

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/059/2019
(Present: A.S. Dasappan)
Dated: 24th October 2019

Appellant : Sri. Hybeen Thomas
Managing Director,
M/s G Way Farms and Resorts Pvt. Ltd.,
Spice Tree Resorts, Chinnakanal,
Munnar, Idukki.

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd, Chithirapuram,
Idukki

ORDER

Background of the case:

The electric connection with Con. No. 19497 has been given to the appellant in LT VII A tariff with a connected load of 112kW and a contract demand of 79 kVA under Electrical Section, Chithirapuram. An inspection was conducted in the premises of the appellant by APTS, Vazhathope on 11-12-2018. A short assessment bill of Rs. 1,51,530/- was issued to the consumer based on the findings that the meter was not recording any consumption in R and Y phase. Further the respondent had shown undisputed arrears of Rs. 2,44,418/- and Rs. 2,31,097/- in the bills for 01/2019 and 02/2019 respectively by taking the consumption as 3 times the recorded energy in the meter since consumption was not being recorded in two phases. The appellant has challenged these bills in the Complaint No. 111/2018-19 filed in CGRF. The CGRF disposed the petition vide order dated 28-06-2019, ordering that the respondent shall revise the bills based on the average consumption computed from 3 billing cycles after meter replacement. Challenging the decision of the CGRF, the appellant approached this Authority by filing this appeal petition.

Arguments of the appellant:

The sanctioned connected load of the Electrical connection with Consumer No.19497 is 112000W with a contract demand of 79 kVA. Previously the connected load was 78.151kW and the connected load enhanced to 112 kW

and changed to optional maximum demand tariff with a contract demand of 79 kVA on 06/03/2015.

1. The recorded maximum demand never exceeded the 75% of the contract demand since the tariff changed to Optional maximum demand tariff from 02/2015. But by mistake, from 02/2016 to 10/2016, (the date of Oruma billing started) the maximum demand calculated as the arithmetical sum of the maximum demand recorded in the three time zones and billed for the total of the three zones. The mistake pointed out by the appellant several times and requested to refund the excess amount collected, but the authorities not turned to refund the same till date. The mistake corrected from 11/2016 onwards and billing is continuing for the 75% of the contract demand till date as the recorded maximum demand is far below the 75% of the CD. The excess amount collected towards demand charge is calculated to Rs. 1,08,495/-. Hence the excess amount should be refunded with interest as per the Regulation 134 (2) and (3) of Supply Code, 2014.

The details of the maximum demand recorded from 01/2016 to 05/2016 are shown below (no details of the zone wise readings from 06/2016 to 10/2016 are available).

Month	zone 1	zone 2	zone 3	total.	Fee collected
01/2016	50.2	28.2	17.6	96	10,665.00
02/2016	51.2	45.4	29.6	126.2	22,680.00
03/2016	50.8	44	16.2	111	19,980.00
04/2016	46.4	31.8	20.6	98.8	17820.00
05/2016	33.8	47.4	33.8	115	20,700.00

The above details collected from the respondent's office itself. The mistake was admitted by the respondents in the statement of facts filed before the Curtate CGRF, by its erroneous order dated 28/06/2019, partially admitted the petition and directed the respondents to refund the excess amount collected towards the fixed charges for the period from 02/2016 to 10/2016 by collecting the meter reading register from the Vigilance (as the same was seized by them) within one month and also directed to revise the monthly bills for the period of 01/2019 to 02/2019 based on the average consumption after the rectification of the metering equipments.

2. Further, on 20/07/2017, an inspection was conducted in the premises and as per the site mahazar prepared, one phase of the meter was not recording the consumption. Subsequent to the inspection, a bill amounting to Rs. 294420/- was issued under Section 126 of the 2003 Act. The appellant had filed an objection against the bill before the Assessing officer/Assistant Engineer, Electrical Section, Chithirapuram. But the Assessing officer not considered any of the objection and confirmed the provisional bill as final. Aggrieved by this, the appellant had filed appeal petition before the Electricity Appellate Authority after remitting the 50% of the final bill of Rs. 1,47,210/-. The Hon'ble Appellate Authority set aside the final bill on merits and directed to refund the amount already remitted with interest as per the regulation 158(17) of KESC 2014 vide order dated 01/01/2018. But after more than one year of time the order has

not been complied with by the assessing officer and not refunded the excess amount collected with interest as directed by the Hon'ble Appellate Authority.

