

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

**Dated this the 24th day of March 2005**

**Present**

1. Shri K.P.Pandey ... Chairman
2. Shri H.S.Subramanya ... Member
3. Shri S.D.Ukkali ... Member

**Case No. OP 02/2005**

**Between**

M/s Panchamal Industrial Corporation,  
Shakthinagar,  
Mangalore  
Rep. by its Manager Shri Lakshman S/o Late P.Vasudeva Shenoy

... **Petitioner**

**And**

1. Managing Director,  
MESCOM,  
Paradigm Plaza,  
A.B.Setty Circle,  
MANGALORE 575 001.
2. The Assistant Executive Engineer (Ele.)  
No.3, Sub-division,  
MESCOM,  
Mangalore,  
DAKSHINA KANNADA.
3. The Executive Engineer (Elec.)  
Mangalore Division,  
MESCOM,  
Mangalore,  
DAKSHINA KANNADA.

... **Respondents**

The petitioner is an industry engaged in production of plastic items. The industrial unit is located in Mangalore. The petitioner was supplied electricity through RR No.HTR-1/HT 601. The petitioner has filed this appeal being aggrieved by the order of the First Appellate Authority dated 2.12.04. The petition was admitted and the representatives

of the petitioner as well as the respondents were heard. The facts of the case in a nutshell are as under:

2. The petitioner's installation was inspected by the Vigilance Squad of the Respondent on 13.11.2003 wherein it was found that the consumption of electricity by the Petitioner was under recorded. During the period, 1.11.03 to 13.11.03 i.e., the date of inspection, the petitioner had consumed only 46 units of electricity. Since the Vigilance Squad of the Respondent had no jurisdiction to inspect the HT installation, the officers of HT rating were called in to inspect the above installation. The HT rating team inspected the meter and found that there was no flow of electricity in R-Phase, although the seal of the installation was prima facie in tact. The consumption details were thereafter down loaded and the meter was replaced on 15.11.03 in the presence of the petitioner. Based on the above inspection and in accordance with Section 27.03(1) of KERC (E S &D) Code 2001, Back Billing charges of Rs.83,807 was demanded. The petitioner had filed an appeal before the First Appellate Authority and the said Authority had confirmed the Back Billing charges by an order dated 2.12.04. The petitioner is in appeal before the Commission against the above order.

3. It is pleaded by the petitioner's counsel that the petitioner is running an industry in production of plastic items. The extent of manufacturing activity and consumption of electricity depend upon the demand from its customers and due to frequent variation in production and supply of materials in the said industry, the consumption of electricity also varies accordingly. In the year 2003 the demand for supply of plastic items had decreased and therefore the consumption of electricity was also low. The meter installed by the respondent was in order and it had recorded the correct quantity of energy consumed, Even on the date of inspection the meter was in order and even assuming but not admitting that the meter had not properly recorded the consumption, the petitioner is not responsible since the meter was installed by the respondent. There was no loss suffered by the respondent as alleged by them and, if at all the petitioner is liable to reimburse the alleged loss to the respondent it could be only for the period of 13 days i.e. from 1.11.03 to 13.11.03. The demand is unjust and the Appellate Authority before whom he had filed appeal had dismissed the appeal without application of

mind. Based on the above contentions, the petitioner has pleaded for setting aside the impugned order dated 28.11.03 passed by the Assistant Executive Engineer and the order dated 2.12.04 passed by the First Appellate Authority.

4. The Respondent's counsel, however, has justified orders issued by the Assistant Executive Engineer and the First Appellate Authority on the ground that the meter was slow recording consumption of electricity and the Back Billing charges have been correctly demanded from the petitioner. It is also pointed out that the petitioner did not avail the various opportunities given to him by the First Appellate Authority for presenting his case before him and therefore it cannot be said that the order was passed by the First Appellate Authority without properly considering the facts of the case.

5. We have heard the arguments advanced by both the parties and perused the records. It is not in dispute that the petitioner's installation was inspected by the vigilance squad of the Respondent and thereafter by the officers of the HT rating and found that the R-Phase CT was opened and the meter was not recording correct consumption of electricity. In accordance with Section 27.03(1) of the KERC (E S & D) Code 2001 the petitioner was asked to pay Back Billing Charges of Rs.83,807. It is seen from the order of the First Appellate Authority that the petitioner did not attend the hearing before the said authority on several occasions and the First Appellate Authority had disposed the appeal after recording the statements of the Assistant Executive Engineer, Mangalore and the Assistant Executive Engineer, Vigilance Squad. Since it was not in dispute that the units of consumption recorded in the said installation was subnormal, the petitioner was liable for back billing for six months period. The petitioner has argued before us that there was no order for supply of materials and therefore the actual consumption of electricity during the year 2003 was very low. However the petitioner has failed to produce any material in support of the above contention. The other contention of the petitioner is that if at all the meter was not recording the consumption correctly the respondent was responsible and not the petitioner. This contention also is found unacceptable. Had the petitioner disputed the accuracy of the meter, he could have got the meter tested by the electrical inspector. The

petitioner did not avail of the remedy provided under Section 27.00 of the KERC (E S & D) Code 2001 and therefore this argument also will have to be dismissed. The third contention of the petitioner is that even assuming that he is liable for Back Billing Charges it could be only for the period of 13 days from 1.11.2003 to 13.11.2003. This plea of the petitioner also fails in the face of Section 27.03(1) of KERC (E S &D) Code 2001. The said section clearly states that, "when the meter is found to be slow beyond permissible limits, the consumer is liable to pay the difference at normal rates based on the percentage error, for a period of not more than six months prior to the test, due regard being paid to the conditions of working, occupancy, etc. during this period and up to the date of replacement or rectification of the meter". In this case the percentage of slow recording has been determined at 50% which appears to be reasonable.

6. In the light of the above, there is no case for interference with the order of the First Appellate Authority dated 2.12.04. The Appellate Authority's order is therefore confirmed and the petition is dismissed.

-Sd-  
( K.P.PANDEY )  
Chairman

-Sd-  
( H.S.Subramanya )  
Member

-Sd-  
( S.D.Ukkali )  
Member