

THE STATE ELECTRICITY OMBUDSMAN

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APPEAL PETITION No. P/046/2020
(Present: A.S. Dasappan)
Dated: 21st June 2021

Appellant : Sri. Baby. N.T.,
Proprietor,
Globel Rubber Products,
Kanjirakode. P.O., Wadakkanchery,
Thrissur Dist. - 680590

Respondent : Assistant Executive Engineer,
Electrical Sub Division, KSEBL,
Wadakkanchery, Thrissur

ORDER**Background of the case:**

The appellant is a Low Tension (LT) three phase consumer with consumer number 1156833023878 under Electrical Section, Wadakkanchery. The tariff allotted is LT IV and the premises is being used for running an industry by name "Globel Rubber Products". The electric connection had been registered in the name of Sri. Vareed and which was transferred to the name of the Appellant w.e.f. 30-05-2020. The connected load in the premises is 70.638 kW with a contract demand of 79 kVA and billing is done in ToD tariff and measuring consumption with a Current Transformer (CT) operated meter with CT ratio 200/5. The premises was inspected by APTS of KSEB Ltd. on 25-01-2020 and found the meter was not recording actual consumption and hence, issued a short assessment bill for Rs.3,46,413/- for the period from 04/2019 to 01/2020 and later revised to Rs.77,217/- limiting the period from 25-11-2019 to 29-02-2020. Aggrieved by the decision taken by the respondent, the appellant filed a petition in Consumer Grievance Redressal Forum (CGRF), Central Region vide OP No. 29/2020-21 and the Forum dismissed the petition vide order dated 30-11-2020. Against the order of CGRF, the appellant filed this appeal petition before this Authority on 30-12-2020.

Arguments of the appellant:

An APTS inspection was conducted on 25-01-2020 and found that sealed parts of the meter box, meter, CT were not defective. The KSEB Ltd. officials broke the seal with their instruments and prepared a mahazar and compelled to put the signature in the mahazar by the worker who had no experience in Electrical Engineering. After that a short assessment bill of Rs.3,46,413/- was issued by the Assistant Engineer, Electrical Section, Wadakkanchery.

The bill was issued on the basis of an APTS report that one CT had a problem. The bill was issued only for non-usable energy. So, the proprietor requested to test the meter and CT in NABL testing lab. As a result, the meter and CT were tested at Testing Lab, Angamaly. The test result was that there were no complaints in both meter and CT unit. Due to mechanical defects, the company was stopped working temporarily and again due to Lockdown, the company was totally closed. After the Lockdown period when the company started operation, it was noticed that the 60HP motor connected in the system was heating up and on further inspection, it is understood that the cable B phase after the metering point in the panel board, the insulation and crimping Lug partially burnt and charred and the HRC fuse base of B phase burnt and partial contact only. Meanwhile, 60 HP main motor was burnt due to unbalancing voltage. It was found that the motor burnt out due to single phasing. The fuse link and crimping lug damage was occurred in B phase. The motor transported to winding shop, Ollur (Authorized Crompton company) and inspected the motor winding after opening the motor and informed that the B phase winding portion burnt due to the non-availability of voltage in the same phase. Hence, it is convinced that :

- (1) There was no complaint indicated in meter and CT in the lab test.
- (2) B phase voltage was not received in the motor so there was no use of B phase power.

On APTS inspection, B phase CT did not show a correct reading, so appellant has not availed the consumption of B phase.

- (3) The respondent revised the bill, but the reduced invoice Rs.77,217/- was not fair because the B phase supply has not been received. The bill issued on the basis of the report of APTS that B phase CT was defective. But as per test result of TMR, Angamaly, there is no defect on the CT and meter unit. In this

particular case the bill of Rs.77217/- was not genuine and so the bill may be cancelled.

The meter reading was recorded in every month by the Sub Engineer, and no anomaly was reported. The appellant is paying the current charges regularly without any dues or delay.

As per regulation 116(2) of Electricity Supply Code 2014, the metering unit including CT found defective, the meter and CT unit shall be replaced with a correct meter and the defective metering unit shall be got tested in an accredited or an approved laboratory.

