

**THE STATE ELECTRICITY OMBUDSMAN**

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**Appeal Petition No. P/020/2026  
(Present A. Chandrakumaran Nair)  
Dated: 12-06-2026**

- Appellant : Smt. Lakshmi Mohan  
Proprietor, Sree-Lakshmi Polymers, VI/637B,  
Vathyapilly Road, Udayamperoor P.O,  
Ernakulam (dt)- 682307
- Respondent : The Assistant Executive Engineer,  
Electrical Sub Division,  
KSE Board Limited,  
Tripunithura, Ernakulam (Dist.)

**ORDER**

**Background of the case**

The appellant Smt. Lakshmi Mohan is the proprietor of an industry named "Sreelakshmi Polymers" situated at Udayamperoor Ernakulam District. This industry is an LT, 3 phase consumer of the Licensee under the Electrical Section, Udayamperoor with the sanctioned connected load of 103.75 KW and contract demand 80 KW. During the inspection of APTS on 12/07/2021, the wrong (interchange) connection of CT terminal to meter terminal of two phases were noticed. The respondent connected a parallel meter and found that the consumer meter is under reading around 37%. The short assessment demand of Rs. 62,63,677/- was issued for a period from 12/2011 to 07/2021. The appellant had challenged this demand by filing a petition to CGRF(Central Region) vide OP/46/2021-22 and the CGRF issued order dtd 18/02/2022. The appellant had filed the appeal to Kerala State Electricity Ombudsman which was numbered as P/018/2022 and the Ombudsman issued order dated 17/06/2022 stating that the appellant is liable to pay the amount as per the assessment in 60 instalments. The appellant filed the writ petition to Hon'ble High Court of Kerala vide WP©38068/2025 challenging the order of Ombudsman allowing to pay the full amount. The Licensee had filed the writ petition vide WP©/22981/2025 questioning the order of Ombudsman sanctioning 60 instalments. The

Hon'ble High Court of Kerala issued a single order for both these writ petitions on 04/03/2026 by set asiding the Order of Electricity Ombudsman and directed to reconsider the appeal petition of the appellant considering the contentions raised by the appellant. Accordingly this appeal petition is reconsidered.

## **Arguments of the Appellant**

The petitioner is a consumer of Electrical Section KSEB Ltd., Udayamperoor, availing the LT power supply under the LT IV (A) tariff. The respondent KSEB had installed the electricity meter in the premises of the petitioner during December 2011. But it was only after almost 10 years that the respondent KSEB found that meter was defectively installed. This was admittedly due to the laches and negligence on the part of the respondent KSEB in properly installing the electricity meter in the premises of the petitioner and their continued violation of statutory guidelines in checking the correctness of the meter at stipulated intervals. An inspection on 12.07.2021 detected an anomaly of reversal of voltage at 2 phases in the CT Circuit of the petitioner. Thereupon, the respondent Board, without any proper verification or authority, arrived at a finding that the petitioner's meter was under-reading consumption by approximately 37% since the installation of the meter from December 2011 and accordingly issued Demand Letter dated 04.08.2021 along with short assessment bill claiming an exorbitant amount of Rs.62,63,677/- towards short assessment charges for the period from December 2011 till July 2021.

Aggrieved by the aforementioned Demand Letter dated 04.08.2021 and the short assessment bill of Rs.62,63,677/-, the petitioner approached the Consumer Grievance Redressal Forum (CGRF), Ernakulam and then the Electricity Ombudsman. Even though both the authorities found that the alleged arrear had accrued due to the negligence and laches of respondent KSEB, the petitioner vide Order of the CGRF dated 18.02.2022 in OP No 46/2021-22 was directed to pay the bill amount in 12 installments, whereas the petitioner, vide Order dated 17.06.2022 of the State Electricity Ombudsman, Kochi, in Appeal Petition No P/018/2022 was directed to pay the bill amount in 60 installments. Pursuant to this, even though the petitioner approached the concerned authorities seeking relaxation of payment of bill, there was no response. Subsequently, during 2025 the respondent approached the Hon'ble High Court by filing WP(C) 22981/2025 challenging the order dated 17.06.2022 of State Electricity Ombudsman, where they sought to quash the 3rd part of the order of the Ombudsman granting 60 instalments without interest to pay the bill. The petitioner had also filed WP(C) 38068/2025 against the order of the Ombudsman, seeking to set aside the short assessment bill, which was issued in utter violation of statutory regulations. The Hon'ble High Court vide Common Judgment dated 04.03.2026 in WP(C) 38068/2025 and WP(C) 22981/2025 set aside

the order dated 17.06.2022 of the State Electricity Ombudsman and has directed reconsideration of Appeal P/18/2022. It was also observed that the consumer, the petitioner herein, could place materials to substantiate her contentions.

