



A consumer is the important visitor on our premises.
He is not dependent on us. We are dependent on him.
-Mahatma Gandhi

TAMIL NADU ELECTRICITY OMBUDSMAN

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Before The Tamil Nadu Electricity Ombudsman, Chennai

Present : Thiru. N.Kannan, Electricity Ombudsman

A.P.No. 107 of 2022

M/s. Stanson Rubber Products II,
G-35, SIDCO Industrial Estate,
Kakkalur, Thiruvallur – 602 003.

. Appellant
(Thiru P.Periyannan, HR Manager,
Rep. by thiru C.S.Krishnamoorthy, Advocate)

Vs.

1. The Executive Engineer/O&M/ Thiruvallur,
Kanchipuram Electricity Distribution Circle,
TANGEDCO,
No: 6, Lal Bahadur Sastri Street,
Periyakuppam, Thiruvallur-602001.

2. The Assistant Executive Engineer/O&M/ North/Thiruvallur,
Kanchipuram Electricity Distribution Circle,
TANGEDCO,
14, Main Road, Jaya Nagar, Thiruvellore-602001.

3. The Assistant Engineer/O&M/ West/Thiruvallur,
Kanchipuram Electricity Distribution Circle,
TANGEDCO,
Near Anchaneyar Kovil, Kakalur – 621909.

. . . . Respondents
(Thiru R.Kanagarajan, EE/ Thiruvallur
Thiru S.Janakiraman, AEE/ O&M/ North/Thiruvallur
Thiru N.Balaji, AE/ O&M/ West/Thiruvallur)

Petition Received on: 22-12-2022

Date of hearing: 08-03-2023

Date of order: 21-03-2023

The Appeal Petition received on 22.12.2022, filed by M/s. Stanson Rubber Products II, G-35, SIDCO Industrial Estate, Kakkalur, Thiruvallur – 602 003 was registered as Appeal Petition No. 107 of 2022. The above appeal petition came up for hearing before the Electricity Ombudsman on 08.03.2023. Upon perusing the Appeal Petition, Counter affidavit, written argument, and the oral submission made on the hearing date from both the parties, the Electricity Ombudsman passes the following order.

ORDER

1. Prayer of the Appellant:

The Appellant has prayed to set aside the order passed by the CGRF of Kanchipuram circle dated 05.07.2022.

2.0 Brief History of the case:

2.1 The Appellant has stated that he had received a letter from AE/West/Thiruvallur to pay a shortfall amount of Rs.16,21,363/-.

2.2 The Respondent has stated that service was inspected by MRT and it was found that LTCT Y-Phase coil was completely burnt. Due to non-recording of one phase in meter during the period of Dec'2017 to Feb' 2020 CC arrears was claimed for an amount of to Rs.16,21,363/-

2.3 The Appellant has filed a Petition before the CGRF of Kanchipuram Electricity Distribution Circle to drop the short levy claimed by the respondent

2.4 The CGRF of Kanchipuram Electricity Distribution Circle has issued an order dated 05.07.2022. Aggrieved over the order, the Appellant has preferred this appeal petition before the Electricity Ombudsman by paying Rs 4.05,340 which is 25% of shortfall amount of Rs.16,21,363/-.

3.0 Orders of the CGRF :

3.1 The CGRF of Kanchipuram Electricity Distribution Circle issued its order on 05.07.2022. The relevant portion of the order is extracted below: -

"மன்றத்தின் தீர்வு

மின் இணைப்பு எண் 363-002-940 ற்காள மின் அளவிக்கு செல்லும் CT Coil Y Phase முழுவதுமாக எரிந்துள்ளதால் கடந்த 12/2017 முதல் 02/2020 வரை காலத்திற்கான 1/3 பங்கு அடிப்படையில் விதிக்கப்பட்ட மின் பயன்பாட்டு நிலுவைத் தொகை ரூ.16,21,363/- என்பது CMRI யில் இருந்து பதிவிறக்கம் செய்யப்பட்ட எம்.ஆர்.டி அறிக்கையின் மூலம் நிரூபணமாகிறது. மேலும் CMRI யில் இருந்து பதிவிறக்கம் செய்யப்படும் தகவல்கள் அறிவியல் ரீதியாக பதிவு செய்யப்பட்டதாகும். எனவே இது மின் நுகர்வோரால் பயன்படுத்தப்பட்ட பின் பயன்பாட்டு தொகையே என்பதாலும் இத்தொகை வாரியத்திற்கு செலுத்தப்பட வேண்டிய தொகையானதாலும், மின் குறை தீர்ப்பாணையம் மனுதாரர் திருமதி.R.ஞானபூங்கோதை கோயமுத்தூர் / தெற்கு பின் பகிர்மான வட்டத்திற்கு எதிராக தொடுத்த வழக்கில், ஆணை நாள்.05.08.2019 வழங்கியுள்ள தீர்ப்பாணையையும் கருத்திற் கொண்டு மின் நுகர்வோருக்கு விதிக்கப்பட்ட மேற்கண்ட நிலுவை தொகை ரூ.16,21,363/- வாரிய வழிகாட்டுதலின் படி சரியே என இம்மன்றம் தீர்ப்பளிக்கின்றது. மேலும் மனுதாரர் ஒரே தவணையாக செலுத்த இயலாத பட்சத்தில் தமிழ்நாடு ஒழுங்கு முறை ஆணையத்தின் குறிப்பிட்டுள்ளவாறு தவணை முறையிலும் வசூலித்து கொள்ளலாம் என்று இம்மன்றம் உத்திரவிடுகிறது."

