

THE STATE ELECTRICITY OMBUDSMAN  
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APPEAL PETITION NO. P/177/2015  
(Present: V.V. Sathyarajan)  
Dated: 26<sup>th</sup> April 2016

Appellant : The Secretary  
Ice Sellers Sannadha Sangam,  
Q 806/90, Neendakara,  
Kollam

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division,  
KSE Board Ltd,  
Karunagappally.

### **ORDER**

#### **Background of the case:**

The appellant is running an ice production unit in the name and style "Ice Sellers Sannadha Sangam" and is an industrial consumer (LT IV A tariff) having a three phase connection with consumer no. 1145717014951 under Electrical Section, Chavara. On 23-02-2015 APTS team Thiruvalla inspected the premises of the appellant along with Sub Engineer, Electrical Section, Chavara who prepared a mahazar stating that 3<sup>rd</sup> phase of the meter is not recording the actual consumption due to the defect in the CT meter connection and also detected that the meter is recording only 2/3<sup>rd</sup> of the total consumption.

Hence a short assessment bill dated 21-05-2015 for Rs. 9,73,097.00 (Nine Lakhs seventy three thousand and ninety seven only) for the period from 3/2014 to 2/2015 was served on the appellant on 25-05-2015. Aggrieved against this, the appellant approached the Consumer Grievance Redressal Forum (South), Kottarakkara by filing a complaint No. 1530/2015 which was dismissed vide order dated 07-11-2015. Still aggrieved with the above decisions of CGRF the appellant has approached this Authority with this appeal petition.

#### **Arguments of the appellant:**

The appellant stated that along with the short assessment bill, the Assistant Engineer, Electrical Section, Chavara issued a covering letter dated 21-05-2015 to the appellant pointing out that the CT's of the energy meter is faulty and the consumption recorded in the energy meter was 2/3<sup>rd</sup> only and hence a short assessment bill of Rs. 9,73,097.00 as the under charged amount during the period from 3/2014 to 2/2015 as per Section 134 of the Kerala Electricity Supply Code, 2014. By the notice, the complainant is directed to pay the amount within 30 days of the receipt of the letter.

Aggrieved by the said assessment, the appellant had filed complaint No O.P. 1530/2015 before the CGRF for setting aside the short assessment bill dated 21-05-2015 on the grounds stated in the original petition. Without considering the evidence and pleadings in this case, the lower authority had dismissed the application stating the following grounds.

On perusing the documents it is seen that one phase of CT is not working as per the inspection report of APTS, Thiruvalla unit and the site mahazar prepared. The inspection was conducted on 23-02-2015 by APTS team. The respondent stated that the defective CT causes error in energy meter reading. The recorded energy will be only 2/3<sup>rd</sup> of the actual consumption. On comparing the energy consumption before and after the replacement of Current Transformer, it is seen that the six months average of energy consumed after replacement is 38692 kWh and 6 months average of energy consumed before replacement of Current Transformer is 25299 kWh. The difference between these reading is 13393 units. 1/3<sup>rd</sup> of energy consumption after replacement is  $38692 \times 1/3 = 12897$  units. Reduction in one phase missing is 13393. It shows slight variation only.

Therefore, the Forum views that the bill issued is only for the actual consumption of energy, not recorded in the meter due to the fault of the CT. Further, the average taken for issuing the bill is after the replacement of CT. Therefore the bill issued is genuine and sustainable. The appellant is liable to pay the amount. The respondents can allow instalment facility to the appellant for daring the same, if he desires. Considering the above facts, statements, documents the Forum decided and ordered to dismiss the case due to lack of merit.

Aggrieved by the order of the CGRF, this appeal is filed seeking reliefs from the Ombudsman on the following grounds.

