

THE STATE ELECTRICITY OMBUDSMAN

Charangattu Bhavan, Building No.38/2829,
Mamangalam-Anchumana Road,
Edappally, Kochi-682 024

www.keralaeo.org Ph: 0484 2346488, Mob: 91 9539913269
Email: ombudsman.electricity@gmail.com

APPEAL PETITION No. P/044/2020
(Present: A.S. Dasappan)
Dated: 17 February 2021

Appellant : Sri. C.P. Varghese
M/s. ALTA WORLD Travel & Tourism
Pvt. Ltd.,
5/2932 A4&A5, C D Tower,
By-Pass Road,
Kozhikode – 673 004

Respondent : Assistant Executive Engineer,
Electrical Sub Division, KSEB Ltd.,
Nadakkavu, Kozhikode

ORDER

Background of the case:

The premises with Consumer No.14894 under Electrical Section, Nadakkavu in the name of Sri. Abdulkalam is being used by the appellant as the office of their institution by name “M/s. ALTA WORLD Travel & Tourism Pvt. Ltd.” The tariff allotted is LT VIIA with connected load 10711 watts. The appellant received two electricity bills amounting to Rs.5,198/- and Rs.5,051/- for April 2020 and May 2020 respectively. The appellant approached the Consumer Grievance Redressal Forum, Northern Region, Kozhikode with a petition vide OP No. 55/2020-21 against the bills on the ground that there was no consumption in the premises due to the closure of the establishment within the period of ‘Lockdown’ declared by the Govt. to restrict ‘COVID 19’. The Forum dismissed the petition in its order dated 04-12-2020, observing there is no sustainable ground to interfere into the demand raised. Aggrieved by the decision of the Forum, the appellant filed this appeal petition before this Authority on 22-12-2020.

Arguments of the appellant:

M/s. ALTA WORLD Travel & Tourism Pvt. Ltd. is a company incorporated under the Companies Act having its registered office at Calicut. The company is having branches at Cochin and Trichur and doing business in arranging Air tickets, Visas, arranging tour packages to various countries according to the

need and requirement of the customers to various destinations. The company is registered under various enactments and the company has been running in strict compliance to the rules and regulations in force.

The appellant is a consumer of Kerala State Electricity Board Ltd. and the consumer number of the premises is 11661014894. The appellant has been remitting the electricity charges to the KSEB Ltd. for the electricity consumed by the company in time and without any default. After the outbreak of the COVID-19 pandemic the Central Govt. as well as the State Govt. have declared lockdown throughout the country and all the business establishments, conveyance facilities of the people living in India through Air, Ship, Train, Road Transport etc. were stopped from 24-03-2020 onwards. The movement of the people living in the country were restricted and they were confined to their homes.

The business of the appellant was depending mainly on ticket booking, Visa, Tour Package etc. to various destinations, but due to the COVID-19 pandemic, no business could be done, and the establishment **in the exorbitant** was closed down in view of the statutory instructions and guidelines issued by the State Govt. and the Central Govt. Authorities. The police department and the local administration have been closely monitoring the situation to implement strict vigilance to see that no establishment is opened to solicit customer service.

The business of the appellant has remained closed for the period from 23-03-2020 to 06-06-2020. Even after lifting the restrictions partially by the Govt., the people of the country were not permitted to travel beyond the territories of India due to the pervasion of COVID 19.

The KSEB Ltd. has given two bills pertaining to the lockdown period to the appellant amounting to Rs.5,198/- and another bill for Rs.5,051/- (for April & May 2020). During this period there was no consumption of electricity by the appellant due to closure of the establishment due to the restrictions imposed by the Govt.

Against the illegal action of KSEB Ltd., the appellant moved before the Consumer Grievance Redressal Forum, Kozhikode. But the Forum did not consider the case advanced by the appellant in the right sense and spirit and passed an order in a mechanical manner under the presumption that the appellant had consumed electricity during the lockdown period. The Forum has made a presumption on the basis of the consumption pattern of the establishment in the previous months.

