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APPEAL PETITION No. P/069/2016
(Present: V.V. Sathyarajan)
Dated: 18th January 2017

Appellant : Sri. T.P. Muhammed
Universal Veneers, Odakkali,
Asamannur P.O., Perumbavoor,
Ernakulam.

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd, Kuruppampady,
Ernakulam

ORDER

Background of the case:

The appellant is having a three phase industrial service connection with consumer No. 11909 under Electrical Section, Kuruppampady, for running a firm in the name and style of Universal Veneers. While so on 17-06-2016, the APTS of licensee conducted an inspection in the appellant's premises and detected that the current in the Y phase is 'zero' and hence the consumption in that phase was not recording in the meter. Accordingly, the appellant was served with a short assessment bill for an amount of Rs. 36,141.00 for the period from 05-04- 2016 to 30-04-2016, during the period in which the meter was alleged to have not recording properly. Aggrieved by this, the appellant approached the CGRF, Ernakulam, with petition No. OP 52/2016-17 and the Forum dismissed the petition vide its order dated 30-09-2016. Against the above decision, the appellant has submitted this appeal petition before this Authority.

Arguments of the appellant:

The appellant submitted that he is running a firm in the name and style of 'Universal Veneers' with effect from 28-01-2002 having a connected load 36 kW. Subsequently the connected load has been enhanced to 84 kW by additionally sanctioning 48 kW from 08-04-2013. On 17-06-2016, a team of APTS conducted an inspection in his premises and detected that the current in the Y phase of the meter was not recorded. The meter data has been downloaded which showed the non recording of Y phase current with effect from 05-04-2016. Accordingly he

was issued with a short assessment bill amounting to Rs. 36,141.00 for the period from 05-04-2016 to 30-04-2016.

The appellant further stated that as per the details of data downloaded from the meter, the non recording of one phase was limited to six hour and 22 minutes during the period from 05-04-2016 to 30-04-2016 and the details are furnished below:

Event Name	Occurrence Date & Time	Recovery Date & Time	Duration
Under voltage	05-04-2016 05:49	05-04-2016 05:53	00:04:00
Voltage unbalance	05-04-2016 05:47	05-04-2016 05:53	00:06:00
Voltage failure Y Phase	16-04-2016 07:47	16-04-2016 08:09	00:22:00
Under voltage	16-04-2016 08:09	16-04-2016 08:16	00:07:00
Voltage failure Y Phase	16-04-2016 08:17	16-04-2016 08:51	00:34:00
Under voltage	16-04-2016 08:52	16-04-2016 08:57	00:05:00
Voltage failure R Phase	16-04-2016 07:53	16-04-2016 09:10	01:17:00
Voltage unbalance	16-04-2016 07:47	16-04-2016 09:10	01:23:00
Voltage unbalance	24-04-2016 13:08	24-04-2016 14:36	01:28:00
Voltage unbalance	24-04-2016 16:55	24-04-2016 17:51	00:56:00
Total			06:22:00

The appellant contented that even though the duration of non recording of Y phase is only 6 hour 22 minutes, the respondent issued the short assessment bill for the entire month which is not correct. When comparing the average consumption during the period of one year, there is no decrease in the consumption for the month in question. Hence the appellant requested to cancel the short assessment bill issued and to reassess the bill based on the actual period of non-functioning of Y phase as per the data downloaded.

Arguments of the respondent:

The respondent stated that the appeal is against the short assessment bill issued for non recording of consumption in one of the phases of the appellant's energy meter. While taking the reading for the month of May 2015 it is found that the Y phase of the appellant's energy meter is 'zero' and the current in R & B phases is only recording the consumption. Due to oversight this mistake was not identified while taking the reading on 30-04-16. It is further stated that to assess the actual date from which the non-recording of the Y phase, an inspection had been arranged with APTS on 17-06-2016. The meter data has been downloaded using the software and it is found that the event of non-recording of Y phase current had started on 05-04-2016. From this it is clear that the energy meter was recording only 2/3rd of the original consumption.