4.0 Hearing held by the Electricity Ombudsman:

4.1 To enable the Appellant and the Respondent to put forth their arguments, a hearing was conducted on 08.03.2023 through video conferencing.

4.2 The Appellant Thiru P.Periyannan, HR Manager and his representative Thiru C.S.Krishnamoorthy, Advocate attended the hearing and put forth their argument.

4.3 The Respondents Thiru R.Kanagarajan, EE/ Thiruvallur, Thiru S.Janakiraman, AEE/ O&M/ North/Thiruvallur and Thiru N.Balaji, AE/ O&M/ West/Thiruvallurof Kanchipuram EDC attended the hearing and put forth their arguments.

4.4 As the Electricity Ombudsman is the appellate authority, only the prayers which were submitted before the CGRF are considered for issuing orders. Further, the prayer which requires relief under the Regulations for CGRF and Electricity Ombudsman, 2004 alone is discussed hereunder.

5.0 Arguments of the Appellant :

5.1 The Appellant has stated that the appeal petition is against the order passed by CGRF Kancheepuram dated 05.07.2022. The matter relates to revision of bills on account of one phase defective in LTCT service 363-002-940. The bill has been revised for 27 months from 12/2017 to 2/2020, and the consumer has been directed to pay a sum of Rs.16,21,363/- (Rupees Sixteen Lakhs Twenty one Thousand Three Hundred and Sixty three only).

5.2 The Appellant has stated that when the meter is not recording correct consumption then it is a defective meter. If it is a defective meter it has to be tested before the laboratory or by the Chief Electrical Inspector to Government of Tamil Nadu. The above test has not been carried out by the Respondent/TANGEDCO.

5.3 The Appellant has stated that the payment of Rs.16,21,363/- is a civil liability. If it is a civil liability the burden of proof is on the part of Respondent. When the respondent has not proved that the meter is defective for a period of 27 months, thereby directing the consumer to pay Rs.16,21,363/- for revision of bill does not arise.

5.4 The Appellant has stated that the down load particulars were not given for 27 months, only from June 2019 to 2/2020 were given. If the meter is defective it can be proved by download particulars and by LTCT meter register. In the absence of both revision of bills for 27 months does not arise,

5.5 The Appellant has stated that the CGRF in their finding "மேலும் மாதாந்திர மின் கணக்கீட்டின் (Monthly Meter Reading) போதே மின் அளவியில் Y Phase மின்னூட்டம் கணக்கிடப்படவில்லை என பிரிவு அலுவலரால் கண்டறிந்திருக்க இயலும் , அவ்வாறு ஆரம்ப நிலையிலேயே மின் அளவியில் y Phase மின்னூட்டம் கணக்கிடப்படாதது பிரிவு அலுவலர் கண்டறி ந்திருப்பேரானால் மின் நுகர்வோருக்கு இத்தகைய திறண்ட நிலுவைத் தொகை செலுத்த வேண்டிய சமை இருந்திருக்காது . இம்மின்னிணைப்பை பொறுத்தவரை பிரிவு அலுவர் போதிய விழிப்புணர்வு இல்லாமல் இருந்துள்ளார் என்பதும் பணியின் பால் மேற்படி அலுவலர் அலட்சியமாக இருந்துள்ளார் எனவும் அறியமுடிகிறது.

அலுவலரின் வாரிய பணிகளின் அலட்சியபோக்கினால் மின் நுகர்வோர் பாதிக்கப்படுவதையும் அதனால் வாரியத்திற்கு ஏற்பட்ட இழப்பை எக்காரணம் கொண்டும் ஏற்க இயலாததாதையால் மேற்படி பிரிவு அலுவலகத்தில் பணிபுரிந்து வந்த பிரிவு அலுவலர்கள் மீது உரிய வாரிய நடவடிக்கை மேள்கொள்ளப்பட வேண்டும் என்று அறிவுறுத்தப்படுகிறது."

5.6 The Appellant has stated that when there is a categorical findings about lapse committed by field staff, then the respondent cannot take advantage of their own wrong in revising the bill. The Respondent on the basis of assumption & presumption without any proof revised bills for 27 months.

5.7 The Appellant has stated that the various circulars issued by C.E. Commercial, Chairman from time to time are not at all followed by the field staff namely Revenue Supervisor while taking monthly reading.

