

THE STATE ELECTRICITY OMBUDSMAN  
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APPEAL PETITION No. P/026/2017  
(Present: A.S. Dasappan)  
Dated: 31<sup>st</sup> July 2017

Appellant : Sri. Salilan,  
Indhu Nivas, Mylamkulam,  
Puthur P.O., Kottarakkara,  
Kollam.

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

### **ORDER**

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

The appellant, Sri Salilan, Indhu Nivas, Mylamkulam, Puthur is an Industrial consumer under Electrical Section, Veliyam, Kollam bearing Consumer No.23136. This connection had been effected on 22-6-2011 to M/s. 'Parth Precision Cast' situated in the Mini Industrial Estate at Nalkavala, Pooyappally under Minimum Guarantee scheme with a connected load of 84 KW under LT-IV industrial tariff. The MG period for which the consumer is bound to pay the minimum amount as per the Agreement was for seven years from July 2011. The appellant had remitted current charges up to 05/2014 only and due to non-payment of electricity bills, the electric service connection was dismantled on 06-02-2015 and Revenue Recovery Notice for Rs. 6,33,242/- was issued to him towards the arrears of bills and the MG charges to be paid plus interest, for the realization of the amount. After initiating the RR action, as per the orders of KSEB, reconnection was effected in the premises on 05-03-2016 bearing a new consumer No. 25898 after collecting first installment amounting to Rs. 2,34,302/- on 30-12-2015 and with a condition to pay the balance amount by 10 monthly instalments without default. The appellant remitted instalments up to 01-07-2016 and due to default of balance installment, the service connection was disconnected on 01-08-2016. The appellant has requested to exempt from the action of revenue recovery ordered against him considering his present financial difficulties, and the amount

already remitted at the KSEB and at the Village office as per the RR Action. The petition submitted before the CGRF was disposed of vide order OP No. 223/2016 dated 30-12-2016 with a direction to the respondent that he shall inform the Revenue Recovery authority to collect only the amount of Rs. 1,19,254/- from the consumer within 7 days from the date of receipt of the order. Still not satisfied with the order, the appellant filed this appeal petition before this Authority. This Forum intends to look into the facts of any 'over payment' and whether he is eligible for relief if any.

**Arguments of the appellant:-**

The appellant is a consumer of KSEB Veliyam Section, Kollam by Consumer No. 23136 and the connection was given to the firm, Parth Precision Cast in the Pooyappally Mini Industrial Estate. The said connection was taken as minimum guarantee agreement. The appellant was to remit Rs. 13,601/- per month. As per the agreement, the appellant bound to remit a total of Rs. 11,42,484/- for 7 years. But after the connection, the Board had collected additional amount Rs. 14,009/- per month till 2014. Subsequently due to the loss in business the appellant was not able to remit the instalment amount. Hence R.R. proceedings were initiated by Board for recovering the dues amount, and as per the R.R demand notice an amount of Rs. 6,33,242/- with 18% interest additional charges are to be remitted by the appellant. It is against the law, since to said interest calculated on an amount for which already interest is charged, and divided as monthly instalment. Moreover the appellant had remitted an amount of Rs. 90,140/- which had not been deducted. Subsequent to R.R. demand notice the appellant had get an order from revenue department to remit an amount of Rs. 2,53,300/- initially and the balance to be remitted in 12 monthly instalments. As per said order the appellant had remitted an amount of Rs. 5,74,269/- that itself is more than the minimum guarantee agreement.

Now the appellant has remitted entire amount due to the Board which is extra amount. Interest calculation of the Board is also not correct. The appellant has at present no dues and he is not liable to pay any further amount to the Board. Hence the appellant pleaded before the CGRF to direct the Board to produce the settlement of accounts and to stop the R.R. proceeding, disconnection and to stop further steps by the Board.

The appellant requests to pass an order to stay the Revenue Recovery proceedings and disconnection by the Board and may be pleased to pass an order to avoid the 18% interest rate and to settle the account of the appellant.

