

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION NO. P/296/2012.

(Present: T.P. Vivekanandan)

Appellant : Sri. Unnikrishnan,
Manager, M/S.Mamatha Jewellers,
New Court Road, Perambra PO,
KOZHIKODE-673 525.

Respondent : The Assistant Executive Engineer.
Electrical Sub Division, KSEBoard,
Perambra PO, KOZHIKODE Dt.

ORDER.

Background of the Case: -

The appellant is the electricity consumer No. 23371 of Electrical Section, Perambra and is doing business of running a Jewellery shop under LT VII A- commercial tariff. The consumer was issued a short assessment bill amounting to Rs.22, 518/- on 5/3/2012 based on an audit report of Regional Audit Officer. The consumer was originally billed for 175 units for the months of 5/2011 and for 44 units in 6/2011, but the meter was found as faulty, during this period, subsequently. The appellant filed a petition before the Assistant Engineer on 9/3/2012 against the short assessment bill, which was rejected and the appellant was asked to pay the bill. As the consumer failed to comply with the direction issued for remittance of the bill, the respondent disconnected the electric connection to the premise of the consumer. Aggrieved by this action, the appellant filed a petition before the CGRF, Kozhikode. The CGRF held that the short assessment bill issued to the appellant is in order and disposed of the petition accordingly. Aggrieved by the order of the CGRF, the appellant has submitted the Appeal Petition before this authority.

Arguments of the Appellant: -

The appellant has raised the following argument in his appeal petition.

1).The complainant is the Manager of a Jewellery shop with consumer No.23371. The complainant has been paying the electricity charges punctually. When it was noticed that the consumption bill is a huge amount, the complainant made examination and found that the Air conditioner is not working properly. Hence the complainant stopped the throughout consumption of electricity and used the generator. And subsequently the AC was replaced with a new one. During this period also the complainant was served with regular electricity bills and there was no excess consumption. On

14th June 2011, the meter reader made a complaint that the meter is seen defective and so the consumer stopped the entire consumption of electricity, for detailed examination. Thereafter the meter was replaced by KSEB. Even after the same, the consumption is examined by the employees of respondent and the served bills are being paid.

A short assessment bill dated 05.03.2012 was served for Rs.22518/- (for the period of 9/10 to 2/2011) without any provisional bill, as guaranteed under Electricity Supply Code, 2005, while the preceding bill was pending. Despite the complaint in writing dated 9.3.2012, lodged to cancel the bill, the respondent disconnected the Electric supply. Being aggrieved the complainant approached the CGRF, Kozhikode, with an additional prayer to restore supply immediately. But the respondent was reluctant to comply with the interim order of CGRF and supply was resumed after a warning telephone call came from the Hon Chairman. The act of the respondent has caused hardships and financial loss to the complainant. The same will also get to show how prejudiced the respondent is? The Hon CGRF has warned them through the order for their prejudiced act.

2).The order of CGRF is absolutely partial and devoid of merits. The CGRF has failed to understand the facts of the complainant in true sense. The CGRF ought to have seen there was no evidence to see the meter was defective. The CGRF ought to have seen that the meter was not examined by any competent authority as per law.

3).The CGRF ought to have seen that, if the meter was faulty, a provisional bill should be served.

4).there was no evidence to see, there was consumption as alleged, during the disputed period.

5).The CGRF ought to have given opportunity to adduce documentary evidence needed.

6).The finding of CGRF, "complainant failed to prove use of generator" is absolutely imaginary as there was no opportunity to produce any documentary evidence to prove the use of Generator.

7).It is very important to note that respondent is in inimical terms with the complainant. It is also important to note that the respondent has issued the disconnection notice dated 16.07.2012 with ill motive, to compel the complainant to pay alleged short assessment bill.

8).The alleged short assessment bill is illegal and has to be declared the said bill as irrecoverable.

9).It is to be noted that the disconnection notice dated 16.07.2012 is for the purpose to restrain the complainant from filling appeal.

10).The said bill is paid by the complainant subject to the final decision in the dispute.

For the above said reasons and reasons set out subsequently, the appellant pleads to set aside the order of CGRF and direct the respondent to pay the cost and financial loss incurred to the complainant along with the amount paid by him towards the disputed short assessment bill.

Arguments of the Respondent :-

The main contentions of the respondent are the following.

1).The appellant is consumer No: 23371 of Electrical section, Perambra, and the complaint is raised against a short assessment bill issued to the party amounting to Rs.22518/- on 05.03.2012, as per Regional Audit Officer's audit report, regarding the bills of the consumer for 7/2011 and 8/2011.

2).The energy meter installed in the premises of the consumer was faulty during the billing month of 5/2011 and 6/2011, but the status of meter faulty was not entered in the computer system and

hence the system billed for 175 units in 5/2011 and 44 units in 06/2011 and the electricity charges amounts collected only for the billed units as above.

