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Appeal Petition No. P/039/2024
(Present A. Chandrakumaran Nair)
Dated: 06/09/2024

Appellant : Sri. Moideen Haji
Trust Medical Centre
Randathani. P.O, Malappuram Dist.,

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
Kerala State Electricity Board Ltd.,
Puthanathani, Malappuram Dist.,

ORDER

Background of the case

The appelant Shri.Moideen Haji is the Consumer of the Licensee (KSEBL) under their electrical section Puthenathani having consumer number 1165711041204 under the tariff LT.VI.G. The power is availed for the functioning of a private hospital named 'Trust Medical Centre', at Randathani, Malappuram. The connected load is 37 Kw in 3 phase connected through a 'CT' meter with 'CT' ratio 200/5. On 18/01/2023 an, inspection was conducted by AEE and found that CT's were connected wrongly to the meter. Secondary terminal of Y phase 'CT' is connected with the B phase terminal of the meter and B phase of 'CT' terminal connected to Y phase terminal of meter. Hence the meter was recording the consumption less than the actual consumption. A parallel meter was connected from 23/01/2023 to 27/01/2023 and found that the meter was recording 40% less than the actual consumption. The short assessment prepared by the licensee and send the demand notice to the appellant for Rs. 5,50,810/-. The appellant filed the petition to CGRF and CGRF issued order dated 15/05/2024, and reduced the amount to Rs.4,19,189/-and the appellant is liable to pay the amount as per the revised demand. Aggrieved by the decision of the CGRF this appeal petition is filed to this Authority.

Arguments of the Appellant

Appellant herein is the managing partner of "Trust Medical Centre" in the address below and is authorized to file this appeal. This "Trust Medical Centre is under the geographical jurisdiction of Electrical Section Puthanathani. Kerala State Electricity Board Limited, the Distribution Licensee. At the premises of "Trust Medical Centre", an electric connection bearing consumer No. 1165711041204, under LT VI G tariff for a contracted load of 37 kW is provided by Kerala State Electricity Board limited Distribution Licensee. (licensee for brevity here after). An LT CT electronic meter with CT ratio 200/5 is connected at the premises for measurement of electrical quantities including energy consumed. This meter at the premises is inspected and read every month regularly and bills issued to which, this appellant made payments without fail and no arrear is outstanding towards electricity charges. While so, the Assistant Engineer, Electrical Section Puthanathani of the licensee along with his team of officials inspected the premises and issued a demand for Rs.550810.00, then reduced the assessed amount to Rs.411008.00 with out stating any reasons as if out of magnanimity and thereafter increased the assessed amount to Rs.419189.00, while dispute raised against the assessment of Rs. 411008.00 by this appellant was before the appropriate Forums, pending disposal. The complaint which this appellant filed before the Consumer Grievance Redressal Forum (North) (CGRF hereafter for brevity) was dismissed without considering the facts on ground, technology applicable to LT CT Electronic meters and statutes governing it. Also, the Assistant Engineer Electrical Section Puthanathani of the licensee caused grievance in multiple to this appellant by wrong orders causing monitory loss and other acute inconveniences. Hence this appeal is submitted before this Hon: Electricity Ombudsman praying for such remedies and reliefs prayed in, on the grounds below and the averments to be made during the hearing. The person / official of the licensee who has caused grievance to this appellant is Smt. Suma S, Assistant Engineer, Electrical Section, Puthanathani (KSEBL), Pthanathani, Kottakkal, Malappuram.

1. In succession to an inspection of the Assistant Executive Engineer, Electrical Sub Division Puthanathani dated 18-01-2023, at the premises; on 23-01- 2023 at 4.30 Pm a whole current meter was connected at the premises as a check meter, where the premises meter is a low tension current transformer meter (LT CT Meter for brevity hereafter). Thereafter, on 27-01-2023, Mr. Shabeer. T, Sub Engineer and Smt. Suma.S, Assistant Engineer Electrical Section Puthanathani inspected the premises meter and Mr. Shabeer. T prepared a mahasar in the presence of the Assistant Engineer. Even though it is stated in the mahasar that, the inspection was carried out in the presence of other witnesses, signature and full address of such witness is not found in the mahasar. Signature of independent witness as required under Regulation 173 (6) of Kerala Electricity Supply Code, 2014, (Supply Code here after for brevity) is not found in the mahasar. Also, independent witness as required under Regulation 173 (9) of Supply Code

was also not present during the inspection and the reason for the absence of such independent witness is not stated in the mahasar. Full permanent addresses of the witnesses are not entered in the mahasar as required under Regulation 173 (10) of Supply Code. On the grounds the inspection and mahasar is not transparent and created by the licensees' officials violating the regulations as stated above, marred with department bias and hence not a qualified document to be relied upon to take further actions if any, upon this appellant. After inspection the Assistant Engineer dismantled the LT CT premises meter and the whole current meter connected as check meter was made the premises meter. The reason for connecting a check meter then installing the check meter as consumer meter and dismantling the LT CT consumer meter from the premises was never divulged to this appellant. For sake of transparency in action, consumer satisfaction and good will, the Assistant Engineer ought to have communicated to this appellant the reason for the above. Thereby this appellant reasonably presumes that, the LT CT meter connected at the premises was defective and if defective, appropriate regulation for assessment of charges if any, authorized is, Regulation 125 of Supply Code. However different and unauthorized method is adopted by the licensee in this case. A true copy of the mahasar is produced and marked as Exhibit P1.

