

THE STATE ELECTRICITY OMBUDSMAN

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Opp: Kochi Corporation Regional Office, Edappally, Kochi-682 024

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Appeal Petition: No P-167/2010.

(Present: TP Vivekanandan)

Appellant : Sri.Aslam Sulaiman Sait,
Upasana Exports, 22/1377, Edakochi-6.

Respondent : The Assistant Executive Engineer,
Electrical Sub Division, KSEBoard, Palluruthy, Kochi.

ORDER.

Background of the Case.

On 21.10.2005 there was a surprise inspection by the APTS (Anti Power Theft Squad) of KSEB in the Appellant's premises of Consumer No 14420-2, under Electrical section, Palluruthy, and found that the Current Transformers (CTs) of ratio 200/5 (i.e. MF of 40) connected with the Energy meter is faulty (error more than the permissible limit) and hence directed to change the faulty CTs. A Short assessment bill was also issued to the consumer assessing the energy lost (due to error in CT) from recording in the meter and the same was remitted by the consumer. While being so, there was a 2nd inspection of the consumer's premises by the APTS on 7.8.2010 and detected that the CTs now existing were of rating 400/5 ratio i.e. having a MF of 80 and not 40. The regular monthly bills all these past period were being issued on the assumption that the CTs are of the ratio 200/5 i.e. MF taken as 40. But the inspection on 7.8.2010 revealed that it is of ratio 400/5 i.e. having a MF of 80 and the question to be decided is, when was the CTs changed from the ratings of 200/5 to that of 400/5 and the corresponding estimation of energy escaped from billing due to wrong application of lower MF. The Appellant does not dispute the fact of CT of rating 400/5 existing as on 7.8.2010 to his service. The case relates to the dispute regarding the period from which the Multiplication Factor (MF) 80 has to be applied in the regular monthly bills.

Argument of the Appellant.

(1). He is the proprietor of a sea food processing industrial units, named "Upasana Exports, Edakochi with consumer no: 14420-2 under industrial tariff, but this tariff itself is being disputed by KSEB. He is aggrieved by the bill for Rs 24,82,186/= issued by the Assistant Engineer, Electrical Section, Palluruthy being the short assessment of energy charges for the period from 12/2005 to 7/2010 on the ground that the correct multiplication factor of CT is 60 but under billed noting the MF as 20. The anomaly was detected by the APTS on an inspection done on 07.08.2010.

(2). During the Inspection done on 07.08.2010 a site mahazar was prepared. It is noted in the report that the meter seals were intact, and the tests done on the meter showed that the CT in service with the meter was actually of the rating 400/5 (MF 80). But the billing was done with a multiplication factor of 40 i.e. the CTs provided to the meter was assumed as of rating of 200/5 (MF 40). Thereafter, a test using 4 KW heater load was conducted on each phase by the APTS. The above examination revealed that the 3 Nos CTs were of the ratio 400/5 itself. The light meter was found working properly. Then the power meter data was downloaded through the Meter's Optical port and all were seized by the KSEB under seal and cover. Thereafter the short assessment bill was issued for the period 12/2005 to 7/2010.

(3). As per Annexure 3, (Document attached) it is stated that the correct multiplication factor (MF) is 60, but under billed taking MF as 20. But in annexure 1, the mahazhar, the MF taken for billing is stated as 40 and the correct MF as 80 which are contradictory.

(4).The period for billing is taken as from 12/2005 to 7/10, but it is not stated how the period is established for the preparation of a short assessment bill.

(5).There was an APTS inspection on 21.10.2005, and the CTs provided were found to be 200/5 rating i.e. MF as 40. As the meter showed lesser consumption, on test, than the actual, a short assessment bill for Rs.60,820/= was issued to the consumer. At that time the MF was correct and the CT was not changed. The meter was changed only on 23.07.2007 and the present one installed. The meter as on 21.10.2005 and the present meter are different. Further, from 12/2007 to 7/2010, the assessment was done under LT VII A tariff. The dispute is pending before the Ombudsman.

(6).The Accucheck meter used for testing is not proved to be correctly calibrated. The date of installation of the CT of ratio 400/5 is not seen identified. Hence the preparation of short assessment bill for the period from 12/2005 is wholly unreasonable. As per section 24(5), the licensee has to establish it.