The KSEB Ltd. has installed modern equipment to read electricity consumed by the consumers. If the appellant has not consumed the electricity during the lockdown period, there would not be any reading and that the appellant need not pay the amount as demanded. The Forum has arrived into the conclusion on the basis of certain assumptions and presumptions without looking into the real situation. The Forum has also relied upon the test report

of the meter. The test report is also incorrect since when the establishment is closed down, there should not be any reading in the meter.

The appellant submits that if the establishment was not functioning, there would not be any consumption of electricity. The establishment was under lock and key and all the equipments used in connection with the running of the establishment had been switched off. Hence, there is no meaning to come to a presumption that the meter is running and there would be consumption of electricity.

The Forum's another finding was that when the meter is not faulty it will record actual quantity of energy consumed unless there is leakage of energy due to improper wiring of appliances, such a possibility is also not ruled out. This observation is also totally incorrect since the appellant is running the establishment in the premises since 01-11-2014 without any complaints.

It is, therefore, prayed that this Authority may be pleased to reject the findings of the CGRF holding that no proper findings has been arrived at by the Forum and the appellant may be absolved from the liability in payment of electricity charges during the lockdown period.

Arguments of the respondent:

Meter reading of Consumer No. 14894 is taken at monthly intervals and the readings and the bill amounts are listed below.

Reading Date	Reading	Consumption (Units)	Bill Amount	Reading Status	Remittance status
02.12.2019	39948	876	10602/-	Actual reading	Paid
01.01.2020	40791	843	10182/-	Actual reading	Paid
01.02.2020	41643	852	10328/-	Actual reading	Paid
02.03.2020	42508	865,	10511/-	Actual reading	Paid
04.05.202	43326	409 For March	5198/-	Actual reading	Paid
		409 For April	5198/-	Actual reading	Paid
01.06.2020	43718	392	5051/-	Actual reading	¼ instalment paid
01.07.2020	44172	454	5577/-	Actual reading	¼ instalment paid
03.08.2020	44423	251	3601/-	Actual reading	¼ instalment paid
02-09-2020	44796	373	4841/-	Actual reading	¼ instalment paid
01-10-2020	45272	476	5747/-	Actual reading	¼ instalment paid
22.10.2020	45632	360	Meter replaced	Actual reading	¼ instalmens paid
5.11.2020	276	276	8806/-	Actual reading	¼ instalment paid
1.12.2020	808	612	7819/-	Actual reading	¼ instalment paid
1.01.2021	1282	394	5026/-	Actual reading	¼ instalment paid
8.01.2021	Instalments fine		2006/-		¼ instalment paid

The appellant had remitted the electricity bills up to April 2020 and for the remaining bills KSEB Ltd. had provided installment facility on 08-01-2021 to the appellant on request and remitted the first instalment of Rs.10,000/-. The remaining installment was Rs.12,441/- for each month.

The appellant had disputed the electricity bills served to him for the months of April and May 2020. The meter reading for the month of April 2020 could not be obtained due to the lock down declared to meet the threat of COVID pandemic. However, KSEB had prepared electricity bill initially considering the average consumption and later revised considering actual consumption after taking meter reading on 04-05-2020. The consumption during lockdown period (March to June) is less compared to previous months.

The appellant had claimed that the office was closed on 24-03-2020 due to lockdown. However, the consumption from the last bill dated 02-03-2020 to 24-03-2020 will be reflected in the next bill. Due to lock down, the bill for April 2020 was issued based on average consumption (which was later revised on getting actual reading in May 2020). Hence, the consumption from 02-03-2020 to 23-03-2020 will be reflected in the bills of April and May 2020.

On getting a complaint from the appellant, Sub Engineer had inspected the premises and verified the readings recorded in the memory of meter, which is as below: -

Date	Reading	Consumption (units)
31.12.2019	40682	
31.01.2020	41582	900
29.02.2020	42445	863
31.03.2020	43138	693
30.04.2020	43301	163
31-05-2020	43639	338
30-06-2020	44114	475

From the above also, it is clear that from April to June, electricity consumption is rather low compared to the earlier period.

