

THE STATE ELECTRICITY OMBUDSMAN  
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APPEAL PETITION No. P/038/2019  
(Present: A.S. Dasappan)  
Dated: 16<sup>th</sup> July 2019

Appellant : Sri. Sanilkumar T R  
Managing Partner,  
M/s Amber Rubber Resource,  
Konoor, Nalukettu P.O.,  
Thrissur

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division,  
KSE Board Ltd, Koratty,  
Thrissur

### **ORDER**

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

The appellant was a LT consumer who was running an industry named Amber Rubber Resource engaged in manufacturing of rubber bush, rubber metal bonded products, oil seals, valve seals and other related rubber products with consumer No. 18851 under Electrical Section, Koratty. The LT electric connection was taken under Minimum Guarantee (MG) basis valid for 7 years with a registered connected load of 7340 Watts with effect from 25-09-2006. While being so, the appellant applied for enhancing the connected load to 36.44 kW and another Minimum Guarantee Agreement executed by the appellant for 7 years which amounts to 89375/- per year and monthly minimum charges of Rs.7448/- up to 12/2014. The electric connection was dismantled on 29-07-2013 after remittance of minimum guarantee amount up to that date due to closure of industry. The Assistant Engineer Electrical Section office, Koratty thereafter issued a notice dated 20-03-2017 demanding amount of Rs. 1,56,158/- as short assessment in minimum guarantee amount and current charge arrears of Rs. 34,648/-

aggregating an amount of Rs. 1,90,806/-. Thereafter revenue recovery notices were issued for recovery of Rs. 3,51,083/-. The appellant challenged the demand made by KSEBL and RR proceedings initiated before Hon'ble High Court of Kerala in WP(c) No: 28437/18 which disposed of the case on 26/11/2018 relegating the complaint to Consumer Grievance Redressal Forum for adjudication and decision of the dispute. Accordingly the appellant approached the CGRF and the Forum disposed of the case on 30/03/2019, in OP 92/2018-19, modifying the demand of KSEB for payment of minimum guarantee amount without surcharge. Still not satisfied by the decision of the CGRF, the appellant has submitted the Appeal petition before this Authority.

**Arguments of the appellant:**

The brief facts of the case, according to the appellant, are as follows.

1. There is absolutely no reasons and materials supporting the finding of the CGRF that the question of limitation is not applicable for the demand made by the KSEB and arguments placed on record on this point have not been read into the order although the arguments clearly reproduced and found a place in the order.
2. The order also does not reflect the manner in which security deposit was adjusted against the present demand made and even on the part of KSEB there is no evidence and materials placed on record to show that the present demand was made after adjusting the security deposit and its interest.
3. As per the minimum guarantee agreement executed on 01/01/2008 produced as Annexure A1 before CGRF the monthly payment is stipulated as Rs. 7448/- whereas statement of account furnished along with demand notice dated 20/03/2017 demands payment at the rate of Rs. 7,946/- except for last three months which are for Rs.7,448/-
4. It is stipulated in para 4 in MG agreement that if electric supply charge is less than 25% of capital expenditure mentioned in para 1 in MG agreement, the monthly amount payable is after deducting said amount.
5. The statement shows the amount due towards MG agreement was calculated and claimed even after dismantling the electric connection and terminated the agreement on 29/07/2013 which is not sustainable, and MG agreement does not stipulate this.
6. As per the statement of balance CC an amount of Rs. 66,812/- is shown but an amount of Rs. 89,376/- is also added to make it Rs.1,56,188/- The calculation of Rs. 89,376/- is vague and not understandable from the statement, which appears to be calculated adding Rs. 7,448/- from 1/2014 to 12/2014 after dismantling connection, which is not sanctioned by law and M.G

agreement. The respondent contended that only current charge was collected and defaulted in collecting minimum guarantee amount for which present demand was made.

7. Even according to section 141 of Electricity Supply Code 2014 consumer is not liable to pay current charge if connection remains disconnected for a period exceeding 180 days, for the period in excess of 180 days.

8. There is no evidence shows that the amount of Rs. 34,648/- is demanded towards surcharge. The bill dated 22/04/2017 produced by the appellant along with complaint shows it as energy charge.

