



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. 53 of 2024

Tmty.P.Asha,
C/o. Oswin & Jacob Techno Legal Adviser,
BRIO Hall, No.4/23E, Kamaraj Nagar,
4th Main Road, Thiruvanmiyur,
Chennai – 600 041.

. . . . Appellant
(Rep. by Thiru N. Senthil Viswarooban, Advocate
& Thiru Franklin Stephen, Advocate)

Vs.

1. The Executive Engineer/O&M/Tindivanam,
Villupuram Electricity Distribution Circle,
TANGEDCO,
Sub station campus,Marakkanam Road,
Tindivanam-604 001.

2. The Assistant Executive Engineer/Town/ Tindivanam,
Villupuram Electricity Distribution Circle,
TANGEDCO,
Sub station campus,Marakkanam Road,
Tindivanam-604 001.

3. The Assistant Engineer/Town I/ Tindivanam,
Villupuram Electricity Distribution Circle,
TANGEDCO,
Kavaripakkam, Tindivanam - 604 001.

. . . . Respondents
(Thiru S. Sivasankaran, EE/O&M/ Tindivanam
Thiru T. Senthil Kumar, AEE/Town/Tindivanam
Thiru R.Durairaj, JE/Town I/Tindivanam)

Petition Received on: 12-07-2023

Date of hearing: 12-09-2024, 26-09-2024 & 08.10.2024

Date of order: 10-10-2024

The Appeal Petition received on 12.07.2024 filed by Tmt. P.Asha, C/o. Oswin & Jacob Techno Legal Adviser, BRIO Hall, No.4/23E, Kamaraj Nagar, 4th Main Road, Thiruvanmiyur, Chennai – 600 041 was registered as Appeal Petition No. 53 of 2024. The above appeal petition was scheduled to hear on 12.09.2024. But as per the request of the Appellant's Counsel it was postponed and rescheduled on 26.09.2024. During the hearing on 26.09.2024, it was decided to hear again on 08.10.2024 in order to furnish the details of the petition filed before the District Consumer Disputes Redressal Commission, Villupuram. 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 audit shortfall amount for Rs.15,66,240/- in the SC No.456-014-195.

2.0 **Brief History of the case:**

2.1 The Appellant has stated that he had received an audit slip for Rs.15,66,240/- as shortfall amount for the period from 03/2017 to 07/2020.

2.2 The Respondent has stated that on inspection of SC.No.456-014-195 by the Board Office Audit branch an average shortfall has been arrived for the defective meter period from 03/2017 to 07/2020 for an average shortfall amount of Rs.15,66,240/- and reported for collection.

2.3 The Appellant has filed a petition with the CGRF of Villupuram EDC on 16.03.2024. The CGRF of Villupuram EDC has issued an order dated 28.05.2024. 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 Villupuram Electricity Distribution Circle issued its order on 28.05.2024. The relevant portion of the order is extracted below :-

“Order: (Operative portion)

மன்றத்தின் தீர்வு:

6.1 30.04.2024 தேதியில் நடைபெற்ற கேட்புரை நாளில், முறையிட்டாளர் திருமதி ஆஷா அவர்கள் தரப்பில் எடுத்துரைக்கப்பட்ட வாதங்கள், எதிர்மனுதாரர் தரப்பில் எடுத்துரைக்கப்பட்ட வாதங்கள் மற்றும் சமர்ப்பிக்கப்பட்ட ஆவணங்கள் அடிப்படையில், இம்மன்றத்தால் கீழ்க்கண்டவாறு தீர்ப்புரை வழங்கப்படுகிறது.

6.2 மின் இணைப்பு எண் 02-456-014-195 வீதப்பட்டி V-க்கு விதிக்கப்பட்ட சராசரி மின் கட்டணத் தொகையினை இரத்து செய்திட முறையிட்டாளர் மன்றத்தில் முறையீடு செய்து இருப்பினும் இரத்து செய்திட கூறப்பட்ட காரணம் மற்றும் சமர்ப்பிக்கப்பட்ட ஆவணங்கள் ஏற்புடையதாக இல்லை.