1. The order passed by the C.G.R.F. Kottarakkara is arbitrary and against facts and evidence.
2. The order passed by the C.G.R.F Kottarakkara is illegal and against the provisions of the Kerala Electricity Supply Code, 2014.
3. The appellant was not heard before passing the order. The case was posted for hearing on 13-08-2015, on that day the appellant was heard and the Board was instructed to file detailed statement. Now it is seen the Board has given detailed statements, the copy of which was not served to the appellant and the appellant was not heard before acting upon their statement. Thus natural justice is not complied with.
4. The comparison made by the lower authority is not correct and cannot be accepted. The copy of materials by which the comparison was made was not given to the appellant.
5. The difference calculated is not correct. All the three phases are metered and it was not considered while calculating the differences.
6. The lower authority ought to have found that the billing is an over charged billing.
7. The lower authority ought to have interfered in the matter and to have set aside the short assessment bill dated 21-05-2015, when it found there was only slight variation after comparison.
8. The lower authority ought to have found that the CT is not faulty.
9. The view taken by the lower authority that the bill issued is only for the actual consumption of energy, not recorded in the meter due to the fault of the CT is not correct.
10. The lower authority ought to have found that all the three phases are working and it is metered.

11. The lower authority ought to have found that the mahazar prepared is absolutely wrong and not admissible in evidence.
12. The lower authority ought to have found that the mahazar is not tallying with actual meter reading.
13. The lower authority ought to have found there is no tampering in the equipments and there is no tapping of power.
14. The lower authority ought to have found that the short assessment bill is purely on the basis of assumption. It is without any data.
15. The lower authority ought to have found that the billing authorities ought to have found that the last meter reading before the joint investigation was on 05-02-2015 and the joint inspection was on 13-02-2015. The staff who took the meter reading was not able to find out any defect either in the meter or in the CT.
16. The lower authority ought to have found that the short assessment bill issued is for the recovery of bill amount already paid.
17. The lower authority ought to have found that the staff of the licence failed to note the defect in the connection CT.

**Arguments of the respondent:**

The respondent stated that the grounds raised by the appellant for considering this appeal are totally false. The Consumer Grievance Redressal Forum (South) considered all the facts stated by the appellant and dismissed the petition due to lack of merit. The Board officials acted only according to the law and as per Regulation 134 of Kerala Electricity Supply Code, 2014, licensee is entitled to recover the undercharged amount from the appellant.

1. The order passed by the Consumer Grievance Redressal Forum is based on the clear evidences submitted by the respondent, Kerala State Electricity Board Limited.
2. The order of Consumer Grievance Redressal Forum (South) is in accordance with the Regulation 134 (1) of Kerala Electricity Supply Code, 2014 and as per the evidence submitted by Kerala State Electricity Board Limited; it has been proved that the consumer was charged only for the 2/3<sup>rd</sup> of actual energy consumed.
3. Averments of the appellant that he was not heard are absolutely false. Both appellant and respondent were heard before passing the order. The Statement of Facts submitted by the respondent before the Consumer Grievance Redressal Forum (South) was also sent to the appellant. Consumer Grievance Redressal Forum (South) directed the respondent, Kerala State Electricity Board Limited to submit the arguments in writing and this was also done in time. By considering all these Consumer Grievance Redressal Forum issued the above mentioned order.
4. On 23-02-2015 Anti Power Theft Squad team, Thiruvalla inspected the premises and prepared the site mahazar stating that 3<sup>rd</sup> phase of the meter is not reading due to the defect in CT. A short assessment bill for 9,73,097.00 was issued as per Regulation 134 of the Supply Code, 2014. The bill issued is only for the undercharged amount. The difference is not in the reading between phases. But all the readings belong to three phases, combinedly in different ones LI, L2 and L3.
5. The amount of variation 33.33% (1/3<sup>rd</sup>) is not a small one. The total energy to be measured is  $3 V_p I_p \cos \phi$ . But the energy actually measured is  $2 V_p I_p \cos \phi$ . Thus the lost part of the reading due to the fault in CT is  $V_p I_p$

- Cos  $\phi$ . This has been proved in a comparison made in the energy meter reading before and after replacement of faulty CT.
6. The site mahazar prepared at the time of inspection also shows that the meter is registering only 2/3<sup>rd</sup> of the actual energy consumed. The Hon'ble Consumer Grievance Redressal Forum never mentioned about any tampering because fault under dispute can happen without tampering also. The inspections are always conducted to ascertain the accuracy of meters and they are not prejudiced.
  7. The meter reader cannot find out the internal faults of the metering circuit by physical examination. The defect like fault in CT can be found out only in a detailed inspection. In WP(C) No. 23078/2007 (v) the Hon'ble High Court as per order dated 08-08-2012 stated that when the defect in CT is not attributable to the consumer, Electricity Board can recover electricity charges for 12 months prior to the date of inspection.

