



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

4th Floor, SIDCO Corporate Office Building, Thiru-vi-ka Industrial Estate,
Guindy, Chennai – 600 032.

Phone : ++91-044-2953 5806, 044-2953 5816 Fax : ++91-044-2953 5893

Email : tneochennai@gmail.com Web site : www.tnerc.gov.in

Before The Tamil Nadu Electricity Ombudsman, Chennai

Present : Thiru. N.Kannan, Electricity Ombudsman

A.P.No. 100 of 2022

M/s. HIET,
C/o. Thiru K.Sukumaran,
No.74, Additional Law Chambers,
High Court of Madras,
Chennai – 600 104.

. Appellant
(Tmt. J. Hephysiba
Thiru K.Sukumaran, Advocate
Thiru R.Logeshkumar, Advocate)

Vs.

The Executive Engineer/O&M/Guindy,
Chennai Electricity Distribution Circle/South-I,
TANGEDCO,
110KV SS Complex, K.K.Nagar,
Second floor, Anna Main Road,
Chennai-600 078.

. . . . Respondents
(Rep. by Thiru C.Karuppiah, AEE/O&M/Alandur)

Petition Received on: 29-11-2022

Date of hearing: 09-03-2023

Date of order: 24-03-2023

The Appeal Petition received on 29.11.2022 filed by M/s. HIET, C/o. Thiru K.Sukumaran, No.74, Additional Law Chambers, High Court of Madras, Chennai – 600 104 was registered as Appeal Petition No. 100 of 2022. The above appeal petition came up for hearing before the Electricity Ombudsman on 09.02.2023. Based on the Appellant's request the hearing was adjourned to 09.03.2023. 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 issued by the CGRF of Chennai EDC/South-I.

2.0 Brief History of the case:

2.1 AE/St. Thomas Mount visited the site of the Appellant, M/s. HIET, and suspected that the installed meter was not recording the actual consumption. The meter was subsequently removed by MRT/South for inspection. Based on the MRT report, the AEE sent a letter demanding a sum of Rs. 70,06,799/- as the shortfall amount.

2.2 The Appellant has stated that the Respondent's demand for payment, which was made without any basis and after a lapse of three years, is not the fault of the Appellant.

2.3 Hence, the Appellant filed a petition before CGRF of Chennai Electricity Distribution Circle/South-I on 09.07.2022 to withdraw the shortfall amount. The CGRF of Chennai Electricity Distribution Circle/South-I issued an order dated 25.10.2022. Aggrieved over the CGRF order, the Appellant has preferred this appeal petition before the Electricity Ombudsman.

3.0 Orders of the CGRF :

3.1 The CGRF of Chennai Electricity Distribution Circle/South-I issued its order on 25.10.2022. The relevant portion of the order is extracted below:-

"ORDER (Operative portion)

From the MRT report dated 27.12.2013, It is evident that the assessment was wrongly done in S/c No.242-071-62. Due to the wrong assessment there was a difference in assessment between the actual consumption and the billed consumption (i.e) 10,33,400 units.

Therefore the shortfall amount of Rs.70,06,799/- has to be paid by the consumer since it was the amount due to TANGEDCO for the units consumed by the consumer.

தமிழ்நாடு மின்சார ஒழுங்கு முறை ஆணையம் மின்சாரம் வழங்குதல் விதி எண்.21(2)ன் படி Notwithstanding anything contained in any other law for the time

being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrears of charges for electricity supplied and the Licensee shall not cut off the supply of the electricity.

In this case the difference in amount from 12/2009 to 28.11.2012 for an amount of Rs.70,06,799 was claimed by the Assistant Executive Engineer/ O&M/Alandur Vide Letter dated 01.03.2013.

In this case the date of the first bill/ demand notice for payment, therefore shall be the date when the amount shall become due and it is from that date the period of limitation of two years as provided in Section 56(2) of the Electricity Act, 2003 shall start running. In the instant case, the meter was tested on 28.11.2012 and it was found that "From the reading it was noticed that the meter was not resetted after taking reading every month".

Though the liability may have been created on 28.11.2012. When the error in the resetting was detected, the amount become payable only on 01.03.2013, the day when the notice of demand was raised. A Period of two years, prescribed by Section 56(2), for recovery of the amount started running only on 01.03.2013. Thus, the Appellant cannot plead that the period of limitation for recovery of the amount has expired.