9. As regards the question of limitation it is submitted section 56(2) of Electricity Act 2003 specifically provides that 'notwithstanding anything, contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity and Section 136(3) of Electricity Supply Code, 2014 also reads similarly with the exception that in the former, connection shall not be cut off and also a non obstante clause is used as notwithstanding anything contained in any other law for the time being in force which means that in spite of anything contained in any other law and in this case section 62 of the Limitation Act, the amount cannot be recovered after two years.

10. More important point is when there is a specific statute governing the field like Electricity Act and Electricity Supply Code, the general law like limitation Act would not have any overriding effect as is the settled position of law. This aspect has not been considered in the ruling reported in 2015 (4) KHC 61 and it is also not applicable to the facts of the case. In that case the question of statutory current charge in arrears committed by previous consumer arose for consideration whereas the question arise for consideration in this case is recovery of contractual minimum guarantee amount following breach of contract and is of a contractual obligation. The position of law is stated in 1997(5) SCC R C Tiwaria Vs. M P State Co-operative Marketing society which says special statute will prevail over General statute like Electricity Act and Limitation Act.

11. The Board may argue that they have issued bill dated 15/01/2015 to Bharathi Raman the mother of appellant demanding the amount, which is misconceived to save the period of limitation. Period of limitation is calculated for the purpose of instituting legal proceedings before competent court or authority and issue of bill or demand notice is not an institution of legal proceedings for recovery of amount. In this case even as per the statement of Board M.G amount is due from 2008 onwards and hence recovery proceedings

ought to have initiated within two years from 2008 or at least within two years from 29/07/2013 the date of dismantling of supply and hence the recovery proceedings initiated in the year 2018 is clearly barred by limitation. In the ruling reported in KHC 2015 referred above a statutory charge was created on the property to apply section 62 of Limitation Act by virtue of clause 15(d) of Regulation relating to the Conditions of Supply of Electrical Energy 1990 which is now replaced by Electricity Supply Code 2014 where no similar provision is added or incorporated to apply section 62 of Limitation Act. In the said case current charge was due for the period 1996 to 2001 when Electricity Act 2003 was not enacted.

12. As far as the question of recovery of amount due under Annexure A1 agreement in case of breach of terms of agreement or otherwise as provided in clauses 7 and 9 of agreement by resorting to RR proceedings it is only a mode of recovery stipulated in the agreement which is not a statutory charge on property to invoke the protection of article 62 of Limitation Act or equivalent to clause 15 of the Regulation as mentioned in 2015 KHC judgment referred above. Not only that Article 62 could be invoked only in a case where otherwise charged upon immovable property which clearly establishes that if amount due is barred under a specific statute then the question of charging upon immovable property does not arise as a time barred debt cannot be said to be charged upon immovable property.

13. Here the case relating to the breach of Annexure A1 agreement and default of M.G. amount thereunder and recovery of same is initiated which is a case of breach of agreement and in case of breach of agreement the recovery of amount or compensation mentioned thereunder could be made by instituting legal proceedings within three years from the date of breach of agreement or default of first instalment as provided under article 36 or 55 of Limitation Act but it was not done here.

Nature of reliefs sought for:

- a) To pass appropriate orders setting aside the order of Consumer Grievance Redressal Forum dated 30/03/2019 directing to remit the minimum guarantee amount.
- b) To pass such other appropriate orders which are deemed just and necessary on the facts and circumstances of the case.

**Arguments of the respondent:**

The service connection to the Appellant was effected on 25/09/2006 with Con No. 18851 with a registered connected load of 7340 Watts for industrial purpose under LT IV Tariff after the Line Extension of 190M conversion and 40m 3phase OH line. The line extension work was carried out upon the

execution of Minimum Guarantee Agreement No. 2/06-07/ Dtd. 21-09-2006 by the Appellant with these Respondents as per the prevailed rules.

As per this Agreement, 25% of the total estimate amount of Rs. 23925/- (including 10% Administrative expenses) towards the cost of expenses incurred by these Respondents for effecting the connection, ie, Rs. 5981/- per year (Rs.498/- per month) shall be remitted by the consumer as the minimum guaranteed charges for 7 years up to 08/2013.

