



Before the Electricity Ombudsman
9/2,6th Floor,Mahalakshmi Chambers,M.G.Road
Bangalore

Present:B.R.jayaramarajeurs,IAS(Retd)

Electricity Ombudsman

Case No OMB/M/G-154/2013

Dated

M/S Coorg & Mysore Coffee Company,Ltd
Chamundi Curing Works,
P.B.No 32,market Road,
Chikmagalore-577101

Appellant

V/S

The Assistant Executive Engineer(EI)
O&M Sub-Division
MESCOM
Chikmagalore

2) The Chairperson
Consumer Grievance Redressal Forum
MESCOM Corporate Office,
Paradigm Plaza,A.B.Shetty Circle,

Mangalore

Respondents

This is an appeal under clause 21.2 of KERC(Consumer Grievance Redressal Forum & Ombudsman) Regulations,2004 against the orders passed by the Consumer Grievance Redressal Forum, MESCOM, Mangalore (herein after referred to as the 2nd Respondent) vide No MESCOM/CGRF/09/12-13 dated 22.05.2013 in respect of appellant's grievance relating to back billing for Rs 31855/on the ground of slow recording of three meters which were tested after they had been removed on account of switching over from LT to HT. 2) levying of interest of Rs 1,18,045/for delay in paying Rs 31,855/being the back billing charges. The 2nd Respondent has rejected the contentions of the appellant. Aggrieved by the order passed by the 2nd Respondent, the appellant has submitted his case as under:

The appellant is running a coffee processing establishment called Chamundi Curing Works and this is located at Chikmagalur. The appellant was earlier a Low Tension Consumer and installations bearing RR Nos RRP 319,RRP 320 and RRP 1544 were standing in the name of the appellant and after some time, the appellant imported certain machines from Brazil and hence, LT installations came to be converted into HT

installations. After switching over from LT to HT, the existing three installations were disconnected on 9.05.1990 and the meters which were fixed to these installations were also removed in October 1990 and these meters were not recording any consumption from 9.5.1990 and hence they were removed 5 months after disconnection. These meters were in the custody of the 1st respondent. Ten months after the disconnection of these meters, on 30.3.1991, the appellant received a notice from the KEB to pay Rs 40,458/ on the grounds of slow recording of the meters previously. This demand was modified to Rs 31,885/ on 14.08.1991. The appellant was not notified regarding the calibration and no notice was issued and the appellant was not even aware which meter had been tested by the Division. If the meters were under recording, the competent authority to check such meters was the Electrical Inspectors under the Indian Electricity Act, 1910. This dispute arose in the year 1990 and hence the Indian Electricity Act, 1910, has to be applied. According to section 26(6) of the Indian Electricity Act, if there is any dispute regarding the meter, the matter has to be decided, upon the application of either party, by an Electrical Inspector. This has been reiterated by various High courts and reported in AIR, 1988,SC at page 71 in the case of M.P Electricity Board V/S Basanti Bai. Further, in the case of Sarang steel Fabrication V/s KEB & others, the Division

Bench of Karnataka High Court held that in case of slow recording of meter, the KEB is the aggrieved party and hence ,KEB has to refer the meter to Electrical inspector.

The 1st Respondent initially issued a demand for Rs 40,458/and later modified it to Rs 1,50,000/. Since the matter has not been referred to the Electrical Inspector, the demand issued for Rs 1,50000 is illegal and the appellant is not liable to pay such amounts. Hence , prayed this authority to set aside the impugned order passed by the 2nd Respondent and also to quash the demand notice issued by the 1st Respondent for Rs 1,50,000/.

The 1st respondent's comments were called vide letter No OMB/M/G-154/2013/217 dated 19.06.2013.In his comments, the 1st Respondent vide letter No AEE(EI) CSD/AAO/HISA 385 dated 2.07.2013 submitted that 3 meters which were disconnected and removed after the conversion to HT were in the custody of the AEE(EI) and the HT Rating Division on 30.03.1991 calibrated the meters and found three meters recording slow by 31.04% 7.06% and 37.03% and based on their report ,the AEE(EI) back billed the appellant for the previous 6 months. The appellant was asked to pay Rs 31,865/ on 14.08.1991.The appellant could have filed objections in the matter and instead

approached various courts. Even the appellate authority and the CGRF had dismissed the complaint of the appellant and hence prayed this authority to confirm the orders passed by the 1st Respondent.

The case was taken up for hearing on 19.08.2013. On behalf of the appellant, Advocate Shri A.R. Sheshadri appeared and advanced his arguments and on behalf of the 1st Respondent, AEE (EI) Chikmagalur (city) was present and put forth his arguments.

Both the Advocate for the appellant and the 1st Respondent during the hearing reiterated the submissions made in their appeal memo and statement of objection respectively.

During the hearing advocate for the appellant submitted that his client was fed up with the delays in settlement of his grievance and hence his client was ready to pay the back billing charges minus the interest and this offer had been made to the 1st Respondent. However, the 1st Respondent, though informed vide letter No OMB/M/G-154/2013/254 regarding availability of provisions under the regulations for reconciliation and mediation and though the appellant had agreed for reconciliation and offered to pay the back billing charges, the Executive Engineer (EI) and the

AEE(EI) without examining the offer submitted that they would go by the decision of the Ombudsman. This was treated as abdicating responsibility and passing the buck on Ombudsman and hence the 1st Respondent was advised to examine the offer made by the appellant and to come back to this authority for further necessary action. As per the advice, both parties deliberated on the issue and came to an amicable settlement. In pursuance of this settlement, both parties filed a joint memo before this authority and as per the memo, the appellant has agreed to pay the back billing charges of Rs 31,865/, one month interest of Rs 239/ and tax of Rs 12/. This adds up to 32,116/. The 1st Respondent in turn has agreed to waive the interest of Rs 1,15,075/. The 1st Respondent has collected Rs 75,279/ in the form of deposit from the appellant during filing of appeal. In terms of this agreement, the 1st Respondent will be liable to refund Rs 43,163/. The extracts of the settlement arrived at by both parties is reproduced below:

Having regard to the facts of the case and request made by both the parties to pass order in terms of the joint statement, the case is disposed off as follows:

Order

The order is passed in terms of the Joint memo filed and the 1st Respondent to take action on the lines agreed in the joint memo.

B.R.Jayaramarajeurs
Electricity Ombudsman