



TAMIL NADU ELECTRICITY OMBUDSMAN

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BEFORE THE TAMIL NADU ELECTRICITY OMBUDSMAN, CHENNAI

Present: Thiru. A. Dharmaraj, Electricity Ombudsman

Appeal Petition No. 39 of 2016

Thiru. P. Palanisamy,
M/s Point Textile Process,
Door No.135/1 B,
Pachaiamman Thottam,
Kasipalayam, Tiruppur 641 006.

..... Appellant
(Rep by Thiru. K. Vigneshkarthik, Advocate)

Vs

The Executive Engineer/O&M,
Tiruppur,
Tiruppur Electricity Distribution Circle,
TANGEDCO (Formerly TNEB)
E.B. office campus, Kumar Nagar,
Avinashi Road, Tiruppur - 641 603.

. Respondent
(Rep by Thiru. G. Sivasamy, EE/O&MITiruppur)

Date of hearing: 22.7.2016,

Date of Order : 22.9.2016

The Petition dt. 27.4.2016 filed by Thiru. P. Palanisamy, M/s Point Textile Process, Pachaiamman Thottam, Kasipalaym, was registered as Appeal Petition No.39 of 2016. The above appeal petition came up before the Electricity Ombudsman for hearing on 22.7.2016. 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 revise the order dt.29.2.2016 passed by Consumer Grievance Redressal Forum, Tiruppur in CGRF Petition No.007/2015-16 and pass such other or orders deem fit and proper and render justice.

2. Brief history of the Case:

2.1 The Appellant availed a LT CT service for a sanctioned load of 112 kw for its textile process. The service connection number is LT CT SC 454. The said service was converted into a HT service with a sanctioned load of 200 KVA on 17.9.2004. The HT SC No. is 83.

2.2 The Respondent claimed a short fall amount of Rs.17,59,358/- stating that the Appellant has exceeded the sanctioned demand during 5/2004 to 17.9.2004 in the said LTCT service connection based on audit slip.

2.3 The Appellant filed a writ petition in the High Court vide W.P.No.24018 of 2015. While adjudicating the above issue, the Hon'ble High Court has passed an interim order to restore the service connection on payment of Rs.5,00,000/- by the Appellant. The Appellant has duly paid the said amount and restored the connection.

2.4 The Hon'ble High Court has also directed the Appellant to file a petition before the CGRF. Accordingly, the Appellant filed a petition before the CGRF of Tiruppur EDC on 17.12.2015 and the forum has passed its order on 17.3.2016.

2.5 The copy of the order was received by the Appellant only on 28.3.2016. Aggrieved over the above order, the Appellant filed the appeal petition before the Electricity Ombudsman.

3. Orders of the CGRF.

3.1 The CGRF of Tiruppur EDC has issued its order on 7.3.2016. The relevant para of the order is extracted below:

" Order of the forum:

On hearing the petitioner statement and the licensee's statement and also from the records produced by the licensee in the forum, the arrears claimed towards excess demand as per the TNERC Supply Code Regulation 5(2) , which states that for the first occurrence 1.5 % for every KW (or) part thereof over and above 112 KW and thereafter and Subsequent occurrences at the rate of 3% for every KW or part there of over and above 112 KW is found in order. Therefore the forum decides that the penalty claimed by the licensee is in order and hence the petitioner is bound to pay the Audit arrear amount of Rs 17,59,358/- claimed by the licensee . On receipt of this order, the licensee shall issue a demand notice to the petitioner after deducting the amount already paid and the petitioner should pay the above amount within 30 days from the receipt of the demand notice issued by licensee. "