Later, the Consumer applied for enhancing the connected load to 36.44 kW which required the LE work of extension of 430Mtrs of 11 kV Line and installation of 1 No. 100KVA Transformer. In order to meet the expenses for this LE work, another Minimum Guarantee Agreement No. 06/08-09/ Krtty/ Dtd.01-01-2008 was also executed by the Consumer as per the existed rules towards the estimate amount of Rs. 3,57,500/- (including 10% Administrative expenses) undertaking 25% of the estimate amount per year for 7 years which amounts to Rs. 89,375/- per year and monthly minimum charges of Rs.7,448/- up to 12/2014.

The above agreements make the consumer liable to remit the balance amount to make good the short fall in case the actual monthly charges are less than the minimum guaranteed amount. Also as per clause 7 of the above Minimum Guarantee Agreements, any amount due to these Respondents as per the agreement or in violation of any terms of the agreement will be regarded as arrears of public revenue due on land and KSEB is entitled to recover the dues through Revenue Recovery action or any other manner as the Board deems fit.

The minimum guarantee amount was not properly entered in the billing software by mistake due to oversight. In certain months, the consumer was billed without ensuring the guaranteed minimum amount of Rs. 7,946/- and Rs. 7,448/- as per the respective agreements. The consumer also did not make the payment of the balance amount to make good the short fall in the minimum guaranteed amount liable to be remitted in case the actual charges are less as undertaken by him in the agreement.

The consumer paid regularly the monthly bills as per the demands issued up to 1/2013 and defaulted in the payment of monthly bills from 02/2013 onwards. The last payment made by the consumer was Rs.12,937/- on 29/01/13 against the invoice No. 616356 dated 04/01/2013. The regular demands as per invoices dated 05/02/13 - Rs.7,518/-, 04/03/13 - Rs.7,235/-, 04/04/13 - Rs.7,035/-, 06/05/13 - Rs.7,035/-, 04/06/13 - Rs.7,035/- and 04/07/13 - Rs.7,035/- were issued to the Consumer as usual. But no payments were made by the consumer against these regular bills which has resulted in accumulation of arrears and caused the disconnection of the supply and finally in dismantling of the connection on 29/07/2013. A demand for Rs.

6568/- as final bill as on 29/07/13, for which the demand was raised on 20/12/2013 also accumulated to the outstanding arrears.

The above regular demands with applicable surcharge were outstanding to be realised from the consumer on the date of dismantling as per the billing records. A security deposit of Rs. 26,964/- was available with these Respondents in the account of the Appellant. An amount of Rs.2,157/- as interest on security deposit as per rules was adjusted on 27/06/2013 towards the surcharge on arrears. The billing account of the consumer was closed on 10/06/2014 after adjusting Rs.26,964/- available as security deposit towards the arrears and surcharge so as to initiate steps for the recovery of the outstanding arrears.

The mistake in not ensuring the payment of monthly minimum guaranteed amount as per the agreements was noticed during the internal audit conducted by the Regional Audit Office, Irinjalakuda. In the Audit, it is revealed that the consumer has not paid the Guaranteed Minimum amount during certain months. It was also noticed that the minimum guarantee period for which the guaranteed minimum amount to be realised from the consumer was up to 12/2014. Based on the audit report, an invoice for the balance amount of Rs.1,56,158/- towards the minimum guarantee amount was issued to the consumer duly acknowledged by mother of the Appellant, Smt. Bharathi Raman on 15/01/2015 with details of calculation.

The consumer has not remitted the arrear amount or raised any dispute regarding the demand raised towards the short payment of the minimum guarantee amount before these Respondents or any other authority upon the receipt of the above demand. Later on 20/03/2017 another arrear notice was also issued to the consumer in demand of payment of an amount of Rs.1,90,806/- which include the bill issued on 15/01/2015 for Rs. 1,56,158/- towards the short payment of the minimum guarantee amount and regular monthly bill arrears of Rs. 29,424/- up to the date of dismantling of the connection after adjusting the available security deposit of Rs. 26,964/- with applicable surcharge of Rs. 5,224/- as on account closure date i.e., 10/06/2014.

Since the consumer has not responded to this notice, another arrear notice with intimation about the Revenue Recovery action was also sent by registered post on 16/08/2017 which was not received by him and returned.

