

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,

, Email ID: ombudsman.jercuts@gov.in

Phone No.:0124-4684708

Appeal No-204 of 2023

Date of Video Conferencing: 20.12.2023,

26.12.2023, 09.01.2024, 12.02.2024,26.02.2024,

28.02.2024

Date of Order: 13.03.2024

Ms A. Ameena, Managing Director

M/s Firdaus Hawiyya Industries Puducherry.

.... Appellant

Versus

1. The Executive Engineer Rural-South

Electricity Department, Govt. of Puducherry.

.... Respondent No 1

2. The Executive Engineer MRT & MMC

Electricity Department, Govt. of Puducherry.

.... Respondent No 2

Parties present:

Appellant(s)

Ms A. Ameena, Managing Director

Mr Vimal Advocate.

Respondent

Mr Sendil Coumar, Executive Engineer, E.D

Puducherry

ORDER

This representation was filed on 14th November, 2023 by Ms A Ameena Managing Director M/s Firdaus Hawiyya Industries, R.S.No. 125/2, Pondy-Villianur Main Road, Arangnaur, Bahour Commune, Puduchery under Section 42(6) of the Electricity Act 2003 read with Regulations 32 & 33 of Joint Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations 2019 against the order in case **No. 116/2023** dated 10.10.2023 passed by the Ld. Consumer Grievance Redressal Forum (CGRF), Puducherry.

Given the potential for postal delays and in accordance with the Regulations, the appeal, labeled as Appeal No. 204, was admitted on 14th November 2023. Following a thorough examination of the documents supporting the representation, the Ombudsman issued an admission notice on 16th November 2023. The Ombudsman directed the respondents to file the reply to the appeal filed by the appellant vide this office letter dated 14.11.2023.

Submissions made by the Appellant

The grievance matter was brought to the CGRF, Puducherry, because I was constrained to close my industry within a period of 3 months by the unfair practice of Electricity Department, Puducherry, and after a span of more than one decade the Department, is attempting to drag me to the street by illegal enrichment through Vague demand in violation of procedures and legal norms. Seeking remedies on merits and past precedents as apparent on records, I have bonafidely approached the Electricity Department, before all levels of hierarchy. However, every official of the Electricity Department acted as sign posts and just passed the matter to higher ups and gave me vague reply. Based on the procedures and precedents, I have requested the Electricity Department, Puducherry pointing out the discrepancies, procedural deviations, exorbitant demand and request for revision and since the matter has consumed more than a decade since 2010.

I have requested for cancellation of full demand made by the Department. Since the entire process of work of the Distribution License is void ab initio the appellant has assailed the test report.

Now without considering the entire history of the case, wherein the demand made by the Department, amidst procedural deviation, inaction of the officials, after a span of one decade, the only issue of defective metering system was taken up by the CGRF, Puducherry, and as such the impugned order is vague, unjustified and unconstitutional. Further the crucial issues, regarding lapses committed by the officials, inaction of the department in considering the core issues set out by the appellant before the Forum was totally ignored to the advantage of the Department officials and hence the order is biased and highly prejudicial.



While recording the entire history of the case narrated by the Distribution Licensee, the circumstances and inaction of department which led the women entrepreneur to shut out the industry within a period of 3 months is not considered. It is pertinent to point out that the application for HT application was submitted during the year 2010 by the applicant whereas the Respondent Department cleared the application only in the year 2012

The defective metering and exorbitant CC Bill were pointed out to the concerned official during the year 2012 itself but the defective metering system was not considered as per procedures and the department simply raised the bill without referring the matter before CPRL. This pertinent to submit that the CGRF has taken up the issues regarding defecting metering system now (2023) and vaguely directed to refer the matter to the testing center which is unconstitutional and unfair.

Since the matter is void ab initio, the appellant has sought for revision of bills. There is ample list of precedents submitted by the appellant whereby the revision of bills was affected by the officials of Electricity Department to the lowest minimum after raising heavy demand. The Department has contested that revision of bill is taken up on case to basis which is highly ridiculous and prejudicial. It is patient to submit revision of bill were affected during the period wherein the chairperson of CGRF who was himself acting as a Superintending Engineer of the Department was well aware of the revision/reduction of demand by the Department

The issue regarding raising of exorbitant CC bill without considering actual consumption was occurred during the year 2012 and EE (MRT & MMC) who is ignorant of the revision of bills in various other cases, has blindly stated that there is no revision of bills which is illegal and tantamount to unfair practice and illegal enrichment of the official concerned. Suppression of crucial evidence of precedents tantamount to misleading of the legal forum warranting penalty.

The Department has not at all issued the HT agreement as mandated under this rule to the applicant, but the CGRF has endorsed the submission of Department misinterpreting the rule of law regarding execution of agreement and its validity. The validity of Agreement in the present case wherein HT application submitted during the year 2010 and power supply extended during November 2012 and industry was shut down entirely due to discrepancies deviation of procedures, lapses of Department alone. The appellant was put into much harshly from the day one of application and was constrained to close the industry.

The request for reduction of load was also denied by the Department and negative reply given

There are many HT consumers especially in the Yanam region of Puducherry who were issued heavy demand through CC bills initially and consequent upon appeal, the bills were revised to the lower

minimum by the Executive Engineer/Superintending Engineer of the Electricity Department. The Executive Engineer has refused to furnish the list of beneficiaries who have enjoyed the revision benefits and this crucial issue was not at all called up by the CGRF and to protect officials of the Department, the matter in issue was ignored in toto.

There is a scope for revision of bills based on precedents, within the parameter of rules and available in the law, but in this case my agony and averments not at all considered and the CGRF has left the issue for decision by higher forum. The CGRF has miserably failed to frame the issues and call for the records from the Department and just endorsed the submission of Respondent Department

It is submitted the defective metering system which in the bone of contention which has led to higher demand and brought to the notice of the Department. The appellant has assailed the test report of officials and requested for testing by CPRI. It is pertinent to submit that even the request of the applicant was submitted through Hon'ble CM also. But the officials have ignored the testing by the Authorized Testing Agencies and now after a span of one decade, testing is being referred. The genuineness of referring before Testing Agency after a decade is ironical and arbitrary,

I am not convinced with the order of CGRF Puducherry and order passed is not at all resorting to my problems and no relief granted by CGRF for the purpose for which I have been approached grievances Forum.