But in the instant case, the Licensee failed to do so. Hence, the short assessment bill is not sustainable.

The short fall of recording of meter reading is due to the non-availability of B phase supply to load due to the damage of HRC fuse base. The inspection of APTS Team was conducted on 25-01-2020. But the disputed meter and CT unit was changed on 29-02-2020. As per regulation 116(2) of Electricity Supply Code, if the meter is found defective, the meter shall be replaced with a correct meter and the defective meter shall be tested in an accredited laboratory or approved laboratory. But the meter and CTs were sent for testing on 16-03-2020 to TMR. In the test report dated 20-03-2020, the ToD meter and CTs are found to be healthy.

As per the statement of respondent, the down loaded data of APTS team submitted from 25-11-2019 to 25-01-2020 only. But the assessment bill issued from 25-11-2019 to 29-02-2020 was injustice, because the finding of APTS team was not correct as per the Angamaly TMR Lab report. So, the short assessment bill is not sustainable. As per the site mahazar, there is no report that the meter connection was defective. They reported only that the CT in B phase was defective. But as per the TMR Angamaly report, the findings of APTS team was wrong. The short recording of meter was due to the non-consumption of energy in B phase due to the burning of HRC fuse base in between meter point and load point.

The CGRF has not considered regulation 116(2) of Kerala Electricity Supply Code 2014 and not considered the non-consumption of B phase supply. Hence, non-recording of energy consumption in B phase and hence, not recorded.

Considering all the above facts, the appellant has prayed to set aside the order of the Consumer Grievance Redressal Forum, Central Region and to cancel the illegal short assessment bill issued by the Licensee.

Arguments of the respondent:

The premises of the appellant was inspected by the APTS Team, Palakkad on 25.01.2020. During inspection the energy meter was checked with the portable standard meter. It is found that the energy meter of the appellant is recording less units compared to the standard meter and percentage error calculated as 28.568 with appellant's load. The appellant's meter recorded 3.7816kwh while the standard meter recorded 5.5692kwh. The CTs were checked by measuring secondary and primary currents of each phase for a load of 2 kW. The result showed very low reading of B phase secondary current and the other two phases the normal reading as per CT ratio which seemed to be due to the defect of B phase CT. A detailed site mahazar was prepared in the presence of the representative of the appellant.

The inspection was conducted in the presence of the owner Sri. Vareed. C.R, and a staff named Sudheesh. K.S. It is also noted in site mahazar that Sri. Vareed. C.R left the premises in between the inspection and Sri. Sudheesh was present throughout the inspection. The site mahazar was read to Sri. Sudheesh by the inspection team and he signed in the mahazar and the copy of site mahazar was received by him.

As per the findings of the inspection, it is very clear that the actual energy consumption in the connection is not recorded in the energy meter and accordingly there is a short fall in the billing of the electricity charges to be paid by the appellant. The short-collected amount liable to be remitted consequent to the non-recording of the actual consumption in one phase for the period from 04/2019 to 01/2020 was assessed based on the error percentage and a provisional bill for Rs. 3.46.413/- was issued to the appellant on 04.02.2020. The period of assessment was taken from the last routine inspection of the appellant's premises carried out by the Assistant Executive Engineer & team during March 2019 in which no anomalies were noticed in the connection.

The appellant submitted his objection dated 10/02/2020 against this bill denying the liability towards the short assessment amount and requested to limit the assessment in the case of any anomalies detected in the recording of the meter in the subsequent bills after the date of detection of the defect.

The meter was changed on 29.02.2020. Even though the appellant has not requested for testing the metering equipments and no fee for meter testing was remitted by the appellant, the meter and CTs were sent for testing the accuracy at accredited laboratory at TMR Angamaly on 16/03/2020 by the section officials. As per the TMR test report dated 20.03.2020, the ToD meter and CTs are found to be healthy. The down loaded data of the meter as on the date of inspection ie.25/01/2020 was also collected from APTS Palakkad and as per the available downloaded data for the last 60 days it is found that the reduction in secondary current in B phase reading from the data available date of 25.11.2019 itself.