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

- 4.1 The LTSC No.454, II B, Nallur Distribution section given to their textile process with a sanctioned demand of 112 kw. The L TCT SC was converted into HTSC for a demand of 200 KVA on 17.9.2004.
- 4.2. The Respondent demanded to pay a sum of Rs.36,878/- towards the excess demand charges for the period from 5/2004 to 9/2004 pertaining to the said LTCT SC 454. Though the Appellant denied the exceeded demand so as to avoid problems in future he paid demanded amount of Rs.36,878/- on 25.5.2005 for which a receipt bearing number 886505 was also issued. It is pertinent to state here that in the receipt issued to him, initially the reason for payment was stated as KW MD reading penalty amount. Being so, after lapse of some days the respondent obtained the receipt from him and tampered the same by changing the reason for the payment as advance CC charges amount and there is no proper explanation given by the Respondent in this regard.
- 4.3. To his utter shock and surprise the respondent made an exemplary demand of Rs.17,59,358/- on 25.8.2005 alleging that as per the audit statements there was a exceeding demand in the aforesaid LTCT for a period from 5/2004 to 17.9.2004 which is totally false and such demand was made for the reason best known to the respondent.

- 4.4. Hence, aggrieved by such a colourable exercise of power vested with the respondent herein, the electricity connection was disconnected as such he had challenged the proceedings of the respondent dated 17.7.2015 before the Hon'ble High Court at Madras in W.P.No.24018 of 2015. While adjudicating the issue there was an conditional interim order passed to restore the electricity connection directing him to deposit a sum of RS.5,00,000/- which was duly complied and the connection was also restored.
- 4.5 Further while disposing of the said writ petition the Hon'ble High Court considering the submission made by the standing counsel representing the respondent and other TNEB authority, directed him to approach the CGRF in view of section 18 of TN ElecY Supply Code, 2004. As per the order of the Hon'ble High Court at Madras, he had filed the complaint before the said CGRF, Tiruppur in CGRF petition No..007/2015-16 dated 17.12.2005.
- 4.6 On deciding the issue the CGRF without appreciating the real facts and background and without evaluating his contention with regard to the tamper of the receipt and merely confining on the audit report which was prepared after a year time from the alleged months, confirmed the demand made by the respondent and directed him to pay a sum of Rs.17,59,538/-
- 4.7 It is apposite to state here that the forum below not even considered the fact that the demand made by the respondent is invalid and it was not in accordance with the section 5(2)(ii)(c)(II) of TNE Supply Code, 2004. Even the audit report also does not follow the provisions of the said Supply Code, 2004 which is unsustainable and not maintainable at the sight of law.

- 4.8. The order of the forum below is non speaking and against the provision laid under Tamil Nadu Electricity Act and the rules as well against the Supply Code.
- 4.9 The forum below ought to have considered the fact that it was clear face on record that the receipt bearing number 886505 was tampered by the Respondent.
- 4.10 The forum below ought to have considered the fact if at all there is a real exceeding demand the authority might not have issued no due certificate.
- 4.11 The findings of the forum below with regard to arriving of amount under section 5(2) itself would prove that there is no proper application of mind in deciding the dispute. It is needless to point it out that it was clearly set out in the said provision that for the first two occurrence 1 % per KW alone can be fixed. Such wrongly calculated order has no legal entity.

5. **Argument of the Respondent furnished in the Counter:**

- 5.1 The service No:454 ,Tariff III B ,Nallur distribution of Nallur section has been given to Thiru P.Palanisamy owner of the M/s. Point Textile process at S.F. No : 134/IB, Pachaimman thottam ,Kasipalayam,Nallur village with a sanctioned demand of 112 kw . The same LT service was converted in to HT service for a demand of 200 KVA on 17.09.2004. HT SC No:83 Tirupur Electricity Distribution Circle (Old no:277/Coimbatore south EDC).
- 5.2 From the month of 5/04 the petitioner consumed the electricity over and above the sanctioned demand of 112 kw. The consumer was informed vide White meter card entry as recorded MD as 3.91 with out Multiplication Factor against the sanctioned MD of 2.8 with out Multiplication Factor. From the above it is clear that the consumer agreed utilized the excess over MD . Subsequently the consumer utilized excess over the sanctioned demand till the petitioner getting New HT Service connection. From the above the consumer was aware of the excess demand used by him and also intend switch over to HT Service.

5.3 After effecting the HT SC ,While scrutinizing the consumption data for closing of sc no.454 accounts, it was observed that there is an arrears for excess over MD based on that Vide AE/Nallur/File.4541D No:05/dt05/2005 levied on excess demand charges of Rs 36,878/-demand as detailed below on.

