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**Appeal Petition No. P/017/2026
(Present A. Chandrakumaran Nair)
Dated: 26-05-2026**

Appellant : The Assistant Executive Engineer(Electrical)
Indian Institute of Management Kozhikode,
IIM Kozhikode Campus Post,
Kozhikode(dt) - 673570

Respondents : 1.The Deputy Chief Engineer
Electrical Circle, KSEBL
Vydyuthi Bhavanam, Kozhikode (Dt)

2.The Special Officer Revenue
KSEBL, Vydyuthi Bhavanam,
Thiruvananthapuram -4

3.The Assistant Executive Engineer
Electrical Sub Division
KSEBL, Kunnamangalam
Kozhikode (dt)

4.The Assistant Engineer
Electrical Section
KSEBL, Kunnamangalam
Kozhikode (dt)

ORDER

Background of the case

The appellant is the Indian Institute of Management, Kozhikode (IIMK) which is a Central Government Educational Institution. The IIMK is an HT consumer of the Licensee and had availed two HT connections one for the Academic Blocks and another for the Residential Colony. Both these connections were availed on 01/2004 and these connections are under the tariff HT II Non Industrial/Non Commercial as per the then prevailing tariff

notification issued by the KSERC. In the tariff order issued by the Hon'ble Commission (KSERC) dated 16/08/2014, the domestic colonies availing HT connection are classified under the tariff HT V (Domestic). The HT service connection bearing consumer no.LCN/09/4009 is availed for providing power supply to their quarters/residential colony. The Licensee would have changed the tariff of this service connection from HT II to HT V immediately after the tariff order. This have not been done. The Licensee have detected this anomaly only on the inspection conducted on 01/06/2024 and accordingly they serviced a short assessment for Rs.14,03,563/-to the appelland for a period from 08/2014 to 06/2024. The appelland had contented the short assessment demand and filed petition to CGRF which was numbered as OP/67/25-26. The CGRF had issued the order on completing the procedure on 06/02/2026. Aggrieved with the decision of CGRF, this appeal petition was filed to this Authority.

Arguments of the Appellant

The Appellant, Indian Institute of Management Kozhikode (IIMK), is a Central Government educational institution of national importance established under the Indian Institute of Management Act, 1961. IIMK maintains HT electricity connection bearing Consumer No. LCN 9/4009 for its Residential Hill Substation, which has been used exclusively for residential purposes for faculty and staff since inception. The said electricity connection was effected on 08.01.2004 under HT II A - General tariff on the basis of Gazette Notification 1577 dated 01.11.2002, categorizing "Technical and Education Institution and Hostels run by or affiliated to Universities or Government Department and Colonies" under HT II Non-Industrial/Non-Commercial Tariff. IIMK has been regularly paying electricity bills under this tariff without any default since 2004.

The KSEB conducted a site inspection of the residential premises (apartments and quarters) of IIMK/ Appellant on 01.06.2024. Following the inspection, KSEB reclassified the tariff category from HT II A – General to HTV - Domestic, since the purpose of the electricity connection was used exclusively for residential purposes for faculty and staff of IIMK. KSEB started to issue electricity bills in HT V - Domestic from December 2024. It is pertinent to note that no formal order of re-classification was issued to the Appellant/ IIMK. While so, in March 2025, IIMK received the electricity bill dated 03.03.2025 pertaining to the consumption in February 2025. In the said bill, having bill no. 21028112188771 (Version 0), an amount of Rs. 14,02,364/- was shown as "arrear amounts". As there was no explanation for Since there is no explanation or breakup provided for the arrear amount of Rs. 14,02,364/-. The Appellant/ IIMK sought a split-up of the arrears by way of its letter dated 25.03.2025 bearing no. 22-03(53)/2024-IIMK.ELE.

In response to the Appellant's letter dated 25.03.2025, KSEB by way of letter dated 07.05.2025 clarified as follows: "... On inspection it is understood that the loads coming under HT Service Connection was mainly residential in

nature and all the residential building and related amenities are particularly for the faculty and staff of M/s. IIM, Kozhikode. HT V domestic tariff came into force as per Tariff Order dated 16.08.2014. Hence the tariff of LCN 9/4009 was changed from HT II A General to HT V Domestic and the bills has also been revised in HT V with effect from 16.08.2014. And as such an amount of Rs. 14,03,563/- has been raised as difference in reclassification of tariff. Therefore, you are requested to remit the difference amount of Rs. 14,03,563/- on or before 30 days on receipt of this letter. Kindly co-operate." Thus, while the Appellant/ IIMK did not object to the prospective reclassification, KSEB retrospectively had applied this change from 16.08.2014 (the date when HT V- Domestic tariff came into force) and raised a demand for Rs. 14,03,563/- towards tariff differential arrears.

