

**BEFORE THE ELECTRICITY OMBUDSMAN**

No.16 C-1, Miller Tank Bed Area (Behind Jain Hospital)  
Vasanthanagar, Bengaluru-560052.

Present: **B.V. Patil,**  
**Prl. District Judge (Retd)**  
**Electricity Ombudsman,**  
**Case No. OMB/B/G-417/2021**  
**Dated 12/02/2021**

In the matter of

Sri D.L. Praveen Kumar,  
Sidhaganga Bio Plates,  
Devarayanapattana Road,  
Bandepalya,  
Tumkuru – 572104.

**Represented by:**

Advocate Sri. Fayaz Sab & Sri. Umashankar B.M.,  
#220, First Floor, 'A' Street,  
5th Cross, Anand Rao Extension,  
Landmark Near Movieland Theatre,  
Gandhinagar,  
Bengaluru – 560009.

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Vs

Appellant

- 1) The Assistant Executive Engineer (Elec.),  
Kyatasandra Sub-division, BESCO,  
Kyatasandra,  
Tumkur.
- 2) Chairperson, Consumer Grievance Redressal Forum (CGRF)  
Tumkur District,  
Superintending Engineer (Ele),  
Tumkur Circle Office, BESCO,  
Shivakumarswamy Circle, Kotithopu road,  
Tumkur – 572102.

- Respondents

- 1) This Appeal/Representation preferred before this authority by Sri  
D.L. Praveen Kumar, Sidhaganga Bio Plates, Tumkuru District

questioning the legality of the order passed by the Consumer Grievance Redressal Forum Tumkuru (herein after referred as CGRF), bearing order No. ಸಂಖ್ಯೆ.ಬಿ/ಗ್ರಾವೇ/ಪ್ರ.ಸ.08/2020-21/CYS-24, dated 27.11.2020 under the provisions of Clause 21.2 of KERC Regulations 2004. The Appellant/Complainant submitted their appeal memo on 08.01.2021 after communication of the order passed by the CGRF. The CGRF passed an order on 27.11.2020, the appeal was registered in this office on 08.01.2021. Hence the appeal is on time.

- 2) The brief facts of the case are that the installation bearing RR No. KSP 285 with sanctioned load of 30 HP for an industrial unit of the Appellant for manufacturing of bioplates under LT 5 Tariff Category was serviced by the Respondent No. 1 on 29.03.2019. Later the Respondent No. 1 found that the constant (K) value 10 was not updated since the date of issuing of first bill to the consumer i.e., June 2019, the (K) value 10 was updated in the month of May 2020. It was noticed that the meter reading was quantified with multiplying constant on K-01 instead of applying the multiplier constant of K-10 while raising bills. Accordingly the Respondent No. 1 raised supplemental claims bill of Rs. 3,57,566/- (provisional). Notice was issued to the Appellant for paying short

claims, provisional order was served on the Appellant. The Appellant filed his objection on 27.05.2020, the Assessing Officer on considering the objections filed by the Appellant passed a final order confirming the Provisional Order of supplemental claims on 08.06.2020. Challenging the order passed by the Assessing Officer, the Appellant filed a Writ petition 8872/2020 before the Hon'ble High Court of Karnataka. On 05.10.2020 writ petition was disposed of with a liberty to the Appellant to challenge the final order of short claims by filing an appeal before the Appellate Authority. It was ordered that till the disposal of the appeal the power supply shall not be disconnected by the Respondents. The Appellant filed a complaint before the CGRF Tumkuru, challenging the order of the short claims. The CGRF dismissed the complaint.

- 3) The Appellant questioning the legality of the order passed by the CGRF filed the present appeal contending that;
  - a) The order passed by the CGRF, Tumkuru is illegal and incorrect, the same is an outcome of non-application of mind.
  - b) CGRF has failed to examine Section 56 of the Electricity Act 2003 in a right perspective.

- c) The CGRF has failed to take into consideration that the Assessing Officer did not considered the objections filed by the Appellant to the provisional order.
- d) The CGRF has failed to take into consideration that the constant (K) value 10 was not updated by the Respondent No. 1 since the date of issue of the first bill to the consumer, the mistake committed by the Respondent No. 1 does not entitle him to make a demand of supplemental claims, the Respondent No. 1 to cover up their negligence and mistake on their part passing on the liability to the innocent Appellant consumer.
- e) The CGRF has failed to take into consideration that the settled law is “No wrong doer should be enabled by law to take advantage of his own wrong doings”. The Respondent No. 1 by violating KERC regulations shall not put the Consumer/ Appellant into financial inconvenience.
- f) The CGRF has failed to take into consideration that the Respondent No. 1 had no right to recover short claims arising out of their own commissions and omissions.
- g) The CGRF has failed to take into consideration that the short claims raised by the Respondent No. 1 is not supported with any evidence on record. The order raising short claims suffers

from malafides and motivated by extraneous reasons, therefore prayed for allowing the appeal.

