

BEFORE THE ELECTRICITY OMBUDSMAN
(For the State of Goa and Union Territories)
Under Section 42 (6) of the Electricity Act, 2003
3rd Floor, Plot No. 55-56, Udyog Vihar - Phase IV, Sector 18,
Gurugram (Haryana) 122015,
Phone No.:0124-4684708, Email ID: ombudsman.jercuts@gov.in

Appeal No.134 of 2020

Date of Video Conferencing : 21.01.2021

Date of Order: 25.01.2021

Thiru M. Krishnamoorthy,
Tenent of Shri Govindarasu,
Puducherry.

....Appellant

Versus

The Superintending Engineer cum HOD,
Electricity Department, Puducherry
and others.

....Respondents

Parties present:

Appellant

- 1.Thiru M. Krishnamoorthy
Appellant
2. Miss K.Laxmi Narayani
Appellant's Daughter/Representative

Respondent(s)

1. Shri G .Kaniyamuthan
Executive Engineer-Urban- O&M

Date of Order: 25.01.2021

The Appellant has preferred an Appeal against the order of the Hon'ble CGRF, Puducherry in C.C. No.34/2020 dated 17.09.2020. The representation was received in this office on 05.11.2020 and was not admitted as the same was not filed properly in the prescribed Annexure-IV and also not submitted the proof of deposit of the 1/3rd of the challenged amount. Appellant resubmitted the same on 12.11.2020 through

email and deposited the required amount on 19.11.2020. Executive Engineer Division No-1 vide email dated-20.11.2020 confirmed the deposit of Rs.11569/- (8100+3469) as 1/3rd amount. Accordingly the Appeal has been admitted for examination and consideration on 23.11.2020. Copy of the same as received was forwarded to the Respondents with a direction to submit their remarks/ counter reply on each of the points. The Appellant was supplied a copy of counter reply and additional data.

Settlement by Mutual Agreement

Both the parties appeared before the Electricity Ombudsman through Video Conferencing as scheduled on 21.01.2021 and were heard. Efforts were made to reach a settlement 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 pleading on the matter.

(A) Submissions by the Appellant:

Appellant submitted the brief facts as under:-

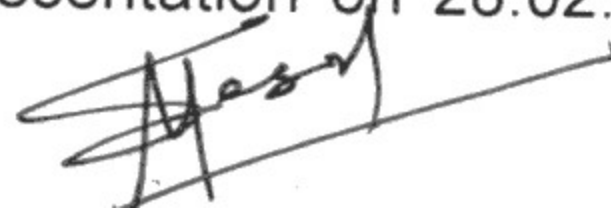
1. FACTS OF THE CASE

That I have been residing in HN-182, Aravindar Street Puducherry, on first floor for nearly 18 years. I have difference of opinion with the house owner. My daughter has finished B.A. (English) in Barathidasan College. She proposes to pursue higher studies. My son is doing his +2 in VOC School. I am a labourer. I have been paying the CC charges from 2003 to 2016. I have also maintained the house since 2003.

The House owner Shri Aris Judis S/o. Govindarasu (Late) has returned from abroad to Puducherry on 18.09.2016 and changed the old meter on 20.09.2016.

All of a sudden, the house owner, told me to vacate the house. I requested for some time to vacate the house. The House owner has disconnected the power supply with the intention to vacate the house against Law. Since 31.01.2017, 10.30 P.M till 27.02.2018, there was no supply.

Further, the house owner has locked the Meter Box and went abroad, because of this, the meter reader from Electricity Department has marked the working meter as meter struck. I gave a representation on 28.02.2018 but



Electricity Department has not taken any action. On 22.11.2018, Electricity personnel have disconnected the supply.

The CC charges would normally be between Rs. 200 to Rs. 250 only. When the bill served on 04.12.2018, the CC charges mentioned was Rs.90182/- to which I made a representation on 11.12.2018.

On 20.01.2017, I have paid Rs. 4623.

One of the meters in the three phase service was replaced on 27.12.2018. Again after paying Rs.10,000/- on 31.12.2018, my service was reconnected. I again made a representation on 31.12.2018 to revise the bill.

Another representation was given on 24.01.2019.

On 14.02.2019, my fuse was removed.

