

Before the Electricity Ombudsman

(Appointed by the Joint Electricity Regulatory Commission
for the State of Goa and UTs, under Section 42 (6) of the Electricity Act, 2003)
Second Floor, HSIIDC Office Complex, Vanijya Nikunj, Udyog Vihar, Phase-V, Gurgaon (Haryana)
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Appeal/ Representation No. 14/2012

Appeal/ Representation Before the Electricity Ombudsman for JERC for the State of Goa and UTs against the order dated 18.10.2012 (Consumer Complaint No. 12/2012/192) of CGRF, Goa by M/s Diawerke Industries, represented by Mr. Luis Da Silva- Partner (LTP Installation No. 21622, Consumer No. BNNE-02-00795-37A-105-3), on the matter of inordinate delay in replacement of defective meter, continued billing based on monthly average of previous three meter reading cycles and grant of compensation for the delay.

M/s DIAWERKE INDUSTRIES
(Represented by Mr. Luis Da Silva- Partner)
514, Pulvaddo, Near Patrocino Chapel,
Benaulim, Salcete, Goa- 403 716

Appellant

V/s

The Chief Electrical Engineer,
Electricity Department,
Govt. of Goa, Vidyut Bhawan, (on behalf of the licensee)
Panaji, Goa- 403001

Respondent

Hearing on Friday, the 18th January, 2013

Present: Mr. V.K. Khanna, Electricity Ombudsman for JERC for Goa and UTS.

On behalf of the Appellant:

1. Mr. Luis Da Silva
514, Pulvaddo, Benaulim- 403716
Goa.
2. Mr. Sidharath Karapurkar
514, Pulvaddo, Benaulim- 403716 (Goa)

On behalf of the Respondent:

(Electricity Department,
Government of Goa)

1. Mr. N Neel Akanta Reddy, S.E (Circle-I)
Electricity Department, Margao, Goa
2. Mr. Devadasan. A
Executive Engineer, Elect. Div. IV,
Margao, Goa

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ORDER

1. The appeal/ representation cited above received on 9th November, 2012 in the Office of Electricity Ombudsman for the State of Goa and UTs was admitted on 12th November, 2012. A copy of the same was forwarded to the Respondent on the same very day with the direction to submit their remarks/ counterstatement on each of the points relating to the matter of this representation supported by copies of relevant documents latest by 26th November, 2012, with a copy also to the Appellant. The Chief Electrical Engineer, Government of Goa (the Respondent) vide his OM dated 21.11.2012 sought a grace period of 15 days i.e, up to 11.12.2012 in order to be able to file his reply as required. This was acceded to. The point wise reply of the Respondent was received belated in the Office of Ombudsman on 18.12.2012. Hearing in the matter was held at 11:00 AM on 18.01.2013 in Goa

Brief Facts of the Case

2. The Appellant, M/s Diawerke Industries is a partnership firm engaged in manufacturing and trading in the business of Cutting Tools to cut natural stones and other non- ferrous materials. Mr. Luis da Silva, signatory to this appeal, is one of the partners of this firm. The Appellant's electricity installation No. 21622 is under LTP category since 07.12.2000. An agreement was signed between the Appellant and the Respondent on 11.03.2004 when the connected load was enhanced from 50 HP to 69 HP. According to this agreement, the Appellant had guaranteed to the Respondent Department that the annual charges payable for electricity consumed shall not be less than Rs. 20,700 per annum. This agreement was valid for seven years from the date of signing and was honoured in its entirety. As it has not been terminated, the same remains in force even after completion of the initial period
3. The Appellant submitted that sometime during the period 13.03.2008 to 09.05.2008 the meter installed in their premises was rendered defective. It was noticed by them on **09.05.2008** when the meter Reader visited the firm to record the meter reading. The meter reader recorded this event on 09.05.2008. Subsequently, the Appellant, on its part, also sent a written communication to the AE- II, Electricity Department, Goa vide letter dated 15.05.2008, informing that the meter was not working and requested them to replace the same. The electricity bill issued by E.D, Goa in July, 2008 for the period from 13.03.2008 to 09.05.2008 was based on monthly average consumption of pervious 3 billing cycles.
4. It was after prolonged correspondence with the Respondent Department and personal follow up on day to day basis that the defective meter was finally replaced on **20.12.2011** after an inordinate delay of about 44 months. During this entire period electricity charges were raised on them based on average consumption of previous three meter reading cycles i.e., 1250 Kwh per month from 13.03.2008 to 20.12.2011. According to the

Appellant's representation, the period of default for replacing the defective meter may be deemed as from the date of complaint i.e., 15.05.2008 and which as per their calculation works out to 1320 days (44 months ×30 days).

