

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

**Present: B.R.Jayaramaraje Urs, IAS (Retd.)**  
**Electricity Ombudsman**  
**Case No.OMB/M/G-122/2011/563**  
**Dated 09.04.2012**

**BETWEEN:**

Smt.Sowmya R.Shenoy,  
 Matadangi,  
 Udyavara,  
 Udupi Taluk & District  
**(by Authorised Representative**  
**Sri Lakshmikant L.K., Advocate)**

**Appellant**

**Vs**

1. Assistant Executive Engineer (Ele),  
 O & M Sub Division,  
 MESCOM  
 Udupi Sub Division,  
**UDUPI.**

2. Consumer Grievance Redressal Forum, (CGRF)  
 MESCOM Corporate Office,  
 Padadigm Plaza, A.B.Shetty Circle  
**Mangalore**

**.. Respondents**

1. This is an appeal under the provisions of KERC (Consumer Grievance Redressal Forum & Ombudsman) Regulations, 2004 against the orders passed by the Consumer Grievance Redressal Forum, Mangalore (hereinafter referred to as 2<sup>nd</sup> Respondent) vide No. ಮಂವಿಸಕಂ/ಗ್ರಾ.ಕುಂ.ಕೊ.ನಿ.ವೇ/02/11-12 ದಿನಾಂಕ 04.11.2011 in respect of the Appellant's grievance relating to the supplemental claims made by the Assistant Executive Engineer, O & M Udupi Sub-Division, MESCOM, Udupi (hereinafter referred

to as the 1<sup>st</sup> Respondent) on the Appellant for an amount of Rs.2,22,150/- and also rejection of her prayer for refund of the amount by the 2<sup>nd</sup> Respondent. The Appellant has paid Rs.2,23,041/- following demand notice issued by the 1<sup>st</sup> Respondent. Being aggrieved by the 2<sup>nd</sup> Respondent's order (the impugned order), the Appellant has submitted her case as under:

2. The Appellant is an electricity consumer of MESCOM. Electrical installation bearing R.R No UDR 29542/L.T-5 stands in the name of the Appellant. The installation was serviced in the year 2003 with a connected load of 30 H.P+ 0.5 K.W. The Appellant is running a small scale industry. The industry is located at Matadangadi, Udyavara Village, Udupi District. After servicing the installation, the 1<sup>st</sup> Respondent conducted meter test several times and did not find any defect in the functioning of the meter. However, all of a sudden on 12.10.2007, the Appellant received a demand notice from the 1<sup>st</sup> Respondent for payment of Rs.2,22,150/-. The 1<sup>st</sup> Respondent in his demand notice stated that during previous months, 57,329 units of power supplied to the Appellant had not been accounted and, hence, a demand for Rs.2,22,150/-. However, the Appellant objected to this demand and contended that the 1<sup>st</sup> Respondent had conducted meter tests regularly and even in 2004 when the meter test had been conducted, no defect had been noticed. Nonetheless, the Appellant agreed to pay this amount in instalments fearing immediate power disconnection. The Appellant remitted the amount under protest. Aggrieved by this back billing, the Appellant approached the 2<sup>nd</sup> Respondent seeking refund of Rs.2,22,150/-. The 2<sup>nd</sup> Respondent rejected her prayer. Aggrieved by the order of the 2<sup>nd</sup> Respondent, the Appellant filed this appeal.

3. The 1<sup>st</sup> Respondent's comments were called vide letter No OMB/M/G-122/2011/87 dated 09.01.2012 and the 1<sup>st</sup> Respondent has furnished his comments vide letter ಸ.ಕಾ.ನಿ.ಇಂ(ಎ)/ಉಉವಿ/ಸ.ಲೆ.ಕಂ/6083 ದಿನಾಂಕ 20.01.2012.

