter or CT is faulty it can be known from the individual test results as well. Here, upon testing the meter at TMR, it showed working fine. Fault was with CT due to which one phase was not recording data.

Short assessment is primarily based on APTS inspection using Standard Reference Meter which is used here for finding errors in meter circuit. Then only the downloaded data is considered for fixing the date of commencement

of this error via two different wings of licensee i.e. APTS, Kottayam and TMR, Pallom. Periodical inspections were done by the licensee as regulation demands. Moreover APTS, Kottayam is a wing of licensee who is authorized with testing equipments for conducting inspections. Using their facilities licensee has tried to retrieve the uncollected portion of current charges which is acceptable as per relevant regulations and in no way aimed at penalizing the consumer.

If the meter was faulty, the same meter would have shown a faulty status when tested later. But when the meter was tested at TMR, on 2-04-2024 it proved to be conforming with relevant IS standards. A point to be noted is that, a good meter can become faulty during its working period. But it is never possible for a faulty meter to become good in condition automatically without repair. At the same time CT was proved to be faulty which had caused the error in meter.

Therefore the Petitioner's comment that meter was taken to deliberately to destroy the possibility of detailed testing by the accredited meter testing laboratory as required by statutes, fails here.

Regulation 152 of the Kerala Electricity Supply Code 2014 deals with anomalies attributable to the licensee. Under Sub Regulation (1 and 2) of Regulation 152 states that, anomalies attributable to licensee which are detected on inspection at the premises of consumer such as inaccuracies in metering, the amount of electricity charges short collected by the licensee shall be realized from the consumer under normal tariff for the period during which such anomalies persisted. Regulation 134 states that if the licensee establishes either by review or otherwise that it has undercharged the consumer, the licensee may recover from consumer amount so undercharged from the consumer. Which means if Licensee has failed to collect the amount due from petitioner without any interest, they can recover it whenever it becomes notified. Here, the KSEBL has tried to retrieve the charges for the energy actually consumed by the consumer through the short assessment bill following applicable regulations in force. As per the above regulation, the consumer is ought to pay the amount which has already become due. Hence the false allegations are denied. In light of the above it is prayed that forum may kindly upheld the short assessment bill served by the licensee and direct the petitioner to remit the same for which applicable installments can be given to the petitioner.

Counter Arguments of the Appellant

The position taken by the respondent that the alleged missing of 29.75% is due in the anomaly related to the Current Transformer. The page 3 para 3 of the site mahassar indicates that “വിശദമായ പരിശോധനയിൽ ഇവിടെ സ്ഥാപിച്ചിരിക്കുന്ന ഒന്നാമത്തെ phase-ലെ C.T അതിന്റെ

ഉള്ളിലുണ്ടായ തകരാറുമൂലം സ്വാഭാവികമായി കേടായതുകൊണ്ട് ഉപഭോക്താവിന്റെ വൈദ്യുതി മീറ്റർ 'ഒന്നാമത്തെ phase-ൽ ഉപഭോഗം As per Central Electricity metering All രേഖപ്പെടുത്താത്തതു എന്നു കാണുന്നു. regulation Amendment in 2019 Regulation 2(VII) (p) define "Meter" means a device suitable for measuring, indicating and recording the conveyance of electricity as any other quantity related with electrical system and shall include, wherever applicable other equipment such as Instrument Transformer necessary for the purpose of correct measurement and also mean correct meter if it is complies with standards as specified in the schedule to these regulation". Therefore it is clear that the Current Transformer forms an integral part of the energy meter. There is violation section 55 of I.E. Act 2003 and Regulation 113(1) of Kerala State Electricity Supply Code 2014 from the part of KSEBL in case contentions of the respondent were to be admitted.

Hence admittedly the energy meter indicates as per meter down load data that the alleged missing of 29.75% was prior to the connecting of the Current Transformer in the premises of the petitioner as well as the erecting of the meter in the premises. Therefore there is no some and substance in the findings and inference made as indicated in the site mahassar that the alleged missing is due to the defective Current Transformer. Moreover there is no testing conducted in the accredited Meter testing Lab on removing the Meter and C.T from the premises on preserving them as crucial evidence as required under proper sealing taking into confidence the consumer and in his presence. The serious omissions and inept handling of the situation by the Licensee without adhering to the rules and regulations clearly stands admitted in the version filed. Apart from this there is no periodical inspection conducted by the Licensee as required under Regulation 113(2) and 113(6). The details of the above inspection is not made available to the consumer till date. In case such an inspection was conducted any anomaly had existed would have been found out. This petitioner is willing to check with C.T. T.V footages in case the date and time of such inspections if any conducted were divulged by the Licensee. The meter stands installed on 02.02.2019 and by 01.02.2022 at least one statutory inspection and A testing of meter shall be conducted by the Licensee. Without adhering to the above mandatory provision the Licensee cannot make any claim regarding short assessment. On the basis of the above it is crystal clear that the Licensee have no locus standi to serve Exbt D6 short assessment bill to this petitioner on the basis of inspection conducted and the defective download data which is relied upon.