It is an admitted fact that there has been no latches or negligence on the part of the petitioner in the alleged reversal of phases resulting in the exorbitant short assessment bill. So, the bill has arisen solely due to willful latches and dereliction of duty by the respondent KSEB. The negligence of respondent KSEB in the above subject matter was also found by the CGRF as well as the State Electricity Ombudsman. Vide its Order dated 18.02.2022 in OP No 46/2021-22, the CGRF observed that "It was a highly negligent and irresponsible act on the part of the concerned officials of the licensee to leave the CT meter uninspected for such a long time of 10 years from 11/2011, which caused undue hardship and financial burden to the petitioner, which directly resulted in the accrual of the disputed dues. Licensee should initiate action against the concerned officials for non-compliance of its directions and various circulars issued from time to time". Vide Order dated 18.02.2022 in OP No 46/2021-22, the Electricity Ombudsman observed that "Licensee is bound to test the meters periodically and if this regulation would have been abided by the licensee huge burden on the appellant would not have arisen. The Licensee was to devise a proper and rugged system to ensure that the meters and CTs were connected properly and to ensure that periodical inspections and testing of meters as specified in the Kerala Electricity Supply Code 2014 was to be meticulously followed." Hence, it becomes evident that this is an anomaly by the respondent KSEB.

Regulation 152 of the Kerala Electricity Supply Code 2014, specifically deals with anomalies attributable to the licensee, it provides that on detection of anomalies 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, it shall not attract provisions of Section 126 or Section 135 of the Electricity Act, 2003. Admittedly, this is a case of inaccuracy of the meter solely due to the negligence of the respondent Board (KSEB). The proviso to regulation 152 stipulates that realization of electricity charges short collected shall be limited for a maximum period of 24 months, even if the period during which such an anomaly persisted is found to be more than 24 months. In the above case the bill period is from December 2011 till July 2021 that is for a period of 9 years and 8 months. Going by the above proviso to Regulation 152, the demand, even if found correct, should be limited to 2 years. Even otherwise the KSEB cannot make a demand from 2011, as it is hit by limitation. It is relevant to find that even the defect in the metering equipment and short collection of electricity charge has not been proved.

Even according to the respondent KSEB, the error of the existing CT and meter was ascertained by connecting a parallel meter. However, this methodology of testing procedure has not been defined or validated in any Regulation or Standards. Hence, the procedure followed by KSEB is not acceptable. The respondent Board (KSEB) ought to have taken out the meter, along with the CT and it ought to have been tested in a NABL-accredited lab. Even if a connection was reversed or a CT connection was not given, as alleged by KSEB, the percentage error of the meter would change because of the imbalance created due to the phase failure or reversal of current. Hence, this petitioner cannot be held liable for the failure on the part of the respondent Board (KSEB) to adhere to correct testing procedures. As per the regulation 2(p) of the CEA Metering Regulation 2006, 'meter' means a device suitable for measuring, indicating and recording consumption of electricity of any other quantity related with the electrical system and shall include, wherever applicable, other equipment such as current Transformer (CT), Voltage Transformer (VT) necessary for such purpose. Here, as per the respondent Board (KSEB), the fault was in the line connecting the current/voltage line, which forms a part of the meter, and hence the procedure for a faulty meter alone ought to have been adopted while claiming the short assessment bill. Here, the respondent Board (KSEB) declared the meter as faulty with 37% error for certain periods and has assessed the full consumption percentage from 2011, violating procedural guidelines.

When the meter is found to be faulty the respondent Board (KSEB) is, in fact, permitted to collect charges only in compliance with Regulation 115(9) of the Kerala State Electricity Supply Code 2014, where revision of the bill on the basis of the test report shall be done for a maximum period of 6 months or from the date of last testing, whichever is shorter and the excess or deficit charges on account of such revision shall be adjusted in the two subsequent bills. Going by the same, the respondent Board (KSEB) cannot charge for more than 6 months if the meter was found faulty. Utter violation of regulation 113(6) it is stipulated in Regulation 113 (6) of the Kerala State Electricity Supply Code, 2014, that "the licensee shall conduct periodical inspection or testing or both, of the meters as per the following schedule. Once in every 5 years for Single-phase meters, once in every 3 years for LT3-phase meters, and once in every year for HT or EHT meters. As per Regulation 113 (7) of Supply Code, "Wherever applicable, Current Transformer (CT) and Potential Transformer (PT) and the wiring connections shall also be tested along with meters." So as per Supply Code Reg. 113 (6) & (7), the respondent Board (KSEB) ought to have checked the petitioner's 3-phase meter and CT once in every three years. Hence, had the meter and CT of this petitioner suffered from any defects in 2011 as alleged, the same would have been detected and rectified at least by 2014, if proper inspections were conducted every 3 years as stipulated. However, no inspections were conducted by the respondent Board in 2014, 2017 or 2020 till the APTS inspection was conducted on 12.07.2021.