The Appellant/ IIMK by way of its representation dated 20.05.2025 and reminder dated 04.06.2025 highlighted that the usage had always been residential in nature since inception, and this fact was known to KSEB at all times. There has been no change in the 'purpose of use' of electricity by the Appellant that would justify a retrospective reclassification beyond the statutory limits, nor has there been any misrepresentation or concealment of facts to warrant the bypassing of the protections afforded under Regulation 97. The KSEB however rejected the request and directed immediate payment of arrears. In fact, KSEB by way of its letter dated 21.06.2025 specifically informed the Appellant/ IIMK that: "In the tariff order dated 16.08.2014, HT-V Domestic category was effected, which was applicable to domestic consumer and colonies availing supply of electricity at high tension. Hence, your connection also falls in to this category. As per Regulation 97 of Kerala Electricity Supply Code 2014, if a category has changed consequent to a revision of tariff order, the licensee may suo motu reclassify the consumer number under appropriate category. Hence, the tariff was changed from HT-II (General) to HT-V (Domestic) with effect from 16.08.2014. Hence, the demand raised as difference in re-classification of tariff"

The letter clearly and unmistakably demonstrates that the proceedings initiated against the Appellant/ IIMK was under Regulation 97 of the 2014 Supply Code. The Appellant paid the said amounts on 02.07.2025 under protest to avoid disconnection of supply. The Appellant/ IIMK again represented the matter to the Special Officer (Revenue), KSEB by way of letter on 14.10.2025, specifically drawing attention to Regulation 97(4) of the Kerala Electricity Supply Code, 2014, as amended vide Notification No. 609/D(T)/2018/KSERC dated 22.01.2020. As per the amended provision, arrears on account of reclassification can be claimed only for a period of twelve months or the actual period of wrong classification, whichever is less. Therefore, a retrospective demand spanning nearly ten years (from 16.08.2014 to 16.08.2024) is not legally tenable. No response was received from KSEB representation dated 14.10.2025. Being aggrieved, the Appellant/ IIMK filed OP No. 67/2025-26 before the Hon'ble CGRF, Northern Region. KSEB filed statement of facts to counter the Appellant's claims/ submissions.

The CGRF, by way of the impugned order dated 06.02.2026, specifically noted the Appellant/ IIMK's contentions regarding Regulation 97(4) of the Kerala Electricity Supply Code 2014 at various places, but chose to disregard it in presumably relying upon: (a) regulations 134 & 152 of the Kerala Supply Code 2014; (b) Judgments of the Hon'ble Supreme Court in M/s Ajmeer Vidyuth Vitran Nigam Ltd. & Others v. Rahmathulla Khan, M/s Prem Cotex v. Uttar Haryana Bijli Vitran Nigam and M/s Bennet Coleman & Co. Ltd. v. KSEBL, (c) The CGRF observed that raising arrears without limitation causes hardship to consumers, but stated that it is "bound to follow the Orders of the Apex Court and Hon'ble KSERC."

Being aggrieved by the Impugned Order of the CGRF, the Appellant has preferred this Appeal before this Hon'ble Ombudsman on the following among other: The CGRF has erred in holding that the demand is based on Regulation 134 and Regulation 152, and not on reclassification under Regulation 97. The CGRF has fundamentally erred in characterizing the proceedings initiated by KSEB as falling under Regulation 134 (undercharging) and Regulation 152 (anomalies attributable to licensee), when in fact the entire proceeding was one of suo moto reclassification under Regulation 97 of the 2014 Supply Code. The facts on record establish beyond doubt that:

- (i) KSEB conducted a site inspection on 01.06.2024 at the Appellant's residential premises.
- (ii) Based on the site inspection report, KSEB reclassified the tariff from HT II A -General to HTV - Domestic with retrospective effect from 16.08.2014.
- (iii) The reclassification was done on the ground that the loads are "residential in nature" and the appropriate tariff is HT V - Domestic, which came into force on 16.08.2014.
- (iv) The arrear demand was raised as a consequence of this tariff reclassification.

The application submitted by the Appellant/ IIMK for electricity connection was processed by KSEB in 2004 and the tariff category (HT II A-General) was assigned by KSEB itself. The CGRF did not consider the fact that there was no misstatement or concealment of facts by the Appellant. The usage of electricity has always been residential since inception, and this fact was known to KSEB at all times.