(7). As per Tariff order issued in 11/2007, our tariff was shifted to commercial and after filing petitions it was reverted to LT-IV industrial again in 8/2008 and continuing in the same. The Respondent inspected our premises on 23.10.2009 and no activities were going on at that time. Based on the same, the tariff was changed to LT-VIIA and a bill was issued which was challenged and pending before the Ombudsman.

(8).The appellant is not at fault for the wrong assessment and billing. Therefore, after a long period, he should not be billed claiming huge amounts. As per section 56 (2) of the Electricity Act 2003, no sum due shall be recoverable after a period of 2 years, from the date when such sum became first due unless it is shown continuously as arrears in the bills issued. On that account also, this sum can not be claimed.

(9). Even If the APTS's finding is correct, it has to be established when the CT of 400/05 was installed to the meter. Similarly it is not checked whether the existing CT of ratio 200/5 was at error and if so from which date. If this could not be established, then assessment has to be limited for the past six months as done earlier. The Meter reading register shows that the consumption pattern is more or less similar with variation due to season in sea food Industry only.

(10). The Appellant has no knowledge of any CT change in his premises. Similarly the Respondent failed to produce any records of a CT change after 10/2005. Hence the finding of CGRF in its order is not correct. Without any reason, the CGRF has come to the conclusion that the CT was changed after the APTS inspection in 10/05. The findings of CGRF are mere assumptions without any supporting evidence or documents and the KSEB never had a case like that. Even noting so many discrepancies or omissions like not producing relevant files, the details of meter change and CT change etc and observing fault with the KSEB's actions, the CGRF upheld the decision of KSEB and also allowed installments to the bill raised. The CGRF did not clear how the period is taken from 12/05.

(11). The consensus arrived on the final Hearing day, before the CGRF, was that the CT and meter shall be sent for test before the Electrical Inspectorate which was not met and prejudicially passed the order without resolving the dispute.

The appellant attached 5 No's of Annexure numbered 1 to 5 as documents.

Relief Sought:-

- 1). May set aside the order No CGRF-CR/Comp.46/ 2010-11/65 dated 28.9.2010 of CGRF, Ernakulam.
- 2). Set aside the Short assessment bill vide Annexure 2 and also Annex:3- order of short assessment with calculation statement.

Argument of the Respondent:

- 1). On 07.08.2010, the APTS of KESB inspected the premises of consumer no: 14420-2, standing in the name of Sri.Asalam Sulaiman Sait, under electrical section, Palluruthy, who is running a freezing Plant. On inspection, it is found that the ratio of Current Transformers (CTs) actually connected to the Energy meter is of the ratio 400/5. But the consumer was being billed taking the CT ratio as 200/5 i.e. the MF

was taken as 40 instead of 80. The consumer was assessed for the omission on MF from 12/2005 to 7/2010 as per Regulation 37(5) of the Terms & Conditions of Supply, 2005 and served a bill to the consumer.

2).The Appellant has another Sea food processing and freezing unit in the same compound with the consumer no: 5486. The APTS inspection on the same unit also detected that the actual MF is 60 i.e. CT of 300/5 was in actual service, where as the MF used for billing purpose was 20 i.e. the CT provided to Meter is of 100/5 ratio, as per office records.

3). Earlier, the APTS had inspected the Consumer No: 14420-2 on 21.10.2005 and found error in all the 3 no's of CTs connected to the Meter which causes to record a lesser consumption in the Meter than the actual. A short assessment bill towards lost energy from 05/05 to 10/05 was issued to the consumer and the same was remitted. The APTS had directed KSEB to replace the faulty CTs provided to the consumer urgently. The monthly bill of 11/05 also contained the lost energy portion due to CT error. After that month, only consumption recorded in meter was billed with MF taken as 40. But the actual CT ratio was 80 which came to know only during the next APTS inspection.

4).The meter was replaced during 23.07.2007 due to the failure of 'display' of readings. CTs were not changed. CTs were changed during 11/05 only.

5).KSERC's order dated 21.04.2009 has clarified that the connection taken for the purpose of cold storage or Freezing purpose shall come under LT VII A commercial tariff. So the tariff of consumer changed to LT VIIA from 12/07. There were no industrial activities being carried out there under consumer no: 14420 at that time.