Section 45 of the Electricity Act and Regulation of 134(1) of Electricity Supply Code, allowing the KSEB to collect under charged amount cannot come to their rescue in the above case. Because these are general provisions applied in normal circumstances when KSEB omits to charge the licensee, without any latches on their part. But the above case is a classic example of negligence, dereliction of duty and violation of statutory provisions by KSEB. The inter changing of phases during installation of meter and failure to conduct periodical inspection and testing of meters as stipulated in Regulation 113(6) by KSEB has resulted in this alleged under charged amount. After violating statutory provisions and directives issued from time to time, they can't turn around and claim the undercharged amount. Regulation 125(1) of the supply code clearly stipulates the procedure for billing in the case of defective or damaged meter and that the consumer shall be billed on the basis of average consumption of the past three billing cycles immediately preceding the date of the meter being found or reported defective. Hence, by a mere perusal of the regulation the billing must be limited to the extent stipulated therein.

The Hon'ble High Court of Kerala has already found that none of the above legal contentions have been considered by the authorities in the correct perspective, for which reasons the earlier order passed by the State Electricity Ombudsman was set aside. Hence, it is prayed that this authority may be pleased to consider the above contentions in the correct perspective and be pleased to set aside the exorbitant bill, failing which petitioner will suffer irreparable injuries.

## **Arguments of the Respondent**

The petitioner challenges the demand notice dated 4/8/2021 issued by the respondent under Sec. 45 of the Electricity Act, 2003, read with Regulation 134 of the Kerala State Electricity Supply Code demanding the consumer to pay an amount of Rs.62,63,677/- (Rupees Sixty Two Lakh Sixty Three Thousand Six Hundred and Seventy-seven Only) as short assessment charges towards the actual energy consumed in the premises of the petitioner on account of the fact that there is phase association mismatch of voltage between Y and B phases in the CT meter installed in their premise. The inspection conducted on 12-7-2021 revealed the anomaly of reversal of voltage at 2 phases in the CT circuit and the consumer was issued with short assessment bill on 04.08.2021. The Hon'ble High Court of Kerala, by combined common judgment dated 04.03.2026 in W.P.(C) Nos. 22981/2025 and 38068/2025, set aside the order of the Kerala State Electricity Ombudsman in Appeal Petition No.P/018/2022, as well as the order of the Consumer Grievance Redressal Forum (CGRF), and directed fresh consideration of the matter. The dispute arose from a short-assessment bill of 62,63,677/- issued by the Kerala State Electricity Board Limited on 04.08.2021 after inspection revealed reversal of voltage in two phases of the

CT meter, resulting in under-recording of energy consumption from December 2011 to July 2021.

The Board had challenged the same order, particularly on the ground that 60 instalments had been granted to the consumer. However, the Hon'ble Court found that the legal contentions raised on behalf of the consumer were not dealt with in the proper perspective. Accordingly, the Court set aside the orders passed by the State Electricity Ombudsman, which had confirmed the order of the Consumer Grievance Redressal Forum (CGRF). It is respectfully submitted that the consumer No.1155496011881 is a connection registered in the name of Smt.Lakshmi Mohan, Sree Lakshmi Polymers, Buliding No.107/6, Udayamperoor P.O, Sy No:398/7, Nadakkavu which manufactures PVC pipes of various sizes for running a pipe manufacturing unit. The electric connection in the said premises was effected under LT IVA Tariff in three phase for industrial purpose on 10.3.2003. Sanctioned load of the consumer is 103750 Watts with a contract demand of 80000 VA, under Electrical Section, Udayamperoor. As part of ToD meter implementation, the original meter installed in the premises was replaced by ToD meter on 22/11/2011. It is respectfully submitted that there is no bonafides in the above petition and the demand raised against the consumer is valid in all aspects. The demand raised is pertaining to the actual energy charges liable to be paid against the actual consumption in the premises that escaped assessment since the bills were being issued not against the actual, without knowing the occurrence of phase association mismatch of voltage between Y and B phases. The premise of the consumer was inspected by the APTS Ernakulam unit on 12.07.2021 which revealed that due to the voltage connection interchange between Y and B phases, the actual energy recorded in existing CT meter was less by 58.56 % when compared with ZERA make standard meter calibrated at Electrical inspectorate. On account of this error in connection, the consumer was being served with inaccurate electricity bills and the consumer was not paying the actual energy charges for the energy consumed in the premises. Since the amounts paid were less than the actual, the licensee was suffering loss. The said anomaly was detected only on 12/07/2021 when an inspection took place in the premises. Upon detecting the anomaly, site mahazar has been prepared and thereafter the undercharged amounts were assessed and consumer has been issued with appropriate short assessment bill. The demand notice is accompanied by the calculation details of the assessment by which the undercharged amount has been arrived. The copy of the site mahazar prepared has been duly served on the consumer at the end of the inspection. The inspection and demand raised is perfectly valid and done as per law. The consumer is liable to remunerate the demand made through the demand notice.