From the narration of connection in Exhibit P1 mahasar Landis+Gyr Ltd make LT CT meter with CT having conversion ratio 200/5 is connected at the premises. From the allegation in Exhibit P1 mahasar, it is understood that, in the terminal block of processing and display unit of meter, in the first segment of terminal block marked as R, 'R' Phase line (as per coding in mahasar) is connected along with output terminals of current transformer (CT for brevity hereafter) on R Phase. In the second segment of the terminal block marked Y, 'Y' Phase line is connected along with output terminal of the CT in R Phase. In the third segment of the terminal block marked R, 'R' Phase line is connected along with output terminal of the CT in Y Phase. In the forth segment of the terminal block marked N, 'N' neutral line is connected along with output terminal of the CT in neutral. The end result is there is dissimilar phase association of voltage and current in the processing output unit of meter in the terminal block named Y&B. If otherwise said, with respect to connection of input electrical quantities to the processing and display unit of the LT CT premises meter, the voltage is connected in the order RYB and current in the order RBY. However, it is not known RYB coding to the phase lines given in Exhibit P1 mahasar is the actual RYB sine wave sequence or not since no information is given in the mahasar whether the inspecting officials used phase sequence meter in identifying RYB Phases. For recording energy consumed correctly even if dissimilar phase association of current and voltage or other occur in three Phase energy meter, meter standards are fixed by the licensees, and meter manufacturers in compliance with standards fixed under Central Electricity Authority (Installation and Operation of meter) Regulation 2006, and amendments to that. Also the technology adopted electronic meters is such that to eliminate

such errors that occur in electro mechanical meters. Also under Section 55(1) of Electricity Act, 2003, the licensee is mandated to supply electricity always through installation of a correct meter in accordance with the regulations made in this behalf by the Central Electricity Authority. While so, in Exhibit P1 mahasar, comparing the consumption recorded in the LT CT premises meter and the whole current check meter for four days the Assistant Engineer arrived at a conclusion that the LT CT premises meter recorded about 40% less than that recorded in the whole current check meter. Hence the Assistant engineer arrived at a conclusion under Exhibit P1 mahasar that, the license sustained loss on energy charges from the date of connection of LT CT meter at the premises.

In this matter, It is respectfully submitted that In Exhibit P1 mahasar the observation is that, the consumption recorded in the LT CT premises meter is 384 units for four days and in the whole current check meter 644 units. Thereby, in the mahasar it is arrived at the finding that around 40% less consumption is recorded in the LT CT premises meter due to dissimilar phase association of voltage and current occurred in Y and B phases. Then basing Arbitrary and illegal, and wrong assumption the Assistant Engineer issued a provisional assessment order amounting to Rs. 550810.00. In this matter it is respectfully submitted that as submitted earlier, check meter was installed in violation to regulation under Central Electricity Authority (Installation and Operation of Meters) (Amendment) Regulations, 2019. Then the Assistant Engineer asked this appellant to remit the amount within seven days and informed that the this appellant is eligible to file objection in record to the Assistant Executive Engineer, Electrical Sub Division Puthanathani, who is also the assessing officer and if no objection is received within seven days the assessment shall be finalized as under this provisional assessment order. In this provisional assessment order, reference (2) is Regulation 134 of Supply Code, from which it is to be understood that this assessment is issued under Regulation 134 of Supply code, which is an unrelated regulation at any rate to issue this assessment. 134 (1) of Supply Code 2014 is almost verbatim repetition of Regulation 25 (5) of Supply code, 2005. For ready reference both are extracted here under.

In the matter of applicability Regulation 24 (5) of Supply Code, 2005, has since been decided, as above the same is applicable Regulation 134 (1) of Supply Code, 2014 also. Therefore, Regulation 134 of Supply Code is not at all applicable in this case. On the grounds the demand under dispute issued under Regulation 134 of Supply Code is illegal. It is also submitted that, definitely the heading of a regulation decides the applicability of it. Regulation 134 has a heading "**Under charged bills and over charged bills**" Bill means, "a printed or written statement of the money owed for goods or services". Electricity is goods, hence if the bill issued by the licensee for the electricity sold to the consumer becomes or falls under charged or over charged and hence erroneous, the license can act accordingly as interested under Sub Regulation (1) (2) (3) of the of

Regulation 134 of Supply Code. Thereby also Regulation 134 is not applicable in this case.

This appellant filed objection to the Assistant Executive Engineer, Electrical Subdivision, Puthanathani as ordered under Exhibit P2 provisional assessment order. However the Assistant Engineer heard this appellant and issued final order of assessment accompanied with a calculation statement for "penal" amount of Rs. 411008.00. Installing premises meter is the unflinching duty of the licensee under law and giving incorrect connection which also means supplying electricity through and incorrect meter is the flaw of the licensee and violation of Section 55 (1) of the Act and penalizing the consumer for that is most improper and hence this order is illegal. While Exhibit P2 provisional assessment order was issued under Regulation 134 of Supply Code, 2014, this final order of assessment is issued under Regulation 152 of Supply Code, dropping Regulation 134 of Supply Code, and presumably pleading anomaly attributable to the licensee at the premises of the consumer where connecting LT CT meter with dissimilar phase association of current component and voltage component in electronic LT CT meter, if it occurs, it is defect in meter and hence inaccuracy occurred in the meter but not inaccuracies in metering.

