

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION No. P/037/2021**(Present: A.S. Dasappan)****Dated: 21st October 2021**

Appellant : Smt. Saritha C. Nair,
Sreesailam,
Pazhaveedu, Santhinagar,
Alappuzha Dist.-688009

Respondent : Assistant Executive Engineer,
Electrical Sub Division, KSEBL,
Alappuzha North, Alappuzha Dist.

ORDER**Background of the case:**

The appellant is a consumer of Electrical Section, Alappuzha South with consumer number 1155034025008 under Low Tension three-phase category. The electric connection was effected on 26-10-2006 for construction purpose with connected load of 5846 watts. The tariff was changed from LT VIF to LT VIIA on 19-01-2018, after the construction works over and functioning as a pharmaceutical premises. The appellant installed solar panels having a capacity of 5 kW on the roof of the building. The complaint pertains to the additional electricity bill for Rs.7,92,331/- issued by the respondent, stating that the CT connection provided to the energy meter was wrong. The wrong connection led to the interchanging of import energy and export energy in the premises. After approaching the officials of the Licensee for the reconsideration of the additional bill, the appellant filed a petition in Consumer Grievance Redressal Forum, Central Region, Ernakulam with OP No: 84/2020-21 and the Forum in its order dated 24-04-2021 dismissed the petition due to lack of merits.

Not satisfied with the order of the Forum, the appellant filed this Appeal Petition before this Authority.

Arguments of the appellant:

The electric connection was taken in January 2016 for construction of the building. In March 2018 the connection was converted as one for commercial purpose. The connected load was 30 kVA. The connection is a three-phase connection. It is used solely for warehouse where pharmaceutical products are stored. In June 2019, the appellant installed 17 solar panels on the roof of the building. The solar panels and installations are inspected by the KSEB officers and sanction was granted for making it functional. The electricity authorities used to take meter reading every month. The appellant used to pay electricity charges as per the meter reading. The meter reading showed that for June 2019, the actual unit consumed by the appellant was 1420 units. In May 2019, the actual units consumed by the appellant was 2360 units. In April 2019, the units consumed as per the meter reading was 2520. In March 2019, the actual meter reading was for 1940 units. In February 2019, the actual units consumed was 1280 units. It can thus be seen that prior to the installation of solar panels, the consumption was 1420 units.

The consumption pattern for the last 3 years of the appellant's warehouse under consumer No. 25008, as per the actual meter reading had been nil from July 2019 to January 2021. In January 2021, the appellant installed 6 additional Air-Conditioners having capacity of 2 tons each. Therefore, the appellant applied for additional load and the connected load was enhanced to 44715 watts on 2nd January 2021. Thereafter the appellant was paying electricity charges as per the actual meter reading.

The solar panel installed by the appellant is generating electricity of 16 units per day. The actual consumption of electricity was 15.686 units. Therefore, appellant was not using any electricity from the supply of KSEB Ltd. till the connected load was enhanced to 44715 watts. The KSEB has no case that meter was faulty. KSEB has also no case that the appellant has tampered with the meter for installations. The KSEB has also no case that the appellant had indulged in unauthorized use of electricity.

As per section 55 of the Electricity Act 2003, no licensee shall supply electricity except through correct meter in accordance with the regulations made in that behalf. The appellant is, therefore, liable to pay electricity charges only in accordance with the correct meter. The KSEB has no case that the meter connected to the appellant's premises is not through a correct meter. The appellant had been paying electricity charges to the KSEB as per correct meter reading recorded by the officers of the KSEB Ltd. Undercharging of the electricity charges will arise only if the (as per Clause 104 of Kerala Electricity Supply Code) Licensee shall not supply electricity except through a correct meter installed in accordance with the provisions of the Regulations. The said clause also stipulates that the meter shall be tested and installed by the Licensee and it shall confirm to the requirements of the Regulations. As per Clause 110 of the Kerala State Electricity Supply Code 2014, it is the duty of the KSEB to read the meter once in every billing cycle. The KSEB has also a duty to inform the consumer the details of the meter readings along with the bill under Clause 123 of Kerala State Electricity Supply Code 2014. It can thus be seen that the consumer is liable to only as per the meter reading and the question of undercharging of electricity bill will arise only if there is a mistake in the meter reading. The KSEB has no case that there was any mistake in reading of the meter installed in the premises of the appellant. There is, therefore, no question of under billing in the case of the appellant.