The Revenue Recovery action for the recovery of the arrear amount with applicable interest was initiated against the appellant and the revenue authorities proceeded accordingly. Aggrieved by the notice issued by the Revenue authorities, the appellant approached the Hon'ble High Court of Kerala with Writ Petition WP(C)2437/18 which was disposed by directing the

appellant to approach the CGRF. Accordingly the appellant filed complaint before the Forum with Complaint No OP 92/18-19.

The main grounds raised in this Appeal is that the arrears claimed from the Appellant is time barred on the basis of the limitation u/s 56 of Electricity Act, 2003 and under Article 36 or 55 of the Limitation Act, 1963 which are not sustainable in law. The provisions of Section 56 of the Electricity Act is not applicable to the demand issued towards the contractual liability as per the terms of the agreement executed by the Appellant. The claim of limitation was raised suppressing the material fact that a demand notice was served to the consumer on 15/01/2015 upon the finding of the short payment of the minimum guaranteed amount as per agreements executed by the Appellant, despite the fact that the liability to make good the shortfall in the minimum guarantee amount is with the Appellant himself. The condition for cutting off the supply and the arrears to be shown continuously as recoverable arrear u/s 56 are not relevant in this case. The limitation period provided under section 56(2) of Electricity Act 2003 is applicable to the dues from any consumer under section 56 only and the demand as per the contractual liability as in this case is not covered under this limitation.

Any amount due to these Respondents as per the agreement or in violation of any terms of the agreement will be regarded as arrears of public revenue due on land and KSEB is entitled to recover the dues through Revenue Recovery action or any other manner as the Board deems fit. The arrears as per the demand notice issued to the consumer being regarded as arrears of public revenue due on land as per agreement, a period of 12 years is provided to enforce payment of money otherwise charged upon the immovable property as per Art. 62 of the Limitation Act 1963. This legal position was settled by the Hon. High Court of Kerala in Abdul Vahab V/s Kerala State Electricity Board Tvm and others (2015(4) KHC 57, WP(C) No.4017 of 2014). The Hon'ble Court categorically held that Limitation period for recovering the electricity arrears for a period of 12 years. Hence the arguments of delay in RR action beyond 3 years as per Articles 36 or 55 are also not sustainable.

**Analysis and Findings: -**

The Hearing of the case was conducted on 14-06-2019, in the Office of the State Electricity Ombudsman, Edappally, Kochi, and Sri. P.K. Sabu Assistant Executive Engineer, Electrical Sub Division, Koratty, represented the Respondent's side and the appellant was absent. Another date was given for hearing of the appellant and on 20-06-2019, Sri. N.K. Mohanlal, Advocate appeared for the appellant. 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 actual length of HT line work executed, date of dismantling transformer, actual cost of execution, any tree cutting done and compensation paid, whether PTCC approval obtained and amount incurred, details of labour charge paid, whether the line has become self remunerative, if so from which date etc.. The respondent has not furnished the details in his letter dated 02-07-2019 except the actual length of HT line work executed.

A 100 kVA transformer was installed by constructing 420 metre 11KV OH line for giving the connection to the appellant under MG basis. On examining the documents it is seen that the estimate sanctioned for the Line Extension work and transformer inclusive 10% installation was for an amount of Rs. 3,57,500/- and the MG amount shall be 25% of the estimate cost for seven years.

On going through the present calculation statement submitted by the respondent, the MG amount after fixing the MG installment to Rs. 7,448/- for seven years is Rs. 6,25,632/- for the period up to 12/2014. The appellant is also agreed with this amount. The appellant paid regularly the monthly bills as per the demands issued up to 1/2013 and defaulted in the payment of monthly bills from 02/2013 onwards. The contention of the appellant is that as per the statement of balance CC an amount of Rs. 66,812/- is shown but an amount of Rs. 89,376/- is also added to make it Rs.1,56,188/- and the calculation of Rs. 89,376/- is vague and not understandable from the statement, which appears to be calculated adding Rs. 7448/- from 1/2014 to 12/2014 after dismantling connection, which is not sanctioned by law and M.G agreement. The respondent contended that the minimum guarantee amount was not properly entered in the billing software by mistake due to oversight. In certain months, the consumer was billed without ensuring the guaranteed minimum amount of Rs. 7946/- and Rs. 7448/- as per the respective agreements.

