

THE STATE ELECTRICITY OMBUDSMAN  
Charangattu Bhavan, Building No.34/895, Mamangalam-Anchumana Road,  
Edappally, Kochi-682 024  
[www.keralaeo.org](http://www.keralaeo.org) Ph: 0484 2346488, Mob: 91 9539913269  
Email:ombudsman.electricity@gmail.com

---

APPEAL PETITION No. P/111/2017  
(Present: A.S. Dasappan)  
Dated: 8<sup>th</sup> February 2018

Appellant : Sri. Ajith Kumar K  
TC No.79/2629,  
Mughakad, ARA 223, Anayara P.O.,  
Thiruvananthapuram

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division,  
KSE Board Ltd., Beach, Chakkai,  
Pettah, Thiruvananthapuram

### **ORDER**

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

The appellant, Sri Ajith Kumar K. is an domestic consumer with consumer No. 6977 having connected load of 1 kW under Electrical Section, Pettah, Thiruvananthapuram. While so on 31/10/2016, he was issued a short assessment notice for Rs.4494/- assessing for the period from 11/2014 to 09/2015, when the meter was found sluggish/faulty, on the basis of the audit of Regional Audit Office, Thiruvananthapuram (Urban). The appellant being aggrieved by this approached the CGRF, South, Kottarakkara, with petition No. OP 308/2016 and the Forum disposed of the petition vide its order dated 21-03-2017, as ordered below. "The short assessment bill of Rs. 4494/- is quashed. The respondent is directed to revise the bill for a period of two billing cycles." Further the appellant again approached the CGRF with a review petition in RP No. 408/2017 in OP No. 308/2016 which was dismissed vide order dated 19-08-2017. The respondent revised the short assessment bill for Rs.4494/- and a fresh bill for Rs.1748/- was served on the appellant and he remitted the amount on 02-06-2017. Still aggrieved by the decision of the CGRF, the appellant has submitted the Appeal petition before this Forum.

**Arguments of the appellant:'**

The appellant is the owner of the building TC.79/229, Mughakkad, TRA 223, Anayara PO, Thiruvananthapuram with a single phase electric connection bearing consumer No.1145140006977 registered in the name of Smt. Chandrika kumari K. The electricity charges for the premises is being paid regularly without any arrear. The appellant was received a bill dated 08.11.2016 with a letter 31.10.16 from the electrical Section, Pettah towards the electricity charges for the current two months and arrear amount of Rs. 4547/-.The details of the arrear is mentioned in the letter issued from section office. All the matters stated in the letter is totally incorrect and baseless.

The petition No. 208/2016 was filed against this on 29.11.16 and the version of the respondent was furnished by the respondent on 03.01.2017. The revised version of the respondent was also furnished on 03.02.2017.

The Hon. CGRF ordered on 19.08.2017 without considering the appellant's argument. But this order was not sent to the appellant and could not received the signed copy of it. Yesterday the appellant saw this order in the Website of CGRF. Hence it is requested that the delay in filing the appeal petition may please be condoned and admit the petition.

1. The Licensee has to distribute electricity to their consumers as per the regulations in Kerala Electricity Supply code 2014 issued by KSERC from April 2014 onwards.

2. As per the version filed by the respondent on 3.2.17 it is observed that the respondent has ready to obey the relevant clause of Kerala Electricity Supply code 2014 instead of KSEB Terms & Conditions of Supply 2005 and Kerala Electricity Supply code 2005 and ready to revise the bill. The respondent has admitted that the consumer shall be billed on the basis of the average consumption of the past three billing cycles immediately proceeding the date of the meter being found or reported defective as per the clause 125(1) of Kerala Electricity Supply code 2014. But this disputed bill has been revised without considering the above fact and hence it is not correct.

3. The statement of the respondent in the version filed on 03-01-2017 that the meter was sluggish from 11/2014 to 09/2015 as per official records is not correct and hence denied. The respondent has not furnished any official records to support this statement. The report of RAO is not an official record, but it is only an observation from the reading pattern without considering the actual reality of the premises. But in the respondent's version dated 03.02.17 it is stated that the meter seems to be sluggish as per the reading pattern is also not correct and hence denied. It is observed from the reading pattern that the consumption during the periods from 5/14 to 9/14, from 1/15 to 5/15 and from 7/115 to 9 /15 are steady and hence the meter can not be

considered as sluggish. The respondent has also admitted that the meter was declared faulty only on 19.11.15 and the meter was changed on 7.12.15.