The reclassification is squarely covered by Regulation 97 of the 2014 Supply Code, which deals with reclassification of consumers by the licensee. Once KSEB proceeded to reclassify the tariff suo moto under Regulation 97, it cannot subsequently rely on Regulation 134 or Regulation 152 to circumvent the statutory limitation prescribed in Regulation 97(4). That the reclassification was under Regulation 97 of the 2014 Supply Code is evident from a reading of letter dated 21.06.2025 from the Special Officer (Revenue) who categorically refers to the reclassification as having been undertaken under Regulation 97 of the 2014 Supply Code. However, the Respondent KSEB has failed to consider two vital aspects. Firstly, the Appellant/ IIMK

was not informed about the proposed reclassification by a prior notice of 30 days and inviting objections, if any, as contemplated in Regulation 97(2) of the 2014 Supply Code. The failure to provide this mandatory 30-day notice is not a mere procedural irregularity but a patent illegality that should render the entire reclassification and subsequent arrear demand legally unsustainable, as held in the Charummoodu case. And secondly, Regulation 97(4) of the 2014 Supply Code as amended vide Notification No. 609/D(T)/2018/KSERC dated 22.01.2020, reads as follows: "In case of reclassification under sub-regulation (1), the arrears or excess charges, if any, as the case may be, shall be determined on the basis of the actual period of wrong classification or a period of twelve months, whichever is less." This amended provision came into force on 22.01.2020 and applies to all pending proceedings and arrear demands. The language is clear and unambiguous: arrears can be claimed only for 12 months or the actual period of wrong classification, whichever is less. The CGRF has failed to appreciate that Regulation 97 of the 2014 Supply Code is a self-contained code dealing with reclassification of consumers, and the 12-month limitation prescribed therein is mandatory and cannot be circumvented by resorting to Regulation 134 or Regulation 152.

KSEB did not conduct any inspection or follow the procedure prescribed in Regulation 152 of the Supply Code. It is denied that KSEB conducted any inspection under Regulation 152 of the 2014 Supply Code. Regulation 152 deals with "anomalies attributable to the licensee" and prescribes a specific procedure for recovery of short-collected amounts in cases of wrong application of multiplication factor, incorrect application of tariff, or metering inaccuracies. Critically, no notice of inspection under Regulation 152 was ever served on IIMK, and no "mahazar" was prepared by KSEB under Regulation 152 as required under the inspection procedure. Even in the Statement of Facts and Reply submitted by KSEB before the CGRF, the notice under Regulation 152 has not been produced. In the absence of any evidence of an inspection conducted under Regulation 152 or compliance with the prescribed procedure under that Regulation, the reclassification can only be said to have been done under Regulation 97 of the Supply Code. Without prejudice to the above, even assuming without conceding that Regulation 152 empowers the Respondent KSEB to revise tariffs and is applicable to the case at hand, the proviso to Regulation 152(3) clearly restricts the electricity charges short collected be limited to a maximum period of 24 months. Furthermore, the Respondent cannot contend that the 24-month limit in Regulation 152(3) is inapplicable simply because they have identified the historical start date of the anomaly. The proviso to Regulation 152(3) serves as an absolute statutory ceiling, prohibiting the recovery of arrears beyond 24 months in all cases of licensee error, regardless of whether the actual period is known to be longer.

The Kerala High Court in the Assistant Executive Engineer, Electrical Sub Division and Ors. v. The State Electricity Ombudsman and Ors. (2024: KER: 69995) has authoritatively considered the interplay between Regulation 97 and Regulation 152 and has held as follows:

"Regulations 97 and 152 as extracted above applies in different contexts. Admittedly, only on 22.5.2015, the mistake in including the consumer under a wrong tariff was detected. On the same day, reclassification was made by the petitioners and accordingly the short assessment bill was raised. It is pertinent to note that before such reclassification was made, under sub-regulation (2) of Regulation 97, the consumer should have been informed about the proposed reclassification by a prior notice of 30 days and inviting objections, if any. The facts before this Court evidences that no such notice was given to the 2nd respondent and, the petitioners straight away proceeded to reclassify the tariff of the 2nd respondent to LT VI F. Once such reclassification has been made, then the question is whether sub-regulation (5) of regulation 97 or Regulation 152 of the Electricity Supply Code would apply.

As stated above, it is an admitted case of the parties that there is no suppression of material facts on the side of the consumer while making the application for supply of electrical energy. The classification was purely due to the error on the side of the petitioners, namely the licensee. No doubt, a reading of Regulation 152 provides that any mistake on the part of the licensee attributable towards the wrong inclusion of the tariff, the short assessment could be claimed for a period of 24 months. However, this Court cannot ignore the fact that the officers of the petitioners were at total remiss in not detecting the mistake even after the tariff was changed for the first time in the year 2013 by order of the regulatory commission and later in the year 2014. It is only on 22.5.2015 that the petitioners noticed the mistake when the Anti Power Theft Squad inspected the premises of the 2nd respondent. On detection of the apparent error, on the same day, the petitioners had reclassified the tariff of the 2nd respondent to LT VI F. Normally the reclassification ought to be done after notice to the consumer. However the Board proceeded to reclassify the tariff of the consumer on the same day. Having done so, necessarily sub regulation (5) of Regulation 97 have to be applied. This is more so when the Board had already exercised the power under Regulation 97 and reclassified the tariff of the consumer. Once such reclassification was done suo motu, the Board cannot fall back on to the provisions of Regulation 152 and raise the short assessment bill for 24 months relying on Regulation 152."