The case of the KSEB is that the connection from the solar panel had been given in the reverse direction and therefore the import has been shown as export and export has been shown as import. However, no evidence was produced by KSEB to show that being the period in question the solar panel had been connected in the reverse direction. Moreover, the connection had been inspected by KSEB officers and had been approved before it was made functional. KSEB has no case that the installation was tampered with by the appellant and, therefore, there was wrong connection to the installation of the appellant. It is highly arbitrary and unreasonable to think that the KSEB officers would have approved the wrong connection. Moreover, the consumption pattern shows that the consumption of the appellant was from the solar panel and there was no consumption from the KSEB after installation of the solar panels by the appellant.

Despite the aforesaid facts, CGRF has taken a one-sided view without considering the valid points made out by the appellant. The CGRF presumed that

the average consumption of the appellant was 2360 units per month. There is no basis for such a presumption. There is no provision either under the act or under the Rules, Regulations or Code to take average of the meter readings except in case where taking meter reading is not possible. KSEB has no case that meter reading was not possible in the case of the appellant. Moreover, the taking of average consumption is not appropriate in the case because just prior to the installation of the solar panels the consumption of electricity by the appellant is in the range of 1420. The CGRF did not inspect or cause to inspect the solar panels installed by the appellant. The actual electricity generated by the solar panels installed by the appellant was not assessed by the CGRF. The CGRF presumed without any basis of evidence that the maximum generation of electricity from the solar panels of the appellant can only be 600 units. The unit of 2360 taken by the CGRF is for the month of May 2019, which is a peak month when use of Air-Conditioners will be maximum due to the fact that May is the hottest month. For the subsequent months the use of electricity will be minimum since all the Air-Conditioners are not required to be operated to maintain the minimum temperature for storing pharmaceutical products. By March 2020, Covid-19 situation emerged and due to the resultant lockdown, the warehouse was not functioning as it was functioning during May 2019. By January 2021, the connected load was increased. Till such time the consumption was at minimum on account of Covid-19 situation. All these facts were ignored by the CGRF. The order of the CGRF is, therefore, totally one sided and unilateral. The CGRF has also ordered necessary action against the officers of the KSEB. Thus, CGRF is also has come to a conclusion that the appellant is not at fault. The CGRF went wrong in penalizing the appellant. The order of the CGRF is, therefore, not only illegal but also arbitrary and unreasonable.

The order of the CGRF was received by the appellant on 4th May 2021. However, due to the Lockdown and triple lockdown which ensued thereafter the appellant could not file this complaint against the order of the CGRF within the stipulated 30 days. It is hence, prayed that the Ombudsman may be pleased to condone the delay in filing this complaint.

It is hence prayed that this application may be allowed and the order of the CGRF and the additional bill issued by the KSEB may be set aside in the interest of justice.

Arguments of the respondent:

The tariff was changed from LT VIF to LT VII A on 19.1.2018 when the building was completed. The energy is being used by the appellant in order to keep the medicines which require refrigeration of various pharmaceutical companies. The Connected Load was changed to 6775 Watts with effect from 19.1.2018. The load was again changed to 29334 Watts on 7.6.2018 and they were having the same Connected Load upto 22.6.2019. During the period from 7.6.2018 to 22.6.2019, their monthly average consumption was 1830 units.

