



## **TAMIL NADU ELECTRICITY OMBUDSMAN**

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### **BEFORE THE TAMIL NADU ELECTRICITY OMBUDSMAN, CHENNAI**

**Present : Thiru. S. Devarajan, Electricity Ombudsman**

**A.P. No. 55 of 2017**

M/s.Aarthi Scans Pvt Ltd.,  
C/o M/s Stephen & Stephen Advocates & Associates,  
No.16, Corporation Shopping Complex,  
3<sup>rd</sup> Avenue, Indira Nagar,  
Chennai – 600 020.

..... Appellant  
(Thiru. N. Senthil Viswaroopan, Advocate  
C/o M/s Stephen & Stephen Advocates &  
Associates)

Vs

The Executive Engineer/O&M/Mylapore,  
Chennai Electricity Distribution Circle/Central,  
TANGEDCO,  
110/33/11KV Valluvarkottam SS Complex,  
M.G.R Salai, Nungambakkam,  
Chennai 600 034.

..... Respondent  
(Thiru. C. Jayachandran, EE/O&M/Mylapore)

**Date of hearing: 17.11.2017**

**Date of order : 15.03.2018**

The Appeal Petition dt. 29.8.2017 filed by M/s Aarthi Scans Pvt Ltd., C/o M/s Stephen & Stephen Advocates & Associates, Indira Nagar, Chennai was registered as Appeal Petition No. 55 of 2017. The above appeal petition came up for hearing before the Electricity Ombudsman on 17.11.2017. Upon perusing the Appeal Petition, counter affidavit and written argument and of 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:**

To direct the respondents to set aside the audit claim made by the department in LT S.C. A/c No. 132-023-179 and to refund the same which was paid under threat of disconnection.

### **2. Brief History of the case:**

2.1 Respondents have included a shortfall amount of Rs.7,19,392/- in LT SC A/c No.132-023-179.

2.2 Appellant approached the respondent to drop the shortfall amount. Since the respondents refused to drop the shortfall amount and insisted to pay the amount so as to avoid disconnection, the Appellant paid the same and approached the CGRF to redress the complaint.

2.3 Chairman/CGRF has closed the petition without conducting the hearing. Aggrieved over the issue, the appellant filed an appeal petition before the Ombudsman.

### **3.0 Argument of the Appellant furnished in the petition:**

3.1 This appeal is made against inclusion of shortfall amount of Rs.7,19,392/- in the LT Service connection A/c. No. 132-023-179, presumed to have been the said shortfall amount worked out for the period right from 10/2015 to 06/2016, on non adoption of appropriate average.

3.2 First it is to be stated and reiterated that the Aarthi Scans (enjoyer) is a law abiding citizen and a diligent consumer paying the electricity bill regularly without any default. It could not make the payment of such a huge demand without proper substantial records.

3.3 The average shortfall was worked out for the period from 10/2015 to 06/2016 taking the average of 06/15 & 08/15 consumption of 30800 units. It is to be specifically stated here the said service connection is being utilized for scan centre. The consumption depends only on the usage of Air conditioners depending upon the customer frequency. It is needless to state that taking the average of consumptions recording during summer itself is basically wrong.

3.4 It is really unfortunate that average consumption of energy was worked out based on the consumption of energy recorded during 08/2015 & 06/2015 when the connected load is 37 KW. But it is to be stated that some of the machineries/equipment were shifted to another centre because of which the consumption was drastically reduced which could be well evident from your records/ledger the demand recorded is only 13 KW.

3.5 It is pertinent to state here that consequent to the replacement of meter, no further increase in consumption was recorded as suspected. Recording the meter as defective during 6/2016, average billing done on mere suspicion without proper verification or inspection has led to suspicion by the audit department that all the equipments/machineries were already in usage during the period for which the meter is suspected to be defective and worked out this claim. Indeed the meter was healthier one not having any defectiveness but it was replaced on mere suspicion because the assessment staff has recorded defective.

3.6 It is categorically to be stated that adoption of average itself during 06/2016 is basically wrong for a premises having lesser utilization and in fact the excess amount collected during 6/2016 has to be refunded as consequent to replacement of meter there is no surge in consumption as suspected. As per the TNERC Regulations, blind average should not be adopted when there are change of circumstances and this audit slip is in contra to the codes inscribed by the Tamilnadu Electricity Regulatory Commission.