The Petitioner has produced letter from Assistant Accounts Officer/Revenue Branch Guindy dated 09.03.2016 to the Executive Engineer/ O & M/Guindy stating that there was no Revenue loss due to the wrong assessment while analyzing the consumption in this service connection after replacement of the meter in issue. But from the enquiry report it was found that there was revenue loss to the board due to the wrong assessment.

From the MRT report the difference in consumption between the actual consumption and the assessed consumption was 10,33,400 units which works out to amount of Rs.70,06,799/-.

Since it was the actual consumption by the consumer, and MRT confirmed about the meter condition the forum directs the petitioner to pay the amount due to TANGEDCO.

With this direction, the petition is treated as closed."

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 scheduled in person on 09.02.2023. As per the request of the Appellant's counsel, the scheduled hearing was adjourned to 09.03.2023.

4.2 On behalf of the Appellant Tmt. J. Hephshiba, Legal Manager of HIET, Thiru K.Sukumaran, Advocate and Thiru R.Logesh kumar, Advocate attended the hearing and put forth their arguments.

4.3 On behalf of the Respondent, Thiru C.Karupiah, AEE/O&M/Alandur Chennai Electricity Distribution Circle/South-I attended the hearing and put forth his arguments.

4.4 As the Electricity Ombudsman is the appellate authority, only the prayers which were submitted before the CGRF are considered for issuing the order. 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 stated that he is the Consumer within the meaning of the Electricity Act and in relation to Service Connection No.242-071-62, a demand was raised for a sum of Rs.70,06,799/- and over the said demand, the Appellant preferred a writ petition in W.P.No.6972 of 2013 before the Hon'ble High Court and the same was disposed on 21.02.2022. Pending writ petition on 22.03.2013, the Appellant was directed to deposit a sum of Rs.10,00,000/- and the same was in deposit with the department till this date. By virtue of the Order passed by the High Court the Appellant preferred an appeal before the Consumer Grievances Redressal Forum in No.96 and 97 of 2022. The Appellant was given an opportunity on 29.8.2022 to address the appellate authority and the impugned order has been passed on 25.10.2022.

5.2 The Appellant has stated that it is pertinent to mention before the Ombudsman that till today, the hard copy of the order has not been served either to the Appellant or to the counsel for the Appellant and for the reasons best known to the concerned authority, a photocopy of the impugned order running into 15 pages was sent by way of e-mail to the counsel for the Appellant and the same was not legible to read for any common man with full power of vision. The impugned order was uploaded and the Appellant retrieved through online and with the assistance of digital service, this appeal is being preferred by way of abundant caution within one month from the date of the order itself though the fact remains the order is yet to be served on the Appellant till this day.

5.3 The Appellant has stated that The Appellant authority failed to see that the entire demand of huge sum of 70 Lakhs came to be raised due to dispute revolving around MRT (Meter and Relay Test).

5.4 The Appellant has stated that in Page No.9 of the penultimate paragraph of the impugned order, the contention of the Respondent/representative namely Assistant Executive Engineer/MRT/CEDC/South-I has represented

"since reset was not done, cumulative reading was not shown but meter was in good condition and hence all the data was recorded in internal memory,

And the next page on Top of the page, the same authority has represented

"the reading was 9000 units without multiplication factor (MF). It was 19000 with Multiplication Factor.

And the above inconsistent and contradictory statement of the AEE is the crux of the issue in this matter and that has been omitted to be considered by the CGRF in the Impugned order.

5.5 The Appellant has stated that the cumulative reading was only 35000 and not as stated by the AEE and the so called 9000 units was without resetting the meter monthly and it cannot be said to be cumulative reading.

5.6 The Appellant has stated that if the impugned order in Page 10, the Chairman of the CGRF has mentioned "actual downloaded report was available" and during the hearing on 29.8.2022, the Chairman directed the concerned authorities who were present at the time of hearing to serve the copy of the said report to the counsel for Appellant and for the reasons best known to the authorities, the said report was not furnished till today.

5.7 The Appellant has further submitted that the Chairman, CGRF proceeded to reply upon MRT Report to reject the appeal of the Appellant without furnishing a copy of the MRT Report, either at the time of raising the demand or during the hearing of the appeal on 29.8.2022 or any time after the hearing or till today.

5.8 The Appellant has submitted that even the counsel Mr.S. Patrick and Mr. R. Logeshkumar were not permitted inside along with the counsel for the Appellant Mr. K. Sukumaran, when the Respondent department was assisted by nearly 8 to 10 persons inside the hearing hall.