6.3 எதிர்மனுதாரர் தரப்பில் மேற்கண்ட மின் இணைப்பிற்கு விதிக்கப்பட்ட சராசரி மின் கட்டணத் தொகை இரத்து செய்திடலாம் என கூறினாலும் அதற்குரிய ஆவணங்களை இம்மன்றத்தில் சமர்ப்பிக்கப்படவில்லை.

6.4 மின் அளவி பழுது என்பதற்கோ அல்லது மின் அளவி நல்ல நிலையில் இருந்துள்ளது என்பதற்கோ MRT ஆய்வு அறிக்கை இம்மன்றத்தில் சமர்ப்பிக்கப்படவில்லை.

6.5 03/2017 முதல் 03/2018 வரை மின் இணைப்பில் மின் அளவி பழுது என ஏன் பதிவு செய்யப்பட்டது என்பதற்கு உரிய விளக்கம் எதிர்மனுதாரரால் இம்மன்றத்தில் சமர்ப்பிக்கப்படவில்லை. மின்பளு குறைக்கப்பட்டதினால் மின்சார பயன்பாடு குறைந்தது என்பதற்கும் உரிய விளக்கம் அளிக்கப்படவில்லை.

எனவே மேற்கண்ட காரணங்களின் அடிப்படையில் மின் இணைப்பு எண் 02-456-014-195 வீதப்பட்டி-V-ற்கு விதிக்கப்பட்ட சராசரி மின் கட்டண குறைவுத் தொகை ரூ.15,66,240/-ஐ இரத்து செய்திட இயலாது என இம்மன்றத்தால் தீர்ப்புரை வழங்கப்படுகிறது."

4.0 Hearing held by the Electricity Ombudsman:

4.1 To enable the Appellant and the Respondents to put forth their arguments, a hearing was scheduled on 12.09.2024. But as per the request of the Appellant's Counsel it was postponed and conducted on 26.09.2024 through video conferencing.

4.2 On behalf of the Appellant Thiru N. Senthil Viswarooban and Thiru Franklin Stephen, Advocates of C/o. Oswin & Jacob Techno Legal Adviser attended the hearing and put forth their arguments.

4.3 The Respondents Thiru S. Sivasankaran, EE/O&M/ Tindivanam, Thiru T. Senthil Kumar, AEE/Town/Tindivanam and Thiru R.Durairaj, JE/Town I/Tindivanam of Villupuram EDC 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 prayers which require relief under the Regulations for CGRF and Electricity Ombudsman, 2004 alone are discussed hereunder. Subsequently, additional hearing is scheduled on 08.10.2024.

5.0 Arguments of the Appellant:

5.1 The Appellant has stated that the appeal petitioner is Tmt. Asha, w/o. Thiru Pankaj is residing at No.1, Duraisamy Achari Street, Dindivanam, Villupuram - 604001. The petitioner has occupied the premises on lease at door No. 287, Aaryas Bakery, Jawaharlal Nehru Street, Tindivanam - 604001, under the dispute, on rental basis through a registered agreement on 17.07.2019 which is having the electricity service connection with A/c No. 456-014-195 under commercial tariff.

5.2 The Appellant has stated that the said electricity service connection stood in the name of Mr. Thulasiraman and was originally being utilized for food service of M/s. Sai Sathish Bhavan. As the said business started in the year 2016 went on losses, the erstwhile owner Mr. Thulasiraman approached this petitioner for renting out the premises and accordingly the said premises was taken under lease by this petitioner to run a hotel in the style & functioning of M/s. Aaryas. This petitioner after availing the premises for lease was about to start the business through suitable interior modifications, but due to the Covid 19 Pandemic, the premises was kept idle. After the said pandemic got reduced the premises was started to put into use after making due modification and furnishing. It is pertinent to state that

this petitioner has purchased later on the said property through registered sale deed Doc. No. 1183/2021 and the premises is being utilized for hotel purpose in the national high way. The electricity service connection originally stood in the name of Thiru. Thulasiraman was also transferred to the name of Asha, this petitioner on 01.03.2024.

