IN THE COURT OF THE LOKPAL (OMBUDSMAN),

 ELECTRICITY, PUNJAB,

66 KV GRID SUB-STATION, PLOT NO. A-2,

INDUSTRIAL AREA, PHASE-1, S.A.S NAGAR (MOHALI)

Appeal No. 39 / 2017 Date of Order : 27.10.2017

Jagjit Singh

FattanWalla , Kotkapura Road,

Sri Muktsar Sahib – 152 026

 …….Petitioner

Account No. GC-62 / 0185

*Through:*

Shri Jagjit Singh, Petitioner

Shri S.R. Jindal, Petitioner’s Representative (PR)

Versus

Punjab State Power Corporation Limited

 …..Respondent

*Through:*

Er. Sukhdev Singh

Additional Superintending Engineer

DS Division

PSPCL, Sri Muktsar Sahib.

Petition No. 39 / 2017 dated 24.07.2017 was filed against order dated 21.06.2017 in case No. CG-47 of 2017 of the Consumer Grievances Redressel Forum (Forum) who observed that:

* *the account of the Petitioner be overhauled for six months prior to the date of checking i.e. six months prior to 16.12.2016 by taking slowness factor as 76.14%.*
* *SE/OP Circle, PSPCL, Sri Muktsar Sahib is directed to initiate disciplinary action against the delinquent officer/official who failed to check the connection of the Petitioner as prescribed in clause 104 of ESIM.*
* *CE / OP West Zone, Bathinda is directed to constitute an independent Committee to enquire the matter regarding necessity of affixing the MCB and CTC seals on the premises of the Petitioner on 12.12.2016 and also about the statement of Shri Karamjit Singh, JE and Sh. Barinder Pal Singh, Retired AEE about the MTC seals and initiate / take necessary action as per Regulations of the Corporation.*
1. Arguments, discussions & evidence on record were held on 27.10.2017.
2. Shri Jagjit Singh, Petitioner alongwith Shri S.R. Jindal, PR attended the court proceedings on behalf of the Petitioner. Er. Sukhdev Singh, Addl. Superintending Engineer, DS Division, PSPCL, Sri Muktsar Sahib, and Er. Kuldip Raj, AEE, appeared on behalf of the Respondent Punjab State Power Corporation Limited (PSPCL).

4. Presenting the case on behalf of the Petitioner, Shri S.R. Jindal, PR stated that the connection of the Petitioner was released on 06.05.2013 for a load of 39.980kW under NRS category for Restaurant purpose and after the release of connection, the same was checked many times by the Respondent’s officer as Energy Meter was installed at the main road but no report of checking was handed over to the Petitioner or its representative present at the time of checking.

 PR stated that A.S.E, Enforcement, PCPCL, Sri Muktsar Sahib was requested by AEE, DS City Sub Division, PSPCL, Sri Muktsar Sahib on Telephone for checking of connection of the Petitioner, as LT CT operated Energy Meter was to be replaced with Whole Current Energy Meter, as the consumer had applied for reduction in load. The PR added that actually, the Energy Meter was removed by the official of the Respondents, but when somebody told them that it was required to be checked by Enforcement Agency prior to removal, then, they reinstalled the same again and asked the Enforcement for checking and re-affixed the seals on dated 16.12.2016 which was evident from the checking of A.S.E, Enforcement, Sri Muktsar Sahib, dated 16.12.2016.

