

THE STATE ELECTRICITY OMBUDSMAN

D.H. Road & Foreshore Road Junction, Near Gandhi Square,
Ernakulam, Kerala-682 016

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Appeal Petition No. P/023/2023
(Present A. Chandrakumaran Nair)
Dated: July-03-2023

Appellant : Sri. N.K. Sivadasan,
Thermo Plastics Industries,
Mulamthuruthy,
Ernakulam- 682314.

Respondent : Assistant Executive Engineer,
Electrical Sub Division,
Kerala State Electricity Board Ltd.,
Tripunithara, Ernakulam Dist.

ORDER

Background of the case

The appellant is the owner of the industry named as M/s Thermoplastic Industries, at Mulamthuruthy and the consumer of the licensee under tariff LT IVA industrial. The appellant is the consumer of the Electrical Section, Udayamperoor with consumer no. 1755497002679. There are arrears on power charges for the appellant and outstanding amount accumulated. The licensee has sanctioned installment scheme for clearing the dues. The appellant complains that amount remitted by him on 17/03/2022 for Rs.7723/- and Rs. 2277/- were not been accounted by the Licensee. The appellant claims that he had paid Rs.3,323/- in excess to the bills raised by the licensee and he want this amount is to be refunded. The Respondent's version is that the appellant has to remit Rs. 15,274/- to clear of the dues. The appellant filed petition to the CGRF and CGRF issued order vide order dated 31/3/2023. Aggrieved by the decision of CGRF, the petition is filed to this authority.

Arguments of the Appellant

1. Ours is an Industry under LT IVA Industry tariff. Due to non- operation of our factory, we have not paid electricity bills from February 2022. The electricity bills consist of fixed charge only. KSEBL have provided us the instalment facility of our electricity bill from February 2022 to December 2022 as three months instalments dated 03/12/2022.
2. We have noticed that we have remitted Rs.7,723/- and Rs.2,277/- on 17/03/2022, but KSEBL have claimed February electricity bill also in the total instalment facility amount and this may be considered as paid amount in March.
3. Also, we have paid Rs.6,386/- on 12/08/2022, but KSEBL have claimed July electricity bill also in the total instalment facility amount and this may be considered as paid amount in June.

Sl. No.	Month (2022)	Bill Date	KSEBL Claim	Remitted Date	Remitted Amount	Balance
1.	February	01/02/2022	5980	12/02/2022	5980	0
2.	March	02/03/2022	5980	17/03/2022	10000	-4020
	Interest	03/12/2022	615			615
3.	April	08/04/2022	5980			5980
	Interest	03/12/2022	635			635
4.	May	02/05/2022	5815	12/05/2022	5815	0
	Interest	07/05/2022	927	12/05/2022	927	0
5.	June	01/06/2022	5815	12/05/2022	5815	0
	Interest	01/06/2022	35	12/05/2022	35	0
6.	July	01/08/2022	6325	12/08/2022	6386	-61
	Interest	03/12/2022	259			356
7.	August	01/09/2022	6325			6325
	Interest	03/12/2022	259			259
8.	September	01/10/2022	6325			6325
	Interest	03/12/2022	166			166
9.	November	01/11/2022	6325			6325
	Interest	03/12/2022	46			46
	Total		57909		34958	22951
	1st instalment paid on 03.12.2022					11000
	1st instalment paid on 03.12.2022					15274
	Balance to be remitted					-3323

4. We have already remitted our monthly electricity bills for December-2022 and January 2023 promptly on time.

We have approached CGRF and submitted the payment receipts, but they haven't considered and said that the KSEBL can account our payment according to their will and wish. KSEBL says that our payment Rs.7,723/- paid on 17/03/2022 have been adjusted to 08/21,09/21& 10/21 monthly bills. We don't know how the adjustment came.

We have paid the instalment according to KSEBL and they are claiming old arrear again and again.

5. Direction may be given to the KSEBL not to disconnect the supply till hearing and disposal of the complaint.

Direct KSEBL to refund Rs.3,323/- with interest immediately.

Arguments of the Respondent

1. The total arrear pending towards the consumer as on 03-12-2022 was Rs.40503.75/- (Regular CC for 02/22, 03/22, 04/22, 08/22, 09/22, 10/22, 11/22). Three instalments has been provided to the consumer.

1st instalment paid on 03-12-2022 Rs.9956/-

2nd instalment paid on 10-01-2023 Rs.15274/-

Regular bill for 5/22 and 6/22 has been adjusted against payment made by consumer vide receipt no. 102128 dated 27-06-22 and bill for 7/22 is adjusted against amount paid by receipt no 102112 dated 12-08-22. During that time the previous bills for 2/22, 3/22 and 4/22 were under expired instalment scheme availed by the consumer on 17-05-2022 due to default payment. Regular bills from 12/2022 onwards is being paid by the consumer on time along with the instalments.

2. The consumer was supposed to pay his 3^d instalment Rs.15274/- on 03-02-2023 which he hesitated to pay. Instead, he registered a complaint claiming that certain amounts he paid in KSEBL is not adjusted against the bills of corresponding months. The Orumanet software is designed in such a way that the amount remitted by consumer is adjusted against the pending arrears first (if not included in any instalment scheme) and only the balance amount, if any will be adjusted against the current month electricity bill.
3. The consumer has dispute on three payments made by him i.e., Rs.2277/- (paid on 17-03-2022), Rs.7723/-(paid on 17-03-2022) and Rs. 6386/- (paid on 12-08-2022).

