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**APPEAL PETITION No. P/022/2021**  
**(Present: A.S. Dasappan)**  
**Dated: 26<sup>th</sup> August 2021**

Appellant : Sri. K.P. Muhammed Musthafa  
Managing Director  
Tripenta Hotel (P) Ltd.,  
Opp. Rock Gardens,  
Malampuzha P.O.,  
Palakkad Dist. 678651

Respondent : Asst. Executive Engineer,  
Electrical Sub Division, KSEB Ltd.,  
Kalpathy, Palakkad Dist.

**ORDER**

**Background of the case:**

The appellant is a High Tension (HT) consumer of KSEB Ltd. with consumer number LCN/5/5633 having a Contract Demand of 80 kVA. The appellant is running a hotel in the name and style "Tripenta Hotel" under the section area of Electrical Section, Malampuzha. The appellant has been paying electricity charge comprising of demand charge of 75% of Contract Demand or maximum demand recorded, whichever is higher in each month and the monthly energy charge. The appellant received an arrear bill in December 2020 for Rs.7,63,315/-. The appellant approached the Consumer Grievance Redressal Forum (CGRF), Northern Region with a petition requesting (1) Rebate as per Board Order may be allowed in the fixed charge (Demand Charge) for the months of April, May and June 2020. (2) Demand Charge may be reduced to 75% in all months where billing demand did not exceed 75% of Contract Demand (3) 24 interest free installments may be allowed to remit the arrears up to December 2020. The CGRF filed the petition vide OP No.113/2020-21 and the Forum issued order on 20-02-2021 as follows: -

“(a) The relief sought in petition vide (1) and (2) are found devoid of any merits to consider and hence, dismissed (b) The relief noted in item (3) shall be allowed as a special case. The respondent shall collect the arrear amount in 15 equal monthly installments and the installment shall carry interest as per Regulation 131 (2) of Kerala Electricity Supply Code 2014. The petitioner need not pay interest for the bill amount for the petition pending period before the Forum.”

Not satisfied with the decision of the Forum, the appellant filed this appeal petition before this Authority.

**Arguments of the appellant:**

None of the documents submitted by the appellant were taken into consideration by the CGRF and issued one sided, biased and unilateral order, which is not at all on merits. The energy consumption was very low, when compared to the billed demand, during the “Lockdown” is an absolute truthful statement, which was not considered by the Forum. The CGRF has erred in its finding that Regulation 60 of Kerala Electricity Supply Code 2014 is not applicable in the case on hand, owing to the fact that it is applicable to the new service connection. The CGRF also failed to uphold the fact that the “Lockdown” of the establishment was not at the whims and fancies of the appellant rather it was a mandatory constraint imposed by the Government. It is true that the entire establishment was closed down and the appellant had to suffer a huge in the business. The prayer of the appellant before the CGRF was to allow them to pay the electricity charges in 24 interest free monthly installments for the energy consumed and to give relaxation for the non-use owing to ‘COVID 19’ pandemic, which was a forceful “Lockdown” imposed by the Government. A huge amount even running into lakhs of rupees is kept as security deposit in the account of KSEB Ltd. in the name of the appellant and yet they are threatening the appellant with the notice of disconnection. Even the interest of such security deposit will be more than sufficient to meet with the requirement of KSEB Ltd. The appellant has remitted the electricity charges without any default till this day except for the disputed arrears, which is challenged herein. The respondent started threatening to disconnect the service from the very next day onwards from the date of order of CGRF and the appellant has remitted first

installment of the disputed arrear amount under protest. The request of the appellant is to quash the order of CGRF, Northern Region and allow the appeal petition with costs.

**Arguments of the respondent:**

The argument of the respondent is as follows: -

The appellant is trying to delay the payment of arrears legally entitled by the Licensee by putting forth flimsy and unreasonable arguments. The appellant had approached CGRF, Kozhikode with prayers for allowing 25% rebate on fixed charge for the COVID period, billing only for 75% of the Contract Demand when the demand is below 75% of Contract Demand and to allow 24 interest free installments for remitting the arrear. The Forum found that the first two prayers have already been complied with and hence, the allotted 15 numbers equal installments with interest as specified in Regulation 131 (2) of Kerala Electricity Supply Code 2014 and not to collect interest for the bill amount for the period for which the petition was pending before the Forum.

Since the decision of the Forum was against Regulation 131 (2) of Kerala Electricity Supply Code 2014 and since there is an error apparent on the face of record, the respondent filed a review petition before the Forum to review the decision of allowing installments and excluding interest in the petition pending before the CGRF.