3.7 Though proper objection was made before the authorities concerned no fruitful action taken so far to withdraw the audit amount and hence we are forced to file this appeal before this honourable forum reposing faith that our genuine appeal would be considered appropriately.

#### **4.0 Argument putforth by the Respondent in the counter :**

4.1 It is submitted that the BOAB Audit Branch has conducted audit in Mylapore Revenue Branch for the period 10/2015 to 06/2016 and raised an audit slip No 91/03-09-2016 for Non adoption of current average consumption during meter defective period 10/2015 to 06/2016 for the LT A/c. No. 132-023-179 for an amount of Rs.7,19,392/-

4.2 It is submitted that the above service connection is stands in the name of Thiru V. Govindarajn, Old No 8, New No 17, C.V.Raman Road, Alwarpet, Chennai-18.

4.3 It is submitted that based on the above audit slip a show cause notice was issued by the respondent vide Lr.No.EE/O&M/MYL/AAO/RB/AS21/ F.BOAB/D.1574/2017/Dt 12-02-2017 to the consumer to produce valid reasons if any for raising an objection to make the payments for the shortfall amount within fifteen days from the date of receipt of the show cause notice.

4.4 It is submitted that as per show cause notice, the above audit shortfall amount was included as miscellaneous slip on 21-04-2017 in the LT A/C No 132-023-179. Based on the slip the consumer has paid the said shortfall amount on 16-06-2017 vide receipt No PGNSB14382264.

4.5 It is submitted that meanwhile M/s.Aarthi Scan has filed a petition before CGRF on 08-06-2017 requesting to waive the above shortfall amount. However the petitioner is not EB Agreement holder of the LT A/C No 132-023-179 and also consumer (Thiru.V.Govindarajan) has not filed any petition before CGRF so far to waive the shortfall amount of Rs.7,19,392/-.

4.6 The above said audit shortfall amount was raised as miscellaneous slip in the consumer ledger of the LT A/C No 132-023-179 before filing the petition. The consumer and the petitioner were not raised any objection within the due date of notice period of show cause notice before Executive Engineer/O&M/Mylapore.

4.7 It is submitted that the BOAB Audit has arrived correct average shortfall during the meter defective period from 10/2015 to 06/2016 based on recorded energy consumption for the month of 08/2015 and 06/2015 as average consumption as per TNERC supply Code 11 (2).

4.8 It is submitted that the load of 37 KW recorded during 06/2015 to 08/2015 assessment when the condition of meter is healthy and the load 13 KW recorded during 10/2015 to 04/2016 when the meter is defective. So recorded demand of 13 KW is not correct during meter defective period.

4.9 It is submitted that the petitioner or consumer had not given any valid document regarding shifting of equipments from the above said premises during meter defective period.

4.10 It is submitted that the consumer has consumed the energy during winter period also about 25000 to 28000 units from 02/2014 to 02/2015. Based on the above facts the BOAB has arrived shortfall amount of Rs.719392/- which is correct.

## **5. Hearing held by the Electricity Ombudsman:**

5.1 To enable the Appellant and the Respondents to put forth their arguments in person, a hearing was conducted on 17.11.2017.

5.2 Thiru. N. Senthil Viswaroopan, Advocate has attended the hearing on behalf of the Appellant and putforth his side arguments.

5.3 Thiru. C. Jeyachandran, Engineer/O&M/Mylapore has attended the hearing and putforth his side arguments.

**6.0 Arguments putforth by the appellant on the hearing date:**

6.1 The appellant argued that the respondent has levied shortfall amount of Rs.7,19,392/- in the LT Service connection A/c. No. 132-023-179 for the period right from 10/2015 to 06/2016 for non adoption of appropriate average purely on assumption.

6.2 Respondent took the average of 06/15 & 08/15 consumption of 30800 units without considering the nature of business i.e. for scan centre. It's consumption depends only on the usage of Air conditioners depending upon the customer frequency. Therefore the average of consumptions recording during summer itself is basically wrong since energy depends only on the atmospheric temperature to maintain constant temperature inside the premises. Therefore the consumption would not be same all the days of the year.

