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APPEAL PETITION No. P/022/2018  
(Present: A.S. Dasappan)  
Dated: 07<sup>th</sup> June 2018

Appellant : Sri. Radhakrishnan Unnithan  
Raymands Rubbers (P) Ltd.,  
Kappil East, Krishnapuram P.O.,  
Kayamkulam, Alappuzha

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

### **ORDER**

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

The Appellant is running a manufacturing unit of tyre retreading under Electrical Section, Krishnapuram bearing Consumer No. 5464 in industrial tariff (LT IVA) with connected load of 74 KW with ToD meter facility. While so, on 21-07-2017, the APTS of KSEBL, Kollam conducted an inspection in the premises and found that the energy used in one phase (out of 3 phases) was not recording in the meter. Accordingly, the appellant was served with a short assessment bill, for the non functioning of CT in R phase and Y phase partially., so as to recover the unrecorded portion of energy, for Rs. 41371/-. The appellant filed objection before the Assessing officer, the Asst. Engineer, against the said assessment. Being not satisfied with the decision of the Assistant Engineer, the consumer approached the CGRF, Central, Ernakulam, with Petition No. 66/2017-18 and the Forum disposed of the petition on 24-02-2018 upholding the decision of the respondent. Aggrieved by the decision in OP No. 66/2017-18, the appellant has submitted the Appeal petition before this Forum.

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

The appellant's averments in the petition are the following.

The appellant is the manufacturer of Tyre Retreading materials situated at Krishnapuram Post, Kayamkulam, Alappuzha District from April 1998. Majority of his customers were state owned Transport Corporations mainly Kerala State Road Transport Corporation and Tamil Nadu State Transport Corporations. Since huge amount was pending with these Corporations appellant filed litigation against them in 2006 & 2009 and cases are now pending with the Honorable Supreme Court. Due to these cases these Corporations cancelled the running contract to supply the materials that resulted almost to shut down appellant's factory due to lack of working capital from July 2008. Now the unit is working at less than 10% of its actual capacity and is registered as "SICK UNIT" from May, 2013.

On 21.07.2017, APTS officers of KSEB inspected the unit and found that the CT connection corroded which caused shortage of the assessment of electricity from 03.06.2016. This fault found after 13.5 months. In the Company the CT and power meter is kept in a separate room in an iron box that is sealed by KSEB. Even to change the fuse unit or the burnt cable lug under this iron box is done by KSEB. Penalizing a customer for none of their fault is unfair and unjustifiable. The appellant is not at all responsible for the fault found in the KSEB property. It is as good as a fault found in the post or transformer. It is known that the power meter was changed one year back and on various occasion the sealed meter box was opened to change the burned power cable and burnt cable lug. When it was open the connections could have been rechecked. It can only be assumed that the APTS brought a modern equipment having latest software and did something to fool the appellant.

In the mean time, the appellant has also approached the Chairman KSEB vide the letter No. RRPL/678/2017 dated 30th December, 2017 requesting to waive this amount. The unit is paying rupees 6750/- as fixed charge alone and other charges every month.

This unit is actually kept alive since the litigation against the above mentioned Corporations and the bank is still pending. The appellant was issued notice under SARFAESI Act by his bank and they took all the property in possession. Later it was declared as "stressed asset" and is now with the SARC Thiruvananthapuram. This unit runs in loss since last eight years.

The appellant has not done any improper activity or attempted for any type of evasion and are 100% innocent in this issue and requests to quash the short assessment bill amount issued by Assistant Engineer, KSEB, Krishnapuram Section.

**Arguments of the respondent:**

The appellant, Sri Radhakrishnan Unnithan is running a manufacturing unit of procured/conventional tread rubber under Electrical Section,

Krishnapuram bearing Consumer No. 1145680005464 with a connected load of 74 KW under LT IV A tariff. On 21.07.2017 Anti Power Theft Squad Unit, Kollam inspected the energy meter and electrical installation in the premises and found certain irregularities.