In the meanwhile, the ownership of the firm changed to the appellant as per the request on 30.05.2020 on the basis of the undertaking to the effect that the pending arrears if any to KSEB Ltd. shall be remitted by him.

Based on the above reports and the inspection details available in site mahazar it is evident that due to the inaccuracy in metering due to the defect in the connection to the meter, the actual energy used by the appellant is not recorded in the energy meter. However, the actual date from which the inaccurate metering is not been able to trace out since the data from the meter could not be downloaded beyond a period of 60days. Accordingly, the assessment was revised parting the benefit of this position to the appellant, limiting the period of short assessment from the date of the average downloaded data to the date of change of the meter i.e., from 25.11.2019 to 29.02.2020. The revised bill for Rs.77,217/- dated 23.07.2020 was served to the appellant as per the following details:

25.11.19 to 31.12.2019	RS.36221/-
01.01.2020 to 31.01.2020	Rs.28428/-
01.02.2020 to 29.02.2020	<u>Rs. 15243/-</u>
Total	<u>Rs. 77217/-</u>

The respondent is having every legal right as per Regulation 152 of the Kerala Electricity Supply Code 2014, to recover the short-collected demand of Rs. 77,217/- (Rupees Seventy-Seven Thousand Two Hundred and Seventeen only) raised towards the inaccuracies in metering of the appellant detected in the inspection at the premises. The bill is issued in accordance with law and is liable to be realized from the appellant.

Eventhough the allegations and averments in the petition relating to the missing of one phase during the subsequent period after the change of the meter are not having a relevance with the dispute regarding the short assessment bill, which appears to be cooked up for the purpose of the case and are denied by the respondent.

The CGRF vide order dated 30/11/20 has rightly dismissed the appellant's case vide OP NO 29/2020-21 on merits. It is submitted that the petition is filed against the order on experimental basis, to escape from the liability of payment of charges for the electricity used by the appellant and there is no merit in any of the grounds raised in the petition, which is liable to be dismissed as such.

For the foregoing reasons, it is prayed that this Authority may be pleased to uphold the order of CGRF in OP No. 29/2020-21 and to dismiss the petition. The appellant may be directed to remit amount as per the invoice dated 23.07.2020 along with the applicable interest up to the date of realization.

Analysis and findings:

An online hearing was conducted at 11-30 AM on 12-02-2021 with prior intimation to both the appellant and the respondent. Sri. N.T. Baby, the appellant and Smt. Bindu. E.I., Assistant Executive Engineer, Electrical Sub Division, Wadakkanchery from the respondent's side attended the hearing. On examining the petition, the counter statement of the respondent, the documents attached and the arguments made during the hearing and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decision thereof.

The appellant is a consumer with a contract demand of 79 kVA and billing is being done under ToD tariff. Following an inspection by KSEB Ltd. on 25-01-2020, the appellant was given a short assessment bill for Rs.3,46,413/- for the

period from 04/2019 to 01/2020 on the ground that actual consumption in the premises had not been recorded in the meter. The defect in the metering system detected by KSEB Ltd. was low Current Transformer (CT) current in 'B' phase compared to other two phases. The meter was further tested and revised the short assessment to Rs.77,217/- for the period from 25-11-2019 to 29-02-2020 on the strength of the data received from the meter. The Consumer Grievance Redressal Forum also upheld the decision of KSEB Ltd.

The appellant argued the case as follows:-

The meter and CTs were tested in the NABL accredited laboratory of KSEB Ltd. at Angamaly and found both good. Certain electrical defects were noted in the connection to the 60HP motor installed in the premises. Due to the said defects, the motor became faulty and got it repaired and reinstalled. Voltage to the 'B' phase of the motor was not received and hence, the consumption was not actual. As per regulation 116(2) of Kerala Electricity Supply Code 2014, if the metering unit including CT found defective, both shall be replaced with a correct meter and defective unit shall be got tested in a NABL accredited laboratory. Here the Licensee failed to do so. Later, the meter and CTs were tested in the laboratory of KSEB Ltd. and found good. As such, as per appellant, the finding of inspection team was not correct.