Month	reading Kw MD	Total load	Sanctioned load	Excess demand	Penalty Amount
5/04	3.91 *40	156.4 KW	112 KW	44.4	
	CC47864 Units	224435*1.5			3367/-
6/04	3.91 *40	156.4 KW	112 KW	44.4	
	CC:56188 Units	263558* 1.5%			7907/-
7/04	4.24*40	169.6 KW	112 KW	57.6	
	CC:67860 Units	316067*3%			9482/-
8/04	4.18*40	167.2 KW	112 KW	55.2	
	CC:74052 Units	347519*3%			10426/-
9/04	4.10*40	164 KW	112 KW	52.0	
	CC40512 Units	189881*3%			5696/-
TOTAL					36878/-

5.4 According his own statement of the petitioner, the consumer agreed the above arrears and paid the arrears .Subsequently the Board Audit auditing the closed LTCT sc no.454 accounts and assessed an amount of Rs.17,59,358 / - as revised excess demand charge penalty for the period of Excess over demand as mentioned in AE/Nallur/File.454/D.No:05/2005 dt05/05 and which was accepted by the petitioner. The amount of Rs.17 ,59,358/- was levied as TNERC Regulation 5(2) of Supply Code. The demand notice for the amount of Rs.17,59,358/ - was issued by the AE/Nallur /File/ D.No.72, dt:25.08.15 as detailed below:

Month	Kw MD reading	Total load	Sanctioned load	Excess demand	Penalty Amount
5/04	3.91 *40	156.4 KW	112 KW	44.4	
	CC:47864 Units	224435		45*1.5 %	151494/-
6/04	3.91 *40	156.4 KW	112 KW	44.4	
	CC:56188 Units	263558		45*1.5%	177902/-
7/04	4.24*40	169.6 KW	112 KW	57.6	
	CC:67860 Units	316067		58*3%	549957/-
8/04	4.18*40	167.2 KW	112 KW	55.2	
	CC:74052 Units	347519		56*3%	583831/-
9/04	4.10*40	164 KW	112 KW	52.0	
	CC:40512 Units	189881		52*3%	296214/-
TOTAL					17,59,398/-

- 5.5 The distribution licensee TANGEOCO has not tampered of any records related to the petitioner. The TANGEOCO deny the false statement of petitioner.
- 5.6 Further it is submitted that the security deposit available in the closed SC No.454 could not be adjusted (or) refunded, since pending disposal of W P NO:27899/05.
- 5.7 The Hon'ble CGRF/Tirupur (CGRF Petition No.007/15-16 Dt.17.12.2015) has come to a reasonable conclusion from the petitioner statement and licensee's statement and also from the records produced by the licensee in the forum, the arrears claimed towards excess demand as per the TNERC Regulation 5(2) of supply code, which states that for the first occurrence 1.5% for every kilowatt (or) part thereof over and above 112kw and thereafter and subsequent occurrence at the rate of 3% for every kilowatt (or) part thereof over and above 112kw is found in order. Therefore the forum decides that the penalty claimed by the Licensee is in order.

6. Hearing held by the Electricity Ombudsman:

- 6.1 To enable the Appellant and the respondents to putforth their arguments in person, a hearings was conducted on 22.7.2016.
- 6.2 Thiru. K. Vignesh Karthick, Advocate attended the hearing on behalf of the Appellant and putforth his arguments.
- 6.3 Thiru. G. Sivasamy, EE/O&M/Tiruppur the Respondent herein has attended the hearing and putforth his side arguments.

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

- 7.1. Thiru. K. Vignesh Karthick, Advocate presented the case on behalf of the Appellant.
- 7.2 The learned Advocate reiterated the contents of the Appeal petition.
- 7.3 The learned Advocate argued that they have not been informed about the exceeding of the sanctioned demand charges in the respective month. Had the exceeding of demand has been informed in the first month itself. They would have taken corrective measure to limit the load. Because of non information of the facts they were on the assumption that they are utilizing the load within sanctioned limit only.
- 7.4 The penalty amount levied is very high when compared to their consumption. Levy of penalty amount after one year from the date of exceeding the limit is not justifiable.
- 7.5 Levying of penalty amount for exceeding the demand in the respective month is the responsibility of the licensee. For the failure of the licensee the consumer shall not be penalized.
- 7.6 The learned Advocate also argued that they have been given no dues certificate while availing the HT service. But, subsequently raised some charges. After giving no dues certificate while effecting HT service and then claiming some arrears is not justifiable.

