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APPEAL PETITION No. P/070/2019
(Present: A.S. Dasappan)
Dated: 18th November 2019

Appellant : Smt. Shanima Ishak,
Managing Partner,
M.G. Roller Flour Mills,
Thevalakkara, Kollam

Respondent : The Deputy Chief Engineer
Electrical Circle, KSEBL,
Kollam

The Special Officer (Revenue)
Vydhyuthi Bhavanam, KSEBL,
Pattom, Thiruvananthapuram

The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd,
Karunagappally South,
Kollam

ORDER

Background of the Case:

The appellant is the Managing partner of the M.G. Roller Flour Mill, an SSI Unit conducting flour making unit. The appellant is an HT consumer under Electrical Section, Thevalakara bearing customer No. LCN 16/7603 under HT 1(A) Industrial tariff with registered contract demand of 175 kVA. The inspecting authorities of TMR Thirumala conducted a field inspection in the Appellant's premises on 02.08.2017 and found that the PT Secondary RY and BY Voltages are low and hence the PT unit was suspected to be faulty. The Deputy Chief Engineer Electrical Circle Kollam has directed the Appellant to enhance the contract demand and to replace the PT unit with new PT of accuracy class 0.2 and to change CT with ratio 10/5 A to 15/5 A with accuracy Class 0.2S. The

respondent has imposed penalty as 50% extra over the prevailing rate applicable both demand and energy for two months during which the appellant failed to replace the faulty metering component, and one month thereafter. The appellant has challenged the bill before the CGRF, Kottarakkara, who dismissed the petition vide order No.94/2018 dated 05-11-2018. Against this order of CGRF, the appeal petition submitted by the appellant before this Authority has disposed that as the appellant produced the newly procured CT and PT units before the KSEBL within the prescribed time limit, there is no need to impose 50% extra as penalty and the 50% extra imposed for three months over the prevailing rate applicable both demand and energy charge is quashed, vide order in appeal petition no. P/089/2018 dated 27-2-2019.

The present appeal is against the short assessment bill amounting to Rs. 10,86,969/- issued by the respondent and requesting to set aside the orders issued by CGRF in RP No. 37/2019 in OP No. 154/2018 dated 24-07-2019. A short assessment bill of Rs. 10,86,969/- was issued to the appellant on 24-10-2018, based on the findings that the PT Secondary RY and BY Voltages are low and hence the PT unit was suspected to be faulty. So as to compensate revenue loss to the Board for the unrecorded portion of energy, the Assistant Engineer, Electrical Section, Thevalakkara, issued short assessment bill by directing to pay the amount for the period from 05/2017 to 09/11/2017. Aggrieved by the short assessment bill, the appellant filed petition before CGRF, Kottarakkara requesting to quash the bill. The Consumer Grievance Redressal Forum disposed the OP No.154/2018 filed by the appellant and ordered on 28-03-2019 that the bill issued is illegal and unsustainable. Against the findings of the CGRF, the respondent preferred a review petition as RP No. 37/2019 in OP 154/2018 which was allowed on a finding that "the short assessment bill issued by the review appellant as per Regulation 125 (1) of Kerala Electricity Supply Code 2014 is genuine" and corrected the page 4, the 8th paragraph of the order No. 154/2018 dated 28.03.2018 as "the short assessment bill issued by the respondent as per Regulation 125 (1) of Kerala Electricity Supply Code 2014 is sustainable. Challenging the decision of the CGRF, the appellant approached this Authority by filing this appeal petition.

Arguments of the appellant:

The respondent has found that the faulty PT unit was replaced by the appellant only on 9.11.2017 after two months of receipts of intimation from the respondent and found that PT was declared faulty from 20.05.2017, and the appellant was billed by the respondents on the basis of consumption of the past three billing cycles which are 4/2017, 3/2017 and 2/2017 as per Reg. 125 (1) of the Supply Code 2014 and issued the short assessment bill for Rs. 10,86,969/-

Against which the appellant preferred a complaint before CGRF. Kottarakkara as O.P. 154/2018, challenging the short assessment bill issued by the respondent. On the basis of the documents and evidence the CGRF,

Kottarakkara found that, as per Reg. 125 (1) of the Kerala Electricity Supply Code, 2014 in the case of defective or damaged meter, the consumer shall be billed on the basis of average consumption of the past three billing cycles immediately preceding the date of the meter being found or reported defective. The CGRF found that, Reg. 125 is applicable only for defective or damages meter and in the case of the appellant meter was not faulty but PT unit of the metering system was faulty. The short assessment bill should have been prepared on the basis of the method in force when the CT or PT is become defective. Hence the short assessment bill issued by the respondent was illegal and unsustainable as per Regulation 125 of Kerala Electricity Supply Code 2014.