On 21.02.2019, all the three single phase meters in the three phase service was replaced by a new meter and the said A.E. concerned said that the meter has to run for three months for revision of bill on 13.03.2019.

The fuse was removed on 24.05.2019. By 24.05.2019, the JE concerned had furnished the reading of the meters for three months and three days.

I furnished the same to the Revenue Wing on 28.05.2019, the fuse was removed.

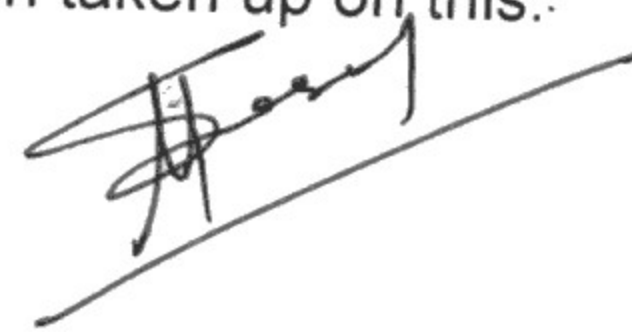
On 28.05.2019, revision of the bill was made by Revenue Wing Smt.Helen and instructed to Pay Rs.60,677. Even though, I expressed that my bill would not come this much, they have stated that this was the amount to be paid which I am not satisfied.

After furnishing representation on 30.05.2019 and after paying Rs.10,000 supply was reconnected.

My consumption would normally be 125 to 175 units only. Hence, I requested to revise the bill again on 02.07.2019.

On 24.07.2019, electricity staff disconnected my supply. Since then, there was no supply for 15 months.

Regarding this again, I give an application to the electricity department head office on 24th January, 2020 but no action has been taken up on this.



On 27th May, 2020 again I had given Petition to SE-1-HOD and I also went directly and spoke about these issues. I went to remission section and inquired about the bill of Rs 67,076/-.

After verification they inform me to pay Rs 61,436/- and that is the bill amount.

Because of the mistake done by electricity servant an Indian citizen has been affected because of the disconnection of electricity line my family is depressed. My children's are studying school and colleges, their online classes where been affected because of this. So, I decided to give a petition to consumer grievance redressal board at Anna Nagar, Puducherry.

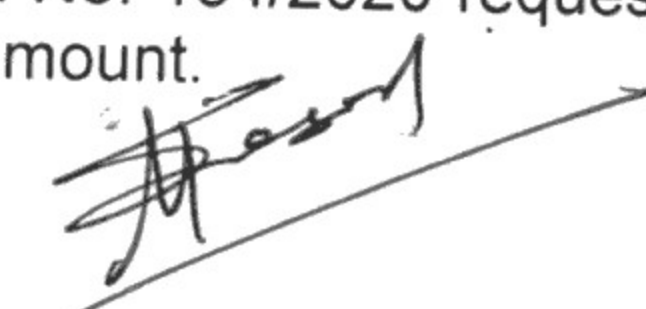
I have given a petition to the Consumer Grievance Redressal Board on 06.08.2020. They received my petition and given dated on 02.09.2020. Next date is given on 10.09.2020. Myself Krishnamoorthy, my daughter K. Laxminarayani and my son K. Sandanaraj went to the grievance cell. The Hon'ble Judge enquired me and the related JE, AE, JAO Grievance Cell informed me, to come on 18.09.2020 and collect the order copy. I also went to the consent Office, signed and collected the order copy. In the order copy, Electricity Department officials inform that I have to Pay Rs 34,643/- by ten instalments. First instalment is Rs 3,464/- . This amount was paid by me on 30.09.2020. Electricity Department Officials gave electricity line to the house on 01.10.2020.

For the past 15 months; I am affected more without electricity. Though, I have paid Rs.46000/-. It is a loss to me. Because of this myself and my family is I am mentally depressed and affected more with health issues. Hence, I request to give compensation for this. Hence, I request rebate the instalment. Accordingly, to the report given by JE as on 01.10.2020. I have paid more than the Unit calculated. Hence, I humbly request to pay back the balance amount to me and rebate the instalments.

