



# TAMIL NADU ELECTRICITY OMBUDSMAN

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## BEFORE THE TAMIL NADU ELECTRICITY OMBUDSMAN, CHENNAI

**Present: Thiru. A. Dharmaraj. Electricity Ombudsman**

**Appeal Petition No. 48 of 2016**

Tmt. M.R. Saradha,  
No.11, Lakshmi Nagar Extension,  
Jupiter Backside Street,  
Tiruppur – 2.

. .... Appellant  
(Thiru. Sreekumar Raju, Advocate)

Vs

1) The Superintending  
Tiruppur Electricity Distribution Circle  
TANGEDCO,  
18A, Jyothi Nagar,  
Perumanallur Road,  
Tiruppur.

2) Executive Engineer,  
Tiruppur,  
Tiruppur Electricity Distribution Circle  
TANGEDCO,  
Kumar Nagar, Avinashi Road,  
Tiruppur.

. .... Respondent  
(Thiru. G. Sivasami, EE/Tiruppur on 4.10.2016 &  
Thiru. S. Anand, AEE/Tiruppur on 3.11.2016)

**Date of hearing : 6.9.2016, 4.10.2016 & 3.11.2016**

**Date of Order : 22.3.2017**

The Petition dt. 11.6.2016 filed by Tmt. M.R. Saradha, Tiruppur,  
was registered as Appeal Petition No.48 of 2016. The above appeal petition  
came up before the Electricity Ombudsman for hearing on 6.9.2016, 4.10.2016 &

3.11.2016. Upon perusing the appeal petition, counter affidavit of the Respondent written arguments of both parties and after hearing both sides, the Electricity Ombudsman passes the following order.

### **ORDER**

#### **1. Prayer of the Appellant :**

The Appellant prayed to set side the order in உ.செ.பொ/இ&பே/ பிரி/வேகா/ திரு/கோ.தனி/வ. எண்.88/2016 நாள் 24.5.16 wherein it was levied to pay a sum of Rs.14,31,685/- due to defect in the meter.

#### **2. Brief History of the case :**

- 2.1 The Appellant obtained service connection No.205-007-393 and utilized the same for manufacture of Ice cubes. The sanctioned load of the service connection is 25HP + 2500W at the time of effecting the service connection. Additional load of 25HP + 300 watts was effected to the said service on 1.12.2010. Therefore, the total connected load of the service connection is 50HP+2800 watts.
- 2.2 The said service connection was inspected by the Assistant Executive Engineer, Enforcement and Assistant Exe. Engineer/O&M, Tiruppur on 28.10.2015. During the inspection, it was found that R phase voltage was not recorded in the meter and consequently the consumption of R phase has not been recorded in the meter.
- 2.3 When the recorded details were downloaded through the CMRI and on analysis, it was found that the R phase voltage was missing from 1.12.2010. Accordingly, the consumption that was not recorded from

1.12.2010 to 28.10.2015 was worked out as 2,45,947 units and the Appellant was directed to pay a sum of Rs.14,34,452/- vide notice dt.12.11.2015. However, on recalculation it was informed to the Appellant to pay a sum of Rs.14,31,685/- vide notice dt.23.11.2015.

2.4 The Appellant filed a petition in W.P.No.39206 of 2015 before the Hon'ble High Court of Madras, and the Hon'ble Court has directed the petitioner to remit a sum of Rs.4,00,000/- on or before 28.12.2015 and then file a petition before the CGRF and the CGRF shall consider the application on merits and in accordance with law.

2.5 As directed by the Hon'be High Court of Madras, the Appellant deposited a sum of Rs.4,00,000/- with the licensee and filed the petition before the CGRF of Tiruppur EDC.

2.4 The CGRF of Tiruppur EDC has issued its order on 29.2.2016. Aggrieved by the order of the CGRF the Appellant filed this appeal petition before the Electricity Ombudsman.

### **3.0 Orders of CGRF :**

The CGRF of Tiruppur EDC has issued its Order on 29.2.2016. The relevant para of the order is extracted below: -

#### **“Findings of the Forum:**

*On hearing the petitioners representative's statement , it is come to know that the SC was utilized for ice factory run by the representative . It was informed by the petitioner that the meter defect was not known and stated that the agencies were inspected the SC in the past five years and they were not informed about the meter defect .Only after five years the inspecting authority , i.e., enforcement wing inspected the SC and informed as meter*

*defect i.e., One Phase consumption not recorded in the meter and based on that licensee was issued a notice to pay Rs 14,31,365/- for the One Phase voltage not recorded period from 01.10.2010 to 31.10.2015. For the meter defect from 01.10.2010, the notice was issued by the licensee only after five years and insisting to pay within seven days is not in order and the petitioner is not responsible for the meter defect .*

*The petitioner is paying monthly consumption charges regularly as demanded by the licensee. For cancellation of demand notice and issued for non disconnection of SC the petitioner went to Hon'ble High Court/Chennai and got order for non disconnection of SC and filed petition in CGRF for cancellation of demand notice issued by the licensee. The licensee stated no agency had inspected the SC before Five years period and only the assessor takes the meter reading every month and will report when meter is struck up. In this case after inspection of SC by enforcement wing it was found that the non record of One Phase.*

*consumption in the meter on 28.10.2015 and the released meter was taken for testing to MRT/Tiruppur and found One Phase consumption was not recorded from 01.10.2010 to 31.10.2015 and assessed not recorded units and informed to licensee. Based on this the licensee had issued notice for the period from 01.10.2010 to 31.10.2015. The forum requested the petitioner the production details for considering petitioner's request for reducing the amount to be paid and from the statement it is understood that the petitioner has not filing any return to the sales tax department and due to this the consumption pattern could not be ascertained.*

**Order of the forum:**

*On hearing both the arguments of petitioner and the licensee and also the records produced by the licensee and as per the TNERC regulation, the forum decides that the demand issued already by the licensee is in order . The licensee should send a demand notice to the petitioner immediately on receipt of this order and the petitioner should pay the amount within 30 days of the receipt of demand notice. "*

**4.0 Contentions of the Appellant furnished in the Appeal Petition:**

4.1 The CGRF has issued its order in one line. It has taken the view of the Executive Engineer that no sales tax return its furnished by the Appellant. As per

G.O.No.33, dt.28.3.2010, the industry is exempted from sales tax, the above has not been considered by the CGRF.

4.2 As per the Statement of TNEB, only 4,91,894 units were said to be recorded for the 1855 days from 1.10.2010 to 31.10.2015 (ie) an average of 265 units per day was recorded in the old defective meter.

4.3 But, after changing the old meter, only 58443 units were recorded for 219 days from 1.11.2015 to 7.6.2016 in the new meter (ie) 266 units per day was utilized.

4.4 Hence, it is proved in the defective meter, and in the new meter also the average consumption recorded per day is 266 or 265 only. Therefore, it is prayed to set aside the notice demanding a sum of Rs.14,31,685/- stating that the old meter has not recorded the actual consumption.

**5. Contentions of the Respondent furnished in the Counter :**

5.1 The Appellant is manufacturing Ice Cubes. Manufacture of ice is a seasonal business. The Ice cannot be stored for a longer period. The consumer would have manufactured ice cubes as per orders and the consumption could be based on production. The petitioner has not furnished the details in months wise about the orders for ice cubes received and the ice cubes manufactured.

5.2 Therefore, the request of the Appellant to waive the shortfall amount of Rs.14,31,685/- on the plea that the petitioner has consumed only 265 units per day from 1.10.2010 to 30.10.2015 and 266 units per day after changing the meter also is not acceptable.