The following options are given for consideration keeping in view of the faith of the case.

1) The entire demand made by the department may be borne by the Electricity Department, Puducherry, since the women entrepreneur who had ventured out of Bank Loan was dragged into street and left penniless entirely due to fault of department official's ab initio.

(or)

The Security Deposit staked by the Department along with interest may be returned to me to rehabilitate my livelihood and continue my livelihood as per the principles of natural justice.

In this connection, I am appealing to the Hon'ble Sir, JERC to get justice in my case on merits in accordance with law and based on revision of demand and cc charges made in previous cases especially favour shown in the Yanam region. The Hon'ble Forum as done in previous cases may impose costs upon concerned officials for misleading this case and suppressing the precedent cases.

The appellant presented two judgments during the course of hearing on 26.12.2023 by the Hon'ble High Court of Madras in the cases of M/s Axel India Ltd versus Tamil Nadu Generation and Distribution Corporation Ltd (W.P. 13141 of 2011) and Tamil Nadu Generation and Distribution

Corporation Ltd versus M/s Axel India Ltd (W.A. 2057 of 2021). Both judgments have been officially taken on record.

The Appellant vide her Email dated 28.12.2023 has submitted that she is not well as she is suffering from hypertension and fluctuating BP, she is not in a position to submit the request for meter testing. Further, she has enclosed another letter dated 27.12.2023 in her Email dated 27.12.2023 explaining therein, the intricacies of her manufacturing unit. Both the Emails have been taken on record.

Going through the complaint following few points have been raised by the Appellant

- I. There is inordinate delay in executing the case.
- II. The demand for energy bill be cancelled
- III. The bill revision has not been done as per rules.
- IV. Load reduction not allowed.
- V. Procedures laid down have not been followed by the department.
- VI. She has used electricity only in one shift only.
- VII. She is aggrieved by the orders of Ld CGRF.

Submissions made by the Respondent Executive Engineer, E.D Puducherry.

The complainant of M/s. Firdaus Hawiyya Industries (Rep by Tmt.A.Ameena), R. S.No. 125/2, Pondy Villinaur, Main Road, Aranganoor, Bahour Commune, Puducherry 607402 has proposed to set up a H.T industrial service in the above location, hence firm has applied for power feasibility to a load of 480KVA on request, a power feasibility certificate was issued on 29-06-2010. Then the firm had obtained required certificate from competent authority, and had applied one HT Service Connection on 18-01-2011. Scrutinized on the application the field inspection was carried out by the field officer and prepared an estimate for HT line extension proposal to straining of HT line with provision of DP Structure. The same was got an approval on 10.06.2011. A notice was issued to the consumer for payment of the Security Deposit & K-Deposit for line works vide letter No 857/ED/EE-IX /JE/F HT (New)/2011-12 Dt: 28.06.2011. The firm has paid the Security deposit amount and meter deposit amount on 11.10.2011. As in the previous department terms and condition procedure, the consumer side work will be carried by the department after paying by the deposit amount. Further it has informed, while field surveying and execution of works, the land owner are opposed to straining of HT line to their land. After compromise the land owner the work was completed. As per guide line JERC, a revised tariff order, another notice was issued to applicant to pay the additional security

deposit for an amount of Rs, 1,28,800/- vide letter No.2403/ED/EE- IX/JE(Tech)/F-HT/2012-13, Dt.05-10-2012, the applicant paid the amount on 09-10-2012 through Demand Draft

The consumer has given completion report on 20.09.2012. Based on the completion report energization approval obtained from competent authority and the service was affected on 06.11.2012.

The C.C bill was issued on monthly base as per the unit consumed by the consumer and reading was taken on last day or first day of every month.

After the e-Hearing on dated 26.12.2023, in compliance to interim order dated 27.12.2023, Respondent No 2 vide his Additional Affidavit dated 28.12.2023 has intimated that Appellant has not complied with the Interim Orders issued by Ombudsman vide order dated 27.12.2023 in regard to submission of request for testing of meter by ETDC. He has further confirmed that there has been no request from appellant till 28.12.2023. Notwithstanding, the Respondent 2 has taken up the matter with ETDC and requested them to provide the details of testing fees to be deposited for getting meter tested.

The Respondent in his additional affidavit dated 28.12.2023 has submitted that *“even though the appellant has not given request letter in any form to test the HT static Trivector meter, a letter and an Email have been sent to ETDC Chennai on 28.12.2023 to test the HT static Trivector meter as per IS:14697/1999 by the Respondent-1 with a request to convey the testing charges in order to expedite the testing process.”*

N Padmini, Scientist E from ETDC vide her Email dated 10.01.2024 has intimated that the Standard Instruments are under calibration process and it may take one month or more for testing the meter. Since the case was getting delayed and in accordance with the clause

6.36. The meter may be tested for accuracy at a third-party facility, if so desired by the consumer. The list of third-party agencies, which are accredited by NABL (National Accreditation Board for testing and Calibration Laboratories) shall be available on the website of the Licensee:

Provided that in case of testing on the consumer's request, the consumer shall have to pay the testing fee as per the cost specified by the Licensee with the approval of the Commission:

Provided further that if the meter is found to be defective / burnt due to technical reasons attributable to the Licensee, viz., voltage fluctuation, transients, etc., the Licensee shall refund the test fee to the consumer by adjustment in the subsequent

bill.

A permission was granted by Ombudsman JERC to Respondent E.D to take up the matter with TANGEDCO which is NABL accredited lab.

On 2nd January, 2024 the Appellant has submitted her consent to get the meter tested by TANGEDCO on their cost.

M/s TANGEDCO vide their letter No EE/TTL/AEE/F-NABL/D.175/2023 dated 25.10.2023 has mentioned that before sending the meter for testing healthiness of the meter be checked by ED Puducherry.

Accordingly, a hearing was fixed up for 12.02.2024 wherein it was directed to form a joint team so that the healthiness of the meter can be ascertained and the complete process being adopted by the E.D team shall be witnessed by the appellant.

