



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. 51 of 2023

Thiru S.Selvaraj,
S/o. K.M. Subramaniam,
No.60/1, Dr.Ambedkar College Road,
Pulianthope, Chennai – 12.

..... Appellant
(Thiru S. Selvaraj &
Thiru B.Divakaran, Advocate)

Vs.

1. The Executive Engineer/O&M/Egmore,
Chennai Electricity Distribution Circle/Central,
TANGEDCO,
No.47, Malaiyappan Street,
Otteri, Chennai-12.

2. The Assistant Executive Engineer/O&M/Pulianthope,
Chennai Electricity Distribution Circle/Central,
TANGEDCO,
No.1, Basin Briade High Road,
Pulianthope, Chennai-600012.

3. The Assistant Engineer/O&M/Pulianthope,
Chennai Electricity Distribution Circle/Central,
TANGEDCO,
No.1, Basin Briade High Road,
Pulianthope, Chennai-600012.

4. The Deputy Financial Controller
Chennai Electricity Distribution Circle/Central,
TANGEDCO,
M.G.R Salai/110KV/33KV/11KV,
Valluvarkottam SS Campus,
Nungambakkam, Chennai-600034.

..... Respondents
(Thiru P. Chellapandi, AEE/Pulianthope
Thiru R.T. Arangeswaran, AEE/Pantheon Road,
Thiru V.Senthilkumar, JE/O&M/Pulianthope
Thiru G.Jai Singh, Advocate)

Petition Received on: 18-07-2023

Date of hearing: 14-09-2023

Date of order:- 25-09-2023

The Appeal Petition received on 18.07.2023, filed by Thiru S.Selvaraj, S/o. K.M. Subramaniam, No.60/1, Dr.Ambedkar College Road, Pulianthope, Chennai – 12 was registered as Appeal Petition No. 51 of 2023. The above appeal petition came up for hearing before the Electricity Ombudsman on 14.09.2023. 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 dated 18.04.2017 in Ref.No.AEE/0&M/PTP/F-D.No.260/17-18 and the consequential order dated 05.04.2023 and to direct the Respondents to rework the average consumption during the defective period.

2.0 Brief History of the case:

2.1 The Appellant has stated that he had received a notice from AE/O&M/Pulianthope to pay a shortfall amount of Rs.2,91,076/- with inspection charges.

2.2 The Respondent has stated that the service was inspected by MRT wing and it was found that the LTCT meter was not recording the 'R' phase current and declared the existing meter is defective. Based on the MRT report the AE/O&M/Pulianthope has issued to show cause notice to the Appellant on 20.01.2017.

2.3 Aggrieved over the notice the Appellant moved to High Court of Madras and filed a writ petition vide W.P.No.5620 of 2017. The High Court on 17.03.2017 has ordered that "the notice dated 20.01.2017 is set aside with the liberty to the

Respondents to proceed afresh after issuing show cause notice indicating the amount payable by the petitioner and the basis for demanding the same.”

2.4 Based on the court order W.P.no.5620 of 2017 on 07.03.2017 a fresh notice was given to the appellant on 18.04.2017 to pay shortfall amount of Rs 2,91,076/- along with the Rs.2,000/- for Inspection charges, totally Rs 2,93,076/- within 15 days from the date of receipt of the notice. The appellant has not paid any amount and again moved to High Court of Madras and filed Writ petition No.30604 of 2019 and W.M.P. No.30668 of 2019 against the show cause notice. The High Court of Madras given order on 16.12.2021 that the appellant has to deposit a sum of Rs. 50,000/- before the respondents and grants liberty to the petitioner to file appeal before the Consumer Grievance Redressal Forum.

2.5 The Appellant has filed a petition before the CGRF of Chennai Electricity Distribution Circle/Central to set aside the demand notice and to rework the average consumption during the defective period.