5.8 The Appellant has stated that the claim by the Respondent is barred by limitation. Sec 56 (2) of Electricity Act 2003 contemplate "no sum due from any person under this section shall be recoverable after a period of two years from the date when such sum became first due. This clause provides that no sum due from any person under this section shall be recoverable after a period of two years from the date when such sum become first due. In the present case according to respondent first due is on 12/2017, and revised the bill on 05/2020. Hence Revision of bill cannot be made from December 2017 to 05/2018.

5.9 The Appellant has stated that according to Respondent, the meter is not at all defective and only one phase are not recording correct consumption. If that is so question of rectifying defect at later stage does not arise. When the consumption drops below 20% if they had followed the procedure revision of bill would not have taken place,

5.10 The Appellant has prayed to set aside the order passed by the CGRF Kancheepuram circle dated 05.07.2022 and thus render justice.

6.0 Arguments of the Respondent:

6.1 The Respondent has submitted that the LTCT service bearing SC.No.363-002-940 under Industrial Tariff extended to M/s.Stanson Rubber Products, at SIDCO Industrial Estate, Kakkalur state, Kakkalur Village in Tiruvallore (TK) & Dt. During 02/2020, the consumer observed heat on LTCT meter box and informed to Junior Engineer/O&M/West Tiruvallur section. Based on the consumer complaint, the LTCT meter box were inspected by AE/kakkalur and ascertained that, there is a heat in LTCT meter Box, On the same day ie.,10/02/2020, the MRT wing, who is the competent of LTCT metering arrangement was informed and the MRT-Kanchipuram team inspected the service in presence of Junior Engineer/O&M/West /Tiruvallur and the consumer representative, Thiru.K.Ravikumar.

6.2 The Respondent has submitted that on MRT inspection, it is ascertained that, out of 3 outgoing phases to the consumer loads, “Y” Phase outgoing to the consumer loads recorded 118.5 Amps on primary side, and there is no current recording in the secondary side of the meter. From the above it is clear that, the consumer availed three phase supply and consumed energy without recording one phase in meter. In the presence of consumer representative, the seals were opened and observed. On observation it's found that, the CT coil provided in the “y” phase was burnt & the secondary wire connected to the meter found burnt. This is the cause for the non recording of 'Y' Phase in the meter. The consumer asked to provide CT Coil 200/5Amps and the consumer handed over 3Nos CT coil with the same ratio of 200/5Amps. The same was handed over to the MRT for testing and fixed in the service in the presence of consumer representative Thiru.K.Ravikumar on 17.02.2020. On 17.02.2020 itself the consumer representative was informed about the billing revision will be recommended based on the MRT downloading data report for the Y-Phase CT coil burnout and Y phase current missing.

6.3 The Respondent has submitted that on detailed MRT downloaded report analyzing, the Y Phase Current element is not recorded in the meter from 30.11.2017 @ 12.50 Hr to 17.02.2020 @ 17.18 hrs, The recorded consumption for

the above said period for remaining 2-Phase is 4,86,348 units against the 3- Phase consumption 7,29,522 units.

6.4 The Respondent has submitted that the consumer M/s. Stanson Rubber Products, asked to pay the short levy of Rs.16,21,363/- for not recording of Y-Phase Current element with detailed working sheet on 26.05.2020 as per Electricity Act-2003 sec 56 (2).

6.5 The Respondent has submitted that after 26.05.2020, repeated communication between Distribution License and the consumer due to nonpayment of short levy arrear by the petitioner, the Service connection No. 363-002-940 was disconnected on 07.11.2020 under intimation to the petitioner. The petitioner request reconnection and informed about on filing of Petition before the CGRF/Kanchipuram. To grant reasonable opportunity to the petitioner, the service was reconnected on the same day.

6.6 The Respondent has submitted that the meter fixed in the petitioner premises SC No.363- 002-940 is found healthy and not defective. Due to missing of the Y-Phase Current element, the energy recorded only for the 2-Phases instead of 3 Phases. The Y- Phase CT Coil burnout on 30.11.2017. The period from 30.11.2017 @ 12.50hrs to 17.02.2020 @ 17.18hrs, the meter was not recorded 1- Phase energy. The procedure for replacement defective CT Coil in presence of the consumer representative on 10.02.2020 and 17.02.2020. Further consumer representative also informed about the proposed revision of billing.

6.7 The Respondent has submitted that the civil liability of Rs.16,21,363/- is arised due to not recording of Y-Phase Current element and not due to Meter defective. In the LTCT Metering arrangement by the distribution licensee. The supply of 3 Phase 440V is extended to the consumer Loads by erection 1 no LTCT Metering box. In the metering box the petitioner availed LT 3 Phase 440V Supply directly. The LTCT coil is provided in the metering box for measuring of Secondary current. The 1 No Y-Phase CT coil secondary Loads (Current element) is not

recording in the meter. The same was noticed by Licensee on 10.02.2020 through the consumer representative.