5.3 The Appellant has stated that while it is so, the petitioner was shocked to receive a notice from TANGEDCO to pay a huge sum of Rs.15,66,240/- being the shortfall in electricity charges for the period from 03/2017 to 07/2020 as if the Audit Department has raised such shortfall on the premises that the meter was assumed to be defective from 03/2017 taking an average bimonthly consumption of 15601 units recorded during the months of 11/2016 & 01/2017. On a plain reading of the records, it could be well understood that neither the meter was defective nor meter was replaced to claim a shortfall.

5.4 The Appellant has stated that the assessment staff has erroneously entered the meter as defective instead of Normal by over sight, during the period 03/2017 which has led to this suspicion and was continued upto 03/2018. Though the meter was recording the consumption properly, and entered the reading regularly which could be well evident, the said remarks of "Meter Defective" was continued due to technical glitch. The said issue was normalized through a "DUMMY METER CHANGE" on 16.03.2018 recording as if the meter was "STRUCK UP".

5.5 The Appellant has stated that it is pertinent to state here the meter was not physically changed or materially replaced as the same was healthy enough to record the consumption and was functioning well. This dummy meter change was done only to normalize the mistake committed by the TANGEDCO, recording the healthy meter as defective and the same was normalized. The Audit department without having technical knowledge or analytic thought process assumed as if the meter was replaced physically and drawn a notion that the meter was not recording properly and was replaced under the stuck up condition. It is pertinent to state here that the word stuck up will not arise for a STATIC METER and the said word is appropriate only for dial meter or Analog Meter.

5.6 The Appellant has stated that having ill-gotten ideas and without proper analytical thinking and technical competence, the huge shortfall was claimed on presumption and assumption as if the said meter was defective. Therefore this petitioner made a representation to the authorities concerned to withdraw the said shortfall which is contrary to the real facts, circumstances, regulations engraved for this purpose and indeed the petitioner has occupied the premises only during July 2019 and there was change of circumstances and the period in question covered under Covid -19 Pandemic.

5.7 The Appellant has stated that having been the claim was made arbitrarily without jurisdiction technical competence, analytical approach contrary to the statutory regulations, (which prescribed the provisions & modalities to bill when the meter was defective) and of course the meter change entry was done to rectify their own mistake, though the meter was functioning well and recording properly, and the said premises was being utilized by two different entities during the disputed period and the said period comes under the period during which the Covid Pandemic was in its crude mode and the entire country was in lock down including this business entity and reduction or variation in consumption is only because of change in circumstances and the mistake was only committed by the TANGEDCO staff during assessment, this petitioner made a fervent appeal to all the concerned authorities.

5.8 The Appellant has stated that though the field officials have made their sincere recommendation based on the factual circumstances and based on the evidential proof, the audit department not having analytical or technical skill are adamant in their attitude refusing to withdraw the shortfall claim. The internal scheme of Consumer grievance Redressal Forum within TANGEDCO also refused to set aside the slip even after knowing the issue in detail. Even in the reply to the grievance petition, it could be well evident that no adduced proof or statement was submitted by TANGEDCO to substantiate the illegal claim. There is no MRT report. Meter data not downloaded. Question of stuck up does not arise in static meter.

