

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 9539913269Email: ombudsman.electricity@gmail.com

APPEAL PETITION No. P/012/2021**(Present: A.S. Dasappan)****Dated: 13th August 2021**

Appellant : Sri. M. Muhammed Riyas
Managing Director,
M/s. Periyar Agro Food Industries Ltd.,
Ponjassery, West Vengola,
Ernakulam Dist.

Respondent : Dy. Chief Engineer,
Electrical Circle, KSEB Ltd.,
Perumbavoor, Ernakulam Dist.

The Special Officer (Revenue)
Vydyuthi Bhavanam, KSE Board Ltd.,
Pattom, Thiruvananthapuram - 695004

ORDER**Background of the case:**

The appellant is a High Tension (HT) consumer of Electrical Section, Vengola with consumer number LCN/31/3418 under the tariff category HT I(A)-Industry. The connected load in the premises is 283.12 kW and Contract Demand is 303 kVA. The officials of the TMR unit of KSEB Ltd. inspected the premises on 05-10-2019 and they found missing of measuring voltage to the energy meter and issued short assessment bill from the month 03/2020 to 09/2020 for Rs.6,31,975/- with their finding that a portion of energy consumption was not recorded in the meter. The appellant approached the Consumer Grievance Redressal Forum (CGRF), Central Region with a request to cancel the revised demands vide OP No.62/2021 and the Forum in its order dated 12-02-2021, issued the following:-

- “(1) The period of phase missing may be taken as from 18-05-2020 to 22-09-2020 while computing the bill under Regulation 152 of Electricity Supply Code 2014.
- (2) Since it is found that there is substance in the short assessment bill, the request for granting cost to the petitioner cannot be granted.”

Aggrieved by the decision of the Forum, the appellant filed this appeal petition P012/2021 before this Authority.

Arguments of the appellant:

On 05-10-2019, the TMR Division, Angamaly of KSEBL conducted an inspection in the appellant's premises on the basis of a request from the Assistant Engineer of the Section Office and checked the metering equipments including Current Transformer and Potential Transformer. Certain defects were noticed by the inspection team and they were rectified and meter was restored. The KSEB seals were found to be OK and nothing was attributed to the appellant. After that inspection, the appellant continued to pay the issued bills every month.

Later, on 22-09-2020, the TMR Division, Angamaly again visited the appellant's premises on the basis of a request from the Assistant Engineer, Vengola and found certain defects which were not explained to the appellant in the language that common man can understand. In the document given to the appellant, it is stated that as per the reading register of AE, Vengola, $V_3 = 0$ from 02/04/2020 onwards and the bill for the period March 2020 till date (22-09-2020) may be reviewed as per rules. Such a direction issued by the TMR division itself is against the provisions of Kerala Electricity Supply Code 2014 and is not sustainable in the eye of law. In other words, some mistake was noticed by the Assistant Engineer on 02-04-2020 in the meter and that he waited for another six months from April 2020 to September 2020 to make a request to the TMR division enabling them to inspect the meter and to rectify it. This delay on the part of the Engineer is very crucial as per the provisions of Electricity Supply Code and the same is liable to be explained by that Engineer. It is an admitted fact that the mistakes if any in the meter is not attributable to the appellant in both the above inspections and those mistakes, if

any, are the products of the lethargy and failure of duty on the part of the staff of the KSEBL and is fully attributable to the KSEBL.

Pursuant to the second inspection, the appellant is served with the following demands dated 08-10-2020. Demand notice for April 2020, which is a revised invoice as per TMR report dated 22-09-2020 for Rs.3,17,511/-.

Demand notice for July 2020, which is a revised invoice as per TMR report dated 22-09-2020 comprising following parts namely:-

Penalty for meter fault	-	Rs.4,23,287-45
Charges for belated payment	-	Rs. 50-00
Total demand charges	-	Rs. 99,960-00
Total energy charges	-	Rs.1,69,311-63
Electricity duty	-	Rs. 2,934-80
Electricity Surcharge	-	Rs. 733-70
Subtotal	-	Rs.6,96,277-58

Demand notice for July 2020 in which invoice revised in order to avoid meter fault penalty

Total demand charges	-	Rs. 99,960-00
Total energy charges	-	Rs.1,69,311-63
Electricity duty	-	Rs. 2,934-80
Electricity Surcharge	-	Rs. 733-70
Net	-	Rs.1,82,533-00

So, the second bill contains the energy charges in the third bill.