**Arguments of the respondent:**

1. The service connection of the appellant was effected by drawing 800 Mtrs 11 KV single circuit line and installing one 100 kVA Transformer. For this

purpose, administrative sanction was accorded by the Executive Engineer, Electrical Division. Kundara for an estimate amount of Rs. 5,93,500/- vide EA69/09-10/31-12-2009. Later this sanction was revised for an estimate of Rs. 6,01,300/- vide AS No. EA 75/10-11/26-11-10. Accordingly the Minimum Guarantee instalment would be Rs. 13780/-per month for 7 years. Calculation sheet is separately attached. But due to some clerical mistake the Minimum Guarantee amount was fixed as Rs. 14,009/-per month and was billed and collected accordingly.

2. Meanwhile, from 06/2014 the above consumer had become defaulter. So the service connection was dismantled on 06-02-2015 and revenue recovery action was initiated for realizing the dues from the consumer.

3. As per order No.8559/RR/2015/M(Rev)/dtd. 28-11-2015 of the Revenue Minister and B.O.(FTD)No.443/2016(DC D1)/Gen /B0079/16 dt. TVPM 09-02-16, instalment facility was granted to the consumer for the payment of RR amount and directed to give a fresh connection to the consumer after collecting 40% of the arrear amount as first instalment. As such a fresh connection was given to consumer premises on 05-03-2016 with Con. No. 25898, after collecting Rs. 2,34,302/- as first instalment on 30-12-2015 with an undertaking to disconnect the supply on non payment of the instalments.

4. In the mean time, the consumer filed a petition before the Hon'ble Consumer Grievance Redressal Forum (South) vide OP No. 223/2016 and also filed a complaint before the District Collector, Kollam. This respondent had filed a statement of facts on 30-09-2016 before the Consumer Grievance Redressal Forum (South) and a report was submitted to the District Collector on 30-09-2016 by the Executive Engineer, Electrical Division, KSEBL, Kundara. Based on arguments in the hearing, the Consumer Grievance Redressal Forum (South) had directed, on 22-11-2016, to consider the arguments of the petitioner and to submit a fresh report. Accordingly a fresh report was prepared. As per this report amount included for tree cutting compensation in the original estimate was not actually incurred and as such that amount was also deducted and the balance RR amount to be remitted was calculated as Rs. 1,19,254/-. The Hon'ble Consumer Grievance Redressal Forum in its order dated 30-12-2016, directed this respondent to inform the Revenue Recovery Authority to collect only the amount of Rs. 1,19,254/- from the consumer within 7 days from the date of receipt of this order. The same also was reported to the District Collector and the Executive Engineer, Electrical Division, Kundara on 27-01-2017

5. The petitioner's argument regarding the Security Deposit was not correct. RR proposal was initiated from the Electrical Section office, Veliyam only after deducting the amount of Security Deposit of Rs. 90,140/-. The amount of monthly current charges exceeded the minimum guarantee amount from 06/2011 to 06/2014 (month of disconnection), therefore no question of

payment of minimum guarantee during that period. Being the cost of installation the consumer is bound to pay the entire amount of minimum guarantee even after dismantling the service connection. As the Minimum Guarantee agreement, the appellant is bound to remit the entire minimum guarantee amount. Here the balance amount was arrived after adjusting the security deposit in consumer's account. Recovery of interest on RR amount is a usual procedure of RR action. The interest rate could have been reduced to 8% if he had applied for the 'One Time Settlement'. Though he was intimated about the OTS scheme, no application was submitted by this appellant.

6. The balance RR amount to be remitted as on 06-03-2017 is as follows.

Estimate amount after deducting- Tree cutting compensation  
 = Rs. 6,01,300 - Rs. 40,000/- = Rs. 5,61,300/-