Another allegation of the appellant is that the security deposit and interest of the security deposit is not calculated before settling the claim. The respondent has stated that on 20/03/2017 arrear notice was issued to the consumer in demand of payment of an amount of Rs.1,90,806/- after adjusting the available security deposit of Rs.26,964/- as on account closure date i.e., 10/06/2014.

Another argument raised by the appellant is that as regards the question of limitation it is submitted section 56(2) of Electricity Act 2003 specifically provides that 'notwithstanding anything, contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity and section 136(3) of Electricity Supply Code 2014



also reads similarly with the exception that in the former, connection shall not be cut off and also a non obstante clause is used as notwithstanding anything contained in any other law for the time being in force which means that in spite of anything contained in any other law and in this case section 62 of the Limitation Act, the amount cannot be recovered after two years. In reply to this argument the respondent has contended that the arrears as per the demand notice issued to the consumer being regarded as arrears of public revenue due on land as per agreement, a period of 12 years is provided to enforce payment of money otherwise charged upon the immovable property as per Art. 62 of the Limitation Act 1963. This legal position was settled by the Hon. High Court of Kerala in Abdul Vahab V/s Kerala State Electricity Board Tvm and others (2015(4) KHC 57, WP(C) No.4017 of 2014). The Hon'ble Court categorically held that Limitation period for recovering the electricity arrears for a period of 12 years.

The contention of the Appellant is based on the Limitation of the bills, under Sec. 56(2) of Electricity Act, 2003. This 'due date' is an important date for both consumer and KSEB (Licensee). This is because after a period of two years from the 'due date', the arrear bills are time barred and the consumer is not liable to pay the sum even if it is a legitimate claim otherwise.

Since this issue has been dealt with, analyzed and given a firm opinion by the Upper Courts of Law/Jurists, we may follow the same. As such, I have before me the Judgment in the Petition filed, before the Hon: High Court, Bombay, vide No: 3784/2007, which has dealt the 'due date' issue in detail and pronounced its considered opinion. In this, it was spelt by Hon: Judge as follows;

'In construing the expression "due" the interpretation that is to be placed must be harmonized so as to be applicable both in the context of Sub section (1) & (2) of Section 56. A sum cannot be said to be due from the consumer unless a bill for the electricity charges is served upon the consumer.

Any other construction would give rise to a rather anomalous or absurd result that a disconnection of supply would be contemplated even without the service of bill. Though the liability of consumer arises or is occasioned by the consumption of electricity, the payment falls due only upon the service of a bill. Thus for the purpose of sub section (1) & (2) of Section 56, a sum can be regarded as due from the consumer only after a bill on account of the electricity charges is served upon him'.

Thus the period of two years as mentioned in Section 56 (2) of Electricity Act, 2003, would run from the date when such a bill is raised by the Board and have become due for payment only after that demand has been raised. In the same Case it was further clarified by Hon: High Court that;

“Amount of charges would become due and payable only with the submission of the bill and not earlier. Word ‘due’ in this context must mean due and payable after a valid bill has been sent to the consumer”, Brihatmumbai Municipal Corporation Vs Yatish Sharma etc-2007 KHC 3784:2007.

As per the Agreement executed by the consumer with KSEB, the consumer is bound to pay the charges for the MG amount. As the bill was issued in 01/2015 only, the respondent is of the view that Section 56(2) of Electricity Act 2003 and Regulation 136(3) in the Supply Code 2014 are not attracted in this case.

MG agreement No.6/2008-09 executed between the appellant and the KSEB on 01/01/2008 and is not seen revised consequent on the completion of the work based on the actual cost. Anyway the agreement conditions and the period of agreement are the same.

