



TAMIL NADU ELECTRICITY OMBUDSMAN

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BEFORE THE TAMIL NADU ELECTRICITY OMBUDSMAN, CHENNAI

Present: Thiru. A. Dharmaraj. Electricity Ombudsman

Appeal Petition No. 19 of 2016

M/s Kingston Victor,
C/o Stephen & Stephen,
No.16, Corporation Shopping Complex,
3rd Avenue,
Indira Nagar, Chennai - 600 020.

. Appellant
(Rep by Thiru. N. Senthil Viswaroopan, Advocate)

Vs

The Executive Engineer,
I.T. Corridor,
Chennai Electricity Distribution Circle/South-II,
TANGEDCO,
110/33 KV SS Complex, Tidal Park,
Chennai - 600 113.

. Respondent
(Rep by R. Kumaravelu, AEE/I.T. Corridor on 10.6.2016 &
Thiru. R. Ramasubbu, EE/I.T. Corridor on 27.7.16)

Date of hearing : 10.6.2016 & 27.7.2016

Date of Order : 23.11.2016

The Petition dt. 25.2.2016 filed by M/s Kingston Victor was registered as Appeal Petition No.19 of 2016. The above appeal petition came up before the Electricity Ombudsman for hearing on 10.6.2016 & 27.7.2016. 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:

It is humbly prayed that this Hon'ble TNEO may be pleased to accept our genuine appeal, and to pass an order.

- (i) Directing the respondent to properly close the accounts analyzing the data, payment details and available deposits as per the Code provisions on the lights, facts and circumstances of the issue and on the grounds of appeal raised.
- (ii) To refund the difference in amount deducted on arbitrary calculation without adhering to the rules.
- (iii) And to pass necessary & appropriate orders in this regard as this forum deems fit & proper in the ends of justice.

2. Brief History of the case:

- 2.1 The service connection No.327 -001-118 was permanently dismantled as per the request of the Appellant.
- 2.2 The Appellant filed a petition before the CGRF of Chennai EDC/South for refund of the balance deposit amount available in the account of SC No.327 -001-118.
- 2.3 The CGRF has ordered to refund the balance deposit amount available with interest.
- 2.4 The Respondent has refunded a sum of Rs.2,38,462/- The Appellant aggrieved over the calculated balance amount filed a petition before the Electricity Ombudsman and the same was registered as A.P. No. 19 of 2016.

3.0 Orders of CGRF :

The relevant para of the order is extracted below: -

" Findings of the Forum :

The account closing proposal may be processed in respect of LT SC No.327-001-118.

The refund of deposit along with interest shall be made on or before 15.10.2015.

Order of the of the Forum.

"The compliance report on refund of deposit shall be furnished within 7 days from the date of settling the accounts."

4.0 Contentions of the Appellant furnished in the Appeal Petition:

4.1 The order passed by the CGRF/South is neither analytic nor specific.

4.2 The calculation arrived by the Assistant Accounts Officer/ITC Division and further revision by way of deduction by Deputy Financial Controller/South is not as per regulation 33(5) of TNE Distribution Code.

4.3 An amount of Rs.14,471/- was deducted from the calculated available deposits as less dues contrary to the fact that the consumer has paid all the dues on the date of termination of agreement.

5.0 Contentions of the Respondent furnished in the Counter:

5.1 The Respondent deny all these allegations made in the appeal petition. As the petitioner approached CGRF and upon hearing it was ordered in CGRF/South with the consent of the petitioner that "The compliance report on refund of deposit shall be furnished within 7 days from the date of settling the accounts" and the petition is disposed of.

5.2 After including the 9% interest for the available deposit as on 29.8.2015 pertaining to the SC No.327-001-118 and after closing the accounts as per TNERC norms (deduct any dues due to the TANGEDCO) a sum of Rs.2,38,462/- vide cheque No.845753/7.10.15 was handed over on 7.10.15. The working sheet is submitted herewith.

5.3 Hence, it is humbly prayed to Hon'ble Tamil Nadu Electricity Ombudsman to pass orders considering all the above facts and to pass an order to dismiss the above petition.

