TAMIL NADU ELECTRICITY OMBUDSMAN

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BEFORE THE TAMIL NADU ELECTRICITY OMBUDSMAN, CHENNAI

Present: Thiru. A. Dharmaraj. Electricity Ombudsman

Appeal Petition No. 10 of 2016

M/s G.J. Spinners,
SF No.82/1, Sendrayanpalayam,
D.G. Pudur,
Gobichettipalayam. . ... .Appellant
(Thiru. K. Narashimhan, Advocate)

Vs

The Superintending Engineer,
GOBI Electricity Distribution Circle,
TANGEDCO (Formerly TNEB)
132, Cutchery Street,
Gobichettipalayam 638 542 ……..Respondent
(Thiru. R. Shanmugasundaram, EE/Sathy)

Date of hearing : 22.4.2016

Date of Order : 19.10.2016

The Petition dt 10.2.2016 filed by M/s G.J. Spinners, Sendrayanpalayam, D.G. Pudur was registered as Appeal Petition No.10 of 2016. The above appeal petition came up before the Electricity Ombudsman for hearing on 22.4.2016 Upon perusing the appeal petition, counter affidavit of the Respondent and after hearing both sides, the Electricity Ombudsman passes the following order.

ORDER

1. Prayer of the Appellant:

The Appellant prayed to quash the order of Hon'ble CGRF in CC No.15 of 2015 on 22.1.2016 and consequently direct the Respondent to quash the demand for a sum of Rs.24,34,047/- (Twenty four lakhs thirty four thousand and fourty seven only) issued by the Respondent namely TANGEDCO vide its demand notice Lr.No.SE/ GOBI/AEE/ ALIADM-I/F.G.J. Spinners/D.828/15, dt.12.11.2015 under the head short levy charges due to defective meter covering the periods from August 2012 to August 2014 and refund the sum of Rs.6,08,520/- of demand amount already remitted by the Appellant on 4.2.2015 or adjust the same towards future bills and pass such further or other order as this Hon'ble Fourm may deem fit and proper and thus render justice.

2. Brief history of the Case:

2.1 M/s G.J. Spinners is a small scale industry engaged in Manufacture of 40's count yarn. The L TCT service connection number of the above industry is 353-007- 762. The sanctioned load of the service is 112 kw. The Appellant purchased the above industry on 23.11.2012.

2.2 The above service was inspected by Assistant Executive Engineer / Enforcement/ North, Coimbatore on 5.8.2014 and found that the consumption recorded by the meter is not correct. Accordingly, the Assistant Executive Engineer/MRT inspected the service and tested the meter on the same date and found that there was change in phase association.

2.3 In order to ascertain . the quntum of energy not recorded due to phase association change, a genus make meter was connected in series with the existing meter with correct phase association. The phase association of the existing meter was kept in wrong phase association as seen during the inspection. The meter readings of both the meter were recorded from 20.8.2014 to 3.9.2014. On analysis of the recorded readings, it was noted that the existing meter with wrong phase association has recorded 35% less than the recorded energy of the genus meter connected in series with correct phase association.

2.4 The Appellant was asked to pay a sum of Rs.24,34,047/- towards shortfall amount due to change in phase association for a back period of 2 years.

2.5 The Appellant filed an appeal petition before the Electricity Ombudsman against the order dt. 7.11.2014 of the CGRF and the petition was registered as appeal petition No. 18 of 2015.The Electricity Ombudsman disposed of the petition with a direction to the Respondent to issue a fresh show cause notice and after receipt of representation pass reasoned speaking order on merits.

2.6 Accordingly, the Respondent has issued a fresh show cause notice dt.9.1 .2015 and issued a final order on 12.11.2015 after examining the reply of the Appellant furnished.

2.7 Aggrieved over the orders of the Respondent, the Appellant filed a petition before the CGRF of Gobichettipalayam EDC and the CGRF has issued its order on 22.1.2016.

2.8 Aggrieved by the order of the CGRF of GOBI EDC, the Appellant filed this appeal petition before the Electricity Ombudsman.

3. Orders of CGRF

3.1 The CGRF of GOBI EDC has issued its order dt.22.1.2016 on the grievance of the Appellant. The relevant paras of the CGRF order are extracted below:

" 5.7 The petitioner had stated that incorrect wiring has been done by the licensee and not by them and hence the licensee could not take advantage of their own mistakes by demanding such a huge sum from the petitioner. The licensee had countered that as per the TNERC supply code Regulation (12), in case of error in billing or mistakes in the amount levied, demanded or charged by the licensee, the licensee will have the right to demand an additional amount-in the case of undercharging and the consumer will have the right to get refund of the excess amount in the case of overcharging. Considering arguments of both the parties, the contention of the petitioner is not acceptable.

5.8 The petitioner had stated -that the correctness and healthiness of the series check meter had not been demonstrated or established. The licensee had stated that the check meter connected in series with the existing meter was new, healthy, high quality, high precision and tested and sealed by the licensee with the concurrence of

the petitioner. The petitioner had accepted the above method at that. time. Therefore, the contention of the petitioner is not acceptable.

5.10 The petitioner had stated that the licensee failed to detect the fault in the meter wiring during their periodical earlier inspections and shift their failure on them and demand huge sum. The licensee argued that the consumer was demanded to pay the short levied amount only for two years from the date of detection even though the consumer enjoyed the benefit. of undercharging for more than two years. The licensee had established the undercharging by scientific method and demanded the petitioner only for the back period of two years from the date of detection.

Therefore, petitioner who enjoyed full benefit of undercharging is liable for undercharging for the back period of two years as per TNREC regulations.

5.11 The petitioner had stated that MRT wing of Gobi Electricity Distribution Circle inspected the above service connection on 10.2.2014.But the Licensee .had stated that MRT wing had not inspected the above service connection on 10.2.2014.

5.12 The petitioner had stated that the shortfall in recorded consumption in the existing meter due wrong phase association should have been arrived based on the production and SITRA norms recognized by benchmarks by High Power Committee set up by Government of India and as such the norms alone were the valid ground for arriving the lesser consumption. The licensee had argued that, the series check meter method to) arrive at shortfall in consumption was based on data evidence andmore accurate scientific method and the SITRA norms method was less accurate and very approximate, data not easily verifiable. Considering arguments of both parties the method adopted by the licensee is acceptable to arrive at the short levy in consumption.

5.13 In view of the above, the plea of the petitioner is not considered and the final orders issued by the Superintending Engineer/Gobi Electricity Distribution Circle vide Lr. No. SE/GOBI/ AEE/ AU ADM- 1/F.GJ.SPINNERS/D,NO.828/15, dt: 12.11.2015 is confirmed. Therefore the petitioner is directed to pay the balance amount of Rs.18,25;527/- (Rupees eighteen lakhs twenty five thousand five hundred and twenty seven) within fifteen days from the date of receipt of this order, failing which the respondents shall take action as per TNERC regulations. The Licensee is directed to take appropriate action as per the TNERC regulations if the order is not complied by the petitioner.