5.9 The Appellant has submitted that the findings of the CGRF at the last paragraph of Page 10 will demonstrate in volumes about the manner in which the impugned order has been passed by the CGRF viz.

"Since the released meter recording and performance is in order, the billing carried out from billing month of 12/2009 to 28.11.2012 may be revised based on actual consumption recorded in the meter".

5.10 The Appellant has stated that without revising the bill, based on the downloaded report, proceeded to observe "difference in consumption to be billed is 10,33,400 units" and this finding was without any basis, foundation or the so called revision mentioned in the findings. The Appellant has been kept in dark in so far as the revision mentioned in the finding.

5.11 The Appellant has stated that the CGRF completely rejected the report of the Assistant Accounts Officer which is binding on the authorities and it cannot be rejected in one line by stating that the said report has been given without analyzing the MRT Report and the so called MRT Report does appear to be a Magic Report and it has not been produced to the Appellant and such a report could not be the basis for the CGRF to reject the appeal.

5.12 The Appellant has stated that the finding of the CGRF that the demand has been raised on the basis of the actual consumption by the consumer was without any basis and the same was liable to be set aside.

5.13 The Appellant further submitted that the impugned order reads "Inaiappu Attai Pattiyal B" at the end of the Page 12 of the impugned order and the said annexure to the impugned order has not been provided to the Appellant.

5.14 The Appellant further submitted that in the page 13 of the impugned order, the CGRF proceeded to pass the order "Operative Portion" from the MRT Report dated 27.12.2013, it is evident that the assessment was wrongly done in service Connection No.242-071-62. Due to the wrong assessment, there was a difference in assessment between actual consumption and the billed consumption" and the Appellant has not given a chance to know what is the wrong assessment, as heavily relied on by CGRF and in other words, the impugned order has been passed on the basis of the materials collected behind the back of the Appellant and such a kind of disposal of the grievance of the consumer, is unknown to law and against the act under which CGRF is exercising its power.

5.15 The Appellant further submitted that the Consumer produced before the CGRF, relating to the Appellant herein has been deliberately omitted to be considered since the said ledger runs contra to the views of the Respondent department and the Ombudsman while dealing with the appeal filed by the Appellant, may direct the Respondent herein to clarify the consumer ledger pertaining to the Appellant for the purpose of deciding the appeal filed by the Appellant herein.

5.16 The Appellant has prayed that in any event the impugned order is liable to be set aside.

6.0 Arguments of the Respondent:

6.1 The Respondent has submitted that the Board was supplying electricity to the Appellant Institution situated in No.40, G.S.T Road, St. Thomas Road, Chennai-16 under service connection no. LTCT SC NO.242-071-62, LT Tariff LM51 (112KW).

6.2 The Respondent has submitted that during the regular visit to record the meter reading, the Assistant Engineer, St.Thomas Mount had suspected that the installed meter was not recording the actual consumption and made necessary endorsement in the Green Meter Card that the "meter is defective".

6.3 The Respondent has submitted that in view of the same, the consumer was billed on the basis of average from 2009 till the meter removed by the MRT/South for inspection on 03-01-2013.

6.4 The Respondent has submitted that the MRT/South after testing the meter, has furnished its test report along with the working sheet dated 27-02-2013. In the report, MRT/South had informed that power check and performance check was carried out and found to be in order. Further, it was informed that the existing meter was old version and meter data could not be downloaded and final reading of the released meter was furnished. The billing carried out from the billing month of 12/2009 to 28-11-2012 may be revised based on the actual consumption recorded in the meter and the difference in consumption to be billed is 10,33,400 units.

6.5 The Respondent has submitted that on the basis of the MRT/South report, the Respondent had raised a demand for a sum of Rs.70,06,799/- by demand dated 01-03-2013 along with the working sheet.

6.6 The Respondent has submitted that aggrieved by the demand dated 01-03-2013, the consumer/ Appellant herein had filed a writ petition before the Hon'ble High Court, Madras vide W.P.No.6972/2013, Pursuant to the interim order; the consumer had deposited a sum of Rs.10,00,000/-. The above writ petition was disposed by the Hon'ble High Court by its order 21-02-2022 with a direction to the consumer to approach the CGRF within a period of four weeks from the date of receipt of the order.

6.7 The Respondent has submitted that in compliance to the order passed by the Hon'ble High Court, the consumer had filed a complaint before the CGRF, South -1, vide CGRF/CEDC South-1/No. 96 & 97/2022. The CGRF after hearing the respective parties and perusal of the records produced before it, found that the demand for payment of Rs.70,06,799/- for meter defective period was in accordance with the regulations and dismissed the complaint and directed the consumer to pay the amount demanded by its order dated 25-10-2022.