The appellant is using the energy for M/S Sun Pharmaceutical Company which is a Pharmaceutical Company with an exclusive licensee for the storage of drugs and pharmaceutical supplies of various companies such as vaccines, injections and other medicines that require mandatory refrigeration. The building which is keeping medicines is a three storeyed building. Up to 30.12.2020 they were using two storeys for the storage with two Air-Conditioners of 1800 Watts each and 6 Air-Conditioners of 2400 Watts each with total Connected Load of 29334 Watts. The company uses Air-Conditioners all through day and night.

The appellant installed solar panels of only 5 KW on the roof of the building on 22.06.2019. An installation error was occurred on the part of the KSEB Ltd. The connection of CT was given in P2-P1 direction instead of P1-P2 direction. If the connection is interchanged the import is shown as the export and the export is shown as import. The certificate from the authorities concerned is attached herewith for your kind verification.

The error was convinced to the KSEB when a field verification was made at the time of enhancing the connected load from 30 KW to 45 KW. No sooner did the respondent realize the error than the short assessment bill was served to them and the fact was explained to the appellant.

The maximum production from 5 KW of solar panels in a month comes to 4 units x 5 KW x 30 days = 600 units. But the appellant was using the energy to maximum of their Connected Load during the period from 6/19 to 1/21. Still the appellant is using the third floor of the building and necessary installations were made on the floor and increased the Connected Load from 30 KW to 45 KW on 30.12.2020. The appellant installed additionally 3 Air-Conditioners of 4800 Watts with other installations with an additional Load of 15381 Watts. At the same time,

the appellant paid the energy charge of only 56 units during the entire period from 6/19 to 1/21. Still the appellant claims that there is no consumption during the said period and it is an ironical expression from their part. If the consumption is NIL, they cannot run the storage godown with 8 Air-Conditioners throughout the day and night only with maximum 20 units of per day consumption. Also, the appellant says that from 7/19 to 1/21 the consumption was NIL. Still, the appellant wanted to enhance the Connected Load from 30 KW to 45 KW on 30.12.2020 which is the true evidence of their consumption. After rectification of the installation from the part of the KSEB Ltd. their consumption is as follows

<u>Bill Date</u>	<u>Consumption in units</u>
01.2.2021	2663 kwh
01.3.2021	6130 kwh

The average monthly consumption from 1/18 to 6/18 at 7 KW before enhancing the Connected Load from was 1166 units.

The appellant claims that there was no consumption other than 600 units for the period from 10/20 to 01/21. If the temperature is not maintained properly even a single day, the medicines will be perished and hence they cannot be sold out. Hence, it is clear that the appellant is hiding the fact advertently so as to escape from the payment of the bill.

Energy is being used by the appellant to keep the temperature below 30 degree is not correct. It is a gospel truth that medicines of injections which require refrigeration should be kept between 2 degree Celsius and 8 degree Celsius and other medicines which require refrigeration should be kept between 8 degree celsius and 25 degree celsius. As per the appellant, from 01/21 the temperature is kept below 30 degree celsius.

Again, the appellant claims that there was no use of electricity to run Air-Conditioners during the entire lock down period and Air-Conditioners were never put 'ON' during that period. The energy from the solar panel is not at all adequate to keep the required temperature.

The appellant admits from their chart they have only 16 units of energy consumption per day without Air-Conditioners. That is the point of contrast. The consumption of Air-Conditioners should also be thought over.

The appellant argues that the bill should be prepared on the basis of actual meter reading. A bidirectional net meter has been installed in the premises of the appellant for the sake of measurement of the energy consuming from the KSEB. As stated earlier, due to installation error export is shown as import and vice versa. Under this circumstance the reading shown in the energy meter cannot be entertained. The same can be verified from the consumption by the appellant and the production from the solar panel.

The average per day exporting units from 06/2019 to 01/2020 was 139 units. But with 5 KW of solar panel, the appellant can produce a maximum of 20 units per day. To say clearly their production is 20 units and their export is 139 units!

The respondent requested to dismiss the appeal petition.