Against the aforesaid findings of the CGRF, the respondent Board, preferred a review petition as RP No. 37/2019 in OP 154/2018. In the said review petition the CGRF Kottarakkara heard the Review Appellant alone and allowed the Review Petition on a finding that "the short assessment bill issued by the review appellant as per Regulation 125 (1) of Kerala Electricity Supply Code 2014 is genuine" and corrected the page 4, the 8th paragraph of the order No. 154/2018 dated 28.03.2018 as "the short assessment bill issued by the respondent as per Regulation 125 (1) of Kerala Electricity Supply Code 2014 is sustainable"

The said order of the CGRF Kottarakkara is erroneous, illegal and unsustainable and totally against facts and evidence in this case. The respondents suppressed the order of the Appellate authority in Appeal No. 89/2018 dated 27.02.2019 and obtained the order dated 24.7.2019 in R.P. No. 37/2019 in O.P. No. 154/2018 of CGRF Kottarakkara. The Appellate Authority already found that, the appellant herein has produced three numbers of CT and one number of PT for testing and certification within the prescribed period. Since the appellant produced the newly produced CT and PT units before the KSEBL within the prescribed time limit, there is no question to impose 50% extra as penalty. As such the 50% extra imposed for three months over the prevailing rate applicable both demand and energy charge was quashed. This being the facts the respondents have suppressed the above order of this Appellate Authority and obtained the impugned order in Review Petition. Hence the above appeal to set aside the order dated 24-07-2019 in RP No. 37/2019 in OP 154/2018

Reliefs Sought for: -

To set aside the order dated 24.07.2019 of the Consumer Grievance Redressal Forum in R.P. No. 37/2019 in O.P. No. 154 of 2018.

Arguments of the respondent:

The Appellant is a HT consumer under Electrical Section Thevalakkara, Kollam bearing consumer code No. LCN/16/7603 under HT1(A) Industrial tariff with registered contract demand of 175 KVA. The chronological sequence of all events of the appellant are detailed hereunder the table No. 1

TABLE-1

S1. No.	Particulars	Date
1	The detection of dysfunctional parts of the metering system and reporting the same to TMR. Thirumala by the AE, ES, Thevalakkara.	01-08-17
2	Field inspection of the complainant's HT meter by the TMR wing	02-08-17
3	Inspection report of TMR wing communicated to the Deputy Chief Engineer, Electrical Circle, Kollam.	08-08-17
4	Date of the letter addressed to the complainant for replacement of faulty PT and capacity enhancement of CT and allied works.	10-08-17
5	Remittance of new meter testing fee by the appellant at Electrical Section Thevalakkara	21-10-17
6	The replacement of faulty components of the HT metering communicated by the Executive Engineer, TMR, Thirumala	09-11-17
7	Demand Notice for short assessment issued	15-10-18
8	Order of the CGRF	28-03-19
9	Review order CGRF	24-07-19

The Assistant Engineer. Electrical Section, Thevalakkara while recording the monthly reading on 01.08.2017 detected certain anomalies in the HT reading of the appellant consumer and immediately brought the same to the attention of the Executive Engineer, T.M.R, Thirumala (meter testing laboratory of the licensee) as well as the Consumer through notice. The inspection authorities of TMR Thirumala conducted a field inspection and tested the meter at site of the appellant premises as per the Reg.116(2) of the Kerala Electricity Supply Code 2014 on the very next day of detection of anomalies in the HT reading ie. on 02,08.2017 and found that the PT Secondary RY and BY Voltages are low and hence the PT unit was suspected to be faulty. Consequently, data downloaded from the energy meter which comprises of Tamper Report and MD Report revealed that appellant's PT unit remain faulty with effect from 20-05-2017.

