



TAMIL NADU ELECTRICITY OMBUDSMAN

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BEFORE THE TAMIL NADU ELECTRICITY OMBUDSMAN, CHENNAI

Present: Thiru. A. Dharmaraj. Electricity Ombudsman

Appeal Petition No. 51 of 2016

Thiru. Jothi,
S/o Perumal,
No.100, South Garden,
Anumanthai Village and Post,
Maarakkanam TK,
Villupuram Dist.

. Appellant
(Party in person)

Vs

1) The Assistant Engineer/O&M/Marakkanam,
Villupuram Electricity Distribution Circle,
TANGEDCO,
Khakkapalayam Road,
Marakkanam – 604 303.

2) The Executive Engineer/O&M,
Tindivanam,
Villupuram Electricity Distribution Circle,
TANGEDCO,
Substation complex,
Marakkanam Road,
Tindivanam 604 001.

. Respondents

(Rep by Thiru. Sadasivam,EE/Tindivanam &
Thiru. Udayasankar, AE/Marakkanam)

Date of hearing : 22.9.2016

Date of Order : 23.11.2016

The Petition dt. 18.6.2016 filed by Thiru. Jothi, S/o Perumal, Anumanthai Village was registered as Appeal Petition No.51 of 2016. The above appeal petition

came up before the Electricity Ombudsman for hearing on 22.9.2016. 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 that

- (i) Hon'ble forum may be pleased to set aside the order passed by consumer grievance redressal forum, Villapuram in petition No.5/2016 made on 17.5.2016.
- (ii) Pass an order or direction to the forebearing Respondents from anyway enforcing payment from the Appellant pursuant to the meter reading dt.25.11.2015 in respect of service connection No.462-009-532 at Thirukanur Village and also forebear the Respondents from Disconnecting the Electricity supply in the above service connection under guise of enforcing the payment from the Appellant.
- (iii) Pass such other orders as the Hon'ble forum may deem fit in the circumstances of the case and impose them compensation for the same to the Appellant.

2. Brief History of the case:

- 2.1 The Appellant is running a Prawn Culture unit at M. Thirukanur Village and the service connection number of the said premises is 462-009-532. The tariff adopted is III-B.

- 2.2 The meter installed in the said service connection has burnt during March 2015. The licensee claimed a CC bill of Rs.83,467/- for the above assessment period. A new meter was installed on 22.4.2015.
- 2.3 The Units recorded in the meter is 6110 units. Considering the average units for the meter defective period, the licensee claimed a bill for 10,170 units for 5/2015 assessment period. The consumer disputed the above bill.
- 2.4 The service was under disconnection from 24.6.2015 to 5.10.2015 as the consumer has not paid the CC charges.
- 2.5 The CC bill for 11/2015 was claimed for a consumption of 20520 units as recorded in the meter. A bill was raised for a sum of Rs.1,74,597/- which includes excess demand charges also. The Consumer disputed the bill as exorbitant.
- 2.6 The consumer filed W.P.No.39162/2015 before the Hon'ble High Court of Madras and the Court has directed him to pay 50% of the demanded amount and file a petition before the CGRF.
- 2.7 Accordingly, the consumer filed a petition before the CGRF of Villupuram EDC. The CGRF of Villupuram EDC has issued its order on 17.5.2016. The CGRF of Villupuram EDC has dismissed the petition. Aggrieved by the order of CGRF, the Appellant filed this appeal petition before the Electricity Ombudsman.

3.0 Orders of CGRF :

The CGRF of Villupuram EDC has issued its Order on 17.5.2016. The relevant para of the order is extracted below: -

"மன்றத்தலைவரின் தீர்ப்பு

5.1 நுகர்வோர் பதிவேட்டின்படி மீட்டர் பழுதாவதற்கு முன்பு 23.3.2015 அன்று FR 27430 ஆகும். அதன்பிறகு 13.4.2015 அன்று மீட்டர் எரிந்து போனதால் 22.4.2015 அன்று மீட்டர் மாற்றப்பட்டது. அப்போது IR 0 ஆகும்.

5.2 13.5.2015 அன்று கணக்கீட்டாளர் ரீடிங் எடுத்தபோது 6110 யூனிட் பதிவாகியிருந்தது. (for 22 days) அப்போது MD 48.64 ஆகும். 28.3.2015 முதல் 22.4.2015 வரை computer average 4060 units total (6110 + 4060 = 10170 units) எனவே 10170 யூனிட் கணக்கீடு செய்யப்பட்டு மின்கட்டணத்தொகை வசூல் செய்யப்பட்டது சரியானதே.