4. Argument of the Appellant furnished in the Appeal Petition:

4.1 The Appellant states that as per the procedure followed by the Respondent, the LTCT meters are fixed to the service connections only after proper checking and confirming the correct functioning by the MRT wing. The

Appellant further states that the MRT wing of the Respondent is the expert wing in dealing CT meter.

4.2 The Appellant states that as per the practice followed by the Respondent, the monthly reading of LTCT meters are being taken by the officials not below the rank of the Assistant Engineer and assessment made and demand issued. The Appellant further states that in view of the LTCT supply the meters are regularly being inspected and monitored to ensure proper functioning by the MRT wing of the Respondent with the necessary equipments.

4.3 The Appellant states that the latest such inspection was done on 10.02.2014 and the meter was found to be in order. The Appellant states that this being so the Assistant Executive Engineer, Enforcement, Coimbatore North, Coimbatore visited the Appellants industry on 05.08.2014 for inspection of the meter and after inspection of the meter alleged malfunction of the meter. Consequently the MRT wing of the Respondent inspected the meter on the same day i.e. 05.08.2014 and it was reported that there was wrong wire connection in the meter and there might be faulty recording in the energy consumption.

4.4 The Appellant states that subsequently the Respondent fixed another meter conjoint to the existing meter from 19.08.2014 to 03.09.2014 and recordings were taken by the Respondent .The new meter recordings by the Assistant Executive Engineer East states that "In order to ascertaining lesser consumption, a new (series) meter was fixed along with the existing defective meter and inspection made. On the basis of such inspection it has been found that the existing meter was defective and recorded only 65% ,of the consumption and not recorded the balance 35% consumption."

4.5 The impugned order rejecting the Appellant's request to quash the demand notice its demand notice Lr. No. SE/GOBI/AEE/AL/ADM-I/F.G.J. Spinners/ D.No.828/15, dated 12.11.2015 is erroneous and without application of mind and without any basis in law.

4.6 The learned CGRF unfortunately conducted the proceedings in a mechanical way and simply followed the findings of the Respondent and confirmed the demand notice issued by the Respondent which is totally erroneous and without application of mind and is against the law and statues and hence is not sustainable.

4.7 The learned CGRF has failed to note that if there is any alleged defect in the meter the same should be tested in the testing laboratory instead, another meter, connected in series and the recordings in the meter taken for arriving the alleged short coming is not an established procedure and hence the order is erroneous, without application of mind and is against the law. There is nothing to ascertain whether the meter fixed for testing was not defective. It is therefore, evident that the only proper way of ascertaining information about quality of the meter is by getting a report from a proper laboratory.

4.8 The learned CGRF failed to appreciate the fact that the procedure adopted by the Respondent is not an established procedure and the same is not approved by any competent authority. Therefore, a mere statement by the Respondent that the check meter connected in the series with the existing meter was new, healthy, high, quality, high precision and tested and sealed by the Respondent with the concurrences of the Appellant is not sufficient to approve or authorize the above methods when alternate proper established and approved methods are available with the Respondent.

4.9 The Learned CGRF had failed to appreciate the provisrons In Sub Section (1) of Section 55 of the Electricity Act which clearly states that "No Licensee shall supply electricity after expiry of two years from the appointed date, except through installation of a "correct" meter in accordance with the regulations to be made in this regard by the Authority. As such, it is the responsibility/duty of the Licensee to install a "correct" meter. It has also been stipulated in clause 7(8) of the supply code, that "at periodical intervals, the meter shall be recalibrated and standardized by means of standard equipments by the Licensee. Though periodical inspection have been undertaken by the MRT wing of Respondent and also meter calibrations done, no fault in the recording has been found by the

MRT wing of the Respondent on 26.11.2015.

4.10 The Learned CGRF has failed to appreciate the fact that for installing a meter with wrong wire connection and also failed to find any default in the functioning of the meter in their periodical inspections, now the Respondents is shifting their failure on the Appellant and are demanding huge sum. It is the mistake of the Respondent and hence for the mistakes committed by the Respondents, the consumers shall not suffer.

4.11 The Learned CGRF has failed to appreciate the fact that TNERC supply code Regulation 12 which states that in case of error in billing or mistakes in the amount levied, demanded or charged by the licensee, the licensee will have right to demand an additional amount in the case of undercharging and the consumer will have the right to get the excess amount in case of overcharging will not be applicable in the present case as there was no error in billing or mistake in the amount levied, demanded or charged by the licensee. The same has been levied according to the consumption shown by the meter fixed by the Respondent. In the present case as per the Respondent's contention meter was wrongly wired by the Respondent which they have not been able to legally establish or prove.

4.12 The Appellant states that in the case of S.A. Ahamed Vs. Tamil Nadu Electricity Board (AIR 200, Madras 117) the Hon'ble High Court of Madras has held that the Electricity Board cannot be allowed to take advantage of their own mistakes The following observations in paragraph 14 of the Judgment read as below it... The mistake here is arising not on account of any act on the part of the consumer. The Board cannot be allowed to take advantage of their own mistake. The learned CG RF had failed to consider the fact that the incorrect wiring has been done by the Respondent. As held by the Hon'ble High Court of Madras, the mistake has not been committed by the Appellant and the Respondents cannot take advantage of their own mistakes by demanding such a huge sum from the Appellant. The case law cited by the Appellant before CGRF has not even been considered by the Hob'ble CGRF.

4.13 The Learned CGRF failed to see that SITRA has fixed norms for spinning mills and the same are the yardsticks for performance of the

spinning mills. The SITRA norms quoted are benchmark fixed by the High Power Committees set up by Government of India and as such the norms alone can be valid ground for arriving at the consumption level of the Appellant. Unfortunately the same has been completely ignored in this case both by the Respondent as well as the Hon'ble CGRF, Gobichettipalayam.

4.14 The Learned CGRF failed to see that the correctness and healthiness of the "series" meter has not been demonstrated or established whereas the SITRA norms is recognized bench mark fixed by the High Power Committee set up by Government of India and the same cannot be simply overruled without proper authority.

4.15 The Learned CGRF has failed to consider the copies of production statements submitted by the Appellant. Without taking into account the production, upholding the demand is erroneous, unjustifiable and against the law.

4.16 The Learned CGRF failed to see that the assessment of lesser consumption does not correlate with the production of the yarn.

5. Argument of the Respondent furnished in the Counter :

5.1 The industrial L TCT service connection under L T tariff IIIB was effected to M/s. G.J. Spinners, which is located at *SF.No.82/1,* Sendrayanpalayam, D.G.Pudur with a sanctioned load of 112 KW and the SC. No. is 353-007-762. The service was effected on 31.3.2006 in the name of Thiru N.B.Venkatesan.

5.2 As per TANGEDCO procedure the L TCT meters are fixed to the service connections after conducting the necessary tests by MRT wing.