A joint team was formed by the Respondent which is duly participated by the Appellant, Mr. Vimal Advocate representing appellant and Mr Abdul Waheeb appellant representative to witness the powering ON process. During the process of powering ON the meter a Voltage of 58.93 V on R-N phase, 58.18V on Y-N phase and 61.27V on B-N phase to Power On the meter but the meter did not Powered ON.

The meter was packed and sealed again as material evidence by the Respondent E.D department.

Observations

The brief facts of the connection are as under:

- I. Applicant submitted application for HT service on 02/06/2010.
- II. Technical feasibility for a load of 480 KVA was conveyed to applicant vide letter No 159/ED/AEE-EHV/JE-II/F.21/2010-11 dated 29.06.2010.
- III. The industry obtained Power Feasibility Certificate for the department through DIC on 29-06-2010 with condition that after submission application, the service connection will be extended from 9 months to 12 months.
- IV. The industry applied for service connection on 18.01.2011 with following documents
 - a) Acknowledgement of Registration of Firms vide No. 259, Dt.06-05-201 at Registrar of Firms, Puducherry
 - b) Copy of Partnership deed is executed by
 - 1) Mrs. A. Ameena, W/o. Abdul Wahab 75% Profit and Losses
 - 2) Miss. A, Mansura, D/o. Abdul Wahab - 25% Profit and Losses

- c) Copy of registered land document in favour of the above partners (Document No 1437 of 2010 at Sub-Registrar, Bahour)
- d) Permission of Commune Panchayat vide No.02/2010-2011/BCP/C1(Lic) Dt. 05-08-2010
- e) Copy of CEA approval vide No.78/P-421/8/2012-R10/3776, Dt.17-09-2012
- V. Sanction obtained on 10.06.2011 vide Order No 19, Letter No 280/ED/SE-I/P&M/F-16-19/2011-12 Dt 10-06-2011
- VI. Sanction intimated to the applicant vide letter No. 857/ED/EE-X HT(New)/2011-12, Dt.28-06-2011
- VII. The Applicant paid SD Rs. 7,16,000/- and MSD Rs.15,000/- on 2.09.2011
- VIII. It was informed, while field surveying and execution of works, the land owner are opposed to straining of HT line to their land. After compromise the land owner the work was completed. As per guide line of JERC, a revised tariff order issued by JERC on dated 12.06.2012, another notice was issued to applicant to pay the additional security deposit for an amount of Rs, 1, 28,800/- vide letter No.2403/ED/EE- IX/JE(Tech)/F-HT/2012-13, Dt.05-10-2012, the applicant paid the amount on 09-10-2012 through Demand Draft
- IX. Since the Tri vector meter were not available with the department, permission to procure the same from market was accorded on 17.07.2012 on the request of applicant.
- X. Field report for energization of the industry sent to SE-III on 19-10-2012 and energization approval obtained on 02-11-2012 and industry energized on 06-11-2012.
- XI. The Bills were raised by ED as per the tariff provision for the month of November, December 2012 and January 2013 as detailed hereunder:

S.No	Billing Month	Bill No	Units Billed (KWh)	Amount (Rs)
1	November 2012	4087	17135	1,19,974
2	December 2012	4561	59552	2,73,232
3	January 2012	5037	1,22,480	5,01,173

- XII. The consumer submitted a letter raising doubt over billing (55% increase when compared to previous month) on 26.02.2013.

- XIII. On 28-02-2013 AE-HTM inspected the industry at 11:30 Hrs. and tested the meter in presence of appellant and observed that the meter is working satisfactorily as the errors are found within the specified limits.
- XIV. Since the CMD mentioned in the bill was 0.3745 instead of 0.3813 for the month of January 2013 AE-HTM recommended for revision of bill.
- XV. On 17-06-2013 the SAO-1 requested to disconnect the power supply immediately due to non-payment of CC charges from the month of January-2013 to March amounting to Rs.9,69,965/- (as per Chapter 9-0, Para 9-3 of HT connection guidelines 2010)
- XVI. The consumer requested to pay the installment on 28-10-2013 however, JE-Bahour disconnected the power supply on 05.11.2013
- XVII. On 12-11-2013 the SAO-1 again requested to disconnect the power supply immediately due to non-payment of CC charges from the month of April 2013 to September 2013 amounting to Rs.20,57,103/-
- XVIII. The arrears kept accumulating to the tune of 67,89,733/- up to May 2015.
- XIX. The appellant has preferred a writ petition No 14641 in Hon'ble High Court of Madras which was dismissed as withdrawn with a liberty to petitioner to approach CGRF.
- XX. The appellant has filed a complaint with CGRF Puducherry vide complaint No 116/2023 on 19th July, 2023.
- XXI. Ld. CGRF vide his order in case no 116/2023 has passed the orders on dated 10.10.2023.
- XXII. The appellant feeling aggrieved filed complaint with Ombudsman JERC vide complaint No 204/2023 on 14th November, 2023.
- XXIII. The main grievance of the appellant was related to the accuracy of HT Trivector meter.
- XXIV. The details of metering cubicle and Tri vector Meter are furnished below in Table 1:

Details of Metering Cubicle		Details of Tri vector Meter L&T
Make	ASCOTT Electricals	Make L&T
Serial No	223944	Serial No 12037040
P.T.Ratio	22000/110V	Capacity 3 x 63.5V, -/5A
CT Ratio Available	20-105/5A	Class 0.5s
CG Ratio Adopted:	20/5	Mf 800
Class	CT 0.5s & PT 0.5	
Burden:	CT: 15VA PT: 0VA;	

- XXV. The Trivector meter has been tested by the HTM Sub-Division on 28.02.2013 in the presence of appellant and found to be working within the specified limits.
- XXVI. The Load survey data was also extracted which shows that the load utilized by the appellant in all three shifts.
- XXVII. Ld CGRF vide his order in case no 116/2023 has passed the orders on dated 10.10.2023.
- XXVIII. Respondent E.D Puducherry in accordance with section 6.36 of JERC Supply code took up the matter with CPRI for meter testing.
- XXIX. The CPRI replied through mail dated 04/09/2023 that they are directed not to take up the meter testing related with Consumer Redressal Forum issues / complaints / court cases issues. The same was communicated to the Complainant vide letter dated 11/09/2023.
- XXX. Thereafter the matter was taken up with TANGEDCO, ETDC and finally the appellant agreed for meter testing to be done by the TANGEDCO. TANGEDCO informed that before sending the meter for testing its healthiness must be ensured by POWERING ON the meter.
- XXXI. On 14.02.2024 the meter was tested for its healthiness but it did not Powered ON.