On observing the details, it is understood that after 01-06-2021, the consumer has made his remittance on 25-01-2022 hence a surcharge amount

of Rs.2277/- has been generated on 25-01-2022 against which the payment Rs.2277/- made on 17-03-2022 got adjusted. The regular bill for 08/21 & 09/21 fully and 10/21 partly has been offsetted from the amount of Rs.7723/- paid on 17-03-2022. The regular bill for 7/22 with surcharge has been offsetted from the amount Rs.6386/- paid on 12-08-2022.

4. All the payments made by the petitioner are properly accounted by the licensee as per the Regulation 133 of the Kerala Electricity Supply Code, 2014. Regulation 133. Appropriation of the amount received. "All payments made by the consumer shall be in the following order of priority:
 - i. interest on electricity duty arrears;
 - ii. electricity duty arrears;
 - iii. interest on electricity charge arrears;
 - iv. electricity charge arrears;
 - v. dues of current month.

5. The Hon'ble CGRF dismissed the petition and forum ordered that, the petitioner is liable to pay the amount. As on 16-05-2023 an arrear amount of Rs.15,274/- is pending against the consumer. Since the dispute raised by the consumer that the payment is not adjusted against his bills is not valid, the petition may kindly be disposed for remitting the arrear amount.

Analysis and findings

The hearing of the appeal petition was conducted on 14/06/2023 at 11:30 am in the office of the State Electricity Ombudsman, DH Road & Foreshore Road Junction, near Gandhi Square, Ernakulam south. The hearing was attended by the appellant Sri. N.K. Sivadasan and the respondent Sri. Biju P.R, AEE, Electrical Sub Division, Tripunithara.

The appellant N. K. Sivadasan is the consumer of the appellant under Udayamperoor Section with sanctioned Load of 60.348 Kw and the contract demand is 45 kVA. The consumer was promptly remitting the charges up to February 2020. The energy charges were pending since March 2020 and the licensee has extended the instalment facility during Covid-19 period but failed to remit to the instalments in time. The total amount outstanding on 03/12/2022 was Rs. 40,503.75/-. This was the regular current charges for February-2022 to April-2022 and from August-2022 to November-2022. Then again, the respondent has allowed the appellant to pay the arrears in three instalments. The appellant paid two instalments amounting to Rs. 25,235/- and balance was Rs. 15,273.75/-. The appellant has not paid the third instalment which was due on 03/02/2023. The appellant's claim is that the payment of Rs.7,723/- and 2,277/- (total Rs. 10,000/-) paid on 17/3/2022

has not been accounted by the licensee. The appellant is failed to produce the payment receipts of this payments. According to respondent, the consumer has paid the charge only on 25/1/2022 after 01/6/2021 and hence a surcharge amount of Rs.2,277/- has been generated on 25/1/2022 and this has been adjusted in the payment made on 17/3/2022. The regular bill for 8/01 and 09/21 fully and that of 10/21 partly has been adjusted from the amount of Rs.7,723/- paid on 17/3/2022. The regular bill for 07/2022 with surcharge has been adjusted from the amount of Rs.6,386/- paid on 12/08/2022 whenever the payment become outstanding from the due date, the surcharge/interest will be charged.

The interest will be adjusted first from the payments made as per Section 133 of the Kerala Electricity Supply Code-2014.

Section 133 *“All payments made by the consumer shall be adjusted in the following order of priority: - interest on electricity duty arrears; electricity duty arrears; interest on electricity charge arrears; electricity charge arrears; dues of current month”.*

As the appellant has failed to produce the documentary evidence showing the payment made it is instructed Respondent to cross check with the receipts/documents of the appellant and submit a report. Accordingly, the Respondent submitted the report dated 26/06/2023 states that the appellant in has submitted a letter before A.E.E, Tripunithura in which instead of receipt numbers he mentioned about the bill number served to the consumer by KSEBL during various months.

Bill Number	Month	Amount
5549210810084	08/21	5815
5549220600047	06/22	5815
5549211007401	10/21	5815
5549220500052	05/22	5815
5549220201395	02/22	5980
5549220700033	07/22	6386

Rs. 6,386/- mentioned in his letter has been paid on 12/08/2022 and amount credited against the bill of 07/2022 no other receipt has been produced by the appellant as per his original petition for February-2022 for Rs.5,980/-, Rs.5,815/-, Rs.9,27/-, Rs.5,815/- and Rs. 35/- on 12/5/2022 (total Rs.18,572/-). Then as per records Rs.15,274 is pending against the consumer. The appellant is totally failed to produce the documentary proof of the payments as he claims Rs.18,572/- and the statement submitted about the payment is not a correct statement.

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 arrears as per the records of the licensee.
2. No order on cost.

ELECTRICITY OMBUDSMAN

No. P/023/2023/_____ dated: 03/07/2023.

Delivered to:

1. Sri. N.K. Sivadasan, Thermo Plastics Industries, Mulamthuruthy, Ernakulam- 682314.
2. Assistant Executive Engineer, Electrical Sub Division, Kerala State Electricity Board Ltd., Tripunithara, Ernakulam 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, 220 kV Substation Compound, HMT Colony P.O., Kalamassery, Pin- 683503