5.3 The monthly meter readings of L T CT Meters are taken by the Assistant Engineer/ Junior Engineer, assessment made and demand issued. In order to ensure proper functioning, the L TCT meters are inspected periodically to the extent possible.

5.4 The MRT wing of Gobi EDC had not inspected the above service connection on 10.2.2014 as stated by the appellant petitioner. The above service connection was inspected by the Assistant Executive Engineer / Enforcement / North / Coimbatore on.05.08.2014 as a matter of routine and found that the consumption in all the three phases were not evenly recorded by the meter. In order to confirm the same, the meter was thoroughly checked by MRT wing of Gobi EDC on the same day by conducting tests and found that phase association of Y Phase and B Phase was found interchanged.

5.5 Based on the representation of appellant dated 12.08.2014 and in order to find out the short fall in recorded consumption, a new L TCT meter was connected in series with the existing meter in the above service connection and consumption was recorded daily from 20.8.2014 to 03.09.2014. The results were analyzed by the MRT wing of Gobi EDC and on detailed scrutiny of the readings it had been confirmed that there was 35% short fall in recording of the consumption by the existing meter.

5.6 In the letter No. 218,dated 15.09.2014 the Assistant Executive Engineer/ East/ Sathy had demanded to pay Rs 24,34,047.00 (Twenty four lakhs thirty four thousand and forty seven) towards shortfall in recording actual consumption to the extent of 35% by the existing meter due wrong phase association. He had not specifically declared that the existing meter as defective.

5.7 The shortfall in recording consumption in the existing meter due to wrong phase association was scientifically proved by the licensee by fixing new healthy meter of high quality, high precision, in series with the existing meter. The SITRA norms method is less accurate and very approximate, data not easily verifiable and hence not acceptable. Therefore the contentions put forth by the appellant could not be considered to arrive the actual consumption.

5.8 After careful consideration of contentions put forth by the Appellant, the Superintending Engineer/ Gobi EDC passed speaking and reasonable orders vide letter no. SE/ Gobi/ AEE/ GL/ ADM1/F GJ Spinners/2015, dated 12.11.2015.

5.9 The CGRF Gobi EDC had passed the order, only after perusing the contentions of petition, parawar remarks of the respondent , document submitted by both the parties and after hearing both sides which was conformity with the law and sustainable.

5.10 The shortfall in recording consumption in the existing meter due to wrong phase, association was scientifically proved by fixing new healthy meter of high quality, high precision, in series with the existing meter which is an established procedure.

5.11 The existing meter was found not defective, but the wrong phase association caused short fall in recording the consumption. Hence meter laboratory test did not arise in this case.

5.12 The licensee had installed correct meter only while effecting service connection. But inadvertently wrong connection (Phase association of Y Phase and B Phase interchanged) was given by the licensee in the meter terminal, which resulted shortfall in suggested consumption and the meter was found not defective.

5.13 The MRT wing had not done periodical inspection since 31.3.2006 and had not found out, the wrong phase association in meter.

5.14 As per the TN ERC supply code regulation 12, in case of error in billing or mistakes in the amount levied, demanded or charged by the licensee, the licensee will have the right to demand an additional amount in the case of undercharging and the consumer will have the right to get refund of the excess amount in the case of overcharging.

5.15 The short fall in recording consumption was detected by the licensee on 5.8.14. As per the TNERC supply code Regulation (12) in case of error in billing or mistakes in the amount levied, 'demanded or charged by the licensee, the licensee will have the right to demand an additional amount in the case of undercharging and the consumer will have the right to get refund of the excess amount in the case of overcharging. In this case the shortfall in registered consumption was detected on 5.8.2014 and short levy assessed for the back period of only two

years. Even though the consumer enjoyed the benefit of undercharging for more than two years, the licensee had demanded the consumer to pay the amount due to only to the back period of two years from the date of detection of undercharging.

5.16 The MRT wing had fixed a new tested and sealed healthy meter of high quality, high precision, in series with the existing meter and scientifically proved by the MRT wing that the existing meter had recorded 35 % lesser units than the units recorded in series meter. Hence SITRA norm was not taken into consideration.

5.17 The copies of production statements submitted by the Appellant have not been taken into consideration since the shortfall in recorded consumption was scientifically proved by the MRT wing.

6. Hearing held by the Electricity Ombudsman:

6.1 To enable the Appellant and the respondents to putforth their arguments In person, hearings were conducted on 22.4.2016.

6.2. Thiru. K. Narasimhan, Advocate represented the Appellant and putforth his side arguments.

6.3 Thiru. R. Shanmugasundaram, Executive Engineer/Sathy Represented the Respondent and putforth his side arguments.

7. Arguments putforth by the Appellant's Representative on the hearing dates:

7.1. Thiru. K. Narasimhan, Advocate reiterated the contents of Appeal Petition.

7.2 The learned Advocate argued that the reading are taken by the Assistant Engineer a technically qualified person. Hence, the consumption recorded has to be taken as correct only.

7.3 The learned Advocate argued that the meter was inspected by MRT wing on 10.2.2014 and no remarks of phase association change was intimated, but now argued that there was change in phase association from the date of effecting service as per MRT report.

7.4 The check meters accuracy was not tested and the test results were not shown to consumer before fixing it. Hence, the consumption recorded in the check meter could not be taken as accurate.

7.5 The wiring of the meter was done by the licensee's officers only. Hence, for the mistake in wiring by the licensee the Appellant can not be penalized. The learned advocate also citing the case of S.A. Ahamed Vs Tamil Nadu Electricity Board (AIR 2001, Madras 117) argued that as per the orders of Hon'be High Court, the TNEB cannot be allowed to take advantage of their own mistake. As the mistake of wrong wiring is on the part of licensee's officers advocate argued that the Appellant cannot be asked to pay a huge sum as short fall.

7.6 The learned advocate also argued that the meter was not tested in a accredited lab to declare it is as defective.

7.7 The learned advocate argued that the connecting a meter in series with the existing meter and considering the consumption recorded in the said meter for arriving the alleged short coming is not an established procedure.

7.8 As per sitra norms the production is tallying with the consumption. Hence, the short fall in recording consumption does not arise.

8. Arguments putforth by the Respondent's representation on the hearing date:

8.1 Thiru. R. Shanmugasundaram, Executive Engineer/Sathy reiterated the contents of the counter.

8.2 The EE argued that a check meter was connected in series with the existing meter and the consumption recorded from 20.8.2014 to 3.9.2014 and found that there was 35% short fall in recording the consumption due to change in phase association. As the short fall was calculated on a scientific way, the consumer has to pay the short fall amount.

8.3 He also argued that the Appellant was requested to pay the short fall amount which was actually consumed in the service but was not recorded due to wrong phase association.

8.4 The EE argued that the meter fixed in series is a tested meter only. He informed that all the meters are tested at manufactures factory and the Assistant Executive Engineer/Assistant Engineers of MRT are deputed to witness the tests, conducted at random samples of the lot.