(B) Submissions by the Respondents

Shri G. Kaniyamuthan, Executive Engineer, Urban O&M, Electricity Department, Puducherry, on behalf of the respondents vide email dated-07.01.2021, submit the following counter affidavit :-

1. I humbly submit Thiru Krishnamurthy. M residing at No. 182, Aravindar Street, Puducherry with Electricity Service connection bearing Policy Code 03-14-06-0741 (Domestic category service) in the name of Thiru Govindarasu has filed an appeal with the Hon'ble Ombudsman, JERC, Gurugram against Hon'ble CGRC order in C.C No. 34/2020 dt: 17-09-2020 and the same was registered as appeal No. 134/2020 requesting for rebate of interest and payback of excess amount.



2. I humbly submit that the Hon'ble Ombudsman in Notice/Order No. JERC/EO/134/Camp -Chandigarh, dt.23-11--2020 has directed this department to settle the representation through mutual agreement within 10 days and if a settlement is achieved, a copy of the same be supplied to the office of the Hon'ble Ombudsman within 10 days.
3. I humbly submit that as "Nivar" Cyclone crossed Puducherry on the 25th of November 2020 followed by incessant rains and since this O&M division had been in the restoration of supply for more than a week, the appellant could not be requested to come for meeting to settle the issue mutually as directed by the Hon'ble Ombudsman. The same may please be condoned. Requisition for condoning the same has been sent by mail dated 16th December 2020.
4. I humbly submit that as directed by the Hon'ble Ombudsman, the appellant was requested to come for a mutual settlement on the 21st of December 2020. The appellant came for the meeting on the said date and after detailed discussions the appellant again requested for the revision of the bill based on the present consumption pattern. He was explained that since the released meter tested in lab was reported as working good, the amount so arrived based on the actual consumption was alone charged to the consumer and there existed no provision to reduce the amount. The appellant was also given the option of paying the arrear amount without BPSC in more instalments if request was made.
5. I humbly submit that the appellant requested a week's time to reply on the above. Accordingly, he has been given time upto 28-12-2020 to furnish reply. But even after 28-12-2020 the appellant did not furnish any reply and requested another day to furnish reply. This was duly informed to the Hon'ble Ombudsman on 29-12-2020. However, the appellant has furnished the reply only on 04-01-2021 and the copy of the same is attached. He has maintained his stance and requested to revise the bill and waive the amount to be paid.
6. I humbly submit the facts of the case before the Hon'ble Ombudsman for further directions.
 - As per the field report the sanctioned load of the service connection was 32.7 KW with three single phase meters. Since December 2016, the reading of the meter II was mentioned as 1371 and in due course marked as MS.
 - The meter with MS condition was replaced on 27-12-2018 and the released meter was tested in lab. As per the lab report, the meter was working in good condition and the final reading of the meter was 6486.
 - Based on the actual consumption, ie., (6486-1371 = 5115 units) from December 2016 to November 2018 for 24 months the monthly average consumption has been arrived as 214 units for II meter.

Accordingly the field Engineer has sent requisition to revise the bill as per the working sheet of 567 units per month (three meter consumption) reportedly being used by three occupants, the owner of the house on the second floor, the appellant on the first floor and another tenant in ground floor.

- As per the request of the consumer on 21-02-2019 for revision of bill and after receipt of field report, the Accounts section issued revision for the period from December 2016 to April 2019 as Rs. 62,125.
 - Smart meter was fixed on 21-02-2019. Since this time, the second floor has been remaining vacant as the house owner has gone to France as stated by the appellant. As the connected load got reduced to 3.2 KW and 3.24 KW only after this, the revision of bill based on this consumption (328 units) leaving the vacant second floor is un reasonable.
 - The appellant has already paid Rs. 4,623 in January 2017, Rs. 10,000 in December 2018. The appellant requested on 30-05-2019 to pay in instalments and the same was permitted and he paid Rs. 10,000. Since then he did not pay the next instalment.
 - The service was disconnected on 10-07-2019 due to non-payment of current consumption charges.
 - The Junior Accounts Officer revised the arrears due as Rs. 61,394 and informed the appellant.
7. I humbly submit that the CGRF was kind enough in giving a relief by ordering revision of bill without BPSC for the entire period from December 2016 to December 2019. And also permitted to pay the same in 10 equal monthly instalments.
8. I humbly submit that in compliance to the orders of the CGRF, revision of bills was made without claiming of BPSC for the period from December 2016 to December 2019 and order sent for payment of Rs. 34,643/- in 10 instalments.
9. I humbly submit that the CGRF in its order has stated that the consumption arrived based on the formula in Annexure XIX of the Supply Code 2018 is comparable with the units recommended for revision which also shows about similar average except in the month of February 2017, February 2018 and March 2018 during which period the house owner stayed in India.
10. I humbly submit that the details of claims made and the payment made by the appellant are detailed in the annexure enclosed for the period from December 2016 to November 2020.