2.6 The CGRF of Chennai Electricity Distribution Circle/Central has issued an order dated 05.04.2023. Aggrieved over the 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/Central issued its order on 05.04.2023. The relevant portion of the order is extracted below: -

“Order:

Based on the representations of the consumer and reports furnished by the Licensee the forum directs the following:

- i. From the MRT report and download data it is evident that R phase energy consumed by the petitioner from the period 30.11.2015 to 13.01.2017 had not been included in the CC charges earlier collected for the said period. The meter defect had been observed on 05.11.2016 and the consumer is aware of same on 05.11.2016. The bill revision from 30.11.2015 to the date of replacement of defective meter had been intimated to the petitioner on 20.01.2017 based on the MRT report dated 19.01.2017. As such the intimation of bill revision to the petitioner is within the prescribed time limits.*

- ii. *Hence the Forum is of the view that the bill revision for the recovery of shortfall amount towards left out R phase energy consumption of Rs.2,91,076/- is in order and the petitioner is liable for the payment of such amount along with inspection fee of Rs.2,000/-.*
- iii. *Further, the forum directs the utility TANGEDCO, to strictly instruct the official/staff to monitor the recording of voltage/current readings for all the three phases in the meter at periodical interval. Departmental enquiry may be conducted in finding erring official/staff and action may be taken in this connection*

With the above direction the petition is disposed off.”

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 in person on 14.09.2023.

4.2 The Appellant, Thiru S. Selvaraj and his representative Thiru B.Divakaran, Advocate attended the hearing and put forth their arguments.

4.3 The Respondents Thiru P. Chellapandi, AEE/Pulianthope, Thiru R.T. Arangeswaran, AEE/Pantheon Road, Thiru V.Senthilkumar, JE/O&M/Pulianthope of Chennai EDC/Central and Thiru G.Jai Singh, Advocate 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 he was residing at No.60/1 Dr. Ambedkar College Road, Chennai-12, have been running a Small Scale industry under the name of Raj Plastic and for the purpose of his above said business had obtained electricity connection under Account No.147-020-173, and he has been paying the charges regularly without any default, and the Department officers have also carried out periodical and regular inspection and verification of his meter and they had also

recorded that the meter is working satisfactorily by their endorsement made in his meter card dated 19.06.2015. There was no complaint of any nature regarding the non-functioning of the meter, and the average consumption is constant and there are no noticeable drop or increase in consumption during the relevant period.

5.2 The Appellant has stated that while so, all of a sudden, the meter was replaced by the Department on their own, and to his shock and surprise they have issued the alleged demand for the period 30.11.2015 to 13.01.2017, without any basis, for a huge sum of Rs.2,93,076/-.

5.3 Aggrieved over the notice the Appellant moved to High Court of Madras and filed a writ petition vide W.P.No.5620 of 2017. The High Court on 17.03.2017 has ordered that “the notice dated 20.01.2017 is set aside with the liberty to the Respondents to proceed afresh after issuing show cause notice indicating the amount payable by the petitioner and the basis for demanding the same.”

5.4 Based on the court order W.P.no.5620 of 2017 on 07.03.2017 a fresh notice was given to the appellant on 18.04.2017 to pay shortfall amount of Rs 2,91,076/- along with the Rs.2000/- for Inspection charges, totally Rs 2,93,076/- within 15 days from the date of receipt of the notice. The appellant has not paid any amount and again moved to High Court of Madras and filled Writ petition No.30604 of 2019 and W.M.P. No.30668 of 2019 against the show cause notice. The High Court of Madras given order on 16.12.2021 that the appellant has to deposit a sum of Rs. 50,000/- before the respondents and grants liberty to the petitioner to file appeal before the Consumer Grievance Redressal.

5.5 The CGRF also conducted enquiry and given order on 05.04.2023, in that the bill revision recovery of the shortfall amount towards the left out 'R' phase energy consumption of Rs.2,91,076/- is in order and the petitioner is liable for payment of such amount along with inspection charges Rs.2000/-. Aggrieved over the CGRF order the Appellant has approached the Electricity Ombudsman.

5.6 The Appellant has submitted in this regard, the provisions relating to defective meter as provided in the Electricity Code is as follows:-

"Sec.7(10) (i) of the Code states it is the responsibility of the Licensee to replace all defective meter at his cost". Therefore, the defective meter has to be replaced at the cost of the Department and not at the cost of the consumer. Further, in the event of the meter being defective, then the assessment of billing has to be as provided in Sec.11 of the Code, which reads as follows:-

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 that energy or violation is suspected, the quantity of electricity supplied 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
- 5)
- 6) Where it is not possible to select a set of four months, the quantity of electricity supplied will be assess 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 the next higher level officer on the basis of connected load and the hours of usage of electricity by the consumer.