4. The bimonthly consumptions of the premises are not steady and it varies depending on the occupants and the meter was being worked without any problem up to 11 /15 and then only the meter became faulty due lightening and heavy rain. The meter was immediately replaced as per the appellant's request. The building was being occupied by a family up to 7.11.14 and from 7.11.14 to 9.5.15 partially occupied by the bystanders of the patient, who was undergone treatment in KIMS hospital. Hence the average consumption from 7.11.14 to 9.5.15 was around 45 units. After this the building was kept vacant for 4 months and the consumption was only 8 and 2. After 19.11.15 the building was fully occupied up to 8.9.16 and again it became vacant and the consumption became 1 unit. Again the building was occupied from 27.11.2016 onwards and the consumption was increased.

5. The respondent has never submitted any official records to prove that the meter was sluggish from 11/2014 to 09/2015. The report of RAO is only an observation from the reading pattern without considering the actual reality of the premises.

6. The respondent clearly admitted that the meter was declared faulty only on 19.11.15 and the meter was changed on 7.12.15. Hence it is admitted by the respondent that the meter was in working condition before declaring faulty, ie, 19.11.15. The meter reader who is a technically qualified person has observed the working of meter once in every two months and recorded the condition of meter in their Reading register after analysing the occupancy of the premises. It is came to know that the Meter Reader has never recorded the meter is even 'Suspected Faulty in any of the official records maintained in office. But a non technical person, RAO simply declared that the meter was sluggish without checking meter and the premises.

7. But in the orders dated 13.02.17 of the Hon. Electricity Ombudsman in petitions P/077/2016 and P/078/2016 it is clearly stated that licensee can not declare the meter is sluggish without conducting any checking as per clause 18(2) of Central electricity Authority (Installation and operation of meters).

8. In the order dated 21.3.17 Hon. CGRF has stated that no proof was produced by the consumer that the premises was vacant during the aforesaid periods. But in the orders dated 13.02.17 of the Hon. Electricity Ombudsman in petitions P/077 /2016 and P/078/2016 it is stated that "Though appellant has not given any evidence about the conditions of working and occupancy of concerned premises during the said period, the short assessment bill preferred for the period in dispute based on presumption only that the meter was sluggish during the period in dispute and hence not sustainable. Here the respondent issued the short assessment bill merely on the basis of

presumption and consumption pattern and hence it is not sustainable before law.

9. It is noticed that even after the implementation of the Kerala Electricity Supply Code 2014 issued by KSEERC the licensee has issued the short assessment bill as per the KSEB Terms & Conditions of Supply 2005 and Electricity Supply Code 2005. The above action of the licensee has not viewed seriously by the hon. Forum.

10. The Assistant Engineer, Electrical Section, Pettah has issued a bill dated 08.03.17 with date of disconnection including the amount challenged before the CGRF through the petition before issuing the order dated 21.03.17 of the Hon.CGRF. The action of the Assistant Engineer is not correct as per law.

11. The short assessment bill dated 8 .11.16 and revised bill dated 08.03.17 issued by the Assistant Engineer, Electrical Section Pettah is not sustainable before law based on the above grounds.

12. The Hon. CGRF has issued order in RP 408/17 without considering appellant's arguments and also the orders of the appellate authority, Hon. Electricity Ombudsman for similar type of case.

Hence it is humbly requested that the Hon. Electricity Ombudsman may please be dismissed the orders dated 21.3.17 and 19.08.2017 and quashed the short assessment bills dated 08.11.16 and 08.03.17.

**Arguments of the respondent:**

The appellant is provided with electrical connection bearing consumer No.1145140006977. Based on the audit report No. RAO/IR/Pettah/16-17/83 dated 20.07.2016 of The Regional Audit Officer, Thiruvananthapuram (Urban). Power House Building, Thiruvananthapuram a back assessment bill No. BB/PTH/RA0/16-17I 17/31.10.16 for Rs.4494/- was served to the appellant. The back assessment amount was arrived as follows:

The power meter of the consumer was declared faulty on 19.11.2015 and meter change done on 7.12.2015. Consumption for the last three months before the Meter became sluggish and faulty (healthy period) shown below:-

05/2014	288 units
07/2014	240 units
09/2014	212 units
Total	740 units
Average (740/3)	247 units

Consumption recorded and billed during the meter became sluggish

11/2014	170 units
01/2015	30 units
03/2015	56 units
05/2015	49 units
07/2015	8 units
09/2015	2 units

Back assessment bill calculation:-

Month	Units billed	Amount	Units to be billed	Actual amount to be billed	Short
	170	490	247	930	440
01/2015	30	176	247	930	754
03/2015	56	163	247	930	767
05/2015	49	145	247	930	785
07/2015	8	56	247	930	874
09/2015	2	56	247	930	874
Total	315	1086		5580	4494

Difference to be paid = (5580-1086) =Rs.4494/-

This bill is revised with relevance to the following points to Rs. 1748 / - and served on 08.03.2017. The relevant regulations are hereunder.