Thus, the Hon'ble High Court of Kerala in the above judgment categorically states that the Respondent KSEB having exercised the power under Regulation 97 and reclassified the tariff suo moto, cannot now fall back on Regulation 152 to circumvent the 12-month limitation prescribed in Regulation 97(4). The facts of the present case are near identical to the above. The CGRF has not considered the above precedent of the Hon'ble High Court of Kerala, which directly covers the present case. The Hon'ble High Court had clarified that the Respondent KSEB cannot 'cherry-pick' regulations, i.e., using Regulation 97 to justify the reclassification while simultaneously trying to use Regulation 152 (or general Supreme Court precedents) to ignore the 12-month limitation period specifically mandated for such reclassifications.

The CGRF has relied upon the judgements of the Supreme Court in M/s Prem Cottex v. Uttar Haryana Bijli Vitran Nigam Ltd., Civil Appeal No. 7235 of 2009, Rahmatullakhan v. Ajmer Vidyuth Vitran Ltd., Civil Appeal No. 1672 of 2020, and M/s Bennet Coleman & Co. Ltd. v. KSEBL to hold that there is no limitation on recovery of undercharged amounts. These judgments are wholly distinguishable and do not apply to the present case. None of the cases dealt with suo moto reclassification of tariff which is the subject matter of this Appeal. In the said cases the Hon'ble Supreme Court essentially answered only one question: whether a utility is legally permitted to raise a bill for a past mistake after a period of time. However, those judgments do not address the separate and specific question of the quantum of such recovery when a state-specific regulation exists. While the Supreme Court confirms the 'right to bill', Regulation 97 of the Kerala Electricity Supply Code, 2014, answers the subsequent question by setting a strict 12-month limit specifically for arrears arising out of reclassification.

The retrospective demand for arrears spanning 10 years is manifestly arbitrary, unreasonable, and contrary to settled principles of law and against the explicit provisions of not just Regulation 97 but also Regulation 152 of the 2014 Supply Code. The Appellant/ IIMK is an education institute and the retrospective arrear demand causes an unjustified financial burden especially considering the fact that the error in classification was entirely on the part of KSEB.

It is prayed that this Hon'ble Ombudsman may be pleased to:

- (a) Set aside the Impugned Order of the CGRF dated 06.02.2026 in OP No. 67/2025-26.
- (b) Declare that the proceedings are in fact governed by Regulation 97 of the Kerala Electricity Supply Code, 2014.
- (c) Direct the Licensee/ KSEB to strictly comply with Regulation 97(4) of the Kerala Electricity Supply Code, 2014 (as amended in 2020), limiting recovery of arrears on reclassification to twelve months or the actual period of wrong classification, whichever is lesser.
- (d) Set aside the arrear demand of Rs. 14,03,563/- raised by KSEB vide letter dated 16.08.2024 and direct KSEB to refund the amount of Rs. 14,03,563/- paid by the Appellant under protest, along with interest @18% the date of payment, 02.07.2025, till the date of refund.
- (e) Grant such other relief as this Hon'ble Ombudsman may deem fit and proper in the interest of justice.

Arguments of the Respondent

This appeal petition has been filed by the appellant to set aside the order dated 06.02.2026 of the Hon'ble CGRF, Kozhikode in OP 67/25-26. The appellant alleges that the Hon'ble CGRF has taken a biased stand in support of KSEB Ltd. It is denied as the said allegation is having no merit. M/s. Indian institute of Management Kozhikode (Residential Hill) (LCN 9/4009) is a live High Tension Consumer of Kerala State Electricity Board Limited,

which comes under the jurisdiction of Deputy Chief Engineer, Electrical Circle Kozhikode. The tariff category of the consumer is HT V Domestic.