1. As along as the defects in the energy meter including Current Transformer is not ascertained on the basis of testing conducted by an accredited Meter testing Laboratory nothing can be concluded about the alleged defects of the energy meter and Current Transformer. Here the inspection team have come to the conclusion out of an

inference/assumption that 29.75% missing is due to the defect in C.T. whether it may be due to defect in the wiring or otherwise. This interference/assumption was found devoid of any merit as the alleged findings regarding missing is made on sole reliance of the meter down load data that showed the defect with effect from 28/09/2019 onwards the date prior to the connecting of C.T. to the meter which was erected in the premises only on 02.12.2019. Therefore the allegation made by the Licensee that 29.73% is due to the defect of the C.T. stands defeated. Further no detailed testing of the energy meter including C.T. was conducted by the Licensee in an accredited Testing Laboratory as required. So the claim made in Para (1) is without any bonafides.

2.The gross negligence shown by the Licensee in providing service connection in compliance of regulation 104(1) of Kerala Electricity Supply Code "The Licensee shall not supply electricity except through a correct meter" stands proved. The download data relied fo short assessment bill indicates that the missing of R phase from 28/09/2019 onwards whereas the energy meter stands installed on 02.12.2019 in the premises. This indicates that the energy meter was not tested prior to its installation in the premises. The Licensee may either admit that they have provided connection with a meter which is defective or withdraw the short assessment bill as the meter is not defective and not justified in holding on to both theories. The energy meter includes the Current Transformer as per the definition of "Meter". The deficiency in service cannot be professed as an indication of transparency by the Licensee or shall not be construed as a merit.

3. The findings of the A.P.T.S. is very clear that the 29.75% missing is due to the alleged defect in C.T. and the above findings is made on sole reliance of the meter down load data. The energy meter showed 29.75% missing as per meter down load data w.e.f 28/09/2019 onwards prior to the connecting of the C.T. and erecting of the meter in the premises ie on 02/12/2019. A calibrated meter was used for testing as per site Mahassar. Neither readings of the consumer meter nor that of caliberated meter used by the A.P.T.S was disclosed in the site mahassar. A mere assumption is made that the missing is on account of defective C.T. on the basis of the erratic meter down load data. The testing of the energy meter shall be done on due comparison with readings indicated on both the energy meters during the inspection conducted.

The respondents failed to conduct a detailed testing of the energy meter in compliance of statutory regulations. In case the energy meter is found to be without any fault the reason for replacing the same is not satisfactorily explained. The petitioner has every right to get the power connection with a correct meter. Meter Rent is collected every month. The short assessment raised under the inference of missing 29.75% from 02.12.2019 onwards

solely on the basis of erratic meter download data for a prolonged period of more than 3 years cannot be accepted and the same have no backing of statutes. The Licensee failed to effect the service connection with a correct meter and failed to conduct periodic inspection for ensuring the accuracy of the energy meter. The assumption made by the Licensee that the energy meter is faulty with effect from its date of installation is highly erratic and the same amounts to deficiency of service. The energy meter includes Current Transformer. There is no scientific and lawful rationale behind the issuance of short assessment bill. Therefore the short assessment bill ought to be withdrawn.

There is no statutory regulation to refer the matter to the Electrical Inspector. Further any testing of the energy meter and C.T. at this belated point of time will not serve any purpose for the following reasons. The energy meter and C.T. were removed from the premises on 13.12.2023 and kept in non-standard conditions without proper sealing and safe guards by the Licensee. External interventions cannot be ruled out as officers are of fear of liability that may be imposed due to serious omission from their part by the Licensee. Storage conditions viz as stipulated in the manuals under cool and dry conditions were not seen ensured. The contentions raised by the respondent without adhering to statutory regulations ought to be rejected by this Hon'ble Authority. The short assessment bill is issued without any merit hence ought to be set aside. A true and fair review of the entire issue at hand may be done and much awaited justice to be done on the petitioner. The reliefs sought for may be allowed in too.

Analysis and findings

The hearing of the appeal petition was conducted on 03/09/2024 at 11:30 am in the office of the KSE Board IB, Bormma Kavala, Pallom, Kottayam Dist., (Dam Safety Research Centre). The hearing was attended by the Adv. Baiju Sebastian the advocate of the appellant and Josephkutty Sony and the respondent Smt.Raimol Pavithran, Asst.Exe.Engineer, Electrical Sub Division, Ramapuram, Kottayam Dist.,

The appellant who was an industrial consumer has availed the 3 phase power supply with effect from 12/01/2009 under the tariff LT.IV A. The LT CT meter was connected to this service connection on 08/08/2016. Then the meter was replaced with LT 3 phase CT type ToD meter on 02/12/2019. The multiplication factor of CT was 40 as the CT ratio was 200/5 A. APTS, Kottayam of the licensee had conducted a surprise inspection in the premises and found that the current displayed in the meter for R phase was zero. Then checked with tong tester in the LT cable and found that there was current in the circuit for R phase also. Then the correctness of the meter was tested with another calibrated meter and found that consumers meter was recording 29.75% less than the actual consumption. The site mahazar doesn't shows the readings of the test meter and the existing meter to arrive

this figure The initial short assessment bill has been issued for a period of one year from 01/2023 to 12/2023 for Rs. 68,261/-. The APTS had analysed the downloaded data and found that the tamper current unbalance occurred on 28/09/2019. Then the meter was replaced with another meter and the old meter has been sent to TMR, Pallom for detailed testing.