5.9 The Appellant has stated that the following are the details of reply of the field official of the opposite party relied upon Executive Engineer/O&M/Tindivanam:

- i. The service connection is related to JE/ Town-I / Tindivanam. The service connection with A/c. No. 04-456-014-195 stands in the name of Asha.
- ii. Audit Department requested to include the shortfall of Rs.15,66,240/- for the period of 03/2017 to 07/2020.
- iii. The said shortfall amount was recommended to Audit Department for withdrawal based on consumer representation.
- iv. Meter Relay Testing report was requested on 26.09.2023. MRT wing stated that report could not be downloaded for more than a year.
- v. The consumption varied in the said service connection. The service connection was given in the name of Raman on 01.03.2005. M/s. Sai Sathish Bhavan was originally functioning. Learnt consumption was reduced due to reduction in business.
- vi. Assessor recorded as defective for the period from 03/2017 to 03/2018. On 16.03.2018 the Meter Change entry was made with the same meter number. The said meter was functioning well up to 11/2019.
- vii. Because of business loss in Sai Sathish Bhavan, lease agreement was executed with Hotel Aaryas on 17.07.2019.
- viii. Meter Stuck Up could not be confirmed as consumption details are recorded.
- ix. The capacity of meter change from 20A to 100A was done on 16.03.2018.
- x. Grievance petitioner submitted only the lease agreement.

5.10 The Appellant has stated that details of regulations relied upon Regulation 11 of Tamilnadu Electricity Supply code under the heading Assessment of billing in cases where there is no meter or meter is defective:

“1. Where the supply is given without a meter or where the meter fixed is found defective or 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 here under.

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 HT Scs & Amp; LT Scs ,provided that the conditions in regard to the use of electricity during the said four months were not different from the 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.”

5.11 The Appellant has stated that in all above cases, the relevant test results and clear working sheet indicating the basis of computation of billing for the back period, the period during which the meter was found defective etc., shall be promptly communicated to the consumer. Therefore based on all the above facts, circumstances and in accordance with the statutory regulations, the audit shortfall claimed on the premises that the meter is defective or stuck up is beyond imagination and the audit department ought to have accepted the recommendation of the field Engineer. The CGRF, having gone through the appeal petition, records, version of the opposite party and endorsing non availability of substantial documents to establish meter was defective, ought to have concluded that the

audit claim is wrong and cancelled the slip. It is t to state the burden of proof is on the utility to establish that the meter is defective through scientific means.

5.12 The Appellant has requested to set aside the order in CGRF Petition No. 28 of 2024 and declare the Audit Slip No. 03 dt.27-032023 as illegal claim made by the opposite entity on the presumption & assumption as it is arbitrary, illegal and abusive of power and not adhering to the regulations stipulated and to pass further or other orders or directions as this Hon'ble Electricity Ombudsman deems fit in the ends of justice.

6.0 Counter submitted by the Respondent:

6.1 The Respondent has stated that in Tindivanam division Town- 1/Tindivanam section a commercial service connection No.456-014-195 was originally effected in the Name of Mr.Thulasiraman and at present it was transferred in the name of Mrs. P.Asha on 01-03-2024.

6.2 The Respondent has stated that as per Audit slip No. 03 dated 27.01.2023, it was arrived for an amount of Rs.15,66,240/- as average short fall for the defective period from 03/2017 to 07/2020. As per Reference Lr. No. க. எண். செ.பொ/இப /திவம்/ உகஅ /வபி/ கோ. தணிக்கை/ அ.எண்.850/23, நாள் 11.09.2023 dropping proposal has been submitted to the Deputy Chief Internal Audit Officer/Villupuram and it was returned by the Audit Officer requesting to submit the MRT Report Due to non availability of MRT report a letter has been sent to the consumer to pay the Audit average shortfall for sum of Rs. 15,66,240/. Based on the letter consumer approached the Consumer Grievance Redressal Forum (CGRF), Villupuram. The forum has passed Judgment of CGRF petition No.28/2024 stating that the audit shortfall amount could not be withdrawn since the consumer was failed to produce evidence for lower consumption usage and also there is a variation of consumption on viewing the consumption pattern KWH, KVAH, PF as 1, MD as 0.

6.3 The Respondent has stated that based on CGRF order the consumer has

filed an appeal in Tamil Nadu Electricity Ombudsman vide appeal No: 53/2024. For the above appeal petition the para war remarks submitted as below.