The respondent argued the case as follows: -

The premises meter was tested with a standard reference meter in the premises itself and found 28.568% of the actual consumption escaped from the recording in the meter and issued a demand for Rs.3,46,413/- and later revised to Rs.77,217/- following the scientific data received from the meter. The argument of the appellant that missing of voltage in one phase of the motor, which leads to less consumption in the premises has no relevance in the subject matter. Licensee can compensate revenue loss as per Regulation 152 of Kerala Electricity Supply Code 2014.

The decision to be taken in this appeal is whether the period assessed and quantum of energy loss computed are in order and the appellant is liable to pay the short assessment for Rs.77,217/- analyzing the facts and figures furnished by the appellant and the respondent.

In this case, the bill for Rs.3,46,413/- was revised to Rs.77,217/-. If the respondent had changed the metering system soon after detecting the defectiveness, if any, the short assessment could have been limited up to 25-01-2020, the date of consumption, which is one of the arguments of the appellant.

Kerala Electricity Supply Code 2014, Regulation 2(57) defines the “meter means a device suitable for measuring, indicating and recording consumption of electricity or any other quantity related with electrical system; and shall include, wherever applicable, other equipment such as Current Transformer (CT), Voltage Transformer (VT) or Capacitance Voltage Transformer (CVT) necessary for such purpose.”

The meter is not a recording or display unit only but as defined above all the components above including lead wires include a meter. Moreover, this is not a whole current meter but a CT operated meter, where external CT is connected with metering unit, using lead wires and phase voltage from all the three phases are tapped from the source of supply and then connected with the same metering unit. Thereby wiring is also there for this metering system. This coordinates for computing energy is led to the processing unit of the meter unit from different components of the meter, then various electrical quantities are processed then recorded cumulative or otherwise and displayed in the display unit. Defect of any part of the metering system is the defect of the meter.

The respondent conducted inspection as per Regulation 113 (2) of Kerala Electricity Supply Code 2014. The Regulation says “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”. In the inspection cum testing of the meter conducted by the Licensee, detected defects scientifically. Regulation 116 (2) says “If the meter is found defective, the licensee may test it at site, if feasible, and if not feasible, the meter shall be replaced with a correct meter and the defective meter shall be got tested in an accredited laboratory or in an approved laboratory”. Though the meter and CTs under test were independently good, the metering system was defective. The argument of the appellant that energy was not used in the entire disputed period by one phase of the motor due to the premise’s connection defects is not an acceptable argument.

The respondent produced the “Tamper Report” of the metering system from 07-05-2018 to 24-01-2020, which records 114 Nos. events like current open, current bypass, voltage failure, voltage unbalance, undervoltage, low power factor etc., but which were recovered within hours. The load survey report was also furnished by the respondent for the period from 25-11-2019 to 24-01-2020. The CT current in ‘B’ phase is seen comparatively lesser than the CT current in ‘R’ & ‘Y’ phases for the entire period. But normal voltage is seen recorded in each phase for the entire period. Also, from the ‘Load Survey’ it can be seen that during the period from 25-11-2019 to 24-01-2020, half of the period is recorded with almost ‘nil’ CT current. On analyzing the consumption pattern from 12/2018 to 01/2021, it is revealed that the monthly consumption is not consistent. As such it cannot be predicated the defectiveness of the metering system without conducting testing of the meter. But the maximum demand recorded for 12/2019, 01/2020 and 02/2020 are seen less than the demand recorded prior and after the said three months. The single motor used in the premises is having a capacity of 60HP (45 kW/50 kVA) in addition to other load. From the figures of maximum demand recorded during 12/2019, 01/2020 and 02/2020, an observation can be made that actual consumption and maximum demand were not recorded.

On verifying the site mahazar dated 25-01-2020, prepared during the inspection, it is seen that CT current is not proportionate in ‘B’ phase of the meter. For an almost balanced primary current of the load in the premises, the CT current in R, Y & B phases are 0.2 A, 0.2 A and 0.07 A respectively. The impropportionate CT current in B phase is also seen in the downloaded data of the meter from 25-11-2020 to 29-02-2020. From the detailed analysis it can be ascertained that actual energy consumed in the premises was not recorded in the meter in the revised bill period. At the same time, from the downloaded data and the test result in the inspection, non-contact of CT never occurred leading to a zero CT current when the other phases show values.