No calculation sheet was issued by the Special Officer-Revenue to the appellant, explaining the manner in which huge amounts mentioned in the above bills dated 08-10-2020 are arrived at. The appellant is not in a position to pay the said huge demands without correctly knowing the details of the manner of billing and the way in which this huge amount was demanded from the appellant. The business in the appellant's premises is very low during the period from March 2020 due to Corona Virus pandemic.

Pointing out all these facts and contentions, the appellant submitted a petition dated 15-10-2020 before the Special Officer (Revenue), Vydyuthi Bhavan,

Thiruvananthapuram. But the authority issued a letter dated 21-10-2020 stating that they have revised the invoice from the billing month of 03/2020 to 09/2020 as per Regulation 125 of the Kerala Electricity Supply Code 2014 for Rs.6,49,525/- based on the direction from TMR, Angamaly to Special Officer (Revenue) is totally against Regulation 125 (2) of the Kerala Electricity Supply Code 2014, which prescribes that only two months charges can be levied.

After filing the petition with the CGRF, the Special Officer (Revenue) filed a statement stating that the Deputy Chief Engineer, Electrical Circle, Perumbavoor has informed that the meter of the appellant was not faulty and that the bill may be revised as per Regulation 152 of Kerala Electricity Supply Code 2014 and also Regulation 125 of the Kerala Electricity Supply Code 2014 is not applicable to the case. The Special Officer (Revenue) went back from their earlier stand that the meter was faulty and they have withdrawn their challenged proceedings and demand for Rs.6,49,525/- under Regulation 125 of the Kerala Electricity Supply Code 2014.

The Assistant Engineer also repeated the fact that the meter in the appellant's premises is neither defective nor damaged. According to the respondent, there was anomaly attributable to the Licensee for a period from 02-03-2020 to 22-09-2020 and the Board can assess the appellant for the above period under Regulation 152 of the Kerala Electricity Supply Code 2014.

The order issued by the CGRF is liable to be quashed by the Ombudsman. The Forum went wrong in relying on the materials submitted by the respondent after the final hearing date, that too without giving opportunity to the appellant to defend that statement.

The Forum has perused downloaded data (Tamper report) furnished by the respondent for the period from 10-05-2020 to 24-12-2020, copy of which was never given to the appellant.

Admittedly the voltage missing was not continuous in nature and the Forum found that this cannot be treated as an inference for the assumption that the voltage in B Phase was missing continuously. It is further found that even though the B Phase went missing on many occasions, it was restored after certain hours in the same day itself.

On the basis of available evidence before the Forum in the form of downloaded data, it could not admittedly come to a positive conclusion that there was any continuous B Phase missing during the period 17-05-2020 to 22-09-2020. The Forum has only stated that the maximum outage of the B phase missing is seen to have occurred on 17-05-2020 with 18 hours and on another period from 18-05-2020 to 22-09-2020. Then the Forum proceeded to verify the consumption of appellant from 05/2019 to 12/2020 and entered a finding that the consumption has suddenly dropped from the average of 6000 units in 09/2019 to 1757 units in 05/2020 and then to 5937 units in 11/2020. This reduction in consumption was due to the reduction in work in the appellant's premises from March 2020 onwards due to the 'Corona Lockdown' and not due to any fault in the system. The Forum has then arrived at the conclusion that the Licensee has met with financial loss by way of non-recording of B phase in the meter even while catering power to the appellant and permitted the Board to recalculate the bill under Regulation 152 of the Kerala Electricity Supply Code 2014.

The Forum also went wrong in relying on the mere submission by the respondent that there was a loose connection in the B phase connected to the meter and it was indicated in the letter of the TMR Division, Angamaly dated 25-01-2021 also. If there was any loose connection to the meter that fact should have been stated in the mahazar dated 22-09-2020. In the absence of such a statement in the mahazar, the Forum went wrong in relying on any subsequent document by the Executive Engineer to enter a finding that there was loose connection. Matters which are not included in the mahazar cannot be accepted by the authority. All these circumstances lead to the illegality of the order passed by the Forum and the same may be set aside.

Therefore, it is prayed that this Ombudsman may be pleased to stay all further steps pursuant to order dated 12-02-2021 in OP No. CGRF-CR/OP No. 62/2020-21 issued by the CGRF, Ernakulam till the disposal of this complaint.

Arguments of the respondent:

The argument of the respondent is as follows: -

The TMR, Angamaly had inspected the appellant's premises on 05-10-2019 when the appellant was under Electrical Section, Vazhakkulam. With the bifurcation of Vazhakkulam Section, the appellant came under Electrical Section, Vengola. The reading details of the appellant were transferred to Electrical Section, Vengola along with a copy of the HT Reading Register showing final readings as on 02-03-2020. As per the final readings recorded in the Reading Register of Assistant Engineer, Electrical Section, Vazhakulam, the said metering equipments in the premises of the appellant were found okay.

