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APPEAL PETITION No. P/021/2018  
(Present: A.S. Dasappan)  
Dated: 4<sup>th</sup> June 2018

Appellant : Sri. Arun R Chandran,  
Energy Head,  
Indus Towers Ltd.,  
Palarivattom,  
Ernakulam

Respondent : The Assistant Executive Engineer,  
Electrical Sub Division,  
KSE Board Ltd, Sasthamkotta,  
Kollam

### **ORDER**

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

The appellant represents M/s Indus Towers Ltd., a company providing passive infra structure service to telecommunication providers. The consumer number of the appellant's three phase service connection is 14943 with tariff LT VI F which is coming under the jurisdiction of Electrical Section, Soornad North, Kollam. The appellant is paying the current charges regularly without any dues or delay. But the respondent as per the invoice dated 13-02-2017 directed the appellant to remit an amount of Rs. 1,01,173/- being the short assessment based on the findings that the meter was faulty for the period from 01-04-2014 to 26-12-2016. Against the short assessment bill, the appellant had approached the CGRF (SR) Kottarakkara by filing a petition No. 565/2017. The Forum dismissed the petition due to lack of merit, vide order dated 27-02-2018. Aggrieved against this, the appellant has submitted this appeal petition before this Authority.

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

The appellant had filed an objection against the short assessment bill amounting to Rs. 1,01,173/- dated 13/02/2017 before the Assistant Engineer, Electrical section, Soornad North vide letter dated 14/03/2017. But the Assistant Engineer not considered the objections and directed to pay the bill issued illegally vide letter dated 07/12/2017. Aggrieved by this, the appellant had filed petition

no. 565/2017 before the CGRF, Kottarakkara which was dismissed on lack of merits.

1) On verification of the records, the meter of the above service connection was declared as faulty during the month of 06/2014 and monthly bills were issued up to 05/2014 for the actual consumption recorded in the meter with the status of the meter as working. The faulty meter was seen replaced on 26/02/2016 after a lapse of around 2 years. The meter faulty period of 06/2014 to 26/02/2014 was assessed for the previous six months' average consumption of 2026 units instead of 3 months' average of 1952 units ( $1121+2636+2099/3=1952$ ) as per the regulation 125(1) of Supply Code 2014 and the bills were remitted by us. Hence the bill amount collected by the licensee for the faulty meter period is already in the higher side.

2. Any rules or regulations in the Electricity Act or Electricity Supply code is not supporting to reassess a consumer merely due to the dip in consumption in a previous billing period by declaring the meter as sluggish/ faulty after a long period without the support of the test report of the meter.

1. As per regulation 116(2) of Electricity Supply Code 2014, if the meter is found defective, the licensee may test at site, if feasible, and if not feasible, the meter shall be replaced with a correct meter and the defective meter shall be got tested in an accredited laboratory or in an approved laboratory. But in the instant case, the licensee failed to do so. Hence the short assessment bill is not sustainable.

4). As per the regulation 125 (1) of 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. In this case, the meter was reported as defective only during the month of 06/2014 and hence the assessment from 04/2014 to 02/2016 is not sustainable.

Regulation 125(2) says that charges based on the average consumption as computed above shall be levied only for a maximum period of two billing cycles during which time the licensee shall replace defective or damaged meter.

In the present case, the faulty meter was replaced after a lapse of around 2 years of time against the period of 2 billing cycles permitted in the above said regulation for the replacement of the faulty meter. Hence the short assessment is not sustainable.

The KSEB Limited itself vide circular dated 25/02/2016, directed to follow the regulations concerned for the assessment of faulty meter period. In the above circular it is directed to assess a consumer for the faulty meter period as per the previous three months' average consumption immediately preceding the date of the meter detected or reported faulty. The assessment as per the average fixed as above shall be continued only for a maximum period of two billing cycles during

which time the faulty meter shall replace with a correct meter. Regulation 134 says that if the licensee establishes either by review or otherwise, that it has undercharged the consumer, the licensee may recover the amount from the consumer by issuing a bill and such cases at least 30 days shall be given to the consumer for making payment of the bill. But for the above, assumption or imagination is not permitted to establish the undercharged or overcharged bills.