6.4 The Respondent has stated that the Service Connection No.456-014-195 has owned by Mr.City Babu s/o. Thulasiraman, under the registered settlement deed dt.15.06.2012. The above said premises was leased to Mr. Pasupathi s/o. Gopal under the rental deed dt. 16-03-2015 and Pasupathi run the Hotel in that premises in the name of Sai Sathish Bhavan.

6.5 The Respondent has stated that from 07/2019 to till date Aryas Hotel is running in the said premises. The above said premises was purchased by Mrs.Asha Pankaj only on 22-07-2021 and she continued the lease for the same Aryas Hotel itself in the Audit period 03/2017 to 05/2019 Mr.Pasupathi run the business in the name of Sai Sathish Bhavan and thereafter to till date Aryas hotel is running in the said premises.

6.6 The Respondent has stated that on inspection of SC.No.456-014-195 by the Board Office Audit branch an average shortfall has been arrived for the defective meter period from 03/2017 to 07/2020 for an Average shortfall amount of Rs. 15,66,240/- and reported for collection.

6.7 The Respondent has stated that due to variation in the reading of KWH, KVAH, Power factor as 1 & MD as 0 it was confirmed that the meter was defective. It was registered as meter stuck up in LT billing software. Due to meter defect a new meter has been replaced on 16-03-2018, Old meter capacity 5-20 A and the new meter capacity 50-100 A, no dummy meter change was entered, both the meters are not same, different in meter make.

6.8 The Respondent has stated that after inspection of consumer ledger by the Audit branch, it was noticed that variations in consumptions (KWH, KVAH, MD) during the period from 03/2017 to 03/2018 in the said service. Variations of reading as mentioned below.

S. No.	Month	Starting KWH Reading	Final KWH Reading	Consumption units	MD Recorded
1.	03/2017	30900	36350	5450	28.5
2.	05/2017	36350	45950	9600	0
3.	07/2017	45950	55680	9730	0
4.	09/2017	55680	67560	11880	0
5.	11/2017	67560	67560	10480 average	0
6.	01/2018	67560	88010	9970 Average	22.92
7.	03/2018	97090	88010	11180	0

6.9 The Respondent has stated that the previous enjoyer Mr.Pasupathi (owner of Sai Sathish Bhavan) have never raised any objection at the time of changing the defective meter dated 16-03-2018 and he has not reported reason for lower consumption and also he has paid all the CC charges. Hence it understood that the Previous enjoyer was accepted the change of meter.

6.10 The Respondent has stated that according to the Hon'ble High court judgment ordered vide WP.No.7587 of 2011. MP.No.1 and 2 of 2011 & TNERC supply code 17, that the previous owner who was consumed and used the electricity left or released, who used the consumption, the consumption charges can be collected only through the present owner. Based on the above regulation, demand was raised and intimated to the present owner Mrs.Asha to pay the average short fall amount.

6.11 The Respondent has stated that the average shortfall amount arrived by the audit branch was found correct and it was confirmed that no Dummy meter change was entered, only new meter was replaced. Further at the time of meter defective period of 03/2017 to 07/2020 the present owner Mrs. Asha is not the title owner of the premises. Hence the details of consumption, meter defective, meter change and average calculation has not been known by the present owner Mrs.Asha.

6.12 The Respondent has stated that it was confirmed that on 16-03-2018 the defective meter was changed, due to variations in consumption pattern and also no objection has been raised by the previous enjoyer of the said the premises (Sai Sathish Bhavan). New meter replacement details has been entered in section office defective meter change register. Hence it is confirmed that average shortfall amount of Rs.15,66,240/- (Rupees Fifteen lakhs sixty six thousand two hundred and forty only) arrived by the audit branch found correct and it is to be recovered from the present owner Mrs. Asha.