6.0 Hearing held by the Electricity Ombudsman:

6.1 To enable the Appellant and the Respondents to putforth their arguments in person, a hearing was proposed on 27.5.2016. But it was postponed to 10.6.2016 as requested by the Advocate representing the Appellant. Further hearing on the subject matter was also conducted on 27.7.2016.

6.2 Thiru N. Senthil Viswaroopan, Advocate attended the hearing on behalf of the Appellant and putforth his side arguments on both the days.

6.3 On 10.6.2016 Thiru. Kumaravelu, Assistant Engineer/I.T.Corridor attended the hearing on behalf of the Respondent. On 27.7.2016 Thiru. Ramasubbu, Executive Engineer/I.T. Corridor, the Respondent herein has attended the hearing and putforth his arguments.

7.0 Findings of the Electricity Ombudsman :

7.1 Thiru. Senthil Viswaroopan, learned advocate argued that the licensee has deducted a sum of Rs.14,471/- towards the pending dues to be paid by the

consumer from the deposit amount. As the consumer has paid all the dues while terminating the agreement he argued that the deduction is wrong.

7.2 The licensee argued that the monthly minimum for six months arrears of the CC charges if any, Disconnection charges, Dismantling charges, Testing charges etc have been deducted in the available deposit.

7.3 As it is termination of agreement as per the request of the consumer, I would like to refer regulation 33(3) & 33(5) of the Distribution Code which are extracted below :

33 AGREEMENTS :

xxx xxx xxx

(3) The agreement can be terminated by the consumer at any time by giving one month's notice in writing to the Licensee expressing his/her intention to do so.

(4) xxx xxx xxx

(5) In the case of termination of the agreement either by the consumer under sub – regulation (3) or by the licensee under sub – regulation (4), as the case may be, the licensee shall recover the dues if any due from the consumer after making such adjustment of the dues, due to him by the consumer as may be necessary to clear the dues from the consumer against the security deposit or additional security deposit or any other deposit made by the consumer and after making such adjustment, refund the balance deposit, if any, to the consumer within three months from the date of termination of the agreement.

xxx xxx xxx ”

7.4 On a careful reading of regulation 33(3) , the agreement can be terminated by the consumer at any time by giving one month's notice in writing to the licensee.

7.5 As per regulation 33(5) of the Distribution Code, the licensee shall recover the dues if any from the consumer after making adjustments of the dues from the security deposit available and the balance deposit amount available has to be refunded within three month, from the date of termination of agreement.

7.6 As the service was closed as per the request of the consumer only, one month notice is required for termination of agreement as per regulation 33(3) of the

Distribution Code. Accordingly, the licensee agreed that the monthly minimum calculation for six months will be reduced to one month and furnish a revised statement of account closure.

- 7.7 In respect of the date of notice for termination of agreement and the charges that are to be deducted from the deposit amount such as “arrears if any on the date of disconnection, monthly minimum charges for one month towards notice period, Testing fee, Disconnection charges, dismantling charges, etc there is no dispute between the Appellant and the Respondent.
- 7.8 Accordingly, the Respondent has furnished the revised working sheet on 21.6.2016. During the hearing held on 27.7.2016, the revised statement was analysed and based on the discussion, the EE/I.T. Corridor agreed to correct the statement.
- 7.9 After taking into account of the corrections suggested in the hearing held on 27.7.2016, the EE/I.T. Corridor, reworked the balance amount to be refunded and furnished the revised statement on 9.8.2016 showing the Income Tax deducted as refundable. However, the EE/I.T. Corridor furnished a revised statement on 24.10.2016 excluding the Income Tax deducted stating that the I.T amount has already been remitted to the Income Tax Department. He has also informed that the TDS form will be issued to the consumer separately. The statement dt.24.10.2016 is extracted below :