As per the MG agreement executed between KSEB and consumer, the consumer has agreed to pay 25% of the actual amount incurred by the KSEB (plus 10% administrative cost) to construct the electric line for effecting the industrial LT electric connection to appellant's premises, per annum for next 7 years. The intention of minimum guarantee is to ensure, the required minimum 'revenue return' for the expenses incurred by KSEB in constructing the Line and Transformer, is forthcoming. But it is a fact that the amount of monthly current charge exceeded the MG amount and remitted by the consumer, there is no question of payment of MG during that period. This MG liability will be in force, for the next 7 years after availing supply or until the Line becomes self remunerative as per the norms fixed by the Board, whichever is earlier. Once the line has become self remunerative, the minimum guaranteed amount can be waived, for the remaining period of the agreement. In all other cases, if a MG service connection is to be dismantled before the expiry of 7 year period, he is bound to pay the guaranteed minimum amount, for the rest of the period. That is, this MG payment has to be continued, whether the said Line is dismantled or not, till the consumer completes payments for the guaranteed 7 years.

The appellant has the complaint that the dismantled items were not accounted and adjusted. But once the Transformer (erected under MG Scheme) is dismantled and has been taken back by the respondent, then the same has to be properly accounted, with the usable materials being given the 'depreciated value or the salvage value' as the case may be. It is only justifiable to give the benefit of the cost of the taken back material, to the appellant and adjust it against the balance MG amount, owed by the consumer to KSEB. However, it is a fact that the transformer, which was installed under MG agreement for the specific use of the appellant, was dismantled and taken back

by the respondent as it became redundant. Hence it is natural that the cost of the taken back usable materials at the depreciated value as per rules, have to be assessed and has to be set against the balance MG amount pending against the consumer. But the KSEB can collect the cost of the work needed for dismantling the Transformer.

This Authority has inspected the premises of the appellant on 27-06-2019. The appellant has stated the Transformer was dismantled in the year 2013 itself. It is found that the dismantled transformer was erected in the road side and no tree cuttings required for the drawal of the Line and Transformer. For verifying the details of tree cutting compensation, if any paid, the respondent was asked to produce the work measured M book. The same was not traced out by the respondent. No tree cutting compensation notice was found issued. Similarly cost incurred for PTCC approval is not available.

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

The disputed period of short assessment is for the bills issued from 19-08-2008 to 31-12-2014 and the amount is Rs. 156188 + surcharge. The estimate prepared by the respondent for the construction of 430 metre 11 kV line and for erecting one number 100 kVA transformer is Rs. 3,18,961/- whereas the estimate taken to arrive at the MG amount is Rs. 3,25,000/-. The monthly MG amount fixed was Rs. 7946/- from 1/2008 to 8/2013 and Rs/ 7448/- from 9/2013 to 12/2014. The MG amount was revised from Rs. 7946/- to 7448/-, since the previous MG Amount fixed @ Rs. 498/- for the LT line work was completed in 8/2013.

After the completion of 11 kV line construction and transformer erection the work is not seen evaluated by the respondent. The actual length of 11 kV line is 420 metres against 430 metre shown in the estimate. Moreover, there is no expense incurred by KSEBL from proposed amount under “tree cutting compensation” and “PTCC approval”, as per the records produced by the respondent for Rs. 30,000/- and Rs. 20,500/- respectively. The minimum guaranteed amount to be remitted by the appellant is seen fixed incorporating the above amount. It is not a proper way to calculate the MG amount and hence decided to revise the estimate for the actuals, with the available records.

Material cost for constructing 420 metre 11 kV line & erecting one number 100 kVA Transformer	Rs. 2,01,259.7
Less : cost of 30 metre Raccoon Conductor	Rs. 993.6
Net material cost	Rs. 2,00,266.1
16% S.O.C.	Rs. 32,042.6
Labour Charge	Rs. 35,000.0
<b>Total Estimate Cost</b>	<b>Rs. 2,67,308.7</b>

Round to	Rs. 2,67,309
Add 10% Estt. Cost	Rs. 26,730.9
<b>Total</b>	<b>Rs. 2,94,040</b>
Revised Minimum Guarantee Amount $294040 \times 7 / 4$	Rs. 5,14,570

Revised monthly MG amount pertains to 11 kV line & transformer	} Rs. 6126
Revised monthly MG amount pertains to Both LT & HT work and period	} Rs. 6126 + Rs. 498 Rs. 6624/- From 1/2008 to 8/2013
Revised monthly MG amount pertains to Both HT line work and period	} Rs. 6126/- From 9/2013 to 12/2014