7.7. He also argued for exceeding the load in the same period excess demand charges was collected and then the receipt was corrected and tampered as advance CC charges.

8. **Arguments putforth by the Representative of the Respondent.**

8.1 Thiru. Sivasamy, EE/Tiruppur, the Respondent herein has attended the hearing and putforth his side arguments.

8.2. The EE/Tiruppur reiterated the contents of the counter.

8.3 The EE argued that due to clerical error excess demand charges were not levied at the respective month. However, the excess demand was actually utilized by the consumer and the demand availed has been recorded in the consumer meter card every month. But due to oversight, it was not taken for arriving the excess demand charges.

8.4 He also cited regulation 12 of the Supply Code and argued that the licensee is having right to claim the short fall amount in case of undercharging. As the excess demand charges was not levied during 5/2004 to 9/2004, the EE argued that the claim of the excess demand charges is conforming to regulation only.

8.5 The EE also argued that the excess demand charges levied is as per regulation 5(2) of the Supply Code only.

8.6 The EE also informed that the sum of Rs.36,878/- paid by the consumer was accounted as advance CC charges and adjusted in the consumer account.

9. **Issues to be considered:**

I have heard the arguments of both the Appellant and the Respondent. On a careful consideration of the rival submissions and perusal of documents I find the following are issues:

(i) Whether the Terms and Conditions of Supply of erstwhile TNEB or the Supply Code prescribed by Hon'ble TNERC is applicable ? and what are the rules governing the excess demand charges?

(ii) Whether the excess demand charges claimed is as per regulation?

(iii) Whether any relief could be granted to the Appellant?

10. Findings on the First Issue:

10.1 It is noted that the Appellant has exceeded the sanctioned demand during 5/2004, 6/2004, 7/2004,,8/2004 & 9/2004.

10.2 The Supply Code was published on 1-9-2004 and has come into force on the date of publication (i.e) on 1-9-2004. Hence, all the above periods except 9/2004 fall before the issue of Supply Code and as the bill for 9/2004 assessment was issued after 1-9-2004, the assessment for 9/2004 alone comes under the Supply Code period. As the electricity was consumed and billed before publishing the Supply Code, the excess demand charges for exceeding the sanctioned demand in respect of 5/2004, 6/2004,7/2004 & 8/2004 assessment period, the Terms and Conditions of Supply of erstwhile TNEB is applicable and for the month of 9/2004, the Supply Code is applicable.

10.3 The relevant clauses 22.08 (a)& (b) of Terms and Conditions of Supply of TNEB are furnished below:-

"22.08 (a) In case of Low tension Current Transformer service with electronic meter, the maximum KW sanction shall be 112 KW including the lighting load. Whenever the M. D. is exceeded by the consumer, penalty should be levied as below. (a) In case actual recorded demand is upto 112 KW, for every KW excess or part there of over the sanctioned demand, penalty of 1 % of the total energy charges alone should be levied for every occurrence from the date of installation of electronic energy meter. In case of actual demand exceeding the sanctioned KW demand for the second and subsequent times and if such exceeded demand is not more than 112KW, then the existing load sanction of such L T CT services should be revised with in one month to the level of exceeding the already sanctioned demand and all the necessary charges applicable for additional load to be included in the next bill after intimation to the consumer.

(b) In case of actual recorded demand exceeding 112 KW for every KW excess or part thereof over the sanctioned demand, the penalty should be levied at 1.5% over and above 112 KW and at 1 % upto 112 KW for the first and second occurrence from the date of installation of electronic energy meter. For the third and subsequent occurrences of exceeding 112 KW, the penalty should be levied at 3% for every KW or part thereof over and above 112KW. In case where the exceeded demand is more than 112 KW for the second time, the existing load sanction of such L T CT services should be revised within one month to the level of 112 KW (Maximum limit) and necessary charges applicable for additional load to be included in the next bill after intimation to the consumer. In such case where the exceeded demand is more than 112 KW and occurs for the third and subsequent time, the penalty of 3% of total energy charges should be levied for every KW or part thereof in excess of 112 KW till the date of availing HT service by the consumer."