5.3 பிறகு மேற்படி மின்இணைப்பு எண்.462-009-532, 24.6.2015 அன்று DC செய்யப்பட்டது.

5.10.2015 RC	-	6110
5.10.2015 to 25.11.2015	-	26630
Billing செய்த யூனிட்	-	20520
MD	-	(46.97)

5.4 மேற்கண்ட தீர்வுகளின் அடிப்படையில் மேற்படி மின்இணைப்பில் மீட்டரில் 26630 என்ற மின் அளவீடு எடுக்கப்பட்டு 20520 யூனிட்கள் கணக்கீடு செய்யப்பட்டு 26630-6110=20520 அனுமதி பெறப்பட்ட மின்பளுவைக்காட்டிலும் (19 kW) கூடுதலாக 27.97 kW மின் பளு பயன்படுத்தியதால் (46.97-19) அதற்கான அபராதத்தொகையாக சேர்த்து ஆக ரூ.1,74,597/- மின்கட்டணமாக கணினியில் பதிவு செய்தது சரியான கணக்கீடுதான் என இம்மன்றம் முடிவு செய்தது. ஆகவே, முறையிட்டாளர் உயர்நீதிமன்ற உத்திவின்படி 50 சதவீதமான ரூ.87959/- செலுத்தியுள்ளார். மீதமுள்ள 80 சதவீத தொகையான ரூ.87859/-ஐ மேற்படி மனுதாரரிடம் வசூல் செய்யும்படி இம்மன்றம் முடிவு செய்கிறது."

4.0 Arguments of the Appellant furnished in the Appeal Petition:

4.1 The appellant submit that he is running prawn culture unit at M.Thirukanur village, M.Pudhupakkam Panchayat, Marakanam Taluk, Villupuram District. He owns the service connection of the above said unit in Service Connection No. 462-009-532 at M.Thirukkaur village. He is to state that never the CC charges was exorbitant but for the disputed readings taken on 13.5.2015 and on 25.11.2015.

4.2 The appellant submits that in fact the meter got burnt because of lightening effect in the month of Mar-2015. Hence a new meter was installed on 13.4.2015 after collection of necessary meter box charges of Rs.2,201 from the complainant/appellant. The appellant submits that 2 years back prawn culture unit was under a lease with a third party and for 2 years now he is

running the unit.

4.3 The appellant submits that for installation of the new meter he was demanded to pay Rs.83,467/- on the basis of the average calculated for the previous period and also the meter box charges. He paid the amount of Rs. 83,467/- on 28.3.2015 and meter box charges of Rs.2,201/- on 13.4.2015. The appellant submits that after payment of the above a new meter was installed in the month of April-2015.

4.4 The appellant submits that thereafter on 13.5.2015 meter reading was taken and reading was noted as 6,110 units. But the used unit was noted as 10,170. It is not known as to how the used units can be 10,170 when the actual meter reading in the fresh meter is taken as 6,110. There cannot be any difference between the previous meter reading and the reading as on 13.5.2015 because a fresh meter was installed in April-2015 on payment of the above amounts by the appellant viz., Rs.83,467/- and the meter box charges of Rs.2,201/- The appellant submit that for the meter reading on 13.5.2015 on the basis of alleged used units he was demanded to pay Rs.88,224/- and under the threat of disconnection he paid the amount of RS.88.224/-+CC arrears of Rs.3,170/- and other charges totaling Rs.96,882/- on 5.10.2015. The appellant submits that the above meter reading is totally illegal and the amounts collected are liable to be refunded to him.

4.5 The appellant submits that adding insult to the injury on 25.11.2015 a meter reading was entered as 26,630 and the used units is noted as 20,520 for which CC charges is given as Rs. 1,30,3021/- other charges is given as Rs.44,294.83 and total amount is Rs.1,74,597/-

4.6 The appellant submits that the CC charges could not have been so exorbitant and there has never been such huge usage of the appellant for the period. As a matter of fact there was disconnection for non-payment of the previous bill dated 13.5.2015 which was to be paid by the appellant on or before 1.6.2015. For nonpayment of the same the service connection was disconnected immediately on 2.6.2015. The appellant submits that the amounts were paid by him for the bill dated 13.5.2015 on 5.10.2015 and the receipt clearly shows that the amount represents the period between 5/2015

and 10/2015. Only thereafter on collection of other charges including reconnection charges totaling Rs. 96,882/- the service was restored on 6.10.2015. The appellant submits that hence there was no consumption of electricity in the interregnum period between 2.6.2015 and 6.10.2015. The appellant submits that hence the units that was said to have been consumed by the meter reading dated 25.11.2015 is exorbitant and again the meter reading is defective and the amounts demanded at Rs.1,74,597/-in respect of the meter reading dated 25.11.2015 is illegal and void ab-initio.