The Service connection of M/s. Indian Institute of Management, Kozhikode had been effected on 08.01.2004 under HT II Non-Industrial/Non-Commercial Tariff on the basis of Gazette Notification 1577 dated 01.11.2002 that is "Technical and Educational Institution and hostels run by or affiliated to Universities or Government Department and Colonies". On 01/06/2024 a site inspection was conducted by Assistant Executive Engineer, Electrical Sub Division, Kunnamangalam and Assistant Engineer, Electrical Section, Kunnamangalm. According to this site inspection report and the report of Deputy Chief Engineer, Electrical Circle, Kozhikode dated 04.09.2024 the loads coming under this service connection are residential in nature and are not meant for students. The purpose of which the supply is utilized mostly in domestic nature the appropriate tariff of the consumer comes under "HT V Domestic" which was came into force in the Tariff Order dated 16.08.2014. On basis of the Site Inspection report the tariff of the consumer was changed from 'HT II (A) General' to HT V Domestic and also a short assessment bill amounting Rs. 14,03,563/- was prepared and issued to the consumer w.e.f 16.08.2014 in accordance with the rules and regulations regarding billing prevailing in KSEBL. As per the Regulation 134(1) of Kerala Electricity Supply Code 2014, "If the licensee establishes either by review or otherwise, that it has undercharged the consumer, the licensee may recover the amount so undercharged from the consumer by issuing a bill and in such cases at least thirty days shall be given to the consumer for making payment of the bill". Recovery of under charged amount is expressly authorized under Regulation 134(1) of the Kerala Electricity Supply Code 2014, which permit the licensee to recover amounts found to have been under charged by issuing a bill.

The demand raised is neither a penalty nor fine, not an unauthorized use or misuse of electricity. Hence the consumer is liable to pay the short assessment bill without rising any protest because this connection is utilizing the supply purely in domestic nature and should come under the domestic purpose tariff ie, HT V Domestic w.e.f 16.08.2014. As per the Regulation 152 of Kerala Electricity Supply Code 2014, "Anomalies attributable to the licensee which are detected on inspection at the premises of the consumer, such as wrong application of multiplication factor, incorrect application of tariff by the licensee even while there is no change in the purpose of use of electricity by the consumer and inaccuracies in metering shall not attract provisions of Section 126 of the Act or of Section 135 of the Act". "In such cases, the amount of electricity charges short collected by the licensee, if any, shall only be realised from the consumer under normal tariff applicable to the period during which such anomalies persisted". The complainant has not suffered any financial loss, on the contrary the under billed amount remained with the complainant for several years without any interest being charged, resulting in a clear financial benefit due to time value of money. The Demand does not arise from tariff reclassification under Regulation 97 of the Kerala Electricity Supply Code 2014. It is an inspection based re assessment carried out strictly in accordance with the Regulation 134 and 152 of the Kerala Electricity Supply Code 2014.

The argument of the petitioner that arrears on reclassification shall be limited to 12 months as per Section 97(4) of the Kerala Electricity Supply Code 2014 is irrelevant in this case. The issue was settled one by the authoritative pronouncement of the apex court in M/S Prem Cottex Uttar Haryana Bijli Vitran Nigam Ltd & Ors Civil Appeal Number 7235 of 2009 wherein the Hon'ble court has unequivocally held that "Additional Bill Raised By Distributor After Detecting Mistake Not Hit By 2 Years Limitation Under Section 56(2)". The same view has also been found reflection in Rahmatullakhan v Ajmer Vidyuth Vitaran Ltd. The Hon, ble CGRF has considered the matter and decided that arrear bill issued to the petitioner is in order. Viewing the matter from the above legal precedents, it is amply clear that the licensee board is legally entitled to recover the short assessed amount, no matter what the time period is. The Regulation framed by the Commission regarding the same subject matter must be totally in tandem with the recitals in the parent Act, as the creature of a statute cannot overrun the provisions of the statute. Relying on the said principles the Board has already filed large number of appeals in identical matters before the Hon'ble High Court of Kerala which are pending final disposal.

In the light of these facts, the respondent respectfully submit that the complaint lacks merit and there is no arbitrariness, illegality or procedural violation on the part of the KSEBL. Hence the Respondents humbly requested that the Hon'ble Ombudsman may please to reject the complaint and uphold the actions taken by KSEBL.

Counter Arguments Filed by the Appellant

The Proceedings Were Initiated Under Regulation 97 and Not Under Regulations 134(1) or 152 of the Kerala Electricity Supply Code, 2014. The contention of the Respondent that the demand was raised under Regulation 134(1) and Regulation 152 of the Kerala Electricity Supply Code, 2014 ('Supply Code') is wholly misconceived and contrary to the Respondent's own express admissions on the record. The Respondent's letter dated 21.06.2025 categorically states: "As per Regulation 97 of Kerala Electricity Supply Code 2014, if a category has changed consequent to a revision of tariff order, the licensee may suo motu reclassify the consumer under appropriate category. Hence, the tariff was changed from HT-II (General) to HT-V (Domestic) with effect from 16.08.2014." It is therefore undeniable that the proceedings were initiated and the tariff reclassification was effected under Regulation 97 of the Supply Code and for no other reason.

