

**Before the Karnataka Electricity Regulatory Commission, Bangalore**

**Dated this the 7<sup>th</sup> day of November, 2003**

**Present**

- |                                  |          |                 |
|----------------------------------|----------|-----------------|
| <b>1. Sri. Philipose Matthai</b> | <b>-</b> | <b>Chairman</b> |
| <b>2. Sri. H.S. Subramanya</b>   | <b>-</b> | <b>Member</b>   |
| <b>3. Sri. S.D.Ukkali</b>        | <b>-</b> | <b>Member</b>   |

**CaseNo.OP- 35/2003**

**Between**

The Chief Manager,  
State Bank of India,  
Zonal Office,  
# 48, Church Street,  
Bangalore -560 001

**Petitioner**

(By Sri. J.Satish Kumar, Adv.)

**and**

The Managing Director,  
BESCOM  
K.R.Circle  
Bangalore

**Respondent**

(By Sri S.S.Nagananda, Adv.)

The petitioner in this case has sought suo motu intervention of the Commission for the refund of back bill paid by the Bank. The bank had approached the First and Second Appellate Authorities without any success and hence this application.

2. The essential facts of this case may be briefly stated as follows:

- i) The zonal office of State Bank of India at Church Street, Bangalore has two electricity connections, i.e. the installation RR No. 3EP2844 having sanctioned load of 60 kW and the installation RR.No. 3E - 37693 with a sanctioned load of 26.5 kW.

- ii) On 3.3.1998, the installation 3E-37693 was inspected by a Junior Engineer of the respondent and found that there was an unauthorized excess load of 25.780 kW. It is alleged that there was no representative of the bank at the time of inspection. On the basis of this inspection report, the bank was back billed for Rs. 1, 24, 580/-.
- iii) The bank paid 25% of the back bill and filed an appeal before the First Appellate Authority. Mean while on 10.7.98, the bank informed the respondent that the air conditioners and the ups which account for the excess load are connected to the other meter and not for the meter which was inspected and requested the respondent to inspect again and set right the matter, since it was within the sanctioned load. Then the same Junior Engineer, who had inspected earlier, inspected the premises once again on 12.7.1998, and found that the contentions of the bank were correct and that there was no excess load. On the basis of the second inspection, the bank demanded refund of the back bill amount paid by them.
- iv) The First Appellate Authority, however, dismissed the appeal on the ground that the loads found at the time of two inspections cannot be linked and confirmed the back bill. The bank approached the Second Appellate Authority, which confirmed the orders of the First Appellate Authority.
3. The petitioner has raised the following grounds in his pleadings:
- i) The Appellate Authorities have not considered the facts of the case and have passed arbitrary orders.
- ii) No representative of the bank was present at the time of inspection on 3.3.1998 and the inspection report was got signed 25 days later on 28.3.1998. The inspection report cannot be relied upon. It is not known as to who, on behalf of the bank, signed the inspection report on 28.3.1998. The signatory has not been examined by the Appellate Authorities.
- iii) The bank being a public sector unit, has no intention to use unauthorized power and has not used unauthorized power.
4. The respondent has put in appearance and has filed the statement of objections, resisting the claims of the petitioner-bank. The respondent contends

that the signature on the inspection report was taken at a later date since no responsible officer was available at the time of the inspection. It is further contended that subsequent inspection of the installation has no relevance since it cannot reveal the actual load existing at the time of previous inspection.

5. We have heard both the counsels in full and perused the records. Both the counsels reiterated the points raised in their pleadings. The learned Counsel for the respondent, Sri Sriranga, argued that taking signature on the report at the subsequent date is valid and such documents are treated as valid documents in courts. He further submitted that he would produce case laws to that effect within three days. However he did not produce any case laws as promised.

6. We have carefully considered the submissions made before us and also studied the records. The back bill is the outcome of the inspection and the inspection report of the Junior Engineer and the mahazar drawn by him at the time of inspection are the important documents on which the entire case rests. From the copies of the records produced by the petitioner, it is seen that the inspection report drawn by the Junior Engineer on 3.3.1998 was signed by the consumer/his representative on 28.3.1998 (Annexure A). There is no name or seal against this signature. Therefore it is difficult to decipher as to whom that signature belongs. The report is signed by the consumer/representative 25 days after the inspection report was drawn up. The only conclusion that can be drawn from this Annexure is that neither the consumer nor his representative was present at the time of the inspection. In addition to the inspection report the concerned inspecting authority ought to have drawn up a mahazar in the presence of a couple of independent witnesses and their signature along with the signature of the consumer/representative obtained. No such mahazar appears to have been drawn up. The absence of the mahazar and signature of the so-called representative after the delay of 25 days make the very inspection suspect and is void in the eyes of law. No legal consequence, as such will flow from such inspection. The back bill demanded by the respondent on such inspection cannot be sustained.

7. We, therefore, consider that this is a fit case to exercise suo motu powers under Regulation 44.10 of the K.E.R.C. (Electricity Supply & distribution) Code., 2000-2001. We allow the petition before us and order that the back bill collected from the petitioner be refunded immediately by adjusting it against the future bills of the particular installation.

8. The petition is **allowed**. It is so ordered.

Sd/-  
**(Philipose Matthai)**

Sd/-  
**(H.S.Subramanya)**

Sd/-  
**(S.D.Ukkali)**