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

5.7 The Appellant has stated that the above provision of the Code, makes it clear that in the event of the meter being defective, the Average consumption of the preceding four months has to be calculated and not as worked out in the alleged demand notice.

5.8 The Appellant has submitted that the department had also not provided him the downloaded data in respect of the defective meter, and he has not informed about the alleged report obtained by the department in respect of the defective meter. He submitted that he has entitled for a copy of the report specifying the non functioning of the R Phase connection, since the same is a crucial evidence, and in the absence of such report, he was seriously prejudiced and put to hardship and unable to offer his effective reply to the Department, and hence the above Order confirming the assessment is arbitrary, illegal and malafide.

5.9 The Appellant has submitted that on the date of inspection, i.e., on 02.06.2015, the R, Y and B Values were provided as under:-

	R	Y	B
V	222	223	221
A	0.634	0.578	0.429

However, on the date of the fault being identified, the RYB Values were not noted and provided either in their records nor in the meter card. Therefore it is surprising that the department, without the basic information, or details, had ventured out to assess the same on the basis of mere surmises and assumptions.

5.10 The Appellant has stated that therefore the alleged demand notice is perse illegal, arbitrary, and malafide, and it is made with intent to harass him and put him into financial trouble. In the circumstances, it is most humbly prayed that the defective meter having been replaced by the department, the assessment for billing has to be made in accordance with the Rules and Regulations and as per the Electricity Supply Code, and not otherwise.

5.11 The Appellant has stated that therefore the alleged demand made in the notice dated 18.04.2017, in Ref. No.AEE/0&M/PTP/F-D.No.260/ 17 - 18, is liable to be set aside and the average consumption during the defective period of the meter has to be reworked as per the Code.

5.12 The Appellant has prayed to set aside the order dated 18.04.2017, in Ref.No.AEE/0&M/PTP/F-D.No.260/17-18, and the consequential order dated

05.04.2023, made in the above Petition No.P-5/2023, and direct the respondents to rework the assessment in accordance with the law, and pass such further orders as may be deemed fit and necessary in the facts and circumstances of the case, and thus render justice.

6.0 Arguments of the Respondent:

6.1 The Respondent has submitted that the petitioner Thiru.S.Selvaraj has applied before the Tamil Nadu Electricity Ombudsman for waiver of short fall amount of Rs.2,91,076/- along with the inspection fee of Rs.2,000/- charged during the period from 30-11-2015 to 13-01-2017 in Service connection No.147-020-173.

6.2 The Respondent has submitted that in Pulianthope section S/C No. 147-020-173 was effected on 20.04.2004 by the name of S.Selvaraj at 60,Ambedkar College Road, Chennai-12 under tariff III B for an Industrial purpose.

6.3 The Respondent has further submitted that the MRT wing of CEDC/Central were conducted an inspection on 05.11.2016 to check the LTCT meter condition of Service No.147-020-173 which is related to the petitioner before the presence of petitioner's representative S.Mandhari and observed that the LTCT meter was not recording the 'R' phase current. The petitioner's representative S.Mandhari also signed in the meter power check report on the same day. The MRT have downloaded all data from the existing LTCT meter on the same day. The MRT wing on analyzing the downloaded data of the LTCT meter and detected that the 'R' phase current has not recorded by the LTCT existing meter from 30.11.2015. The MRT wing has forwarded the LTCT meter testing report to Assistant Executive Engineer/O&M/Pulianthope on 21.11.2016, wherein MRT wing declared that the existing LTCT meter is defective and recommended to replace the existing defective LTCT meter by new healthy meter. Based on that, the Assistant Engineer/O&M/Pulianthope has replaced the defective LTCT meter on 13.01.2017.