It is obvious from the tamper report that voltage failure on R phase as per the sequential storage for events occurred at 21:52:57 hours on 20.05.2017 and its duration was 70 days 23 hours 5 minutes and 45 seconds. From the duration

of the voltage failure it would be evident that the R phase voltage is missing from 20.05.2017 onwards and it persisted during the inspections of both the Assistant Engineer, Electrical Section, Thevalakkara on 01.08.2017 and TMR Thirumala, on 02.08.2017.

On the basis of the report from Executive Engineer, TMR Division, Thirumala the Deputy Chief Engineer, Electrical Circle, Kollam has sent a letter directing the appellant to enhance the contract demand and to replace the PT unit with new PT of accuracy class 0.2 and to change CT with ratio 10/5 A to 15/5 A with accuracy Class 0.2S at the earliest vide No. AEE-1/HT- MG Roller Flour Mill/2017-18/147 dated 10-08-2017.

By virtue of the para 4 of the HT agreement No.18/2015-16 dated 08.01.2016 the quantity of electrical power and energy supplied by the Licensee to the consumer shall be ascertained by means of CT/PT unit and ToD meter conforming to the specification of the Central Electricity Authority and the Licensee. It shall be installed and maintained by the licensee unless the consumer opts to purchase his meter. The maintenance of meters and associated equipments and replacement of defective meters and associated equipment's shall be done as per the provisions of the Supply Code 2014 as amended from time to time.

In this case at hand, the appellant has elected to purchase the meter and the meter was tested, calibrated, sealed, installed and maintained by the licensee. The appellant hasn't made any representation for the purchase of meter by the licensee yet. For the foregoing reasons, it is obvious that the meter and metering components are owned by the appellant and KSEB Ltd has relied on the data downloaded from the appellant's energy meter and thereby declared the appellant's PT is faulty. In the event of any ambiguity regarding the said findings of the licensee, the appellant would have requested to test the said PT by remitting the requisite testing fee as per the schedule of miscellaneous charges given in the schedule of Supply Code, 2014. Whereas the appellant has failed to initiate any such steps yet. Therefore, this respondent denies all the contentions of the appellant as to the faulty condition of the PT. This respondent could conclusively establish the facts that PT owned by the appellant is faulty. It is therefore the respondent's duty to remit the testing fee for the testing of the PT under Reg 115(4) of the Supply Code 2014 but the respondent has taken all steps to replace the faulty PT instead of testing its accuracy.

Since the PT was declared faulty from 20.05.2017 this respondent has issued short assessment bill based on the previous average consumption of the past three billing cycles of 4/2017, 3/2017 and 2/2017 immediately preceding the month of meter being found or reported defective i.e. from 20.05.2017 strictly in compliance with Reg.125(l) of the Supply Code, 2014. As stated above the respondent issued a short assessment bill for Rs.10.86,969/- vide invoice No.

SOR/HTB-16/7603/18-19/41 dated 24.10.2018 of SOR, KSEB Ltd for the faulty period from 6/2017 to 11/2017.

It is technically proved and established fact that under HT 3 phase 3 wire system which was capable of measuring current I_R and I_B and voltage V_{RY} and V_{BY} , it would not be possible to compute the energy KWH/KVA recorded by the meter due to faulty metering components as is usually done in 3 phase 4 wire system. So, the loss occurred to the licensee could not be determined consonance with the method used in 3 phase 4 wire system.

Being there is no legal provision dealing with 'method in force' other than Regulation 125 of Supply Code 2014 to compute the energy loss occurred to the licensee, the respondent is entitled to realize the under charged amount by virtue of regulation 134 of the Supply Code adopting the procedure lay down under regulation 125 of the Supply Code 2014. These facts are admitted by the CGRF by review petition No. 37/2019 in OP No. 154/2018 dated 24/07/2019.

Analysis and findings:

The hearing of the case was conducted on 17-10-2019 in the office of the State Electricity Ombudsman, Edappally, Kochi and Sri. P.R. Milton, Advocate represented for the appellant's side and Sri. Pradeep P.S., Assistant Executive Engineer, Electrical Sub Division, Karunagappally and Sri. P. Pradeep, Superintendent O/o the Special Officer (Revenue) appeared for the respondent's side. On examining the petition and the arguments filed by the appellant, the statement of facts of the respondent, perusing the documents attached and considering all the facts and circumstances of the case, this Authority comes to the following conclusions leading to the decision.