8.5 The EE also argued that as per regulation 12 of the Supply Code, the license is having right to collect an additional amount in case of undercharging. As there was less collection due to wrong phase association the shortfall claimed is conforming to regulation 12 only.

8.6 The EE argued that the meter is not defective but there was a mistake in the wiring and due to the mistake in wiring only, the wrong phase association occurred and shortfall in consumption.

8.7 He also argued that the check meter was connected in series with the meter to arrive at the percentage of short fall in consumption with the concurrence of the consumer only.

8.8 The EE also cited the orders of Electricity Ombudsman in A.P.No.17 of 2006 and argued that in a similar case, the Electricity Ombudsman has upheld the shortfall claimed by the licensee due to wrong phase association.

9. <u>Written arguments dt. 11.5.2016 of the Respondent:</u>

(i) The TANGEDCO is placing Purchase Orders with many companies for supply of meters for installation in HT/L T SCS. Before dispatch of the meters, the meter testing wing of TANGEDCO in the cadre of Assistant Executive Engineer/Assistant Engineer are being deputed to the company for witness the acceptance and other routine tests of random samples of the lot. The test certificate for the above meter could not be traceable at this stage, as the purchase order was placed during 10/2000.

(ii) On 05.08.2014, at around 20.00hrs to 20.30hrs (30 min duration) the power consumption test was carried out with the available connected load of the consumer and the test results are as follows.

Secure make existing main meter (with wrong phase association)	Genus make meter (with correct phase association)
Power consumption reading taken by CMRI (connected with the meter)	Power consumption reading taken from Genus meter
MF: 40	Initial Readinq: 0.74341
Total units consumed = 0.24972034*40 = 9.988 KWhr	Final Reading: 0.10791 0.36450
	MF:40
	Total units consumed: 0.36450x40 = 14.58 KWhr

For the available connected load, Secure Make existing meter (with wrong phase association) the consumption recorded was 9.988 Units, whereas in the additionally provided Genus Make meter (with correct phase association) the consumption recorded was 14.58 Units. From the above tests, it was established to the consumer that there was some error in the recording of consumption in the existing secure meter.

(iii) In order to establish the healthiness of the meter alone wrong phase association was corrected and power check conducted.

By Meter		Consumer side		
Voltage	Current	Voltage		Current
V1=244.1	A 1 =2.990	V=425.6 V		L1=117
V2=247.8	A2=3.160			L2=122
V3=245.4	A3= 2.878			L3=114
V-: 245.73 V	A-3.009 A			L-117.67 A
√ 3X245.73X3.009X0.87X40 =77.1 KW		√3 X425.6X117.67X0.87 = 75.46 KW		
1000		1000		

Instantaneous Load (L) in the meter

PF: 0.87 L=1.93*40= 77.20 KW

MF CHECK

R Phase: 117/2.99 = 39.13 Y Phase: 122/3.160 = 38.61 B Phase: 114/2.878 = 39.6

The above test was found to be satisfactory and the all tests conducted at the site on 05.08.2014 were done in the presence of the consumer. The consumer has witnessed all the tests and signed in the MRT Register.

(iv) The periodical checking was not done by MRT wing since 31.3.2006.

(v) MD COMPARISION

Secure make existing main meter(with wrong phase association) Final Reading on 03.09.2014: MD recorded as 1.60	Genus make meter (with correct phase association) Final Reading on 03.09.2014: MD recorded as 2.519
The MD recorded in the Secure Make existing main meter (with wrong phase association) is 1. 60x40 = 64 KW	The MD recorded in the Genus Make meter (with correct phase association) is 2.519x40 = 100.76 KW

From the above table the MD recorded is approximately 1/3rd less in the Secure make existing meter (connected with wrong phase association), when compared to the Genus make meter (Connected with correct phase association.

(vi) UNITS COMPARISION

Secure make existinq main meter (with wrong phase association)	Genus make meter (with correct phase association)
Power consumption reading taken Secure meter Initial = 66614.3 Final Reading = 67068.8 454.5 MF = 40 Total units consumed X = 18180 KWhr	Power consumption reading taken from Genus meter Initial = 1.98 Final = 700.34 698.36 MF = 40 Total units consumed X 40 = 27934.4 KWhr

(viii) As provided by CEA regulation (installation and operation of meters) 2006, (19), the MRT wing of the licensee had connected healthy, tested check meter in series with the existing meter with the concurrence of consumer and established the short fall in recorded energy and maximum demand in the existing meter due to wrong phase association.

(ix) The SITRA norms were less accurate and data not easily verifiable where as the above method is more scientific and accurate .Hence the SITRA norms were not acceptable.

10. Findings of the Electricity Ombudsman:

10.1 I have heard the argument of both sides. On a perusal of the arguments, the issues to be a considered are;

(i) Whether, the contention of the Respondent that there was wrong phase association in the meter installed in SC NO.353-007-762 is correct ?

(ii) Whether the prayer of the Appellant to set aside the demand of Rs.24,34,047/- levied on the Appellant as short fall may be accepted ?

11. Findings on the First issue:

11.1 The Appellant argued that as per the procedure followed by the Respondent the LTCT meters are fixed to the service connection only after proper checking and confirming the correct functioning of the meter by MRT wing who are the expert wing dealing with CT meters.

11.2 The readings are regularly taken by the officers not below the rank of Assistant Engineer. Hence, argued how the wrong phase association was not noticed by licensee's officers while taking the monthly reading.

11.3 The Appellant also argued that MRT has inspected the service on 10.2.2014 and the meter was found to be in order.

11.4 The Respondent argued that the Assistant Engineer Enforcement inspected the Appellant's industry on 5.8.2014 and found that the consumption in all the three phase were not evenly recorded by the meter. In order to confirm the same the meter was thoroughly checked by MRT wing of GOBI EDC on the same day by conducting tests and found that the phase association of Y-phase and B-phase was found interchanged.

11.5 The Respondent also informed that on 5.8.2014, at around 20 Hrs to 20.30 Hrs (30 minutes duration) the power consumption test was carried out with the available connected load of the consumer and the test results are :

(i)	Power consumption recorded in secure make existing main meter (with wrong phase association)	} 9.988 kwhr
(ii)	Power consumption recorded in Genus make meter (with correct phase association)	} 14.58 kwhr

From the above tests, it was established that there was some error in recording of the consumption in the existing secure meter.

