

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION NO. P/338/2013.

(Present: T.P. Vivekanandan)

Appellant : Sri. V C Varghese,
Managing Partner, M/S.V-Win Polymers Ltd,
Plot No: 21, Industrial Development Estate,
Kunnamkulam, THRISSUR-680 503.

Respondent : The Assistant Executive Engineer.
Electrical Sub Division, KSEBoard,
Kanippoor.P.O, Kunnamkulam, Thrissur Dt.

ORDER.

Background of the Case: -

The appellant is running a plastic industry at Kunnamkulam and is having an electric connection with Consumer No. 6675, with a sanctioned load of 30KW, under Electrical Section, Kunnamkulam. While so, the APTS of the KSEB had conducted an inspection on the premises on 14.10.2010 and found unauthorized additional load of 43 KW and also found that the inputs from the R & Y phase currents given to the CT meter are absent. Consequent to the detection of the UAL of 43 KW, a penal bill amounting to Rs. 4, 02, 156/-, pertaining to the period from 12/2009 to 11/2010 was issued to the consumer by the respondent. Aggrieved by this bill, the appellant has approached the Hon. High Court vide WP (C) 4383 of 2011 and the Hon Court had directed the consumer to approach the CGRF. The consumer not approached the CGRF. Meanwhile the Dy. Chief Engineer, Thrissur dismissed appellant's petition against penal assessment on 27.06.2012. The consumer again approached the Hon. High Court in WP (C) No. 1074 of 2012 which was disposed of directing the CGRF to dispose the petition submitted before the CGRF, Ernakulum, within 3 months from the date of receipt of a copy of the judgment. The Forum disposed the petition as "Petitioner's meter faulty period to be reassessed based on meter faulty average of 6893 units/month", vide order No. CGRF-CR/Comp.71/2012-13 dated 16/11/2012. Still not satisfied the appellant has submitted this appeal petition.

Arguments of the Appellant:-

(1). The petitioner is aggrieved by the issuance of the short assessment bill issued by KSEB. The respondent has issued the bill alleging false and untenable allegations. The above unit is working

depending on the credit facilities advanced by various banks. The petitioner was remitting the monthly current charge without any default or delay. The petitioner used to remit the current charges as per the demand made by respondent after proper inspections at the petitioner's premises and meter. While so on 14.12.2010, the APTS conducted an inspection at the petitioner's business premises and the officers have found two irregularities. The 1st was that, there was an unauthorized additional load of 43 KW and the 2nd irregularity was that the CT meter was not recording the consumption properly. The appellant contents that both the allegations are false.

(2). It is evident from the mahazar that the seals of the meter are intact and the allegation is that the CT meter is not recording properly. This is not correct. Even if the CT meter is not recording correctly demanding the amount for past one year is illegal. The meter has to send to the electrical inspectorate for testing and then only the demand can be made. Now the demand made for past one year is without any authority. Hence filed application before the CGRF as directed by the Hon High Court. The respondent has admitted before the CGRF that the disputed CT metering units has been kept intact. Even after that without ascertaining the correctness of the CT meter the CGRF has taken the present average of 6893 units per month. This is illegal and hence disputed. The CGRF ought to have directed the respondents who allege the meter is not recording properly to test the meter before ascertaining the consumption. Without any evidence the forum concluded that the petitioner's meter is faulty. Even if the meter is faulty the petitioner categorically pleads that during the concerned period his production was every minimal and hence the average energy use calculated by the CGRF is exorbitant. Now the respondent had issued a bill and a calculation statement dated 15.12.2012 which was received by this petitioner on 19.12.2012.

Arguments of the Respondent: -

(1). The Respondent had issued a short assessment bill for unauthorized load of 43 KW and for un-recorded portion of energy since R & Y phases of the CT's were not working. As per the records available in the office the registered consumer of 6675 is Smt. Abida Sagir. The petitioner has a plastic manufacturing unit situated in the above address. The monthly current charges are paid by the party without any default.

(2). On 14.12.2010, the APTS conducted an inspection at the petitioner's premises with Cons. No. 6675. On inspection two irregularities were noticed. The first irregularity was that there was an unauthorized load of 43 KW and the 2nd irregularity was that R & Y phases of the CT's were not working. Both the allegation are true.

(3). On the basis of inspection, the respondent issued a short assessment bill for Rs.402156/- After remitting Rs.84013/- (50% of UAL) the petitioner moved for an appeal before the Deputy Chief Engineer Electrical Circle, Thrissur. Petitioner admitted that they have connected that load one

and half month before the inspection but they have no evidence to prove it. Hence Deputy Chief Engineer stated that bill is legal and ordered to remit the bill amount.