- 4) After registering the appeal, notice was issued to both the parties which was duly served. It was informed to both the parties through letter dated 08.01.2021 of this office in respect of the availability of Sub-Regulation 1 of Regulation 20 of KERC (Consumer Grievance Redressal Forum and Ombudsman) Regulation 2004, for settlement through Conciliation and Mediation, to appear before this authority on 28.01.2021, parties did not availed the benefit of the said provision, the matter was not settled either through mediation or conciliation. Accordingly, the case was taken up for hearing.
- 5) On 28.01.2021 the Advocate for the Appellant absent. Sri Abhilash, Assistant Executive Engineer (Ele.), Kyathsandra Sub Division, BESCOM, Tumkuru present. Respondent sent parawise remarks, submitted his arguments. On 04.02.2021 advocate for Appellant filed his written arguments with citations.
- 6) Heard the arguments.
- 7) On 21.01.2021 the Respondent No. 1 submitted parawise remarks/arguments contending that the installation bearing RR No. KSP 285 with sanctioned load of 30 HP for an industrial unit of the

Appellant for manufacturing bioplates under LT 5 Tariff Category was serviced by the Respondent No. 1 on 29.03.2019. Later the Respondent No. 1 found that the constant (K) value 10 was not updated since the date of issuing of first bill to the consumer i.e., June 2019, thereafter the (K) value 10 was updated in the month of May 2020. It was noticed that the meter reading was quantified with multiplying constant on K-01 instead of applying the multiplier constant of K-10 while raising bills. Accordingly the Respondent No. 1 raised supplemental claims of Rs. 3,57,566/- (provisional), a notice was issued to the Appellant for paying short claims, provisional order was served on the Appellant. The Assessing Officer on considering the objections raised by the Appellant passed a final order confirming the Provisional Order of supplemental claims on 08.06.2020. The installation was disconnected on 22.07.2020 for non-payment of supplemental claims, challenging the order passed by the Assessing Officer, the Appellant filed a Writ petition 8872/2020. The Appellant paid 50% of the supplemental claims as ordered by the Hon'ble High Court of Karnataka, installation was reconnected on 05.08.2020. On 05.10.2020 writ petition was disposed of with a liberty to the Appellant to challenge the final order of short claims by filing an

appeal before the Appellate Authority. It was ordered that till the disposal of the appeal the power supply shall not be disconnected by the Respondents. The Appellant filed a complaint before the CGRF Tumkuru questioning the order of the short claims. CGRF rightly dismissed the complaint, prayed for dismissal of the appeal.

8) On the above contentions the point that arise for consideration of this authority is;

- a. Whether the order bearing No. ಸಂಖ್ಯೆ.ಬೆ/ಗ್ರಾವೇ/ಪ್ರ.ಸ.08/2020-21/CYS-24, dated 27.11.2020 passed by the CGRF Tumkuru District, rejecting the complaint of the Appellant is illegal, perverse, liable to be interfered by this authority?

9) My answers to the above point is in the;

- a. Negative.

For the following,

### **REASONS**

- 10) I perused the appeal memo, the records produced along with the appeal including the order passed by the CGRF Tumkuru District.
- 11) Before advertizing with the contentions raised by the Appellant, I would like to refer some of the undisputed facts in this case.
- 12) It is not in dispute that the installation bearing RR No. KSP 285 with sanctioned load of 30 HP for an industrial unit of the

Appellant for manufacturing bioplates under LT 5 Tariff Category was serviced by the Respondent No. 1 on 29.03.2019. Later the Respondent No. 1 found that the constant (K) value 10 was not updated since the date of issuing of first bill to the consumer i.e., June 2019, thereafter (K) value 10 was updated in the month of May 2020. It was noticed that the meter reading was quantified with multiplying constant on K-01 instead of applying the multiplier constant of K-10 while raising the bills. Accordingly the Respondent No. 1 raised supplemental claims of Rs. 3,57,566/- (provisional), provisional order was served on the Appellant. The Appellant filed his objection on 27.05.2020, the Assessing Officer on considering the objections passed a final order confirming the Provisional Order of supplemental claims on 08.06.2020. Challenging the order passed by the Assessing Officer, the Appellant filed a Writ petition 8872/2020 before the Hon'ble High Court of Karnataka. On 05.10.2020 writ petition was disposed of granting liberty to the Appellant to challenge the final order of short claims by filing an appeal before the Appellate Authority.

- 13) On perusal of the records makes it very clear that while sanctioning the power to the industry of the Appellant, it was notified to him that the power consumption bills will be raised with the



multiplying constant of K-10 to the installation of the Appellant. However it was noticed to the Respondent No. 1 that the meter reading was quantified with multiplying constant of K-01 instead of applying the multiplier constant of K-10 while raising bills. Accordingly the Assessing officer raised supplemental claims of Rs. 3,57,566/- (provisional). Provisional order was served on the Appellant. The Assessing Officer considering the objections raised by the Appellant passed a final order confirming the provisional order of supplemental claims. It is also not in dispute that the multiplier constant of K-10 was not applied at the time of issuing of first bill. The records produced by the Respondent No. 1 makes it clear that the installation of the Appellant was liable to be charged with multiplying constant of K-10 for which the Appellant himself has agreed at the time of servicing the installation. However while calculating the power consumption bill of the Appellant, it was supposed to multiply the consumed units by a multiplying constant of K-10. In the instant case erroneously multiplying constant of K-01 was applied instead of K-10. Thus only 1/10<sup>th</sup> of the consumption was billed. The Respondent No. 1 having noticed the issuing of erroneous bill to the Appellant, passed a provisional order of short claims and served the same on