11.6 The Respondent also informed that in order to establish the healthiness of the meter alone, the wrong phase association was corrected and power check conducted The test results are as below :

Meter

	Voltage		Current		
V1	-	244.1V	A1	-	2.990 amp
V2	-	247.8V	A2	-	3.160 amp
V3	-	245.4V	A3	-	2.878 amp

Power : $\frac{3 \times 245 \times 3.009 \times 0.87 \times 40}{1000} = 77.1$ kw

Consumer side :

Voltage 425.V

Current :

L1	-	117 amp
L2	-	122 amp
L3	-	114 amp
L4	-	117.67 amp

Power : $\frac{\sqrt{3 \times 425.6 \times 117.67 \times 0.87}}{1000}$ = 75.46 kw

Instaneous load (L) in the meter : 1.93 x 40 : 77.20 kw

M.F. Check :

R- phase : $\frac{117}{2.99}$=39.13 Y-phase : $\frac{122}{3.16}$=38.61 B-phase : $\frac{114}{2.878}$ = 39.6

11.7 The Respondent informed that the above test was found to be satisfactory and the test was conducted in the presence of the consumer and the consumer has signed in the MRT Register.

11.8 The Respondent also argued that the MRT wing has not conducted any periodical checking in the meter since 31.3.2006. He has also argued that MRT has not inspected the service on 10.2.2014 as argued by the Appellant.

11.9 As the Respondent has argued that the Assistant Executive Engineer/Enforcement has inspected the service on 5.8.2014, the report of the AEE/Enforcement is extracted below :

"ஆய்வின்போது கண்டறியப்பட்டது :

மேற்குறிப்பிட்ட விலாசத்தில் உள்ளள மின்இணைப்பு எண்.762– வீதப்பட்டி IIIBயை ஆய்வு செய்ய சென்றபோது மின்இணைப்பில் இருந்த மின்சார மீட்டர் இயக்கத்தில் இருந்தது. மின்பளுக்கள் பயன்பாட்டில் இருந்தது. இந்நிலையில் மீட்டரில் ரீடிங் எடுத்து லோடு செக் (load check) செய்யும்போது மீட்டரில் Present kwah 0.01 kw ஆக இருந்தது. அதே சமயம் மின்நுகர்வோர் பகுதி load அனது 68.99 kwatts பயன்படுத்திக் கொண்டு இருப்பது

*கண்டறியப்பட்டது. இந்நிலையில் ஏன் இவ்வாறு மீட்டரில் Present kwatt **0.01** kw. என பதிவாகிறது என்று கண்டுபிடிக்க உதவி செயற்பொறியாளர்/MRT/கோபி அவர்களை குழுவுடன் மின் இணைப்பிற்கு வருமாறு அழைத்து அவரையும் வைத்துக் கொண்டு ஆய்வானது மேற்கொள்ளப்பட்டது. மேற்கண்ட மின்இணைப்பானது MRT ஆல் ஆய்வு செய்ய பட்டது. ஆய்வில் மீட்டரில் RØ CTக்கு அதாவது currentக்கு RØ Potentialம் YØ CTக்கு ஆதாவது currentக்கு BØ Potentialம் அதே சமயம் B CTக்கு அதாவது correntக்கு YØ Potential எனவும் Phase association மாறி இருப்பது கண்டு பிடிக்கப்பட்டது. இதனால் மின் நுகர்வோர் பயன்படுத்தும் மின்பளுவிற்கு உண்டான பதிவாகும் மின் யூனிட்டுகள் அந்த மின்பளுவிற்கு ஏற்ற முழுமையான மின் யூனிட்டுகளாக பதிவாகமல் குறைவாக மீட்டர் பதிவு செய்வது கண்டு பிடிக்கப்பட்டது, இவை அனைத்தையும் உதவி செயற்பொறியாளர்/MRT/ கோபி அவர்கள் ஆய்வு செய்து உறுதி செய்தார்.*

*மின்இணைப்பிற்கு வந்த உடன் செய்த Load check / meter side = **0.01** x MF **40** = **0.4** kwatt.*

*consumer side = **3** x **227** x **149** x **0.68** = **68.99** kwatts ஆக இருந்தது. ”*

11.10 On a careful reading of the report of the AEE/Enforcement, it is noted that while checking the service, it was observed that the meter has recorded load of (0.01kw x40) 0.4kw whereas the load of the consumer side was 68.99 kw. In order to find out the reason for such difference in recording, the MRT wing and AEE/Enforcement have checked the meter and found that the phase association was changed in Y& B phase (ie) for Y phase current, B phase potential and for B phase current, Y phase potential was connected. Due to this, the consumption recorded in the meter is less than the actual consumption of the service.

11.11 From the above remarks, it is noted that while inspecting the service by AEE/Enforcement on 5.8.14, for the consumer side load of 68.99 kw only 0.4 kw was shown as load in the meter. On inspection by AEE/MRT in the presence of AEE/Enforcement, the cause for such low recording in the meter is due to phase association change in Y & B phase. In this report, Thiru. Baburaj has signed on behalf of the consumer, AEE/MRT, AEE/Enforcement & AEE/O&M/Sathy have also signed. As per the above report the phase association change was confirmed by AEE/MRT of GOBI EDC.

11.12 As the Respondent has argued that the MRT wing of the GOBI EDC has inspected the service and conducted tests to establish there was wrong phase association in the said service, the Report dt. 7.11.2014 of the MRT is extracted below :

"On 05.08.2014 the AEE/Flying squad I North Coimbatore intimated that during their inspection of LTCT SC NO: 762 [353-007-762] III B M/s G.J Spinners, D.G Pudur informed that Energy recording loss was suspected in Meter. Accordingly power Check test was conducted by MRT/Gobi and found that the Phase Association of Y Ø & B Ø was interchanged in Meter terminal. The phase Association connections were made correctly by MRT / Gobi in the Meter Terminal and Power check was conducted and found correct."

Sd/xxx xx x
Asst.Exe. Engineer,
Meter Relay Test/Gobi Elecy Distn Circle/Gobi

11.13 On a careful reading of the MRT report dt.7.11.2014, it is noted that MRT has conducted power check and found that the phase association of Y Ø & B Ø was interchanged in Meter terminal.

11.14 It is also reported by the Respondent that on 5.8.2014 the power consumption test was conducted with the available load of the consumer from 20.00 hrs to 20.30 hrs and the test results are as below :

(a)	Power consumption recorded in Secure Make existing meter with wrong phase association	9.988 kwhr
(b)	Power consumption recorded in Genus Make meter additionally provided with correct phase association	14.58 kwhr

11.15 It could be ascertained from the above, that the existing secure make meter with wrong phase association has recorded less consumption than the Genus make meter with correct phase association. (ie) the consumption recorded in Secure meter is only 68.5% of the Genus make meter.

11.16 It is also noted that MRT has conducted power check on the Secure make meter after correcting the phase association and found the load recorded is (1.93x40) 77.2 kw. The load as per calculation works out to $\frac{3 \times 245.73 \times 3.009 \times 087 \times 40}{1000}$ 77.1 kw.

The consumer side load is 75.46 kw. The MRT has recorded the meter function as satisfactory.

11.17 The MRT who are the special wing of the licensee and are expert in testing the meter have reported that they have conducted power check and found the phase association of Y phase & B phase have been interchanged. In view of the reasons discussed in para 11.13 to 11.16 and as MRT wing has confirmed the phase association change, I am of the view that the Y phase & B phase association has been interchanged in meter terminal.