6.4 The Respondent has submitted that the petitioner stated in his appeal petition that there is no noticeable drop or increase in consumption in the meter defective

period. On view of the consumer ledger of this LTCT service No. 147-020-173, the consumption pattern before 30.11.2015 consumed averagely 10,000 units/per month and after 30.11.2015 petitioner consumed as per assessed units approximately 6,000 units/per month. It shows that the assessed units before 30.11.2015 is higher than that defective meter period of 30.11.2015 to 13.01.2017. The year wise consumption pattern from 2014 to 2018 statement from the LT billing consumer ledger of petitioner's service connection No.147-020-173 is furnished below:

Year wise	Billing units
2014 (JAN-DEC)	1,30,762
2015 (JAN-DEC)	1,11,992
2016 (JAN-DEC)	77,112
2017 (JAN-DEC)	1,01,892.4
2018 (JAN-DEC)	1,00,142.4

From the above statement, it clearly shows that the billing units are very low when compared with the billing units of defective meter period before and after.

6.5 The Respondent has submitted that the MRT wing has forwarded a letter to Assistant Engineer/O&M/Pulianthope and recommended a bill revision for the defective period from 30-11-2015 to 13-01-2017 and calculation of bill revision has been arrived by MRT wing as shown below:

Tamper details (R-Phase current = 0 A)		
Cumulative KWh reading at the time of tamper occurrence i.e. 30-11-2015	A	18278.2
Cumulative KWH reading at the time of tamper restoration i.e. 13-07-2017	B	20461.0
KWh cumulative for 2 phase (Y&B) for defective period from 30-11-2015 to 13-01-2017	C=B-A	2182.8
Average units that would have recorded by R-phase for defective period with MF	D= (C/2)*40	43656

Short fall has been arrived for the above said 43656 units along with Rs.2000/- for Inspection charges as per TNERC rule. Based on MRT report AE/O&M/Pullianthope calculated the bill revision as follows:

Meter reading on 13.01.2017	= 20461.0
Meter reading on 30.11.2015	= 18278.2

	2182.8 x MF units

Hence R phase consumption during the period = $(2182.8/2) \times MF$ (Where MF=40)
= 43656 Units

The total shortfall amount has been arrived
for the above period = $43656 \times \text{Rs.}6.35$ tariff
= Rs.2,77,215.60
Electricity Tax @ 5% = Rs.13,860.80
Total = Rs.2,91,076/-
(Rupees Two lakhs Ninety One thousand and Seventy Six only)

6.6 The Respondent has submitted that based on MRT report the Assistant Executive Engineer/O&M /Pulianthope instructed AE/O&M/Pulianthope to issue show cause notice for the shortfall amount, AE/O&M/Pulianthope given show cause notice to the petitioner on 20.01.2017 to pay the bill revision amount of Rs.2,91,076/- and Rs.2,000/- for inspection charges.

6.7 The Respondent has further submitted that the meter cost has not collected from the consumer on 13.01.2017, but the inspection charges for MRT visit of Rs.2000/- was charged to the petitioner as per miscellaneous charges as approved by TNERC MP.41 of 2003. The show cause notice issued by AE/O&M/Pulianthope on 20.01.2017 that petitioner has been requested to pay shortfall amount during defective meter period only, but the petitioner has not been raised any objection to higher level officer after receiving the show cause notice by AE/O&M/Pulianthope. The petitioner moved High Court of Madras filed a writ petition vide W.P.No.5620 of 2017 against TANGEDCO to pray Honorable High Court of Madras to issue a writ of certiorari to call of the records of the 3rd respondent (AE/O&M/Pulianthope) made in Lr.No. AE/O&M/Pulianthope/Ko.Pa/Ta.No.15/16-17 dated 20.01.2017 and quashed the same.

6.8 The Respondent has submitted that the high court of Madras ordered on 17.03.2017 that "Replacing of the meter is one thing and the demand quantified is another. The impugned order has got civil consequence, by which the petitioner has been asked to pay a sum of Rs.2,91,076/-. There is no indication therein about the basis upon which the same has been calculated. Admittedly, the petitioner has not been put on notice. Therefore, the order impugned suffers from violation of principles of natural justice. Accordingly the impugned order dated 20.01.2017 is set

aside with liberty to the respondents to proceed afresh after issuing show cause notice indicating the amount payable by the petitioner and the basis for demanding the same".