6).As per the direction of APTS, the CTs were changed in 11/2005. At that time instead of 200/5 CTs, 400/05 CTs were installed.

7). Short assessment bill issued is not an arrear but a under charged portion of energy consumed. It is due after the inspection of 07.08.2010 only. Hence the section 56 (2) of Electricity Act 2003 is not applicable here.

8).The CGRF heard both parties and ordered to test the CTs by the Electrical Inspectorate to verify the correctness of the CT ratio.

9).As per the Meter reading register, the consumption recorded in the meter was less from 1/2005 onwards.

10). The C.T was changed in 11/2005. From 12/2005 onwards only meter recorded consumption was billed, otherwise 39% of consumed energy also has to be added to compensate the CT error.

11). There is a possibility that the CTs are changed unauthorisely by the consumer himself because the same anomaly detected for the other connection as well, owned by the Petitioner and situated in the same compound. The CTs installed in the two service connections namely consumer No 14420 and 5486 (under the same consumer) was found to be changed to a Higher rating necessitating high MF, while the MF as per records was of lower one. This action leads to billing with a lower MF and hence a monthly bill of lesser amount than the actual one that is to be payable by the consumer.

12). Now, as per the order of CGRF, the disputed CTs of ratio 400/5 were replaced (in the presence of consumer) by new CTs of 200/05 ratio purchased by the complainant and tested at TMR, Angamaly. The faulty CTs were sent for testing at Electrical Inspectorate, Trivandrum. Board has no doubt that it is of the rating 400/5 ratio and the same was installed during 11/05 as per direction of APTS.

13). The CT's test report from Electrical Inspectorate shows that the actual CT ratio is 400/5 and errors in the CTs are in tolerable limit.

14). There is also chance that the consumer is misleading the Board by willfully replacing with higher ratio CTs without informing Board, because the CT ratio of both connections in the same compound were seen (during APTS inspection) having higher ratings than that is recorded in the registers. In the case of consumer No 5486, the CTs found were of the ratio 300/5 whereas in the register it is noted as of 100/5 only.

15).The undercharged portion of energy consumed during the period from 12/2005 to 7/2010 is assessed as per Regulation 37(5) of Supply, 2005, and served as a short assessment bill. The bill was prepared reckoning LT IV tariff from 12/2005 to 11/2007 and there after under LT VII A tariff from 12/2007 to 7/2010.

In view of the above facts, the Petition may be rejected.

Analysis and finding:-

The Hearing of the Appeal Petition was done on 16.03.2011 and 03.06.2011 in my chamber at Edappally. The appellant was represented by its counsel, Sri.Blaze K Jose, and the respondent by Smt V K Lakshmi, the Assistant Executive Engineer, Electrical Sub Division, and Palluruthy. On a perusal of the Appeal Petition filed by the consumer, the counter statement submitted by the Respondent, the averments raised by both parties during the Hearings and based on the Analysis done which is detailed below, I come to the following conclusions leading to the Decisions.

Please note that the CTs (Current Transformers) are used for measurement of electric current. When the current is high in an Electric circuit it becomes difficult to apply it directly to measuring or recording instruments. The CTs produces a reduced current accurately proportional to the original current which can be conveniently connected to the instruments for Measurement purpose. In our case the CTs perform the function of transforming the high value current into proportional low value current and then feed this proportional current to the Energy meter for registering the Energy used by the consumer. This registered value of consumption may be required (depending on the Rating of Energy meter) to be multiplied by the MF (Multiplication Factor) i.e. ratio of CT used (and Dial Factor if any), as the case may be, to get the true energy consumption of the consumer.

It is a fact that a Surprise Inspection was conducted on the Appellant's premises of consumer No: 14420-2 on 21.10.2005 and there after on 07.08.2010 by the APTS of KSEB. The appellant does not dispute the fact of APTS inspection and the preparation of Mahazhar regarding the Findings of the said Inspections. It is seen that in the first inspection held on 21/10/2005, the CTs of the Meter were found having more error than the admissible limit (maximum error limit) and hence decided to replace the same faulty CTs as they cause for recording lesser consumption in the Meter than the actual. The APTS directed KSEB to replace the faulty CTs immediately. The consumer was issued a short assessment bill based on the assessed lost energy and it is reported as being remitted by the consumer.