Analysis and findings:

A hearing of the case was conducted at 3 PM on 17-09-2021 at Vydhuthibhavan, KSEB Ltd., Alappuzha. Sri. Chandramohan Nair, K. attended the hearing for the appellant and Sri. T. Raghunathan, Assistant Executive Engineer, Electrical Sub Division, Alappuzha attended from the respondent side. On examining the petition, the counter statement of the respondent, the documents attached and the arguments made during the hearing and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decision thereof.

The instant appeal petition to an additional electricity bill issued to the appellant for Rs.7,92,331/- for the period from 07/2019 to 01/2021, stating that the usual monthly bills issued were wrong in the period of reassessment made. As per respondent, the defect in the metering system was improper connection of Current Transformer to the meter which led to the under recording of energy consumption in the meter having the facility of 'Import' and 'Export' energy recording. The argument of the appellant is as follows: -

The electric connection effected in 01/2016 for construction purpose was converted for commercial purpose in 03/2018 with a connected load of 30 kVA. In 06/2019, the appellant installed 17 numbers solar panels and the consumption in the premises prior to the installation of solar panels varies between 1280 units and

2520 units only for a period of six months. Further, the appellant installed 6 Nos. Air Conditioners having a capacity of 2 Tons each thereby total load enhanced to 44715 watts from 01/2021 onwards. There was no import of electricity from KSEB Ltd. till the enhancement of connected load to 44715 watts. There is no evidence from KSEB Ltd.'s side to prove that defect of metering system occurred in the disputed period. As such the additional bill issued for Rs.7,92,331/- may be quashed.

The argument of the respondent is as follows.

The main load in the premises is that of Air Conditioners, which are essential for maintaining low temperature for the safe storage of drugs and pharmaceutical supplies of various companies. The capacity of the solar panel installed is only 5 kW and the maximum generation of energy per month is only 600 units. The appellant paid energy charge for 56 units only from 06/19 to 01/21. The consumption recorded in the premises was increased after the rectification of the defect in the metering system. Since the wrong connection of the CTs to the meter led to an under recording of energy consumption, the respondent requests to dismiss the appeal petition filed by the appellant.

In this case, it is to be decided whether the appellant is liable to remit the additional bill amount on the finding of the respondent that there was wrong connection in the metering system leading to the under recording of actual energy consumption in the premises.

I have verified the consumption recorded in the three-phase CT operated meter for the period from 07/2018 to 06/2019 and from 07/2019 to 09/2021. The connected load in the premises from 07/2018 onwards is 30 kilowatts. The appellant installed solar panels having a capacity of 5 kW on 22-06-2019 and the respondent replaced the three-phase meter with 'Net meter' having the facility of recording 'import energy' and 'export energy'. In addition to the 'Net meter', another meter was installed exclusively for recording the energy generated by solar panel. On going through the recorded consumption in the premises from 07/2018 to 06/2019, prior to the installation of solar panel, the consumption varies between 1260 units/month and 2520 units/month, having a monthly average consumption of 1828 units. The appellant had remitted the electricity bill amount during this period and the bill amount in between Rs.16,000/- and Rs.30,000/-.

Month of Billing	Consumption kwh	
07/2008	1260	
08/2018	1640	
09/2018	1320	
10/2018	1737	
11/2018	2520	
12/2018	2103	
01/2019	1840	
02/2019	1280	
03/2019	1940	
04/2019	2520	
05/2019	2360	
06/2019	1420	
07/2019	Meter change Net Meter provided on 22-06-2019	
NET METER READING		
Month of Billing	Import (kwh)	Export (kwh)
08/2019	07	78
09/2019	09	74
10/2019	08	78
11/2019	06	111
12/2019	2	125
01/2020	1	139
02/2020	1	259
03/2020	0	280
04/2020	1	226
05/2020	0	521
06/2020	0	304
07/2020	1	269
08/2020	1	252
09/2020	2	230
10/2020	1	171
11/2020	2	213
12/2020	0	280
31-12-2020	0	214
Consumption month	Rectified the defect on 21-01-2021	
01/2021	3559	21
02/2021	6150	20
03/2021	8660	-
04/2021	8100	-
05/2021	4980	20
06/2021	3260	60
07/2021	2860	40
08/2021	2980	40
09/2021	3640	40