Again, an inspection has been conducted in the premises just after around one and half years from last inspection, on 11/12/2018 by the Sub Engineer of Electrical Section, Chithirapuram with the presence of APTS wing and detected the meter was not functioning correctly as same as the case of previous inspection. Subsequent to the inspection, the appellant had been served a proceeding dated 20/12/2018 of the Assistant Engineer with direction to remit an amount of Rs.1,51,530/-. No invoice was issued in this regard. The short assessment was prepared by taking the 50% of the recorded consumption as non-recorded portion due to the fault of the meter from 07/2018 to 12/2018. Even the calculation was not correct, the appellant had remitted the amount with protest and requested to rectify the fault of the meter at the earliest for correct billing and avoid further disputes. But the authorities not responded to the request and not rectified the complaint of the meter up to 06/02/2019 and the monthly bills were issued as per their will and wish.

In the bill for the month of 01/2019, an amount of Rs. 2,44,418/- was included as arrears (undisputed) with the bill amount of Rs. 57,145/-. No details or any calculation was attached for the arrear amount. On enquiry about the arrear amount, no satisfactory explanation was received from the office and hence the appellant had filed an objection against the bill and requested for a personnel hearing to submit the grievances directly including the excess fixed charges collected by erroneous billing. But surprisingly no reply was received from the Assistant Engineer and no personnel hearing was conducted and instead they threatened by using the weapon of disconnection. The electrical connection was very in need and since the appellant have no other alternatives, they had remitted the bill amount with strong protest.

After one month of time from the date of inspection, received a letter from the Assistant Engineer directing to produce a new CT with ratio 200/5, 0.5 class accuracy with a threat that otherwise the penalization will be continued till the CT is replaced. But on verification, the MF of the reading was 20 and the ratio of CT installed in the premises were of 100/5, hence the appellant didn't respond to the direction to provide one tested CT of ratio 200/5. As per Regulation 104, the licensee shall not supply electricity except through a correct meter installed in accordance with the provisions of the Central Electricity Authority (Installation and Operation of Meters) Regulation, 2006, as amended from time to time. And hence the erroneous direction to produce one CT for replacing the faulty after one month of time was not in order. Again, in the bill for the month of 02/2019, an amount of Rs.2,31,097/- was shown as arrears (undisputed).

On enquiry, the billing section explained orally that the arrear amount consists of Rs. 1,47,210/- as the balance amount of the bill issued during 2017 and cancelled by the Hon'ble Appellate Authority and the three times billing of the recorded consumption due to the meter fault. These activities from the authorities of the Electrical Section Chithirapuram is arbitrary and not in order.

After repeated requests, the complaints of the metering equipment were rectified by replacing the damaged CT after two months of time from the date of inspection on 06/02/2019. At this juncture, since there are no other alternatives, the appellant had filed a petition against the continuous illegal proceedings of the KSEB authorities before the CGRF Central with OP No. 111/2018-19. In this case also the down loaded data is not issued for verification. The period of assessment was taken from 07/2018 to 12/2018 is arbitrarily without any documental evidence.

The historical flood 2018 in Kerala happened during the period of above short assessment. By August 15th the guests from the Resort were evacuated compulsorily and the guests from abroad were transported to Madura Airport for their safety due to the land slide and road block.

The resort was maintained by skeleton staff without any guest from 15th August to around November 10th. By only November onwards booking for the guests was started and by December middle the resort was working normally but with medium business. In this situation, the order of the CGRF to assess the above period based on the average consumption after the rectification of the metering equipment is not justifiable.

In this case for computing the average consumption for the actual defective period, the provision as per regulation 125(1) of Kerala Electricity Supply Code, 2014 also should be taken. Due to the heavy flooded situation and land slide, there was no guest occupancy for the period from 15/08/2018 to 10/11/2018 and also less consumption for the above period. So, the short assessment bill issued for the period from 07/2018 to 12/2018 is totally baseless /erroneous and should be cancelled. Since the short assessment bill amount remitted with strong protest to avoid disconnection the same should be refunded with interest as per Regulation 134 of Supply code 2014.