6.8 The Respondent has submitted that the lapse on the Officer /staff for not recording the metering data's during regular assessment is actionable by the employer cum licensee. The Petitioner has to pay energy consumption charges for consumed energy during the above said period. CMRI downloaded data were handed over to the petitioner on 22.07.2020 and again on 21.09.2020.

6.9 The Respondent has submitted that the short fall amount calculated and demanded by the distribution licensee is Scientific method, based on the 2/3 recorded consumption. The distribution licensee demanded a short levy as per the Electricity Act 56(2).

6.10 The Respondent has submitted that with reference to the applicability of Section 56(2) of the Electricity Act 2003, for limitation, the judgment at dt.14.11.2006 of Appellate Tribunal for Electricity in appeal Nos. 202 and 203 of 2005 is relevant and is reproduced below.

"Thus, in our opinion, The liability to pay electricity charges is created on the date electricity is consumed or the date the meter reading is recorded or the date meter is found defective or the date theft of electricity detected but the charges would become first due for payment only after a bill or demand notice for payment is sent by the license to the consumer. The date of the bill/demand notice for payment, therefore, shall be the date when the amount shall become due and it is from that date of the period of limitation of 2 years as provided in section 56(2) of the electricity act, 2003 shall start running in the instant case, the meter was tested on 03.03.2003, and it was already found that the meter was recording energy consumption less than the actual by 27.63% joined inspection report was signed by the consumer and the license and thereafter, the defective meter was replaced on 05.03.2003. The revised notice of demand was raised for a sum of rs.4,28,0341/-on 19.03.2005 though the liability may have been created on 03.03.2003, when the error is recording of consumption was detected the amount became payable only on 19.03.2005, the day when the notice of demand was raised. Time period of two years, prescribed by section 56(2), for recovery of the amount started running only on 19.03.2005. thus the first respondent cannot plead that the period of limitation for recovery of the amount has expired."

6.11 The Respondent has submitted that from the above judgment that, even though the liability to pay energy charges is created on the day the electricity is consumed, the charge would become first due only after a bill or the demand notice is served. Therefore, The limitation in the present case also shall run from the date of demand notice" It is submitted that the section 56(2) of the Electricity Act, 2003 has been considered and held that the bar of limitation cannot be raised by the consumer. Further any demand involving short levy, incorrect billing, wrong application of the multiplying factor, audit objection etc, made after two years is a supplementary bill towards the energy unbilled. There is no bar in the said act to raise a supplementary bill. In that case, The bar /limitation under section 56(2) of said act will be attracted on expiry of the time mentioned in such demand notice, Since on date the amount first became due unless the amount so demanded and in such supplementary bill is shown continuously as recoverable as arrears of charges for electricity supplied by the license. Further, such demand seeking payment for a back period shall be properly /appropriately worded so as to indicate that it is a supplement bill raised for the first time. The Respondent has prayed to dismiss the appeal filed by the petitioner.

7.0 Findings of the Electricity Ombudsman:

7.1 I have heard the arguments of both the Appellant and the Respondent. Based on the arguments and the documents submitted by them, the following issues arise for determination.

- 1) Is the contention of the Appellant regarding the respondent's failure to record accurate consumption through the meter, constituting a defective meter, and requiring testing before the laboratory or by the Chief Electrical Inspector to the Government of Tamil Nadu, a valid point for determination?
- 2) Can the Appellant's assertion that the revision of bills for 27 months is invalid due to the absence of download particulars for the same period, but only provided for June 2019 to February 2020, be sustained?
- 3) Does the respondent have any evidence to substantiate his claim of Rs.16,21,363/-, which the Appellant considers a civil liability?

4) whether the arguments of the Appellant that the claim by the Respondent is barred by limitation.?

8.0 Finding on the first Issue:

8.1 The Appellant has contended that in case the meter fails to record the correct consumption, it amounts to being defective and should have been tested either by the laboratory or the Chief Electrical Inspector to the Government of Tamil Nadu. However, the Respondent/TANGEDCO did not carry out the said test. The Appellant has further argued that the meter can be proved to be defective by downloading particulars and by LTCT meter register, and also argued that the existing guidelines were not followed by the Licensee in the dispute case. The Appellant has also alleged that the AEs/JEs failed to monitor the monthly consumption of this LTCT industrial service.

8.2 The Respondent has contended that the meter installed in the Appellant's premises bearing Service Connection No. 363-002-940 was found to be healthy and not defective. However, due to the burnout of Y-Phase CT Coil on 30.11.2017, the energy recorded was only for the 2 phases instead of 3 phases, resulting in the meter not recording 1-Phase energy for the period from 30.11.2017 @ 12.50hrs to 17.02.2020 @ 17.18hrs. The Respondent has stated that the procedure for replacing the defective CT Coil was followed in the presence of the consumer representative on 10.02.2020 and 17.02.2020, and the consumer representative was informed about the proposed revision of billing.