12. <u>Findings on the Second issue</u>:

12.1 The Appellant argued that if there is any alleged defects in the meter, the same should be tested in the testing laboratory equipped with scientific apparatus. Instead of testing the meter in the approved laboratory, the respondent have connected meter in series with the existing meter and the readings recorded in the meter taken for arriving the short fall. The above is not an established procedure and not approved by competent authority.

12.2 The learned Advocate also argued that whether the meter connected in series to existing meter is tested and is with in the prescribed accuracy limit was not established by the Respondent. They have only stated that the new high quality, high precision and tested and sealed in presence of the Respondent. The above is not sufficient to establish the meter connected in series is as per norms.

12.3 The learned advocate also cited subsection (1) of section 55 of the Electricity Act 2003 and argued that it is the duty of the Respondent to install a correct meter in his service.

12.4 The learned advocate also citing regulation 7(8) of the Supply Code and argued that at periodical intervals the meter shall be recalibrated and standardized by means of standard equipments by the licensee. He also argued that the MRT wing has periodically inspected the meter and no fault has been found by the MRT wing.

12.5 The learned advocate argued that installing a meter with wrong wire connection and also failed to find any default in the functioning of the meter in their periodical

inspection are the mistakes of the Respondents. Now the Respondent is shifting their failure on the Appellant and are demanding a high sum. The mistake was done by the Respondent and hence for the mistakes committed by the Respondents, the consumer shall not suffer.

12.6 The learned advocate also argued that the regulation 12 of the Supply Code is not applicable to this case as there was no error in billing or mistake in the amount levied by the Respondent. The amount has been levied according to the consumption recorded by the meter fixed by the Respondent. The wrong wiring was not established by the Respondent.

12.7 The Appellant also argued that in the case of S.A. Ahamed Vs TNEB (AIR 2001, Madras 117) the Hon'ble Court of Madras has held that the Electricity Board cannot be allowed to take advantage of their own mistake citing the above, the appellant argued , if at all the wiring done is wrong, it was done by the Respondent and therefore, for the mistake of the licensee's employees in wiring the consumer could not be asked to pay a huge sum as shortfall.

12.8 The Appellant also argued that as per Sitra norms, the consumption recorded is tallying with the production. He argued that production is 220054 kgs of yarn from June 2012 to June 2014. Adopting Sitra norms, the consumption works out to 792194 units which is more or less equal to the consumption of 782744 units recorded in the meter. Hence, argued that the consumption recorded and paid are correct only.

12.9 The Respondent has furnished the following arguments in support levying the shortfall amount.

i. The licensee has installed only correct meter while effecting the service connection. But, inadvertently wrong connection (phase association of y phase and B phase interchanged) was given by the licensee in the meter terminal which has resulted in shortfall in consumption.

ii. The existing meter was not defective, but the wrong phase association caused the shortfall in recording the consumption. Hence, no laboratory test is needed in the case.

iii. The shortfall in recording consumption in the existing meter due to wrong phase association was scientifically proved by fixing a new healthy meter of high quality high precision in series with the existing meter which is an established procedure. Based on the representation of Appellant dt. 12.8.2014, and in order to find out the shortfall in recoded consumption a new LTCT meter was connected in series with the existing meter in the above service from 20.8.2014 to 03.09.2014. The readings were noted down. The result were analysed by MRT wing of Gobi EDC and an detailed scrutiny of the readings, it had been scientifically proved that there was a shortfall of 35% in recording the consumption by the existing meter.

iv. The MRT wing had not done periodical inspection since 31.3.2006 and hence could not found out the wrong phase association in the meter.

v. The shortfall in recording consumption was detected by the licensee on 5.8.2014 As per Regulation 12 of the TNERC Supply Code in case of error in billing or mistakes in the amount levied, the licensee will have the right to demand an additional amount in the case of under charging and the consumer will have the right to get refund of the excess amount in case of overcharging. In this case, the shortfall in consumption was detected on 5.8.2014 and the short levy was assessed only for a back period to 2 years, even though the consumer has enjoyed the benefit of undercharging for more-than 2 years.

12.10 The Respondent also argued that the existing meter had recorded 35% lesser units than the units recorded by a newly connected series meter. The above test by MRT wing is based on data evidence and has more accurate scientific value. The Sitra norms is less accurate and very approximate data not easily verifiable. Hence, the Respondent argued that Sitra norms need not be considered.

12.11 The Respondent also argued that as provided by CEA Regulation (installation and operation of meters) 2006 (19), the MRT wing of the licensee had connected a healthy, tested check meter in service with the existing meter with the concurrence of the consumer and established the short fall in recorded energy and maximum demand in the existing meter due to wrong phase association.

12.12 It is argued by the Respondent that the Genus make meter connected in series was a tested meter only. All the meter, ordered are tested in the manufacturers factory and the licensees officers are witnessing the acceptance and routine tests conducted for a random samples of each lot. As the meter was ordered during 2010, they are unable to trace the test report. It is noted that power check has been conducted in the genus make meter by the MRT wing of the licensee and the meter is found to be ok. Hence, I am unable to consider the argument of the Appellant that the Genus make meter connected in Series with the existing meter is not tested. Further, it is to be noted here that the same Genus make meter is in service from 19.8.2014 onwards.

12.13 As the Respondent has cited regulation 12 of the Supply Code and argued that the licensee has right to claim an additional amount in case of error in billing or mistakes in the amount levied the regulation12 of the Supply Code is extracted below:-

"12. Errors in billing
(1) In the event of any clerical errors or mistakes in the amount levied, demanded or charged by the Licensee, the Licensee will have the right to demand an additional amount in case of undercharging and the consumer will have the right to get refund of the excess amount in the case of overcharging.
Where it is found that the consumer has been over-charged, the excess amount paid by such consumer shall be refunded along with interest at the rate applicable for security deposit. The interest shall be computed from the date on which the excess amount was paid. Such excess amount with interest may be paid by cheque in the month subsequent to the detection of excess recovery or may be adjusted in the future current consumption bills upto two assessments at the option of the consumer. The sum which remains to be recovered after two assessments may be paid by cheque. Interest shall be upto the date of last payment.
(3) Wherever the Licensees receive complaints from consumers that there is error in billing, etc. the Licensee shall resolve such disputes regarding quantum of commercial transaction involved within the due date for payment, provided the complaint is lodged three days prior to the due date for payment. Such of those complaints received during the last three days period shall be resolved before the next billing along with refunds / adjustments if any. However, the consumer shall not, on the plea of incorrectness of the charges, withhold any portion of the charges."

12.14 On a careful reading of Regulation 12(1) of the Supply Code, it is noted that in the event of any clerical error or mistake, in the amount levied demanded or charged by the licensee, the licensee is having right to claim an additional amount in case of under charging and the consumer is having right to claim the excess amount if they are overcharged.