4.7 The appellant submits that he has never consumed such electricity as noted in the impugned reading and he has never used 20,520 units. There is no explanation as from the respondents to what the amount of Rs.44,294.83/- represents. Simply the respondents levy other charges and collect huge amounts from the appellant. The appellant submits that the amounts demanded in the impugned meter reading dated 25.11.2015 is not in accordance with law and hence the same is liable to be interfered with by this Hon'ble Forum.

4.8 The appellant has filed a Writ Petition under Article 226 of Constitution of India before the Hon'ble High Court, against the Chief Engineer, Villupuram, and the superintending Engineer, Villupuram in W.P. No.39162/2015 wherein the said Hon'ble court ordered the appellant to pay 50% of the demanded amount by the respondents within a period of two weeks from the date of order, and after remitting the same the appellant is at liberty to file a petition before the consumer Grievance Redressal Forum, which shall be considered by the Redressal Forum, in accordance with law.

4.9 The appellant submits that as per the order of the Hon'ble High Court he paid the said amount to the 1st respondent on 28.12.2015 and subsequently he filed a complaint before the Consumer Grievance Redressal forum, Villupuram, meanwhile the 1st respondent caused a message to the appellant that he should pay the sum of Rs.87957/- as the balance of the said disputed bill within 09.2.2015 failing

which he threatened that he shall disconnect the service connection.

4.10 The Consumer Grievance Reddresal Forum has not consider the merits of points on the side of appellatant since the order passed by the said Forum is contrary to law and weight of evidence.

4.11 The Consumer Forum has not considered about the disputed meter reading shown as from 6110 to 10170 units. How the said reading of 6110 raised exorbitantly as 10170 units as per website details.

4.12 The Consumer Forum has not given answer to the exorbitant demanded amount of Rs. 1,74,5971/- and how it was arrived by the respondents.

4.13 The Consumer Forum has not properly enquired and answered about the disputed units and paid amounts by the appellatant.

4.14 The Consumer Forum did not shown to the appellatant how the disputed meter was checked by the expert.

5.0 Arguments of the Respondent furnished in the Counter affidavit :

5.1 The 2nd respondent respectfully submits that the appellatant obtained service connection in SC.No:-462-009-532 dated 23-02-2003 for running prawn culture unit at Thirukkanur village, Marakkanam Taluk. While at the time of taking meter reading on 28.3.2015, the appellatants meter was burnt without final reading. After the installation of new meter in the service connection dated 22-04-2015 the general meter reading was taken on 13-05-2015 and the consumption was 'registered as 6110 units for the period from 22-04-2015 to 13-05-2015 for 22 days. From the date of 29-03-2015 to 13-05-2015 the consumer consumed the electricity continuously. From 28-03-2015 to 22-04-2015 the burnt meter was in service for 24 days. The average consumption for that period is worked out as 4060 units.

5.2 The appellatant was informed and demanded to pay the arrears of meter charges to the total unit $4060+6110=10,170$ units in SC.No:-462-009- 532. The appellatant failed

and neglected to pay the arrears, hence the respondent disconnected the service connection for non payment of C.C charges on 24-06-2015. The appellant/consumer has paid the arrears of meter charges of Rs.96882/- for the unit of 10,170 on 05-10-2015 and immediately electricity supply was restored in service connection no:-462-009-532. At the time of effecting Re-connection the meter reading was registered as 6110 units as consumed. Subsequently the respondents has taken General meter reading on 25-11-2015. The meter has registered totally 26630 units for the month of 11/2015. The pervious reading of 6110 was deducted from total meter reading of 26630 units (26630-6110) to arrive at the consumption. Thus the consumption was worked out as 20520 units and charges of Rs-1,74,597/- has been levied.

5.3 Further the 2nd respondent submits that the appellant approached the Hon'ble High Court of Judicature at Madras while enforcing payment from the appellant pursuant to the meter reading dated 25-11-2015 in respect of service connection No:-462-009-532 at Thirukkanur village, Marakkanam Taluk and filed the writ petition in W.P.No:-39162 of 2015 under Article 226 of the Constitution of India praying to issue a writ of Mandamus to forbear the respondents from any way enforcing payment from the petitioner and also forbear the respondent disconnecting the electricity supply in SC.No:-462-009-532.