The final order of assessment the Assistant Engineer has also ordered to remit the' penal' amount of Rs. 411008.00 within 30 days on receipt of the order and if this appellant has to file appeal, this appellant shall remit 2% of the assessed amount as appeal fee and shall remit 50% of the assessed amount at Electrical Section and may file appeal before the Kerala State Appellate Authority, C C 51/52, Near 110kV Sub Station, Vytila, Kochi 682019. On receipt of Exhibit P4 final order of assessment, this appellant approached the Assistant Engineer and enquired whether there is any way out or other redressal mechanism and for not making payment of 50% of the assessed amount and 2% of it as appeal fee. Her answer was very curt that, "either you pay the full amount or remit the amounts as in the order and file appeal, otherwise she will disconnect the electricity supply after the notice period 30 days in the order.

The meter shall work correctly irrespective of the phase sequence of supply (only for poly phase). In the case of 3 phase, 3 wire meters even if reference Y phase is removed, the meter shall continue to work. In the case of 3 phase, 4 wire system, the meter shall keep working even in the presence of any two wires i.e., even in the absence of neutral and any one phase or any two phases. (e) In case of whole current meters and LV CT operated meter, the meter shall be capable of recording energy correctly even if input and output terminals are interchanged. The registration must occur whether input phase or neutral wires are connected properly or they are interchanged at the input terminals. (g) The meter shall be factory calibrated and shall be sealed suitably before dispatch.

In a distribution system practically phase sequence RYB is nothing but a presumption for convenience. While connecting this three phase four wire LT CT meter at the premises, the person connecting the meter decides phase sequence according to the phase connected respectively marked in the meter

RYB. Practically no phase sequence indicator of static type or rotating is used to find out phase sequence and to connect in meter. Thereby, sometimes Y Phase or B Phase may be connecting at the slot in the meter where R is marked. The phase connected to the first terminal block marked R is R Phase, Phase connected at second terminal block marked Y is Y Phase, The phase connected to third terminal block is marked B is B Phase, In the order of CGRF only two sets same sequence of voltage and current are shown as correct.

Comparison of consumption in the meter for the months March, April and May for the years 2021, 2022 and 2023 don't make any sense at all without taking in to consideration of the activity of the hospital and patients treated number of inpatients, number of surgeries cons ducted and temperature of the climate during the months from 2021 to 2022. It is a growing hospital having three surgical departments where surgery is conducted and increased number of patients, Increase in atmospheric temperature demands more consumption of electricity.

Also, it is simply stated that the respondent stated that the judgment dated 05-10-2021 of the Hon: Supreme Court of India in Civil Appeal No.7235 of 2009 in M/s. Prem Cortex Vs Uttar Haryana Bijli Vidyuthi Vitharan Nigm Ltd permitted the respondents to issue short assessment bill without limitation of two years in the case of bonafide error and also observe that this doesn't comes under the preview of deficiency in service, The CGRF did not discussed this in the order whether it is applicable or not. Then found and ordered that the short assessment bill for Rs. 419189.00 issued to the petitioner by the respondent is legally correct as per prevailing Regulations and the petitioner is liable to pay the same, having said that dismissed the petition.

Nature of relief sought from the Ombudsman

1. To call for the documents in this case, hold and declare that Exhibit P4 & P10 short assessment bills amounting to Rs.411008,00 &Rs. 4191189.00 are illegal and to quash it.
2. To issue orders to refund Rs.4110.00 which was collected illegally towards appeal fee under Exhibit P7 cash receipt along with interest @12%
3. To issue orders to refund Rs.205504.00 collected illegally towards 50% of the assessed amount for filing appeal under Exhibit P8 along with interest @12%
4. To find and issue orders that the order of CGRF is improper and to set aside. 5. To issue orders to pay such amounts this Ho: Electricity Ombudsman may find appropriate towards the expenses for this appeal.
5. To hold declare that the Assistant Engineer of the licensee at Electrical Section Puthanathani caused grievance, monitory loss and hardship to

this appellant without any reasons and order to compensate for such suffering caused.

7. Such other reliefs the appellant prays for, during the course of appeal.

Argument of the Respondent

The consumer, Sri. Moideen Haji is the registered consumer under the jurisdiction of the Electrical Section Puthanathani having consumer Number 1165711041204 under VI G tariff working as private hospital named Trust Medical Center, Randathani. The registered connected load of the premises is 37000 watts having three phase CT connection(CT ratio 200/5). On 18/01/2023, an inspection was conducted in the premises under the supervision of the Assistant Executive Engineer of Electrical Sub Division, Puthananthani and identified certain anomalies in the CT connection of the CT meter as follows.The connections from secondary terminals of Y phase CT connected wrongly with B phase terminal of meter and secondary terminal of B phase CT connected to Y phase terminal of meter, instead of connecting vice versa. Hence the meter recorded wrongly. The said inspection was conducted in the presence of the petitioner, the consumer Sri. Moideen Haji and duly acknowledged copy of the site inspection report was handed over to him at the site itself. Further inspection was also suggested to verify and convince the matter to consumer (To find the error percent in metering due to wrong connection). Duly acknowledged Inspection report dated 18.01.2023 is herein produced and marked herewith as Exhibit Subsequently on 27.01.2023, again inspection was conducted by the section squad in the premises of the consumer, in the presence of Assistant Engineer. Further inspection on CT connection reveals the following.