This respondent specifically denies all the averments and allegation contained in the above complaint, except to the extent as are specifically admitted hereunder. The complaint is filed without any bonafides with the

ulterior motive to evade from payment of the short assessed amount of Rs.62,63,677/-(Rupees Sixty Two Lakh Sixty Three Thousand Six Hundred and Seventy-seven Only). The inspection and demand raised against the consumer is perfectly valid and done as per law. The following are the facts that led to the issuance of the short assessment bill to the consumer. On 12.7.2021, officials of the APTS wing, KSEBL, Ernakulam had conducted an inspection at the premises of the consumer number 1155496011881. Pursuant to the inspection, site mahazar was prepared by the sub Engineer.

The inspection revealed that the connection is provided with a three phase three wire, LT CT operated AC static KWH TOD meter of L&T make 3x240, -/5A having Serial No.11103685 with CT having the ratio 200/5A, with Multiplication Factor 40. The CT ratio was checked and found to be correct i.e 40 itself. For comparing the accuracy of the recorded consumption in energy meter, ZERA make meter with Sl. No. 050043252 Model MT 310 calibrated at Electrical Inspectorate, kept as standard meter was used. The comparison of consumption recorded by the meter installed in the premises of the consumer with that of the parallelly installed standard meter showed considerable increase. It was found that for a consumption of 800 WH in the consumer meter, the actual consumption recorded in the standard meter was found to be 1268.53WH. For finding out the reason behind the anomaly, the connecting wires were traced after interrupting the supply with the permission of the Manager. On examination, it is found that wire intended to be connected to Y phase voltage terminal of meter is seen connected to B phase terminal of meter and wire intended to be connected to B phase voltage terminal of meter is seen connected to Y phase terminal of meter. The reduction in recorded consumption is due to this phase association mismatch. The consumer acknowledged the site mahazar in disagreement. Consumer produced letter on 12/07/2021 itself requesting clarification in findings and on 15/07/2021, the officials of APTS wing again visited the premises and ascertained the findings in their presence. Another CT meter for recording the correct consumption was connected at the premises on 17/07/2021, the readings of which are being recorded. The present status is that the actual consumption in the premises is being recorded, using the said parallelly connected meter from 17-07-2021 onwards.

On detecting the anomaly on 12.07.2021, the actual energy charges payable by the consumer was calculated from the date of last system change/meter change i.e 12/2011 and a short assessment bill of Rs.62,63,677/-(Rupees Sixty Two Lakh Sixty Three Thousand Six Hundred and seventy-seven Only) was served to the consumer under Sec.45 of the Electricity Act, 2003 r/w Regulation 134 of the Kerala State Electricity Supply Code, taking the period of assessment from 12/2011. The demand notice dated 4/8/2021 served to the consumer was accompanied by the calculation details of the assessment by which the undercharged amount has been arrived. The consumer submitted their written objection on 16-08-2021. In the written objection,

the consumer had raised 12 queries to be answered by the Assistant Engineer. The Assistant Engineer Electrical Section, Udayamperoor after verifying the facts from the records available issued reply answering the queries. The reply was intimated to the consumer vide letter dated 02/09/2021. It is submitted that the bill issued by the licensee contains the undercharged portion of energy that escaped assessment and the complainant consumer is statutorily bound to remunerate the same on demand and cannot wriggle out from the liability in any manner. The demand raised against the consumer is only the actual price of energy consumed in the premises and not anything more.