5. The grievance of the Appellant is that whereas their actual usage of electricity during this period was much less due to slow down of industry which still continues, the billing done to them was based on average consumption of previous three meter reading cycles for a long period of 44 months during which the defective meter was not replaced by the Respondent. This is evident from the bill on their record of consumption after replacement of the meter which was received for payment on 20.12.2011. Being distressed with indifferent attitude of the Respondent towards them all along for such a long period, the Appellant, after having come to know of the existence of CGRF for redressal of consumers' complaints / grievances in the State of Goa (through the insertion in this regard noticed by them in the bill of the Electricity Department dated 17.07.2012), filed the petition with CGRF Goa on 09.09.2012, submitted their grievance as narrated above. They also submitted during the hearing before the CGRF to grant them relief by way of refund of excess amount paid by them from the year 2010 when their usage was low for the industries in which they are operating had been facing slow down.
6. The CGRF, Goa passed the order on 18.10.2012. The order also included dissenting views by one of the members with regard to payment of compensation for the period of delay on account of the Respondent's default to replace the defective meter which as per the JERC Regulations should have been done within 15 days of its having been declared defective.
 - (i) On the matter relating to the plea of the Appellant to grant relief on the ground that the consumption during this period was low due to slow down of the industries in which they are operating, the CGRF observed that the Respondent has raised the bill based on average consumption in accordance with the provision under sub-regulation 8.1(16) of JERC Supply Code Regulation. The grievance of the consumer, therefore, in this regard is untenable and is liable to be dismissed.
 - (ii) On the matter of payment of compensation, with respect to which one of the members of CGRF recorded dissenting views, the majority decision of the CGRF was that, in the absence of any specific prayer in this regard made by the petitioner and also guided by Section 57 of EA, 2003, the 'Appropriate Commission' only is to take a view regarding compensation. Thus, the CGRF by taking a majority view, dismissed the complaint of the Appellant.
 - (iii) The CGRF, however, directed the Electricity Department, Government of Goa, to dispose of all complaints relating to replacement of defective meters on priority and in strict compliance to the provisions of clause 9.IV of JERC Regulations on Standard of Performance in the interest of consumers as also Government revenue.

(4)

7. Aggrieved and not satisfied with the above order of the CGRF, the Appellant filed this appeal/ representation before the Electricity Ombudsman for JERC for the State of Goa and UTs, with the following prayer:

Prayer

- a) To set aside the order dated 18.10.2012 in respect of complaint No. 12/2012/192 of CGRF Goa.
- b) To grant compensation as prescribed under Schedule- III, chapter 9 (IV) of JERC (Standard of Performance) Regulation, 2009- amounting to Rs. 66000/- (1320 days ×50 days).
- c) To grant appropriate compensation as deemed fit with reference to S. No. 9 at page 3 of the representation which refers to their contention of usage of electricity being far less during this period due to slow down in the industries they are operating.
- d) To grant a token compensation of Rs. 40,000 for causing them much mental stress, anguish, agony and wasting valuable productive time and also causing them financial inconvenience due to inordinate delay in installing a new meter in lieu of the defective one.

Settlement by Agreement

8. Both the parties under this appeal/ representation, were informed on 07.01.2013 to appear before the Ombudsman for the hearing in Goa on 18.01.2013 at 11:00 AM in the Conference Room of ED, Goa, GIDC Building, Patto, Goa. It was indicated to them to put forth and explain their position in person or by an authorised representative to answer all material questions and produce documentary evidence relating to all the points on the matter of this representation. It was also informed through this notice that the Ombudsman's efforts, in the first instance, during the hearing would be to facilitate settlement through mediation and conciliation.
9. Both the parties appeared before the Ombudsman as scheduled and were heard. The point-wise reply to the representation dated 17.12.2012 filed by the Respondent and further reply filed on the date of the hearing through their authorised representatives, were also looked into and considered. Efforts were made to reach an agreement between the parties through the process of conciliation and mediation. However, no settlement mutually agreeable could be reached. The hearing, therefore, continued, to provide reasonable opportunity to both the parties to put forth their pleadings on the matter.