1. S1, S2 terminals of R phase of CT, are seen connected to 1S,1L terminals of energy meter.-correct
2. The Voltage connection(red wire) from R phase of CT connected to the R terminal of energy meter-correct
3. S1, S2 terminals of Y phase of CT, are connected to 3S,3L terminals of energy meter-interchanged wrongly. But voltage connection in Y phase is correctly connected to Y terminals of energy meter.
4. S1, S2 terminals of B phase of CT, are connected to 2S,2L terminals of energy meter-interchanged wrongly. But voltage connection in B phase is correctly connected to B terminal of energy meter.

Since, interchanged CT connections of Y phase and B phase, will result less recording the reading in the energy meter,in order to verify the quantity of the loss of recorded consumption in the energy meter,a parallel meter was connected to the CT meter on 23.01.2023, after the initial inspection dated 18.01.2023. The details of parallel meter/Existing CT meter record on 23.01.2023.

1. CT Meter reading -C Kwh-2224.5 Kwh (T1 = 1258.6Kwh

   T 2 = 421.4kwh, T3 = 544.5 Kwh)

2. Parallel Meter reading - C Kwh-360 Kwh(T1 = 216 Kwh,

   T2 = 55Kwh, T3 = 89 Kwh)

The details of Parallel meter/Existing CT meter record on 27-01-2023

1. CT Meter reading C Kwh - 2234.1 Kwh(T1 = 1263.8 Kwh,

   T2 = 423.3 Kwh, T3 = 547 Kwh)

2. Parallel Meter reading - C Kwh- 1004 Kwh (T1 = 565 Kwh

   T 2 = 191 Kwh, T 3 = 248 Kwh)

The difference of consumption recorded in parallel meter and existing CT meter

CT Meter reading- 384 unit ((2234.1* 40-2224.5*40-89364-88980=384) Parallel Meter reading- 644 unit (1004-360)

The above comparison reveals that, the existing CT meter recorded 40% less consumption in compared to the test parellel meter. (Due to interchanged phase connections of Y and B). Duly acknowledged site mahassar dated 27.01.2023 is herein produced and marked herewith as Exhibit 3. The mistake happened in the metering were clearly explained to Sri Moideen Haji, the owner of the Trust hospital,while preparing site mahassar.

Hence, it is understood that there occurred less recording of the consumption of energy in the CT meter of the premises in the above tune due to the interchanging of phase connections with effect from the date of installation of CT meter in the consumer's premises.The date of CT meter installed in the consumer's premises is 11/2020.The less recorded* 40% of the consumption was tabulated and arrived short assessment bill for Rs 550810/-(Rupees Five Lakhs Fifty Thousand Eight Hundred and Ten only), accordingly served on the consumer as short assessment bill under regulation 134,152 of Kerala Electricity Supply Code 2014 on for the period of 12/2020 to 01.2023 ie from the date of recording the CT meter to the inspection date on 27.01.2023 .The bill dated 09.2.2023 vide No. DB/ES-PTNI/1/2022-23 of Assistant Engineer, Electrical Section Puthanathani is herein produced and marked herewith as Exhibit 4. The consumer challenged the bill vide application dated 14.02.2023.The objection filed by the petitioner is herein produced.

The Assistant Engineer, heard the consumer. Accordingly revised the bill to Rs 411008/-(Rupees Four lakh Eleven thousand and Eight only) and served on the basis of standard loss calculation of such cases as such interchanged phase CT meter will only record 2/3rd of the consumption, accordingly tabulated the short assessment bill. The revised calculation statement with bill dated 17.03.2023 is herein produced.

Also the energy used by the consumer for the succeeding months are as follows. (Whole current meter installed instead of CT meter in the premises on 27-01-2023)

Month	IR	FR	Unit Consumption	Remarks
02/2023	1004 (27/01/2023)	2018 (01/02/2023)	1014	
03/2023	2018 (01/02/2023)	6894 (01/03/2023)	4876	
04/2023	6894 (01/03/2023)	12389 (01/04/2023)	5495	
05/2023	12389 (01/04/2023)	17636 (02.05.2023)	5247	

This clearly indicates that the CT meter of the premises was not recording the actual consumption.