It is respectfully submitted that the demand made by the licensee is not hit by any of the principles of limitation and the right of the licensee to issue a supplementary demand and recover the charges has been clearly upheld by the Apex Court in the judgment rendered in Civil Appeal No. 1672/2020 in the matter of Assistant Engineer, Ajmer Vidyut Vitharan Ltd & Another Vs. Rahmathulla Khan (2020 (4) SCC 650) and that of in Civil Appeal No. 7235 of 2009 in the matter of M/s. Prem Cottex Vs. Hariyana Bijli Vitaran Nigam Ltd & Others decided on 05-10-2021. The scope and ambit of Section 56 was interpreted by the Apex Court in the aforesaid decisions and in the latter it was conclusively held that what is covered by Sec.56, under sub section 1, is the negligence on the part of a person to pay for electricity and not anything else nor any negligence on the part of the licensee. In other words, the negligence on part of the licensee which led to short billing in the first instance and the rectification of the same after the mistake is detected, is not covered by Sub Sec.1 of Sec.56. Consequently, any claim so made by the licensee after the detection of their mistakes may not fall within the mischief, namely, "No sum due from any consumer under this section", appearing in Sub section 2. The Apex Court also examined the scope and ambit of section 56 (1) in another angle and held that Sub Section 1 of Sec.56 deals with disconnection of electric supply if any person "neglects to pay any charge for electricity". The question of neglect to pay would arise only after a demand is raised by the licensee. If the demand is not raised, there is no occasion for a consumer to neglect to pay any charges for electrified. Sub Sec.2 of Sec.56 has a non-obstante clause with respect to what is contained in any other law regarding the right to recover including the right to recover including the right to disconnect. Therefore if the licensee has not raised any bill, there can be no negligence on the part of the consumer to pay bill and consequently the period of limitation prescribed under Sub Section 2 will not start running. So long as limitation has not started running, the bar for recovery and disconnection will not come into effect. At paragraph 6 of the former decision, Hon'ble Supreme Court has observed that the Electricity Act 2003 is a self-contained comprehensive legislation. It was further observed at paragraph 6.6 that the liability to pay arises on the consumption of electricity and obligation to pay would arise when the bill is issued by the licensee company quantifying the charges to be paid. At paragraph 8, the Hon'ble Supreme Court observed that Section

56(2) does not preclude the licensee company from raising a supplementary demand after the expiry of limitation period of 2 years. It only restricts the right of the licensee to disconnect Electricity Supply due to non payment of dues after the period of limitation of 2 years has expired. It does not restrict other modes of recovery which may be initiated by the licensee company for recovery of supplementary demand. In the above said case, the licensee company discovered a mistake in billing under a wrong tariff code on 18-3-2014 and a bill for the period from July 2009 to September 2011 was raised. The Supreme Court held that the licensee company might take recourse to any remedy available in Law for recovery of additional demand. Further the Supreme Court relied on Section 17(1) © of the Limitation Act, 1963 and held that in case of a mistake, the limitation period begins to run from the date when the mistake is discovered for the first time. Applying the aforesaid said principles enunciated by the Hon'ble Supreme Court, in the aforementioned decisions the Electricity Board is empowered to collect the differential amount of Electricity charged from the inception till it is detected and rectified.

It is respectfully submitted that the Honourable High Court of Jharkhand in M/s Sheo Shakthi Cement Industries, Jharkhand Vs. Jharkhand Urja Vikas Nigam Limited (Reported in AIR 2016 jharkhand 98) has held that "the contention that the bills for the period between 29.01.2011 to 31.03.2014 were paid by the petitioner and thus, supplementary bill dated 04/06/2014 is barred under Section 56(2) of the Electricity Act 2003 cannot be accepted. The petitioner has consumed electricity supplied by respondent Nigam is not in dispute. The Installation Report dated 27.01.2011 discloses the particulars of the CTPT metering Unit which was installed on 27.01.2011 and those particulars are corroborated by the Installation Report on 31.01.2014 and therefore, the petitioner cannot avoid payment for the electricity consumed by it. The supplementary bill dated 13.05.2014 as corrected by bill dated 04.06.2014 raised on account of less Multiplication Factor is not barred under Section 56(2) of the Electricity Act 2003". In the case on hand also, it is clearly revealed that the error in connection was not detected and regular bills were issued wrongly, and anomaly detected on 12/7/2021. Hence short assessment was done for the period from 12/2011 to 7/2021 is legitimate one and binding on the consumer.

The licensee is bound to abide by the statutes and is bound to recover the unbilled portion of the consumption and the same amounts to public money. As far as State of Kerala is concerned, it is a power starved state wherein the deficit electricity is outsourced at exorbitant rate from across the nation. As of now the licensee is facing severe financial stringency on account of the large amounts due from the consumers across the state and the licensee is running deficit of its income. Therefore, the licensee is bound to recover the charges for the electricity supplied, from the consumer in terms with the tariff fixed by the regulatory commission for its survival and effective distribution of electricity to its consumers throughout the state. The

complainant consumer is capable of paying the amounts demanded. None of the contentions raised in the complaint disputing the right of the licensee to enforce the payment of undercharged amounts are tenable and the complainant is not entitled for any reliefs. There is no dispute with regard to the efficiency of the meter in the premises and there is no change of any ownership in the premise. Considering the above facts, the answering respondent request this Hon'ble Forum to accept the contentions raised through this statement of facts and dismiss the above complaint with cost to the respondents and, declare that the short assessment bill issued is in order and to direct the consumer to pay the short assessment amount Rs.62,63,677/- (Rupees Sixty Two Lakh Sixty Three Thousand Six Hundred and Seventy-seven Only). It is also prayed that this Hon'ble Forum may be pleased to dismiss the petition and permit KSEBL to rectify the connection error and to make the metering system working properly and remove the parallel meter installed in the premises and issue appropriate bills.