While comparing the short assessment bill for Rs. 1,56,188/- with the revised MG amount, it can be seen that the 'collected CC' from 8/2008 (bill date 19-08-2008) to 7/2013 (bill date 4/7/2013) is more than the revised monthly MG amount of Rs. 6624/- except the bills dated 15-09-08, 15-12-08, 15-01-09, 16-02-09 and 15-03-09 and hence it is not proper to realize the balance MG amount in the respective period. Remittance detail is not seen for 10/2008 & 11/2008 in the short assessment statement. Similarly no remittance is seen made for the bills issued from 1/8/2013 to 1/11/2013. For the bill on 20/12/2013, remittance is seen in excess than the revised MG amount Rs. 6126/-. Monthly MG amount has to be reduced to Rs.6126/- from the bill dated 1/10/2013 following the completion of the MG amount fixed for LT line extension as per the agreement dated 29-08-2006. Moreover, the monthly MG amount from 09/2013 to 12/2014 has to be revised from Rs. 7448/- to Rs. 6126/-. The respondent shall revise the short assessment bill based on the revised MG amount for Rs. 6624/- and Rs. 6126/- for the period from 7/2008 to 8/2013 and 9/2013 to 12/2014 respectively.

The respondent has reported that date of dismantling of transformer following the dismantling of the service connection could not be found by them. The service connection was dismantled on 29-7-2013 and the appellant informed that the transformer was taken away by the respondent soon after that. As such the realisation of proportionate MG amount of the transformer from 9/2013 to 12/2014 is not proper. It is **decided** to grant the benefit of the above to appellant as detailed below.

Cost of transformer in the estimate	Rs. 64738.00
Add 16% S.O.S.	Rs. 10358.00
	=====
<b>Total</b>	<b>Rs. 75096.00</b>
Add 10% Estt. Cost	Rs. 7509.60

Total		----- Rs. 82605.60
Round to		Rs. 82605.00
Proportional MG amount = Rs. $\frac{82605}{4} \times 7$ years		Rs. 144558.75
Proportionate monthly MG amount	144558.75/84	Rs. 1720/-
Benefit to be given to the appellant & Period		Rs. 1720/- per month From 9/2013 to 12/2014
i.e. Amount	Rs. 1720 x 16 months	Rs. 27520/- =====

The respondent shall deduct the above amount from the short assessment bill issued to the appellant.

**Decision: -**

In view of the above facts, it is decided to quash the arrear bill for Rs. 3,51,083/- as revenue recovery issued to the appellant.

From the findings and conclusions arrived at as detailed above, I decide as follows.

1. The respondent shall revise the short assessment bill based on the revised MG amount for Rs. 6624/- and Rs. 6126/- for the period from 7/2008 to 8/2013 and 9/2013 to 12/2014 respectively. The respondent shall adjust the overpayments against the pending balance amount of MG payable by the appellant.
2. The respondent shall deduct an amount of Rs. 27520/- as the proportionate MG amount of the transformer from 9/2013 to 12/2014 from the short assessment bill.
3. The cost of the taken back transformer at the depreciated value as per rules, have to be assessed and has to be set against the balance MG amount pending against the consumer.
4. The KSEB shall collect the labour and transportation cost of the work needed for dismantling the Transformer.
5. The appellant need not pay any surcharge for the short assessed amount, till the period of 30 days from the date of this order. The surcharge, if any, will accrue from the due date of the revised bill to be issued based on this order and the actual date of payment.

The appellant is required to pay further balance amount, if any, as per the revised bill as ordered above. Once the appellant remits the balance amount, if any, he shall be relieved from the MG liabilities and the Revenue Recovery proceedings.

The respondent shall prepare the accounts and settle the claim within 30 days of this order.

Having concluded and decided as above, it is ordered accordingly and the Appeal Petition filed by the appellant, stands disposed of to the extent ordered. No order on costs.

**ELECTRICITY OMBUDSMAN**

P/038/2019/\_\_\_\_\_ /Dated:\_\_\_\_\_

Delivered to:

1. Sri Sanilkumar T R., Managing Partner, M/s Amber Rubber Resource, Konoor, Nalukettu P.O., Thrissur
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Koratty, Thrissur

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.