Against the grounds of Appeal

Regarding the averments of the consumer, it is hereby stated that As per Section 173(9) of Kerala Electricity Supply code 2014 two independent witness are not compulsory. The address of Officers who inspected the site is cleary entered in the Site Mahassar hence the avertment of the consumer regarding the site mahassar is not true. In order to verify the quantity of the loss of recorded consumption in the energy meter,a parallel meter was connected to the CT meter on 23.01.2023,after the initial inspection dated 18.01.2023. The difference of consumption recorded in parallel meter and existing CT meter 23.01.2023 to 27.01.2023

1. CT Meter reading- 384 unit (89364-88980)

2. Parallel Meter reading- 644 unit (1004-360).

Which shows that Less consumption has occured and is clearly mentioned in the site mahassar and explained to the consumer at the site itself and the consumer acknowledge the same in the site mahassar. Meter is not faulty hence regulation 125 of Supply code 2014 cannot be considered and that the said bill was issued under regulation 134,152 of Kerala Electricity Supply Code 2014 for realising the undercharged bill, hence it is legal in nature.

Here the connection will only record 2/3rd of the consumption. Error calculation of Two phase interchanged vector diagram which is herein produced and marked as Exhibit 7 which indicates 33.33 % less consumption. Here the meter is not faulty hence regulation 125(1) of Electricity Supply code 2014 cannot be considered and regulation 152 of Electricity Supply code 2014 is applicable. A whole current meter is connected to find the loss incurred to KSEBL due to the wrong connection of CT terminals to different phase as explained earlier.Correct colour coding was there in consumer metering panel and CT chamber which made the phase sequence very clear while inspection.The meter is not faulty only the connection is such that there is loss incurred to KSEBL by less consumption, which was clearly shown by comparison with whole current meter connected from 23.01.2023 to 27.01.2023. Here there is no failure of main meter hence there is no deviation from CEA Regulations,2019. The whole current meter is used for finding out the average loss incured to KSEBL due to the wrong connection.

The disputed Final bill is issued under regulation 134,152 of Kerala Electricity Supply code,2014,against undercharged bills and not for faulty meter. Since this is not a defective meter Assistant Engineer have nothing to communicate regarding the meter. Less consumption is not because of the defect in the meter but because of the wrong connection. Hence regulation 125(1) of Electricity Supply code 2014 cannot be considered and regulation 152 of Electricity Supply code 2014 is applicable and due to that sub para 1,2,3 is irrelavent, further in the order of Judgement dated 05/10/2021 of the Honourable Supreme Court of India in Civil Appeal No. 7235 of 2009 (M/s. Prem Cottex Vs Uttar Haryana Bijili Vitran Nigam Ltd) short assessment can be made for the whole period when anomaly attributable to License existed. The period of short assessment was taken as with effect from the date of CT meter connected in the premises to the date of inspection. The period of limitation has been recently decided by the Hon'ble Supreme Court as the date of issuance of the first bill from where the mistake found. The Hon'ble Supreme Court has also re-iterated in the same decision that' the section 56(2) of Act 2003 does not preclude the licensee from raising an additional or supplementary demand after the expiry of the period of limitation in the case of a mistake or bonafide error" (Civil Appeal No.7235 of 2009, M/s Prem Cottex Vs Uttar Haryana Bijili Nigam Ltd

and others). The limitation period of such bills is narrated as "para 11 and 12 of the said order clearly spell that the electricity charges would become ' first due' only after the bill is issued, even though the liability would have arisen on consumption. Then the period of limitation of 2 years would commence from the date on which the electricity charges become first due under section 56(2). The Hon'ble Supreme Court also held that section 56(2) does not preclude the licensee from rising an additional or supplementary demand after the expiry of period of limitation in the case of a mistake or bonafide error". Here the bill is issued upon an error occurred in recording the actual consumption, hence the period was arrived as per the prevailing rule and direction.

The revised Final bill was based on short consumption by 33.33% in the meanwhile, there find one mistake in the calculation statement as for the consumption recorded in the last reading, the date of inspection and the unit recorded were wrongly included. The date of inspection in which the unit recorded on 27.01.2023 (in the calculation statement, it was written as 18.01.2023) was 2234.10 and the unit recorded in the last reading date of 02.01.2023 was 2178.50.Hence the difference was 55.6, hence the unit consumption recorded was 55.6x40-2224.Instead of taking this unit as recorded, there included 644 units wrongly, which is the unit recorded in the parallel meter for the days it included in the system. Hence the same has been corrected and rectified bill for Rs 419189/- has been issued to the consumer on 02.06.2023. The case was well discussed and heard on 8 sittings by CGRF to give natural justice to consumer and order from CGRF was received mentioning that the short assessment bill for Rs.4,19,189/- issued is legally correct order of CGRF is here in produced and marked herewith as Exhibit 8. Hence issued the demand letter by the Assistant Engineer on 25.05.2024 s here in produced and marked herewith as Exhibit 9. As per Interim order of CGRF dated 24.02.2024 Exhibit 10 CT meter was send to TMR Shornur for obtaining 1) technical report regarding the shortage in recorded reading of Energy Meter by wrong connection recording of tamper event in the meter by the interchange downloaded copy of tamper report and load survey report. Energy Meter is only required for this type of test. Since there is no fault in CT coil it has not been taken to TMR for testing. The test report has been received and herein produced.

The meter installed in the premises of Consumer was of Make: Landis+Gyr Serial No : A0091455, Meter Model No E650-LTCT. The meter was under the safe custody of the Assistant Engineer, Electrical Section Puthanathani. The reading of Meter at the time of Test is clearly indicated in Page No 2 SI No 19 of the Test report Exhibit 11 (ie Meter Instantaneous Report page 2) Cummulative Energy KWh 2234.175 and the reading shown in Site Mahassar is C Kwh 2234.1 which are the same which clearly indicates that the meter was idealy kept in the Section office itself. The meter was purchased vide Purchase Order No.