Proceedings:

Hearing on 20.12.2023

Present

Appellant(s)

Ms A. Ameena, Managing Director

Mr Dalpathy Vignesh

Respondent

Mr Sendil Coumar, Executive Engineer, E.D
Puducherry

The hearing on 20.12.2023 had to be adjourned as the Advocate representing appellant has informed that there is death of family friend and he has to attend the cremation ceremony. Moreover, the Respondent was also out of station and attending hearing from Hyderabad as such hearing adjourned to 26.12.2023.

Hearing on 26.12.2023

Present

Appellant(s)

Ms A. Ameena, Managing Director
Mr Dalpathy Vignesh Advocate

Respondent

Mr Sendil Coumar, Executive Engineer, E.D
Puducherry

The hearing through video conferencing was scheduled for 26.12.2023. Both the parties were present and submitted their submissions.

After hearing both parties, given the dispute over the meter's functionality and dissatisfaction with ED Puducherry's testing, it is directed that the meter testing be conducted by another NABL accredited laboratory, preferably ETDC Chennai. The appellant is instructed to submit a testing request to the Executive Engineer, E.D Puducherry, by 27th December 2023, along with the requisite testing fees. The Executive Engineer, E.D Puducherry, is tasked with expediting the testing with ETDC Chennai, and the testing report is to be submitted within one week.

The matter will be listed for further proceedings after the submission of the meter testing report.

Hearing on 09.01.2024

Appellant(s)

Ms A. Ameena, Managing Director
Mr Vimal Advocate

Respondent

Mr Sendil Coumar, Executive Engineer, E.D
Puducherry

Mr Vimal submitted that he will submit that the appellant has agreed for getting this meter tested by EDTC and accordingly submits a request along with undertaking for depositing the meter testing fees on 9.01.2024 itself.

No further time extension shall be permitted.

In view to safeguard the customer right to get the meter tested by a third party NABL accredited lab it is permitted to get the meter tested.

Executive Engineer E.D. Puducherry to submit the report within one week after the deposit of request by appellant and payment for meter testing.

Hearing on 12.02.2024

Appellant(s)

Ms A. Ameena, Managing Director
Mr Vimal Advocate

Respondent

Mr Sendil Coumar, Executive Engineer, E.D
Puducherry

It has been directed to Power ON the meter for 30 Minutes as pre-requisite by TANGEDCO on 14.02.2024 in the presence of appellant and a joint team to be constituted by Executive Engineer, E.D Puducherry. After Powering ON a joint report be prepared and signed by all team members including appellant, her representative.

As per the direction of Electricity Ombudsman conveyed during the hearing on 12-02-2024, it is proposed to conduct the powering up of consumer HT meter at Electricity Department Laboratory on 14-02-2024 between 10:00 AM to 01:00 PM to assess its healthiness as required by the TANGEDCO, Testing Laboratory, Chennai - 600 002 so as to send for further Testing meter to TANGEDCO, NABL Testing Laboratory, Chennai. The schedule of powering up the meter was mailed to the appellant vide letter No. 1472/ED/AE-HTM/F.Firdaus/2023-24, dt.12-02-2024.

The Appellant has already given her consent for powering up the meter on 14-02-2024 during the Hon'ble Electricity Ombudsman third hearing (Video conference) on 12-02-2024.

As such to conduct and witness the powering up of meter following officials, Appellant and her representatives were present at HTM Sub- Division on 14-02-2024 at 10:00 AM.

1. The Executive Engineer-MRT & MMC
2. The Assistant Engineer-Bahour SS
3. The Assistant Engineer-HTM
4. The Junior Engineer-Bahour O&M
5. The Junior Engineer-HTM
6. Tmt. A. Ameena - Appellant
7. Thiru. Abdul Waheeb - Appellant Representative
8. Thiru. Vimal Kumar - Appellant Advocate

The following action has been undertaken.

- I. One Department spare HT Trivector meter of same type and year of manufacture 2012 bearing Sl. No. 12020671, L&T make was connected in the HTM laboratory test bench and explained and shown the demonstration of meter powering up procedure without load from 10:00 AM to 10:45 AM.
- II. After acceptance of meter powering up procedure the consumer HT Trivector meter now under the custody of HTM section was shown to the Appellant, Appellant representative and Department Engineers.
- III. After verification of signature seals by the Appellant on the meter cartoon box, the cartoon box was opened and taken out from the box.
- IV. The existing metered seals and meter terminal cover seals were verified by the Appellant with seal register maintained by HTM wing which was recorded during releasing the meter from the HT service M/s Firdaus Hawiyya Industries with CMD 480 KVA, Consumer Code: 497 at R.S. No. 125/2, Pondy - Villianur Main Road, Aranganur, Bahour Commune, Puducherry on 29-08- 2023.
- V. After verification of the number seals by the Appellant on the meter, with her consent the meter terminal cover number seals bearing number D0000154 (Yellow colour) & D0000161 (Yellow colour) were released for powering up process.
- VI. The consumer HT Trivector meter bearing Sl. No. 12037040, L&T make, YoM 2012 connected to the test bench and only voltage connections were given to the meter through 3-phase variac and MCB.
- VII. Voltage source switched ON at 11:15 AM without any load (zero load) and the voltages gradually increased from zero, ultimately applied the following voltages recorded through multi-meter.
- | | |
|--------|---------|
| A. R-N | 58.93 V |
| B. Y-N | 58.18 V |
| C. B-N | 61.27 V |
- VIII. **After applying the above voltages to the consumer meter, display was not turned ON.**
- IX. However, the above voltage was applied to the consumer meter till 12:40 PM. Until then meter display was not turned ON.
- X. **Since humming sound and some different smells were observed from the test bench, after informing it to the Appellant voltage applied to the meter was switched OFF at 12:40 PM for safety purpose. The meter connections were removed from the test bench at 12:45 PM.**



- XI. The meter terminal cover was sealed by the following Department numbered seals
- A. Left A00006279 (Blue colour)
 - B. Right A00006280 (Blue colour)
- XII. The HT Trivector consumer meter bearing Sl. No. 12037040 (L&T make) packed in a cartoon box and sealed with the signatures of the Executive Engineer/ MRT & MMC, Assistant Engineer/HTM, Assistant Engineer/Bahour O&M, Junior Engineer/HTM, Junior Engineer/Bahour and the Appellant Mrs. A. Ameena at 01:30 PM on 14-02-2024.
- XIII. Above sealed consumer meter cartoon box was taken to the HTM section for its safe custody to proceed further course of action.