An inspection was conducted by the respondent in the premises on 02-01-2021 and a site mahazar was prepared. In the site mahazar, it is seen furnished that the three-phase 'Net meter' with Current Transformer having 100/5 ratio is used for the reading of 'Import' and 'Export' energy. Another meter for measuring solar energy generated in the premises is also installed and the reading of the meter is 6473 kwh. Also, it is furnished that the CTs are reversely connected to the meter and which leads to the interchange of 'Import' and 'Export' units. The site mahazar has been acknowledged by the representative of the institution.

This Authority verified the 'Import' and 'Export' energy details from 07/2019 to 12/2020 and from 1/2021 to 09/2021. The 'Import' energy from 07/2019 to 12/2020 is in the range of zero to 9 units per month and 'Export' energy is in the range of 74 units to 521 units. It is pertinent to note that the Multiplication Factor (M.F.) for assigning at the actual consumption is seen as "1" in all the bills issued.

But, in the energy consumption details from 1/2021 to 09/2021 in the premises with connected load 45 kW, the 'Import' energy per month is in between 2860 units and 8660 units and 'Export' energy per month is in between 20 units and 60 units. The total energy exported from 08/2019 to 01/2021 is 3824 units at an average of 212 units per month and imported is 42 units at an average of 2.33 units per month. From the above data and the analysis made earlier, the average monthly consumption for 1828 units availed from the KSEB Ltd. grid prior to the installation of solar panel is suddenly changed to the "export" of a monthly average of 212 units with a Multiplication Factor '1' instead of 20 after meeting the energy requirement of the appellant with the installation of a 5-kW solar panel system. Multiplication Factor is seen used in the disputed additional bill period for arriving at the actual consumption is '1'. In the site Mahazar dated 02-01-2021, the total solar energy generated in the premises by the 5-kW solar system is 6473 units, which is for the period from 22-06-2019 to 02-01-2021, at an average of 347 units per month. There is no change in connected load in the premises after 07/2018. From the above analysis, it is a true fact that there was a mistake in the electric connection of the metering system.

I inspected the premises of the appellant on 01-10-2021 and found that major load is of Air Conditions, which are being used for maintaining required temperature

in the rooms where medicines are kept. The nature of load connected in the premises is working or functioning with single-phase electric supply.

I could not find any grounds other than the wrong CT connection, which led to the 'Export' of that much energy from the premises having a connected load of 30 kilowatts, soon after the installation of a 5 kW solar panel on the roof of the building.

On analyzing the meter reading and consumption details for the period from 07/2018 to 09/2021 before the period of installation of solar panel, period of disputed meter reading and after the rectification of the defect in the metering system, it is found that the 'Import' and 'Export' readings were interchanged with the commissioning of solar panels. As such the appellant is to remit the amount. CGRF, Central Region discussed Regulation 134 and Regulation 152 of Kerala State Electricity Supply Code in its order dated 24-04-2021 in OP No. 84/2020-21.

Decision: -

From the analysis done above and the conclusions arrived at, this Authority takes the following decision: -

The appeal petition filed by the appellant is dismissed. The order of CGRF Central Region, Ernakulam vide OP No: 84/2020-21 dated 24-04-2021 is upheld.

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

ELECTRICITY OMBUDSMAN

P/037/2021/_____ dated _____.

Delivered to:

1. Smt. Saritha C. Nair, W/o. Prakash Prasanna Kumar, Sreeshailam, Pazhaveedu, Santhinagar, Alappuzha Dist.-688009
2. Assistant Executive Engineer, Electrical Sub Division, KSEBL, Alappuzha North, Alappuzha Dist.

Copy to:

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

