

CONSUMER GRIEVANCE REDRESSAL FORUM

CENTRAL REGION

(Formed under Section 42(5) of the Electricity Act 2003)

220 kV Substation Compound, HMT Colony P.O. Kalamassery, Pin – 683 503

Phone No. 0484-2556500 Website: cgrf.kseb.in, Email: cgrf.ekm@gmail.com,

CUG No. 9496008719

Present	(1) Smt.Sheeba. P (2) Smt. Jayanthi. S (3) Sri. Biju Varghese	Chairperson 2nd Member 3rd Member
Petitioner	Mr. Tony Thomas, Managing Director, M/s. Unipack India (P) Ltd., Edayar	
Respondent	1) The Deputy Chief Engineer, Kerala State Electricity Board Ltd., Electrical Circle, Perumbavoor (Ele.Section, Edyar) 2) The Special Officer (Revenue) Kerala State Electricity Board Ltd., Thiruvananthapuram- 4	

No.CGRF-CR/OP No.115/2023-24

Date: 02.05.2024.

ORDER

Background of the case:

The petitioner, M/s. Unipack India (P) Limited, is a High Tension Consumer [HT-I(A)] under Electrical Section, Edayar, with consumer No. 1357120052681 (LCN No. 3/8284), falling under the jurisdiction of the Deputy Chief Engineer, Electrical Circle, Perumbavoor, Ernakulam. They have received a disconnection notice dated February 18th, 2024, from the licensee, citing the reason that Rs. 2,051,836/- is due from the petitioner towards arrears of current charges. The petitioner claims that almost all payments shown as due in the

disconnection notice have already been remitted. Therefore, the petitioner seeks to resolve the dispute by filing a complaint before this forum.

Version of the Petitioner:-

On receiving a disconnection notice dated 18.11.2023 , the petitioner had discussed with the accounting section of the office of Special Officer Revenue of the licensee in regard with the payments made by him and pointed out the errors in the notice. The licensee assured that fresh notice would be issued after checking the payments.

The petitioner received another notice dated 18.12.2023 on the same matter and replied on 17.02.2024. Since there was no response from the licensee, the petitioner made a personal visit with Special Officer Revenue and discussed errors in the notice and the details of payments made. Again, another disconnection notice dated 18.02.2024 was received from the licensee. The officials of the Electrical Section Edayar also contacted the petitioner for disconnection.

The petitioner claims that almost all payments which included in the demand notice have already been made to the account of the licensee. The petitioner filed this complaint for resolving the dispute on arrear amount demanded by the licensee. The petitioner also requests to an order of stay in all further proceedings including disconnection in regard with the demand notice until the disposal of this complaint by the forum.

Interim order

On request of the petitioner, an interim order has been passed by this forum on 04.03.2024, in which the respondent was directed not to disconnect the service connection of the petitioner on the ground of non-payment of the disputed amount till this petition is finally disposed by the Forum, if 50% of the disputed amount is remitted by the petitioner.

Version of the Respondent (SOR):-

M/s. Unipack India (P) Limited is a High Tension Consumer [HT – I(A)] under Electrical Section, Edayar with consumer No.1357120052681 (LCN No.3/8284) under the jurisdiction of Deputy Chief Engineer, Electrical Circle, Perumbavoor. The respondent states that the petitioner is a defaulter in payment of electricity charges and arrear from March 2020 is still pending for recovery. As on 11.04.2024 an amount of Rs.26,11,952/- is pending against the consumer, which excludes the interest portion.

The respondent had issued an arrear Notice dated 18.12.2023 to the petitioner invoking Section 56(1) of the Electricity Act 2003 read with Clause 138 and 139 of the Kerala Electricity Supply Code 2014. Then, a notice of disconnection as per Section 56(1) of Electricity Act 2003 was served for arrears amounting to `20,51,836/- on 18.02.2024.

The respondent also states that remittance details, as shown in the complaint of petitioner from 05.04.2023 to 06.02.2024 amounting to `9,89,261/- has already been properly accounted in licensee's billing software , *ENRGISE*. Since the consumer is irregular in making their payments, remittance once made shall not be adjusted against that particular invoice. The system deducts the amounts paid as per the order of priority envisaged in Regulation 133 of the Kerala Electricity Supply Code, 2014.