Without rectifying the complaint of the meter for two months after detecting the error and billing for three times of the consumption recorded in the meter is illegal and should be cancelled. As per Regulation 125 of Supply Code, 2014, if the meter is faulty, the billing for the faulty period should be for the previous three months average consumption and previous readings are not available, the faulty period assessment should be for the average of the three months consumption after the replacement of the faulty metering equipments.

Meanwhile, the respondent refunded the 50% of the bill amount remitted in connection with the inspection conducted on 20/07/2017 as per the direction of the Appellate Authority. Followed by this they had issued a proceeding dated 17/05/2019 of the Assistant Engineer, Electrical Section, Chithirapuram with direction to remit the same bill amount of Rs.2,94,420/- within one month with a threat of disconnection.

By a proceeding dated 17/05/2019, the respondent directed to remit the amount of Rs. 2,94,420/- within one month of time with a threat of disconnection under Regulation 152 and 134 of Supply Code 2014. No invoice is seen issued in this regard except the proceedings attached. It is not in order and the appellant is not liable to remit the amount. In the inspection conducted

on 20/07/2017, it was detected that one phase of the meter was not recording consumption and the fact is fully admitted. The only dispute is the period of assessment and the method adopted for calculating the unrecorded portion of the consumption for the short assessment. In the sympathizer prepared, it is recorded that as per the downloaded data, the R phase voltage was not recording properly from 11/2015 and fully out from 06/02/2017. But even after repeated requests, the down loaded data was not furnished for verification. The consumption details from 04/2015 to 07/2019 are shown below for reference.

Month	Consumption
04-2015	11580
05-2015	8354
06-2015	12830
07-2015	11350
08-2015	10496
09-2015	7624
10-2015	7180
11-2015	7400
12-2015	3320
01-2016	16620
02-2016	7320
03-2016	12096
04-2016	12960
05-2016	11480
06-2016	14520
07-2016	11420
08-2016	11780
09-2016	17613
10-2016	16507
11-2016	13140
12-2016	15180
01-2017	19380
02-2017	14160
03-2017	15100
04-2017	10880
05-2017	12280
06-2017	10760
07-2017	8440
08-2017	7860
09-2017	12300
10-2017	9240
11-2017	9240
12-2017	10220
01-2018	9840

02-2018	6500
03-2018	11180
04-2018	9360
05-2018	8320
06-2018	9240
07-2018	6680
08-2018	5100
09-2018	4460
10-2018	2340
11-2018	3082
12-2018	7180
01-2019	4540
02-2019	4100
03-2019	12840
04-2019	8240
05-2019	11680
06-2019	9960
07-2019	9760

In the above consumption pattern, it can be seen that the short assessment period of 03/2017 to 07/2017, the consumption recorded was above the average consumption except for the month of 07/2017. The recorded consumption for the month of 07/2017 was 8440 units and it is below the previous average. Hence the failure of the R phase voltage might had been happened in between the readings taken on 01/06/2017 and 01/07/2017. During the month of 03/2017, the recorded consumption was 15100 units and if applying 50% short due to R phase missing, then the consumption will be 22650 units and similar consumption never happened in the history. Hence the short assessment from 03/2017 to 07/2017 as per the site mahazar is totally erroneous and not sustainable. The average consumption after the rectification of the fault of the meter substantiates the above fact. The downloaded data of the meter to be verified thoroughly for ascertaining the period of short fall of consumption due to the R phase voltage missing. Further to the above, if any voltage failure in the R phase, it could be easily seen in the display of the meter during the monthly meter reading. The meter reading authority never reported the phase missing means this was happened after the meter reading on 01/06/2017 and before the inspection on 20/07/2017. After all, the method of 50% of the recorded consumption taken for one phase missing is not correct especially in the case of where single-phase loads are the major portion of the total load.

Reliefs sought.

1. Refund the excess amount collected towards the demand charge by adding the maximum demand recorded in 3 time zones for the period

from 02/2016 to 10/2016 with interest as per the Regulation 134(2) and (3) of KESC 2014 as directed by the CGRF.