The staff of TMR Division, Ankamaly again visited the appellant's premises on 22-09-2020 for rectifying the no-voltage issue in one phase in ToD meter as reported by Assistant Engineer, Electrical Section, Vengola. The Assistant Engineer had reported that the voltage in one phase was found missing as on 02-04-2020 but there was no missing of currents in any phase. There was also normal current sequence as recorded on pages 125 and 126 of the Reading Register of Assistant Engineer, Electrical Section, Vengola. The staff of TMR Division, Ankamaly during this inspection found that voltage V_3 as Zero. The appellant's representatives were present at the time as witnesses to the testing. The complaint was rectified by the TMR staff on 22-09-2020 itself and the report of inspection along with the initial readings after rectification was handed over to the appellant after obtaining their signature on the inspection report and statement of initial readings. The appellant used three-phase power during which there was no voltage in one phase had to be reviewed as per rules and there is nothing against the rules in the recommendation by the TMR to this effect. Regulation 134 of the Kerala Electricity Supply Code 2014 empowers the Licensee to review the bills.

The Special Officer (Revenue) served on the appellant demands under Regulation 125 (1) of the Kerala Electricity Supply Code 2014 after the receipt of the inspection report dated 22-09-2020 from the TMR. This happened on the presumption that the meter was faulty (defective or damaged). However, it was found later that the meter was neither defective nor damaged and hence, Regulation 125 is not applicable in the case. Instead, Regulation 152 was found applicable since there was only "inaccuracies in metering". As per this Regulation, "the amount of electricity charges short collected by the Licensee, if any, shall be

realized from the consumer under normal tariff applicable to the period during which such anomalies persisted”. The matter was presented before the CGRF and the Forum has issued orders for computation of the bills under Regulation 152 of the Kerala Electricity Supply Code 2014. Hence, a further review on the bills issued under Regulation 125 (1) Kerala Electricity Supply Code 2014 is not found necessary since the appellant is relieved of the intricacies of the calculations therein.

The TMR, Ankamaly recommended for review of the bills for the no-voltage period as per rules after rectification of the complaint.

The only document the Forum has verified for analysis before arriving at the decision is the outage data of 11 kV Ponjassery Feeder furnished from Substation. It may be seen that the Forum relied on these documents in favour of the appellant and not in favour of the respondent.

The fact that the voltage missing was not continuous in nature does not give any right to the appellant to be free from the procedures under Regulation 134 and 152 of the Kerala Electricity Supply Act 2014.

The appellant’s argument that the reduction in consumption was due to the reduction in work in the appellant’s premises due to “Corona lockdown” does not stand at all since there is no evidence to substantiate the claim. If at all there was reduction in consumption as claimed by the appellant, the fact remains that 3 phase power was consumed in the premises though it did not appear in the energy meter during the period when Voltage V_3 was zero. Three phase power appears in the meter only when all the 3 voltages and currents are recorded by it. Only two-third of power is recorded in the absence of one voltage in the meter. It has been proven beyond doubt that there was a missing of voltage from 18-05-2020 to 22-09-2020.

Pursuant to the inspection report of the TMR Division, Angamaly, the bill amount for the consumption month of 03/2020 was revised as per Regulation 125 of Kerala Electricity Supply Code 2014 to Rs.3,17,611/- vide bill dated 08-10-2020 from Rs.1,90,458/-. The bill for the consumption month of 06/2000 was revised by incorporating inadvertently meter faulty penalty of Rs.4,23,287.45. Realizing

the error occurred in the bill, the meter faulty penalty was withdrawn from the bill on the same day itself (08-10-2020).

Hence, the respondent requested to dismiss the appeal petition.

Analysis and findings:

An online hearing of the case was conducted at 3 PM on 12-07-2021 with prior intimation to both the appellant and the respondent. Advocate Sri. Jose Matheikel attended the hearing for the appellant and Sri. Titus J. Daniel, Assistant Engineer in Charge, Electrical Sub Division, Kizhakkambalam and Sri. Pradeep.P attended for the respondent. On examining the petition, the counter statement of the respondent, the documents attached and the arguments made during the hearing 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 argument of the appellant is that the directions issued by the TMR Division to revise the electricity bill from the month of March 2020 to 22-09-2020 observing the voltage to one phase of the energy meter zero is against the provisions of Kerala Electricity supply Code 2014. Same mistakes were noted by the Assistant Engineer in the meter on 02-04-2020 and waited till the month of September 2020 to initiate action with the TMR Division. No calculation statement explaining the manner in which the bill prepared was supplied by the respondent to the appellant. The revised bill is totally against Regulation 125 (2) of the Kerala Electricity Supply Code 2014, which prescribed that only two months charge can be levied. Further, the appellant argued that the CGRF had already found that the voltage missing in one phase of the meter was not in continuous nature, interrupted and restored many times. The reduction in consumption in 04/2020 was due to the minimum work in the "Lockdown" period. The argument of the respondent that there was loose contact in the meter is also incorrect and which was not recorded in the site mahazar.