 PR also stated that on 16.12.2016, A.S.E, Enforcement, Sri Muktsar Sahib checked the connection and reported that all the seals affixed on MCB / MTC / ME / CT chamber etc. were found intact. The checking agency declared the Energy Meter slow by 76.14% and directed the AEE, DS City Sub Division, PSPCL, Sri Muktsar Sahib to overhaul the account from 04.08.2014 i.e. when the said LT CT operated Energy Meter was replaced with Whole Current Energy Meter. PR further stated that AEE, DS City Sub Division, vide office Memo. No. 1378 dated 19.12.2016 raised the demand of penalty amount of Rs. 17,55,752/- for the period 04.08.2014 to 16.12.2016 by applying slowness factor as 76.14%. DDL was also recorded by Enforcement at the time of checking. PR also contended that the Energy Meter of 200 / 5 Amp bearing Sr. No. PBB-20717, Secure make, was installed on 04.08.2014 at reading 126827 (T&P Energy Meter) but no certificate of Energy Meter checked in Lab was ever produced and no reference of seals affixed while replacement of Energy Meter had been shown on MCO. PR further stated that when all the seals at the time of checking dated 16.12.2016 were found intact by Enforcement but on enquiry by the Forum, no proper record of affixing the seals was available with the Respondent. As Paper Seal No. AF 65690 affixed on MCB and AF-65530 affixed on CT Chamber on 12.12.2016 by Shri Bharat Singh, Lineman and Shri Niwas Rai, Lineman, though they were not competent to affix the seals on the said Energy Meter as stated by Respondent on 19.06.2017 during oral discussion of the case before the Forum. Regarding other seals, the statement of Shri Karamjit Singh, JE and Shri Barinder Pal Singh, AEE was itself contradictory and controversial. PR questioned the need to affix the seals on 12.12.2016 when the officials, who affixed the seals, were not competent to affix the seals of said connection. Besides, no record of affixing the MTC seal No. 995710 and ME Seal Nos. 49957102 (2 Nos.) was available with the Respondent. The Forum, in its decision, advised to form Enquiry Committee to investigate the matter at the level of Chief Engineer, DS West Zone, PSPCL, Bathinda to initiate the disciplinary action for the lapses on the part of Respondent. PR also stated that for the reduction of load from 39.980kW to 9.446kW, necessary documents were submitted to Respondent office before 16.12.2016 and that was why AEE, DS City Sub Division asked the Enforcement to check the connection of the Petitioner but documentary proof was not produced by the Respondent before the Forum at Patiala. The PR stated that the record produced before the Forum was not proper and complete.

 PR also stated that at the time of checking the connection on 16.12.2016, Enforcement noticed that LED on Energy Meter was flickering but segment on Yellow Phase was not stable due to wrong connections of CTs as stated in their report. The checking was not in accordance with ESIM instruction no. 59.4 whereas checking should have been done at minimum 15% of the sanctioned load and step checking at 0, 10, 20, 30, 50, 70, 100% load was not done. PR also stated that A.S.E, Enforcement, Sri Muktsar Sahib recorded DDL on 16.12.2016 but it showed date as 13.05.2016 and DDL is for the period 05.03.2016 to 13.05.2016 and cumulative reading as per reading record were not matching. The Respondent again got the DDL of the same Energy Meter done in ME Lab, Bathinda, which showed the DDL recorded on 10.06.2016 with different period of recording. No report of accuracy of Energy Meter was reported as standard equipment for Energy Meter checking was out of service in the ME Lab, Bathinda. The Respondent again got checked the Energy Meter in ME Lab, Patiala as advised by the Forum but it recorded the collection data on 26.10.2016 with different period of recording. This was due to software problem of the Energy Meter that it Meter was recording wrong date, hence, the Energy Meter reporting wrong data, be declared as null and void.

 PR stated that, in view of ESIM instruction no.104.2 (ii), in the absence of the consumer or his representative, Memo of Inspection (MOI) and seizure shall be jointly signed by Enforcement Wing and Operation Staff but has not signed it. Moreover, the accuracy of the Energy Meter after setting the connections right had not been checked by Enforcement on 16.12.2016, which created doubt about the checking report of dated 16.12.2016.

 PR also referred to ESIM instruction no. 80.1 (ii) which lays down that readings of consumer’s Energy Meter having connected load from 21kW to 50kW should had been taken by JE incharge of the feeder and if the LED on segment display of Energy Meter was stable, defect could have been easily detected. PR desired that the copy of reading record for the period of dispute be provided to know the facts of the reading recorded by authorized person. PR also stated that in view of ESR Clause 70.4.3, if the slowness factor was more than 20% plus/minus, then, the Energy Meter be declared defective / inaccurate and account be overhauled based on corresponding consumption available of the previous period. Moreover, after the enforcement of Electricity Act - 2003 and Condition of Supply -2007, every penal action on the consumer needs to be supported by rules and regulations because it was the consumer who had to bear the liability and had every right to know under which regulations, it was being penalized.

 PR stated that no manipulation / interchanging of connections had ever been done by the Petitioner at his own level and no allegations of such nature have been levelled against him. The checking agency, on 16.12.2016, did not call the concerned JE / AEE who effected the Energy Meter Change Order on 04.08.2014 when the seals were affixed because they were responsible for the same. Moreover, the Petitioner was not given any opportunity to be heard in person before issuing the order of assessment.

 PR stated that the consumption / DDL recorded did not support that the Energy Meter was slow by 76.14%. Moreover, in view of ESR Clause 70.4.3, the account of the Petitioner, if the slowness was more than 20%, could be overhauled by treating Energy Meter as defective / inaccurate and account could be overhauled for a maximum period of six months.

