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APPEAL PETITION No. P/046/2018
(Present: A.S. Dasappan)
Dated: 18th September 2018

Appellant : Smt. Neena Titty Harshan,
Issisi Ice, Kurisinkal
Chettikad, Pathirapally P.O.,
Alappuzha.

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd, S L Puram,
Alappuzha

ORDER

Background of the case:

The appellant is a three phase consumer having a connected load of 42000 watts with consumer number 14841 under LT 4 A tariff within the jurisdiction of Electrical Section, Pathirapally. The connection is registered in the name of Smt. Neena Titty Harshan. The APTS team, Alappuzha conducted an inspection on 06-02-2018 in the premises of the appellant and found that the CT operated Energy Meter installed in the premises was not recording one phase and 38.02% of actual consumption was not recorded in the meter. On the basis of site mahazar prepared, a short assessment bill amounting to Rs. 6,30,487/- was served on the appellant. Aggrieved by this, the appellant approached the CGRF, Ernakulam with a petition which was disposed of with direction to revise the bill taking the percentage error as 33.33%. Against the above order of the Forum, the appellant filed this appeal before this Authority on 27-07-2018.

Arguments of the appellant:

An APTS inspection was conducted in the premises of the appellant on 06.02.2018, and subsequently a short assessment bill for Rs. 6,30,487/- was given on 15.02.2018. As per KSEBL the CT operated Energy Meter installed in the premises was not recording one phase and they stated that 38.02% of actual consumption was not recorded in the meter. Instead of taking the average value for assessing the consumption during meter faulty period limited to six months the KSEBL have taken all monthly readings for a period from 03/03/2016 to 01/02/2018. The appellant objects the error in reading and also the date of occurrence because it can happen in the same day morning and the reason for lower reading is also not evaluated.

As per KSEBL the fault is in line connecting the current line which is a part of meter and hence the proceedings for the meter faulty period can only be adapted while claiming the short assessment bill. The KSEBL declared the meter as faulty for certain periods and they have assessed proportionate to the faulty consumption with the recorded consumption. The recorded consumption as per them is mainly of two phases. As per Site Mahazar the current in R phase is 2.24A and Y phase is 2.29 A and B phase is 0.02A. This clearly shows that the recorded value is more than 2/3 rd. If it was 2/3rd the error would have been 33.33%. Here KSEBL have taken the error as 38.02% which is wrong. The KSEBL have not tested the meter and CT in a standard test lab. The appellant is having a lot of single phase load and even the three phase motor will not be drawing the same current in all the phases continuously. Hence apportion method will not give an accurate value as per CEA Regulation.

It is the liability of the KSEBL to provide correct meter and maintain it correctly. Every month the Assistant Engineer/Sub Engineer is coming for taking the reading. On a single glance it will be revealed that the phase is not working [either voltage or current] if it is so. It is also his liability to check the healthiness by monitoring the LED as per Reg.110 [7] of the Supply Code 2014. If it was done, the consumer would not have been in trouble. In every bill it is written that the meter status is ok.

KSEBL cannot charge more than 6 months, if the meter is found faulty. The meter is not tested using MRI and data's are not downloaded to conclude from which date onwards one CT circuit is not recording properly. The conclusion that the KSEB have undercharged is also wrong and false because comparing with another meter it is stated that 38.02% is not recorded. It can never be like that because if one phase is not reading the escaped energy will be one third of the total conception that is 33.3%, here it is 38.02% which shows that the connected load is unbalance and the error in calculated value will be more than 0.5%. Hence the only solution is to have the average value and work out the same for previous six months.

A poor consumer cannot be made liable for noncompliance of the directive by the KSEB officials such as,

- a. The Regulation 115[9] which reduces maximum period of back assessment as 6 months, in case of meter faulty even if the meter faulty is more than 6 months.
- b. It is true that Regulation 134 [1] permit KSEB to collect the undercharged amount 'If the KSEB establishes either by review or otherwise that it has undercharged the consumer, the licensee may recover the amount so undercharged from the consumer by issuing a bill and in such case at least thirty days shall be given to the consumer for making payment of the bill' . But nowhere it is mentioned that KSEBL can have a claim after operational violation of Regulation and non-compliance of directives. KSEBL can collect the payment only in compliance with Regulations 115[9].

The Electricity Act 2003 sec. 50 is very clear and specific in assigning the duty and responsibility to specify Electricity Supply Code to provide for recovery of electricity charges, intervals for billing of electricity charges, etc, and hence KSEBL cannot have their own discretion in billing and collection of payment. While issuing a bill it has to be as per all Regulations such as 134[1] which permits licensee to collect the undercharged amount by issuing a bill, Reg. 115[9], which limits the period of assessment as previous 'six months'. Here KSEBL can collect the undercharged amount as per Reg. 134(1) but should be limited for a period of six months as per Reg. 115 (9).

As per CEA Regulation the permitted error in LT is only 1 percentage. Here KSEBL have claimed 38.02 % and now CGRF says that the error is 33.3 %. Based on error report KSEBL cannot raise the bill. Hence this is a clear case of meter faulty. So the period of assessment is to be reduced to six months, taking in to the consideration the average consumption when the meter is correct.

Relief Sought

1. To direct KSEBL to limit the assessment period for six months.
2. To direct KSEBL not to disconnect the supply of the appellant till hearing and disposal of the complaint.