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Issues

10. Issues requiring consideration in the matter of this representation are as under:
- i. How did the Respondent without testing the meter conclude to render it as defective and was able to establish the reasons. Was it not necessary to ascertain as to whether it was attributable to the licensee or the Appellant consumer to enable initiating action accordingly as per rules in the matter.
 - ii. Having deemed/ declared the meter as defective (without testing and ascertaining the reasons), why did it take such a long period of about 44 months to replace the defective CT meter at the Appellant's installation.
 - iii. Implications of such an inordinate delay and to supply of electricity without installation of a correct meter particularly, when the Electricity Act, 2003 was in force at the time of failure of the meter and subsequently, even the JERC Standard of Performance Regulations dated 18th December, 2009 had come into force from 18.06.2010 for the State of Goa and the JERC Supply Code Regulations w.e.f 19th May, 2010.

Pleading by the Parties and Responses to the Issues

The Appellant

11. The Appellant represented by Mr. Luis da Silva, the partner of the firm reiterated the points as detailed in the representation which are abstracted above under 'Brief Facts of the Case'. He submitted that there was an inordinate delay of 1357 days on the part of the Respondent to replace the defective meter. The meter was noticed as defective by the Meter Reader on 09.05.2008. In the normal course, the meter should have been tested within 30 days from that date and thereafter replaced within 15 days. In this regard there was gross contravention and violation of the provision of Electricity Act, 2003 and JERC Supply Code Regulations and that of Standard of Performance of Regulations by the Respondent. The billing by the Respondent over this long period based on monthly average of previous 3 billing cycles for a long period is neither just nor fair, particularly, when that their consumption during this period was much less because of downward trend of their manufacturing business around the year 2008 and suffering drastically from 2010 onwards which is still continuing.
12. The Appellant further submitted that while as per JERC Supply Code Regulations [sub-regulation 7.4(1)], their LT 3 phase meter should have been inspected/ tested atleast once in every three years, the meter installed in their premises was last tested in 2005 and earlier to that in 2001. He also submitted that the Respondent had not installed the check meter which could have been used for assessment of consumption, the

provision for which exists under sub-regulation 8.1(16) of Supply Code Regulations of JERC. Due to this inaction of the Respondent, their firm was subjected to substantial financial loss. The Respondent's indifferent attitude is also apparent from the fact that the new meter for replacement after a prolonged delay though brought and kept in their premises on December 1, 2011, was actually installed on 20.12.2011 which further delayed the replacement of meter for another 20 days.

13. Their prayer, therefore, is that they should be compensated by the Respondent. Firstly, for the inordinate delay caused in replacement of the defective/ non- functional meter in accordance with JERC's Standard of Performance Regulations. Secondly, they should be provided appropriate relief based on evidence of the current bill after replacement of the meter where the actual consumption is much less as compared to what has been charged based on average consumption throughout this long period. Thirdly, a token compensation should also be paid by the Respondent for the mental stress, anguish and agony caused to them.

Respondent

14. Responding to the above, the authorised representatives of the Respondent present during the hearing, referring to their written reply dated 17.12.2012 and further reply dated 18.01.2013 filed at the time of hearing, admitted that the CT operated energy meter fixed at the Appellant's installation was found defective by the Meter Reader while taking meter reading on 09.05.2008. The Appellant consumer also informed the Department on 15.05.2008 about non- functioning of their energy meter. This defective meter could not be replaced immediately by them as the CT operated energy meter was not available in their central stores. The Appellant was billed on the average of preceding three months consumption as per the prevailing rules. Further, the Appellant, whenever he approached the Department for replacement of the meter was informed to make arrangements to procure his own meter. The Appellant, at this juncture, refuted this claim of the Respondent and submitted that no such option of procuring the meter by the firm themselves was made to them by the Department. When enquired by the Ombudsman to produce the documentary proof or evidence in support of their assertion in this regard, the Respondent failed to provide any such document nor they had any to produce. Hence, this assertion of the Respondent had no basis. It appears to be an after thought to justify their inaction in the matter. On a further query by the Ombudsman as to whether the billing was on the basis of the average of previous three months consumption or the monthly average of previous three meter reading/billing cycles, the representative of the Respondent clarified in writing that it was on the latter basis. The billing cycle in case of the Appellant consumer is bi-monthly.
15. It was finally only on 20.02.2011 that the Department could install a new energy meter at the Appellant's premises. As already submitted in their written reply that the JERC Regulations on SOP and Supply Code were not in force at the time of failure of energy meter, the Respondent had