3).As per Supply Code, 2005, Regulation 33 (2) of KSEBoard Terms and Conditions, the consumer is liable to pay equal to the average for the previous six months bill amount. But the average was not assessed during that period and the need for short assessment has been found out by RAO during their inspection audit report and the bill was issued accordingly.

4).The consumer is arguing that the reduced energy consumption during that period, was due to low consumption of electricity, because of running a Generator for the entire low consumption period. This is not believable as profit is the prime objective of running any business organization. It is a well known fact that, using electricity supply is more profitable than running a generator. If they use a 15 KVA generator supply for a period of 11 Hrs, they have to spend nearly Rs.2000/- per day towards the cost of fuel charge. If the consumer had used electric supply, instead of using a generator, the expense will come to only Rs.250/- to 300/- per day.

5).In the petition filed before CGRF and also in the present case also, the complainant is claiming the he has suffered hardship and financial loss due to disconnection of electric supply. From the statement itself it is clear that the consumer could not run the shop smoothly without electric supply of KSEBoard. So the argument of the consumer is not correct that they used generator for the entire period of meter faulty.

6).The party is trying to justify the low power consumption during 5/2011 & 6/2011 (the short assessment bill period) by claiming that he has used a generator during this period. Actually the meter was malfunctioning from March 2011 on words, but it was declared faulty and replaced on June 2011 only. The extract of Meter Reading Register is marked as (Ex.1). If the petitioner is arguing with the same strategy, he has to claim that he was using Generator from March to July 2011, since the actual units recorded in March and April were also very low, but average units were billed during these two months. Since the consumer was not aware of this fact he did not tried to justify this. A copy of the computer generated meter reading register is marked as Ext.3.

7).The respondent are not inimical as alleged, they are doing their duty. In fact the disputed bill is originated only after audit objection (Ex.1).

8).The disconnection notice was issued on 16.07.2012 and is purely based upon the order of the Hon CGRF, Kozhikode.

Considering the above facts, it is sure that (a) the bill issued to the consumer is genuine and the party is liable to pay the entire amount as mentioned in the bill (b) the short assessment amount collected from the consumer as on 25.07.2012 is legally valid.

Analysis and Findings:

On examining the Petition and argument notes filed by the Appellant, the statement of facts of the Respondent, perusing all the documents and considering the facts and circumstances of the case, this Forum comes to the following findings and conclusions leading to the decisions thereof. The first Hearing of the Case was conducted on 14.12.2012 in my chamber at Edappally and the appellant was not present for the hearing. Sri. C Vinod Kumar, Asst. Exe. Engineer, Electrical Sub

Division, Perambra, appeared for the other side. The respondent argues that the meter was faulty during 5/2011 and 6/2011 and the faulty meter was replaced with a good one on 23.06.2011. He has been asked to submit a calculation statement of the bill issued to the consumer. A second chance of hearing was scheduled on 15.3.2013 and it was also not attended by the party.

On perusing the meter reading register (M R Register) it is seen that the Meter Reader who took the readings during the disputed period has not recorded any defects or sluggishness of the meter. It is seen that the the RAO on verifying the records has noted the very low consumption during the period in question. The consumer complains that there was no evidence to prove the meter was defective. But the party was being billed at average energy consumption for the last two months of 3 and 4/2011, just prior to the disputed period. This has not been contested by the appellant. No test was conducted on the meter, either at site with a Check meter or sent to Lab to determine whether it is faulty or not by the KSEB. The consumer has also the right to demand the test of the meter, in case he doubts its accuracy, but that did not happen here.

The perusal of the MR Register shows a sharp fall in energy consumption at least from 03/2011. Just because of the fact that A/C of the Jewellery shop was faulty, it will not cause such a drastic reduction in energy consumption to, 180 to 44 units range, per month because the party has not a contention that his business unit was closed down or not working at that time.

The energy consumption for the period 04/2010 to 12/2011 was as follows: -

<u>Month/year</u>	<u>energy consumption (units)</u>	<u>Month/year</u>	<u>energy consumption (units)</u>
04/2010-	1525	01/2011-	995
05/2010-	2562,	02/2011-	1028
06/2010-	3065,	03/2011-	580
07/2010-	1204,	04/2011-	180
08/2010-	1665,	05/2011-	175
09/2010-	1759,	06/2011-	44
10/2010-	1586,	07/2011	710 (M/C on 23/6/11)
11/2010-	1423,	08/2011-	713
12/2010-	1492,	09/2011-	764
		10/2011-	536
		11/2011-	870
		12/2011-	804

According to the appellant the low consumption in his premise, during the disputed period was due to the air conditioner not working properly and hence he stopped the total consumption of electricity and used a Generator, till a new A/C was installed. But the appellant has not produced any evidence such as the purchase bill of the new AC as document. The argument that he used a Generator Supply instead of KSEB supply for two months lacks credit as; (i) If the A/C does not work properly why he discontinued the Electric supply from KSEB and used a Generator supply instead? (ii) Most people prefer electric supply, rather than a Diesel Generator supply, which is

noisy, makes pollution and is costlier for running, besides its repair and maintenance. The party was not able to give a valid and sound reason for the same.