2. Cancel the erroneous Short assessment demand by the proceedings dated 20/12/2018 of the Assistant Engineer for Rs. 151530/-.
3. Revise the monthly bills for the period of 01/2019 and 02/2019 by applying the previous average consumption as the meter was faulty as per the Regulation 125 of Supply Code 2014.
4. Cancel the demand as per the Proceedings dated 17/05/2019 directing to remit the erroneous bill amount of Rs. 2,94,420/- already cancelled by the Hon'ble Appellate Authority.
5. Refund the excess amount collected with interest as per the Regulation 134 of Supply Code 2014.

Arguments of the respondent:

1. The maximum demand billed from 02/2016 to 10/2016 for Con. No. 19497 is as below.

02/2016 - $6.31 \times 20 = 126.20$ kVA
 03/2016 - $5.55 \times 20 = 111.00$ kVA
 04/2016 - $4.94 \times 20 = 98.80$ kVA
 05/2016 - $5.75 \times 20 = 115.00$ kVA
 06/2016 - $5.90 \times 20 = 118.00$ kVA
 07/2016 - $6.50 \times 20 = 130.00$ kVA
 08/2016 - $5.52 \times 20 = 110.40$ kVA
 09/2016 - $9.59 \times 20 = 191.80$ kVA
 10/2016 - $6.76 \times 20 = 135.20$ kVA

On verification of previous bills, it is seen that, before 02/2016 the maximum demand recorded were less than 75% of contract demand as claimed by the Consumer. Also, after 10/2016, the maximum demand recorded is below 75% of contract demand. The meter reading registers for the period from 02/2016 to 10/2016 were seized by the Vigilance Squad and so are unavailable for verification. If there is any error in the billing, the consumer can be sanctioned refund of excess paid. The CGRF has ordered to collect the meter reading registers and revise the bills based on the recorded maximum demand or 75% of the contract demand whichever is higher within one month of the order. The respondent had already submitted a letter to the Law Office for sanction for compliance of the above order. Refund, if any, will be issued as early as possible on getting the sanction from the Board.

2. On 20/07/2017, a joint inspection was conducted in the premises by APTS, Ernakulam and the Section Squad. In the inspection, it was found that one phase of the meter was not recording consumption. A short assessment bill amounting to Rs. 2,94,420/- was issued to the consumer based on the findings in the inspection. But the bill was wrongly issued under Section 126 of Electricity Act 2003. The consumer challenged the bill before the Appellate

Authority and the bill was set aside because the short assessment bill under Section 126 was not sustainable. The sanction for compliance of the above order was received on 17/01/2019 from the Board. The Board also directed to issue a fresh demand in accordance with Reg.152 and 134 of Kerala Electricity Supply Code 2014 for receiving the undercharged amount. Accordingly, the Consumer was refunded the amount of Rs. 1,47,210/- with interest in June 2019. The appellant's complaint is that KSEB Ltd has not refunded the amount even after more than one year is completely wrong. The appellant himself in this appeal has later admitted that he has got the refund on 29/06/2019. Also, a short assessment bill of Rs. 2,94,420/- was issued to the Consumer on 17/05/2019 as per Regulation 152 and 134 of Kerala Electricity Supply Code 2014. The demand of Rs. 2,94,420/- was cancelled by the Appellate Authority only on technical grounds as that bill was wrongly issued under Section 126 of Electricity Act 2003. So, KSEB Ltd is well within its rights to issue this demand notice as per Regulations 152 and 134 of Kerala Electricity Supply Code 2014 for recovering the undercharged amount. An invoice is not mandatory with the short assessment demand issued under this regulation. All the required details are mentioned in the proceedings dated 17/05/2019 of the Assistant Engineer and this short assessment demand is in order. The appellant is liable to remit the same. This bill was not challenged by the appellant in the Complaint No. 111/2018-19 before the CGRF as this was issued later and the hearing by the CGRF was already completed. Hence it is submitted that any grievance about this bill is beyond the scope of this appeal and so may be rejected forthwith.