### **Counter arguments of the Appellant**

It is respectfully submitted that, the aforesaid appeal petition, was already filed by the petitioner in the year 2022 before the Electricity Ombudsman and this authority vide order dated 17.06.2022 had passed an order directing the respondent KSEB to grant 60 monthly installments to pay the short assessment bills. This order was passed after going through the statement of facts submitted by the respondent KSEB and after hearing them. However, this order was challenged both by the petitioner and the respondents, before the Hon'ble High Court of Kerala, and the High Court vide common judgement dated 04.03.2026 in WP(C) 38068 of 2025 and WP(C)22981 of 2025 had quashed the aforesaid order of the ombudsman and had directed reconsideration of the appeal by this authority, whereupon this petitioner was given liberty to place such material to substantiate their contentions. Accordingly, this petitioner had filed brief argument notes before this authority. However, instead of answering the same it is seen that the respondent has filed yet another statement of facts in the above case. In fact, this becomes the 2nd set of statement of facts filed by the respondent KSEB, wherein many contentions are raised for the first time. In fact, the judgement of the High Court never contemplated filing of a fresh set of statement of facts, as it is the appeal alone filed in the year 2022 that needs to be reconsidered. However, without prejudice to the aforesaid contentions, it is submitted that, the respondent board, has raised numerous contentions in order to defend their illegal acts and to substantiate the issuance of exorbitant demand. It is respectfully submitted that, the entire contentions raised by the KSEB will not stand in the eye of law and by no extent the demand is sustainable.

With respect to few legal contentions raised by the respondent KSEB to defend their illegal acts, it is submitted as follows;

1. The respondent KSEB, has contended that the regulation 152 of the Kerala Electricity Supply Code, 2014 (hereinafter referred to as the 'code'), is ultra vires the parent Electricity Act, 2003 (hereinafter referred to as the 'Act'), hence the application of the said regulation cannot be allowed. However, it is deeply concerning that the respondent board has eschewed away from the principle of "presumption of validity of a statute" as enshrined by various authorities including the Hon'ble Supreme Court in \*The State Of Manipur vs Surjakumar Okram, (2022) 19 SCC 723 "A statute which is made by a competent legislature is valid till it is declared unconstitutional by a court of law".\* Hence, the regulation 152 of the code is still valid and must be rightly applied to the above case, to limit the demand of the respondent due to 24 months as mentioned in the proviso to the said regulation.

2. The respondent KSEB, has contended that the petitioner/consumer is liable to pay the undercharged amount, claiming it to be in line with section 45 of the Act. As already stated, section 45 of the act gives the licensee the general power to collect charges and doesn't empower the board to collect any undercharged amount caused solely due to the anomaly of the licensee board. In the above case the meter was defectively installed by the respondent board, which led to the 'Y' phase wrongly connected to the 'B' phase and vice versa. Admittedly, the complainant/consumer have not touched the said connection after the installation of the meter, which is alleged to have been installed in December 2011. Hence, it is clearly an anomaly on the part of the respondent board and thus, this particular set of facts are outside the ambit of section 45 of the act.

2. Before heading further, it is utmost important to glance upon the preamble of the Act, which says that "An Act to consolidate the laws relating to generation, transmission, distribution, trading and use of electricity and generally for taking measures conducive to development of electricity industry, promoting competition therein, protecting interest of consumers and supply of electricity to all areas, rationalization of electricity tariff, ensuring transparent policies regarding subsidies, promotion of efficient and environmentally benign policies, constitution of Central Electricity Authority, Regulatory Commissions and establishment of Appellate Tribunal and for matters connected therewith or incidental thereto"

4. It is submitted that, the preamble as stated by the Hon'ble Supreme Court, in Re: Berubari Union Case, 1960, is the "key to open the mind of the makers" of the law. The 'protection of interest of the consumers' as mentioned in the preamble is to be given utmost importance. Bearing this in mind, and to tackle situations wherein the fault absolutely lies on the part of the respondent licensee and not on the consumer, the state commissions were given powers under section 50 to provide for regulations in the form of 'Supply Code' in the respective states to tackle situations based on the unforeseen circumstances depending on each state. Contrary to the

avermments of the respondent board that the state commissions doesn't hold powers to limit the undercharged, it is to be noted that section 50 confers powers on the respective commissions to make regulations on matters which it finds necessary. Furthermore, from the use of the phrase "such other matter", this commission include power to tackle unforeseen situations due to the anomalies on the part of the board to protect the consumers interest.