6.8 The Respondent has submitted that with regard to the various grounds raised by the Appellant, it was respectfully submitted that the impugned demand has been raised on the basis of the report furnished by the MRT/South on the inspection of the meter and working sheet annexed to it. It is further submitted that the copy of the report along with the working sheet was already furnished to the consumer and plea that the report was not furnished by the Respondent is not true. The fact that the consumer had referred to specific portions of the report in the memorandum of grounds will itself show the above plea is false. However, the Respondent is ready to furnish the copy of the report and working sheet, if required. The MRT/South had opined that since the meter is old version and it is not possible to download the entire data and arrived at the actual reading on the basis of the previous readings. The working sheet for arriving at the quantum of the units is also furnished.

6.9 The Respondent has further submitted that pursuant to the dismissal of the complaint by the CGRF, a new demand for recovery of the amount due had been issued by demand dated 03-11-2022 and 29-11-2022. There is no merits in the appeal. Hence the Respondent prayed to dismiss the appeal.

7.0 Rejoinder of the Appellant:

7.1 The Appellant has submitted that in view of the stand taken by the Respondent, the following materials are absolutely necessary for the Appellant to rebut the stand taken by the Respondent and they are as follows:

- (i) Meter Downloaded data (MRT Report) which was never supplied to the Appellant till date;
- (ii) Total consumption as recorded in the meter from the date of installation of the disputed meter;
- (iii) Evidence for the figure (11092.72 in 3E of the counter affidavit).
- (iv) Disputed meter may be produced for checking of the cumulative KWH reading by supplying electricity to the meter;
- (v) Test report if any of the meter to know whether testing was done and this meter may be arranged to be tested by a third party;

(vi) Clarification on the reduction of meter reading for 10/2006 as found in the consumer ledger;

(vii) The relationship between the KWH and KVAH reading for its correctness as found in the consumer ledger for the period from April 2009 to November 2009;

(viii) MRT Test Register relating to the service including the annual test recording conducted;

(ix) Evidence for dispatching original hardcopy of the order of CGRF by registered post on 27.10.2022 and in this the receipt for sending the register post and the dispatch register will provide evidence as contended by the Respondent in para 2 of the counter affidavit;

(x) Clarification on the reading recorded on 28.11.2012 (3.1.2013)

7.2 The Appellant has submitted that the above particulars are absolutely necessary to be placed before the Ombudsman for the purpose of advancing necessary arguments in relation to the above appeal and unless the Respondent is directed to produce the materials before in hand i.e. on or before 8.2.2023 to the Appellant, the appeal may not be argued effectively to rebut the claim of the Respondents in the manner known to law.

7.3 The Appellant has prayed to direct the Respondent to produce the materials as found in this petition viz. (i) to (x) and pass such other orders as it may be deemed fit in the interest of Justice.

8.0 Findings of the Electricity Ombudsman:

8.1 I have heard the Appellant's and the Respondent's arguments. The following conclusion is arrived based on their arguments and the supporting documents they have provided.

8.2 The Hindustan Institute of Engineering & Technology, the Appellant institution, was given a LTCT Service connection number 242-071-62 with a sanctioned load of 112 KW. The licensee AEE /O&M/Alandur raised a short levy notice for the period from Dec 2009 to Nov 2012 for Rs.70,06,799/- which served as the basis for the Appellant's appeal petition before the Electricity Ombudsman. On

October 6, 2012, the Respondent AE has found that meter in the Appellant premise was defective referred to the licensee's MRT wing. The MRT wing conducted an inspection on November 28, 2012, and informed the Respondent by letter dated 27.02.2013, that the meter was an older version and that the readings were in order. The final reading of the meter that was released under the guise of being defective by the Respondent wing was 47007.2 Kwh and in order according to the EE/MRT, who had suggested billing revision for the period of December 2009 to November 2012. The EE/MRT recommended that the Appellant's bill may be changed to reflect the difference in consumption of 10,33,400 units.