The respondent requested to dismiss the appeal petition.

**Analysis and findings:**

An online hearing of the case was conducted on 22-07-2021 with prior intimation to both the appellant and the respondent. Sri. Rajan M. Menon appeared for the appellant Sri. K.P. Muhammed Musthafa and Sri. Selvaraj. V., Assistant Executive Engineer, Electrical Subdivision, Kalpathy and Sri. N. Vipin, Nodal Officer, Electrical Circle Office, Palakkad from the respondent's side attended the hearing. 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 appellant is a HT consumer having a Contract Demand of 80 kVA. The monthly billing pattern for the demand charge is 75% of the Contract Demand or maximum demand recorded in each month whichever is higher. As such, in this case 60 kVA is the billing demand if the recorded maximum demand in each month, which is below 60 kVA. The appellant wants to get rebate in demand charge for the months of April, May and June 2020; to reduce demand charge to 75% in all months where billing demand did not exceed 75% of Contract Demand and to allow 24 numbers interest free installments to remit the arrears up to 12/2020. The CGRF, Northern Region rejected the first two requirements of the appellant and allowed 15 numbers interest free installments, against the request for 24 numbers installments, with interest as per rules.

The argument of the appellant for the above is that the consumption during the 'Lockdown' period was very low. The respondent admitted the argument of the appellant that the consumption was low in the 'Lockdown' period comparatively from the previous period. But the respondent stated that there is no dispute in the energy charge billed, but on the demand charge billed in the 'Lockdown' period. The respondent argued that the appellant is liable to remit the demand charge as raised by the respondent though the recorded maximum demand is less than 60 kVA, which was done as per rules.

Another question raised by the appellant is that whether Regulation 60 of Kerala Electricity Supply Code 2014 can be applied in this case. The Regulation 60 says, – Failure of the applicant to avail supply due to reasons beyond his control:-

“If the applicant fails to avail supply due to reasons beyond his control such as natural calamity, order of a Court or of any other competent authority, public resistance and change in law, the applicant shall not be liable to pay any compensation or charges to the Licensee on account of such failure to avail supply of electricity.”

This Regulation is in continuation to the Regulation 59 of Kerala Electricity Supply Code 2014, which explains the “delay on the part of applicant to take supply.” In this appeal petition Regulation 60 of Kerala Electricity Supply Code 2014 has no relevance since which pertains to the applicants who want to avail new

connection. Here the appellant is not an applicant, but a consumer who is availing power from the Licensee. Hence, “reason beyond his control such as natural calamity” in Regulation 60 of Kerala Electricity Supply Code 2014 cannot be applied in this case.

The appellant requested rebate on the demand charge for the months April, May and June 2020. The respondent revealed that the rebate granted by the Licensee for the above period has already been allowed to the appellant.

On verifying the monthly regular bills dated 03-03-2020 to 02-12-2020, the arrear amount for Rs.7,63,315/- is the regular monthly electricity charge for the consumption from 02/2020 to 11/2020. In the monthly bill dated 03-07-2020, an amount of Rs.25,465/- was adjusted towards the rebate allowed by the Licensee for the months 03/2020, 04/2020 and 05/2020. In the hearing also the appellant admitted that the amount was received. From the above, it is found that the appellant was given the benefit as decided by the Licensee.

Another requirement of the appellant is to reduce the demand charge to 75% in all months when the billing demand did not exceed 75% of Contract Demand 80 kVA.

Month	Connected Load	Recorded Maximum Demand (kVA)
12/2019		155
01/2020		120
02/2020		107
03/2020		60
04/2020	188 kw	28
05/2020		101
06/2020		62
07/2020		37
08/2020		34
09/2020		24
10/2020		22
11/2020		44

From the above table, it can be seen that the Recorded Maximum Demand is less than 60 kVA, 75% of Contract Demand, for the period from 07/2020 to

11/2020. During the period from 07/2020 to 11/2020, the respondent billed the demand charge for 60 kVA as per the tariff order and the High-Tension agreement executed between the appellant and the Licensee. Also, no other concessions or rebate were declared by the Licensee than the rebate and concessions explained earlier. In this case, the appellant has no remarks on the accuracy of the metering system installed in the premises of the appellant and on the consumption of energy. Moreover, the appellant had not requested to reduce the Contract Demand from 80 kVA to a lower level at any time in the period of dispute as per Regulation 100 of Kerala Electricity Supply Code 2014. It is also to be noted that, the recorded maximum demand exceeded the Contract Demand in the month prior to 03/2020, in the premises having a connected load of 188 kW.