### **Analysis and findings**

A hearing of the case was conducted in my chamber at Edappally, Ernakulam, on 15-03-2016. Sri John Gorge, advocate represented for the appellant's side and Sri R. Suresh, Assistant Executive Engineer, Electrical Sub Division, Karunagappally represented the respondent's side. The brief facts and circumstances of the case that led to filing of the petition before this Authority are narrated above. On examining the petition of the appellant, the statement of facts filed by the respondent, the arguments 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.

The contention of the appellant is that the staff of the licensee failed to note any defect in the CT connection and the staff who took the meter reading was not able to find out any defect either in the meter or in the CTs. But on the other hand, the respondent argued that the short assessment bill issued for Rs. 9,73,097.00 for the meter faulty period from 3/2014 to 2/2015 is as per the Regulation 134 (1) of Supply Code, 2014 which is found genuine and the appellant is liable for making the payment.

***The issue arising for consideration in this appeal is as to whether the appellant is liable for the payment of short assessment towards the meter faulty period from 3/2014 to 2/2015 is in order or not.***

On going through the site mahazar, it is found that the meter installed in the premises of the appellant is of secure make and in this type of meters blinking of 123 blocks in the display panel shows that the meter is not loaded or current is not reaching the meter. The erratic blinking of 123 blocks in secure meters even when the consumer is using load in all phases is an indication of anomaly and it should be thoroughly checked. It is noted that almost all CT meters being used in KSEB are having data storage and downloading facility and using the downloaded data, actual date of voltage/current missing and wrong phase association can easily be detected.

In the case of an existing connection, if a voltage or current missing or any other anomaly is detected it is required to download the data through a Meter Reading Instrument to find out the correct date of missing. Accurate method to find out errors in a CT meter is by using Accucheck or by using parallel meters. As per IS 15707/2006 the maximum permissible error in field testing is +/-2.5. In this

case, since the respondent has not produced the downloaded data, the actual date of current missing cannot be detected.

Regulation 115(9) of Supply Code reads as **“In case the meter is found to be faulty, revision of bill on the basis of test report shall be done for a maximum period of six months or from the date of last testing, whichever is shorter and the excess or deficit charges on account of such revision shall be adjusted in the two subsequent bills”**.

In the case of defective or damaged meter, the procedure for billing is detailed in **Regulation 125(1) of Supply Code, 2014 which reads as “in the case of defective or damaged meter, the consumer shall be billed on the basis of average consumption of the past 3 billing cycles immediately preceding the date of the meter being found or reported defective:**

**Provided that average shall be computed from the 3 billing cycles after the meter is replaced if required details pertaining to previous billing cycles are not available.**

**Provided, further that any evidence given by the consumer about conditions of working and occupancy of the concerned premises during the said period, which may have had a bearing on consumption, shall also be considered by the licensee for computing the average.**

**(2) Charges based on the average consumption as computed above shall be levied only for a maximum period of 2 billing cycles during which time the licensee shall replace the defective or damaged meter with a correct meter”**.

The non recording of one phase of the metering equipment in the appellant’s premises was detected by the licensee during the inspection conducted on 23-2-2015. As per **Regulation 134 (1) if the licensee establishes either by review or otherwise, that it has undercharged the consumer, licensee may recover the amount so undercharged from the consumer by issuing a bill and in such cases at least 30 days shall be given to the consumer for making payment of the bill.**

On going through the meter reading statement submitted by the respondent it can be seen that the respondent has changed the CTs with ratio 200/5 while rectifying the CT connection without furnishing any remarks. Moreover, considerable variation in the zone wise consumption pattern is not seen noticed in the appellant’s premises prior to the replacement of CTs. However, during the inspection on 23-02-2015 it was detected that one phase of the energy meter was missing and recorded only 2/3<sup>rd</sup> of the total consumption. Hence the respondent’s contention is that the unrecorded portion of the energy can be realized as per Regulation 134(1) of Supply Code, 2014 and subsequently issued the short assessment.