5.3 As per the MRT report, the initial reading noted while effecting the additional load on 1.10.2010 is zero and the R phase supply was missing only when the consumption was at 5.05 units. Therefore, it is construed that the meter was in good condition while effecting the additional load and thereafter the R phase missing occurred and persisted upto 28.10.2015 while inspection by the Enforcement wing.

5.4 Therefore, the sum of Rs.14,31,685/- levied on the consumer is correct.

## **6.0 Hearing held by the Electricity Ombudsman:**

6.1 To enable the Appellant and the Respondents to putforth their arguments in person, hearing was conducted before the Electricity Ombudsman on 6.9.2016.

6.2 On 6.9.2016, Thiru. G. Sivasami, EE/Tiruppur the respondent -2 herein attended the hearing. But, the Appellant has not attended the hearing therefore, another hearing was scheduled on 4.10.2016.

6.3 Thiru Sreekumar Raju, Advocate, has attended the hearing on behalf of the Appellant and Thiru. G. Sivasami, EE/Tiruppur the Respondent-2 herein has also attended the hearing.

6.4 As prayed by the learned advocate, the hearing was adjourned and further hearing was conducted on 3.11.2016.

6.5 On 3.11.2016, Thiru. Sreekumar, Raju, Advocate, attended the hearing on behalf of the Appellant and putforth his side arguments.

6.6 On 3.11.2016, Thiru. S. Anand, Asst. Exe. Engineer, Tiruppur attended the hearing and putforth his side arguments.

## **7.0 Arguments putforth by the Appellant Representative on the hearing date :**

7.1 Thiru. Sreekumar Raju, Advocate reiterated the contents of the Appeal Petition.

7.2 He has also furnished a written arguments, the arguments contained in the written argument are furnished below :

(i) It is most humbly submitted that the Appellant is the owner of the premises bearing No;1 1 "Lakshmi Nagar Extension, Tiruppur, in and by which she had let out the premises to run a small cottage industry for manufacturing Ice cubes under the name and style "M/s. Tiruppur Ice". The aforementioned factory was running steadily without any hindrance under the E.B Connection No.205-007'-393, Tariff IIIB.

(ii) This being so, on 28.10.2015, the Respondents who inspected the connection had argued that the Meter Reading was R phase O.OV, Y phase 235.1 vol, B phase 235.2 vol and R phase Current 41. IA, Y phase Current 42.0, Y phase current 43.3 and had alleged that out of the 3 phase, the current was recorded only under 2 phase and had issued a Mahazar with the load check as follows:

Load Check	
மின்நுகர்வோர் பக்கம்	- 3 x 235v x42A x .99PF = 29.313 KW
மீட்டர் பக்கம்	- 2 x 235v x42A x .99PF = 19.542 KW

Would calculate the load as:

1.Compressor 2 x 15 HP	-	22.380 kw
2.Cooling Motor 3 x 3 HP	-	6.714 kw
3.Sump Motor 2 x ½ HP	-	0.746 kw
4.CFL (FTL) 2x 40w	-	0.080 kw
5.Fan 1 x 60w	-	0.060 kw
6.Exhaust Fan 1 x 1/4HP	-	<u>0.187 kw</u>
Total Electricity Load	-	<u>30.167 kw</u>

(iii) The Respondent's had alleged that from 01.12.2010 R-phase was not recorded, but the staff who frequently visited the premises for meter reading had never complained of the above alleged defect.

(iv) Subsequently, the Meter was replaced in the absence of the Appellant and ultimately the Appellant "" was directed to pay a sum of Rs.14, 34,432 revised from 01.12.2010 which the Appellant is never liable to pay.

(v) This Appellant humbly submits that it is the duty of the Respondents to conduct periodic check up and inspection with regard to the normal functioning of the meter as stipulated under law and procedure.

(vi) The Consumer Grievances Redressal Forum had failed to see that the meter testing report is an incomplete report and is not reliable and admissible in evidence.

(vii) The Consumer Grievances Redressal Forum had failed to see that the meter testing report would clearly go to show that the alleged "R- Phase" was "O" only on particular short/ minute durations, but the Respondents had categorically revised the bill from 01.12.2010 to 28.10.2015 on assumptions, presumptions and surmises.

(viii) The Consumer Grievances Redressal Forum had categorically failed to see that the revision for the alleged defectiveness in the meter had been made for past 5 years, but whereas the self serving meter test report would go to show that only on few durations the "R- Phase" was "O".

(ix) The Consumer Grievances Redressal Forum had categorically failed to see that the present Appellant had made an application to the

Respondents to send the alleged defective meter for examination by an independent Expert which had not been done amounting to violation of the principles of natural justice.

(x) The Appellant is not at all liable to pay the demanded amount, as there is no illegal consumption of electricity nor any deficit in the meter. The officials have been checking up the EB meter and on 1.12.2010 and they have changed the meter for the reasons defective which ought to have been done in '**Normal Mode** ' when there is an increase in load and on 28.10.2015 also the meter has been changed for the very same reasons "Defective". Hence, for the wrongful act and negligence on the part of the Respondents, the present Appellant cannot be made liable for a sudden demand of such a huge amount on the ground of defective meter.

(xi) The Consumer Grievances Redressal Forum had categorically failed to see that even after replacing the alleged defective meter there is no major variation in the units consumed which reveals that the previous meter alleged to be defective by the Respondents was running correctly.

(xii) The Consumer Grievances Redressal Forum had again categorically failed to see that as per the self serving meter testing report would go to show that on 01.12.2010 at about 13:35 hrs the meter was replaced and failure occurred at 5.05 kWh and thereby the Forum had deliberately failed to see that the meter alleged to be

defective had not been tested with load before affixing the same in the consumer's premises.

(xiii) The Consumer Grievances Redressal Forum had again deliberately failed to see that the Respondents have not followed the rules as specified in Rule 57(1) of the Electricity rules which had not been repealed when the Amended Electricity Act 2003 came into force.

(xiv) The Consumer Grievances Redressal Forum had also categorically failed to see that the alleged meter testing report had been done by GENUS Meters which will certainly give a report in favour of the Respondents and supporting the Electricity Board which ought to have been done by an independent expert.

(xv) The Consumer Grievances Redressal Forum had also categorically failed to see that the meter testing report does not reveal any defectiveness in the year 2011 (except the duration as mentioned in the report), in the year 2012, 2013, 2014 & 2015 (except the duration as mentioned in the report) and thereby the Respondents have categorically failed to see that the meter testing report without prejudice had been given only for a particular duration and incomplete.

(xvi) On 1.10.2010 new meter was installed to increase the load from 25 KW to 40 KW, since the previous load was not adequate, but after the load had been increased no one visited the smooth running of the

meter. The Appellant submits that on 01.10.2010 the meter in her premises was replaced for the reasons defective even though it was to be replaced under Normal Mode.

(xvii) Moreover the Appellant is not at all liable to pay the demand amount or any other amount, as there is no illegal consumption of electricity, The Officials have been periodically checking up the meter and once they had changed the meter on their own and made entries in the Records. Hence there cannot be any sudden demand of such huge amount on the ground of alleged Defective Meter, that too without sufficient opportunity to the Appellants.

(xviii). In AIR 2001, Madras, Page 117, in S.A. Ahamed Vs Tamil Nadu Electricity Board, the Hon 'ble High Court of Madras has held that the Electricity Board cannot be allowed to take advantage of their own mistakes. The following observations in paragraph 14 of the judgment read as below:

"The mistake here is arising not on account of any act on the part of the consumer. The Board cannot be allowed to take advantage of their own mistakes". The learned CGRF has failed to consider the fact that the incorrect wiring has been done by the respondent. As held by the Hon 'ble High Court of Madras, the mistakes have not been committed by the Appellant and the Respondents cannot take advantage of their own mistakes by demanding such a huge sum from the Appellant.