Then another short assessment bill for a period for 12/2019 to 12/2022 for Rs. 1,74,423/- has also been issued. Thus the total short assessment bill from 02/2019 to 12/2023 was Rs. 2,42,684/-

It is to be examined whether this claim is sustainable or not. The APTS reported from the downloaded data that the meter was faulty since 28/09/2019 that is before installing this meter to the appellant. Then this meter could have been used somewhere else and was removed due to defect. This has been installed to this consumer without ensuring that the meter is working or not. Otherwise the tamper report is not reliable. The test report of TMR, Pallom shows that CT 1 "testing cannot be proceed. Test equipment showing message check connection. No continuity on S1-S2 terminals and not functioning. A hole present on the resin cast body and smoke marks presents." This proves that the CT was burned and not working. This test report doesn't state about the date of occurrence of the defect or damage. As the test report of TMR is not showing the occurrence the reliable assessment of the period is not possible.

The licensee is responsible to test the meter before installing to ensure the proper functioning of the meter. The regulation 113 of the Supply Code 2014 states about the testing of meter

113 Testing of meter:-

(1) It shall be the responsibility of the licensee to satisfy itself regarding the accuracy of the meter before it is installed and the licensee shall test them or get them tested in an accredited laboratory or in an approved laboratory.

(2) The licensee shall also conduct periodical inspection or testing or both and calibration of the meter's as specified in the Central Electricity Authority (Installation and operation of Meters) Regulation, 2006, as amended from time to time.

(3) The periodical testing of consumer meters shall normally be done at site

(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.

Here the officials of the licensee has totally failed in complying with above regulation. The meter was not tested before connecting which results the installation of damaged meter. The licensee would have conducted periodical inspection at least once in every three years for this LT 3 phase meter. This regulation also violated. The meter was tested after the lapse of 4 year only. The procedure for testing the meter is explained in regulation

115 Procedure for testing of meter:-

(1) The meter shall normally be tested in the laboratory of the licensee, approved by the Commission.

(2) In case the licensee does not have a testing facility approved by the Commission, or if so desired by the consumer, the meter shall be tested at any other laboratory accredited by the National Accreditation Board for Testing and Calibration Laboratories (NABL)

(5) Before testing a meter of the consumer, the licensee shall give an advance notice of three days, intimating the date, time and place of testing so that the consumer or his authorized representative can, at his option, be present at the testing.

(7) The consumer or his authorized representative and the representative of the licensee present during testing shall affix their signature on the test report issued by the authorized officer of the laboratory as a token of having witnessed the testing:

Provided that the licensee and the consumer shall be eligible to get a copy of the test report which shall despatched to them within two working days of the date of testing, if not delivered in person at the time of affixing their signature.

(8) If a consumer disputes the result of testing at the laboratory of the licensee, the meter shall be got tested at a laboratory selected by the consumer from among the laboratories accredited by the National Accreditation Board for Testing and Calibration Laboratories(NABL).

The testing was not done transparently as prescribed in the regulation 115(5) & 115(7). The consumer was not informed about the testing and no consumer representative was present for the testing.

Then the question arises, what period the short assessment bill could be raised. The clause 152 of the supply code 2014 deals with the anomalies attributable to the licensee which are detected at the premises of the consumer.

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 realized by the licensee without any interest.*

Provided that, if the period of such short collection due to the anomalies is not known or cannot be reliably assessed, the period of assessment of such short collection of electricity charges shall be limited to twelve months.

Provided further that while assessing the period of such short collection the factors as specified in sub regulation (8) of regulation 155 shall be considered.

Provided also that realisation of electricity charges short collected shall be limited for a maximum period of twenty four months, even if the period during which such anomaly persisted is found to be more than twenty four months.

4. *The consumer may be given installment facility by the licensee for a maximum period of twelve months for the remittance of such amount of installment.*

Hence is the case in hand, the matter is inaccuracies in metering. The date of which this inaccuracy occurred is not reliably assessed. Then the short assessment applicable only for a period 12 months.

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 only for period of one year from 1/2023 to 12/2023.
2. The licensee shall grant installment facility (12 months) for remitting the payment, if the appellant demand for the same.
3. No other cost ordered.

ELECTRICITY OMBUDSMAN

No. P/046/2024/

dated: 30/09/2024

Delivered to:

1. Shri. Biji Sony, Aerath Business Corporation, Ramapuram.P.O, Kottayam Dist.,
2. The Assistant Executive Engineer, Electrical Sub Division, Kerala State Electricity Board Ltd., Ramapuram, Kottayam 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, Vaidyuthi Bhavanam, KSE Board Limited, Kottarakkara 691506