 PR stated that in view of ESIM instruction no. 104.1, the connections having load of 21kW to 50kW in the jurisdiction of JE incharge shall be checked by him at least once in every six month and had it been checked as per instruction, the defect could have been detected earlier. The consumption recorded has been further increased by slowness factor of 76.14% which was not justified, because the business of the Petitioner was not running well and was virtually shut and that was the reason for getting the load reduced from 39.980kW to 9.446kW. Further, the consumption had been calculated by applying correctness factor of 76.14% as 18,789 units which was not possible at the running load of the Petitioner. Moreover, if the consumption was calculated with LDHF formula, it would have come to 4798 units per month since the business was not running well and it was further closed / shut due to no business.

 PR stated that no question arose whether the Respondent had fixed responsibility of any of its officials for the lapses and any official had been charge-sheeted for heavy losses occurred due to their negligence. No approval of any higher authority, as required under Clause 13.5.2 of ESR, had been obtained before charging the huge amount to the Petitioner. The amount had been charged on flimsy grounds to show false progress of assessment by the checking authority.

 PR stated that PSPCL could not be allowed to take advantages of its own wrongful act and negligence on the part of its officials. The action of PSPCL was unconstitutional, without any solid proof and logic and was against the principles of natural justice. The deficiency of services was on the part of Respondent itself, as huge amount had been charged without any rules to harass the Petitioner physically, mentally and financially.

 PR stated that since prices of the goods sold were fixed on the basis of cost, expenses and profit and now at this stage, how the recovery of penalty levied could be recovered, when the business of the Petitioner had been closed due to no work. Supply Code Regulation 21.3.1 provides that it shall be the responsibility of the Distribution Licensee to satisfy itself regarding the accuracy of the Energy Meter before it is installed at the consumer’s premises.

 PR also stated that the mistake had occurred on 12.12.2016 when the Energy Meter was reinstalled after removal of the same. This was evident from the record of the Respondent itself that seals were affixed on 12.12.2016 and reduction of load was to be effected by replacing the LT CT operated Energy Meter with Whole Current Energy Meter. The record of the Respondent was in the favour of the Petitioner and showed that seals were affixed on 12.12.2016, otherwise what was the need to affix the seals by unauthorized person at the premises of the Petitioner.

 PR stated that keeping in view the facts and figures as explained above, the Respondent had no right to recover even a single penny on this account from the Petitioner and that following were the points of dispute between the Petitioner and the Respondent:

1. *Checking of connection was not done periodically in view of the ESIM instruction no. 104.1.*
2. *Checking by Enforcement, Sri Muktsar Sahib on 16.12.2016 beyond rules of the Respondents had no evidence of slowness factor of 76.14% of the Energy Meter.*
3. *The DDL recorded by checking agency / ME Lab, Bathinda / Patiala are different as recorded by Enforcement at the time of checking on 16.12.2016.*
4. *No proof / record of affixing the seals at the time of release of connection on 06.05.2013, and at the time of replacing Energy Meter on 04.08.2014exists and the fact that the seals were affixed on 12.12.2016 by un-authorized persons, was required to be investigated.*
5. *Readings of the Energy Meter were not recorded by the competent official.*
6. *Wrong connections on 16.12.2016 were checked in the absence of the Petitioner or its representative.*
7. *Amount charged by applying slowness factor was not genuine and justified in the eyes of laws.*

PR further stated that keeping in view the above facts and figures, the penalty levied was not justified as per rules of the Respondent itself and be withdrawn and amount of Rs. 1,00,000/- deposited with the Respondents be refunded with interest @ 12% per annum alongwith litigation fee of Rs. 20,000/- and compensation of Rs. 50,000/- for harassment be imposed on the Respondent for negligence on its part. He prayed to allow the Appeal.

5. Defending the case on behalf of the Respondents, Er. Sukhdev Singh, Addl. S.E., DS Division, PSPCL, Sri Muktsar Sahib stated that the connection of the Petitioner was released on 06.05.2013 with a sanctioned load of 39.980 kW under a NRS category. **He stated that no checking was ever conducted at the premises of the consumer before 16.12.2016.** He further stated that the Energy Meter reading was taken periodically by the Meter Reader of DS, City Sub Division, PSPCL, Sri Muktsar Sahib. The Respondent also stated that the LT CT operated Energy Meter installed at consumer’s premises was required to be replaced with Three Phase Four Wire, Whole Current Energy Meter due to reduction of load on the request of the Petitioner. The A.S.E, Enforcement, Sri Muktsar Sahib was requested by AEE, DS City Sub Division, PSPCL, Sri Muktsar Sahib on phone to check the Energy Meter of the Petitioner in view of provisions contained in instruction no. 55 of ESIM before its replacement. The Energy Meter was replaced after checking of the same by A.S.E, Enforcement, Sri Muktsar Sahib vide ECR No. 31 / 1844 dated 16.12.2016.