3. An inspection was again conducted in the premises by the Section Squad and APTS, Vazhathope on 11-12-2018. In the inspection it was found that the meter was not recording any consumption in R and Y phase. A short assessment bill of Rs. 1,51,530/- was issued to the consumer based on the findings in the site mahazar. The consumer has already remitted the amount. But it is seen that an error has occurred in the calculation. The short assessment has been done for only one phase missing for the entire period from 07/2018 to 12/2018. But from 10/2018 to 12/2018 the meter was recording consumption in only one phase. Hence the short assessment bill issued is to be corrected. The corrected bill amount is Rs.1,99,968/-. The faulty current transformer in the connection have been replaced with 200/5A CTS on 07-02-2019. The appellant has not challenged this short assessment bill of Rs. 1,51,530/- in the original Complaint No, 111/2018-19 filed in CGRF. So, the appellant's request in this appeal to cancel this bill now is inexplicable and highly suspicious.

4. The arrears (undisputed) in the bill for the month of 01/2019 consists of the balance of short assessment bill of Rs. 2,94,420/- (based on the inspection on 20-07-17) and the short assessment amount for the month of 01/2019 (based on the inspection on 11-12-2018). The billing is done by taking the consumption as 3 times the recorded energy in the meter (4100 units x 3 = 12300 units) since consumption was not being recorded in two phases. The Appellant in his complaint in CGRF had requested to revise the monthly bills for the period from 01/2019 and 02/2019 by applying the previous average consumption as per Regulation 125 of Kerala Electricity Supply Code 2014.

As per regulation 125 of Kerala Electricity Supply Code 2014, in case of defective meter, the consumer shall be billed on the basis of average consumption of the past three billing cycles immediately preceding the date of meter being found defective. If the required details pertaining to previous billing cycles are not available, the average shall be computed from three billing cycles after the meter is replaced.

As per the site mahazar on 11/12/2018, the meter has not recorded the correct consumption from 01/09/2018. Since the meter has not recorded the correct consumption in this period, the average consumption of the preceding months cannot be taken for calculation of bills for the months of 01/2019 and 02/2019. So, the CGRF has correctly ordered to revise the bills based on the average consumption after the replacement of the faulty current transformers. This is correct as per Regulation 125 of Kerala Electricity Supply Code 2014. So, it is requested that KSEBL may be allowed to issue the revised bills based on the average consumption after the replacement of the faulty CTs as per the order of the CGRF.

The request of the appellant for cancelling the short assessment demand of Rs, 1,51,530/- may be rejected as the appellant had not challenged this bill in the original petition in CGRF.

The bills of 01/2019 and 02/2019 may be allowed to be revised as per the order of CGRF.

The request of the appellant to cancel the short assessment demand of Rs. 2,94,420/- may be rejected as this bill was not issued in the period of the original petition 111/2018-19 in CGRF and so is beyond the scope of this appeal.

Analysis and Findings

The hearing of the case was conducted on 19-09-2019, in the office of the State Electricity Ombudsman, Edappally, Kochi, and the appellant was represented by Sri. M.Y. George, and the respondent by Sri. Dennis Rajan, Assistant Executive Engineer, Chithirapuram Electrical Sub Division and they have argued the case, mainly on the lines stated above.

On examining the Petition and argument notes filed by the appellant, the statement of facts of the Respondent, perusing all the documents and considering all the facts and circumstances of the case, this Authority comes to the following conclusions and findings leading to the final decisions thereof.

The appellant's grievances relate to the following counts of allegations.

1. Excess fixed charges collected for the period from 02/2016 to 10/2016 under the optional maximum demand tariff and refund of the excess amount collected with interest as per the Regulations 134(2) and (3).
2. A bill amounting to Rs. 2,94,420/- was issued under Section 126 of the 2003 Act. Aggrieved by this, the appellant had approached the Electricity

Appellate Authority after remitting the 50% of the final bill of Rs. 1,47,210/- The Appellate Authority set aside the final bill and directed to refund the amount already remitted with interest as per the regulation 158(17) of KESC 2014 vide order dated 01/01/2018. But the amount was not refunded.

3. Another short assessment bill for Rs. 1,51,530/- was issued on 20-12-2018 following an inspection conducted by the APTS on 11-12-2018, as non-recorded portion due to the fault of the meter from 07/2018 to 12/2018. The short assessment was prepared by taking the 50% and 150% of the recorded consumption. The dispute is the period of assessment and the method adopted for calculating the unrecorded portion of the consumption for the short assessment.