8.3 The Respondent contends that upon careful analysis of the detailed MRT downloaded report, it was found that the Y Phase Current element was not recorded in the meter for the period between 30.11.2017 @ 12.50 Hrs to 17.02.2020 @ 17.18 hrs. During this period, the recorded consumption for the remaining 2-Phases was 4,86,348 units, which is lower than the 3-Phase consumption of 7,29,522 units. The Respondent further asserted that any violation of existing instructions by a few licensee officials will be subject to departmental proceedings, but the liability of the

Appellant to make payment for the utilized energy should not be affected in any way that would cause loss to the Licensee.

8.4 In this context the issue to be determined before this EO is whether the Appellant's claim that if the respondent's meter in service was not accurately recording consumption; it constituted a defective meter and required testing before the laboratory or by the chief Electrical Inspector to the Government of Tamil Nadu. The Respondent disputed this, asserting that the meter was healthy, but there was a lack of proper association in the recording of three-phase current of R, Y and B due to Y phase current CT coil burnt, resulting in under-recording of energy consumed in the energy meter. The Respondent contends that the meter was healthy and that the burnt Y phase CT resulted in the absence of Y phase current. The Respondent submitted documents demonstrating that the Appellant had acknowledged the incident of noticing the burnt Y phase CT coil on 10-02-2020, with observations of the Y phase outgoing to consumer loads recording 118.5 Amps on the primary side and no current recording in the secondary side of the meter, and the Y phase CT coil being burnt completely. Further, the Respondent's documents, which were also acknowledged by the Appellant's unit electrical staff on 17-02-2020, showed that the CT coils were replaced and power check was carried out, with the observation that necessary billing revision would be raised.

8.5 Under these circumstances, I would like to refer regulation 7(9) of TNE Supply code which is extracted as follows:

If the consumer considers that the meter is defective, he may apply to the Licensee to have a special test carried out on the meters at any time and the cost of such a test shall be borne by the Licensee or the consumer according as the meter is found defective or correct as a result of such a test. The aforementioned special test for the disputed energy meters including the suspected/defective meters shall be carried out in the Third party testing laboratory accredited by National Accreditation Board for Testing and Calibration Laboratories (NABL) and till such time the Third Part Meter Testing Arrangement is established, the licensee shall have the special test conducted by the Chief Electrical Inspector to Government of Tamil Nadu. The meter shall be deemed to be correct if the limits of error do not exceed those laid down in the relevant rules made under the Act. The consumer may also be allowed to install a check meter after recalibration by the Licensee. Such check meter shall be of high

quality, high precision and high accuracy and sealed by the Licensee. Whenever the Licensee's meter becomes defective the check meter reading may be taken for billing."

8.6 The plain reading of the above suggests that if a consumer believes their service connection meter is defective, they should request a challenge test with the Respondent. However, it appears that the consumer did not challenged the service connection meter's accuracy through a challenge test with the Respondent. The Respondent confirmed this, and the Appellant did not dispute it during the hearing. According to the Licensee report, the Respondent has always maintained that the meter was in good condition. Therefore, the Appellant's assertion that the Respondent should have tested the meter with a third-party lab at this point does not seem credible, and the claim is rejected.

9.0 Findings on the second issue:

9.1 The Appellant contended that since the download particulars were not provided for the entire 27-month period, but only for June 2019 to 2/2020, the revision of bills for 27 months is not valid. Additionally, the LTCT meter register was not produced.

9.2 The Respondent argued that the CMRI downloading data shows the date and time of the missing current element and resetting of the Y-Phase current element. The data was handed over to the Appellant on 22.07.2020 and 21.09.2020. The Respondent further stated that the detailed MRT downloaded report analysis shows that the Y Phase Current element was not recorded in the meter from 30.11.2017 @ 12.50 Hr to 17.02.2020 @ 17.18 hrs.

9.3 In this regard, I would like to find out whose claim has been deemed valid. Upon careful examination of the cumulative event documents provided to the Appellant, as obtained from the downloaded report of the existing meter, it has been determined that there was an absence of Y-phase current between the time period of 30-11-2017 at 12:50 hours and 17-02-2020 up to 17:18 hours.

<i>Event type</i>	<i>Occurrence Date & Time</i>	<i>Restoration Date & time</i>	<i>Duration/Status(YY ddd hh :mm)</i>
<i>Current Terminal open</i>	<i>30-11-2017 12:50</i>	<i>17-02-2020 17:18</i>	<i>0207904:28</i>

From the above, it is clear that energy was not recorded in Y phase in three phase association of the Service Meter.

9.4 Regarding the Appellant's argument that they were not provided with downloaded data for a period of 27 months but only furnished for the period of June 2019 to February 2020, the Respondent has replied that the energy recording facility was limited to a certain period due to limitation of memory in the energy meter which was furnished to the Appellant. Therefore, providing the available downloaded data to the Appellant is justified. As a result, the Appellant's claim that they were not provided with details for 27 months is not acceptable.

10.0 Findings on the third issue:

10.1 The Appellant in his arguments has stated that the payment of Rs.16,21,363/- is a civil liability, and as such, it is the responsibility of the Respondent to provide evidence to support their claim. Additionally, the Appellant argued that since the Respondent has not demonstrated that the meter was faulty for a period of 27 months, the demand for payment of Rs.16,21,363/- for the bill revision is unjustified.