acted in a fair manner and no compensation should be paid to the consumer. As regards the claim of the Appellant for compensation, the Respondent through its reply filed during the hearing stated that CGRF in its order has clearly highlighted that as per Section 57 of the Act, the appropriate Commission is the Appropriate Authority to determine the compensation and that too after giving reasonable opportunity of being heard. Further, it is very clear from Section 57 of the Act that the Ombudsman has no jurisdiction under the law for deciding on any quantum of compensation/ imposing penalty. The claim of the Appellant in this regard is therefore fit to be dismissed.

16. Since the Respondent neither in its replies to the representation nor in the pleadings during the hearing, elaborated about the action taken by the Department after having found the meter as defective by the Meter Reader while taking the reading on 09.05.2008, the Ombudsman desired to know as to whether the Meter Reader filed a report to the concerned officer and if so, as to what action was taken by the concerned officer of the Department to arrange testing of the meter within the specified period to conclude that the meter was non- functional. Further, did the Department, based on the testing done, ascertain to find out the reasons for the meter becoming defective. Also explain, whether it was due to technical reasons attributable to the licensee (ED, Goa) or due to tempering or deliberate interference with the meter by the consumer. Based on the results of meter testing done as to what were the steps then taken by the concerned officer of the Respondent Department to replace/ repair the defective meter for assessment of energy consumption before straightaway going in for billing the Appellant consumer (starting from the period 13.03.2008 to 09.05.2008) based on average consumption of the previous three billing cycles. It was also enquired as to whether the check meter was available, readings of which could have been used for assessment of energy consumption.
17. In reply to the above queries, the representatives of the Respondent submitted that as per records available with the Department (ED, Goa), testing of the meter appeared to have not been done by them. Since the meter appeared to be not recording, the Department deemed it as not working or non- functional. Pending replacement of the meter, the Department started billing the consumer based on average monthly consumption of previous three billing cycles as per rules. It was also submitted that the Department has no practice of installing check meters in case of LT services.

Findings

18. The very matter of the dispute in the representation is an inordinate delay in replacement of defective meter. The meter reader of the Respondent Department found the meter as Not Recording while taking the meter reading on 09.05.2008. Thereupon, without testing the meter and establishing reasons as to whether it was attributable to the distribution licensee (the Respondent) or the consumer (the Appellant), the Respondent Department chose to declare it defective or non- functional and started billing the Appellant based on average monthly consumption of

previous three meter reading cycles with the first such bill sent to the Appellant for the period from 13.03.2008 to 09.05.2008. Having declared the meter as defective or non-functional, the Respondent ordinarily should have replaced the meter within 15 days. **They, however, took a period of about 44 months and replaced the meter only on 20.12.2011. This reflects very poorly about the distribution functioning of the Respondent's Department and callous attitude towards their revenue generating function of metering and billing.**

19. The reason advanced by the Respondent as non-availability of CT meter in their central store for such a long period of about 44 months is just not believable. CT meter is not something a very unique item or an equipment that is hard to procure. CT meter is a commonly used item by all the power distribution utilities in the country. It is hard to believe that there was absolutely no inventory of this item for such a long period in the central store of ED, Goa. **This reason is thus nothing but a lame excuse to cover-up their inaction, lethargy and indifferent attitude towards providing services to consumers.**

20. Another reason advanced and assertion made is that the consumer, whenever he approached the Department for replacement of meter, was informed to make arrangement to provide his own energy meter. This has been flatly refuted by the Appellant. No such option was ever given to the Appellant. The Respondent, in support of their assertion, failed to provide any documentary proof or evidence nor did they have any. This reason advanced by the Respondent simply appeared to be an afterthought to justify their default to replace the defective meter for such a long period. **This reasoning is without basis, and is rejected.** Further, the responsibility to install the correct meter for supply of electricity and ensure that it is in proper working condition is that of the licensee (the Respondent), **the onus of their inaction to replace the meter timely, therefore, cannot be passed on to the Appellant by advancing such a reasoning and thereby escape responsibility. This also does not absolve them of the responsibility to discharge their distribution function efficiently in a reasonable manner.**

It follows from the above that the inordinate delay caused in replacement of defective meter and default thereon lies exclusively with the Respondent.