5. The Hon'ble Supreme Court in Naresh Chandra Agarwal v. ICAI, 2024 SCC ONLINE SC 114 has observed that, "even if the specific topics are not explicitly listed in the statute, the formulation of rules can be justified if it falls within the general powers conferred, provided it stays within the overall scope of the act" And the "judicial interpretation of such provisions underscores that the specific enumeration is illustrative and should not be construed as limiting the scope of the general power." Hence, the aforesaid ruling has cleared the pathway for the commissions to enact regulations for the matters which are not expressly mentioned in the act.

6. The respondent board further comes up with a contention stating that the demand is well within the limitation period, for which they are relying on Section 17(1)(c) of the Limitation Act, 1963 contending that "limitation period begins to run from the date when the mistake is discovered for the first time". However, it is important to note that the respondent rather than giving the provision its full meaning and text, the respondent has limited its scope by shadowing the latter part of the provision. The relevant excerpt from Section 17(1)(c) is reproduced below; "the period of limitation shall not begin to run until the plaintiff or applicant has discovered the fraud or the mistake or could, with reasonable diligence, have discovered it". Hence, from the words "with reasonable diligence" covers the question as to when limitation period begins to run. As already stated in the complaint, the respondent board is duty bound to conduct mandatory inspections as per regulations 113 (6) and (7) for every 3 years for LT III connections. The relevant excerpt of the said provision is reproduced below; "(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. 7) Wherever applicable, Current Transformer (CT) and Potential Transformer (PT) and the wiring connections shall also be tested along with meters." The stipulated mandate under the aforesaid provisions makes it abundantly clear that if the respondent board had followed their duties diligently, the mistake could have been identified by them in the year 2014 ie. 3 years after the alleged meter installation during December 2011, and the said demand of such an exorbitant amount wouldn't have arisen. In the light of the above contentions, it is respectfully submitted that this authority may be pleased to set aside the illegal demand raised by the respondent board.

## **Analysis and findings**

The first hearing of this appeal petition was conducted on 29/05/2026 at 11:00 a.m. in the O/o State Electricity Ombudsman, D.H Road, Ernakulam dt. The hearing was attended by the appellant's representative Adv.Rajesh Vijayendra and the respondent Adv.B.Pramod, and Sri.Biju.P.R, Assistant Executive Engineer, Electrical Sub Division, Tripunithara, Ernakulam (Dist.) during hearing the Advocate of the respondent had requested for differ the hearing to 03/06/2026 as he has been engaged only two days back. He want time to study the case. As such the hearing is rescheduled at 3 pm on 03/06/2026.

The appellant's industry named "Sreelakshmi Polymers" having an LT 3 phase connection is a consumer of the Licensee KSEBL under the tariff LT 4A industrial. The consumption was measured through a CT connected energy meter. The ratio of the CT connected was 200/5 and hence the multiplication factor is 40. Antipower Theft Squad (APTS) of the Licensee had conducted an inspection on 12/07/2021 and found that the voltage terminal of B phase is connected to the Y phase of the meter terminal and that of Y phase is connected to the B phase of the meter which resulted the mismatching of phase difference between the voltage and current. The meter was tested by connecting a calibrated meter parallel to the consumer meter and found that the consumer meter was recording only 63.065% of the actual consumption.

The Licensee had prepared a short assessment bill for Rs. 62,63,677/- for a period from 12/2011 to 07/2021. The short assessment is for 9 years and 8 months. The appellant had challenged this demand in CGRF and CGRF ordered that the appellant is liable to pay the short assessment amount vide their order dated 18/02/2022. Then the appeal had been filed to the State Electricity Ombudsman and the order of Ombudsman dtd 17/06/2022 was stated that the appellant is liable to pay the short assessment amount in 60 installments. Both the appellant as well as the respondent field writ petition to the Hon'ble High Court of Kerala challenging the order of Electricity Ombudsman. The court has set aside the order of the Ombudsman and directed to rehear the contentions of both parties and issue fresh order. The argument of the respondent is that, they have the right to recover the energy charges as per Section 45 of the Electricity Act.

### **Section 45. (Power to recover charges): ---**

*(1) Subject to the provisions of this section, the prices to be charged by a distribution licensee for the supply of electricity by him in pursuance of section 43 shall be in accordance with such tariffs fixed from time to time and conditions of his licence.*

They also argue that the provision 134 of the Supply Code 2014 also empower them to raise bills in the case of under charging

**134. Under charged bills and over charged bills. -**

*(1) 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.*

The contentions of the appellant is that the relevant regulations applicable to this case is regulation 152 of the 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. 142[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 145[further] 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.*

The case in hand is regarding the inaccuracies in the metering and this is an anomaly attributable to the licensee which was detected at the premises of the consumer. The above regulations state that the maximum period for which the short collected amount could be chargeable is limited to 24 months even if the period of the anomaly is more than 24 months. There are certain regulations to avoid such type of mistakes in the Supply Code 2014. The regulation 109 describes about the supply and installation of meters.