10.2 The Respondent has submitted that the petitioner availed 3 Phase supply between the period from 30.11.2017 to 17.02.2020 whereas the energy meter recorded consumption only in 2-phases. In this regard, I would refer to the Section 35 of the Evidence Act 1872 which is discussed below:

“35. Relevancy of entry in public record or an electronic record made in performance of duty. An entry in any public or other official book, register or record or an electronic record stating a fact in issue or relevant fact and made by a public servant in the discharge of his official duty or by any other person in performance of a duty

especially enjoined by law of the country in which such book, register or record or an electronic record is kept is a relevant fact.”

10.3 According to the aforementioned, an entry in any public or other official book, register or record is admissible as evidence under the law of the country. The MRT wing of the Licensee is authorized for determining the status of the meter after conducting a scientific test. Therefore, I would like to examine the MRT test report enclosed by the respondent in accordance with the provisions of the Evidence Act. The MRT report was communicated via Letter No. AEE/MRT/KPM/LTCT/F.11/D.No.948/19-20 dated 23-03-2020. It is observed from the MRT report as follows:

“On analyzing the meter downloaded data, it was known that Y phase current was not recorded in the meter for the period from 30.11.2017 to 17.02.2020. The “current term to open on L2” tamper has occurred on 30.11.2017 and restored only after replacing the CT on 17.02.2020 in the tamper events.

In consumer ledger it was noticed that the energy consumption recorded and Maximum demand (MD KW) recorded in the meter was drastically reduced during the CT coil defect period from 30.11.2017 to 17.02.2020. From the above it is very clear that only 2/3rd of the energy consumption was only recorded in the meter during the CT coil defective period as 1/3rd of the energy consumption was missing in the meter.

Hence billing has to be revised for the defective period from 30.11.2017 to 17.02.2020. The bill revision calculation sheet is enclosed herewith. The shortfall amount has to be collected from the consumer and the collection details may be reported to this office.”

10.4 Further, the following further points are discussed for concluding towards the dispute raised by the Appellant.

10.5 The Appellant argued that the according to respondent the meter not all defective and only one phase is not recording correct consumption, if that is so question of rectifying defect at later stage does not arise.

10.6 Under this circumstances I would like to refer regulation 11 of TNE Supply Code Regulation wherein it was discussed in detail which is reproduced below

“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.”

10.7 Upon thorough examination of the aforementioned regulation, it is evident that regulations 11(2), 11(4), 11(5), and 11(6) prescribes the procedures for computing the average consumption during the period of meter defect. In the present case, although the meter is functioning properly, the CT was damaged in the consumer's location, resulting in the failure to record Y phase current between 30-11-2017 to 17-02-2020. In this regard, I would like to draw attention to clause 2 (P) of the CEA (Installation and Operation of Meters) Regulations 2006, dated 17-03-2006, which pertains to the definition of the term.

Clause 2(p)

“ Meter” means a device suitable for measuring, indicating and recording the conveyance of electricity any other quantity related with electrical system and shall include, wherever applicable, other equipment such as instrument transformer necessary for the purpose of measurement and also mean “correct Meter”, if its complied with the standards as specified in the schedule to these regulations .

10.8 The inference from the above, other equipment such as instrument Transformer which is necessary for the purpose of measurement is also part of the Meter, though the Meter stood healthy as per MRT test Report.

10.9 The provisions contained in regulation 11(2), 11(4), and 11(5) of the Tamil Nadu Electricity Supply Code cannot made applicable to the energy meter in question since only one phase (Y-phase) was not recording consumption. Hence, the respondent relied on regulation 11(6) to revise the billing based on the consumption recorded in the other two phases. The Respondent has also provided a calculation to support their position which states that $\frac{2}{3}$ of the consumption was recorded in the meter and $\frac{1}{2}$ of the recorded consumption was added to arrive at the total consumption between December 2017 to February 2020. The consumption units recorded by the two phases were divided to calculate the left-out phase consumed units, and the same was added to arrive at the total energy for each billing period. The left-out units were billed as short levy during the Y-phase current missing period. The short levy calculated as per the working sheet as found in the CGRF order was reproduced below :

Month	Units to be recorded in 3 phases	Units already billed	Units to be billed
Dec-17	24942	16616	8308
Jan-18	28092	18728	9364
Feb-18	24900	16600	8300
Mar-18	33606	22404	11202
Jun-18	31182	20788	10394
Jul-18	27130	18088	9044
Aug-18	31494	20996	10498
Sep-18	25644	17069	8548
Oct-18	27186	18124	9062
Nov-18	28290	18860	9430
Dec-18	22440	14960	7480
Jan-19	19164	12776	6388
Feb-19	18360	12210	6120
Mar-19	18720	12480	6240
Apr-19	24414	16276	8136
May -19	28410	18940	9470
Jun 19	30774	20516	10258
Jul-19	40014	26676	13338
Aug-19	32688	21792	10896
Sep-19	26418	17612	8806
Oct-19	27516	18344	9172
Nov-19	34380	22920	11460
Dec-19	31506	21004	10502
Jan-20	22680	15120	7560
Feb-20	22236	14824	7412
			243174