The entire foundation of the Respondent's demand rests on the site inspection of 01.06.2024 following which the tariff was reclassified from HT II A-General to HT V-Domestic with retrospective effect from 16.08.2014. This exact fact situation is contemplated under Regulation 97 of the Supply Code, which deals with suo motu reclassification by the licensee. The arrear demand flows directly from the reclassification under Regulation 97 and cannot, therefore, be delinked from the consequences prescribed in that provision. The Respondent has sought to characterise the demand as one under Regulation 134(1) ('undercharging') and Regulation 152 ('anomalies attributable to the licensee') in an attempt to circumvent the mandatory

twelve-month limitation on arrear recovery prescribed in Regulation 97(4) of the Supply Code. This is impermissible and is a deliberate misreading of the provisions of the Supply Code. It is submitted that the Respondent cannot adopt Regulation 97 to affect the reclassification and then ignore the limitations that Regulation 97 specifically imposes on the consequential arrear demand. Any other interpretation would render the amended Regulation 97(4) wholly redundant and nugatory.

The Respondent has omitted/ ignored any reference to Regulation 97(4) of the Supply Code as amended by Notification No. 609/D(T)/2018/KSERC dated 22.01.2020. The amended Regulation 97(4) reads as follows: "In case of reclassification under sub-regulation (1), the arrears or excess charges, if any, as the case may be, shall be determined on the basis of the actual period of wrong classification or a period of twelve months, whichever is less." The language of the amended Regulation 97(4) is clear, unambiguous and mandatory. Arrears on account of reclassification can only be claimed for twelve months or the actual period of wrong classification, whichever is less. A retrospective demand spanning nearly ten years (from 16.08.2014 to the date of reclassification in 2024) is therefore wholly unsustainable under the amended Supply Code. It is submitted that the Respondent, having initiated the proceedings under Regulation 97 and having reclassified the tariff suo motu, is bound by Regulation 97(4). The Respondent cannot selectively invoke Regulation 97 to justify the reclassification and then fall back on Regulations 134(1) and 152 to sidestep the twelve-month cap. Such cherry-picking of provisions is impermissible and contrary to the settled principal that a statutory authority cannot approbate and reprobate simultaneously.

The Statement of Facts relies on Regulation 152 of the Supply Code, which deals with 'anomalies attributable to the licensee', to justify the arrear demand without limitation. This reliance is both factually unsupported and legally untenable. No notice of inspection under Regulation 152 was ever served on the Appellant. Even in the Statement of Facts by the Respondent submitted before the CGRF in OP No. 67/2025-26, no notice issued under Regulation 152 has been produced. In the absence of any evidence of compliance with the procedure prescribed under Regulation 152, the proceedings cannot be characterised as falling under that provision. Without prejudice to the above, even if Regulation 152 were held applicable (which is specifically denied), the proviso to Regulation 152(3) imposes an absolute maximum limit of 24 months on recovery of short-collected electricity charges. The retrospective demand for ten years from 16.08.2014 would, even on this alternative, be capped at a maximum of 24 months and not at ten years as claimed.

The Hon'ble Kerala High Court in Assistant Executive Engineer, Electrical Sub Division and Ors. v. The State Electricity Ombudsman and Ors. (2024: KER: 69995) has authoritatively and conclusively resolved the precise question arising in the present case. The Hon'ble High Court held as follows: "Once such reclassification was done suo motu, the Board cannot fall back on to the provisions of Regulation 152 and raise the short assessment bill for 24 months relying on Regulation 152." The above judgment of the Hon'ble Kerala High Court, which directly and squarely covers the facts of the present

case has not been controverted by the Respondent. Once the Respondent has exercised the power under Regulation 97 and reclassified the tariff suo motu, the twelve-month limitation prescribed in Regulation 97(4) is the only applicable standard for quantifying arrears. The CGRF erred in not applying this binding precedent.

There is no allegation that the Appellant/ IIMK ever concealed or misrepresented the nature or purpose of the electricity connection. The usage of electricity at the Residential Hill Substation (LCN 9/4009) has been exclusively residential, for the housing of faculty and staff, since inception. This was well within the knowledge of KSEB at all times, since the connection was affected and the tariff category assigned by KSEB itself based on the application submitted by IIMK. The CGRF has also not made any finding of misrepresentation or concealment by the Appellant. The entire error in tariff classification was entirely attributable to the Respondent, who incorrectly classified and continued to bill the Appellant under HT II A - General from 2004 until 2024, notwithstanding the introduction of the HT V Domestic tariff by the Tariff Order dated 16.08.2014. In the circumstances, permitting the Respondent to recover ten years' worth of arrears from the Appellant while sitting on its own error for over two decades is manifestly unjust and contrary to the purpose and spirit of Regulation 97(4) as amended in 2020 and it is incorrect to say that the Appellant is not suffering any financial on account of the proceedings initiated by the Respondent. Without prejudice to the above, it is reiterated that the Appellant, Indian Institute of Management Kozhikode, is an institution of national importance. It has been made to pay a sum of Rs. 14,03,563/- under protest on 02.07.2025 to avoid disconnection of electricity supply. The imposition of this unjustifiable and unlawful demand on an educational institution causes grave and wholly avoidable financial hardship, and the Respondent cannot be heard to say that the Appellant benefited from the delay.