S.No.	Description	327-001-118	Details
1.	<i>Date of last Assessment</i>	31.01.2015	
2.	<i>Date of Application</i>	15.07.2015	
3.	<i>Amount to be paid as on last assessment</i>	-	
4.	<i>Date of Disconnection</i>	06.07.2015	
5.	<i>Amount to be paid on date of Disconnection</i>	-	
6.	<i>E. Tax %</i>	-	
7.	<i>Monthly Minimum for 1 Month</i>	3150	
8.	<i>E. Tax %</i>	158	
9.	<i>CC Arrears if any</i>	18191	<i>Monthly minimum from 1.2.2015 to 15.7.2015 (3150 x 5.5) + 5% E.Tax</i>
10.	<i>Testing Fees</i>	2000	<i>MRT Testing fees since LTCT service</i>
11.	<i>½ Disconnection fees</i>	30	
12.	<i>Dismantling charges</i>	500	
13.	<i>BPSC</i>	0	
14.	Total Amount to be paid by the consumer	24029	
15.	<i>ASD as on 31.3.2015</i>	243791	
16.	<i>Interest for ASD as on date of Disconnection</i>	6400	<i>=243791x9 % per year x 3.5 months from 1.4.2015 to 15.7.2015).</i>
17.	<i>ASD as on 15.7.2015 including interest</i>	250191	
18.	<i>Total ASD as on date of application of permanent dismantling</i>	250191	
19.	<i>MCD</i>	2500	
20.	Total Amount available	252691	
21.	Amount to be refunded	228662	
22.	<i>Amount already refunded</i>	238462	
23.	Balance to be recovered from the consumer	9800	
24.	Remaks	<i>ASD Income Tax amount have been deducted and remitted to the IT Department. The TDS form will be issued to the consumer separately.</i>	

7.10 On a scrutiny of the statement, it is noted that the licensee has charged Rs.2000/- as MRT testing fee since the service to be dismantled is LTCT

service.

7.11 In this connection, I would like to refer the miscellaneous charges approved by the Hon'ble Commission in M.P.No.41 of 2003 dt.31.8.2004. The clause 3.4 meter related charges of the said order is extracted below :

3.4 Meter Related Charges : *The charges covered under this are (i) Charges for changing of meter board (ii) Charges for changing the meter at the request of the consumer (iii) Testing of meter and (iv) Installation testing.*

Reduction and rationalization on the main representation on these charges Commission has taken note of the Demand and decides that,

- *The charges for changing of meter board for LT single phase and three phase can be same*
- *The charges for changing of meter at the request of the consumer can be fixed as a single rate for all LT service categories and a separate single rate for HT services.*
- *The charges for challenge test can be separate for single and three phase The same rate will apply irrespective of the rating .*
- *Charges for testing of time switches is dropped.*
- *For installation testing, the first test at the time of extending supply shall be free and subsequent tests as per statutory or consumer's request shall be charged at a single rate for all LT and services and a separate single rate for all HT services.*

7.12 On a careful reading, it is noted that Hon'ble Commission has decided that for installation testing, the first test at the time of extending supply shall be free and for subsequent tests as per statutory or consumer request shall be charged at a single rate for all LT services and a separate single rate for all HT service.

7.13 In the statements showing Miscellaneous charges, in statemet-2 the meters charges was given. In serial No.(v) charges for installation testing was given which is extracted below :-

**“ MISCELLANEOUS CHARGES :
2.0 Meters**

Sl.No.	Category	Existing & Proposal		Approved by TNERC	
		Single Phase	Three phase	Single Phase	Three phase
XXX XXX XXX XXX XXX XXX					
(v) Installation Testing :					
1. LT Services					
a	First test and Inspection	Free	Free	Free	Free
b	Further test on inspection due to faults in installation(if needed as per statutory requirement)	Rs.50	Rs.75	Rs.75	Rs.75
2 HT services					
	For the first and subsequent test and inspections	--	Rs.150	--	Rs.75
3	Attending faults by officials of TNEB	Rs.1000/- Visit		Rs.2000/- Visit	

7.14 On a careful reading of the above, it is noted that Rs.75/- only charged for testing the installation of LT & HT services. There is no category as MRT testing fees in the Miscellaneous charges order. As the Respondent argued that Rs.2000/- is the MRT testing fees, I would like to refer order no. M.P.No.41 of 2003 dt.14.12.2006 which is extracted below :

“(1) The charges to attend to faults in the consumers premises through a visit by the Licensee's official at the request of the consumer, specified under para 3.4 (Meter Related charges) of the order on NonTariff related Miscellaneous Charges is amended as Rs.2,000/- in line with the charges mentioned in the schedule of charges in Statement 2 (item V – 3).