(xix) On mere perusal of the self serving Meter Testing Report filed by the Respondents would go to show the following readings :-

Date	Time	Duration
01.12.2010	13:35	
05.04.2011	19:45 to 22:47	000.03:02
16.05.2011	18: 11 to 18:35	000.00:24
16.05.2011 to 17.05.2011-	20: 17 to 14:24	000.18:07
17.05.2011	15:50 to 20:09	000.04:19
17.05.2011	20:50 to 21:35	000.00:45
22.05.2011	10:45 to 11:25	000.00:40
29.08.2011	12:55 to 13:47	000.00:52
15.09.2011 to 16.09.2011	23:20 to 04:44	000.05:18
17.03.2013	19:51 to 20:03	000.00:12
10.02.2015	21:09 to 21:14	000.00:05
	<b>Total Duration</b>	<b>000.32.24</b>

The meter test report would reveal the above readings alleging that the "R-phase" was "O" at the above instances only, but the Respondents had calculated the average from 01.12.2010 to 28.10.2015 even though the meter was running correctly, which is very much wrong, wherein the Respondents have overhauled the account for 5 years, whereas the no. of failure durations shown in the print out is only 000.32.24 which is small duration when there was an unbalanced current, which are un reliable. Therefore, as alleged by the Respondents, the Appellant is no way responsible to pay the alleged sum as demanded by the Respondents.

(xx) The Appellant submits that the incomplete print out of the meter

details assessed by GENUS LABS dated 06.11.2015 is not reliable in calculating the sum of Rs. 14,31,685/- and is not admissible in evidence since the aforementioned report does not mention that the meter was defective for the entire 5 years starting from 01.12.2010. This Appellant submits that there are no records to show that the alleged meter was defective right from 01.12.2010 and that electricity was consumed without meter reading in "R-Phase" right from 01.12.2010 to 28.10.2015.

(xxi) This Appellant has made an application to the Respondents dated 28.07.2016 to the Enquiry Officer Superintending Engineer to send the alleged meter to an Independent Expert so as to ascertain its accuracy. Even then the Respondents never had taken any steps to send the alleged defective meter in question to an Independent Expert and to obtain his opinion so as to be compared with the meter testing report issued by GENUS LAB. Moreover, the Respondents themselves have removed the alleged defective meter from the premises and have taken out the said meter out of the premises and had obtained a test result from GENUS Lab without the presence of the consumer.

(xxii) The Appellant respectfully submits that as per procedure and manual provisions, the meters should be tested and if necessary adjusted with the period of 24 months. Moreover, in case if the authorities of the board have discharged their above duties which they

are statutorily required to do, such alleged lapses ought to have not missed from their eyes.

(xxiii) The Appellant respectfully submits that all the meters before installation in the consumers premises is to be tested not only on the provision of Para 337 of TNEB manual volume.I, but also as per rules 57(4) of Indian Electricity Rules, 1956, it is seen that from document no.XVIII filed herewith that the service was effected with the initial reading of "0.0" on 01.12.2010 at about 13:35 hrs. Therefore, it gives room that the meter was not tested for its accuracy as contemplated under the provisions stated supra which the present Appellant fears to state that the whole acts of the Respondents raising demand recovered in the untested meter would amount defective, unlawful, illegal and untenable under law and very bad in the eye of law.

(xxiv) This Appellant respectfully states that it is well adopted procedure by the Board that whenever a meter (HT or LT) is newly installed the person who makes the initial reading in situ, should take a 2nd reading between the 7th and 10th day of service and should report to the Divisional Engineer/Executive Engineer concerned if there is any cause for suspecting that the meter is not recording correctly. Therefore, as per document The service was effected with initial reading of "0:0" which makes clear that the meter was not tested for its accuracy as contemplated under the provisions stated supra.

(xxv) The seizure maghazar dated 28.10.2015 would never reveal any fact that at the time of replacement of electrical meters, the removed meter were neither sealed nor any seizure was prepared and thereby as per Writ Petition no.11271 of 2008 rendered by Patna High Court in M/s. Centuff Safety Glass Indus vs The Bihar State Electricity Board would come to the rescue of the present Appellant wherein the punitive bills issued as against the Appellant in pursuance to the Analysis report submitted by GENUS Meters Limited.

(xxvi) This Appellant further submits that the enforcement wing of the Respondents had on 2 occasions in the year 2013 and also in the end of the year 2014 had carried out inspection and had never complained of defectiveness in the meter and have also made entries relating to the same. Thereby, the Appellant herein had also issued .a Petition under Right to Information Act on 05.09.2016 requesting the details of inspection carried out by the inspection wing so as to prove the defectiveness of the alleged meter if any, but so far the Superintending Engineer/Enforcement Wing) had not come forward to provide the details of inspection carried out during 2013 & 2014 which again creates a doubt on the Respondents in revising the alleged shortfall for 5 years which is violative under law and the principles of natural justice. Moreover it is prayed before this Tribunal that this Tribunal shall summon the entire records relating to the

same so as to ascertain the inspection Report made in the year 2013 and 2014 to come to the conclusion whether the alleged meter was at fault.

(xxviii) Therefore, for the reasons aforementioned the Appellant herein most humbly submits that the Respondents have to their whims and fancies calculated the average 1/ 3rd reading for the entire 5 years which is not correct and without prejudice if this Tribunal comes to a conclusion that the meter was defective, it should be only for the duration mentioned in the alleged meter test report and thereby the calculation should have been based on the durations found in the meter test report and not as calculated by the Respondents. Thereby, the Appellants most humbly prays that this Hon 'ble Tribunal may kindly be pleased to set aside the demand made by the Respondents directing the Appellant to pay a sum of Rs.14,31,685/ - and also to order refund of the sum of RS.5 lakhs paid as security bonafides as per the direction of the Hon 'ble High Court besides to award compensation to the Appellant for the dereliction in duty and negligence.

(xxix) Whether there was any increase in consumption units after the change of the alleged defective meter?

( The meter readings of pre and post meter replacement are as follows:-

Month/Year	Reading date	Entry date	Assessment Units	Average Units per day
04/2015	18/04/2015	20/04/2015	23790	396.50
06/2015	18/06/2015	19/06/2015	21500	358.33
08/2015	21/08/2015	24/08/2015	22080	368.00
10/2015	23/10/2015	26/10/2015	19770	329.50

**10/2015 METER CHANGED/REASON DEFECTIVE**

Morith/Year	Reading date	Entry date	Assessment Units	Average Units per day
12/2015	21/12/2015	24/12/2015	13935	232.25
02/2016	17/02/2016	19/02/2016	9530	158.83
04/2016	18/04/2016	18/04/2016	21070	351.16
06/2016	15/06/2016	15/06/2016	19150	319.16
08/2016	16/08/2016	16/08/2016	17180	286.33

(xxx) On scrutiny of the aforementioned reading as per document no.XVII, it is crystal clear that the units consumed prior to the replacement of the alleged defective meter were higher than after the replacement of the meter. Moreover, the units consumed after the replacement of the meter is very much lower and thereby the alleged acquisition that the meter was defective falls to the ground. If really the meter would have been a defective one, after replacement the units consumed would have been higher and with a varied difference.