Arguments of the respondent:

Smt Neena Titty Harshan, Kurushinkal, Assisi Ice Plant, Chettikad is a consumer under Electrical Section Pathirapally bearing Con.no.14841.0n 6/2/2018 the A P T S, Alappuzha had conducted inspection in the premises of service connection bearing Con.no.14841 which is a three phase connection

under LT4 tariff registered in the name of Smt. Neena Titty Harshan. During inspection it is found that C T connected on B phase was not working properly while checking the metering equipment installed in the consumer premises with standard meter .While checking with a standard meter they have observed that the meter was not recording 38.02% of the actual consumption. The inspected officials prepared a site mahazar and a test report detailing all the facts Based on the inspection and test report a short assessment bill was prepared for Rs. 6,30,487/- and was issued to the consumer on 24/2/2018 by the Assistant Engineer, Electrical Section, Pathirapally. The period of short assessment taken for the calculation is since the installation of that particular metering equipment i.e. 24 months.

The Consumer Grievance Redressal Forum passed an order directing KSEBL to revise the bill taking the percentage error as 33.33%. As per the order a revised bill for Rs. 5,13,903/- was issued to the consumer on 11/7/2018.

Analysis and Findings: -

The hearing of the case was conducted on 04-09-2018, in the Office of the State Electricity Ombudsman, Edappally, Kochi. Smt. Jesna Jose, represented the appellant's side and Smt. Maya S Nair, Assistant Executive Engineer, Electrical Sub Division, SL Puram, 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 06-02-2018 and found that one phase of the Current Transformer (CT is a device for measuring high values of electric Current on a proportionate reduced scale), was not feeding the "current inputs" to the Meter, 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 for 38.02% from billing due to CT's fault in one phase. 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, but limited the percentage of error as 33.33%.

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. 6,30,487/-, for non-recording of energy due to defects of the B phase CT, for a period from 03-03-2016, by taking the lost energy as 38.02%. On perusing the Mahazar,

this Forum feels that the contention regarding the one No. of CT's defects noticed during inspection by KSEBL was correct.

The appellant contended that Regulation 134 and 152 of Supply Code, 2014 is not at all applicable in this case of meter defective case. According to the appellant, this provision applies in only a case where the KSEBL has under charged the consumer which means that the meter has recorded the actual consumption, but the licensee has not realised its charges accurately. It is stated that this provision not deals with a situation where the meter is inaccurately recording the energy consumed on account of a wrong connection given to the meter.

The respondent relied upon the inspection report by checking with a standard meter and consumption pattern for establishing the period of phase failure and missing of current in one phase. 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 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. 6,30,487/- as per Regulation 134(1) and 152 of Supply Code, 2014.

Here in this case, the respondent declared that the current in one of the CTs connected to the meter is detected as missing/abnormal on the basis of the inspection conducted in the premises on 06-02-2018. During the inspection by the APTS, by checking the metering equipment installed in the consumer premises with standard meter it was observed that the meter was not recording 38.02% of the actual consumption. It is also found that the consumption of the appellant before and after the disputed period and during the disputed period is not in a consisting pattern.

The site mahazar also justifies missing of current in one phase of the appellant's metering equipment in the appellant's premises. In view of the above facts it is clear that the energy meter installed in the appellant's premises was only recording in two phases of actual consumption on the inspection date of 06-02-2018, but not confirmed the missing of energy at the rate of 38.02% of the consumption for the entire period.

The respondent has issued the short assessment bill for a period of 24 months by taking 38.02% of the recorded consumption for 24 months following the inspection conducted on 06-02-2018 and detecting of non-recording of

energy in one phase. The respondent has an argument that, the meter is not defective, to attract Clause 115 of Supply Code, 2014.

The respondent has not produced any test report in connection with the testing of disputed meter at the laboratories accredited by the NABL. Hence revision of the bill on the basis of the test report is not possible in this case. Here in this case, the respondent confirmed the non recording of one phase on the basis of the inspection conducted in the premises. But the quantum of loss calculated based on 38.02% missing of energy is not established conclusively. The consumption recorded in the meter after CT change itself was taken for assessing the unrecorded portion of energy. The percentage of loss of energy 38.02% arrived at by the respondent for the 24 months on the strength of the consumption recorded in the test meter for a short duration is not fair. So, a probable conclusion can be arrived at in this case is that the CT current in 'B' phase was missing, but cannot be reliably assessed and the quantum of loss calculated based on 38.02% or 1/3rd missing of energy is not established correctly.

On going through the records, the following facts are revealed. The CT was changed on 26-02-2018. The consumption recorded after CT change for 3/2018, 4/2018, 5/18 and 6/18 are 9120 units, 8700 units, 13160 units and 6120 units respectively. The average consumption of the appellant during the period from 2/15 to 1/16 is 10113 units, 2/16 to 1/17 is 10262 units and 2/17 to 1/18 is 6728 units. The average consumption of the appellant for three months after CT change is 10327 units. From the above it is revealed that there is a drastic reduction in consumption during the period from 2/17 to 1/18 which may be due to the defect of the CT. In so far as there is no allegation of any malpractice or theft of electrical energy by the appellant it is unjust to saddle the appellant, the liability for a period of 24 months, as the respondent failed to produce the downloaded data for confirming the period of CT failure.

Decision

From the findings and conclusions arrived at as detailed above, I decide to set aside the revised short assessment bill amounting to Rs. 5,13,903/- issued to the appellant. The respondent is directed to revise the bills for the consumption for the period of one year prior to the inspection dated 06-02-2018 by taking an average consumption of 10327 units i.e. the average consumption of 3/2018, 4/2018 and 5/18 for 9120 units, 8700 units and 13160 units respectively. Accordingly the respondent shall raise a bill for the meter faulty period and issue the revised bill to the consumer within fifteen days from the date of receipt 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 148/2017-18 dated 30-06-2018 is set aside. No order on costs.

ELECTRICITY OMBUDSMAN

P/046/2018/_____ /Dated:_____

Delivered to:

1. Smt. Neena Titty Harshan, Issisi Ice, Kurisinkal, Chettikad, Pathirapally P.O., Alappuzha.
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, S L Puram, 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.