The hearing was fixed for 26th February, 2024 but no one from the Respondent side was available as they were preoccupied with some other assignment the hearing rescheduled for 28th February, 2024.

Hearing on 28.02.2024

Appellant(s)

Ms A. Ameena, Managing Director
Mr Vimal Advocate

Respondent

Mr Sendil Coumar, Executive Engineer, E.D
Puducherry

The findings of the exercise for Powering On of the electricity meter in the presence of appellant has been shared by the respondent with appellant.

Appellant submitted that they want to file written arguments before orders are issued. Two days time was given to file the written submissions by 4th March, 2024. However, the appellant vide their Email dated 4th March, 2024 requested for two more days to file the written submissions till 6th March, 2024.

The appellant vide their Email dated 6th March has filed the written submissions stating that:

Pray to read and deem the contents of Complainant's Appeal, Letters to the Department including 05.03.2013, 20.05.2013 and 15.05.2015 complaining of the abnormal meter reading of 55% increase from the earlier readings and unimaginable charges levied and request for REPLACEMENT OF THE DEFECTIVE METER as part and parcel to this Written Arguments, the Complainant most respectfully submits that :

1 . Within two months of Installation of Meter and Supply of Power, the Complainant have lodged her Complaint vide letters dated 05.03.2013, 20.05.2013 among other personal complaints of abnormal charges and meter reading but the Electricity Department, Puducherry/Licensee has failed to conduct necessary test for the Accuracy of the meter installed by them as mandated under Clauses 6.37 to 6.40 of the Joint Electricity Regulatory Commission (for the State of Goa and Union Territories) Electricity Supply Code Regulations or under the Electricity Act and rules and regulations framed therein. Hence, the Department/ Licensee are bound to return all the payments of Rs.30,07,073 (Rupees Thirty Lakhs Seven Thousands and Seventy Threes) to her with interest at the rate of 18% per annum from the date of payment till discharge.

2 . No where In the Reply to the Complaint before the DCDRF, Puducherry or before this Hon'ble Office of the Ombudsman, have the Respondent Department/ Licensee given a Reply as to why they failed to immediate take the defective meter to be tested before an NABL accredited Laboratory for testing and Calibration of the defective meter in due compliance of the mandates under Clause 6.43 of Electricity Supply Code Regulations, Electricity Supply Code Regulations or under the Electricity Act and rules and regulations framed therein. Hence, it is just and necessary that the Respondent/ Licensee be directed to refund all the payments made by her to the Department as also her Deposit money.

3 . The Respondent/ Licensee have deliberately been sitting on the issue claiming charges on a defective meter, now for more than 10 years (beyond the life span or shelf life of a meter) despite repeated complaints by the Consumer for a Test until directed by the Hon'ble High Court and Later by the Hon'ble District Consumer Disputes Redressal Forum, Puducherry to test the meter and reporting that the meter is not Powering On now.

The conduct of the Department/ Licensees throughout shows lack of Bona-fides in discharges of their duties mandated under Electricity Supply Code Regulations or under the Electricity Act and rules and regulations framed therein. and resultant loss to the Complainant of her Business, Investment and accumulation of Debts to the Banks and others Loans availed by her.

4 . The Licensee's failure to act on the Complainant's request for testing of the meter vide her letter dated 05.03.2013 ; 08.04.2013 and 20.05.2013 till very recently the Licensees has to pay Compensation under Clause IV to Schedule III of the Standards of performance (regulations) 2009.

The Complainant/Consumer reserves her right to submit her further arguments if need be in future.

Therefore, the Complainant/ Consumer most respectfully prays the Hon'ble Office of the Ombudsman to kindly be pleased to Order:

- (1) Refund of the Deposit amount of Rs 7,15,000 + Rs 1,26,800 with interest at the rate of 18% per Annum from the date of Deposit till Discharge.
- (2) Refund a sum of Rs.30,07,073/- listed in her letter dated 29.09.2023 to the Hon'ble CGRF with interest at the rate of 18% per annum from the respective dates of payment till complete discharge.
- (3) Payment of Compensation for debts to the Bank for a minimum sum of Rs.1,10,00,000/- with interest from 2013 till date wherein the complainant's loan was declared a non performing Asset. (NPA) by the Bank.
- (4) Payment of Compensation of Rs.35,00,000/- with Interest at the Rate of 18 percent per annum from 2010 till date towards loss of installation and erecting of the industry.
- (5) Payment of Compensation for not Testing the Meter despite Complainant's request vide letters dated 05.03.2013; 08.04.2013 and 20.05.2013 till date in due compliance of Clause IV to Schedule III of the Standards of performance (regulations) 2009.
- (6) Cancel all the bill generated since the installation of the Defective meter and failed to test the same despite complainant's repeated requests as Void Ab-Initio and Non-Est In the Eye of Law.

And Thus Render Justice to a Women Entrepreneur who has been decimated by the Licensee Department to Penury by their Commissions and Omissions while discharge of their duties in utter disregard of the Law in general and Electricity Act, Electricity Code of Conduct and relevant Regulation applicable to them Specifically.

The written submissions by the appellant have been taken on record.

Having heard both the parties at length and relying upon the material on record it is an admitted fact the

- A. The appellant's representation/appeal is dismissed.
- B. The Order dated 10/10/2023, in Complaint No- 116/2023, issued by Learned CGRF- Puducherry, is upheld.