The Respondent stated that MCB / MTC / ME / CT Chamber seals were found intact at the time of checking. The checking was conducted by the A.S.E., Enforcement, Sri Muktsar Sahib who broke the said seals to inspect the Energy Meter. On checking of the Energy Meter, the checking officer observed that wires of R-Phase CTs were connected to B-Phase of Energy Meter and wires of B-phase CTs were connected to R-Phase of Energy Meter. However, the Y-Phase CT wires were found rightly connected to Y-Phase of Energy Meter. After that, working of the Energy Meter was checked with the Electronic Reference Standard (ERS) Meter and found running slow by 76.14%. Hence, A.S.E., Enforcement, Sri Muktsar Sahib directed the concerned Sub Divisional Office to proceed further as per regulations of PSPCL and to overhaul the account of the consumer accordingly.

The Respondent stated that a demand for Rs. 17,55,752/- was raised towards the Petitioner vide memo No.1378 dated 19.12.2016 for the period 04.08.2014 (date of installation of Energy Meter at the site of consumer) upto 16.12.2016 (date of checking) by applying slowness factor of 76.14%. This amount did not relate to any kind of penalty etc. This amount was just an amount of under assessment during the said period due to less recording of consumption. This amount was calculated as per the normal tariff applicable to the consumer. The Respondent further stated that Energy Meter Sr. No. PBB-20717 of make Secure, Capacity 200 / 5 Amp was installed at the premises of the consumer on 04.08.2014 at initial reading of 126827 kWh. Actually, as per rules and regulation of PSPCL, every Energy Meter was tested by ME Lab and sealed after testing and only after that, a Energy Meter was issued to various offices of PSPCL for installation of the same at consumer’s premises. This Energy Meter was also tested and sealed from ME Lab, Sri Muktsar Sahib which issued the same vide Store Challan No. 24 dated 21.07.2014 to Sh. Karamjit Singh JE, City Sub Division, PSPCL, Sri Muktsar Sahib and after that, this Energy Meter was installed on 04.08.2014 at the premises of the consumer by the concerned JE vide MCO No. 100004 / 99 dated 22.07.2014, effected on 04.08.2014. He contended that Energy Meter of the consumer was required to be replaced due to reduction of load and in view of provisions contained instruction no. 55 of ESIM, it was required to be got checked from A.S.E, Enforcement, Sri Muktsar Sahib. The Respondent reiterated that as per checking report dated 16.12.2016 of Eforcement, it was reported that LED of Energy Meter was flickering and all three phase segment were being displayed on Energy Meter display but the Yellow Phase segment was stable, and the LED of the Red and Blue Phases was flickering and load was running on all three phases of Energy Meter. On physical verification of Energy Meter, the Enforcement observed that potential connection of Red, Yellow abd Blue Phases were rightly connected at the Energy Meter Terminal but wires of R-Phase CTs were connected to B-Phase of Energy Meter and wires of B-Phase CTs were connected to R-Phase of Energy Meter. However, the Y-Phase CTs wires were found rightly connected to Y-Phase of Energy Meter at Meter Teminal. After that, working of the Energy Meter was checked with the ERS Meter and following results were obtained :

**Running Load**  **Result**

At 11 kW -74.16 %

At 14 kW -71.15 %

At 16 kW -83.12 %

Average Result -76.14 % (Slow)

 On conducting dial test, ERS Meter showed a consumption of 7 units, however, Energy Meter recorded consumption of only one unit. The Respondent stated that it was incorrect on the part of PR to suggest that checking was not conducted according to the rules and regulations. The checking was done by Enforcement as per provisions contained in instrcution no. 59.4 of ESIM. The Metering was being done by providing LT CT operated Energy Meter. Further, as regards the step checking at 0,10,20,30,50,70,100% of load as contained in ESR 70.6.1 regulation and CC No. 01 / 88 and 42 / 92, it was clear that ESR was superceded with ESIM vide Commercial Circular No. 02 / 2011 dated 04.01.2011. Hence, the said regulations are not in existance at present.