The next APTS inspection on the said consumer's premises was held on 07.08.2010. There were no anomalies found on the Energy meter except that the CTs existing were seen rated at 400/5 ratio (MF of 80) instead of 200/5 ratio (MF of 40) CTs in service, as per Office records. The billing was also being done all these past months prior to 8/2010, i.e. from 12/2005 to 7/2010 with the MF of 40 only. Hence there is surely a shortfall in the energy (50% reduction from the actual) used for billing if MF is taken as 40. Now, with the correct MF of 80, the actual consumption would be twice that used for billing the consumer.

The Appellant argues that since it is not known from which date the CT of 400/5 was installed, he is liable for short assessment for the past 6 months prior to Inspection date only. The Respondent on the other hand argues that the APTS, during their inspection done in 10/2005 has ordered to replace the faulty CTs urgently and accordingly they (KSEB) have changed the CTs in 11/05 itself but inadvertently omitted to change the MF correctly as 80 in the Register instead of 40. There are no records kept with KSEB office, to show the CTs changes made at that time, as per APTS direction. But it is certain that the CTs have been changed sometime in between 10/2005 and 8/2010. The point to be decided is from which date the CT of ratio 400/5 was in service and hence has to be applied for billing so as to recover the energy charges lost through wrong MF application?

(1). There was an APTS inspection on 21.10.2005 on the consumers premises and detected that the CT provided to the meter is having substantial error which means it records a lesser energy consumption than the actual one. The APTS has directed the local section officials to replace the faulty CT's urgently.

The short assessment bill for the energy escaped from billing, for the assessment period of 5/2005 to 10/2005, was seen remitted by the consumer. The subsequent month's bill (11/2005) is reported to be issued with a correction factor (to compensate the error of the CT) by the Respondent, which was also seen paid by the consumer. From the next month i.e. from the monthly bill of 12/2005 onwards, there was no correction factor added to the recorded reading of the Energy meter for compensating the CT's error, which suggest me that the faulty CTs of 200/5 ratio might have been replaced with new CTs of ratio 400/5 in 11/2005 itself as there was a clear direction from the APTS of KSEB to do so.

(2). On a perusal of the meter reading register, it is noticed that the average energy consumption for the previous six months prior to APTS inspection in 10/2005 i.e. from 5/05 to 10/05 was 7373 units and with a correction factor of 39% to compensate the CT's error, it shall be 10233 units per month. Now after changing the CTs in 11/05, it is seen that the average consumption for the next six months was 5480 units per month, with the assumption that the changed CTs were of the ratio 200/5 itself i.e. with MF as 40. Suppose, if the changed CTs were of the ratio 400/5, the MF would have been 80, and consequently the corresponding average consumption of the succeeding six months would be, $5480 \times 2 = 10960$ units per month, which tallies well with the earlier period usage of 10233 units. This factor corroborates the argument of the Respondent that the CT was changed in 11/2005 with the ratio of 400/5.

(3) It is argued by the Respondent that the faulty CTs of 200/5 ratio was replaced with 400/5 ratio CTs in the month of 11/2005 itself. There is no record produced by them to prove it. Moreover they also argue that the party (consumer) might have changed the CTs to higher rating unauthorisely. But here also there is no poof to establish it. The only fact noticed is that the CTs of both Service connections (No 14420 and 5486) belonging to the same consumer and existing in the same compound were seen to have been replaced with higher ratio CTs. Either, the consumer dishonestly changed it to higher ratio CTs to deliberately lower his monthly bills (tantamount to tampering of Meter) or the Respondent might have asked the consumer to purchase new CTs as there is direction from APTS to change it and also there is shortage of supply of CTs from KSEB side. The latter option seems to me the most probable one, since it is reported that, very recently also, the CTs (now provided to the Meter) were the ones purchased by the consumer as directed by the Respondent. Hence there was a chance of CTs being purchased and installed by the consumer during 11/2005 itself as directed by the Respondent and they (KSEB) omitted to record the same in the office records leading to under billing.