During the inspection a mixing machine with capacity of 60 HP and a Buffing machine with 7.5 HP were working. The energy meter display showed '0' in R Phase, 155 V in Y phase and 240 V in B Phase. Tong tester was used to test the voltage level, and R Phase showed 213 V, Y phase 230 V and B phase 241 V in the 'No load mode'. Hence it is confirmed that voltage did not reach the energy meter in R phase completely and Y phase partially. The error measurement test was conducted by connecting Standard Reference Meter 'Zera 310' and confirmed that the meter was recording 41.09% less than that of actual consumption. The data from the meter was down loaded through optical port of energy meter by using Genus-oorja DLMS Software and it was noticed that from 08.06.2016 at 4 hour 4/min 56 Sec onwards potential is missing in R phase and from 03.06.2016 at 9 hour 37 min 12 Sec onwards showing low voltage. After removing the rust, potential wires were connected and the voltage level displayed R phase 240 V, Y phase 241 V and B phase 241 V. Tong tester was also used to confirm the above voltage level. A short assessment bill to the tune of Rs. 41,371/- was issued on the basis of the data down loaded from the meter to recover the loss sustained to Kerala State Electricity Board Limited.

The meter failed to record the actual consumption due to defect in the CT connection. The defect was rectified and the meter showed correct voltage level. The period of discrepancy was confirmed with the data down loaded from the meter and hence the Appellant is liable to remit the current charges for the actual energy consumed by him in order to compensate the revenue loss sustained to the licensee.

Moreover no penalty, surcharge etc., are demanded from the Appellant other than actual energy charges. The averment of the Appellant that the Licensee is responsible for the irregularity found in the inspection, is totally false. As per Rule 113(6) of Kerala Electricity Supply Code, 2014 the licensee need to conduct periodical inspection or testing or both of LT 3 phase meters once in every three years only. The Board promptly conducts periodic inspection within this time limit.

It can be concluded from the Site Mahassar and downloaded data that entire energy consumption was not recorded in the energy meter due to corrosion in the CT terminal. So the voltage did not reach the energy meter in R phase completely and Y phase partially. When the defect in the terminal was rectified, the meter showed correct voltage level. It is revealed from the downloaded data of the energy meter.

The non-recording of energy is not due to the fault in the CT or Energy meter, it is only due to the corrosion in the terminal. Hence the bill issued is genuine and sustainable.

Regulation 152 (3) of Kerala Electricity Supply Code, 2014 empowers licensee to realize electricity charges short collected for the entire period during which the anomaly persisted in case of detection of inaccuracies in metering. The defect in the CT of non recording consumption was detected during the inspection and the Appellant is liable to remit the short collection as per Regulation 152 (3) of Kerala Electricity Supply Code, 2014. The period of short collection was reviewed according to the downloaded data from the meter. Moreover, Reg. 134(1) of Kerala Electricity Supply Code, 2014 also provide unbilled power to the licensee to recover the undercharged amount, if the licensee established either by review or otherwise that it has under charged the consumer. Hence both the above regulations undoubtedly provide the power to realize the short / undercharged amount from the consumer. The Appellant is liable to remit the current charges actually consumed by him.

#### **Analysis and Findings: -**

The hearing of the case was conducted on 14-05-2018, in the Court Hall of CGRF, Kottarakkara. Sri Radathakrishnan Unnithan, represented the appellant's side and Sri. Hari Kumar C, Assistant Executive Engineer, Electrical Sub Division, Kayamkulam, represented the respondent's side. On perusing the Appeal Petition, the counter of the Respondent, the documents submitted, arguments during the hearing and considering the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions there of.

The APTS has inspected the consumer's premises on 21-07-2017 and found that voltage did not reach the energy meter in R phase Completely and Y phase partially, thus resulting in the recording of a lower consumption than what is actually consumed. Hence, the appellant was issued a short assessment bill to recover the energy escaped from billing due to corrosion in the CT terminal. The CGRF has observed that the short assessment bill issued by the respondent is genuine and sustainable and hence the consumer is liable to pay the amount.

The contention of the appellant is that his industrial unit is working less than 10% of its actual capacity and is registered as 'Sick unit' since May, 2013 and some litigations are pending before the Hon'ble Supreme Court against Kerala State Road Transport Corporation and Tamil Nadu State Transport Corporation for realization of huge amounts due from them. The appellant also contended that he was issued notice under SARFAESI Act by his bank and they took all the property in possession. Later it was declared as "stressed

asset" and is now with the SARC Thiruvananthapuram. Another contention of the appellant is that the appellant not at all responsible for the fault found in the KSEB property and the appellant's case shall be treated as a fault found in the post or transformer of the respondent.

Normally, the respondent is bound to rectify the defect of the CTs to the meter or renew the CTs or the CT meter itself, if it is found defective/faulty, after informing the consumer. The consumer was assessed for Rs. 41371/-, for non-recording of energy, from 03-06-2016 to 07/2017, by taking the lost energy as 41.09% of the actual consumption. On perusing the Mahazar, this Authority feels that the contention regarding the CT's defects noticed during inspection by KSEBL was correct.