12.15 In the case on hand, due to mistake in the wiring of meter, the phase association of Y phase and B phase has been interchanged and there was reduction in recording the consumption. Hence, the billed amount is lesser than the amount ought to have been levied. As there was undercharging, I am of the view, the licensee is having right to levy the amount which was left over due to wrong phase association.

12.16 The Appellant argued that the wrong phase association has occurred in the said service due to the wrong wiring done by the licensee officers. The Appellant was not at all responsible for the wrong phase association of the meter. As it is a mistake of the licensee, the Appellant argued that the consumer shall not be made to suffer. He has also cited the case of S.A. Ahamed vs TNEB (reported in AIR 2001, Madras 117) and argued that the High Court has observed as below:

"The mistake here is arising not an account of any act on the part of the consumer. The Board cannot be allowed to take advantage of their own mistake".

12.17 The above case relates to adoption of wrong tariff for a service connection and revising the tariff for a back period of 9 years. Notice for disconnection of service was given for the other service in the same premises also. The para 14 of the said order is extracted below :

"14. The Board on the ground that they have committed a mistake has called upon the plaintiffs to pay certain amounts, revising the charges payable by the plaintiffs from 1971 onwards when the service connection was granted. The notice was issued in 1979. In such circumstances, I am of the view that the suit for declaration is maintainable, since the plaintiff cannot make a demand for payment of the sum, which is on the face

of it barred by limitation. To hold otherwise would not be an equitable thing. Here, admittedly, there is no mistake with reference to the other service connection viz., No. 2651. The mistake is said to have been committed with reference to service connection No. 3381. But, the notice is given, threatening disconnection of both the service connections. They are a party to the contract. A party to the contract cannot on the basis of a mistake committed by him force the other party to perform the contract, as he likes. Principles of natural justice require that the Board after inspection given a copy of the report to the plaintiffs, calling upon them to show cause why the charges cannot be revised and then proceeded to do so. The mistake here is arising not on account of any act on the part of the consumer. The Board cannot be allowed to take advantage of their own mistakes. Therefore, I am of the view that the judgment and decree of the lower Court is liable to be set aside, restoring that of the trial Court."

12.18 The present case is levy of shortfall amount for the units which were not recorded due to wrong phase association for a back period of 2 years only though the wrong phase associations was there in the service from the date of effecting of service. Hence, I am of the view that the facts of the case on hand and the case law referred are different and the above judgment is not applicable to this case.

12.19 The next argument put by the Appellant is there is no provision to connect a meter in series with the existing meter and levy charges based on the percentage difference in recording of the meter, is not an accepted procedure.

12.20 As the Respondent has cited Regulation 19 of the CEA\ (installation and_ operation of meters) Regulations 2006 in support of his argument for connecting a meter in series with the existing meter to assess the shortfall the regulation 19 of the CEA (installation and operation of meters) is extracted below :

"19. Additional meters. -
In addition to any meter which may be placed for recording the electricity consumed by the consumer, the licensee may connect additional meters, maximum demand indicator or other apparatus as he may think fit for the purposes of ascertaining or regulating either the quantity of electricity supplied to the consumer, or the number of hours during which the supply is given, or the rate per unit of time at which energy is supplied to the consumer, or any other quantity or time connected with the supply to consumer:

Provided that the meter, indicator or apparatus shall not, in the absence of an agreement to the contrary, be placed otherwise than between the distributing mains of the licensee and any meter:

Provided further that, where the charges for the supply of energy depend wholly or partly upon the reading or indication of any such meter, indicator or apparatus as aforesaid, the licensee shall, in the absence of an agreement to the contrary, keep the meter, indicator or apparatus correct. "

12.21 On a careful reading of the above regulation, it is noted that the licensee may connect additional meter, for the purpose of ascertaining or regulating either the quantity of Electricity supplied to the consumer or the number of hours during which the supply is given or the rate per unit of time at which energy is supplied to the consumer or any other quantity or time connected with the supply to consume.

12.22 As there is a provision for installing additional meter to ascertaining the quantity of electricity supplied, the meter with correct phase association connected in series with the existing meter which is having wrong phase association to ascertain the correct quantity of electricity supplied and thereby to conclude the unrecorded energy is agreeable to me.

12.23 The Respondent argued that the meter is not defective only due to wrong phase association, the meter has recorded about 35% less than the actual consumption.

12.24 In order to confirm whether the meter has to be considered as defective when it has recorded less than the actual consumption due to wrong phase association, I have to refer the definition given for the meter in CEA(installation and operation of meter) Regulations 2006. The said regulation 2(b) is extracted below :-

" 2. Definitions. -

xxx xxx xxx xxx
xxxx xxxx xxxx

(p) '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 Capacitor Voltage Transformer (CVT) necessary for such purpose;"

12.25 On a careful reading of the above definition, it is noted that meter means the meter and the other equipment such a current transformer, voltage transformer, or capacitor voltage transformer that connected in the circuit so as to measure the consumption of electricity.

12.26 In this case, the meter and other equipments such as current transformer connected to the circuit are said to be alright only but in the wiring done by the licensee, the phase association of Y phase and B phase has been interchanged.

12.27 As the meter and the current transformer connected are said to be in good condition, I am of the view that this is not a case of meter defect. This is a peculiar case and the shortfall in recording is only due to the wrong phase association. In order to find the shortfall in the consumption, the licensee has installed a new meter with correct phase association and kept the existing meter under wrong phase association and have recorded the reading for both the meter from 20.8.2014 to 3.9.2014 which are given below :-

Date	Secure make (with wrong phase association)	Genus (with correct phas association)	Deficit in %
20.8.2014	1248	1896.4	34.19
21.8.2014	1200	1870.4	35.84
22.8.2014	948	1466	35.34
23.8.2014	1052	1612.4	34.76
25.8.2014	2380	3623.2	34.31
26.8.2014	1380	2097.6	34.21

27.8.2014	1416	2154	34.26
29.8.2014	2368	3568	33.63
30.8.2014	1608	2503.6	35.77
1.9.2014	2492	3902.8	36.15
2.9.2014	1220	1921.6	36.51
3.9.2014	852	1301.2	34.52

12.28 It is also reported that the MD recorded when both the meter are in service are as below:-

Secure - 1.6 x 40 = 64 kw

Genus make - 2.519 x 40 = 100 kw

12.29 It is noted that the meter with wrong phase association (secure make) has recorded 33.63% to 36.51% less than the consumption recorded by the meter with correct phase association.

12.30 As the Respondent has also stated that the Appellant has agreed for fixing a series meter with the existing meter to arrive at the shortfall recorded, citing the minutes dt. 19.8.2014. The minutes signed by licensees officials (TA/MRT,AE/MRT, AE/O&M/ D.G.Pudur/ AEE/ MRT/ AEE/O&M/ Sathy/ EE/ O&M/ Sathy & EE / Gen / MRT) and the consumer on 19.8.2014 is extracted below :

" LTCT No.353-007-762/IIIB of D.G. Pudur Section :

As per the instructions of SE/GEDC/Gobi the above LC"T SC No.353-007-762 / IIIB (M/s G.J. Spinners) has been fixed with one number LTCT meter in addition in the existing meter in series in order to arrive the recording and difference in % age of recording so as to arrive the short levy for making assessment.