**109. Supply and installation of meters and circuit breakers.**

*(10) Initial installation as well as replacement of the meter shall be done by a qualified employee of the licensee duly authorised for this purpose, in the presence of the consumer or his representative.*

*(11) The licensee shall adopt a format of meter particulars sheet for recording the particulars of the meter at the time of initial installation or replacement.*

*(12) The licensee shall retain one copy of the meter particulars sheet and its second copy, duly signed by the authorised representative of the licensee, shall be given to the consumer under proper acknowledgment.*

*(13) The consumer or his authorised representative shall also sign the meter particulars sheet.*

It is very pertinent to note that if a qualified employee would have installed the meter, how this mistake is happened. This is a serious lapse from the employee who had done this installation. Then the regulation 113 states about the periodical testing / inspection of meters.

**113. Testing of meter. -**

*(1) It shall be the responsibility of the licensee to satisfy itself regarding the accuracy of the meter before it is installed and the licensee shall test them or get them tested in an accredited laboratory or in an approved laboratory.*

*(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.*

*(3) The periodical testing of consumer meters shall normally be done at site*

*(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*

As this is an LT three phase connection, the meter would have periodically inspected/tested once in every three years. This testing /inspections are

mandated in the regulation to avoid such type of anomalies and also to arrest the revenue leakage of the Licensee and hence to avoid the burden to the common public while fixing the tariff.

The Licensee argued that they could charge the short assessment for the entire period as per the order of the Apex Court in the Civil appeal no.7235/2009 between M/s. Prem Cottex Vs Haryana Bijli Vitaran Nigam Ltd and the civil appeal no.1672/2020 of Assistant Engineer Ajmer Vidyuth Vitharan Ltd. In these orders the apex court has clearly defined the term “When such sum became first due” in the Section 56(2) of the Electricity Act.

**Section 56. (Disconnection of supply in default of payment)**

*(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.*

The Hon’ble Supreme Court viewed that the sum became first due only when the mistake is detected and the bill is issued. While these cases were challenging the orders of the Licensee as per the Section 56(2) of the Act. Here there was no notice issued as per 56(2) and hence this is not applicable. Further no mention in the orders about the provision of the regulations such as Supply Code etc. to prevent such type of mistake or anomalies. Here in this case the Licensee had totally failed to adhere to the options available to avoid such anomalies. The Supply Code has been recently amended by the Hon’ble KSERC, which have not considered the ruling of Apex Court as this is not applicable in the similar cases. The Section 17(1) (c) of the Limitation Act 1963 states as “ *The period of limitation shall not begin to run until the plaintiff applicant has discovered the fraud or mistake or could, with reasonable diligence, have discovered it. The limitation period begins to run from the date when the mistake is discovered for the first time.*” Here the due diligence would have been exercised by the Licensee as per the regulation 113(6) of the Supply Code - 2014. The Licensee had failed to apply the provision.

In a recent verdict dtd 12/11/2025 of Hon’ble High Court of Kerala in WP©/30564/2023 between KSEB and Secretary Royal gardens owners welfare Association the Hon’ble Court agreed with the decision of Electricity Ombudsman by limiting the short assessment for 24 months as per regulation 152 of the Supply Code 2014. Considering the recent orders of the Hon’ble High Court of Kerala in similar cases and as the latest amendment of Supply Code is not considered the above referred orders of Hon’ble Supreme Court as it was not related to this, the argument of the appellant for claiming the short assessment from 12/2011 to 07/2021 is rejected.

## **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 appellant is liable to pay the short assessment for 24 months only for a period from 08/2019 to 07/2021.
2. The Licensee shall revise the short assessment accordingly and issue a revised demand note.
3. The Licensee shall grant 12 monthly instalment for remitting the amount as per the decision (1) & (2) above.
4. The above decision are to executed within a period of one month and accordingly the compliance report is to be submitted by the respondent.
5. No other costs approved.

## **ELECTRICITY OMBUDSMAN**

No. P/020/2026/\_\_\_\_\_ dated: 12-06-2026.

### **Delivered to:**

- 1) Smt. Lakshmi Mohan, Proprietor, Sree-Lakshmi Polymers, VI/637B, Vathyapilly Road, Udayamperoor P.O, Ernakulam (dt)- 682307
- 2) The Assistant Executive Engineer, Electrical Sub Division, KSE Board Limited, Tripunithura, Ernakulam 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, 220 kV substation compound, HMT Colony P.O, Kalamassery - 683503