The respondent has averred that the total period of phase failure was obtained by downloading the meter. The respondent relied upon the downloaded data for establishing the period of phase failure and missing of current. According to him, the dip in consumption from 03-06-2016 is the result of corrosion in the CT terminal. It is submitted by the respondent that the meter installed in the premise is not reported as defective or damaged. Under charging of prior bill is established due to an anomaly detected at the premises for which Kerala Electricity Supply Code, 2014 Regulation 134(1) is applicable. It was also contended that the downloaded data was convinced by the CGRF.

The issue arising for consideration in this appeal is whether the period assessed and the quantum of energy loss computed are in order and the appellant is liable for the payment of short assessment for Rs. 41371/-

This Authority is of the opinion that if the respondent had to inspect the metering system soon after the recorded consumption decreases considerably during the disputed period, it can be easily detected the defect in the metering and to avoid the loss if any occurred to the licensee.

The meter is not a recording or display unit only but all the components including lead wires include a meter. 2. (57) "**meter**" means a device suitable for measuring, indicating and recording consumption of electricity or any other quantity related with electrical system; and shall include, wherever applicable, other equipment such as current transformer (CT), voltage transformer (VT), or capacitance voltage transformer (CVT) necessary for such purpose;

Moreover, the appellant's meter is not a whole current meter but a CT operated meter, where external CT is connected with metering unit using lead wires and phase voltage from all three phases are tapped from the source of supply and then connected with the same metering unit. Thereby wiring is also there for this metering system. This coordinates for computing energy is lead to

the processing unit of the meter unit from different components of the meter then various electrical quantities are processed then recorded cumulative or otherwise and displayed in the display unit.

The respondent has produced the tamper report of the meter from June 2016 to June 2017. In the data, 'R' phase potential missing is seen occurred on 08-06-2016 for 1 ½ days and restored on 09-06-2016. Next occurrence is seen on 29-06-2016 and restored on 08-07-2016. Again voltage missing occurred on 09-07-2016 and not restored till 21-07-2017, the date of inspection. As such the date of 'R' phase potential missing can not be taken as 08-06-2016, but can be taken as 29-06-2016.

The potential missing in other two phases are not continuous and missing time is not a considerable period. In the site mahazar, it is stated that an error -41,09% of meter is found by running the machines under no load and also noticed potential missing in R phase in full and in Y phase partially. On going through the consumption details, it is revealed that there is no recorded consumption in the peak of 09/2016 and 03/2017 and in the off peak of 02/2017 and 03/2017 and hence no reassessment is required to be done for two months each in peak and off peak period.

The appellant's industrial unit is now registered as 'Sick Unit' and also reported that the unit is working at less than 10% of its actual capacity. This contention of the appellant is found correct from the consumption pattern from 01/2016 to 04/2018.

### **Decision**

From the findings and conclusions arrived at as detailed above, I decide to set aside the short assessment bill amounting to Rs. 41371/- issued to the appellant. The respondent is directed to revise the bill for the consumption for the period from 29-06-2016 to 21-07-2017 by taking an average consumption of 1016 units normal, 25 units peak, and 30 units off peak i.e. the average consumption of 08/2017, 09/2017 and 10/2017. The respondent shall not take the months of 09/2016 and 03/2017 and 02/2017 and 03/2017 for revision of the peak and off peak periods respectively as there is no recorded consumption during that period. Accordingly the respondent shall raise a bill for the meter faulty period from 29-06-2016 to 21-07-2017 and issue the revised bill to the consumer within fifteen days.

The appellant is also eligible for installments, if requested for, and the respondent shall issue the same. The consumer shall pay the whole amount or the 1st installment within 30 days of this order. The subsequent installments will bear interest from 30th day of this order to the day of payment. No interest or surcharge is payable by the consumer for the Appeal pending period before this Forum and up to 30th day of this order.

Having concluded and decided as above it is ordered accordingly. The Appeal Petition filed by the Consumer is allowed as ordered and stands disposed of as such. The order of CGRF in 66/2017-18 dated 24-02-2018 is set aside. No order on costs.

**ELECTRICITY OMBUDSMAN**

P/022/2018/ \_\_\_\_\_ /Dated: \_\_\_\_\_

Delivered to:

1. Sri Radhakrishnan Unnithan, Raymands Rubbers (P) Ltd., Kappil East, Krishnapuram P.O., Kayamkulam, Alappuzha
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd., Kayamkulam, Alappuzha

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.