10.4 The relevant regulation 5(2)(ii)(c) of Supply Code is furnished below:

"(c) For the remaining L T services other than those service connections covered in (a) and (b) above, when the contracted demand is in excess of 18.6KW (25HP) and for such of those consumers whose contracted demand is less than 18.6 KW (25HP) but opted for having meters with demand recording facility, the excess demand charges shall be =,

(I) Where the recorded demand does not exceed 112 KW, for every KW or part thereof in excess of the sanctioned demand, at the rate of 1 % of the total energy charges;

(II) where the recorded demand exceeds 112KW, for every KW or part thereof in excess of sanctioned demand:-

- for the first two occurrences, at the rate of 1 % of the charges for electricity supplied up to 112 kW,-/ and 1.5% for every KW or part thereof over and above 112KW /- and thereafter, that is, the third and subsequent occurrences at the rate of three percent for every KW or part thereof over and above 112KW.

(III) Where the recorded demand exceeds the sanctioned demand for the second and subsequent times .:

(A) In case the recorded demand has not exceeded 112 KW, the existing load sanction shall, after intimation to the consumer, be revised within one month of the second occurrence to the level of recorded demand and all the relevant charges applicable to the additional load shall be included in the next bill;

(B) In case the recorded demand has exceeded 112 KW" the existing load sanction shall, after intimation to the consumer, be revised within one month of the second occurrence, to the level of 112 KW and all relevant charges applicable to the additional load shall be included in the next bill; if, however, the recorded demand has exceeded 112 KW for the third or more number of times, it is open to the consumer to opt for HT service.

(iii) In the case of temporary supply, the excess demand charges shall be the difference between the minimum charges for temporary supply computed at the rate notified, for a back period of six months or date of supply whichever is lesser, and the corresponding current consumption charges already recovered from the consumer."

- 10.5 On a careful reading of the Terms and Conditions of Supply of TNEB and Supply Code, it is noted that the consumer is liable to be charged at 1.5% of the total energy supplied for every KW or part thereof of the exceeded demand over & above 112KW and the percentage is increased to 3% for the third and subsequent occurrences.
- 10.6 In the Terms and Conditions of Supply of TNEB it has been mentioned that the above will be charged till the date of availing HT Supply whereas in Supply Code it has been mentioned as "it is open to the consumer to opt for HT service". Hence, in the present case the rules governing, the excess demand charge for exceeding the sanctioned demand of 112 KW is same irrespective of whether the period falls during the period of the Terms and Conditions of Supply of TNEB or the period of Supply Code.

11. Findings on the Second Issue:

- 11.1 The terms and conditions clause 22.8(b), is applicable for levying excess demand charges for the period from 5/2004 to 8/2004. The relevant clause is extracted below:

"22.8 In case of Low Tension Current Transformer service with electronic meter, the maximum KW sanction shall be 112 KW including the lighting load. Whenever the M.D. is exceeded by the consumer, penalty should be levied as below:

- (a) *In case actual recorded demand is upto 112 KW, for every KW excess or part there of over the sanctioned demand, penalty of 1 % of the total energy alone should be levied for every occurrence from the date of installation of electronic energy meter.*

In case of actual demand exceeding the sanctioned KW demand for the second and subsequent times and if such exceeded demand is not more than 112 KW, then the existing load sanction of such LTCT service should be revised with in one month to the level of exceeding the already sanctioned demand and all the necessary charges applicable for additional load to be included in the next bill after intimation to the consumer.