(4). As per the site mahazar the seal of the meter was intact. After remitting Rs.50000/- the party approached the CGRF. As per the proceedings of CGRF, the short assessment bill was revised from Rs.402156/- to Rs.347651/- considering an average consumption of 6893 units per month. As per the meter reading register, it is seen that there was no consumption till 11/09 due to renovation work and change of ownership etc. Back assessment is done only from 12/2009 to 12/2010 which is legal. The CT metering unit is kept intact as per the direction of APTS. Their assumption is that CT connections may be loose or broken due to rusting hence it can be tested only in the premises of consumer. Taking the meter CT unit, from the present position for testing, may adverse the result. Hence a new CT metering unit has been connected without altering the old one in 7/2012. The average consumption till date is around 6000-7000 units. Hence it is clear that the earlier done assessment was also correct.

Analysis and Findings: -

The hearing of the Case was conducted in my chamber at Edappally, Ernakulam, on 5.9.2013 and 13.9.2013. The appellant, Sri. Varghese and his learned counsel, Sri. M.B. Prajith appeared for the appellant's side and Smt. Bindu E I, AEE, Electrical Sub division, Kunnamkulam, represented the opposite side. Both sides have presented their version on the lines as stated above. On perusing the Petition of the appellant, the statement of facts filed by the Respondent, the arguments made in the hearing and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions.

1.1. The APTS has inspected the consumer's premises on 14.12.2010 and have detected 43 KW unauthorized additional load (UAL) and also found that 2- phases of the Current Transformer (CT is a device for measuring high values of electric Current on a proportionate reduced scale), were not feeding the 'current inputs' to the Meter, thus resulting in the recording of a lower consumption than what is actually consumed. Hence, the party was issued a short assessment bill to recover the energy escaped from billing due to CT's fault in two phases.

1.2. As per Clause 51(4) of KSEB T & C of supply, 2005, when the UAL is detected, the KSEB has to issue a provisional assessment for the same with a notice to the consumer, asking to remove the UAL or to regularize the same within a reasonable time. The UAL should be got regularized by the consumer within a period of 3 months on application to the AEE and on paying additional security deposit and other charges, as per rules. It is the responsibility of the respondent to disconnect the connection, if not regularized, if the UAL is found detrimental to KSEB's distribution system. Further, the consumer is liable to pay the penal charges, till the UAL is regularized.

1.3. The APTS had detected the malfunctioning of the meter on 14.12.2010, but the meter was not changed as it is said that the Legal advice to the respondent, was to preserve it as evidence. Accordingly, the meter was retained till July 2012 when it was replaced. Normally, the respondent is bound to rectify the defect of the CT's to the Meter or renew the CT's or the CT meter itself, if it is found defective/faulty, after informing the consumer. The Licensee is liable to quantify the energy consumed by a party through a good meter and as such, KSEB has to make the meter proper or rectify the defects once noticed. It is also expected to intimate the consumer the defects or the discrepancies noticed in time, so that had the consumer raises a dispute, the matter can be either referred to the Electrical Inspector for decision or the Respondent itself can arrange the Test by installing a Check meter in addition to the existing meter, so as to determine the true energy consumption and assessing the % of lost energy by comparing the readings of both Meters.

1.4. The appellant has not disputed the unauthorized additional load detected in his premises. The appellant was penalized for the use of unauthorized additional load for the period from 12/2009 to 11/2010 for an amount of Rs.1, 68, 026/- and since Section 126 of the Electricity Act will not fall under the purview of CGRF and Electricity Ombudsman, this part is beyond the scope of the Forum and hence this Forum is not entering into its merits.

1.5. This Forum is confining to the dispute on the assessment made by the respondent, on the non recording of the Meter due to defects in 2 Nos. of CTs. The KSEB has assessed it as two times the recorded energy as only one phase was recording energy out of the 3 phases. This estimation is true in the case of balanced load (equal load usage) in all the 3 phases. But such a condition is rare and usually it is observed that there exists some unbalance in industries where other single phase loads also exist. Another method of assessment is based on the average 6 months energy consumption obtained after changing with a good meter, which is found as 6893 units per month. This method is suggested under Reg. 33(2) of KSEB T &C of supply, 2005. But the new meter was seen installed, around 20 months later, after the detection of non recording of correct energy. A good meter or Check meter ought to have been installed to obtain the true energy consumed, at the time of noticing the defect in the energy recordings of the meter.