SCM/1/2018-19/49/Dt. 04.04.2018 of Chief Engineer (SCM). The same purchase order has been verified and found that the Anti tamper features included in the purchase order are, "*The meter shall detect and register the active and reactive energy correctly only in forward direction under any one or combination of following tamper conditions."*

In the event the meter is forcibly opened even by 2mm displacement of the meter cover same should be recored as tamper even with date & time stamping and the meter should continuously display that the cover has been tampered. This display shall toggle with the normal display parameter. The meter should be capable of recording the occurences of a missing potential and its restoration with date and time of first such occurences and last restoration along with total number and duration of such occurences during the above period for all phases. The meter should detect CT Polarity reversal and record the same with date and time of first such occurence and last restoration along with total number and duration of such occurences during the above period for all phases. A general visual indication for any tamper should be provided for easy identification whether any tamper is present or not. The anti tamper feature provided in the meter relevant in this case is 1 (a) & (b) above. The condition provided is meter shall detect the active and reactive energy correctly, when phase sequences of voltage and current are changed simultaneously and also in the case of reversal of CT terminals

• Comparison of consumption during the last 3 years at this premises of March to May are as follows.

Month	**Year 2023**	**Year 2022**	**Year 2021**
March	4876	3680	2520
April	5495	4200	3600
May	5247	3360	4160
Average	5206	3747	3427

The consumption during 2022 & 2021 (from March to May) are nearly 1/3rd less than that of 2023. Consumption during 2023 is after rectifying the error in the connection.ie, after making both the voltage and current phase sequence same as RYB. Being considered the aforementioned facts, it is most humbly prayed this respondent to dismiss the petition. Hence I may request that necessary orders may kindly be issued to realise the above short assessment amount from the consumer. The above submitted statement is true to the best of my knowledge and belief.

Counter Arguments of the Appellant

The averments of the respondent in the statement of facts which are not specifically admitted herein are denied and rejected. The licensee is only entitled to charge amounts on consumers only as per the Regulation issued by the State Regulatory Commission and Tariff order issued. There by the licensee is not entitled to charge on consumers based on is presumptions and assumptions. Here demand in dispute is one that was issued based on presumptions only. Hence it is an arbitrary demand which is to be annulled by this Hon: State Electricity Ombudsman.

The cause of this dispute arose due to the action of the respondent distribution licensee Kerala State Electricity Board Ltd (licensee for brevity hereafter) in connecting a three phase CT electronic meter at the premises of this appellant on load enhancement during 12-2020.The licensee pleads that it has connected the Three phase CT electronic meter with dissimilar phase association of current and voltage in two phases Y & B that is voltage connection in the order RYB and current connection in the order RBY of the terminal block of the data acquisition -computing- display unit of the meter which the license calls the meter.

In general, in whole current meters, there are no external parts to the meter. However, in the case of this three phase CT electronic meter, the CTs are inherent external parts of the meter and it also includes meter as defined under Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 and 2019 amendment to that and meter defined under Regulation 2(57) of Kerala Electricity Supply Code, 2014 are extracted here under for ready reference.

The other argument raised by the licensee all along is that, dissimilar phase association of current and voltage with Y & B phases will cause reduced accounting, recording and display of energy consumption by 33.33 %. However no scientific data or proof was ever brought in here in this dispute and now in statement of facts also. Here in these statements, the licensee has not that, dared to counter the averment of this appellant in this instant appeal dissimilar phase association of current and voltage in the metering unit will never affect the accuracy in accounting and recording/display of actual energy three phase CT consumption at the premises explaining the working of electronic meter. In the case of outdated electro mechanical meter such reduction in recording consumption occurs due to dissimilar phase association, reversal of CT terminals etc since motor action created in the meter which is translated to energy consumption. However, in electronic energy meters, all chances of such errors are totally eliminated. All input in the form of voltage and current are initially converted to digital signals and then processed, computed recorded and displayed. Thereby the repeated claim and averment of the licensee that, on the event of dissimilar phase association of current and voltage in the measuring unit of electronic energy meter record 33.33 % less energy than consumed is not correct and hence

denied.

The claim of the respondent licensee that it has connected a check meter on 23- 01-2023 and checked and compared the readings of premises meter and check meter on 27-01-2023 cannot be accepted. In mahasar of the appeal it is stated that the Assistant Executive Engineer inspected the premises on **18 - 01- 2023**. However, even a shred of evidence in the form of inspection report or mashasar was ever delivered to this appellant, which is mandatory under regulation 173 of Supply Code. Also no evidence is at hand that the respondent licensee have connected a check meter at the premises on **23-01 - 2023** other than the statement.

The averment of the respondent licensee all along is that reduction in recording consumption occurred due to installing premises meter with wrong connection in the CT meter causing dissimilar phase association of current and voltage in the data acquisition computing and recording device of meter and it has caused recording less consumption than actual by 33.33%. Not accepting that, this sort of connection will cause reduced recording of consumption, it is submitted that, this shows that an incorrect meter or defective meter or faulty meter was connected at the premises. A faulty meter is nothing but a meter that does not record actual consumption or no consumption.