The Appellant's meter is faulty with effect from May 2017 due to the failure of PT and hence the respondent has issued a short assessment bill to recover the amount undercharged to the tune of Rs. 10,86,969/-. The respondent has clarified that the said amount includes the bill of the faulty period of metering system and the penalty of non-installation of PT (part of the metering system) within the prescribed period. The 50% extra imposed as penalty for three months over the prevailing rate applicable both demand and energy charges was quashed in the order no. P/089/2018 dated 27-02-2019 of this Authority. The appellant preferred another complaint OP 154/2018 before the CGRF challenging the short assessment bill of Rs. 10,86969/-. The CGRF disposed the OP No.154/2018 filed by the appellant and ordered on 28-03-2019 that the bill issued is illegal and unsustainable. In a review petition filed by the respondent as RP No. 37/2019 in OP 154/2018, the CGRF held that the short assessment bill issued by the respondent as per Regulation 125 (1) of Kerala Electricity Supply Code 2014 is sustainable.

According to the respondent, the Assistant Engineer while taking the monthly reading in the consumer's premises on 01-08-2017 detected some anomalies in the HT reading of the energy meter against the load current, thus resulting in the recording of a lower consumption than what is actually consumed. As per the data downloaded, the meter was suspected faulty with effect from 20-05-2017 onwards. 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 appellant's contention is that the CGRF found that, Reg. 125 is applicable only for defective or damaged meter and in the case of the appellant meter was not faulty but PT unit of the metering system was faulty. The short assessment bill should have been prepared on the basis of the method in force when the CT or PT is become defective and the short assessment bill issued by the respondent was illegal and unsustainable as per Regulation 125 of Kerala Electricity Supply Code 2014. Another argument of the appellant is that the CGRF Kottarakkara has heard the Review Appellant alone and allowed the Review Petition. Further the appellant contended that the respondents have suppressed the order of this Authority in appeal petition P/089/2018 and obtained the impugned order in Review Petition.

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 energy lost as per Regulation 125 of Supply Code, 2014, as claimed by the respondent.

The meter is not a recording or display unit only but as defined above all the components above including lead wires include a meter. Moreover, this 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 the 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. Any defect in any part or component of meter is defect in meter. Under the regulation 113, sub clause (7) of Supply Code 2014 requires the licensee to test the CT, PT and the wiring connections, where ever applicable while testing the meter.

Here in this case, as per tamper report voltage failure on R phase as per the sequential storage for events occurred at 21:52:57 hours on 20.05.2017 and its duration was 70 days 23 hours 5 minutes and 45 seconds. From the duration of the voltage failure it would be evident that the R phase voltage is missing from 20.05.2017 onwards and it persisted during the inspections of both the Assistant Engineer, Electrical Section, Thevalakkara on 01.08.2017 and TMR Thirumala, on 02.08.2017.

The respondent has not prepared a site mahazar on inspecting the premises of the appellant. The Potential Transformer (PT) was purchased and supplied by the appellant to the Licensee for the replacement of the defective PT. A decision to quash the amount was taken by this Authority in the penal assessment for 50% extra made by the respondent pertain to the supply of CT – PT unit, vide order in appeal petition no. P/089/2018 dated 27-2-2019.

Decision

From the conclusions arrived at as detailed above, I decide to quash the short assessment bills amounting to Rs. 10,86,969/- issued to the appellant. The respondent shall issue a revised bill to the appellant by deducting the penal assessment of 50% extra imposed for three months. The appellant shall remit only the electricity charge portion of the short-assessed amount. The respondent shall issue a revised bill within a period of 30 days from the date of this order and also shall allow instalments if the appellant desires so.

Having concluded and decided as above it is ordered accordingly. The order of CGRF in RP No. 37/2019 dated 24-07-2019 in OP No. 154/2018 is modified to this extent. No order on costs.

ELECTRICITY OMBUDSMAN

P/070/2019/ _____ /Dated: _____

Delivered to:

1. Smt. Shanima Ishak, Managing Partner, M.G. Roller Flour Mills, Thevalakkara, Kollam
2. The Deputy Chief Engineer, Electrical Circle, KSEBL, Kollam
3. The Special Officer (Revenue), Vydhyuthi Bhavanam, KSEBL, Pattom, Thiruvananthapuram
4. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Karunagappally South, Kollam

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthi Bhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthi Bhavanam, KSE Board Ltd, Kottarakkara - 691 506.