1.6. The consumer was assessed for Rs. 2,34,130/-, for non-recording of energy due to defects of the R & Y phases CT's, for the period from 12/2009 to 11/2010, by taking the lost energy as two times the recorded energy. The appellant argues that the average monthly consumption during the year 2010-2011 was only 3000 units per month and the appellant is presently using the entire capacity and the consumption is only 7000 units per month. According to the appellant, due to increased production, the energy usage has increased and hence the average consumption taken subsequent to the change of energy meter is not correct. But the appellant has not produced any documentary evidence to prove his claim of the increased productivity in his firm.

1.7. On perusing the Mahazar, this Forum feels that the contention regarding the 2 Nos. of CT's defects noticed during inspection by KSEB was correct, since the mahazar was duly witnessed and the appellant has not disputed the mahazar. Also, the sharp rise in energy consumption obtained after the replacement of the defective metering equipment, corroborates the same findings. Thus it is convinced that the energy recorded in the Meter during the disputed period was not correct.

1.8. A verification of the energy usage of the consumer by referring the meter readings furnished by the Respondent, for the period of 12/2009 to 9/2011, it is noted that the consumption pattern is not consistent and varies considerably.

1.9. In this case, it is pertinent to note that the consumer has not an argument that he had approached KSEB to test the accuracy of the meter at any time, even after receiving the arrear bill. Also, the consumer has expressed his willingness to settle the dispute at the Hearing, by taking his true average consumption as 4800 units per month, during the meter faulty period.

DECISION : -

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

- (i). It is established that the Meter was recording a lesser energy consumption than the actual value due to defective CT's outputs to the Meter. The meter itself cannot be termed as faulty, as only the 'electric current' inputs fed to the Meter were missing, causing a reduction in recording.
- (ii). The respondent has assessed the consumer at two times the energy recorded, by the simple reason that two Nos. of CT's were not feeding the 'current' inputs to the meter. This method lacks fairness as there is single phase loads in the premise and all the phases are not balanced always. The respondent has failed to rectify the defective CT's to the Meter or to install a complete Check-meter in series, with the faulty meter to compare and assess the difference in recordings in the energy consumption, for more than 1 and ½ years. Hence, I feel the average assessment reached by the CGRF, based on the readings obtained after a long gap is also not justifiable.
- (iii). A verification of the energy usage of the consumer by referring the meter readings furnished by the Respondent, for the period of 12/2009 to 9/2011, it is noted that the consumption pattern is not consistent but varies considerably. The average obtained after changing with a good meter was found as 6893 units. The consumer is willing to settle the dispute for an average consumption rate of 4800 units per month during the meter faulty period.
- (iv). Considering all the above facts, I am of the view that the appellant shall be reassessed at the rate of 5000 units per month as his true average energy consumption during the meter faulty period. Accordingly, the Respondent is directed to revise the consumer's disputed bill, for an average energy consumption of 5000 units per month, giving credit to the energy units already

billed. No interest or surcharge need be levied on the consumer during the appeal pending period and up to the due date of the revised bill ordered now. The consumer may be allowed suitable, up to ten, installments if requested for, but will carry interest for installments from the due date of revised bill to the date of payment, as per clause, 22(8) of Electricity Supply code, 2005.

Having concluded and decided as above it is ordered accordingly. The Appeal Petition filed by the appellant is found having merits and is allowed to the extent ordered and is disposed of accordingly. The related CGRF order vide No. CGRF-CR/Comp. 71/2012-13 dated 16.11.2012 is set aside. No order on costs. Dated the 8th of November, 2013.

Electricity Ombudsman.

Ref. No. P / 338 / 2013 / 2046 / Dated 08.11.2013.

Forwarded to : 1). Sri.V.C.Varghese,
Managing Partner, M/S.V-Win Polymers Ltd,
Plot No: 21, Industrial Development Estate,
Kunnamkulam, Thrissur-680 503.

: 2).The Assistant Executive Engineer.
Electrical Sub Division, KSEBoard,
Kanippoyoor.P.O, Kunnamkulam, Thrissur Dt.

Copy to: - 1). The Secretary, Kerala State Electricity Regulatory Commission,
KPFCBhavanam, Vellayambalam, Thiruvananthapuram-10.
2). The Secretary, KSEB,
VydyuthiBhavanam, Pattom,Thiruvanathapuram - 4.
3). The Chairperson, CGRF,
KSEB, Power House Buildings, Ernakulum, Cochin -18.