6.9 The Respondent has submitted that the petitioner quoted in his petition that TNERC supply code clause no.11 (i.e) assessment of billing in cases where there is no meter or meter is defective and the petitioner stated that the average consumption did not arrived the preceding 4 months of before defective period as per TNERC supply code 11.

6.10 The Respondent has further stated that in clause No.11 of sub clause No.07 the TNREC supply code has given opportunity to the petitioner to raise objection against assessment notice to higher level officer or way be next higher level officer of the Licensee and if the petitioner is not satisfied, the petitioner is liberty to approach the CGRF Licensee. But the petitioner has not approached any higher level officer or CGRF Forum before filling writ petition at High Court of Madras in this case. The shortfall amount was arrived for not recording consumption in the 'R' phase of the LTCT meter during 30.11.2015 to 13.01.2017. The consumption units not recorded in the 'R' phase of the LTCT meter during 30.11.2015 to 13.01.2017 was arrived and calculated 43,656 Units. The detailed calculation is already explained in the para 2 of counter affidavit. The shortfall amount arrived based on the technical fault in the energy meter recording. The above shortfall amount arrived scientifically based on the technical fault of the Energy meter as per TNERC supply code clause No.11 sub clause no.6.

6.11 The Respondent has submitted that the download data of the defective meter (copy enclosed). He further submitted that the MRT wing has inspected the same service on 02.06.2015 and found that the meter is in order. So the MRT wing entered the inspection details on 02.06.2015.

6.12 The Respondent has submitted that based on the court order W.P.no.5620 of 2017 on 07.03.2017, by AEE/O&M/Pullianthope has given fresh notice to the petitioner on 18.04.2017 to request the petitioner to pay shortfall amount of Rs 2,91,076/- along with the Rs.2000/- Inspection charges totally Rs 2,93,076/- within

15 days from the date of receipt of the notice. The petitioner has not paid any amount against the notice; again further notice was issued to the petitioner on 19.08.2018. But still the petitioner has not paid any amount against the notice, again the AEE/O&M/Pulianthope gave another notice on 09.08.2019, but still petitioner has not paid any amount and moved High Court of Madras filled Writ petition No.30604 of 2019 and W.M.P. No.30668 of 2019 against the show cause notice. The High Court of Madras given order on 16.12.2021 that the petitioner to deposit a sum of Rs. 50,000/- before the respondents, within a period of two weeks from the date of receipt of a copy of this order and grants liberty to the petitioner to file appeal along with receipt of amount of Rs. 50,000/- to the respondents before the Consumer Grievance Redressal Forum and High Court of Madras given directions to the CGRF considered the petitioner's appeal petition and dispose of the said appeal within the period of four weeks from the said appeal.

6.13 The Respondent has submitted that based on the above court order the petitioner paid Rs.50,000/- vide PR No CHC147RS1Q2967 on 28.02.2022 and filled petition on 19.04.2022, the CGRF also conducted enquiry and given order on 05.04.2023, in that the bill revision recovery of the shortfall amount towards the left out 'R' phase energy consumption of Rs.2,91,076/- is in order and the petitioner is liable for payment of such amount along with inspection charges Rs.2000/-. But the petitioner not paid any amount as per the order of CGRF so far. So many opportunities has been given to the petitioner and reason for shortfall amount also clearly explained to the petitioner by the TANGEDCO side and also the consumption pattern of the petitioner service connection is higher than the before and after of the meter defective period from 30.11.2015 to 13.01.2017.

6.14 The Respondent has submitted that the TNERC Ombudsman has given an order in similar case of A.P. No. 107 of 2022 to the petitioner M/s. Stanson Rubber Products, that to pay the TANGEDCO's arrived shortfall amount to the TANGEDCO.

6.15 The Respondent has prayed to give directions to the petitioner to pay the shortfall amount towards left out "R" phase energy consumption of Rs.2,91,076/- with BPSC (Belated payment surcharge) along with inspection charges Rs.2000/-.

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 are the issues to be decided.

i) Whether the contention of the appellant to arrive the average for the defective period based on the preceding four months consumption is tenable?