(b) *In case of actual recorded demand exceeding 112 KW for every KW excess or part thereof over the sanctioned demand, the penalty should be levied at 1.5% over and above 112KW and at 1 % upto 112 KW for the first and second occurrence from the date of installation of electronic energy meter. For the third and subsequent occurrences of exceeding 112KW, the penalty should be levied at 3% for every KW or part thereof over and above 112KW.*

In case where the exceeded demand is more than 112KW for the second time, the existing load sanction of such L TCT services should be revised within one month to the level of 112 KW (Maximum Limit) and necessary charges applicable for additional load to be included in the next bill after intimation to the consumer. In such case where the exceeded demand is more than 112 KW and occurs for the third and subsequent times, the penalty of 3% of total energy charges should be levied for every kw or part thereof in excess of 112 KW till the date of availing HT service by the consumer. "

11.2 On a careful reading the above terms and conditions of the erstwhile TNEB. It is noted that the excess demand charges for exceeding the sanctioned load of 112 kw is 1.5% of the total energy charges for every KW excess or part thereof for the first and second occurrences. For the third and subsequent occurrences the penalty shall be 3% for every KW or part thereof over and above 112 KW.

11.3 Therefore, for 5/2004 & 6/2004 assessment period the excess demand charges shall be 1.5% of the total energy charges per KW excess or part there of over and above 112KW.

11.4 In respect of 7/2004 & 8/2004, assessment period, the excess demand charges shall be 3% of the total energy charges per KW excess or part thereof over and above the 112 KW.

11.5 In respect of the period from 1.9.2004 to 17.9.2004, the Supply Code has come into force. The regulation in force during the above period, governing the excess demand charges is 5(2)(ii)(c)(II), the same is extracted below:

" 5. Miscellaneous charges

xxx xxx xxxx

(2) Excess demand charge

(ii) In case of L T supply,

(a) xxx xxx xxxx

(b) xxx xxx xxxx

(c) For the remaining L T services other than those service connections covered in (a) and (b) above, when the contracted demand is in excess of 18.6KW (25HP) and for such of those consumers whose contracted demand is less than 18.6 KW (25HP) but opted for having meters with demand recording facility, the excess demand charges shall be-

(i) xxx xxx xxxx

(ii) Where the recorded demand exceeds 112KW, for every KW or part thereof in excess of sanctioned demand:-

- at the rate of 1 % of the charges for electricity supplied upto 112 kW

- and 1.5% for every KW or part thereof over and above 112KW for the first two occurrences;

- and thereafter, that is the third and subsequent occurrences at the rate of three percent for every KW or part thereof over and above 112KW "

11.6 On a careful reading of the said regulation, it is noted that the excess demand charges for exceeding the sanctioned demand of 112 kW is 3% of the total energy charges for every KW or part thereof over and above 112KW for third and subsequent occurrences.

11.7 As it is the 5th occurrence of exceeding the sanctioned demand by the consumer, he is liable to be charged at 3% of the total energy charges for every KW excess or part thereof over and above 112KW.

11.8 On a scrutiny of the arrears calculation, it is noted that the Respondent has adopted 1.5% for every KW or part thereof in respect of 5/2004 & 6/2004 and 3% in respect of 7/2004 , 8/2004 & 9/2004 assessment period for arriving the excess demand charges. As the Respondent has adopted the relevant terms and conditions and regulation of the Supply Code for arriving the excess demand charges, it is held that the Respondent's claim is conforming to the Rules and Regulations of the respective period.

12. Findings on the Third Issue :

- 12.1. The Appellant argued that they have not been informed about the excess demand availed in the respective month. The penalty was levied after a year after converting the service as HT service.
- 12.2. The Appellant argued that they have paid Rs.36,878/- as penalty for exceeding the demand vide receipt No.886505 which was tampered by the Respondent.
- 12.3. The Appellant argued that while effecting HT service they have been given no due certificate. But after certain period penalty amount was claimed for the service for which no due certificate was issued earlier.
- 12.4. The Respondent argued that the maximum demand reached in the dispute period was recorded in the meter card without multiplying it by the multiplication factor. It is a fact that the consumer has exceeded the demand in the dispute period and penalty has not been collected before due to over sight. Citing Regulation 12 of Supply Code, the Respondent argued that they are having right to claim the shortfall amount as it is a billing error.
- 12.5. The Respondent also informed that the sum of Rs.36,878/- paid by the consumer was accounted as advance CC charges and adjusted in the consumer account.
- 12.6. On a careful examination of the maximum demand reached in the meter card, it is noted that the MD was recorded as detailed below for 5/2004 to 9/2004.