11. I humbly submit that disconnections were made only for non payment of CC charges and even after permitting the consumer to pay in instalments payment was not made.
12. I humbly submit that the order of Hon'ble Consumer Grievances Forum, Puducherry is based on the bonafide consumption by the petitioner.
13. I humbly submit that the electricity connection is in service since 01-10 2020.
14. I humbly submit that the averment of the appellant therefore may kindly be dismissed as it is not based on facts.
15. I humbly submit that the respondent reserve the right to file additional counter affidavit if necessary.
16. I humbly pray the Hon'ble Ombudsman that for the reasons stated above, the appeal made by the petitioner may please be dismissed and restore the order passed by the Hon'ble Consumer Grievances Redressal Forum Puducherry.

(C) CGRF order C.C. No.34/2020 dated 17.09.2020, preferred for Appeal:

Hon'ble CGRF has passed the following order:--

OBSERVATION:

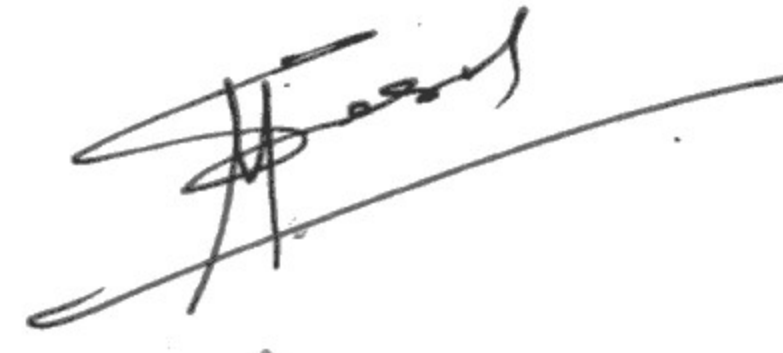
- (i) The service connection is in the name of Thiru Govindarasu. The Complainant is not having any authorization from the owner to represent the case. Since, he is making payments to agencies like Electricity, PWD, Local bodies etc., in the name of the owner and is residing in the building, the Complainant is treated as an 'Occupier' and hence the Complaint is entertained.
- (ii) The Complainant has given various representations for revision of bill. Taking into consideration the condition of the meters which is shown as M.S. the Department had failed to take action for revision of bills within the time frame provided in the Supply Code 2018.
- (iii) In the report of the Junior Engineer Town Central dated 22/02/2019, had mentioned that since December 2016 one meter is under struck up condition as M.S. and the same meter has been sent to the Lab for testing the performance and as per the Lab report, the meter is under good working condition. The initial reading of the meter when it was shown as M.S is 1371 and the reading final is 6486. Considering the consumption from December 2016 to November 2018 the average reading of the meter works out to 214



units per month. Earlier, the billing was done taking average consumption of 457 units per month for the same meter. Hence he has requested the Revenue Section for revising the bill. But no bill was issued to the Complainant by the Department.

- (iv) The Complainant had approached the Department on 30/05/2019 to pay the amount in instalments and agreed to pay Rs.10,000/- as first instalment. The Endorsement was made by the Officer concerned to collect Rs.10,000/- immediately and allowed to pay the balance in two instalments. It is observed that no indication was given about the amount covered in the next two instalments and due dates for payment of both the instalments. It shows that the Department has not given a comprehensive reply to the Complainant indicating the arrear amount after revision as stipulated in the Supply Code 2018. But only informed the Complainant the amount of arrears as and when he approached the Department.
- (v) The Department had informed the Complainant about the arrears vide letter dated 11/12/2019 and the service is already in disconnected condition when the intimation was sent.
- (vi) As per the report of the Junior Engineer Town Central dated 05/06/2020 the connected load of ground floor and first floor is 3.2KW and 3.24KW respectively. The second floor is vacant and the owner is in abroad.
- (vi) The number of units recommended by the Junior Engineer for revision of bill after releasing M.S code. in one of the meter is furnished below:

Month	Total units used in 2017	Total units used in 2018
Jan	634	587
Feb	1024	731
Mar	624	817
Apr	634	407
May	684	267
Jun	574	314
July	614	314
Aug	557	817
Sep	567	507
Oct	505	330
Nov	537	331
Dec	617	556



The Consumption has been verified theoretically by adopting the Formula of $L \times D \times H \times F$ stipulated in Annexure XIX of the Supply Code 2018 and adopted the values mentioned for D, H and L in Annexure. The connected load of the ground floor and the first floor 6.44 KW. Considering the number of days taken as 30 days per month with average of 8 hours per day and the load factor of 0.4, the estimated consumption is $6.44 \times 30 \times 8 \times 0.4 = 620.16$ units per month. This theoretical consumption is comparable with the units recommended for revision which also shows about similar average except in the month of February 2017, February 2018 and March 2018. As per the information furnished by the Complainant the owner stayed in India during the above said period. Hence, the increase in consumption can be attributed to the usage of electricity in Second floor also.

ORDER

- (i) Para 7.26 of the Supply Code 2018 is reproduced below:

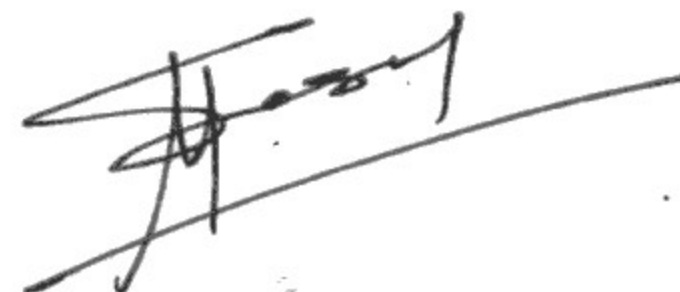
"If the Complaint is found to be correct by the Licensee, a revised bill shall be issued within 5 working days of intimation of the same to the Consumer. The Consumer shall make the payment within 15 days after receipt of the revised bill. The Consumer shall not be charged any late payment surcharge, if the payment is made by the revised due date"

The Complainant has given several representation right from 2018. The Junior Engineer, Town Central had recommended for revision in February 2019. The Junior Accounts Officer/Rev-I, officially intimated the arrear amount to the Complainant only in December 2019. So the Department can charge BPSC only after the official intimation of arrears.

Therefore, the Respondent No.3 is directed to recalculate the arrears by waiving the BPSC from December 2016 to December 2019 and to intimate the revised arrear amount to the Consumer by giving 15 days time to pay the 1st instalment within 5 days from the date of receipt of the Order. If the Complainant fails to pay the 1st instalment amount within 15 days, then only Department can collect surcharge after the period of 15 days.

- (ii) Para 7.39 of Supply Code 2018 is reproduced below:

"The Licensee may frame a scheme for providing facility of payment of bills in instalments for consumer who are for the time being under financial distress to continue the supply of electricity. Late payment surcharge shall however be levied on the amount paid after the due date"



Since there is no scheme in the Department, the Forum feels that it is appropriate to allow the Complainant to pay the arrears arriving at in Para (i), in 10 equal monthly instalments.

The Respondent No.3 is directed to issue, the instalments order indicating the amount payable in each instalment and due date on which each instalment to be paid, along with the revision of bill.

- (iii) The Complainant is directed to pay the arrears in 10 monthly equal instalments on or before the due date as per the revised bill, in default the Department will collect the BPSC.
- (iv) On collection of 1st instalment the Respondent No.3, shall intimate the Assistant Engineer (Town) about the payment.
- (v) The Assistant Engineer shall arrange for reconnection of the service immediately on receipt of the intimation from the Respondent No.3, after collection of first instalment. A Compliance report shall be sent to this Forum within 15 days.
- (vi) Thus the Complaint is allowed to the extent indicated.