5.4 The hon'ble High Court held that if the petitioner is aggrieved by the meter reading, he has got an effective remedy under the Tamil Nadu electricity supply code, 2004 and in terms of section 18 of the code all grievances relating to the provisions under the Regulations 3 to 17 of the code, shall be referred by the consumers to the respective consumer Grievances Redressal Forum, Which has been constituted under the electricity Act. In the light of the above the petitioner has to necessarily

approach the said forum and ventilate his grievances. There will be a direction to the petitioner to remit 50% of the demand as raised by the respondents within a period of two weeks from today, and after remitting the same, the petitioner is at liberty to file a petition before the Consumer Grievances Redressal Forum, which shall be considered by the Redressal Forum in accordance with law.

5.5 Further the 2nd respondent submits that the appellant as per the order of High Court has paid the 50% of the amount as claimed by the respondents and approached CGRF villupuram filed petition set forth the same facts which was stated in the memorandum of appeal. The Hon'ble CGRF framed issues and pronounced order dated 17-05-2016 that the meter reading shown as from 6110 to 10170 units is correct, the respondent demanded amount of .Rs.1,74,597/- for the above said calculated unit is correct and the amount of 50 % paid by the appellant was deducted and the remaining amount of 50% of sum of Rs.87,859 is to be payable.

5.6 The 2nd respondent further submits that the probable yielding period of prawn culture is four months. At the time of starting stage the consumption of electricity was low and at the time of prawn yielding the consumption is very high. This is the routine pattern of consumption for prawn culture units. The appellant who is also regularly paying the electricity charges knows about the facts of consumption of electricity for the prawn Culture.

5.7 The appellants ulterior motive is to evade the proceedings of the respondents. The appellant wantonly filing such a frivolous petition to prolong, drag and to delay the proceedings. The appellants is liable to pay the arrears of charges under the Electricity Act. Hence in these circumstances the appellants appeal is devoids of merits and liable to be dismissed with costs.

6.0 Hearing held by the Electricity Ombudsman:

6.1 To enable the Appellant and the Respondents to putforth their arguments in person, hearing was conducted before the Electricity Ombudsman on 22.9.2016.

6.2 Thiru P. Jothi the appellant herein has attended the hearing and putforth his side arguments.

6.3 ThiruG. Sadhasivam, Executive Engineer/O&M/Tindivanam and Thiru. M. Udayasankar, Assistant Engineer/Marakkanam the Respondents 2 & 1 respectively have attended the hearing and putforth their arguments.

7.0 Arguments of the Appellant putforth on the hearing date :

7.1 The Appellant Thiru. Jothi has reiterated the contents of the Appeal Petition.

7.2 The Appellant argued that during April 2015, the defective meter was changed and the consumption recorded in the meter installed in the service is only 6110 units. But, CC charges was claimed for 10170 units. The excess amount claimed has to be refunded to him.

7.3 The Appellant also argued that the service was under disconnection from 2.6.2015 to 6.10.2015. But, the consumption recorded for 11/2015 assessment period is 20520 units which is very exorbitant consumption for the period from 6.10.2015 to 25.11.2015 and he suspect the meter is defective.

7.4 He also argued that a sum of Rs.44,294.83 was also charged for the same period as other charges. But, the details of such charges was not explained.

8. Argument putforth by the Respondent on the hearing dates :

8.1 Thiru. G. Sadasivam, Executive Engineer/O&M/Tindivanam the Respondent-2 herein has reiterated the contents of the counter.

8.2 The EE argued that the consumption of 6110 units recorded in the meter is for the period from 22.4.2015 to 13.5.2015. But, the 5/2015 assessment period is from 28.3.2015 to 13.5.2015. Therefore, the average consumption for the meter defective period (ie) from 28.3.2015 to 22.4.2015 was worked out as 4060 units. Therefore, the total consumption for 5/2015 assessment period works out to $(6110 + 4060) = 10170$ units. He also informed that the average consumption was worked out based on the consumption recorded during 5/2014 & 7/2014 assessemnt periods.

8.3 The EE also argued that during 11/2015 assessment period, the consumer has consumed 20520 units. The above consumption is not only for the period from 5.10.2015 to 25.11.2015 but includes the period from 13.5.15 to 24.6.15. He also informed that the service was utilized for prawn culture. The consumption pattern of prawn culture is low during starting stage and is very high at the time of prawn yielding. Hence, the high consumption recorded is reasonable only. He further informed that the consumer has utilized 46.97 kw. during 11/2015 assessment period as against the sanctioned load of 19 kw. Hence, a sum of Rs.36,584.86 was leived as excess demand charges. The other charges of Rs.44,294.83 levied includes the excess demand charges, fixed charges & E.tax.