There has been an inordinate delay in execution of this case when the new connection was to be installed. The Appellant took almost six months to apply for connection after obtaining the Technical Feasibility on 29.06.2010.

ED Puducherry also took more than three weeks (from 02.06.2010 to 29.06.2010) to provide TF and took another five months to provide the estimates. As per Clause 5.3 of Supply Code 2018

“The Licensee shall examine the technical feasibility of the connection applied for from their distribution mains and conduct the inspection within 5 working days of the receipt of application.

The Appellant again took almost three months to deposit SD of Rs 7,16,000/- and MSD of Rs 15,000/- before the connection is finally energized on 06.11.2011.

- C. Thereafter, the Appellant vide her letter dated 21.02.2013 has disputed billing of January 2013, bill stating that her bill increased by 55% as compared to December 2012 bill. The meter has been tested by the department on 28.02.2013 and the meter testing results were found to be within the permissible limits. The sequence of operations had been made in the presence of Appellant. The test report is duly signed by the Appellant.
- D. As per the meter testing report dated 28.02.2013 submitted by HTM Sub-DIVISION E.D. Puducherry duly signed by the appellant the energy meter found to be working within the permissible limits of accuracy.
- E. Further as per the Load Survey data downloaded from the energy meter for the period 21.12.2012 to 28.02.2013 it is clearly evident that the load on the meter exists for all three shifts as such the contention of the Appellant that the electricity is used for only one shift cannot be exceeded to. The Load Survey data as extracted from the meter on 28.02.2013 has also been analyzed in the presence of the Appellant and explained to her by the team as well. The data revealed that load in continuous and in all the Three shifts.

Sl. No.	Date	Per day KWh consumption	MF	Resultant consumption per day units
1	21-12-2012	2.5289	800	2023.12
2	22-12-2012	2.0076	800	1606.08
3	23-12-2012	1.1653	800	932.24
4	24-12-2012	3.1830	800	2546.40
5	25-12-2012	4.8326	800	3866.08
6	26-12-2012	4.7741	800	3819.28
7	27-12-2012	6.1532	800	4922.56

Sl. No.	Date	Per day KWh consumption	MF	Resultant consumption per day units
8	28-12-2012	3.6429	800	2914.32
9	29-12-2012	3.7284	800	2982.72
10	30-12-2012	3.9322	800	3145.76
11	31-12-2012	3.6460	800	2916.80
12	01-01-2013	5.7005	800	4560.40
13	02-01-2013	4.7948	800	3835.84
14	03-01-2013	5.2888	800	4231.04
15	04-01-2013	6.2490	800	4999.20
16	05-01-2013	3.4462	800	2756.96
17	06-01-2013	1.3023	800	1041.84
18	07-01-2013	1.8006	800	1440.48
19	08-01-2013	6.7168	800	5373.44
20	09-01-2013	5.9983	800	4798.64
21	10-01-2013	4.7517	800	3801.36
22	11-01-2013	1.0909	800	872.72
23	12-01-2013	5.7551	800	4604.08
24	13-01-2013	5.9942	800	4795.36
25	14-01-2013	3.9512	800	3160.96
26	15-01-2013	5.9161	800	4732.88
27	16-01-2013	1.9165	800	1533.20
28	17-01-2013	2.2537	800	1802.96
29	18-01-2013	4.2313	800	3385.04
30	19-01-2013	5.1010	800	4080.80
31	20-01-2013	5.3953	800	4316.24
32	21-01-2013	3.6591	800	2927.28
33	22-01-2013	5.8330	800	4666.40
34	23-01-2013	5.1794	800	4143.52
35	24-01-2013	4.9477	800	3958.16
36	25-01-2013	3.0954	800	2476.32
37	26-01-2013	6.9758	800	5580.64
38	27-01-2013	6.3529	800	5082.32
39	28-01-2013	3.5256	800	2820.48
40	29-01-2013	6.4917	800	5193.36
41	30-01-2013	6.8504	800	5480.32
42	31-01-2013	6.2779	800	5022.32
43	01-02-2013	6.4934	800	5194.72
44	02-02-2013	6.2280	800	4982.40
45	03-02-2013	6.7868	800	5429.44

Sl. No.	Date	Per day KWh consumption	MF	Resultant consumption per day units
46	04-02-2013	6.2124	800	4969.92
47	05-02-2013	4.7806	800	3824.48
48	06-02-2013	2.9264	800	2341.12
49	07-02-2013	4.7221	800	3777.68
50	08-02-2013	5.0897	800	4071.76
51	09-02-2013	5.0178	800	4014.24
52	10-02-2013	1.5235	800	1218.80
53	11-02-2013	4.2911	800	3432.88
54	12-02-2013	5.5222	800	4417.76
55	13-02-2013	6.5484	800	5238.72
56	14-02-2013	5.4741	800	4379.28
57	15-02-2013	4.7701	800	3816.08
58	16-02-2013	5.6659	800	4532.72
59	17-02-2013	1.2125	800	970.00
60	18-02-2013	5.3253	800	4260.24
61	19-02-2013	2.5879	800	2070.32
62	20-02-2013	4.0913	800	3273.04
63	21-02-2013	6.0759	800	4860.72
64	22-02-2013	6.0835	800	4866.80
65	23-02-2013	2.2451	800	1796.08
66	24-02-2013	3.4951	800	2796.08
67	25-02-2013	3.9957	800	3196.56
68	26-02-2013	2.0982	800	1678.56
69	27-02-2013	4.5398	800	3631.84
70	28-02-2013 (upto 11:46hrs.)	2.1823	800	1745.84

Thereafter, the Power supply was disconnected/reconnected multiple times on deposit of part-payments between 2013 and 2014 and the meter was finally disconnected on 25.11.2014.

The appellant is not consistent in making the payments regularly due to which the dues piled up to the tune of 67,89,733 up to May 2015. She did not pay the bill to clear her liabilities. It is only on 13.07.2022 the appellant had requested for permanent disconnection of HT service connection.

In between 2015 and 2023 no reference is available on record which testifies appellants request for meter testing by Third Party Testing Lab in accordance with Regulation 6.36 – 6.39 of JERC Supply Code 2018. It was only in August 2023 the reference has been made during the hearing with Ld.