4. A short assessment bill of Rs. 2,94,420/- was issued to the Consumer on 17/05/2019 as per Regulation 152 and 134 of Kerala Electricity Supply Code 2014. This is a fresh demand notice of the amount of Rs. 2,94,420/- issued earlier in bill dated 20-10-2017 and set aside by the Appellate Authority in his order dated 01-01-2018. The appellant's contention is that the method of 50% of the recorded consumption taken for one phase missing is not correct especially in the case of where single-phase loads are the major portion of the total load and hence, they are not liable to remit the amount calculated in this regard.

5. In the bill for the month of 01/2019, an amount of Rs. 2,44,418/- was included as arrears (undisputed) with the bill amount of Rs. 57,145/-. In the bill for the month of 02/2019, an amount of Rs. 2,31,097/- was also included as arrears undisputed with the bill amount of Rs. 52,644/-. The bill issued on 01/01/2019 and 01/02/2019 by taking the consumption as three times of recorded consumption as the meter was not recording the consumption in two phases. But the non-recording of the two phases of the meter might be intermittently and the method of taking three times of the recorded consumption is totally baseless specially in the case where major loads are of single-phase equipment's. Hence the bill issued during the months for 01/2019 and 02/2019 are to be revised for the average consumption.

As regards the grievance of the excess fixed charges collected for the period from 02/2016 to 10/2016, the CGRF has observed that on verification of previous bills it is seen that before 02/2016 the maximum demand recorded were less than 75% of contract demand as claimed by the consumer. The respondent has stated that the recorded maximum demand cannot be verified because the meter reading registers for the said period were seized by the Vigilance Squad. It is revealed from the statement of facts submitted by the respondent that they had already submitted a letter to the Law Office for sanction for compliance of the order of CGRF to revise the bills based on the recorded maximum demand or 75% of the contract demand whichever is higher within one month of the order and refund, if any, will be issued as early as possible on getting the sanction from the Board. The respondent shall take immediate action to refund the excess amount if any, collected from the appellant with interest.

Regarding the refund of Rs. 1,47,210/- as ordered by the Appellate Authority, it is found that the amount was refunded to the appellant with interest in June 2019. Hence no need to interfere this issue.

With regard the third issue of short assessment bill for Rs. 1,51,530/- issued on 20-12-2018 following an inspection conducted by the APTS on 11-12-2018, as non-recorded portion due to the fault of the meter from 07/2018 to 12/2018, the respondent has stated that the appellant has not challenged this short assessment bill of Rs. 1,51,530/- in the original Complaint No. 111/2018-19 filed in CGRF. But this argument of the respondent is not correct and against the facts. On going through the order of the CGRF, the CGRF has analyzed this issue and the Forum observed that "the meter reading before the replacement of the CT's is not correct. Hence the energy recorded in the meter is also not correct. As per the regulation 125, Kerala Electricity Supply Code 2014, in this case of defective meter, the consumer shall be billed on the basis of average consumption from 3 billing cycles after the meter replacement. In this case the CT's considered as part of the meter. Hence the Forum decided to revise the bill based on the average consumption from 3 billing cycles after meter replacement".

The appellant's version is in this case for computing the average consumption for the actual defective period, the provision as per regulation 125(1) also should be taken. Due to the heavy flooded situation and land slide, there was no guest occupancy for the period from 15/08/2018 to 10/11/2018 and also less consumption for the above period and the short assessment bill issued for the period from 07/2018 to 12/2018 is totally baseless /erroneous and also contended that in this situation, the order of the CGRF to assess the above period based on the average consumption after the rectification of the metering equipment is not justifiable.

It is pertinent to note that the flood occurred in Kerala during the August 2018. The resort was closed and maintained by skeleton staff without any guest till November last. Under these circumstances, the chances for usage of single-phase load cannot be overlooked. As per the site mahazar, Y phase of the meter is not recording current from 13-6-2018 onwards and R phase of the meter is not recording voltage from 01-09-2018 onwards. The faulty CT was replaced on 7-2-2019.