In light of the above, the submissions made by the Respondent in the Statement of Facts are liable to be rejected in their entirety and the reliefs prayed for by the Appellant in the Appeal Petition deserve to be allowed in the interest of justice.

Analysis and findings

The hearing of this appeal petition was conducted on 15/05/2026 at 1100 a.m in the O/o the State Electricity Ombudsman, D.H Road, Ernakulam. The hearing was attended by the representative of the appellant Adv. Jai Mohan and the respondents Smt. Renjinie.M.R (Senior Superintendent, O/o the SOR) , Sri. Vivek.V.S, Assistant Executive Engineer, Electrical Sub Division, Kunnmangalam, Kozhikode and Sri. Ramesh A.K, Assistant Engineer, Electrical Section, Kunnamangalam, Kozhikode(Dist.)

The Assistant Executive Engineer (Electrical) of Indian Institute of Management, Kozhikode (IIMK) is the appellant of this petition on behalf of IIMK. The IIMK is the HT consumer of the Licensee, KSEBL under the Electrical Section, Kunnamangalam under the jurisdiction of Electrical Circle,

Kozhikode. This Institution was set up in 1996 by the Government of India in collaboration with the Government of Kerala at Kunnamangalam, Kozhikode. This has been established to nurture the future business leaders. This institute is an HT consumer of the Licensee and had availed two HT connections in 01/2004 one for the Academic block and Hostel facility and the other for the residential colony for providing accommodation for the faculty and other staff.

The tariff applied for these connections were HT II Non Industrial/Non Commercial as per the then prevailing tariff notification. The Institute was regularly making the payment as per the bills raised by the Licensee. As this is an HT connection the meter reading would have been taken by the Assistant Engineer of the Kunnamangalam Section and the bills are prepared and issued by the SOR. The Hon'ble Kerala State Electricity Regulatory Commission had introduced the tariff HT V Domestic applicable for residential colonies which was effective from 16/08/2014. The Licensee have not reclassified the consumer accordingly to the tariff order issued on 2014.

The requirement of tariff revision has been noticed only during the inspection conducted on 06/2019. Why the Licensee has not implemented the tariff change in time? There was no proper explanation for this failure. The regulation 97 of the Electrical Supply Code describes about the Suo motu reclassifications consequent to a revision of tariff order.

97. Suo motu reclassification of consumer category by the licensee. -

(1) If it is found that a consumer has been wrongly classified in a particular category or the purpose of supply as mentioned in the agreement has changed or the consumption of power has exceeded the limit of that category as per the tariff order of the Commission or the category has changed consequent to a revision of tariff order, the licensee may suo motu reclassify the consumer under appropriate category.

(2) The consumer shall be informed of the proposed reclassification through a notice with a notice period of thirty days to file objections, if any.

(3) The licensee after due consideration of the reply of the consumer, if any, may reclassify the consumer appropriately.

(4) Arrear or excess charges shall be determined based on the actual period of reclassification or a period of twelve months whichever is lesser.

(5) Twelve monthly installments for the payment of the arrear charges determined under sub Regulation (4) above may be allowed on the request of the consumer without interest.

In this regulation it is clearly mentioned that the maximum period for which the short assessment could be done is only for 12 months.

There is another regulation explains about the anomalies such as wrong tariff application which regulation 152 of Supply Code 2014.

152. Anomalies attributable to the licensee which are detected at the premises of the consumer.-

(1) Anomalies attributable to the licensee which are detected on inspection at the premises of the consumer, such as wrong application of multiplication factor, incorrect application of tariff by the licensee even while there is no change in the purpose of use of electricity by the consumer and inaccuracies in metering shall not attract provisions of Section 126 of the Act or of Section 135 of the Act.

(2) In such cases, the amount of electricity charges short collected by the licensee, if any, shall only be realised from the consumer under normal tariff applicable to the period during which such anomalies persisted. Provided that a site mahazar detailing the anomalies shall be prepared by the Inspecting Officer and the provisional bill for the short collected period shall be issued to the consumer. The licensee shall follow the due procedures for ensuring natural justice such as; hearing the consumer, issuance of provisional bill before finalization of the assessment bill etc., following the procedures specified in Regulation 157 of the Code: Provided further that the provisional bill shall only be finalized by the licensee after giving a reasonable opportunity of hearing of the consumer: Provided also that the licensee may finalize the final assessment bill through the appropriate IGRC, if necessary.