Regulation 125 (1, 3 & 4) of the Kerala Electricity Supply Code 2014 refers the procedure for billing in the case of defective or damaged meter as follows: -

- (1) In the case of defective or damaged meter, 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:

Provided that, the average shall be computed from the three billing cycles after the meter is replaced if required details pertaining to previous billing cycles are not available:

Provided further that any evidence given by consumer about conditions of working and occupancy of the concerned premises during the said period, which might have had a bearing on energy consumption, shall also be considered by the licensee for computing the average.

- (3) In case, the maximum demand indicator (MDI) of the meter at the installation of the consumer is found to be faulty or not recording at all, the demand charges shall be calculated based on maximum demand during corresponding months or billing cycle of the previous year, when the meter was functional and recording correctly.
- (4) In case, the recorded maximum demand (MD) of corresponding month or billing cycle of past year is also not available, the average maximum demand as available for lesser period shall be considered:

Provided that the above sub-regulations shall not be applicable in the case of a tampered meter for which appropriate action under the provisions of the Act shall be initiated by the licensee.

Since the first bill was issued for the period from 04/2019 to 01/2020, suspecting fault, it is not proper to take the consumption recorded prior to 11/2019 for arriving at the average. Similarly, the average consumption for three months after 01/2020 is less than the consumption recorded in the disputed period. As such, it is more proper to arrive at the unrecorded portion of energy based on the recorded consumption in the disputed period of the three phase premises.

Here demand charges in the premises was billed for 60 kVA (75% of 79 kVA) and the short assessment bill was issued in the same principle applied for computing the unrecorded energy consumption. This is not proper as per

Regulation 125 (3) & (4) of Kerala Electricity Supply Code 2014. As per the said Regulation, the maximum demand recorded in the past year is to be taken.

The appellant was billed for a demand of 60 kVA (75% of Contract Demand) in 12/2019, 01/2020 and 02/2020. The revised demand charge is seen prepared by the respondent based on 60 kVA, which is not correct since the recorded maximum demand was 49 kVA, 46 kVA and 49 kVA for the above months. The recorded maximum demand for the corresponding months in the previous year 12/2018, 01/2019 and 02/2019 were 72 kVA, 75 kVA and 54 kVA respectively. As such, the appellant is only liable to remit the demand charges in excess of 60 kVA in the disputed months. The recorded consumption is less in 02/2020 compared to the previous months.

Decision: -

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

The short assessment bill for Rs.77,217/- comprising of energy charge and demand charge issued to the appellant is quashed. The appellant shall remit the energy charge portion of the disputed bill Rs.77,217/-. The respondent shall revise the demand charge portion of the disputed bill for three months from 01-12-2019 to 29-02-2020 taking the maximum demand for 12/2018, 01/2019 and 02/2019. The appellant had remitted demand charge for 60 kVA in each month of the disputed period. That is demand charge for 12 kVA in 12/2019, 15 kVA in 01/2020 need be remitted by the appellant. The respondent shall revise the short assessment bill as above and issue to the appellant within 15 days from the date of order and the appellant shall remit within the due date of the revised bill. If the appellant desires, three installments shall be granted for the revised bill amount as per rules. No interest or surcharge shall be collected from the appellant in the petition period before the Consumer Grievance Redressal Forum, appeal petition before this Authority and up to the revised due date fixed by the respondent.

Having concluded and decided as above, it is ordered accordingly. The appeal petition filed by the appellant is found having some merits and allowed to this extent ordered. The order of Consumer Grievance Redressal Forum, Central Region in OP No.29/2020-21 dated 30-11-2020 is modified as above. No order on costs.

ELECTRICITY OMBUDSMAN

P/046/2020/_____ dated _____.

Delivered to:

1. Sri. Baby. N.T., Proprietor, Global Rubber Products, Kanjirakode. P.O., Vadakkanchery, Thrissur Dist. - 680590
2. Assistant Executive Engineer, Electrical Sub Division, KSEBL, Vadakkanchery, Thrissur

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.