The consumption details of the appellant from 1/2014 to 12/2015 are as follows:

<b>Jan-14</b>	<b>42280</b>	
<b>Feb-14</b>	<b>39260</b>	
<b>Mar-14</b>	<b>24640</b>	
<b>Apr-14</b>	<b>29020</b>	
<b>May-14</b>	<b>34240</b>	
<b>Jun-14</b>	<b>44586</b>	
<b>Jul-14</b>	<b>14338</b>	
<b>Aug-14</b>	<b>34124</b>	
<b>Sep-14</b>	<b>41296</b>	
<b>Oct-14</b>	<b>27618</b>	
<b>Nov-14</b>	<b>26178</b>	
<b>Dec-14</b>	<b>26238</b>	
<b>Jan-15</b>	<b>26470</b>	
<b>Feb-15</b>	<b>25086</b>	<b>(average)</b>
<b>Mar-15</b>	<b>25086</b>	
<b>Apr-15</b>	<b>25086</b>	
<b>May-15</b>	<b>25086</b>	
<b>Jun-15</b>	<b>24128</b>	
<b>Jun-15</b>	<b>9796</b>	<b>(CT replaced on 25-5-2015)</b>
<b>Jul-15</b>	<b>34960</b>	
<b>Aug-15</b>	<b>44360</b>	
<b>Sep-15</b>	<b>48000</b>	
<b>Oct-15</b>	<b>47160</b>	
<b>Nov-15</b>	<b>50720</b>	
<b>Dec-15</b>	<b>41880</b>	

On analysing the consumption pattern it can be seen that the consumption is not consistent but varies. In the absence of a test report or downloaded data it cannot be ascertained the actual date of failure of CT connection. As per Regulation 125(2) of Supply Code, 2014, average consumption shall be levied only for a maximum period of 2 billing cycles. Even though the respondent conducted an inspection on 23-02-2015 the short assessment bill is seen issued only on 21-05-2015 and charged average for a period of 4 months for which no explanation is forthcoming from the part of respondent. As per Regulation, the provisional assessment order describing the reasons and basis of the assessment along with invoice or bill and detailed calculation sheet shall be issued to the appellant immediately after inspection and not later than 3 days from the date of inspection. But here in this case the respondent issued short assessment for a period of one year from 03/2014 to 02/2015, on 21-5-2015 which is found not in order and hence cannot be admitted.

It is the duty of the respondent to rectify the defects, if any found in the meter or CTs and to ensure that the metering equipment is working properly. The appellant cannot be penalized for the failure on the part of respondent to keep the metering equipment functional and without fault. If the officers of the respondent were negligent in the matter of inspection of the same, it is totally unjust to saddle the appellant with the liability to pay huge amount all of a sudden. So long as the appellant had not done anything to commit theft of electrical energy or to make the metering equipment dysfunctional he cannot be penalized demanding a very huge amount from him.

***As per Regulation 125(1) of Supply Code, 2014 “in the case of defective or damaged meter, the consumer shall be billed on the basis of average consumption of the past 3 billing cycles immediately preceding the date of the meter being found or reported defective:***

***Provided that average shall be computed from the 3 billing cycles after the meter is replaced if required details pertaining to previous billing cycles are not available.***

In view of the above, there is no justification for issuing such a huge demand of Rs. 9,73,097.00 for a previous period of 12 months as long as the appellant had not done anything to make the metering equipment dysfunctional. Moreover, there is no mechanism for the appellant to know whether the CT connected in the metering system is working or functioning properly. In this background it is decided to reassess the appellant as per the average consumption for a period of 3 billing cycles after the rectification of defects in the CT connections.

### **Decision**

In view of the above discussions it can be concluded that the short assessment issued for a period of one year from 03/2014 to 02/2015 is without any valid grounds and hence decided to quash the same. The respondent is directed to revise the assessment based on the average consumption for the 3 billing cycles after the rectification of defects in the CT connections for a maximum period of 2 billing cycles as per Regulation 125 of Supply Code, 2014.

Having concluded and decided as above it is ordered accordingly. The appeal petition is found having some merits and is admitted. CGRF order in OP No. 1530/2015 dated 07-11-2015 is set aside. No order as to costs.

**ELECTRICITY OMBUDSMAN**

P/177/2015/\_\_\_\_\_ Dated:\_\_\_\_\_

Delivered to:

1. The Secretary, Ice Sellers Sannadha Sangam, Q 806/90, Neendakara, Kollam
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Karunagappally.

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, Vydhyuthibhavanam, KSE Board Ltd, Kottarakkara - 691 506.