4. The 1<sup>st</sup> Respondent in his comments submitted that the 1<sup>st</sup> Respondent had fixed a 6-digit meter in the premises of the Appellant. During the relevant period,

5-digit meters with decimals were being used and, out of habit, the Meter Reader had read only 5 digits mistaking the last digit for decimal. This wrong reading resulted in non-accounting of 57,329 units of power. This non-accounting of units had been detected during verification of Consumer's account on 17.9.2007. As a second check, physical verification of the meter had been done and the physical verification confirmed meter having 6 digits. From this, the 1<sup>st</sup> Respondent found that 57,329 units of power had not been billed and the Appellant had been in arrears to an extent of Rs.2,22,150/-. The 1<sup>st</sup> Respondent, based on the findings, raised a demand against the Appellant for additional 57,329 units of power which had not been recorded and for an amount of Rs.2,22,150/- which had not been recovered. However, the Appellant accepted this demand and requested the 1<sup>st</sup> Respondent for grant of instalments to clear the dues. The 1<sup>st</sup> Respondent agreed to this request. The Appellant paid the instalments up to December 2010 which covered the principal amount leaving a balance of Rs.23,715/- by way of interest.

5. The Appellant, aggrieved by this action, filed a Writ Petition W.P.No.13331/2011 before the Hon'ble High Court. The Hon'ble High Court, vide its order dated 06.06.2011 disposing the Writ Petition, issued directions to the 1<sup>st</sup> Respondent to provide an opportunity to the Appellant under Clause 29.03 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka before raising final demand. In compliance with the Hon'ble High Court's direction, the 1<sup>st</sup> Respondent issued a notice to the Appellant under Clause 29.03 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka to file objection, if any. The Appellant, in response to the notice, replied that she had not been liable to pay any amount and that the 1<sup>st</sup> Respondent should adjust the amount already paid against the future electricity bills. The Appellant also filed a complaint before the 2<sup>nd</sup> Respondent and the 2<sup>nd</sup> Respondent, after hearing both parties, passed orders dismissing the complaint.

6. The 1<sup>st</sup> Respondent added that the Appellant had been liable to pay this amount as the meter reader had not read the 6 digits in the meter and had read

only 5 digits under the mistaken notion that all meters would have 5 digits and rest would have to be read as decimal and had to be ignored for billing purposes. However, this mistake had been noticed during docket verification and confirmed by physical verification of the meter. Hence, the demand was justified as per Clause 29.03 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka and prayed this Authority to dismiss the appeal and to confirm the orders passed by the 2<sup>nd</sup> Respondent.

7. The case was taken up for hearing on 30.03.2012 and the arguments got concluded on the same day. On behalf of the Appellant, Advocate Sri Laxmikant appeared and put forth his arguments. On behalf of the 1<sup>st</sup> Respondent, the Asst Executive Engineer (Ele), Udupi Sub-Division appeared and advanced his arguments.

8. During the hearing, both the Appellant and the 1<sup>st</sup> Respondent reiterated the submissions made in the appeal memo and replies respectively.

9. Both parties were informed vide letter No.OMB/M/G-122/2011/406 dated 07.03.2012 regarding availability of Sub-Regulation 1 of Regulation 20 of KERC (Consumer Grievance Redressal Forum and Ombudsman) Regulations, 2004 which provides for settlement by agreement through conciliation and mediation. However, both parties have not availed this opportunity. Hence, I am proceeding to pass an order in this matter.

10. Having regard to the contending position of the parties, the issue that emerges for our consideration is:

***Whether Supplementary Claims made for Rs.2,22,150/- by the 1<sup>st</sup> Respondent on the Appellant is as per law?***