Total units to be billed	243174 units	Amount in Rs.
Bill revision short fall amount for left out units	243174 x 6.35	1544154.90
E Tax 5%	1556550 x 5%	77207.75
		1621362.65
	Or say	1621363.00

10.10 Therefore I am of the opinion that the calculation made by the Respondent is scientifically correct and acceptable. Further, upon verification of the consumer ledger, it is observed that the Appellant's meter readings recorded between the disputed period of December 2017 to January 2020 were lower than the previous billing period and the subsequent billing period, with an average of 62 KW as against to 100 KW.

10.11 From the above findings, I am of the view that the Respondent has provided sufficient evidence to support their claim for civil liability. Therefore, the Appellant's claim that the Respondent has not provided evidence for civil liability is rejected. Nevertheless, in the event that the Appellant remains doubtful about the status of the meter, the Appellant may choose to request a special test (challenge test) of the meter to be conducted by a third-party testing laboratory accredited as per Regulation 7(9) of the Supply Code.

11.0 Findings on the fourth issue:

11.1 The appellant in his arguments has stated that the claim made by the respondent is barred by limitation. Before to decide the said issue I would like to refer the following

“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 by such consumer 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 any 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.”

11.2 It is clear from the foregoing paras that, in the event of any clerical errors or mistakes in the amount levied, demanded or charged by the Licensee, they are entitled to demand an additional payment if they undercharge, and the consumer is entitled to a refund if they overcharge. Now the issue of the applicability of the law of limitations, on the claim made by the respondent needs to be addressed.

11.3 The Appellant has stated that the claim made by the Respondent is barred by limitation. Sec 56 (2) of Electricity Act 2003 contemplate "no sum due from any person under this section shall be recoverable after a period of two years from the date when such sum became first due. This clause provides that no sum due from any person under this section shall be recoverable after a period of two years from the date when such sum becomes first due. In the present case according to respondent first due is on 12/2017, and revised the bill on 05/2020. Hence revision of bill cannot be made from December 2017 to 05/2018.

11.4 The Respondent argued that with reference to the applicability of Section 56(2) of the Electricity Act 2003, for limitation, the judgment dt.14.11.2006 of Appellate Tribunal for Electricity in appeal Nos. 202 and 203 of 2005 is relevant. Therefore, I would like to refer the relevant para which is reproduced below.

"Thus, in our opinion, The liability to pay electricity charges is created on the date electricity is consumed or the date the meter reading is recorded or the date meter is found defective or the date theft of electricity detected but the charges would become first due for payment only after a bill or demand notice for payment is sent by the license to the consumer. The date of the bill/demand notice for payment, therefore, shall be the date when the amount shall become due and it is from that date of the period of limitation of 2 years as provided in section 56(2) of the electricity act, 2003 shall start running in the instant case, the meter was tested on 03.03.2003, and it was already found that the meter was recording energy consumption less than the actual by 27.63% joined inspection report was signed by the consumer and the license and thereafter, the defective meter was replaced on 05.03.2003. The revised notice of demand was raised for a sum of rs.4,28,0341/-on 19.03.2005 though the liability may have been created on 03.03.2003, when the error is recording of consumption was detected the amount became payable only on 19.03.2005, the day when the notice of demand was raised. Time period of two years, prescribed by section 56(2), for recovery of the amount started running only on 19.03.2005. thus the first respondent cannot plead that the period of limitation for recovery of the amount has expired."

11.5 From the above, it is clear that, even though the liability to pay energy charges is created on the day the electricity is consumed, the charge would become first due only after a bill or the demand notice is served. Therefore, the limitation in the present case also shall run from the date of demand notice. Further any demand

involving short levy, incorrect billing, wrong application of the multiplying factor, audit objection etc, made after two years is a supplementary bill towards the energy unbilled. There is no bar in the said act to raise a supplementary bill. In that case, the bar /limitation under section 56(2) of said act will be attracted on expiry of the time mentioned in such demand notice.

11.6 Under this circumstances, I would like to find when the first due was raised and whether it was continuously shown beyond two years period. Hence, I would like to refer to specific paragraphs from the past ruling.

"In the judgment dated 31.03.1987 (HD. Shourie vs. Municipal corporation of Delhi), among other things, the word 'due' appearing in section 24 of LE Act 1910 had been considered by the Court and it was held that the word "due' in the context(of section 24 of the IE Act.1910) must mean due and payable after a valid bill has been sent to the consumer and that even though the liability to pay may arise when the electricity is consumed by the petitioner, nevertheless it becomes due and payable only when the liability is quantified and a bill is raised".