21. The Respondent's stand that the JERC-11/2010 Regulations on Supply Code and the JERC-06/2009 Regulations on Standard of Performance were not in force at the time of failure of energy meter, appeared to be their search for another escape route to hide the deficiencies of their distribution functions and evade responsibility of extending at least a reasonable level of efficiency of services to their consumers.

22. The Electricity Act, 2003, which extends to whole of India, w.e.f 10.06.2003 was already in place at the time of failure of meter. Section 55 (under the head, 'Use etc. of meters') of the Act, provides as under :

“(1) No licensee shall supply electricity, after the expiry of two years from the appointed date, except through installation of a correct meter in accordance with the regulations to be made in this behalf by the Authority:

Provided

Provided Further that

(2) For proper accounting and audit.....

(3) If a person makes a default in complying with the provisions contained in this section or the regulation made under sub-section (1), the Appropriate Commission may make such order as it thinks fit for requiring the default to be made good by the generating company or licensee or any officers of the company or other association or any other person who is responsible for its default.”

Not replacing the defective meter at the installation of the Appellant and continuing to supply electricity is nothing but an unmetered supply for as long as a period of about 44 months. It contravenes the provisions of the Act. This is a serious default. As per sub-section 55(3) of this Section of the Act reproduced above this has to be made good by the Respondent.

23. JERC- 11/2010 Regulations on Electricity Supply Code which extend to the whole State of Goa and UTs came into force w.e.f 19.05.2010. At this time, the matter of failure of energy meter was underway.

Sub-regulation 7.6 (2) of these Regulations, provides as under:

“If during periodic or other inspection by the licensee, any meter is found to be not recording or a consumer makes a complaint in this regard, the licensee shall arrange to test the meter, within the time specified in the Standard of Performance of Distribution Licensee Regulations. The meter should be repaired/ replaced within the time specified in the Standard of Performance of Distribution Licensee Regulations.”

Even at this stage the Respondent failed to act and appeared to have vehemently avoided compliance of the provisions of JERC Regulations on Electricity Supply Code.

24. JERC- 06/2009 Regulations on Standard of Performance which are applicable to whole State of Goa and UTs came into force from the date of their publication in the official Gazette i.e. 18th December, 2009.

As per sub-regulation 6 (4) of these Regulations, the Standards of Performance shall be enforced within 6 months for the State of Goa. Hence, these Regulations on SOP were effective for the State of Goa from 18th June, 2010.

According to sub-regulation 7.3 under Schedule-I of these Regulations, the licensee shall test the meter within 30 days and if needed replace the meter within 15 days thereafter.

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Sub-regulation 9(IV) under Schedule-III (Guaranteed Standards of Performance and Compensation to Consumers in case of Default) of JERC-06/2009 Regulations on SOP, provides that compensation of Rs. 50 for each day of default is payable by the licensee to the complainant consumer.

Even counting from the date these Regulations on SOP came into operation for the State of Goa, the Respondent defaulted in replacement of meter by 550 days from 18.06.2010 (the date SOP came into force for the State of Goa) to 20.12.2011 (the date meter finally replaced by the Respondent).

Given the above, it is concluded that the Respondent is liable to pay a total compensation of the sum of Rs. 27,500/- (550 days × Rs. 50) to the Appellant for default on their part to replace the defective meter at the installation of the Appellant.