11. In the present case, the 1<sup>st</sup> Respondent, during the verification of the Appellant's Account on 17.09.2007, noticed that on account of wrong meter reading, power supply to an extent of 57,329 units had not been accounted resulting in a short claim of Rs.2,22,150/-. After docket verification, the 1<sup>st</sup> Respondent caused physical verification of the meter and physical verification confirmed that the meter had 6 digits, but the Meter Reader had read only 5 digits under the mistaken notion that it was a 5-digit meter having decimals and decimals had to be ignored for billing purposes. The 1<sup>st</sup> Respondent, after causing account verification of the Consumer and also after causing physical verification of the meter, had come to the conclusion that on account of wrong reading, the 1<sup>st</sup> Respondent had not accounted supply of 57,329 units of power. Hence, the 1<sup>st</sup> Respondent raised demand for Rs.2,22,150/- against the Appellant. On record, there is no evidence suggesting that the Appellant had any disagreement with this demand. In fact, the Appellant had paid the arrears as claimed by the 1<sup>st</sup> Respondent by availing instalment facilities. The Appellant had paid the instalments up to December 2010 which covered the principal amount leaving interest dues of Rs.23,715/-. When the matter stood at this, the Appellant filed a Writ Petition before the Hon'ble High Court stating that the 1<sup>st</sup> Respondent had raised a supplemental bill without following Clause 29.3 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka. The Hon'ble High Court, while disposing the Writ Petition, issued directions to the 1<sup>st</sup> Respondent to comply with the procedure laid down under Clause 29.03 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka before raising the final demand. The 1<sup>st</sup> Respondent, as per the Hon'ble High Court's directives, issued a notice once again as per Clause 29.03 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka calling for objections, if any, and afterwards raised final demand. This ensured compliance of Clause 29.03 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka. But the Appellant, still not satisfied with the 1<sup>st</sup> Respondent's action, filed a complaint before the 2<sup>nd</sup> Respondent and the 2<sup>nd</sup> Respondent, after hearing the parties, upheld the demand raised by the 1<sup>st</sup> Respondent.

12. As per Clause 29.08 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka, the Licensee ***"At any time during verification of the Consumer's account, if any short claims caused by the erroneous billing are noticed, the Consumer is liable to pay the difference. The Licensee shall follow the procedure laid down under Clause 29.03 in such cases for preferring the supplemental claims"***.

13. In the present case, the 1<sup>st</sup> Respondent has made out a case that the Meter Reader, instead of preparing a bill treating the meter constant at 6 digits, has treated the meter constant at 5 digits from 17.09.2007. As a result of this, the Appellant was called upon to pay Rs.2,22,150/-. There is a provision under Clause 29.03 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka, to make supplementary claims when the Licensee during verification of the Consumer's account has found that such short claims are caused due to erroneous billing as per Clause 29.08 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka and the Consumer is liable to pay the difference. The 1<sup>st</sup> Respondent while making supplemental claims has to follow the procedure laid down under Clause 29.03 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka. In the present case, the 1<sup>st</sup> Respondent, as per the directions of the Hon'ble High Court, is found to have followed Clause 29.03 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka. The grievance of the Appellant that the 1<sup>st</sup> Respondent has not complied with Clause 29.03 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka has been met as per the directions of the Hon'ble High Court.

14. In the light of the above discussions, it is established beyond doubt that the 1<sup>st</sup> Respondent has meticulously followed the procedures laid down under Clause 29.03 of the Conditions of Supply of Electricity of Distribution Licensees in the State

of Karnataka before making supplemental claims and, hence, this Authority does not see any grounds to interfere with the impugned orders. Hence, the following order.

## **ORDER**

For the foregoing reasons, **the appeal is dismissed.**

(B.R.Jayaramaraje Urs)  
Electricity Ombudsman

1. Smt.Sowmya R.Shenoy, Matadangadi, Udyavara, Udupi Taluk & District.
2. Assistant Executive Engineer, O & M Udupi Sub-Division, MESCOM, Udupi.
3. Consumer Grievance Redressal Forum, MESCOM Corporate, Paradigm Plaza, A.B.Shetty Circle, Mangalore.
4. Managing Directors of all ESCOMs.
5. PS to Hon. Chairman, KERC
6. PS to Hon. Member (H), KERC
7. PS to Hon. Member (S), KERC
8. PS to Secretary, KERC
9. OCA