Initially the existing meter make secure and the seals already provided in the compartment box were checked and found intact. Then a power check was carried out in that meter and the readings recorded in the register.

Now another meter make Genus has been connected in series with the existing Secure make meter. Respective initials readings were taken in both the meters Power

check has been conducted on both the meters and results recorded in the register. The power check reveals that both the meters are recording more or less the same.

It has been decided to run the industry for half an hour to find out the recorded consumption in both the meters. Therefore, again initial readings were taken in both the meters and the load was given for another half an hour. At the end of half an hour final readings were taken on both the meters. The found out consumption reveals the recorded consumption is more or less the same.

In order to find out the short levy and the short fall in recorded consumption the connections in the existing Secure Meter were changed to previous status (ie) changing of phase association in "Y" and "B" phases alone leaving "R" phase association as it is At the same time the connections for the newly provided Genus Meter is given correctly for the recorded phase associations of each phase of each phase but in series with the Secure Make Meter.

A Power check for the above provisions has been conducted for both the meters the readings were recorded in the register. This will be kept for a period of at least 10 to 15 days for ascertaining the short fall units. Every day at a particular time the recordings on each meter will be taken by the AE/O&M/DG Pudur and proper recording will be done and dated signature will be obtained from the consumer on each day.

This arrangements and the above activities were carried out in the presence of the consumer also with his concurrence. The results arrived will be taken for calculating the short levy and making assessment.

		Existing Meter	*Now provided check meter*
Make	*:*	*Secure*	*Genus*
Sl.No.	*:*	*TEB 07520*	*3737140*
PT Ratio	*:*	*3x240V*	*3x240V*
CT Ratio	*:*	*-/5A*	*-/5A*
Class	*:*	*0.5*	*0.5*
I_b	*:*	*5A*	*5A*
Imp	*:*	*8000/Unit*	*12000/Unit*
PO No	*:*	*2786/2000 dt 23.10.00*	*157/D674/13 dt.23.8.13*

Sd/xx xx xx 19.8.14
TA/MRT/Gobi

Sd xxx 19.8.14
AE/MRT/Gobi

Sd/xxx 19.8.14
AE/O&M/DGPudur

Sd/xxx xxx xx
Assistant Executive Engineer,
Meter & Reply Testing
Gobi Elecy. Distn. Circle
Gobi.

Sd/xxx 19.8.14
AEE/MRT/Gobi

Sd/xxx 19.8.14
AEE/O&M/E/Sathy

Sd/xxx 19.8.14
Consumer

Sd/xxx 19.8.14
EE/O&M/Sathy i/c

Sd/xxx 19.8.14
EE/Gl/MRT/Gobi "

12.31 On a careful reading of the minutes 19.8.2014 it is noted that power check has been conducted on both the meter It is also noted that the industry was run for half an

hour with both the meters connected in series with correct phase association and the MRT found that the consumption recorded in both the meters are more or less the same.

12.32 It is noted that it was decided to run the industry for about 10 to 15 days with the existing secure make meter with wrong phase association and with the Genus make in correct phase association.

12.33 As per the last para of the minutes, the above arrangement and the activities have been carried out in the presence of the consumer and with his concurrence. It has also been recorded that the result, will be taken for arriving the short levy. It is noted that the above minutes was signed by the consumer (i.e. Appellant himself). Hence, it is construed the consumer (Appellant) has given concurrence for the above method of assessment for arriving the short levy.

12.34 As per the consumption recorded in the Genus make meter, with correct phase association, it is established that the meter with wrong phase association has recorded only 65.08 of the consumption in the meter. As the consumer has been charged for lesser consumption based on the meter recording with wrong phase association, I am of the view that the shortfall claimed by the licensee is only for the consumption that was not recorded due to wrong phase association.

12.35 In this regard, the order dt.27.11.2006 in O.P.No.17 of 2006, inrespect of the appeal petition filed by M/s Gautam industries Dingidul, the Electricity Ombudsman has upheld the levy of short fall due to wrong phase association based on percentage error. It is also to be noted that as per CEA Regulation 19 detailed in para 12.20 additional meters could be connected to ascertain the electricity supplied to the

consumer. As the shortfall claimed is based on the percentage error noted between the additional meter connected with correct phase association with the existing meter having wrong phase association based on 15 days reading. I am of the view that the shortfall claimed is based on a data evidence and is reasonable for acceptance.

12.36 As the licensee has established that there was shortfall in recording the consumption in the disputed period due to wrong phase association in the existing meter by connecting a meter with correct phase association in series with the existing meter, I am unable to accept the argument of the Appellant that as per SITRA Norms, the consumption recorded is proportionate with the production.

12.37 Summarising, the shortfall claimed is confirmed due to the following ;

(i) As per my findings on the first issue, the phase association of Y&B phase has been interchanged.

(ii) Due to interchange of phase association, there was short fall in consumption which was established by providing an additional meter with correct phase association in series with the existing meter with wrong phase association. Therefore, the Appellant has paid CC charges for lesser units than the units actually consumed in the service connection.

(iii) The short fall arrived is based on data evidence..

(iv) The method of arriving short fall by connecting a meter in series was adopted with the concurrence of the Appellant only.

13. Conclusion:

13.1 In view of my findings for the first issue and second issue, I am unable to interfere with the orders of the CGRF.

13.2 With the above findings, the AP 10 of 2016 is finally disposed of by the Electricity Ombudsman. No Costs.

(A. Dharmaraj)
Electricity Ombudsman

To
1) M/s G.J. Spinners,
SF No.82/1, Sendrayanpalayam,
D.G. Pudur,
Gobichettipalayam.

2) The Superintending Engineer,
GOBI Electricity Distribution Circle,
TANGEDCO (Formerly TNEB)
132, Cutchery Street,
Gobichettipalayam 638 542.

3) The Chairman,
(Superintending Engineer),
Consumer Grievance Redressal Forum,
GOBI Electricity Distribution Circle,
TANGEDCO (Formerly TNEB)
132, Cutchery Street,
Gobichettipalayam 638 542.

4) The Chairman & Managing Director,
TANGEDCO,
NPKRR Maaligai,
144, Anna Salai, Chennai -600 002.

5) The Secretary,
Tamil Nadu Electricity Regulatory Commission,
19-A, Rukmini Lakshmipathy Salai,
Egmore, Chennai – 600 008.

6) The Assistant Director (Computer) – **For Hosting in the TNEO Website.**
Tamil Nadu Electricity Regulatory Commission,
19-A, Rukmini Lakshmipathy Salai,
Egmore, Chennai – 600 008.