As per Regulation 125(1) of Kerala Electricity Supply Code, 2014, that 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. Hence an average reading of previous six months from 05/2014 to 09/2014 was taken, since, as per the reading pattern observed, the meter seems to be sluggish from 11 /2014 to 09/2015 and the meter declared faulty only on 19/11/2015 and meter was changed on 07/12/2015.

The bill issued to the consumer is for the short assessment made in the normal rate for the tariff applicable. The KSEBL is empowered by follow Regulation 125 (2) of Kerala Electricity Supply Code , 2014 and Circular dated 25.02.2016 of KSE Board Ltd., that the charges based on the average consumption shall be levied only for maximum period of two billing cycles during which time, the defective or damaged meter shall be replaced with a correct meter.

After the hearing on 13.02.2017, Hon'ble CGRF has advised orally to revise the bill dated 08.11.2016, for a period of two billing cycles.

Accordingly, the back assessment may be limited to two billing cycles viz 07/2015 and 09/2015 taking a healthy average consumption of 247 units/bimonth and the revised back assessment bill comes to Rs.1,748 (874x2) and served dated 10.04.2017.

Short Assessment bill was issued not on the presumption that meter is sluggish, but after analysing the previous one year of consumption pattern and based on the audit report of RAO, an authorised person to check the Billing and Revenue assessments. The other consumers mentioned in the same audit report had remitted the back assessment demanded to them.

Hon'ble CGRF in its order dated 21.3.17 in paragraph 6, has made it clear about the relevance of the consumption pattern and also the Regulation 125 1 & 3 of KESC 2014. Vide this order, ordered to quash the bill of Rs.4498/- and revise it for a period of 2 billing cycles. Later, after Review Petition hearing, Hon'ble CGRF in its order dated 19.8.17, ordered, there is no necessity of reviewing.

Also, it may please be noted that, in his original petition to Hon'ble CGRF (copy attached), the appellant has stated that, the faulty meter was replaced upon his request. Being an Asst. Exe. Engineer of KSEBL, the status 'of meter faulty was ascertained by himself and further checking of the same was not essential in the case. Non occupancy of the building was not supported by any proof of evidence. Hence, with reference to the above, the short assessment bill is issued to the consumer is as per Rules and there is no deficiency in service on the part of KSEBL.

The consumer remitted Rs.1748/- dated 02.06.2017. In the context, the respondent requests to dismiss the complaint with direction to the appellant to comply the CGRF orders dated 21.03.2017 & 21.08.2017.

### **Analysis and findings:**

The hearing of the case was conducted on 19-01-2018 in the CGRF Court Hall, Kottarakkara. Smt. Sreekala B Nair., Assistant Executive Engineer, Electrical Sub Division, Beach represented for the side of respondent. The appellant was absent. On examining the petition and the arguments filed by the appellant, the statement of facts of the respondent, perusing the documents attached and considering all the facts and circumstances of the case, this Authority comes to the following conclusions leading to the decision.

The KSEB has reassessed the consumer, during meter faulty period, as per the provision of Regulation 125 (1) & (2) Supply Code 2014. In the instant case, Regulations of Supply Code, 2005 is not applicable as the Supply Code 2014 came into force with effect from 01-04-2014 and the Regulations made there

under contains clear provisions how to deal such cases. Moreover, the respondent has taken action on the basis of audit report in 7/2016 only i.e., after the implementation of Supply Code, 2014.

According to the respondent, the Meter was faulty at least from 11/2014 onwards, when the meter reading is decreasing continuously and the meter was replaced on 19-11-2015. Even after showing a considerable decrease in the consumption and having obtained the energy consumption particulars, the respondent did not take any action to test the meter and to replace the same with a correct meter. It was the audit party who noticed the discrepancy and suggested the reassessment for meter faulty time.

According to the appellant, the meter became faulty due to lightening and heavy rain and the meter was immediately replaced as per the appellant's request. The building was being occupied by a family up to 7.11.14 and from 7.11.14 to 9.5.15 partially occupied by the bystanders of the patient, who was undergone treatment in KIMS hospital. Hence the average consumption from 7.11.14 to 9.5.15 was around 45 units. After this the building was kept vacant for 4 months and the consumption was only 8 and 2. The respondent has stated that non occupancy of the building was not supported by any proof of evidence by the appellant. The respondent has not denied the appellant's version that the meter became faulty due to lightening and heavy rain and the meter was immediately replaced as per the appellant's request.