(xxxi) On mere perusal of the self serving meter test report it is clearly understood that CTB, ie. current by pass had occurred on 5.4.2011 from 19.45 hrs to 22.47 hrs only and also on 16.5.2011 at about 20.17

hrs to 17.5.2011 at about 14.24 hrs only and thereby on all the other occasion due to voltage fluctuation there was a current unbalance and thereby in toto, it cannot be construed that the alleged meter was defective.

**8. Written arguments of the Respondent :**

8.1 The Respondent have furnished the following arguments in the additional counter furnished on 24.11.2016.

8.2 It is respectfully submitted that, in TANGEDCO there are crores of service connections. With the available manpower, routine Inspection was carried out regularly so as to find any defect / tamper / slow running of the meters installed at the consumers premises. The accuracy of the meter is tested at the factory through routine tests by TANGEDCO Meter and relay test wing Engineers.

8.3 In the service number 205007393 ,on 28.10.15 the Assistant Executive Engineer / Enforcement / Tirupur with the territorial area engineer of licensee during the routine inspection ,found that 'R' Phase voltage is not recorded in the meter . The above findings were recorded as mahazar in presence of the tenant Thiru. P.C. Vijay. The tenant also accepted that 'R' Phase voltage is not recorded in the meter and signed in the mahazar.

8.4 On 01.12.2010 the additional load was effected from 21 KW to 40.15 KW . The then available Duke arnics, (10 - 60 ) Amps meter is not adequate to cater the new additional load of 40.15 KW. Hence the

existing Duke arnics make (10-60) amps meter bearing SI.No. 41369 was replaced with new tested healthy genus make (50-100) amps meter bearing SI. No. 3081220 on 01.12.2010. The meter was replaced to effect the additional load only not for defective as stated by the consumer . The meter change reason was wrongly entered as defective instead of normal in computer.

8.5 On review of the tamper reports retrived from CMRI Downloaded datas, the released Genus make (50-100) A meter bearing sl no. 3081220, it is very clear that 'R' phase potential Missing occurs at 01.12.2010 at 13.35 Hrs and not restored till the meter removal. It is also very clear that CTU -Current unbalance temper occurred on 16.05.11, 17.05.11, 22.05.11, 29.08.11, 15.09.11, 17.03.13 and 10.02.15 and the CT Bypass tamper occurs on 05.04.2011 and 16.05.2011. The above all tampers are occurred and restored within short time duration. During the above tamper periods ,it is noticed that the 'R' Phase voltage is recorded as 0.0 during the tamper occurring and restoring time and also the 'R' Phase voltage missing occurred at 01.12.2010 at 13.35 the and not restored. with the above tamper report from CMRI Downloaded datas, it is clear that the defective period calculated is correct.

8.6 From the CMRI downloaded report, it is clearly indicated the 'R' phase voltage Missing occured on 01.12.2010 at 13.35 Hrs and not yet restored. Even during the other events like CTU - Current

unbalance and CTB - Current missing it clearly shows, while occurring and restoring of the current 'R' phase voltage clearly shows as zero while 'Y' phase voltage and 'B' Phase voltage are present it is very clear data evidence.

8.7 As per regulation 7 (9) the third party meter test should be applied by the consumer only. In the above case , the consumer has not made any representation to the territorial licensee in writing for third party testing to ascertain the condition of the meter and also agree the facts informed by the engineer and signed the mahazar.

8.8 on 28.10.2015 ,in presenee of the tenant Thiru P.C.Vijay, the 'R' phase voltage missing in the meter was clearly explained to Thiru P.C.Vijay by measuring the actual current through tong tester and voltage through voltmeter . The tenant Thiru P.C.Vijay accepted the non recording of 'R' Phase voltage and signed in the mahazar . The meter was removed on 31.10.2015 and a new Genus meter with SI.no 3773828 was fixed. The released meter was sent to meter and Relay Test / Tirupur for downloading the datas and view the exact date of 'R' phase voltage failure. On retriving the CMRI downloaded datas, it is confirmed that the 'R' phase voltage failure occurred on 01.12.2010 and not restored till the removal of meter.

8.9 It is submitted that, the tenant Thiru P.C. Vijay had already witnessed the 'R' phase voltage failure on 28.10.2015, the date of failure to be confirmed with the CMRI down loaded datas. it is a clear

evidence from the CMRI down loaded tamper datas the 'R' phase voltage failed on 01.12.2010 at 13.35 Hrs at 5.05 C.Kwhr and 6.15 C.Kvah readings and not restored.

8.10 All new meters are tested at the factory by the TANGEDCO meter and relay Test wing Engineers and sealed in the factory itself. The terminal cover will be sealed in the site. On 01.12.2010 Additional load was effected in the service connection number 205-007-393 from 21 KW to 40.15 KW .The existing 10-60 Amps Duke Arnics meter was replaced with a new tested healthy (50-100) Amps Genus make static meter with Sl. No. 3081220. The consumer Tmy M.R. Saratha witnessed the healthiness of the meter and ensured the initial reading 0.0 Kwhr and 0.0 Kvah and signed in the test report. From the above, it is very clear that the additional load was effected with a new tested healthy static trivector meter with initial reading 0.0 Kwhr and 0.0 Kvah in the presence of the consumer Tmy M.R. Saratha ( Test report duplicate copy enclosed ). From the CMRI downloaded datas it is very clear that the 'R' phase voltage failed on 01.12.2010 at 13.35 Hrs when the C KWHr reading is 5.05 and C KV AH reading is 6.15. Considering the Initial readings in the meter on 01.12.2010 as 0.0 CKWHr, the 'R' phase voltage failed at 5.05 C KWHr and 6.15 C KVAh reading. From the above it is very clear that the meter changed to effect the additional load was healthy from 0.0 CKWHr to 5.05

CKWHr and then the 'R' phase voltage failed and not restored.

8.11 On 28.10.2015, the non recording of 'R' phase voltage was clearly explained to the tenant Thiru, P.C.Vijay who is present at the time of inspection . He witnessed the same and to his satisfaction he signed in the mahazar . The meter was removed only to ascertain the exact date of 'R' phase failure. The released meter datas were downloaded through CMRI and uploaded in the Genus meter software. From the tamper records found in the meter datas, it is clear that the 'R' phase voltage failed on 01.12.2010 13.35 Hrs.

8.12 The TANGEDCO is always ready for testing of the same meter at any Lab at any time.

8.13 The Appellant statement of the enforcement wing of the respondents had on two occasions in the year 2013 and also in the end of the year 2014 had carried as inspection and had never complained of defectiveness in the meter is false. The enforcement wing had not inspected the above service after 01.12.2010. The reply to the right to information Act petition on 05.09.2016 requesting the details of inspection carried at by the inspection wing so as to prove the defectiveness of the alleged meter was sent to the petitioner Tmy M.R. Saratha on 28.09.16 itself. However a Xerox copy is enclosed herewith for your perusal.

8.14 The Tirupur ice factory was functioning in the service connection number 03-205-007-393/ TF: IIIB . The Ice manufacturing factory is

seasonal Industry ie . January to June - Season and July toDecember - Non-season. The consumption of electrical Energy depends on the production of Ice. The consumer had not produced any valid document that his daily production is same from 2010 to till date. Neither he produced any valid documents that his daily sales is same from 2010 to till date.

8.15 Hence the argument of consuming lesser units in new meter and more units in old defective meter cannot be considered.