8.4 The EE also informed that the consumer has not applied for sanction of additional load. Therefore, the sanctioned load was not enhanced.

9. Written arguments of the Respondent :

9.1 மின் இணைப்பு எண்.2-462-009-532 திரு. பி. ஜோதி அவர்கள் பெயரில் 19 கிலோவாட் மின் பளு உள்ள தொழிற்சாலை மின் இணைப்பு 23.2.2003 அன்று வழங்கப்பட்டது. நுகர்வோர் மின்இணைப்பை 28.3.2015 அன்று கணக்கீட்டாளர் மின்யூனிட்களை கணக்கிடும்போது மின் அளவி பழுதாக இருந்தது கண்டறியப்பட்டது. பழுதில் இருந்த மின் அளவியை அகற்றி புதிய மின் அளவி 22.4.2015 அன்று மாற்றப்பட்டது. புதிய மின் அளவி பொருத்தப்பட்டபோது ஆரம்ப reading 0 ஆகும். மேலும், மின்இணைப்பில் 13.5.2015 கணக்கிடும்போது மின் அளவியின் Reading 6110 ஆகும். மின்இணைப்பில் 28.3.2015 முதல் 21.4.2015 வரை 25 நாட்கள் மின் அளவி பழுதடைந்திருந்ததினால் மேற்கண்ட காலத்திற்கு 5/2014 மற்றும் 7/2014 யூனிட் சராசரி யூனிட்டாக கணக்கிடப்பட்டுள்ளது.

$$\begin{aligned} 5/2014 &= 10378 \text{ யூனிட்கள்} \\ 7/2014 &= 9110 \text{ யூனிட்கள்} \\ \text{மொத்தம்} &= 19488 \text{ யூனிட்கள்} \\ \frac{19488}{2} &= \frac{9744}{60} = 162.4 \times 25 = 4060 \text{ யூனிட்கள்} \end{aligned}$$

9.2 மின்நுகர்வோர் மின்இணைப்பு 13.5.2015 அன்று கணக்கிடப்பட்டு மேற்கண்ட மின்கட்டணத்தொகை செலுத்தாத காரணத்தினால் மின்இணைப்பு 24.6.2015 அன்று துண்டிக்கப்பட்டது. மேலும், 5.10.2015-ல் மின்நுகர்வோர் மேற்கண்ட தொகையை செலுத்தியதின் பேரில் மறு மின்இணைப்பு வழங்கப்பட்டது. பிறகு 25.11.2015ல் கணக்கிடும்போது மின்நுகர்வோர் மின்சாரம் 13.5.2015 முதல் 24.6.2015 வரை மற்றும் 5.10.2015 முதல் 25.11.2015 வரை மொத்தம் 95 நாட்களுக்கு 20520 யூனிட்கள் பயன்படுத்தியுள்ளார். மேலும், மேற்கண்ட மின்இணைப்பில் மின் நுகர்வோர் 19 கிலோவாட் மின்பளு பெற்றுள்ளார். ஆனால், மேற்கண்ட காலத்திற்கு அனுமதிக்கப்பட்ட மின்பளுவைவிட கூடுதலாக 28 கிலோவாட் மின்பளு பயன்படுத்தியதால் அதற்குண்டான அபராதத்தொகை கணக்கிடப்பட்டது.

9.3 மேலும், நுகர்வோர் பேரேட்டின் (consumer ledger)படி கீழ்க்கண்ட காலங்களில் அனுமதிக்கப்பட்ட மின்பளுவைவிட மின்நுகர்வோர் கூடுதலாக உபயோகப்படுத்தியதால் அபராதத்தொகை (MD penalty) செலுத்தியுள்ளார். வாரிய விதிகளின்படி மின் நுகர்வோருக்கு கூடுதலாக மின்பளு உபயோகப்படுத்தியதற்கு எவ்வித கடிதமும் வாரியம் மூலம் வழங்கப்படவில்லை.

மாதம்/ஆண்டு	அனுமதிக்கப்பட்ட மின்பளு (கி.வாட்)	பயன்படுத்திய மின்பளு(கி.வாட்)	கூடுதலாகப் பயன்படுத்திய மின்பளு(கி.வாட்)
9/2011	19	19.1	0.1
7/2012	19	37.6	18.6
5/2013	19	25.94	06.94
1/2014	19	28.08	09.08
5/2014	19	19.32	0.32
7/2014	19	20.53	1.53
9/2014	19	23.31	4.31
5/2015	19	48.64	29.64
11/2015	19	46.97	27.97
1/2016	19	52.66	33.66

9.4 மேலும், மேற்கண்ட மின்இணைப்பில் உள்ள மின் அளவியை வாரியத்தின் MRT மூலம் பரிசோதிக்கப்பட்டு பரிசோதனையில் மின் அளவி நல்ல நிலையில் உள்ளது கண்டறியப்பட்டது.