7.2 The appellant Thiru. S.Selvaraj has stated that he is running a small scale industry and for that purpose had obtained an electricity service connection No.147-020-173 and the CC charges for the said electricity service connection has been paid by him without any default and TANGEDCO officials have also carried out periodical and regular inspection and verification of the meter and recorded that the satisfactory working condition of meter in meter card on 19.06.2015 and there was no complaint of non-functioning of meter and average consumption is constant and there had been no drop or increase in consumption during the period.

7.3 While so, the meter was replaced and demand notice for the period from 30.11.2015 to 13.01.2017 without any basis for a huge sum of Rs.2,93,076/- had been issued by the AE on 20.01.2017. Aggrieved over the notice the Appellant moved to High Court of Madras and filed a writ petition vide W.P.No.5620 of 2017. The High Court on 17.03.2017 has ordered that “the notice dated 20.01.2017 is set aside with the liberty to the Respondents to proceed afresh after issuing show cause notice indicating the amount payable by the petitioner and the basis for demanding the same.”

7.4 Based on the court order W.P.no.5620 of 2017 on 07.03.2017 a fresh notice was given to the appellant on 18.04.2017 to pay shortfall amount of Rs 2,91,076/- along with the Rs.2000/- for Inspection charges, totally Rs 2,93,076/- within 15 days from the date of receipt of the notice. The appellant has not paid any amount and again moved to High Court of Madras and filled Writ petition No.30604 of 2019 and W.M.P. No.30668 of 2019 against the show cause notice. The High Court of Madras

in its order dated 16.12.2021 has directed the appellant to deposit a sum of Rs. 50,000/- before the respondents and grants liberty to the petitioner to file appeal before the Consumer Grievance Redressal Forum.

7.5 Upon filing, the CGRF had conducted an enquiry and ordered that the revision recovery of the shortfall amount towards the left out 'R' phase energy consumption of Rs.2,91,076/- is in order and the petitioner is liable for payment of such amount along with inspection charges Rs.2000/-. Aggrieved over the CGRF order the Appellant has preferred this appeal.

7.6 The appellant has stated that in the event of meter defect, the billing has to be made as per regulation 11 of TNERC regulations i.e. the average consumption of the preceding four months has to be calculated. The Appellant alleged that the demand made in the notice dated 18.04.2017 vide Ref.No. AEE/0&M/PTP/F-D.No.260/17-18, is liable to be set aside and the average consumption during the defective period of the meter has to be reworked as per the Code.

7.7 The Respondent has submitted that the Appellant's LTCT service connection No. 147-020-173 was effected on 20.04.2004 in the name of S.Selvaraj under tariff III B for an Industrial purpose. The MRT wing of the Respondent had inspected the above premises on 05.11.2016 to replace O&M seal in the presence of petitioner's representative and during that time it has been observed that the existing meter was not recording the R phase current. The petitioner's representative has signed in the meter power check report on the same day.

7.8 The MRT have downloaded all data from the existing LTCT meter and on analyzing the downloaded data of the LTCT meter, has detected that the 'R' phase current has not recorded in the meter from 30.11.2015. MRT wing declared that the existing LTCT meter is defective and based on that the respondent has replaced the defective LTCT meter on 13.01.2017 and normal metering system was restored. The MRT wing has recommended a bill revision for the defective period from 30-11-2015 to 13-01-2017. Based on the MRT report AE/0&M/Pulianthope has

given show cause notice to the appellant on 20.01.2017 to pay the bill revision amount of Rs.2,91,076/- and Rs.2,000/- for inspection charges.

7.9 From the above arguments it is noticed that the appellant has nowhere questioned the healthiness of the meter. The appellant has stated that in the event of the meter being defective, the average consumption of the preceding four months has to be calculated and not as worked out in the alleged demand notice. He has accepted that the meter is defective but has only challenged the methodology of calculation of bill revision by the respondent and represented to rework the billing revision for the defective period based on the average consumption as per the Code.

7.10 The appellant contends that the methodology applied by the respondent does not adhere to the relevant code. In light of these assertions, I would like to refer regulation 11 of TNE Supply Code Regulation 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."