SI No	Month	Before effecting addl loaed	After effecting additional load when R Phase voltage failure					New meter
		2010	2011	2012	2013	2014	2015	2016
1	<b>February</b>	12970	11110	17340	15250	10510	12780	9530
2	<b>April</b>	9380	20260	17310	16610	18970	23790	21070
3	<b>June</b>	16100	22460	19050	18230	20650	21500	19150
4	<b>August</b>	15370	19720	22120	9550	15860	22080	17180
5	<b>October</b>	13230	16570	16550	10490	16040	19770	11370
6	<b>December</b>	Meter changed	15870	14730	9020	11730		

From the above it is clear that the consumption of energy during a particular period in different years is not same. ( For example consumption during February 2010, February 2011, February 2012, February 2013,February 2014, February 2015,and February 2016). It is crystal clear that the consumption depends on production only i.e. the order to Tirupur Ice factory.

8.16 In conclusion , an additional load was effected in the service connection number 205-007-393 on 01.12.2010 from 21 KW to 40.15

KW . The existing 10.60 Amps Duke Amics meter was replaced by a new tested healthy (50-100) A Genus make meter with Initial Reading C KWHr - 0.0 CKVAh - 0.0 (as per test reports). The meter working condition is good. The 'R' Phase voltage failed on 01.12.2010 at 13.35 Hrs when the cumulative KWHr reading is 5.05 .( As per the CMRI down loaded tamper report). The load in the service connection number is a balanced load . ( As per the current measured through tong tester on 28.10.15). Since 'R' phase voltage is missing, the one third energy will not be recorded. The recorded units will be two phase consumption only. Hence the unrecorded one phase consumption is calculated as per the report of the Assistant Executive / MRT / Tirupur (copy enclosed). The unrecorded consumption was 2,45,947 units which amounts so RS 14,31,685 /- (Rupees fourteen lakhs thirty one thousand six hundred and eighty five only.

**9. Findings of the Electricity Ombudsman :**

9.1 On a careful consideration of the rival submissions, I find the following as issues :

- (i) Whether the meter is defective ? if so from which date ?
- (ii) Whether the short fall claimed is correct ?
- (iii) Whether any relief could be given to the Appellant?

**10. Findings on the first issue :**

10.1 The Appellant putforth the following arguments.

(i) The Appellant argued that the staff who frequently visited the premises for meter reading had never complained about the alleged defect.

(ii) As per the meter test report filed by the Respondent the alleged R phase zero was only on a particular short duration of 32 Hrs & 24 minutes but the Respondent have calculated from 1.12.2010 to 28.10.2015.

(iii) The CMRI print out dt.6.11.2015 is not reliable and is not admissible as evidence since the above report does not mention that the meter is defective for the entire 5 years starting from 1.12.2010.

10.3 The Respondent put forth the following arguments :

(i) Service connection No.205-007-393, was inspected by the Asst. Executive Engineer/Enforcement & Assistant Executive Engineer/O&M and it was found that R phase voltage was not recorded in the meter. The R phase voltage missing in the meter was already explained to Thiru. P. Vijay by measuring the actual current through tong tester and voltage through volt meter. The tenant Thiru. P.C. Vijay accepted the non recording of R phase voltage and signed in the mahazar.

(ii) On 1.12.2010, additional load was effected. The load was enhanced from 21 kw to 40.15kw. The available duke arnics make meter (0-60 amps) is not adequate to cater the additional load of 40.15 kw. Hence, the existing duke arnics make (10-60A) with SI.No.41369 was replaced with a new tested healthy Genus make (50-100) amps meter bearing SI No.3081220. The meter was replaced only to effect additional load and not due to defectiveness as stated by

the consumer. The meter change reason was wrongly entered as defective instead of normal mode.

(iii) On a review of temper reports, retrieved from CMRI downloaded datas, it is very clear that R phase potential missing occurred at 13.35 hrs on 1.12.2010 and not restored till the meter was removed. It is also very clear, (CTU ) current unbalance tamper occurred on 16.5.2011, 17.5.2011, 22.5.2011, 29.8.2011, 15.9.2011, 17.3.2013 and 10.2.15 and CT bypass temper occurred on 5.4.2011 & 16.5.2011 and restored within short duration. It is noted that R phase voltage is zero both at occurrence and restoration time of the CTU & CTB event. Therefore, the defective period is correct.

10.4. As the Respondent has enclosed the report of the MRT and the downloaded details, in support of their arguments that the meter is defective. I would refer the same The report of AEE/Protection & CT is letter dt.13.11.2015 is extracted below :

**TANGEDCO**

*Er. L. Viswanath,  
Protection/LTCT  
TEDC/Tiruppur*

*The Asst. Exe. Engineer,  
O&M/TEDC,  
Bridge way Colony*

No.AEE/Protn/TCT/TPR/F.Billing recommendation/D. ;/2015 dt.13.11.2015

Sir,

*Sub : Elecy-TEDC/Tiruppur-MRT/Tiruppur Division-  
Bridgeway colony section – LT SC No.205-007-393-  
whole current meter tested report – forwarded –Reg  
Ref : Lr.No.AEE/O&M/BWC/FWC Meter/D.No./15 dt.31.10.2015*

\*\*\*\*

*As per request of the Asst. Exe. Engineer/O&M/Bridgeway colony the whole current meter Genus make bearing Sl.No.3081220 capacity 50-100 amps was tested for exact date of R phase voltage failure.*

*It was found that R phase voltage fails in the meter, This meter was not recorded in one phase consumption. The data stored in the energy meter was downloaded and found .*

*The R phase voltage failure was occurred on 1.12.2010.*

*KWH reading of the meter at MRT Lab 491899.15*  
*KWH reading at the time of R phase voltage failure 05.05*

-----  
491894.15  
-----

*Difference Units in KWH*

*above energy meter was recorded R phase voltage of 2 phase consumption. 491894.04*

*unrecorded consumption R phase voltage failure in the meter is 245947.00 units*

*The above unrecorded consumption of 245947 units may be included in the CC bill may intimate to this office please.*

*sd/xxx xxxx*  
*Asst. Executive Engineer*  
*Protection & LTCT/Tiruppur"*

10.5 On a careful reading of the AEE/Protection & LTCT, Tiruppur, it is noted that as per the AEEs report, the R phase voltage failure is noted in the meter and it was occurred on 1.12.2010 and the AEE has informed that one phase consumption was not recorded in the meter. The AEE has also recommended to include the 2,45,947 units recorded in the CC bill.

The Assistant Executive Engineer, protection & LTCT has sent the down loaded data review in letter 28.7.2016. The same is extracted below :

*"TANGEDCO*

*From*  
*Assistant Exe. Engineer*  
*Prot & LTCT*  
*TEDC/Tiruppur*

*To*  
*The Assistant Exe. Engineer*  
*O&M*  
*Bridgewaycolony.*

*Lr.No.AEE/Protn &LTCT/TEDC/TPR/F.Doc.SC No.393(RPTM)/2015 dt.28.7.2015*

Sir,

*Sub: Elec- TEDC/Bridgewaycolony section – SC No.205-007-393 IIB, Meter data reviewed – report for R phase Voltage missing furnished – Reg.*

*Ref: Lr.No.AEE/O&M/BWC/TPR/F.MRT/D.No.123/2016 dt.23.7.2016*

*With reference to the above Bridgeway colony section Ex.LTSC No.205-007-393 TF IIB, SIDCO distribution Genus make vide Sl.No.3081220 meter data were reviewed through PC and found R phase voltage recording in meter were failed. Meter data download report view enclosed for your reference please.*

*Sd/xxx xxx xxx  
Assistant Executive Engineer  
Protection & LTCT”  
TEDC/Tiruppur*

*Encl: Tamper Reports – 4 pages*

10.6 The detailed tamper report was also enclosed with the above letter. The same is extracted below :

Meter Details

xx xxx xxxx  
xxx xxx xxx

xxxx xxxx xxxx  
xxx xxxx xxxxx

Type	Event	Date & time	Duration D:H:M	Vr(V)	Vy(V)	Vb(V)	Ir(A)	Iy(A)	Ib(A)	kWh	kVAh
xxxx	xxxx	xxxx									
xxx	xxxxx	xxxxx									
RPTM	OCC	1/12/2010 13:35		0.0	251.4	250.3	19.110	18.120	20.530	5.05	6.15
--Not Restored --											
xxxx	xxxx	xxxx									
xxxx	xxxx	xxxx									

10.7 On a careful examination of the detailed Tamper Report, it is noted that RPTM (R-phase link miss) occurred on 1.12.2010 at 13.35 hrs and it has not been restored as it has been specified in the report not restored.