CGRF Puducherry on dated 24.08.2023 wherein the directions have been issued to the Respondent E.D. to get the meter tested by CPRI (Third Party Testing Lab accredited by NABL).

Further, as directed by Ld CGRF for getting the meter tested by Third Party testing lab accredited by NABL, Respondent Executive Engineer E.D Puducherry complied with Regulation 6.36-6.39 to get the meter tested by CPRI (Third party NABL accredited lab).

The CPRI replied through mail dated 04/09/2023 that they are directed not to take up the meter testing related with Consumer Redressal Forum issues / complaints / court cases issues. The same was communicated to the Complainant vide letter dated 11/09/2023 and also requested to offer their willingness to get the mandatory testing of the existing HT static Tri vector meter at their own cost through any other testing agencies accredited by NABL.

i. The Complainant is directed to choose one of the NABBL, accredited institutes for testing the accuracy of meter at her own cost as per the list communicated by the Respondents vide letter dated 25/08/2023 and intimate the same to the Respondents immediately to take further action.

ii. The Respondents are directed to take immediate action on receipt of the request from the Complainant after collecting necessary charges for testing.

The Executive Engineer, E.D. Puducherry took up the issue related to meter testing up with TANGEDCO (TAMIL NADU GENERATION AND DISTRIBUTION CORPORATION Ltd) TESTING LABORATORY in accordance with the orders of Ld CGRF. Executive Engineer TANGEDCO Testing Laboratory vide his letter No EE/TTL/AEE/F-NABL/D 175/2023 DT 25.10.2023 has informed that "testing scope of TANGEDCO Testing Laboratory, Chennai 02 covers only the latest IS 14697:2021 for testing of static Tri Vector metre. Hence the test report would be given only under non NABL scope if tested as per IS 14697: 1999.

As per the material available on record it is an admitted fact that the Energy bill kept on accumulating to the tune of Rs 67,89,733 up to May 2015 (including six months Minimum Charges from December 2014 to May 2015) and the meter has also been removed on 25.11.2014. A letter dated 18.10.2022 has been sent to the appellant by SAO-I vide his letter No 497/ED/SAO/HT/A-1/2022-23/191 dated 18.10.2022. The electricity connection vide Consumer Code 497 is also permanently disconnected in records. The arrears of 67,89,733/- are still existing against the consumer code 497 owned by the appellant.

After the hearing on 26.12.2023 the appellant has submitted another representation vide her Email dated 28.12.2023, has submitted that she is not well as she is suffering from hypertension and

fluctuating Blood Pressure, she is not in a position to submit the request for meter testing. Further, she has enclosed another letter dated 27.12.2023 in her Email dated 27.12.2023 explaining therein, the intricacies of her manufacturing unit but she failed to submit an application giving her consent to get the meter tested by ETDC or any other preferred NABL accredited lab in accordance with the Regulation 6.36 of Supply code 2018 which read as under: -

The meter may be tested for accuracy at a third-party facility, if so desired by the consumer. The list of third-party agencies, which are accredited by NABL (National Accreditation Board for testing and Calibration Laboratories) shall be available on the website of the Licensee:

Provided that in case of testing on the consumer's request, the consumer shall have to pay the testing fee as per the cost specified by the Licensee with the approval of the Commission:

Provided further that if the meter is found to be defective / burnt due to technical reasons attributable to the Licensee, viz., voltage fluctuation, transients, etc., the Licensee shall refund the test fee to the consumer by adjustment in the subsequent bill.

The additional representation filed by the appellant vide her Email dated 27.12.2023 mentioning therein that the machines installed in the Industrial unit were defective/in-operational cannot be corroborated with the Load Survey data of the downloaded meter data.

Such conduct on the part of appellant cannot be appreciated when she had filed an appeal before Ombudsman but do not comply with the orders and adopts to delay tactics. This indicates that she is not willing to get the present dispute to be concluded.

The appellant vide E mail dated 28.12.2023 has submitted another request seeking 7 to 8 days to submit her consent for meter testing by third party NABL accredited lab on citing health issues.

Hearing no response from the appellant for almost 8 days the hearing was fixed for 9.01.2024. The appellant once again vide her Email dated 08.01.2024 requested for another adjournment.

Ombudsman vide Email dated 08.01.2024 denied any further adjournment and fixed the next date of hearing as 09.01.2024.

Ld Counsel for appellant, Mr Vimal submitted that he will submit the appellant consent for getting this meter tested by ETDC and accordingly submit a request along with undertaking for depositing the meter testing fees on 9.01.2024 itself.

Executive Engineer E.D Puducherry vide Email dated 10.01.2024 has informed that on 09-01-2024 the ETDC, Chennai testing agency contacted through phone regarding testing of HT static Trivector

consumer meter and ETDC have informed that the standard instruments are under calibration process and it will take one month or more for testing the meter. Further they have also informed that the testing of meter will be carried out as per IS 14697/2021. However, to safeguard the customer right to get the meter tested by a third party NABL accredited lab it is permitted to get the meter tested through another approved Third Party Testing Lab accredited by NABL. The appellant was directed to give their consent and undertaking for bearing the cost of testing and Executive Engineer E.D. Puducherry to submit the report within one week after the deposit of request by appellant and payment for meter testing. Thereafter, the matter was taken up by ED Puducherry with TANGEDCO vide their letter dated 10.01.2024 (another NABL accredited lab) for testing of meter and they agreed to test the meter. Since, nine years have lapsed since the meter has been removed from site and kept in HT meter yard, the status of working of meter cannot be ascertained. TANGEDCO vide their letter dated 18.01.2024 has intimated that before sending the meter to lab its healthiness may be ascertained.

The appellant had submitted her request for meter testing on 09.01.2024.

Accordingly, appellant was requested to submit her willingness once again as preferred earlier to conduct mandatory test required to assess the recording performance of various energies as per IS 14697/1999 or IS 14697/2021 on the existing HT static Trivector at their cost through TANGEDCO, NABL Testing Laboratory, Chennai to proceed further.