The aforesaid interpretation was upheld in the appeal and followed by in other cases referred to above, in the decision rendered in M/s. Jingle Bell Amusement Park (P) Ltd Vs. North Delhi Power Ltd., and M/s. Rototex Polyester and another vs. Administration of Dadra & Nagar Haveli (UT) Electricity Department, the scope of section 56(2) of the Electricity Act, 2003 has been considered and held that the bar of limitation cannot be raised by the consumer and further held that the revised bill amount would become due when the revised bill is raised and section 56(2) of the said Act would not come in the way of recovery of the amount under the revised bills.

From the above, it is evident that any demand involving a short levy, incorrect billing, wrong application of the multiplying factor, Audit Objection, etc, made after two years is a supplementary bill towards the energy unbilled. There is no bar in the said Act to raise a supplementary bill. In that case, the bar/limitation under section 56(2) of the said act will be attracted on expiry of the time mentioned in such demand notice, since on the date the amount first became due unless the amount so demanded in such supplementary bill is shown continuously as recoverable as arrears of charges for electricity supplied by the Licensee. Further, such demand seeking payment for a back period shall be properly/appropriately worded to indicate that it is a supplementary bill raised for the first time."

11.7 It is evident from the aforementioned provision that the Licensee holds the authority to demand an additional amount in the case of undercharging caused by any clerical mistake or error in the amount levied, demanded or charged. The

limitation period commences from the date of the demand notice and is continuously shown as the fact of the claim.

11.8 Upon examination of the documents submitted, it is established that the respondent issued the first short levy notice to the appellant on 26-05-2020, demanding a shortfall amount of Rs.16,21,363/-. The respondent received a reply from the appellant on 13-06-2020, seeking additional information. The respondent responded on 22-07-2020, and the appellant requested missing details. The appellant addressed the SE on 16-10-2020, and the respondent replied on 10-11-2020. The respondent again demanded short levy, failing which necessary disconnection would take place. On 16-11-2020, the appellant raised an objection and requested a detailed enquiry, and the supply not to be disconnected. Subsequently, the appellant filed a petition with CGRF on 24-11-2020, and it was heard on 12-11-2021. Based on the request made by the appellant to conduct a field investigation and make a decision based on his prayer, it was decided to hear after the next sitting. Due to Corona and repeated requests made by the appellant on 30-04-2022 and 10-06-2022, a hearing was again held on 01-07-2022, and CGRF passed an order on 05-07-2022.

11.9 Based on the established fact above, it is evident that there was a continuous claim of short levy from 20-5-2020 to 10-06-2022, which is recoverable as arrears and runs continuously even beyond the two-year time limit. Therefore, the Appellant's argument that the Respondent's claim for demand charges is barred under the limitation period found to have no merit and is rejected.

12.0 Conclusion :

12.1 Based on my findings in the foregoing paras, it is established that the meter recording in the service connection with SC No.363-002-940 was found to be erroneous due to the Y-phase CT coil being burnt, leading to Y phase CT current missing from 30-11-2017 to 17-02-2020. Therefore, the respondent's claim for the payment of shortfall arrears of Rs.16,21,363/- is deemed to be valid. The final bill

can be claimed as per regulation 12(2) of TNE Supply Code Regulation, subject to the deduction of the already paid amount, along with any other dues.

12.2 With the above findings the A.P. No.107 of 2022 is finally disposed of by the Electricity Ombudsman. No Costs.

(N. Kannan)
Electricity Ombudsman

“நுகர்வோர் இல்லையேல், நிறுவனம் இல்லை”
“No Consumer, No Utility”

To

1. M/s. Stanson Rubber Products II, - By RPAD
G-35, SIDCO Industrial Estate,
Kakkalur, Thiruvallur – 602 003.

2. The Executive Engineer/O&M/ Thiruvallur,
Kanchipuram Electricity Distribution Circle,
TANGEDCO,
No: 6, Lal Bahadur Sastri Street,
Periyakuppam, Thiruvallur-602001.

3. The Assistant Executive Engineer/O&M/ North/Thiruvallur,
Kanchipuram Electricity Distribution Circle,
TANGEDCO,
14, Main Road, Jaya Nagar,
Thiruvellore-602001.

4. The Assistant Engineer/O&M/ West/Thiruvallur,
Kanchipuram Electricity Distribution Circle,
TANGEDCO,
Near Anchaneyar Kovil,
Kakalur – 621909.

5. The Superintending Engineer, - By Email
Kanchipuram Electricity Distribution Circle,
TANGEDCO,
Anna Maaligai, Olimohampet,
Kanchipuram-631502.

6. The Chairman & Managing Director, – By Email
TANGEDCO,
NPKRR Maaligai, 144, Anna Salai,
Chennai -600 002.

7. The Secretary,
Tamil Nadu Electricity Regulatory Commission, – By Email
4th Floor, SIDCO Corporate Office Building,
Thiru-vi-ka Industrial Estate, Guindy,
Chennai – 600 032.

8. The Assistant Director (Computer) **–For Hosting in the TNERC Website**
Tamil Nadu Electricity Regulatory Commission,
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