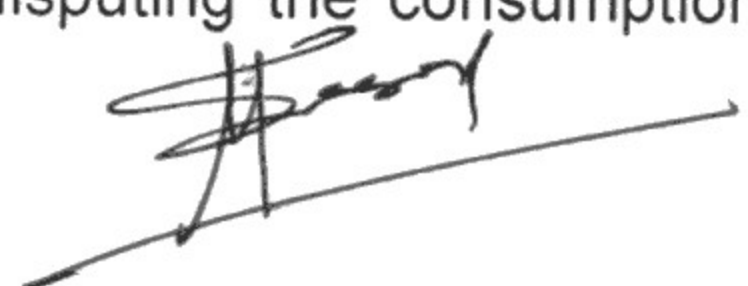
(D) Deliberations during Video hearing on 27.08.2020:

1. Appellant submission:

- a. The Appellant reiterated his version as submitted in appeal.
- b. He further submitted the readings of meter as under:-

Shri Ravichandran (JE)	
Written and handed over	
New meter changed on	: 21.02.2019
Reading taken on	: 24.05.2019
(3 Months , 3 days)	
Total Units	: 808 units
Consumption per month	: $808/3 = 269$ units/month

- c. On being asked for which period he is disputing the consumption to be inflated. He confirmed that he is disputing the consumption from



December,2016 to March,2019 when the bills were prepared on "MS" (Meter Struck) and he was charged for @ 457 units per month whereas his consumption would normally be 125 to 175 units only.

- d. He further confirmed that Owner /Legal heir mostly lives abroad and has occupied Second Floor and the Appellant lives on First Floor . Whereas on Ground Floor , the caretaker of owner lives . He further stated that he is paying bill of entire premise and he has taken the First Floor on lease for 8 years.

2. Respondents Submission:

- a. The respondents reiterated their version as submitted in counter reply to the appeal and requested to dismiss the appeal.
- b. Notice was also served to the owner/Legal heir of the premise at Second Floor and occupier of the Ground Floor to attend the hearing , but neither owner(SF) or occupier(GF) attended the hearing nor submitted their defense.

(E) Findings & Analysis:-

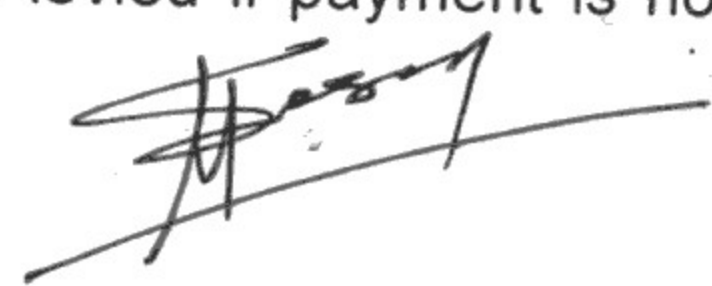
- 1. I have perused the documents on record and pleadings of the parties.
- 2. My attention was also drawn to the instructions printed on the back side of bills:-

Notes:-

(1,2,3,4,5)--.....

(6) Supply will be disconnected without notice in the event of Cheque being dishonored or if payment is not made even after 15 days from the due date mentioned in the bill.

(7) Belated Payment Surcharge will be levied if payment is not made before the due date.



(8) Consumer should not refuse payment under pretext of error in the bill. Such bills should be paid before the due date and written complaint made with regard to the accuracy of the bill.

(9,10)

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In view of above instructions the Appellant was required to pay all the bills before the due date. However as per data supplied by the Respondents only following payments were paid by the Appellant from January ,2016 to July,2020 :-

Sr.No	Month/Year	Payment made	Outstanding Bill Amount
1	April,2016	Rs.1512/-	0
2	September,2016	Rs.5367/-	0
3	December,2016	Rs.2775/-	Rs.3,366/-
4	January ,2017	Rs.4623/-	Rs.25/-
5	December,2018	Rs.10,000/-	Rs.82,192/-
6	December,2019	Rs.10,000/-	Rs.65,872/-
7	July,2020	--	Rs.61,477/-

From the above facts , it is amply clear that Electricity Department was sleeping over the matter for months and Govt. Revenue was blocked and neither the dispute was settled nor the supply was disconnected. Appellant was also negligent in not making the payment of electricity dues, on one pretext or the other.