8.3 Moreover, the MRT wing noted that the Appellant service's meter was an old version model, making it unable to download the historical data. Based on the MRT report, the Respondent's unit raised a short levy for Rs.70,06,799/- on March 1, 2013, along with a working sheet and the required acknowledgment. Aggrieved by the demand, the Appellant claimed that he had sent a thorough objection to the Superintending Engineer on March 14 of 2013 and choose to appeal. However, the Appellant claimed that the Respondent made the order on March 16, 2013, without giving him or her a chance to be heard. Due to this, the Appellant filed a W.P. before the Hon'ble High Court vide W.P. No.6972 of 2013 and M.P. No. 1 of 2013. The Honorable High Court ordered that the Petitioner's electricity connection be restored upon payment of a fee of Rs.10,00,000/- on March 22, 2013, while the WP No. 6972 of 2013 is still ongoing. The Hon'ble High Court also allowed the petitioner to file an appeal before the CGRF within a four-week period in its WP No. 6972 of 2013 and M.P. No. 1 of 2013 on February 21, 2022, disposing of the W.P. The Appellant filed with the CGRF on 09.07.2022 and the order was issued on 25.10.2022. The Appellant filed an appeal petition with the Electricity Ombudsman.

8.4 From the foregoing paras, the following are the issues to be addressed:

- 1) Whether the energy meter in the Appellant's service connection is healthy during the disputed period in question?
- 2) Whether the claim made by the Respondents is tenable ?

- 3) Is the Appellant's contention that the Respondent's demand lack any foundation after three years have passed is acceptable ?

9.0 Findings on the first issue:

9.1 On perusal of the consumer ledger, it is noticed that the assessment status during the period from 12/2009 to 11/20212 were entered as 'defective' by the AE. AEE/O&M/Alandur vide his letter dated 06.10.2012 has reported to MRT wing that the meter in SC No.242-071-62 was defective. On 28.11.2012, the MRT wing inspected the service connection to check the healthiness of the meter. Since the meter in the service connection was old version, the meter was replaced with new version meter on the same day. The released meter was tested by MRT and the report dated 27.02.2013 given by MRT is extracted below:

*“***** Power check & performance check was carried out and found to be in order. From the reading it is noticed that the meter is not resetted after taking reading every month. The existing non standard CT compartment is released and replaced by Standard type compartment with CT coils of class 0.5 Accuracy. Since the existing meter is old version, hence the existing meter is released and replaced by new version meter. Normal metering was restored on 28.11.20212 satisfactorily.*

<i>Released meter details</i>	<i>Fixed meter details</i>	<i>sanctioned load</i>
<i>Make: Victri</i>	<i>Secure</i>	<i>110 KW TF:V</i>
<i>Sl. No. 036198120605</i>	<i>TNB 76518</i>	
<i>P.O. No.</i>	<i>133/2012</i>	<i>CTR:200/5A, MF - 40</i>

Power check was carried out after replacing the existing old version meter with new version meter and found to be satisfactory.

	<i>Date</i>	<i>KWH</i>	<i>KVAH</i>	<i>PF Avg</i>	<i>MD in KW</i>
<i>FR</i>	<i>28.11.2012</i>	<i>47007.72 --</i>		<i>0.91</i>	<i>2.385</i>
		<i>(35915 + 11092.72)</i>			
<i>IR</i>	<i>28.11.2012</i>	<i>000000.0</i>	<i>000000.0</i>	<i>1</i>	<i>0.00</i>

Billing recommendation:

*The Existing meter is the old version, hence the meter data could not be downloaded. Meter recordings are found in order, the meter is released for the old version. Hence the final reading of the released meter is furnished. Since the released meter recording & performance is in order, the billing carried out from the billing month of 12/2009 to 28-11-2012 may be revised based on the actual consumption recorded in the meter. **The difference in consumption to be billed is 10,33,400 units.***

9.2 From the above report, it is seen that the released meter was in good condition. The said meter was replaced since it was an old version meter in which historical meter data couldn't be downloaded. Also from the report it is clear that the concerned AE has entered the assessment status as 'defective' without confirming the same from MRT wing. Further the released meter final reading was given as 47007.72 when it was released on 28.12.2012 and further it was recommended that billing carried out from 12/2009 to 28.11.2012 may be revised based on actual consumption recorded in the meter. Since MRT wing of the licensee is specialized in metering and power check and performance check done by them also in a scientific manner with a prescribed methodology, I am of the view that meter in the Appellant's service connection for the period upto 28.11.2012 was in good condition.