The arrear amount to be remitted by the appellant as on 02-12-2020 is Rs.7,63,315/-, comprising of energy charge and demand charge. The amount was accumulated from the month of 03/2020 since the regular monthly bills were not remitted by the appellant. The appellant filed petition in CGRF, Northern Region on 15-12-2020, requesting 24 numbers interest free monthly installments for the arrear amount Rs.7,63,315/- as per the electricity bill dated 02-12-2020 along with rebate on demand charge.

It is pertinent to note that the appellant was given the concession in demand charge for Rs.25,465/- and also the interest of Cash Deposit (CD) for Rs.26,756/- in the monthly bill dated 03-07-2020 itself, before filing petition before CGRF. Hence, the request is only for the rebate in demand charge for five months from 07/2020 in which period the Recorded Maximum Demand is less than 60 kVA, 75% of Contract Demand. It is noted that the argument of the appellant for the claim is only for a portion of demand charge from 07/2020 to 11/2020, but which was not ordered by the Licensee or any other empowered bodies. Hence, the non-remittance of energy charge and major portion of the demand charge cannot be accepted. The arrear bill issued to the appellant is not a reassessed amount related to the energy consumption or any amount escaped from the notice of the respondent, but is the usual monthly electricity bill for the energy consumed. As such, a consumer is liable to remit the energy charge then and there itself.

Another request of the appellant is for 24 numbers interest free installments and the CGRF granted 15 numbers installments with interest. In this subject case, this Authority could not find any ground to exempt the appellant from paying the interest for installments.

As per Regulation 130 (1) of Kerala Electricity Supply Code 2014, any complaint with regard to the accuracy of bill shall be made in writing to the officer designated by the Licensee to issue the bill. As per Regulation 130 (7) of Kerala Electricity Supply Code 2014, "if the complaint was found to be incorrect, the consumer shall immediately be notified and directed to make payment as per the original bill and the consumer shall be liable to pay late payment penalty if the payment is made after the due date of payment as per the original bill".

In this case, the complaint is not related to the accuracy of the bill, but related to the deduction of demand charge for which no orders or directions were issued by the Licensee or any other empowered bodies.

**Decision: -**

From the analysis done and the findings and conclusions arrived at, which are detailed above, this Authority take the following decision: -

As ordered by KSEB Ltd., the rebate @ 25% on fixed charge for the months of March, April and May 2020 amounting to Rs.25,465/- had already been adjusted in the regular monthly bill dated 03-07-2020. Hence, the request of the appellant for the implementation of Board Order in allowing rebate for the three months is treated as settled and hence closed.

Since the rebate on fixed charge granted by KSEB Ltd. had already been given to the appellant and there is no orders or directions from KSEB Ltd. or from other empowered bodies to extend the rebate on fixed charge to a further period, the request of the appellant to reduce the fixed charge to 75% in all months where billing demand did not exceed 75% of the fixed charge is rejected.

The CGRF, Northern Region had already granted 15 numbers instalments, as a special case, for the payment of arrear amount with interest as per rules. Further review on this subject is not required and the decision of CGRF in granting instalments with interest is upheld.

The CGRF, Northern Region exempted the appellant from paying the interest on the arrear amount for the petition pending period in the Forum. But this Authority observed that the arrear amount is the regular monthly bills, which had to be remitted by the appellant within the due date in each month and the requirement of the appellant is for a rebate on a portion of fixed charge only. As such the appellant shall remit interest for the energy charge for the period of petition pending in CGRF, Northern Region and the appeal petition pending period before this Authority. At the same time, the appellant is exempted from paying the interest on 25% of the demand charge during the petition pending period in CGRF, Northern Region and the appeal petition pending period before this Authority. The respondent shall revise the bill accordingly and issue within 15 days from the date of order.

Having concluded and decided as above, it is ordered accordingly. The order of CGRF, Northern Region in OP No. 113/2020-21 dated 20-02-2021 is modified to this extent. No order on costs.

## **ELECTRICITY OMBUDSMAN**

P/022/2021/ \_\_\_\_\_ dated \_\_\_\_\_.

Delivered to:

1. Sri. K.P. Muhammed Musthafa, M/s. K P M Crystal Palace, Sarovaram Bio Park, Eranhippalam, Kozhikode Dist. – 673 006
2. Asst. Executive Engineer, Electrical Sub Division, KSEB Ltd., Nadakkavu, Kozhikode Dist.

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