6.13 The Respondent has stated that also Mrs. Asha has filed case before The District consumer dispute Redressal Commission. Villupuram vide CC No. 121/2024. Prayer of the petitioner has the same subject as mentioned in appeal petition 53/2024 also he has requesting a sum of Rs 25 lacs as compensation, Vakhalath filed on 14.08.2024 and counter filed on 21.08.2024 four hearings have completed(14.08.2024,21.08.2024,28.08.2024 & 04,09,2024). Next hearing will be on 12.09.2024.

6.14 The Respondent has prayed to pass an order for recovery of sum of Rs.15,66,240/- from Mrs.Asha and render justice.

7.0 Findings of the Electricity Ombudsman:

7.1 I have heard the arguments of both the Appellants and the Respondents. Based on the arguments and the documents submitted by them the following conclusion is arrived.

7.2 The undersigned was earlier requested by the Appellant to postpone the scheduled hearing of 12-09-2024 by a fortnight. Consequently, a revised schedule was set, and the hearing was rescheduled to 26-09-2024 at 11:30 AM. During the hearing, it was confirmed that the Respondent had sent a partial order dated 18-09-2024 from the District Consumer Disputes Redressal Commission, Villupuram. The Respondent mentioned that an order had been passed by the commission

directing the opposite parties to pay compensation for the unfair trade practice and deficiency in service committed against the Appellant.

7.3 Additionally, the Respondent stated in their counter dated 04-09-2024, which was received at this office on 06-09-2024, that the prayer in Appeal No. 53/2024 before this Ombudsman is the same as that in CC No. 121/2024 before the District Consumer Disputes Redressal Commission, Villupuram. The Respondent further mentioned that a Vakalath was filed on 14-08-2024, a counter was filed on 21-08-2024, and four hearings were completed on 14-08-2024, 21-08-2024, 28-08-2024, and 04-09-2024, with the next hearing scheduled for 12-09-2024.

7.4 Upon scrutiny of the Respondent's counter, the Electricity Ombudsman understood that there is a case held before the District Consumer Disputes Redressal Commission, Villupuram. Hence, during the revised hearing on 26-09-2024, the Appellant was asked to confirm the same before the District Consumer Disputes Redressal Commission, Villupuram, and was requested to furnish the prayers and counters from both parties and postponed the hearing. The Respondent has since sent copies of the Appellant's prayer and their counter. Upon reviewing these documents, it was noted that the prayers presented before the District Consumer Disputes Redressal Commission, Villupuram, are reproduced below;

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2. While it is so, the petitioner was shocked to receive a notice from TANGEDCO to pay a huge sum of Rs.15,66,240/- being the shortfall in electricity charges for the period from 03/2017 to 07/2020 as if the Audit department has raised such shortfall on the premises that the meter was assumed to be defective from 03/2017 raking an average bimonthly consumption of 15601 units recorded during the months of 11/2016 & 01/2017. On a plain reading of the records, it could be well understood that neither the meter was defective nor meter was replaced to claim a shortfall.

3. The assessment staff has erroneously entered the meter as defective instead of 'Normal' during the period 03/2017 which has led to this confusion, suspicion and was continued upto 03/2018. Though the meter

was recording properly the consumption, and entering the reading which could be well evident, the said remarks was continued due to technical glitch. The said issue was normalized through a "DUMMY METER CHANGE" on 16.03.2018 recording as if the meter was "STRUCK UP". It is pertinent to state here that the meter was not physically changed or materially replaced as the same is healthy enough to record the consumption and was functioning well. This said dummy meter change was done only to normalize the mistake committed by the TANGEDCO, recording the healthy meter as defective and the same nor normalized. The Audit department without having technical knowledge or analytic thought process assumed as if the meter was replaced physically and drawn a notion that the meter was not recording properly and was replaced under the stuck up condition. It is pertinent to state here the work stuck up will not arise for a STATIC meter and said word is appropriate only for dial meter or Analog meter.

.....

11. It is humbly prayed that this Hon'ble Commission may be pleased to set aside the illegal claim made by the opposite entity on the presumption & assumption declaring an amount of Rs.15,66,240/- it as arbitrary, illegal and abusive of power not adhering to the regulations stipulated and to direct the opposite party to pay a compensation of Rs.25 lakhs for mental agony suffered by this petitioner, through their unfair trade practice and arbitrary action."