9.3 Further, I would like to clarify certain meter related issues. The Appellant repeatedly claims that the MRT downloaded report was not provided to them. However, it is important to acknowledge that meter technology has evolved over time. In the past, meters used revolving disc dials, which were later replaced by higher-quality rotating disc dials and static meters without recorded events. Initially, meters stored case histories, in their internal memory, but now, they are equipped with automatic meter reading facilities. However, the Appellant Service connection meter could only store the final reading following each reset for the billing month, not the whole case history of the reading for the prior period. This fact was clearly explained in the MRT report document provided by the Respondent. The Victory make SI.No.036198120605 meter has been replaced by the MRT not due to defectiveness but due to outdated version.

9.4 Further, the Appellant in his rejoinder claimed that whether a test report, if any, is available regarding the state of the meter and whether any efforts have been made to have this meter examined by a third party. In this regard, I would like to refer regulation 7(9) of TNE Supply code regulation which is extracted below:

"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.”

9.5 The plain reading of the above suggests that if a consumer believes their service connection meter is defective, they might have opted for a challenge test with the Respondent at that time. However, it appears from the documents submitted by the Appellant that no such claim was made. The Respondent confirmed this, and the Appellant did not deny it during the hearing. Therefore, the Appellant's assertion to test the meter after such a long period with a third-party lab at this point does not seem credible.

10.0 Findings on the second issue:

10.1 The Appellant has stated that the cumulative reading was only 35,000 units, not as stated by the AEE/O&M/Alandur and the 9,000 units claimed were due to the meter not being reset monthly. The Appellant also stated that the bill was not revised based on the downloaded report and the claim that the difference in consumption to be billed was 10,33,400 units had no basis or foundation. The Appellant was kept in the dark regarding the revision mentioned in the findings.

10.2 The Respondent in his argument has stated that the MRT/South after testing the meter has furnished its test report along with the working sheet dated 27-02-2013. In the report, MRT/South had informed that power check and performance check were carried out and found to be in order. Further, it was informed that the

existing meter was old version and meter data could not be downloaded and final reading of the released meter was furnished. The billing carried out from billing month of 12/2009 to 28-11-2012 may be revised based on the actual consumption recorded in the meter and the difference in consumption to be billed is 10,33,400 units. On the basis of the MRT/South report, the Respondent had raised a demand for a sum of Rs.70,06,799/- by demand dated 01-03-2013 along with the working sheet.

10.3 The Appellant in his argument has stated that the authority failed to see that the entire demand of huge sum of 70 Lakhs came to be raised due to dispute revolving around MRT (Meter and Relay Test). Further, the CGRF proceeded to pass the order "Operative Portion" from the MRT Report dated 27.12.2013, it is evident that the assessment was wrongly done in service Connection No.242-071-62. Due to the wrong assessment, there was a difference in assessment between actual consumption and the billed consumption and the Appellant has not given a chance to know what is the wrong assessment, as heavily relied on by CGRF and in other words, the impugned order has been passed on the basis of the materials collected behind the back of the Appellant.

10.4 Prior to learning the outcome of the current dispute about the Respondent's demand notice claim, I would like to discuss about the following in this context. The Licensee's concerned answer stated that there was a total error in documenting each month's consumption and that an average bill for the period from December 2009 to 2012 was the result. Without checking the meter's condition over the course of 36 months, the Respondent assessment engineer claimed that the meter in service was defective and demanded average electricity usage from the Appellant for each billing cycle i.e for the period from 12/2009 to 11/2012.

10.5 From the consumer ledger card, it is clear that the Licensee has made a total error in claiming the correct consumption from the Appellant due to a lack of understanding of the concept of taking monthly readings on each billing period. The consumption of any customer would be calculated based on the difference between

the end reading of the previous month (which becomes the start reading of the present month) and the end reading of the present month. In the case of Appellant SC 242-071-62, a peculiar pattern was noticed. Instead of an ascending order of end meter readings from the previous month, the readings were in descending order. The following are some sample readings discussed as an example.

<i>Billing Month</i>	<i>End meter reading of current billing period</i>	<i>start meter reading of current billing period</i>	<i>Remarks</i>
10/2006	383.28	1490.08	<i>Month end consumption is descending</i>
10/2007	393.38	487.39	

Also to point out other classic error on arriving consumption for the month of 11/2006 was discussed

End meter reading 351.33

Start meter reading 323.28

Total consumption for the month of 11/2006 = (351.33-323.28) x 40 =1122 units

But it was noticed that as per consumer ledger, the assessment units for 11/2006 was entered as 14053.2 units, similarly for 05/2007, the assessed units entered was 16388.4 instead of 727.6 units. It is unclear how such a mistake in entering the assessment reading was allowed to occur, and nobody may be aware of the pattern of correctness that would explain this discrepancy.