The argument of the respondent is that the appellant used three phase power and there was no voltage in one phase of the meter and hence, actual energy consumption was not recorded. The revised bill was prepared not on the direction of TMR Division, but as per Regulation 134 of Kerala Electricity Supply Code 2014.

The Special Officer (Revenue) issued the bill as per Section 125 (1) of Kerala Electricity Supply Code 2014 on presumption that the meter was faulty. Later the error was realized and issued revised bill as per Regulation 152 of Kerala Electricity Supply Code 2014. The meter was not defective. The TMR unit, Angamaly recommended for review of the bills for the no-voltage period as per rules after rectification of the complaint. It is proved beyond doubt that 1/3rd of the actual consumption in the premises was not recorded by the meter due to the missing of voltage in one phase of the meter from 18-05-2020 to 22-09-2020.

The TMR Division officials inspected the appellant's premises on 22-09-2020 and found missing of voltage in 'B' phase of the energy meter, thus resulting in the recording of a lower consumption than what is actually consumed.

The connected load of the appellant in the premises is 283 kW and Contract Demand is 303 kVA. A report of the inspection was prepared and which was acknowledged by the appellant. In the report it is stated that the voltage $V_3 = 0$ and rectified the defect on 22-09-2020 itself. The officials of TMR Division, Angamaly directed the respondent to revise the bill from March 2020 to 22-09-2020 as per rules. The appellant was issued a bill for the revised excess consumption from 03/2020 to 09/2020 for Rs.6,31,975/- on 21-10-2020 to recover the energy escaped from billing due to 'nil' voltage in one phase of the meter. The CGRF has observed that the missing of voltage in one phase of the meter started on 18-05-2020 and continued up to 22-09-2020 and hence, the bill amount is to be limited accordingly.

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 Rs.6,31,975/- as per Regulations 134 and 152 of Kerala Electricity Supply Code 2014, as claimed by the respondent.

Here in this case, the respondent declared that the voltage in 'B' phase of the meter is detected as missing by the Assistant Engineer while taking the meter reading and requested the TMR Division, Angamaly, a competent authority to test the metering system, on 15-09-2020. Accordingly, the officials of TMR Division inspected the premises on 22-09-2020. No data was downloaded during the

inspection and data was downloaded on 04-01-2021. The inspection team directed the respondent to revise the bills from March 2020 to 22-09-2020 as per rules on the basis of the meter reading register of Assistant Engineer, Electrical Section, Vengola. Accordingly, the respondent issued the short assessment bill from 03/2020 to 09/2020 for Rs.6,31,975/-. But as per the analysis of downloaded data, the CGRF directed to reassess the short assessment bill from 18-05-2020 to 22-09-2020, the period of voltage missing in 'B' phase of the meter found in the downloaded data. The respondent had not issued the bill as per the order of the Forum since the appellant approached this Authority with an appeal petition.

The meter is a recording or display unit with all the components including lead wires. 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 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 considered as defect in meter. The fact of the matter is, the metering system was defective since voltage in one phase was missing in the meter. Under the Regulation 113, sub clause (7) of Supply Code 2014 requires the Licensee to test the CT, PT and the wiring connections, wherever applicable while testing the meter.

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.

This Authority verified the meter reading and energy consumption details from 23-11-2019 to 01-07-2021 including the period of dispute from 03/2020 to 09/2020.

The details are furnished below: -



A new meter in the premises is seen installed on 23-11-2019. The appellant was given the short assessment bill for Rs.6,31,975/- for the period from 03/2020 to 09/2020, taking the average of the consumption for 12/2012, 01/2020 and 02/2020.



$$\text{Average taken for reassessment } \left. \begin{array}{l} \} \\ \} \end{array} \right\} \frac{(30588 + 34878 + 22578)}{3} \text{ units} = 29348 \text{ units/month}$$

I verified the data downloaded from the meter for the period from 10-05-2020 to 24-12-2020 and noticed 59 various events of which 24 events pertain to “voltage failure of ‘B’ phase”. Almost all the events recovered within “hours” except the event occurred in 18-05-2020. Voltage failure in ‘B’ phase occurred at 9-55 hrs. on 18-05-2020 and restored at 12-18 hrs. on 22-09-2020. That is, the data downloaded from the meter scientifically reveals that there was a voltage failure in ‘B’ phase of the meter from 18-05-2020 to 22-09-2020.