6.3 Further, the average consumption of energy was worked out based on energy consumption recorded during 08/2015 & 06/2015 when the connected load is 37 KW. But however some of the machineries/equipment were shifted to another centre because of which the consumption was drastically reduced which could be well evident from the records/ledger in which the demand recorded is 13KW.

6.4 During hearing the appellant stated that CT Scanner Siemens 64 slice has been replaced with Wipro CT Scan ( 5 star rating) and old machineries were sold to Bangalore firm on 22.8.2015 and produced copy of relevant invoices and documents as detailed below:

- i) M/s.Wipro GE Healthcare Tax invoice No.159906604, dated 19.8.2015.
- ii) M/s.Wipro GE Healthcare Installation report IR No.55394, dated 26.08.2015.

iii) Old CT scanner purchase bill of M/s.IVES Healthcare Pvt Ltd, Bangalore vide Invoice (self purchase bill) No.IVES/1516/IS/005, dated 22.08.15

iv) e-SUGAM Form (delivery challan) SI.No.16040282472, dated 22.08.2015 for having delivered the Old Siemens CT scanner.

6.5 Further the appellant argued that consequent to the replacement of meter, no further increase in consumption was recorded and indeed the meter was healthier one not having any defectiveness but it was replaced on mere suspicion because the assessment staff has wrongly recorded that the meter is defective.

6.6 Further adoption of average itself during 06/2016 is wrong for a premises having lesser utilization and in fact the excess amount collected during 6/2016 has to be refunded since there is no surge in consumption as suspected. As per the TNERC Regulations, blind average should not be adopted when there are change of circumstances and this audit slip is in contra to the codes inscribed by the Tamilnadu Electricity Regulatory Commission.

6.7 Finally, the appellant has concluded that if CGRF has given chance they could have been explained their stand in detail.

#### **7.0 Arguments putforth by the Respondent on the hearing date:**

7.1 The respondent has argued that the BOAB Audit Branch has conducted audit in Mylapore Revenue Branch for the period 10/2015 to 06/2016 and raised an audit slip No.91/03-09-2016 for non adoption of current average consumption during meter defective period from 10/2015 to 06/2016 for the LT A/c. No. 132-023-179 for an amount of Rs.7,19,392/- as per TNERC supply code 11 (2).

7.2 Respondent has stated that the load of 37 KW recorded during 06/2015 to 08/2015 assessment when the condition of meter is healthy and the load 13 KW recorded during 10/2015 to 04/2016 when the meter is defective. So recorded demand of 13 KW is not correct during meter defective period.

7.3 Further the petitioner or consumer had not given any valid document regarding shifting of equipments from the above said premises during meter defective period. Even the consumer has consumed the energy during winter period also about 25000 to 28000 units from 02/2014 to 02/2015. Based on the above facts the BOAB has arrived shortfall amount of Rs.719394/- which is correct.

7.4 Further, the respondent vide their letter dated 27.11.2017 has furnished the following;

- i) The connected load at the premises - 21.02 KW
- ii) Defective meter has been devoluted vide devolution No.261931, dated 31.08.2017 and hence it could not able to download the data and condition of meter by the MRT wing.

## **8. Findings of the Electricity Ombudsman:**

8.1 The appellant argued that the respondent has levied shortfall amount of Rs.7,19,392/- in the LT Service connection A/c. No. 132-023-179 for the period right from 10/2015 to 06/2016 merely on assumption.

8.2 The respondent has argued that the BOAB Audit Branch has conducted audit in Mylapore Revenue Branch for the period 10/2015 to 06/2016 and raised an audit slip No.91/03-09-2016 for non adoption of current average consumption during meter defective period from 10/2015 to 06/2016 for the LT A/c. No. 132-023-179 for an amount of Rs.7,19,392/- as per TNERC supply code 11 (2).

8.3 As the respondent has argued that the average short fall levied is based on TNERC supply code 11(2), I would like to refer Regulation 11(2) Tamil Nadu Electricity Supply code which is extracted below:



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

**(1) \*\*\*\*\***

*(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.”*

8.4 On a careful reading of the above regulation, it is to be noted that assessment of billing in cases where there is no meter or meter is defective, 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.

8.5 The appellant has argued that their meter is not defective, it was declared as defective by the respondent merely on presumption due to lessor utilisation of energy for the period from 10/2015 to 06/2016 and produced relevant documents. Also, the respondent has not proved that the meter was defective from 10/2015 to 06/2016.