10.6 Further, I would like to record that the Appellant organization was aware of their consumption pattern for each billing period, as they operated an educational institution where the person in charge of the electrical wing may have been a qualified professional. Furthermore, the Appellant did not raise any objections to the consumption charges for the period between December 2009 and November 2012 until the licensee AEE/O&M/Alandur issued a short levy notice for Rs.70,06,779/- on March 1, 2013. The Appellant also remained silent until the Respondent issued a notice. Any billing error can potentially result in a disagreement that could impact either party.

10.7 The main issue at hand is the Appellant's obligation to make payments that are owed to the Respondent. While the accuracy of the consumption charges during the disputed period needs to be determined, the Appellant's claim that the short levy on the disputed consumption should not be raised by the Respondent, without any fault of their own, was found to be invalid.

10.8 As per my findings in para 9 above, it is clearly established that the released meter was in good condition. Further the released meter final reading was given as 47007.72 when it was released on 28.11.2012 and further it was recommended that billing from 12/2009 to 28.11.2012 may be revised based on actual consumption recorded in the meter. Under these circumstances, I would like refer 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 specially enjoined by law of the country in which such book, register or record or an electronic record is kept is a relevant fact.”

10.9 From the above, any register or record is evidence under the law of the country. Accordingly I consider the MRT report as evidence in the present case. The released meter final reading was given as 47007.72 when it was released on 28.11.2012. The licensee AEE /O&M/Alandur raised a short levy notice for the period from Dec 2009 to Nov 2012 for Rs.70,06,799/- by adopting the average units of 42208 units from 12/2009 to 09/2012 and 42244 units for 11/2012 (totally for 1519495.2 units). The Respondent has given the following calculation:

Meter final reading	47007
As per consumer ledger, the cumulated KWH billed upto 30.11.2009	9019.62
Difference	37987.38 x MF 40
Units to be billed as per Meter FR (upto 28.11.2012)	1519495.2
Total average units already billed and paid	486124

(12/2009 to 11/2012)	
Difference consumption to be billed	1033371.2
Consumption per month	1519495.2/ 36 months = 42208 units

10.10 From the above calculation, it is noticed that the cumulative KWH of 9019.62 mentioned in the consumer ledger was adjusted in the final reading of 47007 furnished by the MRT. Prior to 09/2009 also assessment were entered erratically for some assessment periods. But, the Respondent failed to consider the overall units billed and paid by the Appellant for the period prior to 12/2009. The Respondent adjusted only 486124 units for the period from 12/2009 to 11/2012, but prior to 12/2009, it is apparent from the consumer ledger that there were errors in billing which needs to be taken into account for adjustment. Therefore, the Respondent is directed to rework shortfall units duly taking into account the billed units prior to 12/2009 along with the already collected amount of Rs.10,00,000/- from the Appellant.

11.0 Findings on the Third issue:

11.1 The Appellant claims that it is not their fault that the Respondent made an unjustified demand after a period of three years had passed. The Appellant further stated that the Respondent failed to take into account the fact that the substantial demand of Rs.70 lakhs was the result of a dispute involving the Meter and Relay Test (MRT).

11.2 The Respondent claims that, based on the MRT/South report, they made a demand for the payment of Rs.70,06,799/- on 01.03.2013, which was also accompanied by a working sheet. With regard to this, I would like to discuss regulation 12 of Tamilnadu Electricity Supply Code Regulation which is extracted below:

“12. Errors in billing

(1) In the event of any clerical errors or mistakes in the amount levied, demanded or charged by the Licensee, the Licensee will have the right to demand an additional amount in case of undercharging and the consumer will have the right to get refund of the excess amount in the case of overcharging.

(2) Where it is found that the consumer has been over-charged, the excess amount paid 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, with hold any portion of the charges.”

11.3 It is clear from the foregoing paras that, in the event of any clerical error 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 overcharged.