The checking was rightly conducted as per provisions contained in instrcution no. 104.1 of ESIM. The consumer’s representative was present at the start of checking. However, during the course of conduct of checking, he left the site of checking and this fact had rightly been mentioned on checking report. Further, as required by the said instructions, checking report was rightly signed by the Enforcement Wing and officer / officials of Operation staff. As regards the checking of Energy Meter after correction of wrong connection, the Respondent submitted that Energy Meter of the consumer was packed as it was, without changing the connections of the Energy Meter for further reference and inspection in ME Lab.

The Respondent further stated that the reading of the Energy Meter was recorded by the Meter Reader deputed by AEE, City S/D, PSPCL, Sri Muktsar Sahib. The duty of the Meter Reader was to take the readings of the Energy Meter and he was not competent to inspect the working of the Energy Meter.

 The Respondent stated that no penal action was initiated against Petitioner. A notice was served to the Petitioner only for under-assessment during the past period due to less consumption. The amount was calculated as per the normal tariff applicable to the consumer.

The Respondent submitted that departmental action had been initiated against concerned JE for violations of Commercial Instruction and not checking the connection of the consumer periodically as per regulations. Further, account of consumer has been overhauled as per prevalent rules and regulations laid down in Electricity Act - 2003 and Supply Code- 2014.

The Respondent also stated that there was no closure of work of consumer / Petitioner as the connection of the consumer was still running at the same site and in the name of the same consumer. Due to dust etc. on Meter Chamber Box (MCB), Meter Reader had to take the reading after breaking MCB seals. On routine checking, the seals were affixed on 12.12.2016 on MCB. It was incorrect that Energy Meter was reinstalled after removal on 12.12.2016. The true fact was that Energy Meter was only removed after checking by the Enforcement on 16.12.2016. The Respondent stated that the Petitoner was not entitled to any relief or compensation and prayed to dismiss the appeal.

**Decision:**

6. The relevant facts of the case are that electricity connection bearing Account Number GC-62 / 0185 under NRS category for load of 39.980kW for Hotel and Restaurant purposes, was released to the Petitioner on 06.05.2013 and Metering was done by providing Three Phase Four Wire, 10-60 Amp, Whole Current Energy Meter which was replaced with LT CT operated Energy Meter vide MCO dated 22.07.2014, effected on 04.08.2014 as the Whole Current Energy Meter got burnt. As the Petitioner applied for reduction of load from 39.980kW to 9.446kW for which Whole Current Energy Meter was required to be installed, the AEE, DS Sub Division, Sri Muktsar Sahib requested A.S.E., Enforcement, Sri Muktsar Sahib to check the connection which was checked on 16.12.2016. The Petitioner was statedly present at the start of the checking but later on he left the venue. In its checking report, A.S.E., Enforcement, Sri Muktsar Sahib reported that all the seals such as MCB / MTC / ME / CT Chambers were intact. During the checking, it was noticed that wires of R Phase CT were connected to B Phase of Energy Meter and wires of B Phase CT were connected to R phase of Energy Meter while Y Phase CT wires were found rightly connected to Y Phase of Energy Meter. Thereafter, DDL was taken and the Energy Meter was checked with Standard ERS Energy Meter and found running slow by 76.14%. The A.S.E., Enforcement, Sri Muktsar Sahib directed the AEE, DS Sub Division, Sri Muktsar Sahib to overhaul the account of the Petitioner from 04.08.2014 when the Whole Current Energy Meter was replaced with LT CT operated Energy Meter. In compliance to the said directions, AEE, DS Sub Division, Sri Muktsar Sahib, vide Memo. No. 1378 dated 19.12.2016, raised a demand of Rs. 17,55,752/- for the period from 04.08.2014 (date of installation of Energy Meter) to 16.12.2016 (date of checking) by applying slowness factor as 76.14%. Besides, on the request of the Petitioner, the load of the connection was reduced to 9.446kW, on 31.01.2017. The Petitioner challenged the demand raised before the Forum which decided on 21.06.2017 that the account of the Petitioner be overhauled for six months prior to the date of checking i.e. six months prior to 16.12.2016 by taking slowness factor as 76.14%. The Forum also directed S.E., DS Circle, PSPCL, Sri Muktsar Sahib, to initiate disciplinary action against the delinquent officers / officials who failed to check the connection of the Petitioner as prescribed in instruction no. 104 of ESIM. The Forum further directed the C.E. DS, West Zone, PSPCL, Bathinda to constitute an independent Committee to enquire the matter regarding affixing the MCB seals on 12.12.2016 and also about the authenticity of the statement of Shri Karamjit Singh, Junior Engineer and Shri Barinder Pal Singh, Retired AEE about the MTC seals and initiate / take necessary action as per Regulations of the Corporation.