7.5 Upon scrutiny of the documents submitted in A.P. No. 53 of 2024, it is noted that the prayer before the District Consumer Disputes Redressal Commission, Villupuram, in CC No. 121/2024 is the same as the one presented in this appeal. This information was not disclosed by the Appellant to this Ombudsman and only came to light through the Respondent's submission. Furthermore, the Respondent has now mentioned that the District Consumer Disputes Redressal Commission, Villupuram, has passed a partial order directing them to pay compensation of Rs. 15,00,000/- for unfair trade practices and deficiency in service.

7.6 The District Consumer Disputes Redressal Commission, Villupuram had issued orders to pay a sum of Rs.15,00,000/- as compensation for the unfair trade practice, deficiency in service committed by the opposite parties. It is understood that unfair trade practice generally refers to deceptive methods, false representations, misleading advertisements, or fraudulent conduct by a business in

the sale of goods or services. In this case, the dispute is centered around billing discrepancies, meter functionality and technical errors by the licensee. Both parties are addressing a technical issue regarding electricity billing and meter performance, rather than any deliberate or misleading conduct by the service provider.

7.7 From the foregoing paragraphs, it is noted that a dispute on a similar subject matter has been raised before the District Consumer Disputes Redressal Commission, Villupuram. As the Ombudsman is a state-level adjudicating authority for appeals against the orders of the Consumer Grievance Redressal Forum of the licensee, in this case TANGEDCO/TNPDCO, the Ombudsman is restricted by TNERC regulations from entertaining a similar prayer that is already under consideration before any court or tribunal. It has been observed that the Appellant did not disclose that the same prayer had already been filed before the District Consumer Disputes Redressal Commission, Villupuram. Under this circumstances, I would like refer the regulation 17(4)(d) of the Consumer Grievance Redressal Forum and Electricity Ombudsman 2004 which is furnished below.

“17

(1) xxx

(2) xxx

(3) xxx

(4) *No complaint to the Electricity Ombudsman shall lie unless:*

(a) xxx

(b) xxx

(c) xxx

(d) *The complaint does not pertain to the same subject matter for which any proceedings before any court is pending or a decree or award or a final order has already been passed by any competent court; and*

(e) *The complaint is not frivolous or vexatious in nature.”*

7.8 Upon a plain reading of the above, it is clear that the Ombudsman cannot undertake an appeal petition where a legal dispute is already pending before any court, or where a decree, award, or final order has been passed by any competent court. The Appellant's prayer before this Ombudsman and the District Consumer Disputes Redressal Commission, Villupuram, is similar, revolving around the issue of the shortfall in electricity billing, the marking of the meter as defective, and the

subsequent audit claim by the Respondent, which the Appellant seeks to have set aside. The Appellant has already received a partial order from the commission with a specific finding on unfair trade practices.

7.9 Therefore, this Ombudsman will need to carefully consider whether the compensation granted by the Consumer Forum affects any potential decision regarding the shortfall amount of Rs.15,66,240/-, which remains a point of contention due to the non-availability of the detailed order. Further, awarding compensation for the unfair trade practice and deficiency in service should be based on some facts and hence in my view the District Consumer Disputes Redressal Commission, Villupuram should have passed the orders and awarded compensation only after going through the fact of the case. Therefore, as per regulation 17(4)(d) of the Consumer Grievance Redressal Forum and Electricity Ombudsman regulations 2004, the Electricity Ombudsman cannot decide on an issue for which any proceedings before any court is pending or a decree or award or a final order has already been passed by any competent court. Hence, the appeal petition is rejected.

8.0 Conclusion:

8.1 As per my findings in para above, the A.P.No.53 of 2024 is disposed of by the Electricity Ombudsman. No Costs.

(N.Kannan)
Electricity Ombudsman

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

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