Regulation 125 & 152 of the Electricity Supply Code, 2014 allows the licensee to realise the amount short assessed due to damaged or defective metering. Accordingly the appellant has been issued with the short assessment

bill under normal rate for the period from 05-04-2016 to 30-04-2016. No penalisation was done in this billing. The details of this bill are as follows. Readings of the month May 16 for the three zones are taken.

Zone 1:- FR - 6444, IR - 6383, consumption recorded	= 261
So actual consumption	= 261 x 1.5 =392.
Amount due = 392 x 40 (MF) @ Rs.5.20	= 81,536/-
Zone 2:- FR - 1619, IR - 1555, consumption recorded	= 64
So actual consumption	= 64 x 1.5 = 96.
Amount due = 96 x 40(MF) @ Rs. 7.80	= 29,952/-
Zone 3:- FR- 1051, IR- 1023, consumption recorded	= 28
So actual consumption	= 28 x 1.5 = 42.
Amount due = 42 x 40(MF) @ Rs. 3.90	= 6,552/-
So Total amount due (EC)	= 1,18,050/-
Amount already paid (EC)	= 78,624/-
Balance	= 39,426/-
For 25 days (05-04-16 to 30-04-16) = 39426 x (25/30)	= 32,855.00
Duty @ 10	= 3,286.00
Total	= 36,141.00

The correction in the bill for the month of March 16 (bill dated 05-04-16) was due to the error in taking the readings and that has no relation to the present issue. For the months of May, June & July (bill dated 09-06-16), bill has been prepared considering the low reading of the energy meter.

Analysis and findings

Hearing of the case was conducted on 08-12-2016 in my chamber at Edappally, Kochi. Sri Muhammed T.P. represented the appellant's side and Smt. Kavitha C.K., Assistant Executive Engineer, Electrical Sub Division, Kuruppampady represented the respondent's side. On examining the petition, the statement of facts filed by the respondent, considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions.

The issue raised in this appeal is whether the appellant is liable for remitting the payment of short assessment for Rs. 36,141.00?

According to the respondent, the appellant's energy meter was found reading only 'R' and 'B' phase current and that of 'Y' phase is zero while taking the reading for the month of May 2016. In order to assess the date on which the non-working of 'Y' phase, an inspection had been arranged with APTS on 17-06-2016. The meter data had been downloaded on 05-09-2016 using the software and it was found that event of non-recording of 'Y' phase current is with effect from 05-04-2016. The respondent's contention is that as per Regulation 125 & 152 of Electricity Supply Code, 2014, licensee is empowered to realize the amount

short assessed due to damaged or defective metering. Hence, short assessment was issued by taking the error as 33% as one phase is not recorded.

The perusal of records reveals that the respondent conducted an inspection in the appellant's premises along with APTS on 17-06-2016 and detected that one phase of the energy meter is not working. But now the respondent's contention is that the inspection was arranged to find out the actual date from which the non-recording of one phase was occurred. If that be the case, the respondent could have downloaded data immediately and served a copy to the appellant along with the short assessment on 21-06-2016. This vital factor is conspicuously absent. Hence there is no justifiable reason on the side of respondent for taking 1.5 times of actual consumption for the subsequent months without explaining the reason to the appellant.

It is pertinent to note that the monthly readings in the appellant's premises was being taken by a competent person, Sub Engineer who had not noticed any error code display in the meter at the time of taking reading. The APTS team also failed to detect any error code display in the meter. The Sub Engineer has checked the meter and recorded the reading twice and corrected the bill for the month of March 2016. It is the bounden duty of the respondent to verify the meter display and make sure that no anomaly exists in the meter before taking the reading. Admittedly, it is a fact that making use of downloaded data, actual date of voltage /current missing and wrong phase association can be easily detected and is very useful in clearing the disputes from consumer side.

The provision which deals with the Regulation 109(20) of Supply Code, 2014, reads as follows: ***"it shall be the responsibility of the licensee to maintain the meter and keep it in good working conditions at all times"***. Regular inspection using calibrators (Accucheck) and other equipments are necessary for detecting irregularities, if any, after noting the anomaly indications go through all the display parameters to find out the reasons. It is essential to physically verify the connections from voltage tapping and CTs. A prudent interference from the respondents would have taken thoroughly to verify the meter display, the missing of voltage or current or any other anomaly can be easily detected. But this was not seen done in this case and not even a reasonable explanation was seen given to the appellant to satisfy his queries regarding the excess billing.