7.11 The regulation clearly outlines the expectations and requirements for billing revisions during defective meter periods. The appellant's contention is that the respondent's methodology does not align with these stipulations. Upon thorough examination of the aforementioned regulation, it is evident that Regulations 11(2), 11(4), 11(5), and 11(6) prescribe the procedures for computing the average consumption during the period of meter defect. In the present case, it is observed that the respondent has adopted the provision of TNE Supply Code Regulation 11(6) for computing the energy charges for the defective period based on the MRT wing letter dated 17.01.2017 which is an authorized wing to declare the status of the meter.

7.12 Based on the MRT letter the Respondent has provided a calculation to the appellant as the R phase current was zero assumed from the date of 30.11.2015 and that 2/3 of the consumption alone was recorded in the meter during the defective period of 30.11.2015 to 13.01.2017. In order to arrive at the left out R phase current recording, the Respondent has computed 1/2 of the recorded consumption of other two phases (Y & B phases) during the disputed period between 30.11.2015 to 13.01.2017. The consumption units recorded by the two phases between the period 30.11.2015 to 13.01.2017 were divided by two to calculate the left-out phase consumed units.

7.13 The left-out units were billed as short levy during the R-phase current missing period. The short levy calculated as per the MRT report is given below.

Meter reading on 13.01.2017	= 20461.0 (Y & B phases)
Meter reading on 30.11.2015	= 18278.2 (Y & B phases)

Difference in units	2182.8 x MF units (MF 40)

Therefore consumption recorded in Y & B phases	= 2182.8 x 40 =87312 units

Hence R phase consumption during the period	= 87312 / 2 = 43656 units
Short fall amount for the above period	= 43656 x Rs.6.35 (Tariff rate)
	= Rs.2,77,215.60
Electricity Tax @ 5%	= Rs 13,860.80
Total	= Rs. 2,91,076.00 (rounded off)

It is seen from the respondent computation that the average short fall has been arrived for the meter defective period as per the provision in Regulation 11(6) of TNE Supply Code from 30.11.2015 to 13.01.2017.

7.14 In view of the above, I would like to find out whether the above method of adoption of computing energy charges for the defective period is in order or not. The respondent computed the above missing R phase energy during the disputed period based on the MRT letter dated 19.01.2017 wherein it was mentioned as 30.11.2015 to 13.01.2017. In order to ascertain the above fact, the documents submitted by the respondent on the downloaded details of the LTCT meter has been verified and it is noted that the first occurrence of the R phase current zero was recorded on 11.03.2016.

7.15 The Respondent claims the defective period from 30.11.2015 to till the date of meter replacement i.e., 13.01.2017. However in the CMRI report the current imbalance data reveals that the first occurrence of the R phase current found zero on 11.03.2016. In view of the above it is concluded that the starting date of the defective period was 11.03.2016 and the end date was the meter replacement date. Hence the bill may be revised by taking the defective period from 11.03.2016 to the date of defective meter replacement i.e., 13.01.2017. Therefore, the respondent is directed to revise the average short fall for the missing R phase current from 11.03.2016 to 13.01.2017.

7.16 The appellant has prayed to revise the short fall arrears for the meter defective period by applying regulation 11(2) of TNE Supply Code. In the present case, the meter was not totally defective, it had partially recorded consumption in Y and B phases, but failed to record one phase consumption due to missing R phase current

from 11.03.2016. Therefore, regulation 11 (2) & (5) of TNE supply code shall be not applicable for the present case. As only Y and B phases consumption alone recorded but the R phase consumption was not recorded constitute as meter reading defective. In view of this situation, regulation 11(6) of TNE Supply Code provides that, 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 on the basis of the connected load and the hours of usage of electricity by the consumer. Accordingly, the average units for the missing current in R phase has been arrived, based on, half of the consumption recorded in other two phases (Y and B phase) which is in my view is a scientific method and hence the request of the appellant is not acceptable.

8.0 Conclusion :

8.1 Based on my findings in the foregoing paras, it is established that the R-phase current was not recorded in the meter since 11.03.2016 to 13.01.2017. Hence the respondent is directed to revise the bill and send the revised bill after adjusting the amount already collected, along with other applicable charges in line with TNE Supply code.

8.2 With the above findings the A.P. No.51 of 2023 is finally disposed of by the Electricity Ombudsman. No Costs.

(N. Kannan)
Electricity Ombudsman

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

To

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