11.4 The licensee AEE/O&M/Alandur claimed an outstanding amount of Rs.70,06,799/- in the Appellant's LT Service Connection Account No. 242-071-62 by issuing a short levy notice raised for the period from December 2009 to November 2012 vide letter dated 01.03.2013. It is necessary to determine if the claim is time-barred because it was made in 2013. Regarding the applicability of section 56(2) of the Electricity Act 2003, for limitation of the claim of the period as per Judgment dated 14.11.2006 of Appellate Tribunal for Electricity in appeal Nos. 202 and 203 of 2006 is relevant. Para 17 of the said order is reproduced below;

“17. 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 is detected but the charges would become first due for payment only after a bill or demand notice for payment is sent by the licensee to the consumer. The date of the first bill/demand notice for Payment, therefore, shall be the date when the amount shall become due and it is from that date the period of limitation of two 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 allegedly found that the meter was recording energy

consumption less than the actual by 27.63%. A joint inspection report was signed by the consumer and licensee 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 in the recording of consumption was detected, the amount become payable only on 19.03.2005, the day when the notice of demand was raised. A 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 It is clear 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 a demand notice is served. Therefore, the limitation in the present case also shall run from the date of demand notice. The AEE/O&M/Alandur issued a short levy notice on January 3, 2013 and hence, the limitation period starts only from 03.01.2013. However, the Appellant chose to appeal to the Superintending Engineer on March 14, 2013, by raising specific objections. The Appellant claimed that the Respondent issued an order on March 16, 2013, without giving them a chance to be heard. As a result, the Appellant filed a Writ Petition before the Hon'ble High Court challenging the order.

11.6 The Honorable High Court stayed the Respondent's order in W.P.No. 6972 of 2013 and M.P. No. 1 of 2013, instructing the reinstatement of the petitioner's electricity connection upon payment of Rs.10,00,000/- on March 22, 2013. On February 21, 2022, the Hon'ble High Court dismissed the case in W.P. No. 6972 of 2013 and M.P. No. 1 of 2013, allowing the petitioner to file an appeal before the CGRF within four weeks. If the petitioner files an appeal, the Respondent must hear it and issue any necessary judgments in accordance with the law.

11.7 Until the CGRF has made a final decision on the matter, no coercive steps shall be taken against the Appellant. The Appellant has filed an appeal before the CGRF on July 9, 2022. The fact that the Appellant filed an appeal before the CGRF shows that there is continuity of time, and therefore, the argument of the Appellant that the Respondent's claim for demand charges without any basis after the lapse of 3 years is not acceptable and hence rejected.

12.0 Observation:

12.1 It has been observed that the failure to reset the meter on each billing period led to a complete breakdown in the recording of the Appellant's monthly consumption. It remains a mystery as to how such an error was overlooked for approximately 36 months. While the Ombudsman is not delegated with the power to propose action against the incompetent personnel, I express my disgust at the sluggish manner in which this lucrative service was handled, which has resulted in a protracted legal struggle.

13.0 Conclusion:

13.1 Based on the findings in the preceding paragraphs, I conclude that

i) MRT wing of the licensee is specialized in metering and power check and performance check done by them also in a scientific manner with a prescribed methodology and hence meter in the Appellant's service connection for the period upto 28.11.2012 was in good condition.

ii) the cumulative KWH of 9019.62 mentioned in the consumer ledger has been adjusted in the final reading of 47007 furnished by the MRT. The Respondent adjusted only 486124 units for the period from 12/2009 to 11/2012, but prior to 12/2009, it is apparent from the consumer ledger that there were errors in billing which needs to be taken into account for adjustment. Therefore, the Respondent is directed to rework shortfall units duly taking into account the billed units prior to 12/2009 along with the already collected amount of Rs.10,00,000/- along with other charges if any from the Appellant.

ii) the prayer of the Appellant that the Respondent's claim for a demand charges without any basis after the lapse of 3 years is not acceptable and hence rejected.

13.2 This order shall be complied within 30 days from the receipt of the order and the compliance report shall be sent within 45 days.

13.3 In light of the aforementioned conclusions, the AP No. 100 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. HIET, - By RPAD
C/o. Thiru K.Sukumaran,
No.74, Additional Law Chambers,
High Court of Madras,
Chennai – 600 104.

2. The Executive Engineer/O&M/Guindy,
Chennai Electricity Distribution Circle/South-I,
TANGEDCO,
110KV SS Complex, K.K.Nagar,
Second floor, Anna Main Road,
Chennai-600 078.

3. The Superintending Engineer, - By email
Chennai Electricity Distribution Circle/South-I,
TANGEDCO,
110KV SS Complex, K.K.Nagar,
Chennai-600 078.

4. The Chairman & Managing Director, - By email
TANGEDCO,
NPKRR Maaligai, 144, Anna Salai, Chennai -600 002.

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

6. The Assistant Director (Computer) - **For Hosting in the TNERC Website**
Tamil Nadu Electricity Regulatory Commission,
4th Floor, SIDCO Corporate Office Building,
Thiru-vi-ka Industrial Estate, Guindy,
Chennai – 600 032.