Under para (2) of statement of facts, there is an acceptance all along that the premises meter was connected in such a way to have dissimilar phase association voltage and current in two phases. Also pleads that this will cause recording reduction of consumed energy by 33.33 %., which is not correct. In effect, there is an acceptance that the licensee has supplied electricity through an incorrect meter. This is nothing but violations of section 55 of electricity Act, 2003. There is no specific remedy in Supply Code, in this matter other than the meter fault under regulation 125 of Supply Code. Vector diagram of error calculation two phase inter changed is said to be attached with the statement of facts, but it is not communicated to this appellant. Since dissimilar phase association of current and voltage in two phases in electronic meter will never cause reduction in recording consumption by 33.33 % this vector diagram may be cooked up one and is not accepted. In this matter it is also respectfully submitted that Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 and 2019 amendment to it decides standard of meters. Standard of consumer meters are decided under part III of it all anti tampering features are prescribed under it. If a three phase electronic C T meter is connected occurring dissimilar phase association of voltage and current causing reduced recording of consumption energy by 33.33 %, the Central Electricity Authority would have definitely included it among anti tampering features in Installation and Operation of Meters Regulations, 2006 and 2019 amendment to it. Since the authorized authority to make,

The crux and content of the judgment of the Hon; Supreme Court of India in Civil Appeal No. 7235 of 2009(M/s. Prem Cottex vs Uttar Hariyana Vidyut Nigam Ltd) is nothing but, "if the licensee has not raised any bill, there can

be no negligence on the part of the consumer to pay the bill and consequently the period of limitation prescribed under Subsection (2) of Section 56 of Electricity Act, 2003 will not start running. So long as limitation has not started running, the bar for recovery and disconnection will not come into effect. This also means the limitation starts only after issuing a bill. This judgement never entitles the licensee to issue unauthorized and illegal bills as in this case.

All along the licensee pleads that it supplied electricity to this appellant connecting a meter in an incorrect way and hence causing reduced recording consumption of electricity by 33.33 %. Regulation 152 of supply Code never includes such an eventuality as this for effect and remedy. It addresses only anomalies attributable to the licensee which are detected at the premises of the consumer and that are listed under Regulation 152 of Supply Code. On the grounds the averment of the licensee in this matter is rejected.

Regarding the averments under para (5) it is submitted that it is improper on the part of the license to revise a bill which was already under challenge before the CGRF. The case was not well discussed by the CGRF in the light of statutes under Electricity Act, 2003, scientific data and functioning of three phase CT electronic meters. Thereby the order of the CGRF is not a well considered one and hence an arbitrary order and hence caused this instant appeal. On the grounds, the averments of the licensee under para (5) of the statement of facts are denied. On the averments under para (6) of the statement of facts, it is submitted that, meter was tested at the licensee's test facility and report was produced.

It is respectfully submitted that, order of the CGRF basing standard of meters of the licensee under which the meter was purchased and on the plea that anti tamper provision for this sort of case is not included and basing the illegal and cooked up test certificate of the meter from the licensee's test facility where the test was conducted violating regulations under supply Code as explained above is incorrect and violates the very principle of law and justice. Therefore this Hon: Electricity Ombudsman may quash the order of CGRF as well the assessment under dispute and award the prayers of this appellant under the appeal. It is also prayed any delay in filing this reply may be condoned.

Analysis and Findings

The hearing of the case was conducted on 30/08/2024 at 12.00 p.m. in the KSE Board IB, KozhikodeDist. The hearing was attended by the appellant's representative Shri.Azharudheen P, Paroli House, Kottakkal P.O, Moorthi Nagar, Malappuram Dist., and the respondent Sri. Rajeev.E, Assistant Executive Engineer, Electrical Sub Division, Puthanathani, Malappuram Dist.,

The appellant has availed power supply from the Licensee for running a

hospital named ' Trust Medical Centre' at Randathani at Malappuram District. The 3 phase power supply is connected to the hospital and CT operated energy meter is connected to the service connection for recording the consumption. The date of CT meter installation was on 11/2020. During the inspection on 18/01/2023 in the presence of the consumer, it is found that the secondary terminal of CT of Y and B phase were connected to the meter terminal inter changed way. The Y phase of CT Terminal connected to B phase of meter and Vice Versa. A test meter was connected to the system for a period from 23/01/2023 to 27/01/2023 and found that the energy meter is recording a less consumption from the actual consumption around 40%. Then the licensee has raised a demand on the appellant as per regulation 134 of the Supply Code 2014.

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."*

Though this regulation empower the licensee for raising the short assessment, the regulation 136 limit the period to two years -

136. Recovery of arrears and its limitation

1. *The licensee shall be entitled to recover arrears of charges or any other amount due from the consumer along with interest at the rates applicable for belated payments from the date on which such payments became due..*

2. *"The licensee may prefer a claim for such arrears by issuance of a demand notice and the consumer shall remit the arrear amount within the due date indicated in the demand notice."*

3. *"No such sum due from any consumer, on account of default in payment shall be recoverable after a period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable arrear of charges for electricity supplied."*

The defects identified is the in inaccuracies in metering due to the wrong connection of the terminals to meter. Then the most relevant regulation is 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 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 inaccuarcies 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.