10. Findings of the Electricity Ombudsman :

10.1 On a careful consideration of the rival submission, the following are the issues to be divided,

- (i) Whether CC charges claimed for 5/2015 assessment period is correct ?
- (ii) Whether the CC charges & other charges claimed for 11/2015 is correct ?

11. Findings on the First Issue :

11.1 The Appellant argued that the meter was replaced in his service on 13.4.2015 as the existing meter has burnt. The initial reading is zero. The meter reading for 5/2011 assessment period was taken on 13.5.2015 and the reading noted is 6110. Therefore, he argued that the consumption could be 6110 units only. But, he was charged for 10170 units. Hence, he argued that he has been overcharged and the excess amount collected has to be refunded to him.

11.2 The Respondent argued that the 5/2011 assessment period is from 28.3.2015 to 13.5.2015. A new meter with initial reading zero was installed in the said service on 22.4.2015. The reading recorded in the meter on 13.5.2015 is 6110. As the meter in the service was burnt, without any final reading, the consumption from 28.3.2015 to 22.4.2015 was not recorded. The average consumption for the period from 28.3.2015 to 22.4.2015 was worked out as 4060 units based on the consumption recorded during 5/2014 & 7/2014. The consumption for the full period of 5/2015 was worked and as below.

consumption for 28.3.2015 to 22.04.2015	4060 units
consumption for 22.04.2015 to 13.5.2015	6110 units

Total	10170 units

11.3 It could be noted from the arguments of both the parties that the burnt meter was changed and a new meter was installed on 22.4.2015 and the reading noted in the new meter on 13.5.2015 is 6110 units. Therefore, the consumption recorded in the new meter from the date of installation to the assessment date is 6110 units. But the assessment period covered in 5/2015 period is from 28.3.2015 to 13.5.2015. Therefore, the consumption from 28.3.2015 to 22.4.2015 the date on which the meter was changed has also to be added to the recorded consumption of 6110 units to arrive at the consumption for 5/2015. As the meter has burnt, there is no reading to calculate the consumption for the period from 28.3.2015 to 22.4.2015. Hence, the average consumption has to be calculated for the above period. It is noted that the licensee has considered the 5/2014 and 7/2014 assessment period consumptions to arrive at the average consumption per day and then arrived the consumption from 28.3.15 to 22.4.15.

11.4 In this regard, I would like to refer regulation 11 of the Supply Code which deals with assessment in cases where there is no meter or meter installed is defective.

“ 11. Assessment of billing in cases where there is no meter or meter is defective:

(1) Where supply to the consumer is given without a meter or where the meter fixed is found defective or to have ceased to function and no theft of energy or violation is suspected, the quantity of electricity supplied during the period when the meter was not installed or the meter installed was defective, shall be assessed as mentioned hereunder.

(2) The quantity of electricity, supplied during the period in question shall be determined by taking the average of the electricity supplied during the preceding four months in respect of both High Tension service connections and Low Tension service connections provided that the conditions in regard to use of electricity during the said four months were not different from those which prevailed during the period in question.

(3) In respect of High Tension service connections, where the meter fixed for measuring the maximum Demand becomes defective, the Maximum Demand shall be assessed by computation on the basis of the average of the recorded demand during the previous four months.

(4) Where the meter becomes defective immediately after the service connection is effected, the quantum of electricity supplied during the period in question is to be determined by taking the average of the electricity supplied during the succeeding four months periods after installation of a correct meter, provided the conditions in regard to the use of electricity in respect of such Low Tension service connections are not different. The consumer shall be charged monthly minimum provisionally for defective period and after assessment the actual charges will be recovered after adjusting the amount collected provisionally.

(5) If the conditions in regard to use of electricity during the periods as mentioned above were different, assessment shall be made on the basis of any consecutive four months period during the preceding twelve months when the conditions of working were similar to those in the period covered by the billing.

(6) Where it is not possible to select a set of four months, the quantity of electricity supplied will be assessed in the case of Low Tension service connections by the Engineer in charge of the distribution and in the case of High Tension service connections by the next higher level officer on the basis of the connected load and the hours of usage of electricity by the consumer.