8.6 Respondent has stated that data could not be downloaded by the MRT wing since the defective meter has been devoluted to Central stores on 31.08.2017 by the AE/O&M/Alwarpet.

8.7 Regulation 11(2) Tamil Nadu Electricity Supply code is applicable only when the meter is declared defective. From the statement of the Respondent, it is found that MRT report has not been obtained since the meter was devoluted to stores on 31.08.2017. In this regard, the following chronological events have to be taken into account.

- i) Meter defective entry date in the consumer ledger - 27.06.2016
- ii) Defective meter replaced on - 18.07.2016
- iii) Audit slip issued on - 03.09.2016
- iv) Demand raised by EE/O&M/Mylapore - 12.02.2017
- v) Misc slip entered in the ledger - 21.04.2017
- vi) Appellant's CGRF petition dated - 08.06.2017
- vii) Shortfall amount paid on - 16.06.2017
- viii) CGRF's opinion to close the petition - 29.07.2017
- ix) Appellant's appeal petition dated - 29.08.2017
- x) Defective meter devoluted to Stores by AE - 31.08.2017

8.8 From the para 8.7, it is found that the said defective meter is available with the AE/O&M/Alwarpet upto 31.08.2017. The respondent has not taken any step to get MRT report even after filing petition before CGRF on 08.06.2017. In the CGRF petition itself, the contention of the appellant is that the meter was not defective and the average short fall has been levied on mere suspicion. In this regard, I would like to state that the respondent has devoluted the meter in a hurried manner without obtaining MRT report when the appeal petition is pending.

8.9 In the absence of MRT report I have to rely on the available records. On a careful scrutiny of the consumer ledger, it is found that the status of the reading for the period from 10/15 to 04/16 had been entered as "Normal". When taking meter reading on 27.06.16, the assessment staff noticed the defectiveness and entered the same in the ledger. So the meter might have been become defective

in between from 28.04.16 to 27.06.16. Therefore it may be construed that meter is not defective from 10/15 to 04/16 in the absence of MRT report. This is evident from the fact that the respondent has not claimed the shortfall immediately after noticing the defect or replacing the suspected defective meter but later on only after the audit branch has raised the claim.

8.10 When there are scientific ways and methods to test the meter for healthiness or otherwise, the respondent had not taken any effort to do the same.

8.11 Therefore, the respondents are directed to refund the shortfall amount of Rs.7,19,392/- collected vide No PGNSB14382264, dt.16-06-2017 or may be adjusted in future current consumption charges of appellant's LT Service connection A/c. No. 132-023-179.

**9. Observation :**

9.1 It is seen from the records that the Superintending Engineer/CEDC/Central in the capacity of Chairman/CGRF has sent a letter to the petitioner intimating that the petition is treated as closed since the consumer has paid the shortfall amount. The Chairman/CGRF has disposed the petition without conducting the CGRF as per regulation 7 of CGRF and Electricity Ombudsman Regulations, 2004.

9.2 The respondent has failed to test the meter to prove that the meter is defective even after the appellant has filed the petition with the CGRF.

**10. Conclusion :**

10.1 In view of my findings in Para 8 above, the respondent is directed to refund the average shortfall amount of Rs.7,19,392/- collected vide No PGNSB14382264, dt.16-06-2017 or may be adjusted in the future current consumption charges of appellant's LT Service connection A/c. No. 132-023-179.

10.2 A compliance report in this regard shall be furnished within 30 days from the date of receipt of this order.

10.3 With the above findings the AP. No. 55 of 2017 is finally disposed of by the Electricity Ombudsman. No Costs.

**(S. Devarajan)**  
Electricity Ombudsman

To

1) M/s.Aarthi Scans Pvt Ltd.,  
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3) The Chairman,  
(Superintending Engineer),  
Consumer Grievance Redressal Forum,  
Chennai Electricity Distribution Circle/Central,  
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4) The Chairman & Managing Director,  
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NPKRR Maaligai,  
144, Anna Salai,  
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5) The Secretary,  
Tamil Nadu Electricity Regulatory Commission,  
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6) The Assistant Director (Computer) – **For Hosting in the TNEO Website please**  
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