<u>Date</u>	<u>KW MD reading</u>	<u>MF for KW MD</u>	<u>Actual KW MD</u>
26.5.2004	3.91		
29.6.2004	3.91		
7.2004	4.24		
31.8.2004	4.18		
17.9.2004	4.10		

- 12.7. It could be seen from the above, that the multiplication factor was not recorded and consequently, the actual MD in KVA was also not recorded in the meter card. But, the multiplication factor for energy was recorded as 40 and the energy consumption was arrived duly taking into account of the multiplication factor. If the above recordings of maximum demand were multiplied by 40, the MD recorded will work out to 156.4 KW, 156.4 KW, 169.6 KW 167.2 KW and 164 KW for 5/2004, 6/2004, 7/2004, 8/2004 and 9/2004 respectively. As the sanctioned demand is only 112 kw, the consumer has exceeded the demand in the said periods and the consumer is liable to pay the excess demand charges.
- 12.8 The Appellant argued that they have paid Rs.36,875/- as penalty amount but the Respondent have tampered the receipt.
- 12.9. The Respondent informed that the sum of Rs.36,875/- was paid by the Appellant under receipt No.886505 was accounted as advance CC charges and adjusted in the bill. Therefore, the said amount was already adjusted.
- 12.10. As the Respondent cited Reg. 12 of the Supply Code and argued that the licensee is having right to claim the shortfall amount, the Regulation 12 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.

(2) Where it is found that the consumer has been over-charged, the excess amount paid in such cases will be adjusted against future current consumption charges. If, even after such adjustment against future current consumption charges for two assessment periods, there is still a balance to be refunded, the refund will be made by cheque.

(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.”

12.10. On a careful reading of the said regulation, it is noted that in the event of any clerical error or mistake in the amount levied, the licensee will have the right to claim an additional amount.

12.11. In the case on hand, it is noted that the excess demand charges for having exceeded the sanctioned demand has not been collected in the respective months due to error. Hence, I am of the view that the licensee is having right to claim the excess demand charges which was not collected in the respective month bills.

12.12. As per my findings in second issue, the levy of penalty for exceeding the sanctioned demand is confirming to the relevant terms and conditions of the erstwhile Board and the Regulation of the Supply Code which were in force in the respective period. Hence, I am unable to give any relief to the Appellant.

13. Conclusion :

13.1 In view of my findings in Second and Third issues furnished in para 11 & 12 above, I am unable to interfere with the orders of CGRF of Tiruppur Electricity Distribution Circle.

13.2 With the above findings, the A.P.No.39 of 2016 is finally disposed of by the Electricity Ombudsman. No Costs.

(A. Dharmaraj)
Electricity Ombudsman

To
1) Thiru. P. Palanisamy,
M/s Point Textile Process,
Door No.135/1 B,
Pachaiamman Thottam,
Kasipalayam, Tiruppur 641 006.

2) The Executive Engineer/O&M,
Tiruppur,
Tiruppur Electricity Distribution Circle,
TANGEDCO (Formerly TNEB)
E.B. office campus, Kumar Nagar,
Avinashi Road, Tiruppur - 641 603.

3) The Chairman,
(Superintending Engineer),
Consumer Grievance Redressal Forum,
Tiruppur Electricity Distribution Circle,
TANGEDCO (Formerly TNEB)
19A Jyothi Nagar, Perumal Nallur,
Tiruppur – 641 603.

4) The Chairman & Managing Director,
TANGEDCO,
NPKR Malaigai,
144, Anna Salai,
Chennai – 600 002.

5) The Secretary
Tamil Nadu Electricity Regulatory Commission
No.19A, Rukmini Lakshmi pathy Salai
Egmore,
Chennai – 600 008.

6) The Assistant Director (Computer) - **FOR HOSTING IN THE TNEO WEBSITE PLEASE**
Tamil Nadu Electricity Regulatory Commission,
No.19-A, Rukmini Lakshmi pathy Salai,
Egmore,
Chennai – 600 008.