The CGRF found that the meter ceased to zero consumption with reading 59566 in 06/2016 and that was the same final reading for the month of 05/2014. Hence the consumption of 05/2014 is not actual. The appellant has admitted this observation of the CGRF. Further the Forum found that, bills were issued during the faulty period from 04/2014 to 02/2016 is based on the previous six months' average consumption is illegal as per Regulation 125(1) of Supply code 2014. But at the same time, the Forum not considered the Regulation 125(2) of Supply Code 2014. In the case in hand, the faulty meter was replaced by the licensee after a period of two years and the short assessment bill issued again after 1 year from the date of replacement of the faulty meter based on the so called "healthy period average" for the entire faulty meter period of two years. Hence the order of the Forum without considering the above fact is erroneous and should be set aside.

Considering all the above facts, the appellant has prayed to set aside the order of the CGRF, Kottarakkara and to cancel the illegal short assessment bill issued by the licensee without replacing the faulty meter within the period specified in the Regulation 125(2) of Supply Code 2014.

**Arguments of the respondent:**

The respondent has answered the above arguments of the appellant in the statement of facts filed by him.

The appellant, a low tension three phase consumer with consumer number 14943 having sanctioned connected load of 16000 Watts under LT VI F tariff is a telecom tower company under Electrical Section Sooranadu (North). The Energy Meter of Genus-make with serial number 4203351 and capacity 10-60 Amp installed in the Appellant's premises recorded monthly consumption in May 2014, which is around half of the consumption during the previous months. The consumption pattern and Final Reading are furnished in Table -1 hereunder.

Table-1

Reading Month	Consumption	Remarks
Jan-14	2342	Final Reading -51141
Feb-14	2569	Final Reading-53710
Mar-14	2099	Final'Reading-55809

Apr-14	2636	Final-Reading-58445
May-14	1121	Final Reading-59566
Jun-14	2026/2435	Final Reading-59566
		2026 units - when 6 billing cycle is considered by mistake.
		2435 units - when 3 billing cycle preceding the date of the meter being, found ' or reported defective as per Reg. 125 of Supply Code

The above table shows that Energy Meter in the Appellant's premises became faulty in May 2014 when the reading reached 59566 KWh. For this reason, the consumer has been served with a bill for June 2014 taking into account the average of 6 billing cycles from April 2014 to November 2013 (excluding May 2014, being the reading seems very low) erroneously. It was revealed during the internal auditing by the RAO that the average computation taking six billing cycle is inconsistent with Regulation 125 of the Supply Code 2014 and remarked that average of three billing cycle preceding the date of the meter being, found defective shall be taken into account to prepare the bill during the meter faulty period. Consequent to this, the Appellant was served a short assessment bill to make good the loss sustained by the Respondent Licensee in accordance with Reg. 134(1) read with Reg. 125 of the Kerala Electricity Supply Code 2014. The average consumption of six billing cycles was 2026 units and that for three billing cycles preceding the date of the meter being found defective, comes to 2435 units and hence the shortfall of 409 units per month during the faulty period from 02.05.2014 to 26.02.2016 was billed for Rs. 1,01,173/- in order to-make good the loss sustained by this Respondent Licensee.

The Forum after placing, reliance on the Respondent's averments, ordered that the appellant is liable to remit the short assessment bill as the said bill was issued to realize the amount short collected owing to the erroneous calculation of the average consumption.