(4).The CTs were sent for testing at Electrical Inspectorate, Trivandrum and the Test Report reaffirms the fact that the CT provided is of the ratio 400/5 itself and its error is with in tolerable limits. Further the APTS inspection of the appellants' premises on 07.08.2010 and the tests conducted on the meter with the Standard test meter (Accucheck) proved that the CTs provided to the meter were of the ratio 400/5 i.e. having a MF of 80 and not 40 as on the Inspection date Of 7.8.2010.

From the above analysis, it is reasonably concluded that the act of replacement of faulty CTs of ratio 200/5 with that of 400/5 ratio, in the consumer's premises was occurred in 11/2005 itself and hence the reassessment of the consumer with the correct MF of 80 with retrospective effect is needed from 12/2005 onwards.

The appellants' argument that the bill was issued by the Respondent stating the correct MF as 60 but under billed with the MF taken as 20, and there is contradiction in the reassessment made with MF taken as 80 are not related to this case, but pertains to another Electric service connection provided to the same owner (appellant) but with a different consumer No, situated on the same compound. It should not be mixed with the present dispute of consumer No: 14420-2.

The argument of the appellant that the period of reassessment should be taken as the past six months as per Regulation 42 (3) of the KSEB Terms & Conditions of supply 2005 is also not correct. As per this regulation it reads as follows in brief;

If the existing meter after having found faulty is replaced with a new one, the consumption recorded during the period in which the meter was faulty shall be reassessed based on the average

consumption of the previous six months prior to replacement of meter. If it is not possible, the consumption based on the succeeding six months average, after the meter replacement, shall be taken. Hence it is very clear that there is no bar of six months for the reassessment period. The regulation stipulates that the reassessment shall cover the period in which the meter was found faulty and not limited to six months as argued.

The Appeal filed by the Appellant earlier, against the tariff change of their service connection to LT VIIA from LT IV- industrial has already been disposed. It is also reported that the testing instruments of APTS are usually got tested and calibrated each year from the Electrical Inspectorate.

It is seen from the copy of the Meter reading register, produced as document by the Respondent that the Average Energy Consumption for the period 5/2002 to 11/04, is well above 10,000 units during most of the year.

As per the Regulation 24 (5) of the Kerala Electricity Supply Code, if the Licensee establishes that it has undercharged the consumer either by review or otherwise, the Licensee may recover the amount undercharged from the consumer by issuing a bill. This is the same clause included under clause 37 (5) of the KSEB Terms & Conditions of Supply, 2005, approved by the Commission. The purview of section 56 (2) of the Indian Electricity Act 2003, is therefore not attracted here.

Decision:-

From the foregoing discussions and the conclusions arrived at, it is reasonably proved that the CTs of ratio 400/5 (MF of 80) was got installed in the consumer's premises in 11/2005 itself, replacing the existing CTs of ratio 200/5 which was defective. Hence the Short assessment bill prepared, towards the energy escaped from billing, due to wrong application of MF as 40 instead of 80, by the Respondent is found to be in order and hence payable by the consumer. The CTs of ratio 400/5 was reasonably assessed to be in service with effect from 11/2005 onwards. Therefore the period of assessment with retrospective effect from 12/2005 to the date of detection of the mistake i.e. 7/2010, by taking the MF as 80, is also sustainable. The consumer has to remit the short assessment bill with in one month from the date of this order with out any interest failing which the KSEB may charge interest for the late payments as per rules. The appellant is also eligible for 50 (fifty) installments, if requested for, and the 1st installment has to be paid with in one month as stated above.

I find no merit in the Appeal Petition No P/ 167/2010, filed by the consumer and hence stands dismissed accordingly. There is no order on costs. Having concluded, decided and ordered as above, on the 24th October, 2011,

Electricity Ombudsman.

No.167/2010/ Dated.

Forwarded to:

- (1). Sri.Asalam Sulaiman Sait.
Upasana Export, 22/1377, Edakochi, Kochi-6.
- (2). The Assistant Executive Engineer.
Electrical Sub Division, KSEBoard, Palluruthy, Kochi.

Copy to:

- (1). The Secretary, Kerala State Electricity Regulatory Commission,
KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
- (2). The Secretary, KSEBoard, Vydyuthibhavanam, Pattom, Thiruvananthapuram-4.
- (3). The Chairperson, Consumer Grievance Redressal Forum, Vydyuthibhavanam,
KSEBoard, Power House B'ldg, Kochi-18.