25. On the matter of the Appellant's claim for compensation, the Respondent has taken the shelter of CGRF's order which concluded that "in view of any specific prayer and in view of explicit provisions contained in Section 57 of the Act, majority view holds that it is for the Appropriate Commission to take a view regarding payment of compensation". The Respondent, in its reply, even went on to state that the Ombudsman has no jurisdiction under the law for deciding on any quantum of compensation/ imposing any penalty.
26. To clear the ground here and to adjudge as to whether CGRF has interpreted the provision of Section 57 of the Act and the Regulations framed there under and notified by JERC on Standards of Performance, correctly and in proper perspective, it would be logical to reproduce here below the provisions of Section 57 of the Act on Standards of performance of licensee and the JERC Regulations on the subject.

"Section 57

- (1) The Appropriate Commission may, after consultation with the licensees and persons likely to be affected, specify standards of performance of a licensee or a class of licensees.*
- (2) If a licensee fails to meet the standards specified under sub-section (1), without prejudice to any penalty which may be imposed or prosecution be initiated, he shall be liable to pay such compensation to the person affected as may be determined by Appropriate Commission:*

PROVIDED that before determination of compensation, the concerned licensee shall be given a reasonable opportunity of being heard.

- (3) The compensation determined under sub-section (2) shall be paid by the concerned licensee within ninety days of such determination."*

JERC-06/2009 Regulations on Standards of Performance framed as per the provisions of Section 57 of the Act, prescribe (i) the

Guaranteed Standards of Performance under Schedule-I (sub-regulation 7) as mandated under sub-section 57(1), and (ii) determine the compensation to be paid to the effective persons in case of default by the licensee under Schedule-III (sub-regulation 9) as mandated under sub-section 57(2) of the Act.

Further, sub-regulation 10 (3) of these Regulations of JERC contained a provision which is reproduced here under:

“All payments of compensation shall be made by way of adjustment against current/or future bills for supply of electricity, but by not later than 90 days from the date of violation of a Guaranteed Standard unless demanded by the consumer as a direct payment. If the Licensee, however, fails to dispense the compensation amount as laid down in Regulation (9) above the aggrieved consumer(s) can approach the respective Consumer Grievance Redressal Forum for redressal of grievances of consumers to seek such compensation. In such event, additional penalty may be levied on licensee for not faithfully implementing the regulations on case-to-case basis.”

From the reading of Section 57 of the Act together with the JERC Regulations on SOP, it is quite clear that where the licensee fails to dispense the compensation amount as laid down in sub-regulation 9, the aggrieved consumer has the right to approach the respective CGRF for redressal of grievance and seek such compensation.

I am pained to note that there has been no application of mind by CGRF, Goa in taking a majority decision on this matter. The majority decision, on the matter of payment of compensation, for whatever the reasons, ignored and overlooked the provision of sub-regulation 10(3) of JERC Regulations on SOP. CGRF, Goa thus evaded their role and responsibility.

I am appalled how and what led the Respondent to take shelter of the order of CGRF on the matter without assessing properly and correctly the provisions of the Act in this regard and JERC Regulations there under. The Respondent has gone too far to adjudge the jurisdiction of the Ombudsman which is not expected of them. They are advised to avoid such indulgence.

With explanation on provisions of the Act and Regulations in the preceding paragraphs of this main Paragraph no. 26, the conclusion made with regard to Respondent's liability to pay compensation to the Appellant for the default in replacement of defective meter as in the last paragraph of the main Paragraph no. 24 above of this order, is valid and stands.

In accordance with the Regulations, all payments of compensation shall be made by way of adjustment against current and/or future bills for supply of electricity, but not later than 90 days from the date of violation of Guaranteed Standards

unless demanded by the consumer as direct payment. Since in this case, the maximum period of 90 days within which the payment of compensation is to be made elapsed long ago, it is ordered that the Respondent shall pay the compensation of Rs. 27,500/- to the Appellant straightaway as direct payment.

Besides payment of compensation to the Appellant, a penalty of Rs. 5000/- is imposed/ levied on the licensee (the Respondent) for their not faithfully implementing the Regulations in this case. This amount of penalty shall be paid/ remitted by the Respondent to the Commission i.e., JERC for the State of Goa and UTs.