(2) Whenever the officials of the licensee visit consumer premises at the request the consumer for opening and closing of AB switches, the licensee shall collect a charge of Rs.2000/ per visit”

7.15 It could seen from the above that a sum of Rs.2000/- is the charges for attending the faults in the consumer premises or for opening and closing of AB switches only. As the charges claimed in the permanent dismantling is not for the above, I am of the view that the charges of Rs.2000/- claimed as testing charges in

respect of the LT CT services is not as per the charges fixed in M.P.No.41 of 2003. In this regard, it is to be pointed out that in respect of LTSC No.297-011-1211, the Respondent has charged only Rs.75/- towards testing fee as it is a non CT service. As per the charges approved by the Hon'ble Commission, the installation testing charges for HT service is also Rs.75/- only. As the services to be dismantled is only a LTCT service and as there is no separate charges for LTCT services, I am of the view only Rs.75/- has to be collected towards testing fee in respect of LTCT services also like the other LT services.

7.16 In the statement against item No.16, the interest on security deposit from 1.4.15 to 15.7.15 was worked out considering interest rate as 9% per annum for 3.5 months. As per Commission Order No.1 of 2016, dt.5.2.2010, the interest on security deposit for the year 2015-16, is 8% per annum. Hence, the interest rate of 8% per annum shall be adopted for calculating the interest. Further, as per regulation 35(4) of the Distribution Code, full calendar months only will be taken into account for the purpose of calculating the interest on security deposit. Therefore, the interest has to be calculated for 3 months only.

7.17 In the statement furnished by the Appellant in Sl.no.21, the amount available for refund has been arrived. The above is the amount available for refund as on 15.7.2015. But, it is noted that the Respondent has refunded a sum of Rs.2,38,462/- taking into account of the interest accrued upto 29.8.2015 on the security deposit available. Therefore, the interest for the amount available for refund as on 15.7.2015 (sl.no.21 of the statement) has to be worked out upto 29.8.2015 and added to the amount available for refund as on 15.7.2015 to

arrive at the amount available for refund as on 29.8.2015.

7.18 In view of the findings discussed above, the Respondent is directed to rework the amount to be refunded duly taking into account of

(i) Testing charges as Rs.75/-

(ii) Interest for the period from 1.4.2015 to 15.7.2015 at 8% for 3 months as discussed in para 7.16.

(iii) Interest for the period from 15.7.2015 to 29.8.15 on the amount available for refund arrived in Serial. No.21.

7.19 If the amount reworked as per para 7.18 is more than the sum of Rs.2,38,642/- already refunded on 7.10.2015, the balance shall be refunded with interest as applicable to security deposit. However, if the amount so arrived is less than the sum of Rs.2,38,642/- already refunded on 7.10.2015 then, the difference has to be recovered from the Appellant. In such case, the Respondent has to issue a separate notice duly giving sufficient notice period as per regulation for collecting the dues from the Appellant.

8. Conclusion:

8.1 The Respondent is directed to rework the amount to be refunded as per para 7.18 within 15 days from the date of receipt of this order.

8.2 If the amount so arrived is more than the sum of Rs.2,38,462/- already refunded on 7.10.2015, the balance amount shall be refunded with interest as applicable to security deposit. However, if the amount so arrived is less than the sum of Rs.2,38,462/- already refunded, the excess amount paid to the Appellant has to be recovered by issuing a separate notice duly giving sufficient notice period as

per regulation.

8.3 A compliance report shall be sent within 60 days from the date of receipt of this order.

8.4 With the above findings, the A.P.No.19 of 2016 is finally disposed of by the Electricity Ombudsman. No Costs.

(A. Dharmaraj)
Electricity Ombudsman

To

1) M/s Kingston Victor,
C/o Stephen & Stephen,
No.16, Corporation Shopping Complex,
3rd Avenue,
Indira Nagar, Chennai - 600 020.

2) The Executive Engineer,
I.T. Corridor,
Chennai Electricity Distribution Circle/South-II,
TANGEDCO,
110/33 KV SS Complex, Tidal Park,
Chennai - 600 113.

3) The Chairman,
(Superintending Engineer),
Consumer Grievance Redressal Forum,
Chennai Electricity Distribution Circle/South-II,
TANGEDCO,
110 KV SS Complex, K.K. Nagar,
Chennai 600 078.

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

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

6) The Assistant Director (Computer) - **For Hosting in the TNEO Website please.**
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