

**Before the Ombudsman**  
**KPFC BHAVAN, C.V.Raman Pillai Road , Vellayambalam,**  
**Thiruvananthapuram-695 010.**

Order Dated.11<sup>th</sup> April 2007.

Present: M.Sivathanu Pillai, Ombudsman-in Charge.

Appeal petition No 4 of 2007.

CGRF order O.P.No.127/2006 dated 11<sup>th</sup> January 2007.

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Sri.K.T.Thomas,  
Proprietor,  
Hotel Arcadia,  
T.B.Road, Kottayam

Appellant

Vs

Assistant Executive Engineer  
Electrical Sub Division, KSEB,  
Kottayam Central.

Respondent

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Date of hearing 10<sup>th</sup> April 2007.

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a. Appellant has stated as follows.

They are LT VIIA consumer with consumer number 3975 under Electrical Section Kottayam (Central). On 19.09.2001 the electricity meter installed by the Electricity Board ( hereinafter called Board ) was burnt out and immediately a petition filed before the Asst. Engineer, Kottayam of Board and thereafter a new meter was installed on 20.09.2001. Appellant received a bill dated 17.10.2005 as short assessment for the period from April 2001 to September 2001 for Rs. 1, 59, 665/-. As per the bill the meter was changed on 20.09.2001 and average consumption after change of the meter is worked out at 7845 units per month and consumption for the period 6 months prior to the period of change of meter from April 2001 to September 2001 has been calculated and demanded as per the said bill.

During April 2001 to September 2001 the old meter was working and recording the actual consumption of electricity and appellant paid the bills as per the consumption. The complainant was never informed by Board that the meter was not correct and it was defective.

That against the bill dated 17.10.2005, appellant filed written objection before the Assistant Engineer. After hearing the appellant, the Assistant Engineer, Kottayam disposed the appeal on 19.12.2005. The finding of the Assistant Engineer that the meter was changed, as it was faulty is not correct. The meter was changed on the petition of the appellant as it was burnt out . That in case the meter was faulty, the Assistant Engineer, Kottayam of Board was duty bound to inform the petitioner and refer the matter to the Electrical Inspector. The Electrical Inspector is the only authority to decide whether the meter is correct or defective. During April 2001 to September 2001 the meter was working properly and the energy was recorded and bills were issued and paid by the appellant. The action of the Board in not giving notice to the complainant and not informing the Electrical Inspector and removing the meter and replacing the same is totally illegal and contrary to section 26(6) of the Indian Electricity Act. The bill-dated 17.10.2005 was issued on the assumption that the meter was acted in contravention of Section 26(6) of the Indian Electricity Act.

Aggrieved by the bill dated 17.10.2005 and the order of the Assistant Engineer, Kottayam dated 19.12.2005 appellant approached the Honourable High Court by writ petition No.W.P.(C) No. 2345 of 2006(D) and the Honourable High Court has directed the appellant to approach the Forum for the grievances.

Appellant filed the complaint submitting that the bill was illegal and unsustainable as the same was barred by limitation as per Sec.56 (2) of the I.E. Act 2003 and as the meter taken away from the appellant's premises was not tested. Moreover the readings were taken every month and bills were paid and at no point of time there were any allegations/complaints regarding the functioning of the meter.

Unfortunately the Honourable Forum was not inclined to allow the complaint and the complaint was dismissed finding that the complaint was liable to pay the impugned bill.

- b. CGRF has concluded that the meter was burnt due to negligence of the petitioner. CGRF has concluded that as the appellant has failed to prove the reason for the decrease in consumption the appellant is liable to pay the revised bill.

- c. The petition was posted for hearing on 3<sup>rd</sup> April 2007. Respondent's counsel requested for more time and the next hearing was posted for 10<sup>th</sup> April 2007.
- d. During hearing on 10<sup>th</sup> April 2007, appellant's counsel reiterated that the energy meter installed in the premises during the period under dispute was working properly. It was further argued that the claim by respondent was time barred as per Section 56(2) of Electricity Act 2003.
- e. Counsel for respondent argued that the appellant is not the consumer.
- f. Appellant's counsel pointed that no objection on this account was raised by Board in the Hon.High Court.
- g. Counsel for Respondent pointed out that Section 26(6) of Indian Electricity Act 1910 cannot be made applicable in this case as the energy meter was burnt. Reference was made to the Judgment dated 10-03-1995 of Bombay High Court in A No.814 of 1993.
- h. Counsel for respondent stated that charges do not become payable as when energy is consumed but payable only on service of a bill and hence the claim is not time barred. Reference to judgment on Op No.1994 (1) KLT was made.
- i. The question is whether the energy meter installed during the period from April 2001 to September 2001 was reading correctly and whether the claim for short assessment is time barred.
- j. From the consumption pattern before and after the period under dispute, it can be concluded that the meter was not recording correctly. It may be argued that the consumption was low during this period. But there should be a reason for this. If the consumption was only marginally lower, then the argument that the actual consumption was low can be accepted without evidence. But when the consumption is considerably lower and that too only during the period of use one energy meter alone and further that the consumption was low continuously low for a period of six months, claim on low consumption cannot be accepted without any supporting documents. No valid reason has been submitted by the appellant. As the meter was burnt, the question of testing the meter does not arise.
- k. Section 56(2) of the Act refers to the date on which the sum becomes first due. Sum based on the actual reading was billed and paid. The short assessment bill was first raised only on 17-10-2005 and this is for the difference amount only and not for any claim already made and hence is not time barred as per clause 56(2).

1. Hence there is no scope for giving any relief to the appellant. The appeal is disposed off.

OMBUDSMAN

P\$/2007.....Dated

**Forwarded to**

Sri.K.T.Thomas,  
Proprietor,  
Hotel Arcadia,  
T.B.Road,Kottayam

The Chief Engineer(Electrical) Distribution South,  
KSEB,Power House Buildings,  
Thiruvananthapuram

Assistant Executive Engineer  
Electrical Sub Division, KSEB,  
Kottayam Central.

Officer(Engg)