(7) In case the consumer does not agree with the assessment made by the Engineer or the higher-level officer as the case may be, the matter may be referred to the next higher-level officer of the Licensee. In case the consumer is still not satisfied, the consumer is at liberty to approach the respective Consumer Grievance Redressal Forum of the Licensee.

11.5 On a careful study of the average units worked by the licensee, it is noted that the licensee has adopted regulation 11(5) to arrive at the average units consumed

during the period from 28.3.2015 to 22.4.2015. As the licensee has calculated the average consumption following regulation 11(5) of the Supply Code, it is held that the CC charges levied by the licensee for the assessment period 5/2015 period is correct.

12. Findings on the second issue:

12.1 The Appellant argued that the consumption of 20,520 units recorded for the assessment period 11/2015 is exorbitant as the service was under disconnection from 2.6.2015 to 5.10.2015. He also informed that there could not be such high consumption for the above short period and argued that there was no such high consumption in the past in the said service. Hence he argued that the meter is defective. The Appellant also argued that for 11/2015, a sum of Rs.44,294,83 was levied as other charges. There was no explanation for such a huge amount as other charges.

12.2 The Respondent argued that the meter is not defective as per the report of the MRT. The consumption recorded in the meter has been taken as the consumption for the said period. The above consumption was for the period from 13.5.2015 to 24.6.2015 and from 5.10.2015 to 25.11.2015 (i.e) for 95 days. The service was utilized for prawn culture. The prawn culture period is 4 months. The consumption will be very low in the initial period and will be very high at the time of prawn yielding time. Hence the Executive Engineer argued that the consumption recorded is reasonable. Regarding the other charges levied, the Executive Engineer informed that the Appellant has reached a maximum demand of 46.97KW during 11/2015 as against the sanctioned load of 19 kw. Therefore excess demand charges has been levied for the excess

demand of 28 kw. Further, he informed that the other charges includes excess demand charges, fixed charges and E-tax.

12.3 On a careful consideration of the argument of both the parties it is seen, this issue consists of two parts as below:-

(i) whether the consumption of 20520 unit is correct?

(ii) whether the other charges levied is correct?

12.4 Regarding the first part, it is noted that the MRT has stated that the meter is in good condition. MRT is a special branch of the licensee, dealing with meter and relay testing. Therefore, I am of the view that the meter is in good condition. Here, I would like to point out that in the next assessment period, (i.e) for 1/2016 the consumption recorded in the same meter is 9963 units and there was no dispute over the above consumption.

12.5 As the meter is in good condition, the recorded consumption has to be taken as the consumption of the service. Hence, I am of the view that the consumption of 20520 units recorded for 11/2015 has to be taken as correct only. Further, it is also to be noted that the above consumption is for the period from 13.5.15 to 24.6.15 and from 5.10.15 to 25.11.15 (ie) totally for 95 days as against the normal assessment period of 60 days.

12.6 However, if the Appellant still disputes the condition of the meter, he may opt for a challenge test of the meter in the NABL accredited laboratory and based on the results, the licensee may take further action as deemed fit.

12.7 Regarding the other charges, the Respondent argued that the other charges includes, excess demand charges for exceeding the sanctioned load, fixed charges and electricity tax. Hence, he argued that the amount claimed is as per rules in force only.

12.8 The break up for other charges as Rs.44,294.83 claimed is given below:-

(i) Excess demand charges for exceeding the sanctioned load of 19 kw	: Rs.36,484.56
(ii) Fixed charges	: Rs. 1,152.67
(iii) E-tax	: Rs. 6,657.60

12.9 Regarding excess demand charges, I would like to refer regulation 5(2) of the Supply Code, the said regulation 5(2) is extracted below:-

5. Miscellaneous charges :

(1) xxx xxx xxxxx

(2) Excess demand charge

Whenever the consumer exceeds the sanctioned demand, excess demand charge shall be:—

(i) In the case of HT supply, the maximum demand charges for any month shall be based on the KVA demand recorded in that month at the point of supply such percentage of sanctioned demand as may be declared by the Commission from time to time whichever is higher. The exceeded demand shall alone be charged at double the normal rate.

(ii) In case of LT supply,

(a) For Domestic and Agricultural category of service, the excess demand charges shall not be applicable.

(b) For other categories of LT services with contracted demand equal to or less than 18.6 KW (25 HP), the excess demand charges shall not be applicable where the connected load is equal to or less than the contracted demand.