As per the direction of Electricity Ombudsman conveyed during the hearing on 12-02-2024, it is proposed to conduct the powering up of consumer HT meter at Electricity Department Laboratory on 14-02-2024 between 10:00 AM to 01:00 PM to assess its healthiness as required by the TANGEDCO, Testing Laboratory, Chennai - 600 002 so as to send for further Testing meter to TANGEDCO, NABL Testing Laboratory, Chennai. The schedule of powering up the meter was mailed to the appellant vide letter No. 1472/ED/AE-HTM/F.Firdaus/2023-24, dt.12-02-2024.

The Appellant has already given her consent for powering up the meter on 14-02-2024 during the Hon'ble Electricity Ombudsman third hearing (Video conference) on 12-02-2024.

As such to conduct and witness the powering up of meter following officials, Appellant and her representatives were present at HTM Sub- Division on 14-02-2024 at 10:00 AM.

1. The Executive Engineer-MRT & MMC
2. The Assistant Engineer-Bahour SS
3. The Assistant Engineer-HTM
4. The Junior Engineer-Bahour O&M



5. The Junior Engineer-HTM
6. Tmt. A. Ameena - Appellant
7. Thiru. Abdul Waheeb - Appellant Representative
8. Thiru. Vimal Kumar - Appellant Advocate

The consumer HT Trivector meter bearing Sl. No. 12037040, L&T make, YoM 2012 connected to the test bench and only voltage connections were given to the meter through 3-phase variac and MCB. Voltage source switched ON at 11:15 AM without any load (zero load) and the voltages gradually increased from zero, ultimately applied the following voltages recorded through multi-meter.

R-N	58.93 V
Y-N	58.18 V
B-N	61.27 V

After applying the above voltages to the consumer meter, display was not turned ON.

However, the above voltage was applied to the consumer meter till 12:40 PM. Until then meter display was not turned ON.

Since humming sound and some different smells were observed from the test bench, after informing it to the Appellant voltage applied to the meter was switched OFF at 12:40 PM for safety purpose. The meter connections were removed from the test bench at 12:45 PM.

The meter terminal cover was sealed by the following Department numbered seals

Left	A00006279 (Blue colour)
Right	A00006280 (Blue colour)

Since the meter was kept idle (after disconnection of supply) since 25.11.2014 (when the meter was removed) and it is more than 9 years this meter is out of use, there is every possibility that the internal battery of the meter has been drained out. No doubt that electronic meter has a useful life of more than 15 years but at the same time it does not have a shelf life of more than Two years. Since this meter is not getting Powered ON we do not have any other option left but to rely on the testing results of dated 28.02.2013 which has already been witnessed by the Appellant.

The load survey data extracted from the meter has the data at 30 minutes interval. The load survey data for 71 days at 30 minutes interval has been analyzed and found that there exists load in all the three shifts and the appellants submission that the load is used only for one shift cannot be accepted.

Now since the meter is not getting POWERED ON there is no other technical alternative available to test the meter for its accuracy as such the test results of dated 28.02.2013 which is within the permissible limits has to be accepted. The meter testing results are as under:

	KWH	KVAH	KVARH Lag
Percentage error	+0.34%	+0.15%	-0.21%

Maximum Demand report and Daily consumption report from 21/12/2012 to 27/02/2013 clearly shows that the meter is working satisfactorily during the dispute period. The maximum KVA demand reached from 21/12/2012 to 27/12/2013 are as follows:

Sr No	Month	MD Reached	Date of MD	MF	Resultant MD
1	December 2012	0.3736	27/12/2012	800	298.88 KVA
2	January 2013	0.3762	01/01/2013	800	300.96 KVA
3	February 2013	0.3828	06/02/2013	800	306.24 KVA

As such the working of the Trivector meter cannot be doubted. The demand raised by the E.D Puducherry is also in accordance with the tariff provision as applicable from time to time but the appellant is not regular in making payments to the department right from the beginning. Department has also accommodated her requests from time to time, for getting the power restored on payments of part payment but the appellant has not kept the promise to pay the demand charges due to which the demand accumulated to the tune of 67,89,733 up to May 2015.

The Refund of the Deposit amount of Rs 7,15,000 + Rs 1,26,800 with interest at the rate of 18% per Annum from the date of Deposit till Discharge as mentioned in the written arguments submitted by the appellant are not legally permissible in view of the clause 5.12 & 5.13 of JERC supply Code 2018.

5.12. *In case the connected / contracted load of any new connection as submitted in applicable forms is 100 kVA or more, a separate transformer of adequate capacity shall be installed at consumer's cost. The space/ room required for housing the transformer, substation, switch gears, meters and panels shall be provided by the consumer, free of cost, which is easily accessible to the Licensee:*

Provided that for any new connection with connected /contracted load lower than 100 kVA also, Licensee may install a separate transformer if requested by the consumer, at consumer's cost.

5.13. *The service connection / extension of distribution mains, notwithstanding that it has been paid for by the consumer shall be the property of the Licensee. The*

*Licensee shall maintain it at its cost and shall also have the right to use the same service connection / extension for supply of energy to any other person but such extension or service connection should not adversely affect the supply to the consumer who paid for the extension of the distribution supply network and shall be subject to the concurrence of original consumer as per Regulation **Error! Reference source not found.***

As far as the security deposit is concerned the same can be refunded to the consumer on termination of agreement within 30 days of adjustment of all dues in accordance with the Clause 5.133 of JERC Supply Code 2018.

5.133. The security deposit shall be returned to consumer upon termination of Agreement within 30 days of adjustment of all dues. In case of delay, interest equivalent to the State Bank of India Base Rate on the 1st of April of that year shall be payable to the consumer.

In this case since there is already an outstanding dues pending against this connection, it is also not permissible.

The other compensations as raised by the appellant in written arguments are also not legally permissible in the light of detailed observations given in the order.

As such the department is directed to initiate recovery process for recovery of outstanding dues, as per the rules.

The Electricity Department/Licensee should submit a compliance report to the office of Electricity Ombudsman on the action taken in this regard within 45 days from the issuance of this Order by email.

The appeal is disposed of accordingly.



(C M SHARMA)

Electricity Ombudsman

For Goa & UTs (Except Delhi)

Dated: 13.03.2024