Regulation-133. Appropriation of the amount received.- *All payments made by the consumer shall be adjusted in the following order of priority:-*

- (i) interest on electricity duty arrears;*
- (ii) electricity duty arrears;*
- (iii) interest on electricity charge arrears;*
- (iv) electricity charge arrears;*
- (v) dues of current month.*

The respondent, further, points out that as per regulation 131(2) of the Kerala Electricity Supply Code 2014, “If the consumer fails to remit the bill amount on or before the due date, the licensee is entitled to recover interest on the amount of the bill at the rates specified in the Schedule of Miscellaneous Charges as per Schedule 1 of the Code”. As per Section No.12 of the Schedule 1 of the Code, rate of interest for delayed payment is 12% per annum based on the actual number of days from the due date up to a period of 30 days and thereafter at the rate of 18% per annum for the entire period of default from the due date.

The respondent alleges that the mala fide intention of the petitioner is to delay the remittance procedure by filing Appeal Petitions before various Legal Fora. The respondent also says that regulations of Kerala Electricity Supply Code 2014 and the conditions of Electricity Act 2003, cannot be challenged before the Hon'ble Forum.

Version of the Respondent (Dy.CE, Perumbavoor):-

The Deputy Chief Engineer, Electrical Circle Perumbavoor has not forwarded any further points in addition to the statements of Special Officer Revenue, but repeated the same.

Analysis and findings:

Hearing was conducted at the chamber of the Chairperson, Consumer Grievance Redressal Forum, Ernakulam. The Forum afforded an opportunity to hear the Petitioner and the Respondent on 23-04-2024. Both the representatives of the petitioner and the respondent were present for hearing. Having examined the petition in detail and the statement of facts of the respondent, considering all the facts and circumstances in detail and perusing all the documents of both sides, the Forum comes to the following observations, conclusions and decisions thereof.

The petitioner, M/s. Unipack India (P) Limited, is a High Tension Consumer [HT-I(A)] under Electrical Section, Edayar, with consumer No. 1357120052681 (LCN No. 3/8284), falling under the jurisdiction of the Deputy Chief Engineer,

Electrical Circle, Perumbavoor, Ernakulam District (Electrical Section, Edayar). They have received a disconnection notice dated February 18th, 2024, from the licensee, citing the reason that Rs. 20,51,836/- is due from the petitioner towards arrears of current charges. The petitioner claims that almost all payments shown as due in the disconnection notice have already been remitted. Therefore, the petitioner seeks to resolve the dispute by filing a complaint before this forum.

Furthermore, during the hearing, the petitioner revealed that the Hon'ble Kerala Electricity Ombudsman issued an order dated December 9th, 2022 on Appeal Petition No. P/073/2022, in their favour. This order directed the licensee to waive the demand charges imposed on the petitioner for the disconnection period exceeding 180 days. The petitioner contends that if the licensee had complied with this order, there would be no arrear amount claimed to be owed by them. Additionally, the licensee has filed a writ petition before the Hon'ble High Court of Kerala, which is pending disposal against the order of the Hon'ble Kerala Electricity Ombudsman. However, no stay order against the order of the Hon'ble Kerala Electricity Ombudsman has been issued by the Hon'ble High Court of Kerala in the writ petition filed by the licensee. The petitioner argues that since the Hon'ble High Court has not issued any stay order on the Hon'ble Ombudsman's order, it remains operative. The petitioner also argues that the bills disputed in the appeal petition before the Hon'ble Ombudsman should have been revised in light of the Hon'ble Ombudsman's order. Alternatively, the disputed amount should have been categorized as such, allowing the amount paid by the petitioner to be adjusted against other pending payments until the Hon'ble High Court finally disposes of the licensee's writ petition. The petitioner demands details of the accounting done by the licensee regarding the payments made by them and seeks implementation of the Hon'ble Ombudsman's order.

On the other hand, the respondent countered that the remitted amount of Rs.9,89,261/- during the period from April 2023 to February 2024, which the petitioner alleges to be unaccounted, has been properly accounted according to Regulation 133 of the Kerala Electricity Supply Code, 2014.