The Appellant suggested to determine the average of three billing cycles of 05/2014, 04/2014 and 03 2014, (where the reading of 5/2014 is only 1121 units) and thereby the average would come down to 1952 units  $(1121+2636+2099/3=1952)$  but the average already realized by the Respondent was 2026 units. Hence, the remittance was in the higher side. As regards the first ground raised by the Appellant above, the Appellant couldn't place any reliance on very low consumption in 05/2014, which is around half of the units consumed in the previous bills. Further the reading recorded in 5/2014 remained unchanged at 59566 units. It is therefore obvious that the meter became defective

with effect from 05/2014 onwards itself and the average computation ignoring the month 05/2014 is sustainable.

The Respondent submits that no reassessment was made by the Licensee merely finding any dip in consumption, but the revision was made only after conclusively establishing the fact that the meter was faulty. The meter was stuck at 59566 units. The Respondent had followed the prevailing Regulations, 134 read with Reg 125 of the Supply Code 2014 to short assess the Appellant.

Testing of the meter was not required as it was conclusively established that the said meter is faulty.

The meter was replaced in February 2016 due to dearth of meters. The respondent sustained a huge loss owing to non replacement of the meter in accordance, with Reg. 125(2) of the Supply Code 2014. The Table II below gives the consumption of the Appellant from April 2016 to January 2018 after the date of replacement of faulty meter.

Month	Consumption
April-16	3331
May-16	3683
June-16	3211
July-16	4016
August-16	4571
September-16	4720
October-16	4346
November-16	4573
December-16	4474
January-17	4401
February-17	4945
March-17	3438
April-17	5765
May-17	4555
June-17	3450
July-17	4822
August-17	4521
September-17	5628
October-17	4357
November-17	5881
December-17	6510
January-18	6317

The average consumption from 6/2014 to 02/2-016 was only 2435 units, whereas the consumption of the Appellant increased manifold during the period after replacement of the meter. It could be presumed that the consumption prior to April 2016 would also have been in the higher side and ultimately the Respondent suffered a setback of financial loss owing to the fixing of low average.

The appellant himself admitted the findings of the CGRF, in regard of the computation of average without considering the sluggish consumption of 05/2014, as correct. Whereas the appellant relied on Reg. 125(2) which provides that the charges based on the average as computed above shall be levied only for a maximum period of two billing cycles during which time the licensee shall replace defective or damaged meter. It is admitted that there occurred a delay in replacing the Appellant's faulty meter due to dearth of meters. In fact the respondent sustained a financial loss due to the billing based on such average consumption from 06/2014 to 02/2016 Given all this, the averment of the appellant as to the CGRF not considered the Reg 125(2) would, appear bereft of bona fides. The Respondent is not in a position to supply electricity to the Appellant without realizing, the charges as fixed by the competent Authorities from time to time.

The respondent has requested to dismiss the Appeal with cost upholding order of the, Consumer Grievance Redressal Forum dated 27.02.2018.

The respondent had to test the meter when the consumption became 1121 units for 04/2014 and to confirm the faultiness of meter during that period. From May 2014 onwards, the appellant was given an average of 2026 units excluding the consumption 1121 units for 04/2014 taking the average of the consumption of previous six months (10/2013 to 03/2014). Once an average consumption (excluding the month of 04/2014 in dispute) was fixed during the faulty meter period, again a revision taking 3 months consumption (still excluding the month of 04/2014 in dispute) for the same period is not proper.

From the conclusions arrived at as detailed above, I decide to set aside the short assessment bill amounting to Rs. 1,01,173/- issued to the appellant.

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 OP No. 565/2017 dated 27-02-2018 is set aside. No order on costs.

**ELECTRICITY OMBUDSMAN**

P/021/2018/ /Dated: \_\_\_\_\_

Delivered to:

1. Sri. Arun R Chandran, Energy Head, Indus Towers Ltd., Palarivattom, Ernakulam
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Sasthamkotta, Kollam

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, Consumer Grievance Redressal Forum, Vydhyuthibhavanam, KSE Board Ltd, Kottarakkara - 691 506