The meter was tested at KSEB Ltd.'s meter testing lab at TMR Kannur as directed by CGRF and found recording correctly and is confirming with the IS requirements. The bills issued to the appellant are genuine as it is based on the actual readings in the meter and was prepared according to the guidelines of KSEB Ltd.

An amount of Rs.1,155/- was sanctioned to the appellant towards fixed charge rebate and has been deducted from the bill amount. The net payable amount as on date is Rs.37,324/- after deducting security deposit interest of Rs.997/-. This bill is for the consumption for 11 months from February 2020 to January 2021 deducting Rs.30,000/- paid by the appellant as shown below: -

Pending bill details:

Bill dated 02.03.2020 (Feb)	-- 10511/-
“ 04.05.2020 (March)	- 5198/-
“ 04.05.2020 (April)	- 5198/-
“ 01.06.2020(May)	- 5051/-
“ 01.07.2020 (June)	- 5577/-
" 03.08.2020 (July)	- 3601/-
“ 02.09.2020 (August)	- 4841/-
“ 01.10.2020 (September)	- 5747/-
“ 05.11.2020(October)	- 8806/-
" 01.12.2020 (November)	- 7819/-
“ 01.01.2021(December)	- 5026/-
“ 08.01.2021 (fine)	- 2006/-
Less security deposit interest	- 997/-
Less Govt. Subsidy	- 1155/-
Less already paid	- 30000/-
To be paid as on 11.01.2021	- 37229/-

The bills were prepared based on the recorded meter readings except for the month of April 2020. The bill for the month of April 2020 was prepared based on average consumption and the same was reconciled later when the actual meter reading received in May 2020. The bills were genuine and the appellant is liable to pay the bill. Also, installment facility was given to the appellant to remit the bills.

The case may be disposed considering the above facts.

Analysis and findings:

An online hearing was conducted at 11 AM on 11-02-2021 on the appeal petition. Sri. C.P. Varghese, the appellant and Sri. E. Manoj, Assistant Executive Engineer, Electrical Subdivision, Nadakkavu from the respondent's side attended the hearing. On examining the appeal petition, the arguments filed by the appellant, the statement of facts of the respondent, arguments in the hearing, perusing the documents attached and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decision thereof.

The company represented by the appellant is intended to do business in arranging Air tickets, Visas, tour packages to various countries. The argument of the appellant is that the premises was closed and hence, they could not run the business from 23-03-2020 to 06-06-2020, due to the 'Lockdown' imposed by

State and Central Govts following the outbreak of “COVID 19”. During the period from 23-03-2020 to 06-06-2020 there was no consumption of electricity in the premises. But the appellant received two electricity bills in April 2020 and May 2020 for Rs.5,198/- and Rs.5051/- respectively. As such, the appellant argued that the said two bills were not prepared based on the actuals and not liable to remit it. The appellant has not accepted the test report of the meter arguing there should not be any consumption when the company is in closed down stage.

The argument of the respondent is as follows: -

The meter reading for the month of April 2020 could not be taken by the respondent and hence, issued a bill taking the average of the previous consumption. Later on, 04-05-2020, meter reading was taken and revised the previous bill.

On receiving the complaint from the appellant, the backup consumption recorded in the meter was downloaded in the meter testing laboratory by the respondent. The downloaded data revealed that there was consumption in the premises in the period of disputed months, but low compared to previous months. The meter was also tested in the laboratory for accuracy and found good. A rebate of Rs.1,155/- towards fixed charge was also given to the appellant.

The point to be decided as to whether the appellant is liable to pay the bill for Rs.5,198/- and Rs.5,051/- towards the energy charge for the consumption in April 2020 and May 2020.