The average energy consumption of the consumer from 04/2010 to 12/2010 was 1809 units and the average consumption from 03/2011 to 06/2011 was 245 units only, which is substantially very low. After changing the Meter on 23.6.2011, the average energy consumption has increased to 733 units per month, for the next six months period of 07/2011 to 12/2011. From the above, I come to the conclusion that the Meter was sluggish or not working properly at least from 3/2011.

Another point of the appellant is that no notice was issued to the consumer about the fault of the meter and a provisional bill to the consumer. The respondent has failed to produce any notice said to be issued by them. Further, the appellant has not made any objection to the replacement of the meter done in 6/11. The consumer could have demanded the Meter to be tested at site or sent for Testing at Lab, at that time itself, if he had any doubt on the same, but has not acted so.

DECISION: -

From the analysis done and the conclusions arrived at, I take the following decisions.

The electric supply was being used for running a Jewellery shop. From the Meter readings of the consumer furnished by KSEB, it is noted that the energy consumption has dropped sharply from 3/2011 onwards. The appellant's argument that he depended on Generator supply instead of KSEB's electric supply during this period is not convincing, as he does not state why he switched over to a Generator supply from KSEB's Electric supply or point out the benefits accrued from a Generator supply. Further, he is found continuing with KSEB supply, after the disputed period.

I feel the energy meter might have started its slow working or sluggishness even before 3/2011. Considering the average energy consumption of the consumer for the period, 04/2010 to 12/2010, which is 1809 units per month, the consumer was assessed for 1381 units for the disputed months of 5/2011 and 6/2011 and cannot be adjudged as unjust and arbitrary. However after changing the faulty meter with a good one in 6/2011, the average energy consumption for the period 7/2011 to 12/2011, has been found as 733 units only per month.

When the Board find difficulty in preferring a bill to the consumer due to malfunctioning of the Meter, then the respondent has to follow as per Regulation 33(2) of KSEB Terms and Conditions of Supply. The previous average energy consumption can be taken when it is known with certain that the Meter started its non recording or malfunctioning, on a certain date or a month. In such a case the previous average energy consumption can be calculated easily, based on the consumption of past 6 months of the confirmed month. But in this case, it is not clear when the slowing down of the Meter has started and cannot be conclusively determined as the fault of meter was gradually progressing from month to month, as is evident from the Meter Reading register recordings. Hence I feel, it is not proper to assess the consumer for the disputed months of 5 & 6/2011, based on the previous six months average energy consumption. Therefore I decide that the consumer's average energy consumption for the disputed months of 5/2011 and 6/2011 shall be fixed at 733 units per month, which was obtained based on the succeeding six months average consumption, after replacing the faulty meter with a good one, instead of 1381 units assessed earlier by KSEB.

The respondent is directed to revise the disputed bill dated 05.03.2012 for Rs. 22518/- , at the true average energy consumption of 733 units each, for the months of 5 & 6/ 2011 and the excess amount collected, shall be adjusted in the future bills of the consumer within 60 days of this order. The respondent shall also communicate the consumer the amount so adjusted through a letter.

Having concluded and decided as above it is ordered accordingly. The Appeal Petition filed by the appellant is allowed to the extent it is ordered and stands disposed of. The related CGRF's Order in OP No. 83/2011-12 dated 14.6.2012 is set aside. No order on Costs.

Dated the 15th of May, 2013.

Electricity Ombudsman

Ref No. P/ 296/ 2012/ 1751/Dated 15.5.2013

Forwarded to

1). Sri.Unnikrishnan,
Manager, M/S.Mamatha Jewellers,
New Court Road, Perambra,
Kozhikode Dt.- Pin -673 525.

2). The Assistant Executive Engineer.
Electrical Sub Division, KSEBoard,
Perambra, Kozhikode Dt.

Copy to: -

- 1). The Secretary, Kerala State Electricity Regulatory Commission,
KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-695010.
- 2). The Secretary, KSEB,
Vydhyuthibhavanam,Pattom,Thiruvananthapuram- 695004.
- 3). The Chairperson, Consumer Grievance Redressal Forum,
KESB, Vydyudhi Bhavanam, Gandhi Road, Kozhikode.