the Appellant. The records produced in this case discloses that there is an erroneous billing for the above said period on account of non-application of multiplying constant K-10, accordingly the Respondent No. 1 is found to have not committed any irregularity as the short claims are made which are purely a mathematical error while raising the bills and wrong application of the multiplying constant. Accordingly the Assessing Officer rightly passed the final order of short claims demanding Rs. 3,57,566/- against the Appellant.

- 14) On examination of the records produced in this case makes it clear that the Respondent No. 1 did not updated the multiplying constant since the date of issue of first bill to the Appellant. The dispute involved in this case is non-updating of proper multiplying constant which is purely a mathematical error while raising the bills lead to the issuing of erroneous bills previously.
- 15) It is submitted that as per Section 56 Sub Clause (2) of the Electricity Act 2003 and Regulation 29.08 of COS, the Respondent No. 1 is not entitled to recover any short claims/arrears beyond a period of 2 years when such sum became first due unless such a sum has been shown continuously in bills, recoverable as arrears of charges of electricity supply. On examination of the records

makes it clear that it was not a case of erroneous billing falling within the ambit of Section 56 Sub Clause 2 or Regulation 29.08 of COS. It is a simple case of mistake in computing the units of consumption which has occurred in this case by oversight. The Appellant who has consumed the power and enjoyed the same by paying only 1/10<sup>th</sup> of the usual consumption charges for the above said period. At no point of time the Appellant as an honest consumer paying only 10% of his usual charges did not brought the fact of erroneous billing to the notice of the Respondent No. 1 who at the time of servicing the installation agreed to pay the billing charges with multiplying constant of K-10. This mistake of the Appellant does not absolve him from paying the short claims. A simple arithmetical error for not multiplying the units by applying multiplying constant K-10 for the above said period and the short claim demands made by the Respondent No. 1 cannot be held as illegal and the same is barred by limitation under Section 56 (2) of Electricity Act 2003. It is well settled that a mistake can always be corrected and a mistake in calculation no doubt can be rectified at a subsequent stage. In the present case error in raising correct bills occurred due to difference in multiplying factor. Therefore, the supplemental claims of the Respondent No. 1 for

the period from June 2019 to May 2020 is barred under the provisions of Electricity Act does not holds good and the same cannot be accepted. The Appellant consumed the electricity supplied by the Respondent No. 1 is not in dispute. The constant (K) value 10 was not updated from the date of issuing of first bill to the Appellant was corrected by issuing supplemental claims bill on account of applying less multiplying factor, such supplemental claims are not barred under Section 56 (2) of the Electricity Act 2003. Therefore, the appeal filed by the Appellant is wholly devoid of merits liable to be dismissed. The learned council appearing for the Respondent No. 1 placed his reliance on a decisions rendered by the Hon'ble High Court of Karnataka in WP 45450/2014 dated 18.09.2017 and Civil Appeal No. 1672/2020 rendered by Hon'ble Supreme Court. I have gone through the principles rendered in the above said decisions, the principles rendered are not squarely applicable to the case of the Appellant.

- 16) On examination of the order passed by the CGRF including the documents produced in the appeal, in view of the admitted facts as discussed supra, the CGRF on examination of the facts and circumstances of this case rightly dismissed the complaint. The order passed by the CGRF does not suffers from any material legal

infirmities, the same is not perverse needs to be interfered by this authority. Accordingly, point No. 1 is answered in the negative. The Learned Counsel appearing for the Appellant during his arguments submitted that in case this authority comes to the conclusion that the Appellant is liable to pay the short claims, the Appellant may be granted 20 installments to pay the same. On examination of the order passed by the CGRF, already CGRF has granted 3 installments to the Appellant for payment of the balance short claims amount, which seems to be reasonable.

17) In the result, I proceed to pass the following;

**No. OMB/B/G-417/2021/D-1521**

**Dated: 12-02-2021**

**O R D E R**

1) The appeal is dismissed.

Sd/-  
(B.V. Patil)  
Electricity Ombudsman.

- 1) Sri D.L. Praveen Kumar,  
Sidhaganga Bio Plates,  
Devarayanapattana Road,  
Bandepalya,  
Tumkuru – 572104.
- 2) Advocate Sri. Fayaz Sab & Sri. Umashankar B.M.,  
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Tumkur District,  
Superintending Engineer (Ele),  
Tumkur Circle Office, BESCOM,  
Shivakumarswamy Circle, Kotithopu road,  
Tumkur – 572102.
- 5) PS to Hon'ble Chairman, KERC
- 6) PS to Hon'ble Member (M), KERC
- 7) PS to Hon'ble Member (R), KERC
- 8) PA to Secretary, KERC.