27. With regard to **the issue relating to billing during the entire period when the meter was not replaced** by the Respondent, it was done as per rules and in accordance with sub-regulation no 8.1 (16) of JERC Supply Code Regulations. **On this matter, I do not propose to interfere with the order of CGRF.**

It may, however, be pointed out here that billing the consumers for recovery of energy charges for the duration when the meter remained defective or non- functional based on average monthly consumption of previous three meter reading/ billing cycles **for such a long period** is not a healthy practice. Though no ceiling of time period has been specified under sub-regulation 8.1(16) of JERC Electricity Supply Code Regulations merely because it is expected that the licensee would have replaced the defective/ non- functional meter within the period as specified in SOP Regulations. Any licensee not adhering to SOP specified time limit and defaulting on this front indefinitely or for a long period, very cheerfully continues to bill the consumer of defective/ non- functional meter on monthly average consumption basis. This in a way amounts to abuse of 8.1(16) sub-regulation. This has both merits and demerits, impacting both the licensee and the consumer. If the actual consumption of the consumer exceeded or was higher than the average consumption it would have amounted loss to the licensee but benefit to the consumer and vice- versa. It is the duty of the licensee to avoid occurrence of such type of eventualities so that the correct measure/ assessment of energy sold is available and there is no revenue loss to the licensee on such an account.

The Respondent therefore is directed to ensure that all cases of defective/ non-functional/ stuck/ stopped/ burnt meter in the State of Goa are identified within a period of one month of this order and thereafter complete action to test and repair/replace the meters within the period of time limit specified in the JERC-06/2009 Regulations on Standards of Performance, and send a report to the Secretary, JERC.

28. As for the prayer to grant a token compensation of Rs. 40,000/- for causing them mental stress, anguish, agony and financial inconvenience due to inordinate delay, the Appellant did not substantiate this with any worthwhile evidence in writing or verbal. Moreover, the supply of electricity to the consumer continued unabated. I do not see any valid ground to grant this token compensation. The Appellant's prayer on this account is, therefore, rejected.

ORDER

29. Based on the above, the representation/ appeal of the Appellant is disposed of with the following orders:

- (1) The order of the CGRF on the matter of billing during the period when the meter remained defective and was not replaced, is upheld.
- (2) The Respondent, shall pay the compensation Rs. 27,500/- to the Appellant for default in replacement of defective meter, for the period as concluded under the Main Paragraph 24 of this order.
- (3) The Respondent shall pay the amount of compensation as at (2) above straightaway to the Appellant as direct payment.
- (4) A penalty of Rs. 5000/- is levied on the Respondent for their not faithfully implementing the Regulations in this case, which they shall pay/ remit to JERC for the State of Goa and UTs.
- (5) The Respondent shall ensure that all cases of defective/ non-functional/ stuck/ stopped/ burnt meter in the State of Goa are identified within a period of one month of this order and thereafter complete action to test and repair/replace the meters within the period of time limit specified in the JERC-06/2009 Regulations on Standards of Performance, and send a report on the action completed to the Secretary, JERC latest within 3 months of this order.
- (6) No order on costs.

Dated the 28th of January, 2013

(V. K. Khanna)
Electricity Ombudsman for JERC
for the State of Goa and UTS

Ref. No. 1/23/2012-EO

Forwarded to:

1. M/s DIAWERKE INDUSTRIES
(Represented by Mr. Luis Da Silva- Partner)
514, Pulvaddo, Near Patrocino Chapel,
Benaulim, Salcete, Goa- 403 716

They shall furnish to the Chief Electrical Engineer, Electricity Department, Govt. of Goa, within a period of one month from the date of this order, a letter of acceptance that the award/ order is in full and final settlement of their claim/ representation. If they do not intimate the acceptance, the order shall not be implemented by the Respondent Department.

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(14)

2. The Chief Electrical Engineer,
Electricity Department,
Govt. of Goa, Vidyut Bhawan
Panaji, Goa- 40300.

The Respondent shall comply with the award/ order within 15 days of the receipt of the intimation letter of acceptance from the Appellant and intimate the compliance to the Ombudsman. Non-compliance shall constitute violation of JERC Regulations and may attract remedial action under Sections 142 and 146 read with Section 149 of the Electricity Act, 2003.

Copy to:

1. The Secretary, Joint Electricity Regulatory Commission for the State of Goa and UTs
2. The Principal Secretary (Power), Government of Goa.
3. The Chairman, CGRF, Goa.

Copy also to:

1. The Superintending Engineer (Circle-I), ED, Goa
2. The Executive Engineer (Elect. Div-IV), ED, Goa