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, if the period of such short collection due to the anomalies is not known or cannot be reliably assessed, the period of assessment of such short collection of electricity charges shall be limited to twelve months.

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

Provided also 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 for the remittance of such amount of short collection with interest at the bank rate as on the date of remittance of the amount of installment.

As this is regarding the inaccuricies of meter, the reputation15 of the Supply Code 2014 is more appropriate. In this regulation also the period is limited to 24 months even if the period of anomaly is more than 24 months.

Then it is very pertinent to consider the order issued by the Honb'le Supreme Court in the Civil appeal No:7235/2009 which is pronounced on 05/10/2021. This case was between M/s. Prem Cottex vs Uttar Haryana Bijili Vitran Nigam Ltd & others. In this case the apex Court clearly defined the meaning of the term first due in the section 56(2) of the Electricity Acy 2003.

Para 11. *"In Rahamatullah Khan (supra), three issues arose for the consideration of this Court. They were (i) what is the meaning to be ascribed to the term "first due" in Section 56(2) of the Act; (ii) in the case of a wrong billing tariff having been applied on account of a mistake, when would the amount become first due; and (iii) whether recourse to disconnection may be taken by the licensee after the lapse of two years in the case of a mistake."*

Para 12. "*On the first two issues, this Court held that though the liability to*

pay arises on the consumption of electricity, the obligation to pay would arise only when the bill is raised by the licensee and that, therefore, electricity charges would become "first due" only after the bill is issued, even though the liability would have arisen on consumption. On the third issue, this Court held in Rahamatullah Khan (supra), that "the period of limitation of two years would commence from the date on which the electricity charges became first due under Section 56(2)". This Court also held that Section 56(2) does not preclude the licensee from raising an additional or supplementary demand after the expiry of the period of limitation in the case of a mistake or bonafide error. To come to such a conclusion, this Court also referred to Section 17(1)(c) of the Limitation Act, 1963 and the decision of this Court in Mahabir Kishore & Ors. vs. State of Madhya Pradesh."

Para 13. *"Despite holding that electricity charges would become first due only after the bill is issued to the consumer (para 6.9 of the SCC Report) and despite holding that Section 56(2) does not preclude the licensee from raising an additional or supplementary demand after the expiry of the period of limitation prescribed therein in the case of a mistake or bonafide error (Para 9.1 of the SCC Report), this Court came to the conclusion that what is barred under Section 56(2) is only the disconnection of supply of electricity. In other words, it was held by this Court in the penultimate paragraph that the licensee may take recourse to any remedy available in law for the recovery of the additional demand, but is barred from taking recourse to disconnection of supply under Section 56(2)."*

Para 16. *"Be that as it may, once it is held that the term "first due" would mean the date on which a bill is issued, (as held in para 6.9 of Rahamatullah Khan) and once it is held that the period of limitation would commence from the date of discovery of the mistake (as held in paragraphs 9.1 to 9.3 of Rahamatullah Khan), then the question of allowing licensee to recover the amount by any other mode but not take recourse to disconnection of supply would not arise. But Rahamatullah Khan says in the penultimate paragraph that "the licensee may take recourse to any remedy available in law for recovery of the additional demand, but barred from taking recourse to disconnection of supply under sub-section (2) of section 56 of the Act".*

The Honb'le Kerala State Electricity Commission had issued a similar order on the basis of the order of the Apex Court in the Petition RP between KSEBL and M/s. Bennet Cleman Ltd., Which states that the consumer is liable to pay the short assessment from the date of accurence of the error. As such the appelant is liable to pay for the full period.

In this case the appellant has mentioned that in Digital meters, if the phase reversal occurs if won't affect the reading and the reading would be for the full consumption. This is not correct. The Voltage & Current read through the system is analog in nature and calculate in analog method and it converts the analog parameter to Digital Mode. Any

electrical measurement system if the CT of the phase connections inter charges the power recorded will be less by 1/3rd on a balanced load. Hence this contention of appellant have no technical base and hence rejected.

The licensee had issued short assesment considering that the recorded readings is 40% less than the actual consumption. Then the licensee have revised the demand considering reduction of reading recorded by the meter as 33.33% of the actual consumption. This figure is arrived also on comparing the consumption before and after the rectification of error/defect. The average consumption of 2020,2021 was compared with that of the year 2023. This is seen to be more reasonable in this case.

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 demand issued by the licensee for Rs. 4,19,189/-

2. The Licensee shall grant 12 monthly instalment for, clearing this payment.

3. The licensee shall not change any interest/surcharge for this amount.

4. No order for any other cost.

ELECTRICITY OMBUDSMAN

No. P/039/2024/ dated:

Delivered to:

1. Sri. Moideen Haji, Trust Medical Centre, Randathani. P.O, Malappuram Dist.,

2. The Assistant Executive Engineer, Electrical Sub Division, Kerala State Electricity Board Ltd., Puthanathani, Malappuram (Dist.).

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.

2. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4.

3. The Chairperson, Consumer Grievance Redressal Forum, Vydhythi Bhavanm, KSE Board Ltd., Kozhikode Dist.,