10.8 It is also noted that there were 11 sets of tamper events. Out of the total tamper events occurred, current unbalance events occurred at 8 times, current Bypass CTB events occurred at 2 times and R phase link miss (RTM) at one a

time. It is seen except RPTM all the other type of events (ie) CTU & CTB have recovered. But, the R phase link miss which occurred on 1.12.2010 at 13.35 hrs has not been restored.

10.9 It is also observed that voltage of R phase is consistently zero in all the 11 tamper events recorded. The 11 tamper events were recorded in various year (ie) 2010 - one time, 2011- 8 times, 2013 - one time and 2015- one time. It is noted that the R phase voltage recorded in occurrence (OCC) & in recovery (REC) are zero in all the tamper events recorded. Therefore, I am of the considered opinion that the R phase failure has occurred on 1.12.2010 at 13.35 hrs. It is also noted that at the time occurrence of R phase voltage zero, the Kwh reading is 5.05 kwh & kvah reading is 6.15. Therefore, it is observed that the Rphase voltage failure occurred while the meter has recorded only 5.05 units.

10.10 As the R phase voltage was zero due to R phase link miss, there shall not be any recording of consumption even though the meter records the load current in R phase. Therefore, the contention of the Respondent that the meter has recorded the consumption in two phase only from 1.12.2010 at 13.35 hrs onwards is acceptable to me.

10.11 In view of the above, it is held that the meter is defective from 1.12.2010 to till it was replaced on 31.10.2015

## **11. Findings of the second issue :**

11.1 The Respondent argued that as one phase voltage is missing, the consumption in one phase has not been recorded in the meter. The recorded consumption is equal to the consumption of 2 phases (ie) 2/3 of the consumption

has been recorded in the meter and 1/3 is not recorded. As the consumption recorded is for two phases, the consumption not recorded due to one phase voltage missing is half of the recorded consumption. Hence, the licensee argued that 50% of the consumption may be added to arrive at the consumption as suggested by the MRT wing.

11.2 If all the loads connected are three phase or the loads connected in each phase is equal, then only the consumption will be equal in all the phases. Further, there is no provision in the code, to assess the consumption by adding 50 % of the consumption recorded as suggested by the licensee. Hence, I am not considering the above.

11.3 The Assessment of billing in case where there is no meter or meter is defective, has been given in regulation 11 of the Supply Code which is extracted below:

**11. Assessment of billing in cases where there is no meter or meter is defective:**

*(1) Where supply to the consumer is given without a meter or where the meter fixed is found defective or to have ceased to function and no theft of energy or violation is suspected, the quantity of electricity supplied during the period when the meter was not installed or the meter installed was defective, shall be assessed as mentioned hereunder.*

*(2) The quantity of electricity, supplied during the period in question shall be determined by taking the average of the electricity supplied during the preceding four months in respect of both High Tension service connections and Low Tension service connections provided that the conditions in regard to use of electricity during the said four months were not different from those which prevailed during the period in question.*

*(3) In respect of High Tension service connections, where the meter fixed for measuring the maximum Demand becomes defective, the Maximum Demand shall be assessed by computation on the basis of the average of the recorded demand during the previous four months.*

*(4) Where the meter becomes defective immediately after the service connection is effected, the quantum of electricity supplied during the period in*

*question is to be determined by taking the average of the electricity supplied during the succeeding four months periods after installation of a correct meter, provided the conditions in regard to the use of electricity in respect of such Low Tension service connections are not different. The consumer shall be charged monthly minimum provisionally for defective period and after assessment the actual charges will be recovered after adjusting the amount collected provisionally.*

*(5) If the conditions in regard to use of electricity during the periods as mentioned above were different, assessment shall be made on the basis of any consecutive four months period during the preceding twelve months when the conditions of working were similar to those in the period covered by the billing.*

*(6) Where it is not possible to select a set of four months, the quantity of electricity supplied will be assessed in the case of Low Tension service connections by the Engineer in charge of the distribution and in the case of High Tension service connections by the next higher level officer on the basis of the connected load and the hours of usage of electricity by the consumer.*

*(7) In case the consumer does not agree with the assessment made by the Engineer or the higher-level officer as the case may be, the matter may be referred to the next higher-level officer of the Licensee. In case the consumer is still not satisfied, the consumer is at liberty to approach the respective Consumer Grievance Redressal Forum of the Licensee.*

11.4 On a careful reading of the above regulation, it is noted that regulation 11(2), 11(4), 11(5) and 11(6) are the regulations dealing with the method to arrive at the average consumption for the meter defective period.

11.5 In this case on hand, the meter has become defective immediately after effecting additional load on 1.12.2010. The additional load effected is 25 HP + 300 watts. The meter has become defective immediately after effecting additional load, the previous consumptions available were for a load of 25 HP + 2500 watts which was only about half of the load that was connected to the service as on 1.12.2010. The consumption with a sanctioned load of 25 HP + 2500 watts cannot be equated with the consumption with a sanctioned load of 50HP + 2800 watts. Therefore, the regulation 11(2) & 11(5) which talk about previous 4 (four) months) consumption or any four consecutive four months in

the previous one year for assessment during the meter defective period could not be adopted.

11.6 As per regulation 11(4) when the meter becomes defective immediately, after the service connection is effected, the quantum of electricity supplied during the period in question shall be worked out based on the succeeding four month, consumption recorded after installation of the correct meter, provided the conditions in regard to use of electricity in respect of such service is not different from the defective period.

11.7 In this case, the meter was changed on 31.10.15. Therefore, the consumption recorded during 12/2015 is for the period from 23.10.2015 to 21.12.2015. The consumption recorded in the meter is not for a full period of assessment. Hence, it cannot be considered for arriving the average. Therefore, the next two assessment (viz) 2/2016 & 4/2016 has to be taken for arriving the average consumption. It works out to  $\left(\frac{9530 + 21070}{2}\right)$  15300 units. But on a review of the consumption recorded during the defective period (viz) 12/2010 to 10/2015, it is noted for about 20 assessments, the already recorded consumption is more than the average of consumption 15300 units arrived based on regulation 11(4) and only around 10 assessment periods, it was less than 15300 units. As the meter was found to be defective due to non recording of consumption in one phase, the real consumption shall be more than the actually recorded consumption. But, if we adopt the average as per regulation 11(4) it is not so. Hence, I am of the view that the utilization of electrical energy during the defective period and the period taken for arriving the average as per regulation

11(4) are not the same (ie) the utilization pattern is different. If the utilization pattern is different it does not satisfy the regulation and it cannot be applied for arriving the average consumption. Hence, I am of the view the regulation 11(4) could not be adopted for arriving the average consumption.