On going through the case details, the following facts are revealed. The respondent had taken regular monthly meter reading till 02-03-2020. The respondent could not take reading in April 2020 and hence issued a bill taking average of the previous consumption, which was remitted by the appellant. The next meter reading was taken on 04-05-2020. As such the consumption for two months from 02-03-2020 to 04-05-2020 is 819 units. The recorded consumption in the previous months are 11/2019 – 876 units; 12/2019 – 843 units; 01/2020 – 852 units; 2/2020 – 865 units and total consumption for two months 3/2020 & 4/2020 is 818 units.

From the above it can be seen that total consumption recorded for 3/2020 & 4/2020 is less than the monthly consumption recorded in previous months. Also, the consumption for 5/2020 is only 392 units. The appellant stated that the premises remains closed from 23-03-2020 to 06-06-2020. Here there was normal consumption in the premises from 02-03-2020, the date of reading, to 23-03-2020, which was also reflected in the monthly consumption recorded from 02-03-2020 to 04-05-2020. The monthly consumption recorded for 5/2020 to 12/2020 is in between 250 units and 613 units.

The meter was tested in the meter testing laboratory of TMR, Kannur and found the error is within the limit. In the hearing conducted by CGRF, Northern Region, Kozhikode, the Forum directed the respondent to test the meter for accuracy. In the hearing itself both the appellant and respondent decided to conduct testing of the meter at the meter testing laboratory of TMR, Kannur, which is a NABL accredited laboratory. But the test report of the energy meter was not handed over to the appellant by the respondent. In the hearing conducted by this Authority, directed the respondent to hand over a copy of the meter test report to the appellant.

The back up reading downloaded from the meter by the respondent is furnished below: -

Date	Meter Reading	Consumption (Units)	Consumption month
1.12.2019	39902	-	-
1.01.2020	40682	780	12/2019
1.02.2020	41583	901	1/2020
1.03.2020	42446	863	2/2020
1.04.2020	43140	694	3/2020
1-05-2020	43301	161	4/2020
1-06-2020	43640	339	5/2020
1-07-2020	44115	475	6/2020

On analyzing above data, it is revealed that the consumption for 4/2020 is 161 units and 5/2020 is 339 units. The consumption is less than the consumption of previous months.

Another contention of the appellant is that the test report of the meter is not acceptable by them. But in the hearing conducted by CGRF, it was decided by both the appellant and respondent to test the meter in the meter testing laboratory of TMR, Kannur. Kerala Electricity Supply Code 2014 regulation 113 and 115 explain regarding “testing of meter” and “procedure for testing of meter”.

“115. Procedure for testing of meter: -

- (1) The meter shall normally be tested in the laboratory of the licensee, approved by the Commission.
- (2) In case the licensee does not have a testing facility approved by the Commission, or if so desired by the consumer, the meter shall be tested at any other laboratory accredited by the National Accreditation Board for Testing and Calibration Laboratories (NABL).”

As per the test report of the meter, the appellant is liable to remit the disputed bills.

Decision: -

For the reasons detailed above, the appeal petition No. P-044/2020 filed by the appellant stands dismissed as it is found having no merits. The order dated 04-12-2020 in OP No. 55/2020 of Consumer Grievance Redressal Forum, Northern Region is upheld. The appellant shall remit the disputed bills and no surcharge or interest shall be collected from the appellant for the 2 Nos. disputed bills for Rs.5,198/- and Rs.5,051/- in the petition period before Consumer Grievance Redressal Forum and appeal petition period before this Authority and due date fixed by the respondent for the remittance of disputed bills in accordance with this order.

Having concluded and decided as above, it is ordered accordingly. No order on costs.

ELECTRICITY OMBUDSMAN

P/044/2020/_____ dated _____.

Delivered to:

1. Sri. C.P. Varghese, M/s. ALTA WORLD Travel & Tourism Pvt. Ltd., 5/2932 A4&A5, C D Tower, By-Pass Road, Kozhikode – 673 004
2. Assistant Executive Engineer, Electrical Sub Division, KSEB Ltd., Nadakkavu, Kozhikode

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, Gandhi Road, Kozhikode