Note: For services with contracted demand less than or equal to 18.6 KW (25 HP), whenever the consumer's connected load exceeds the contracted demand, the licensee shall install meters with demand recording facility and bring the consumer under the scope of excess demand chargeable category. After installation of the meter, if the recorded demand is in excess

of contracted demand, the existing demand, shall, after intimation to the consumer, be revised to the level of recorded demand and all relevant charges applicable for extension of additional demand shall be included in the next bill. No excess demand charge is leviable till such time the licensee installs meter with demand recording facility and bring the consumer under the scope of excess demand chargeable category.

(c) For the remaining LT 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:-

- at the rate of 1% of the charges for electricity supplied upto 112 kW*
- and at the rate of 1.5% for every KW or part thereof over and above 112KW for the first two occurrences;*
- and for the third occurrence, at the rate of 3% for every KW or part thereof over and above 112KW;*
- and thereafter, that is the fourth and subsequent occurrences at the rate of 10% 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.

(iv) No addition or reduction of load in case of LT service and no addition or reduction of demand in case of HT service, may be sanctioned unless the outstanding dues in the same service connection had been paid.

(v) In all the above cases, the cost of any modifications in the metering system which may arise due to addition / reduction of loads may be dealt with in accordance with the provisions of the Act and Codes/Regulations made thereon."

12.10 On a careful reading of regulation 5(2) (ii) c(l) of the supply code, it is noted that in case the recorded demand has not exceeded 112 kw, for every kw or part thereof in excess of the sanctioned demand, the excess demand charges shall be levied at the rate of 1%of the total energy charges.

12.11 In the case on hand, the sanctioned load is 19kw and the demand reached is 46.97 kw, therefore, the excess demand charge is 1% per kw or part there of the consumption recorded for excess demand reached over and above the sanctioned demand.

12.12 On a careful reading of the regulation 5(2) (ii) C(III) A, it is noted that in case the recorded demand has not exceeded 112kw, the existing load sanction shall after intimation to the consumer be revised within one month after the second occurrence to the level of the recorded demand and all relevant charges applicable to the additional load shall be included in the next bill.

12.13 It is noted from the above that the regulation clearly directs the licensee to revise the load sanction to the level of recorded demand within one month of second occurrence. It also specified that the relevant charges are to be included in the next bill. It does not specify that the consumer has to apply for additional load. It states that the consumer has to be informed about the revision of sanctioned load to the level of recorded demand and about inclusion of all charges in the next bill.

12.14 In the case of on hand, the exceeding of demand over and above the sanctioned load and levy of excess demand charges has been made previously also. As per details furnished by the Respondent, the consumer has exceeded sanctioned load as detailed below :-

Month & Year	Sanctioned Load	Demand reached	Excess
9/2011	19	19.1	0.1
7/2012	19	37.6	18.6
5/2013	19	25.94	6.94
1/2014	19	28.08	9.08
5/2014	19	19.32	0.32
7/2014	19	20.53	1.53
9/2014	19	23.31	4.31
5/2015	19	48.64	29.64
11/2015	19	46.97	27.97
1/2016	19	52.66	33.66

12.15 As the consumer has already exceeded the sanctioned load in a number of times, previously, I am of the view that the sanctioned load would be more than 19 KW if the load is revised as per the regulation. Hence, the calculation of excess demand charges for 11/2015 considering the sanctioned load as 19kw is not correct. Therefore the licensee is directed to revise the sanctioned load as per regulation 5(2)(ii)C(III)A of the Supply Code and then levy the excess demand charges if any based on the revised sanctioned load.

13. Conclusion

13.1 In view of my findings in para 11, it is held that consumption of 10170 units taken for arriving the cc charges for 5/2015 assessment period is correct.

13.2 In view of my findings in para 12.5, the consumption of 20520 units recorded for the assessment period of 11/2015 is correct. However, if the Appellant still disputes the condition of the meter, he may opt for a challenge test of meter in the NABL accredited Laboratory and based on the results, the licensee may take further action as deemed fit.

13.3 In view of my finding in para 12.15, the licensee is directed to revise the sanctioned load of the service as per regulation 5(2)(ii)c(iii)(A) of the Supply Code and rework the excess demand charges if any to be paid by the Appellant for 11/2015 assessment period and then arrive the total bill to be paid for the 11/2015 assessment period. The 50% of the demand amount already paid by the Appellant has to be duly accounted while calculating the dues to be paid by the Appellant. The revised bill shall be issued to the Appellant within 30 days from the date of receipt of the order and a compliance report shall be submitted within 45 days.

13.4 With the above findings, the AP No. 51 of 2016 is finally disposed of by the Electricity Ombudsman. No Costs.

(A. Dharmaraj)
Electricity Ombudsman

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(Superintending Engineer),
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5) The Chairman & Managing Director,
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6) The Secretary,
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