It is true that the KSEB shall supply electricity only through a correct meter, but the mechanism may get corrupt due to many reasons and may take some time, say 2 or 3 readings when there is gradual decrease in consumption rate, to test and decide the condition of the meter. On going through the records it can be seen that the respondent has issued monthly bills based on the recorded consumption and the appellant remitted the same without any fail. It is to be noted that the respondent has detected that the meter was faulty for the period from 11/2014 to 09/2015 and a lesser consumption was recorded during that period. It is pertinent to note that even without conducting any inspection or checking the appellant's meter, the respondent declared the meter as sluggish for the previous period due to the reduction in consumption.

Regulation 125 of Supply Code, 2014 stipulates the procedure for billing in the case of defective or damaged meter. "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 meter being found or reported defective. Provided that the 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 consumer about conditions of working and occupancy of the concerned premises during the said period, which might have had a bearing on energy consumption, shall also be considered by the licensee for computing the average.”

The respondent has not produced any test report in connection with the testing of disputed meter at the laboratories accredited by the NABL or not tested the meter by installing a correct parallel meter.

Regulation 115 (9) says that “in the 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 6 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 two subsequent bills”. Here in this case, the respondent declared the meter as faulty that too even without conducting any testing. There is no justification for issuing such a demand for a previous period as there is no allegation of any willful misuse by the appellant.

According to Clause 18(2) of Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, “the testing of consumer meters shall be done at site at least once in five years. The licensee may instead of testing the meter at site can remove the meter and replace the same by a meter duly tested in an accredited test laboratory. In addition, meters installed in the circuit shall be tested if study of consumption pattern changes drastically from the similar months or season of previous years or if there is consumers complaint pertaining to a meter. The standard reference meter of better accuracy class than the meter under test shall be used for site testing of the consumer meters up to 650 Volts”. In the instant case, the respondent has not followed the procedures prescribed above before charging the appellant as meter faulty.

The assessment made in this case is relying on preceding 3 billing cycles consumption which was made after a lapse of one year. The respondent’s contention is that the meter showed decrease in consumption which might have been a result of meter becoming sluggish. On going through the consumption pattern of the appellant from 08-01-2016 to 08-09-2016, after replacement of the meter, it is found that the consumption increased considerably in every month. But the consumption for 08-11-2016 is 1 unit and the appellant adduced the argument of no occupancy of the premises. Hence the period of sluggishness cannot be proved conclusively without conducting testing of the meter. The statutory requirement of testing of the meter in an accredited lab or with a standard reference meter with better accuracy class is not done before declaring the meter as faulty. There is patent illegality in issuing the short assessment bill to the appellant. Without

complying with the statutory formalities, the assessment now made in this case is not sustainable before law and liable to be quashed.

As per Regulation 118 of the Supply Code, 2014, "If a meter is found damaged either on the complaint of the consumer or upon inspection by the licensee, the meter shall be immediately be replaced by the licensee with a correct meter and if it is not possible the supply shall be restored by the licensee, bypassing the damaged meter, after ensuring that necessary preventive action at site is taken to avoid future damage and obtaining an undertaking from the consumer to make good the loss if any sustained by the licensee."

Here in this case, though the appellant has not given any evidence about the conditions of working and occupancy of concerned premises during the said period, the short assessment bill preferred for the period in dispute based on presumption only that the meter was sluggish from 11/2014 onwards and hence is not sustainable. There is no material to show that the respondent has conducted any detailed checking of the appellant's meter. If there is an omission or error on the part of respondent, it has to be set right in time with a notice to the appellant giving him an opportunity for being heard. The appellant is bound to pay the electricity charges for his actual consumption. In this background, the issuance of short assessment bill on the appellant merely on the basis of presumption and succeeding consumption pattern cannot be justified before law and liable to be quashed.

### **Decision**

In view of the above facts, the revised bill for Rs. 1748/- towards the short assessment during the alleged faulty meter period is hereby quashed. The respondent is directed to adjust the amount remitted by the appellant in the future electricity bills.

The order of CGRF in OP 308/2016 dated 21-03-2017 is hereby set aside. Having concluded and decided as above, it is ordered accordingly. No order as to costs.

**ELECTRICITY OMBUDSMAN**

Petition P/111/2017/\_\_\_\_\_ /Dated:\_\_\_\_\_

Delivered to:

1. Sri. Ajith Kumar K., TC No.79/2629, Mughakad, ARA 223, Anayara P.O., Thiruvananthapuram
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Beach, Thiruvananthapuram

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.