MG calculation for the estimate amount of Rs. 5,61,300/- is as follows

Estimate amount + 10%

Rs. 5,61,300/- + 56,130/- = Rs. 6,17,430/-

MG amount = Rs. 6,17,430/- x 25% +  
 Rs. 1,54,357.5/- per annum for 7  
 years

MG amount per month

Rs.  $\frac{1,54,357.5}{12}$  = Rs. 12,863.13/-

Rounded off = Rs. 12,863/-

Total MG amount = Rs. 10,80,492/-  
 12863 x 12 x 7

MG amount recovered = 12863 x 35  
 from 6/2011 to 05/2014 = Rs. 4,50,205/-

Balance to be recovered = Rs. 6,30,287/-

SD amount = Rs. 90,140/-

MG amount after adjusting SD = Rs. 5,40,147/-

Principal amount already recovered = Rs. 3,98,688/-

Instalment remitted on 20-12-16	=	Rs. 34,937/-
Balance Principal amount to be Remitted	=	Rs. 5,40,147- Rs. 4,33,625/-
	=	Rs. 1,06,522/-
Interest on arrear from 1/7/16 to 12/16 @ 18 per annum	=	Rs. 12,732/-
Balance to be remitted as on 24-12-16 (As per Ex-4)	=	Rs. 1,06,522/- + Rs. 12,732/
	=	Rs. 1,19,254/-
Interest on arrear from 1/1/17 to 6/3/17@ 18 per annum	=	Rs. 3,415/-
Balance to be remitted as on 06.03.2017	=	Rs. 1,19,254/- + Rs. 3,415/-
	=	Rs. 1,22,669/-

Considering the above facts ,the Hon'ble Ombudsman may pleased to dismiss this appeal as it is against the actual facts and to direct the appellatnt to remit the balance amount at the earliest.

**Analysis and Findings: -**

The Hearing of the case was conducted on 11-07-2017, in the Court hall of CGRF, Kottarakkara, and Mr. Salilan R, represented the appellatnt's side and Smt. Letha M.K., Assistant Executive Engineer, Electrical Sub Division, Veliyam, represented the Respondent's side. On perusing the Petition, the counter of the Respondent and considering the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions.

The Assistant Executive Engineer has been directed to report on some points like the details of MG, the arrears pending, the amount for which the RR Action was taken, the amount collected so far and whether the line has become self remunerative, if so from which date etc. The appellatnt was asked to submit the details of the amount remitted so far, to the Assistant Executive Engineer for verification, as he had claimed remittance of more than the MG amount fixed so far. The respondent has furnished the details in his letter dated 24-07-2017. The RR action was initiated for Rs. 6,33,242/- including the electricity charge dues from 8/2014 to 29-05-2015 and the RR amount collected during the period from 30-12-2015 to 01-07-2016 was Rs. 5,00,310/- including interest (Rs. 3,98,688/- as principal + Rs. 1,01,622 as interest). Later, it is found from the letter dated 30-09-2016 addressed by the Executive Engineer, Electrical Division, Kundara to the District Collector, Kollam, the revised requisition and the balance arrear RR amount was Rs. 201044/- as calculated below:

Revised requisition for RR	-	Rs. 5,91,074.00
Amount already recovered	-	Rs. 3,98,688.00
Balance to be recovered	-	Rs. 1,92,386.00
Interest on arrears from 1/7/16 to 30/9/16 @ 18% p.a.	-	Rs. 8,658.00
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		Rs. 2,01,044.00

According to the respondent, as per the revised calculation statement, an amount of Rs. 4,51,351/- collected from the appellant before initiating the RR proceedings. The MG amount after deducting the tree cutting compensation was Rs. 10,80,492/- and the net balance pending from the appellant as on date is Rs. 105376/+ Rs.20548/-(interest)= Rs. 1,25,924/- only.

A 100 KVA transformer was installed by constructing 800 meter single circuit line for giving the connection to the appellant. On examining the documents it is seen that the estimate sanctioned for transformer installation was for an amount of Rs. 6,01,300/- and the MG amount shall be the estimate cost plus its 10% as establishment cost. Further estimate cost was reduced to Rs. 5,61,300/- by deducting the tree cutting compensation for Rs. 40,000/-. The appellant has contended that the minimum guarantee ended in 06/2017 and during this period the licensee provided supply to many factories and residence from this transformer.