3. The consumption pattern as per actual meter reading of the Appellant's single phase meter of a three phase connection, being exclusively used by him is as under :-

Month	Total units used in 2016	Total units used in 2017	Total units used in 2019
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Jan	50	214	-
Feb	190	214	-
Mar	260	214	269
Apr	350	214	269
May	360	214	269
Jun	340	214	-
July	330	214	-
Aug	153	214	-
Sep	730	214	-
Oct	340	214	-
Nov	300	214	-
Dec	214 (Actual average)	214	-
Total consumption per year	3617	2568 as per actual tested meter	Average for 3 months 3 days as supplied by the Appellant
Average/p.m	301(Actual)	214(Actual)	269(Actual)

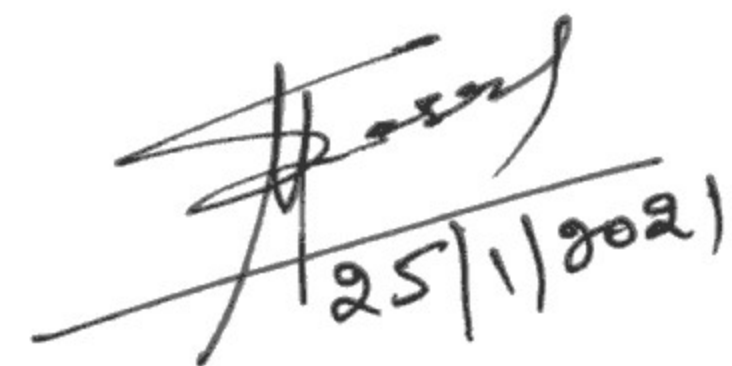
The Appellant is disputing the consumption from December, 2016 to March, 2019. A new L&G make, single phase meter was installed in the month of August/September, 2016 and in December, 2016 the billing was done automatically on "Meter Struck" as per computer programming, as explained by respondents during hearing, and at that time meter reading was 1371 units. On the complaint of Appellant, this L&G meter was removed after 24 months and got tested from the Meter Testing Laboratory of the department and working of the meter was found to be Correct and final reading of the meter was noted as 6486 units. Accordingly this is the actual consumption consumed by the Appellant from December, 2016 to November, 2018 which comes to $6486 - 1371 = 5115$ units for 24 months. Even as per the Appellant's submission the average consumption from March, 2019 to May, 2019 comes to 269 units per month.

I find the average actual monthly consumption ($5115/24$) @214 units per month charged, to be commensurate with the consumption pattern of the Appellant, before December, 2016 and after March, 2019. The Hon'ble CGRF has accordingly analyzed the complete facts in their order and correctly ordered to charge the Appellant on the basis of actual energy consumed by the Appellant through a correct meter and allowed to pay the same in 10 instalments without late payment surcharge (BPSC). From the facts on record neither over payment has been made by the Appellant nor any case

for compensation has been justified , rather the Appellant was negligent in making the payments of Govt. dues in time.

(F) DECISION

- (i) For the reasons discussed above, the appeal of the Appellant is dismissed with no order to cost and the order passed by Hon'ble CGRF Puducherry, in C.C. No.34/2020 dated 17.09.2020 is upheld.
- (ii) The Electricity Department/Licensee is directed to implement the orders passed by the Hon'ble CGRF-Puducherry.
- (iii) In case, the Appellant or the Respondents are not satisfied with the above decision, they are at liberty to seek appropriate remedy against this order from the appropriate bodies in accordance with 'Regulation 37(7) of the Joint Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2019.
- (iv) The Electricity Department/Licensee should submit a compliance report to office of Ombudsman on the action taken in this regard within 15 days of the issuance of this Order by email .
- (v) Non-compliance of the orders of the Ombudsman by the Electricity Department/Licensee shall be deemed to be a violation of Regulations and shall be liable for appropriate action by the Commission under the provisions of the Electricity Act, 2003.
- (vi) The appeal is disposed of accordingly.


25/1/2021

(M.P. Singh Wasal)
Electricity Ombudsman
For Goa & UTs (except Delhi)

Dated 25.01.2021