(3) The amount of electricity charges short collected for the entire period during which such anomalies persisted, may be realised by the licensee without any interest:

Provided that while assessing the period of such short collection the factors as specified in subregulation (8) of regulation 155 shall be considered:

Provided that realisation of electricity charges short collected shall be limited for a maximum period of twenty four months, even if the period during which such anomaly persisted is found to be more than twenty four months.

(4) The consumer may be given installment facility by the licensee for a maximum period of twelve months without interest for the remittance of such amount of short collection.

As per this regulation the maximum period of short assessment if the period is reliably accessible is limited to 24 months.

There are certain provisions provided in the Supply Code 2014 to prevent such type of anomalies and also thus the revenue leakage. The regulation 113 of the Supply Code 2014, mandated for the periodical inspection of the installation.

113.(2) *The licensee shall also conduct periodical inspection or testing or both and calibration of the meters, as specified in the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 as amended from time to time.*

113.(6) *The licensee shall conduct periodical inspection or testing or both of the meters as per the following schedule: - single phase meters once in every five years LT 3-phase meters once in every three years HT or EHT meters including maximum demand indicator (MDI) once in every year*

If these regulation have been complied by the Licensee, purpose of use of electricity would have been noticed by the officials and accordingly the tariff change would have been applied. On issuing the tariff order by the KSEBL, the Licensee would have initiated the circular explaining the process and procedure to implement the tariff change. The concerned officials have not been followed this circular also. The meter readings of every month would have been taken by the Assistant Engineer and would have noticed this particular connection is serving for the purpose of residential colony. Even then the tariff change would have been noticed. This also seen to be a serious lapse. The bills are prepared and served by the SOR, as this is an HT connection. Why the SOR officials would have not noticed this anomaly seeing the consumer profile. There are multiple lapses from the Licensee in implementing the tariff. Charging the consumer for 10 years of assessment is reasonable or not? The regulation 152 & 97, Limitting the short assessment for 24 months and 12 months respectively.

Here the respondent is referred about the order of Apex Court in the order of petition 7235/2009 of M/s. Prem Cottex Vs Uttar Haryana Bijli Vitran Nigam Ltd. In this case the Court as defined the phrase "When such sum became first due" mentioned in the Section 56(2) of the Electricity Act 2003. This case is of 2009 and when there would not have been any regulation which specify about various options to avoid such lapses. As per the prevailing Supply Code there are multiple regulations to be followed by the Licensee to avoid such type of revenue leakage. This case is not pertaining to the Section 56(2), and hence the order is not applicable to the case in hand.

It is very important to examine which regulation is very apt to this particular case, 97 or 152 of the Supply Code. There is an Order issued by the High Court of Kerala issued on 9/9/2024 in the writ petition 7446/2016. This is a writ petition filed by the licensee against the order of State Electricity Ombudsman in a similar case of tariff change. The ruling of the Honb'le Court is that the order of Ombudsman agreeing with the regulation is justified.

The regulation 97 is very clear that the suo motu reclassification of consumer category by the consequent to a revision of tariff is coming under this regulation. Accordingly the most relevant regulation of this case 97 and hence the maximum period of short assessment shall be 12 month.

Decision

On verifying the documents submitted and hearing both the petitioner and respondent and also from the analysis as mentioned above, the following decision are hereby taken.

1. The decision of CGRF is quashed here with and thus the short assessment demand issued by the Licensee.
2. The Licensee shall issue the short assessment only for a period of 12 months.
3. The excess amount remitted by the appellant is to be refunded/ adjusted in the future bills.
4. The licensee shall conduct a detailed enquiry and identify the official responsible for the lapse and take action accordingly.
5. No other costs sanctioned.

ELECTRICITY OMBUDSMAN

No. P/017/2026/ dated: 26/05/2026.

Delivered to:

1. The Assistant Executive Engineer(Electrical),Indian Institute of Management Kozhikode, IIM Kozhikode Campus Post, Kozhikode(dt) - 673570
2. The Deputy Chief Engineer,Electrical Circle, KSEBL,Vydyuthi Bhavanam, Kozhikode (Dt)
3. The Special Officer Revenue,KSEBL, Vydyuthi Bhavanam, Thiruvananthapuram -4
4. The Assistant Executive Engineer,Electrical Sub Division,KSEBL, Kunnamangalam,Kozhikode (dt)
5. The Assistant Engineer,Electrical Section,KSEBL, Kunnamangalam Kozhikode (dt)

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, Vydyuthi Bhavanam KSE Board, Gandhi Rd, Kozhikode - 673032