On going through the present calculation statement submitted by the respondent, the MG amount after fixing the MG installment to Rs. 12,863/- for seven years is Rs. 10,80,492/-. The appellant is also agreed with this amount. But the appellant's contention is that an amount of Rs. 4,90,315/- was remitted by him @ Rs. 14,009/- for 35 months till 06/2014. But it is a fact that since the amount of monthly current charge exceeded the MG amount from 06/2011 to 06/2014 and remitted by the appellant, there is no question of payment of MG during that period. But the statement of the respondent the total amount recovered during the period was Rs. 4,51,351/-. After remitting the instalments Rs. 4,33,625/- under RR action the net balance to be recovered is fixed as Rs. 1,25,924/- including interest. The intention of minimum guarantee is to ensure that the required minimum revenue return is forthcoming and will be charged only until the line extension becomes self remunerative as per norms fixed by the Board from time to time. The rules says that the Assistant Executive Engineer shall review whether the line has become self remunerative, if the minimum guarantor give an application for termination of minimum guarantee agreement furnishing the consumer numbers and other details of total consumers connected from the line. Once the line has become self remunerative the minimum guaranteed amount may be waived for the remaining period of the agreement. This provision is seen incorporated in paragraph 4 of the MG agreement. As per condition 4 of the agreement, the

respondent shall consider whether the line and transformer became self remunerative within the guarantee period and if so such benefit shall be given to the appellant from the month on which it became self remunerative. The consumer may not be aware of the rules of MG scheme and KSEB is not supposed to penalize the consumer once the MG Line has become self remunerative.

Another allegation of the appellant is that the interest of the security deposit is not calculated before settling the claim. The respondent shall examine this whether any interest on security deposit is due to the appellant and ensure the benefit of interest, if any, on Security Deposit at the date of adjusting the SD in the balance MG amount. The appellant also objected realization of 18% interest for the revenue recovery amounts. Regulation 136 of Supply Code, 2014, permits the licensee to realize the applicable rate of interest from the consumer for the belated payments. The rate of interest for delayed payments as specified in the Schedule of Miscellaneous charges as per Schedule 1 of the Code is 12% per annum, based on the actual number of days of delay from the due date, up to a period of 30 days and thereafter at the rate of 18% per annum for the entire period of default from the due date. An amount of Rs. 1,01,622/- is seen collected from the appellant as interest.

MG agreement No.2/2009-10 executed between the appellant and the Assistant Executive Engineer, Electrical Sub Division, Veliyam on 01/01/2010 is not seen revised consequent on the revision of erstwhile estimate cost for the work. Anyway the agreement conditions and the period of agreement are the same.

From the analysis done and the findings and conclusions arrived at, which are detailed above, I take the following decisions.

### **Decision**

1. The order of CGRF in OP No. 223/2016 dated 30-12-2016 is hereby quashed. The respondent is directed to take action to keep in abeyance the RR procedure for a period of 30 days from the date of receipt of this order.
2. The respondent is directed to examine whether the line and transformer became self remunerative within the guarantee period and if so such benefit shall be given to the appellant from the month on which it became self remunerative. The Respondent shall take action to declare the Line as Self remunerative from such date onwards as the AEE has reported it as eligible for the same. The appellant is required to pay further, a balance amount only, if any, in such a situation. This shall be done within a period of 30 days from the date of receipt of this order by

preparing a detailed calculation statement and to issue the same to the appellant.

3. The respondent is directed to ensure the benefit of interest, if any, on Security Deposit at the date of adjusting the SD while finalizing in the balance MG amount. The respondent is also directed to consider the possibility of reducing the rate of interest of 18% under 'one time settlement', if the appellant submits an application for the same.
4. No interest need be payable by the consumer from the date of submission of the petition before the CGRF till the 'due date' of the revised bill as per this order.
5. The appellant is free to approach the licensee for reconnection as per rules after closing the MG agreement and settling the dues, if any, after adjusting the above amounts on reassessment. The excess amount, if any, shall be refunded to the consumer.

Having concluded and decided as above, it is ordered accordingly. No order on costs.

## **ELECTRICITY OMBUDSMAN**

P/026/2017/ \_\_\_\_\_ /Dated: \_\_\_\_\_

Delivered to:

1. Sri. Salilan, Indhu Nivas, Mylamkulam, Puthur P.O., Kottarakkara, Kollam
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd., Veliyam, Kollam.

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.