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 two phases on the basis of the inspection conducted in the premises and load survey/tamper report downloaded. There is no 3-phase load in the premises. Majority of the load is that of lights, fans, air conditioners, computers etc.

On verifying the site mahazar prepared on 11-12-2018, it is recorded as voltage in R phase of the energy meter having serial number 4184691 "low" or "zero" from 01-09-2018 onwards and current in Y phase zero from 13-06-2018 onwards. But the respondent has not produced the scientifically downloaded data of the meter substantiating their contention. Later the respondent has

produced some data generated on 27-09-2019 of a meter with serial number 09555903 in which the observation made in the site mahazar is not seen. Hence the missing of energy in one phase from 13-06-2018 and voltage in R phase from 01-09-2018 is not established conclusively, but only proved with effect from 11-12-2018 i.e., the date of inspection. The consumption pattern of the appellant also shows a decrease in the consumption from 08/2018 to 02/2019. But the flood occurred in Kerala during the August 2018 and the resort was closed and maintained by skeleton staff without any guest till November last has to be considered as a reason for the decrease in the consumption during the period from 08/2018 to 11/2018.

Another request of the appellant is to cancel the demand as per the Proceedings dated 17/05/2019 directing to remit the bill amount of Rs. 2,94,420/- already cancelled by the Hon'ble Appellate Authority. According to the respondent, this bill was not challenged by the appellant in the Complaint No. 111/2018-19 before the CGRF as this was issued on 17-5-2019 i.e., after the date of submission of the complaint dated 18-2-2019. The dispute pertains the period of assessment and the method adopted for calculating the unrecorded portion of the consumption for the short assessment. The CGRF has not considered this issue while disposing the petition dated 18-02-2019 filed by the appellant. Hence it is quite proper for the appellant to file a petition before the CGRF on this subject matter and hence this Authority declined to interfere the issue at present.

The undisputed arrears of Rs. 2,44,418/- and Rs. 2,31,097/- shown in the bills for 01/2019 and 02/2019 respectively is another cause of grievance. The billing is done by taking the consumption as 3 times the recorded energy in the meter (4100 units x 3 = 12300 units) since consumption was not being recorded in two phases. The calculation statement received from the respondent shows the short assessment of the phase missing for the month of 01/2019 is Rs.92888/- and for 02/2019, it is 83887/-. It means that the undisputed arrear of Rs. 2,44,418/- for 01/2019 contains the arrear amount of Rs.1,51,530/-(which was remitted by the appellant earlier) plus Rs.92888/- = Rs. 2,44,418/- and the undisputed arrear for 02/2019 includes Rs. 83887/- plus Rs. 1,47,210/-(50% of the short assessment bill of Rs. 2,94,420/-). It is pertinent to note that a short assessment bill of Rs. 2,94,420/- was again issued to the Consumer on 17/05/2019 by the respondent.

Decision

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

The short assessment bill for Rs. 1,51,530/- issued to the appellant is quashed. The respondent shall issue revised bill for the period from 05-12-2018 to 07-02-2019 (date of rectification of defects in the metering system) based on three months average for 03/19, 04/19 and 05/19. The bill for the month of 01/2019 for Rs. 2,44,418/- and the bill for 02/2019 for Rs. 2,31,097/- is also quashed. The excess amount collected shall be adjusted in the future bills.

The request of the appellant to cancel the demand as per the proceedings dated 17/05/2019 directing to remit the bill amount of Rs. 2,94,420/- is not admitted since the CGRF has not considered this issue in its order dated 28-06-2019 while disposing the petition dated 18-02-2019 filed by the appellant.

Having concluded and decided as above, it is ordered accordingly and the Appeal Petition filed by the appellant, stands allowed to the extent ordered. The order of CGRF, Ernakulam in 111/2018-19 dated 28-06-2019 is set aside. No order on costs.

ELECTRICITY OMBUDSMAN

P/059/2019

Delivered to:

1. Sri. Hybeen Thomas, Managing Director, M/s G Way Farms and Resorts Pvt. Ltd., Spice Tree Resorts, Chinnakanal, Munnar, Idukki.
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Chithirapuram, Idukki

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 Substation Compound, KSE Board Limited, HMT Colony P.O., Kalamassery, PIN: 683 503.