11.8 As per regulation 11(6) of the supply code, if it is not possible to select a set of four months, the quantity of electricity supplied shall be assessed by the Engineer incharge in case of LT services as the basis of connected load and the hours of usage by the consumer. If the consumer does not agree, the consumption may be worked out by the next higher level of the officer of the licensee. In case if the consumer still not satisfied the consumer may approach the CGRF.

11.9 As there was no possibility to select a set of four months, consumption wherein the condition of working were similar to the meter defective period, I am of the view that the licensees Engineer incharge of the said distribution shall assess the consumption taking into account of the connected load and hours of usage as per regulation 11(6) of the Supply Code.

## **12. Findings on the third issue:**

12.1 The Appellant argued that the Appellant is not liable to pay the demand as there is no illegal consumption. The meter reading recording has been periodically taken and the charges have been also paid according to the reading. Therefore, claiming a huge sum as shortfall is not correct.

12.2 The Appellant argued that checking the working condition of the meter is the responsibility of the licensee. Therefore, not identifying the one phase open

by the licensee is the fault of the licensee only. Citing the case S.A. Ahamed Vs Tamil Nadu Electricity Board (AIR 2001, Madras, page 117), the learned Advocate argued that the Respondent cannot take advantage of their own mistake by demanding a huge sum.

12.3 The Appellant argued that on mere perusal of the meter test report furnished by the Respondent, only 32 hrs & 24 minutes alone the R phase voltage was zero. But the Respondent have claimed shortfall from 1.12.2010 to 28.10.2015.

12.4 The Appellant also argued that the meter print out dt. 6.11.2015 is not reliable and is not admissible as evidence since report does not mention that the meter was defective from 1.12.2010 to 28.10.2015. He also argued that the meter was removed without any seizure Mahazur and not sent to any independent export lab in a sealed condition for ascertaining the accuracy, Instead, it was sent to manufacturers lab. The above is violative of principle of natural justice.

12.5 The Appellant also disputed that the meter fixed is not tested as the initial reading is zero. He also cited the instructions in Board to take a second reading between 7<sup>th</sup> & 10<sup>th</sup> day of service and send a report to the Divisional Engineer if there is any cause for suspecting the meter. These procedures have not been followed.

12.6 The Appellant also argued that the enforcement wing has inspected the service in the year 2013 & 2014 and had never complained about the defect in the meter. Hence, argued that the meter is not defective for 5 years.

12.7 The Appellant also argued that the consumption recorded prior to the replacement of meter is higher than the consumption recorded after changing the meter. If the meter was really faulty, the consumption after changing the meter would be higher. Hence, he argued that there is no defect in the meter and the shortfall is not justifiable.

12.8 The Respondent argued that the accuracy of the meter is tested at the factory through routine test by TANGEDCO meter and Relay test wing Engineers.

12.9 As per regulation 7(9), the third party meter test shall be applied by the consumer only. In this case, the consumer has not made any representation to the territorial licensee in writing for third party testing of meter.

12.10 on 28.10.2015, in the presence of the tenant Thiru P.C. Vijay, the 'R' phase voltage missing in the meter was clearly explained to Thiru P.C. Vijay by measuring the actual current through tong tester and voltage through meter. The tenant Thiru P.C. Vijay accepted the non recording of 'R' phase voltage and signed the mahazar. The meter was removed on 31.10.2015 and a new Genus make meter with Sl. No. 3081220 was fixed. The data stored in the meter was downloaded based at MRT/Tirupur and it is conformed the 'R' phase voltage failure occurred on 1.12.2010 and not restored till removal of the meter. Therefore, R phase consumption was not recorded from 1.12.2010 to 31.10.2015.

12.11 The Respondent also argued that the enforcement wing has not inspected the service from 1.12.2010 to 27.10.15 and furnished a letter dt.6.3.17 received

from Assistant Executive Engineer/Enforcement, Tiruppur in support of the above.

12.12 The Respondent argued that the Appellant has not produced any production statement or sales details to establish that the production is in commensurate with the energy consumption.

12.13 The Respondent also argued that an analysis of the consumption pattern, it is noted that the consumption in a particular period in different years is not uniform but vary. Therefore, the argument of the Appellant that the meter is not defective as the consumption is less after changing the meter is not acceptable.

12.14 The Appellant has also cited the case of S.A. Ahamed Vs TNEB (reported in AIR 2001, Madras 117) and argued that the High Court has observed as below :

*“The mistake here is arising not an account of any act on the part of the consumer. The Board cannot be allowed to take advantage of their own mistake”.*

12.15 The above case relates to adoption of wrong tariff for a service connection and revising the tariff for a back period of 9 years. Notice for disconnection of service was given for the other service in the same premises also. The para 14 of the said order is extracted below :

*“The Board on the ground that they have committed a mistake has called upon the plaintiffs to pay certain amounts, revising the charges payable by the plaintiffs from 1971 onwards when the service connection was granted. The notice was issued in 1979. In such circumstances, I am of the view that the suit for declaration is maintainable, since the plaintiff cannot make a demand for payment of the sum, which is on the face of it barred by limitation. To hold*

*otherwise would not be an equitable thing. Here, admittedly, there is no mistake with reference to the other service connection viz., No 2651. The mistake is said to have been committed with reference to service connection No.3381. But, the notice is given, threatening disconnection of both the service connections. They are a party to the contract. A party to the contract cannot on the basis of a mistake committed by him force the other party to perform the contract, as he likes. Principles of natural justice require that the Board after inspection given a copy of the report to the plaintiffs, calling upon them to show cause why the charges cannot be revised and then proceeded to do so. The mistake here is arising not on account of any act on the part of the consumer. The Board cannot be allowed to take advantage of their own mistakes. Therefore, I am of the view that the judgment and decree of the lower Court is liable to be set aside, restoring that of the trial Court”*

12.16 The present case is levy of shortfall amount for the units which were not recorded due to R phase voltage missing. Hence, I am of the view that the facts of the case on hand and the case law referred are different.

12.17 Regarding the validity of the downloaded details, I would like to point out that the Hon'ble TNERC in its order dt. 21.12.2010 in MP No. 20 of 2009 has observed as below:-

*“xxxx The penalty seems to have been levied as if the quota demand has been exceeded after the closer of the quota period. This discrepancy can easily be reconciled by the Superintending Engineer by down loading the clockwise demand through CMRI. The Superintending Engineer will compute the levy based on the CMRI recording. xxxx”*

12.18 On a careful reading of the above observation, it is noted that Hon'ble TNERC has ordered to levy penal charges for exceeding the quota based on CMRI downloaded data.

12.19 The CMRI downloaded data are the data stored in the memory of the meter. Hence, I am of the view that the R phase failure confirmation based on CMRI data is a scientific way and is acceptable.