The report of Executive Engineer, TMR Division, Angamaly is relevant in this case. The report says that either zero or less than 70% of reference voltage is recorded in ‘B’ phase of the meter. Hence, recorded consumption of the meter in ‘B’ phase is either zero or very low. As the voltage in ‘B’ phase is missing intermittent, correct consumption loss cannot be assessed accurately.

If there was always ‘zero’ volt in ‘B’ phase of the meter from 18-05-2020 to 22-09-2020, the more or less actual consumption in the premises can be arrived at as follows based on the recorded consumption.



From the above analysis, it can be referred that the more or less actual consumption in the premises will be in between 13554 units and 20331 units in 06/2020, in between 19734 units and 29601 units in 07/2020 and in between 22374 units and 33561 units in 08/2020. The respondent reassessed the average consumption as 29348 units in each month. In brief the reassessment consumption by the respondent is higher than the maximum possible consumption.

After the rectification of the defects of the metering system on 22-09-2020, the monthly consumption in 10/2020, 11/2020 and 12/2020 is 38538 units, 33684 units and 36256 units respectively and which is higher than the computed consumption of 27831 units per month. As such it is not proper to reassess the actual consumption with the above consumption.

The total consumption in the premises for 3 months (02/2020, 03/2020 & 04/2020) prior to 18-05-2020 is 40774 units, which is less than the recorded consumption in the defective period for 06/2020, 07/2020 and 08/2020 for 55662 units and hence, it cannot be taken for the reassessment. There is no scientific proof that the consumption recorded in 02/2020, 03/2020 and 04/2020 are not actuals.

It is revealed from the above analysis that the more or less actual consumption in the premises for three months 06/2020, 07/2020 and 08/2020 will be in between 55662 units and 83493 units.

The consumption in the premises is not consistent and which can be ascertained in the case of the consumption pattern from 12/2019 to 06/2021 except the period under dispute.

On the above circumstances, this Authority decide to consider the consumption in the premises from 23-11-2019, date of installation of new meter, to 02-05-2020 prior to the date 18-05-2020, the date of defectiveness starts in the meter as per the scientific data presented by the respondent.

The consumption for 161 days from 23-11-2019 to 02-05-2020 in each zone is 110706 units, 5016 units and 7836 units, a total of 123558 units. The average monthly consumption in the premises from 23-11-2019 to 02-05-2020 is 23023 units, which is in between the consumption recorded for the disputed months 06/2020, 07/2020 & 08/2020 for 18554 units and the computed consumption for 27831 units. As such it is more proper to reassess the appellant zonal wise for a monthly average of 23023 units against 29348 units assessed by the respondent earlier.

Decision: -

From the conclusion arrived at as detailed above, I decide to quash the short assessment bill amount Rs.6,31,975/- (except the previous arrear in the system for Rs.17,550/-) issued to the appellant. The respondent is directed to revise the bill by taking 23023 units (Z₁ – 20628 units, Z₂ – 935 units & Z₃ – 1460 units) monthly consumption against 29348 units already taken for reassessment for the period from 18-05-2020 to 22-09-2020 within 15 days from the date of order.

Having concluded and decided as above, it is ordered accordingly. The appeal petition filed by the appellant is allowed as ordered and stands disposed of as such. The order of CGRF, Ernakulam in OP No. 62/2021 dated 12-02-2021 is set aside. No order on costs.

ELECTRICITY OMBUDSMAN

P/012/2021/ _____ dated _____.

Delivered to:

1. Sri. M. Muhammed Riyas, Managing Director, M/s. Periyar Agro Food Industries Ltd., Ponjassery, West Vengola, Ernakulam Dist.
2. Dy. Chief Engineer, Electrical Circle, KSEB Ltd., Perumbavoor, Ernakulam Dist.
3. The Special Officer (Revenue), Vydyuthi Bhavanam, KSE Board Ltd., Pattom, Thiruvananthapuram - 695004

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydyuthi Bhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, CGRF-CR, 220 kV Substation Compound, KSE Board Limited, HMT Colony P.O., Kalamassery, PIN: 683 503.