It is also noted that there is serious lapse on the side of licensee in dealing with the present situation of charging the appellant for non-working of one phase of the energy meter. Even though the inspection of APTS was conducted on 17-06-2016, the data was seen downloaded on 05-09-2016. But the invoices were seen issued to the appellant taking 1.5 times excess consumption for the month of May, June, July and August 2016. Since the bills for the months of May, June, July and August 2016 are already remitted by the appellant without any protest and he had not challenged the same before this Authority, I am not making any observation on those bills.

As per the records and the averments of the respondent the non-recording of one phase is for a period from 05-04-2016 to 30-04-2016 and during that period the duration of non-working of one phase is only 6 Hours and 22 Minutes. So, it is not proper to charge the appellant taking 1/3rd consumption as in the case of mechanical meter where one phase is missing. The details of short assessment given by the respondent for the month of April 2016 are as follows:

Zone 1	Final Reading	=	6444
	Initial Reading	=	6383
	Consumption record	=	261

In order to reassess the appellant for the non- metering of 'Y' phase for the period from 05-04-2016 to 30-04-2016, the respondent has taken readings of 3 Zones for the month of May 2016 for which no reason is forthcoming from the respondent. Apparently there is a mistake in the calculation shown above. The actual consumption recorded must be 61 units instead of 261 units. Hence the bill issued on a wrong calculation is not sustainable and hence liable to be quashed.

Regulation 152 of the Supply Code, 2014 deals with *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 Section 135 of the Act.*

(2) In such cases the amount of electricity charges short collected by the licensee if any shall only be realized from the consumer under normal tariff applicable to the period during which such anomalies persisted.

On going through the consumption pattern of the appellant for the previous period it can be seen that the average consumption is only 13733 units which is less than the present recorded consumption of 14120 units for the month of April 2016.

January 2016	=	14480
February 2016	=	12120
March 2016	=	14720
Total		41320

Average consumption is 13733 units.

At the same time the appellant's consumption for the months of September, October and November after rectifying the defects are 9600 units, 13600 units and 9440 units respectively and the average is 10880 units. Hence there is no

reason to issue short assessment bill for the period from 05-04-2016 to 30-04-2016 at 1.5 times of recorded consumption for the month of May.

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 three billing cycles immediately preceding the date of the meter being found or reported defective:

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

In view of the above discussions and findings especially the fact that the calculation arrived at on the basis of consumption for 3 Zones of May 2016 is also wrong, it is decided to set aside the short assessment for Rs. 36,141.00. However, it is made clear that the respondent will prepare a revised bill for the month of April 2016 on the basis of average consumption computed from 3 billing cycles after rectification of defect in the meter as per Regulation 125(1) of Supply Code, 2014.

Decision

In the above circumstances the short assessment bill amounting to Rs. 36,141.00 issued to the appellant was arrived at on the basis of a wrong calculation which is not legally sustainable and hence set aside. However, it is left open to the respondent to issue a revised bill for the month of April 2016 on the basis of average consumption computed from 3 billing cycles after rectification of defect in the meter as per Regulation 125(1) of Supply Code, 2014.

This shall be done at any rate within 30 days from the date of receipt of this order. Excess amount, if any, remitted by the appellant shall be refunded or adjusted against the future bills. The CGRF order in OP No. 52/2016-17 dated 30-09-2016 is set aside. No order as to costs.

ELECTRICITY OMBUDSMAN

P/069/2016/_____/Dated:_____

Delivered to:

1. Sri. T.P. Muhammed, Universal Veneers, Odakkali, Asamannur P.O., Perumbavoor, Ernakulam.

2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Kuruppampady, Ernakulam

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, CGRF-CR, 220 kV, KSE Board Limited, Substation Compound, HMT Colony P.O., Kalamassery, PIN: 683 503.