12.20 The Appellant argued that the 'R' failure was only for 32 hrs & 24 minutes(actual correct value is 33 hrs & 44 minutes) and not from 1.12.2010 to 28.10.15. In this regard, I would like to examine the detailed tamper report downloaded from the meter which is given below :

Meter Details

XX XXX XXXX  
XXX XXX XXX

XXXX XXXX XXXX  
XXX XXXX XXXXX

DETAILS TAMPER REPORT

Type	Event	Date & time	Duration D:H:M	Vr(V)	Vy(V)	Vb(V)	Ir(A)	Iy(A)	Ib(A)	kWh	kVAh
CTU	OCC	10/02/2015 21.09	000.00.05	0.0	239.5	241.3	8.330	12.490	7.480	400180.60	434950.05
	REC	10/02/2015 21.14		0.0	241.0	240.5	8.550	7.590	7.390	400180.85	434943.24
CTU	OCC	17/03/2013 19.51	000.00.12	0.0	234.4	244.3	19.770	17.430	25610	239629.18	252537.45
	REC	17/03/2013 20.03		0.0	227.4	235.1	20.410	17.960	239631.15	239631.15	252532.48
CTU	OCC	15/09/2011 23.26	000.5.18	0.0	258.1	254.3	10.330	5470	6100	84075.60	87801.56
	REC	16/09/2011 04.44		0.0	252.2	253.6	44.520	39.080	40.540	48078.07	87797.33
CTU	OCC	29/08/2011 12.55	000.00.52	0.0	240.6	234.9	11.690	7.690	7.720	79313.56	82805.13
	REC	92/08/2011 13.47		0.0	231.4	223.4	27.920	24.130	24.010	79317.02	82801.60
CTU	OCC	22/05/2011 10.45	000.00.40	0.0	246.1	243.9	20.590	13.450	14.910	46807.29	48703.39
	REC	22/05/2011 11.25		0.0	244.8	247.2	18.410	13.260	15.580	46811.59	48700.88
CTU	OCC	17/05/2011 20.50	000.00.45	0.0	236.7	231.9	23.900	15.440	16.660	45304.47	47137.82
	REC	17/05/2011 21.35		0.0	244.9	244.5	17.570	13.350	13.620	45309.47	47137.82
CTU	OCC	17/05/2011 15.50	000.04.19	0.0	215.5	219.1	20.710	13.780	15.220	45275.50	47109.66
	REC	17/05/2011 20.09		0.0	222.0	223.0	23.520	17.220	18.750	45299.32	47127.22

CTB	OCC	16/05/2011 20.17	000.18.07	0.0	218.2	222.4	49.060	33.540	36.020	45061.94	46886.40
	REC	17/05/2011 14.24		0.0	230.4	238.0	14.830	13.980	14.730	45265.48	47092.09
CTU	OCC	16/05/2011 18.11	000.00.24	0.0	226.6	229.6	21.040	12.710	13.690	45045.02	46868.98
	REC	16/05/2011 18.35		0.0	215.8	214.1	15.800	12.720	12.600	45047.27	46864.19
CTB	OCC	05/04/2011 22.47	000.03.02	0.0	213.5	213.8	35.500	30.370	27.020	30080.21	31256.93
	REC	05/04/2011 22.47		0.0	235.3	235.4	28.300	23.380	24.450	30113.58	31284.05
RPTM	OCC	1/12/2010 13:35		0.0	251.4	250.3	19.110	18.120	20.530	5.05	6.15
--Not Restored --											
XXXX XXXX XXXX											
XXXX XXXX XXXX ”											

On a careful study of the above details, it is noted that the current unbalance (CTU) has occurred and restored at 8 times. The duration given against each CTU related to the persistence of each CTU only and for not the other tamper events. The total CTU period is 12 hrs & 35 minutes. Similarly CT by pass (CTB) occurred & restored in two times, the total CTB period is 21 hrs 9 minutes. In all the above tamper events, the occurrence time and recovery time were indicated. But, in respect of R phase link miss (RPTM) the occurrence was recorded as 1.12.2010 at 13.35 hrs and indicated that not restored. It implies that R phase voltage missing occurred at 13.35 hrs on 1.12.2010 but not restored at all (ie) the R phase voltage missing was continued till 31.10.2015. Further, the tamper events recorded are for the period from 2010 to 2015. For each tamper event occurrence and recovery, the voltage and current reading in all the phases and Kwh & KVAh were also recorded. On a careful examination of the R phase voltage (Vr) recorded in the above details, it is noted that the Vr (R phase voltage) always zero in all the tamper events recorded for the years from

2010 to 2015. It further establishes that the R phase voltage was not recorded in the meter. Therefore, I am unable to accept the arguments of the Appellant that the R phase voltage missing is for a period of 33 hrs and 44 minutes only. The above is the total time of CTU & CTB tamper events and not the voltage missing tamper event.

12.21 As the consumption recorded after changing the meter was less than the consumption recorded prior to the change of meter ( i.e. during R phase voltage missing period), the appellant argued that the meter could not be treated as defective.

12.22 In this regard, the following is observed by me.

The connected load as per the test report No.383053 dt.1.12.2010 signed by the consumer at the time of availing additional load is 50 HP + 2800 watts (the break up was not furnished). But, as per the Mahazar (பார்வை மசூர்) signed by licensee's officer and the consumer on 28.10.15, the connected load is only 30.16 k.w (or) 40.25 HP and 140 watts only. Therefore, the reduction in consumption may be due to reduction in the connected load.

12.23 Further, it is pertinent to point out that the Appellant has also not produced the production details in support of his arguments to establish that the production during the disputed period is only in commensurate with the units consumed.

12.24 As there is 'R' phase failure from 1.12.2010 to till the date of meter replacement as per downloaded data, I am of the view that the Appellant has paid the consumption charges only for the consumption recorded in the other two

phases. As the Appellant has paid consumption charges for the units less than what he has actually consumed, set asiding the short fall claim will amounts to unjust enrichment. Therefore, I am unable to give any relief to the consumer.

**13. Observation :**

13.1 It is noted that the R phase voltage was not recorded from 1.12.2010, 13.35 hrs till the meter was replaced on 31.10.2015. The consumer has availed additional load of 25 HP + 300 watts on 1.12.2010. The additional load of 25 HP + 300 watts effected is almost equal to the existing load of 25 HP + 2500 watts. Even after doubling the sanctioned load, the recorded Maximum demand was less than the previous sanctioned load of 21.15 kw only. The licensee's staff who has taken the reading should have analysed the above and arranged for checking the meter. As the recorded demand is within the previous sanctioned load during the disputed period, there is no need for the consumer to go for additional load almost equal to original sanction. Further, had the periodical checking been carried out in the said service connection, the R phase voltage missing would have come to the notice of the Respondent. Hence, the licensee is requested to take remedial measures to avoid such type of occurances in future.

**14. Conclusion:**

14.1 In view of my findings in para 11, the Respondent is directed to work out the average consumption as per regulation 11(6) of the supply code and issue a notice as per the procedure in vogue for collection of the short fall amount if any within 30 days from the date of receipt of the order.

14.2 With the above findings, the AP No. 48 of 2016 is finally disposed of by the Electricity Ombudsman.

**(A. Dharmaraj)**  
Electricity Ombudsman

To

1) Tmt. M.R. Saradha,  
No.11, Lakshmi Nagar Extension,  
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Tiruppur – 2.

2) The Superintending  
Tiruppur Electricity Distribution Circle  
TANGEDCO,  
18A, Jyothi Nagar,  
Perumanallur Road,  
Tiruppur.

3) Executive Engineer,  
Tiruppur,  
Tiruppur Electricity Distribution Circle  
TANGEDCO,  
Kumar Nagar, Avinashi Road,  
Tiruppur.

4) The Chairman,  
(Superintending Engineer),  
Tiruppur Electricity Distribution Circle  
TANGEDCO,  
18A, Jyothi Nagar,  
Perumanallur Road,  
Tiruppur.

5) The Chairman & Managing Director,  
TANGEDCO,  
NPKRR Maaligai,  
144, Anna Salai,  
Chennai -600 002.

6) The Secretary,  
Tamil Nadu Electricity Regulatory Commission,  
19-A, Rukmini Lakshmi pathy Salai,  
Egmore,  
Chennai – 600 008.

7) The Assistant Director (Computer) – **For Hosting in the TNEO Website.**  
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