The regulation is quoted below:-

Regulation 133. Appropriation of the amount received.- *“All payments made by the consumer shall be adjusted in the following order of priority:-*

- (i) interest on electricity duty arrears;*
- (ii) electricity duty arrears;*
- (iii) interest on electricity charge arrears;*
- (iv) electricity charge arrears;*
- (v) dues of current month.”*

The respondent contends that while the matter in the order of the Hon’ble Ombudsman is still pending before the High Court, the writ petition has been accepted for further proceedings, despite no stay being issued against the Hon’ble Ombudsman's order. However, during the hearing, the respondent admitted that the balance amount, after revising the bills in accordance with the Hon’ble Ombudsman's order, should have been kept under dispute until a final decision is reached by the Hon’ble High Court.

Furthermore, the respondent informed that a writ petition challenging the interim order (Order Number. CGRF/EKM/Interim Order/504 dtd.04.03.2024.) issued by the Forum in this petition has been filed before the Hon’ble High Court of Kerala by the petitioner. However, the petitioner has informed that they withdrew the writ petitions and paid 50% of the disputed amount in compliance with the interim order of the Forum. They argued that the amount paid as per the Forum's interim order has not been accounted by the licensee. The petitioner demanded details of the accounting done by the licensee regarding this payment. This Forum acknowledges that the licensee's accounting of the payments made by the petitioner in accordance with Regulation 133 of the Kerala Electricity Supply Code, 2014, is in order. However, it's noted that there is a writ petition filed by the licensee, which is currently under consideration by the Hon’ble High Court of Kerala concerning the amount set aside in the order of the Hon’ble Kerala Electricity Ombudsman. Since no stay order has been issued by the Hon’ble High Court of Kerala during the consideration of the writ petition, the amount set aside

according to the Ombudsman's order must be kept in the disputed category from the date of the order of the Hon' Kerala Electricity Ombudsman's until the final decision of the High Court in the writ petition filed by the licensee. The payments made by the petitioner should be accounted in accordance with Regulation 133, considering that the petitioner liable to pay the amount under dispute in the writ petition after the final decision of the Hon'ble High Court of Kerala in this regard is ordered.

DECISION:

Considering the above facts and circumstances, the Forum issues the following orders: -

- 1. The respondent shall adjust all payments made by the petitioner in accordance with Regulation 133 of the Kerala Electricity Supply Code, 2014, keeping in dispute the amount found non-payable by the Hon'ble Kerala Electricity Ombudsman in its order dated December 9th, 2022, on Appeal Petition No. P/073/2022 until the final decision of the Hon'ble High Court of Kerala.**
- 2. No other costs are ordered.**

The petitioner is at liberty to file appeal before the State Electricity Ombudsman, D.H. Road, Off shore Road Junction, Near Gandhi Square, Ernakulam, Pin – 682 016 (Ph: 0484 -2346488 , Mobile No. 8714356488) within 30 days of receipt of this order, if not satisfied with this decision.

Dated this 2nd day of May,2024

Sd/-

Biju Varghese
3rd Member
CGRF, Ernakulam

Sd/-

Jayanthi S.
2nd Member
CGRF-CR, Ekm

Sd/-

Sheeba. P
(CHAIRPERSON)
CGRF-CR, Ernakulam

Endt. On CGRF-CR/OP No.115/2023-24 Dated

Delivered to:-

Mr. Tony Thomas,
Managing Director,
M/s. Unipack India (P) Ltd., Edayar.

Sd/-
CHAIRPERSON
(DEPUTY CHIEF ENGINEER)
CGRF-CR, KALAMASSERRY

Copy submitted to: 1)The Secretary, KSEBL, VydhyuthiBhavanam, Pattom,
Thiruvananthapuram.
“ 2) The Secretary, Kerala State Regulatory Commission,
KPFC Bhavanam, C.V Raman Pillai Road, Vellayambalam,
Thiruvananthapuram.

Copy to: 1) The Deputy Chief Engineer, Kerala State Electricity
Board Ltd., Electrical Circle, Perumbavoor
2) The Special Officer (Revenue), Kerala State Electricity
Board Ltd., VydhyuthiBhavanam, Thiruvananthapuram