 In compliance to decision ibid of the Forum, a Committee comprising of Dy. Chief Engineer/ DS Circle, Sri Muktsar Sahib, Addl. S.E., DS Division, Gidderbaha and A.O. (Field), PSPCL, Bathinda was constituted on 14.07.2017. The Committee reported that Shri Karamjit Singh, J.E. was directly responsible for failure to comply with provisions of instructions no. 104.1 of ESIM and affixing of seals and had already been served with a charge sheet on 04.07.2017. The said Committee also reported that Shri Barinder Singh, the then AEE (since retired) could not, however, be held responsible in the matter. Besides, departmental action had been initiated by the Respondent against the delinquent official for not checking the connection periodically as required under instruction no. 104 of ESIM.

 I have gone through the written submissions made by the Petitioner in the Petition, written reply of the Respondent as well as oral arguments of the Petitioner’s Representative as well as Representative of the Respondent - PSPCL alongwith material brought on record by both the sides. The Petitioner has, in the present dispute, raised the following issues for adjudication:

1. *Checking of connection was not done periodically in terms of instructions contained in ESIM 104.1,*

*ii) Checking by A.S.E./ Enforcement, Sri Muktsar Sahib on 16.12.2016 was beyond rules of the Respondent and had no evidence of slowness factor of 76.14% of the Energy Meter,*

*iii) The DDL recorded of the Energy Meter by the Checking Agency / ME Lab, PSPCL, Bathinda and ME Lab, PSPCL, Patiala were different as compared to reading recorded by Enforcement at the time of checking on 16.12.2016;*

*iv) No proof / record of affixing the seals at the time of release of connection on 06.05.2013 and at the time of replacing the Energy Meter on 04.08.2014 and reason as to why the seals were affixed by the unauthorized persons on 12.12.2016 was required to be investigated,*

*v) Readings were not recorded by the competent official.*

*vi) Wrong connections on 16.12.2016 were checked in the absence of the Petitioner or its representative.*

*vii) Amount charged by applying slowness factor of 76.14% was not genuine and justified in the eyes of the rules.*

 My findings on these issues, inseriatum, are as under:

1. *PR contended that checking of the electric connection installed at the Petitioner’s premises, required to be done every six months by the J.E. concerned, was not done in compliance to provisions contained in instruction no. 104.1 of ESIM, and if the same had been followed, defect in the connection could have been detected earlier. I noted that*  *the Respondent has, in its written statement and also during the course of hearing, admitted that no checking was ever conducted at the premises of the Petitioner before 16.12.2016 and that departmental action had already been initiated against the concerned JE for not checking the connection periodically as required under instruction no. 104.1 of ESIM .*

*ii) PR contended that checking by A.S.E., Enforcement, Sri Muktsar Sahib on 16.12.2016 was beyond rules of Respondent and had no evidence of slowness factor of 76.14% of the Energy Meter. I noted that the Respondent contested the above contention of PR by stating that the LT CT operated Energy Meter of the Petitioner was required to be replaced by Three Phase Four Wire, Whole Current Energy Meter due to reduction of load on the request of the Petitioner and before replacement, the Energy Meter was required to be got checked from the Enforcement in view of provisions contained in instruction no. 55 of ESIM. I perused the Checking Report No. 31 / 1844 dated 16.12.2016 wherein A.S.E, Enforcement, Sri Muktsar Sahib reported that b"v gkT[D s/ whNo dh LED cfbeo eodh j? ns/ fszB/ c/i ;?rw?BN fv;gb/ s/ nk oj/ jB ns/  Y-Phase segment stable j?  ns/ R ns/ B Phase segment flicker eod/ jB fszB/ c/i s/ b"v ub fojk j? . On physical verification of Energy Meter, the Enforcement observed that Red, Yellow and Blue phase Potential Wires were rightly connected to the Energy Meter Terminal but wires of R-Phase CTs were connected to B-Phase of Energy Meter and wires of B-Phase CTs were connected to R-Phase of Energy Meter. However, the Y-Phase CTs wires were found rightly connected to Y-Phase of Energy Meter. After that, working of the Energy Meter was checked with the Electronic Reference Standard (ERS) Meter and following results were obtained :-*

***Running Load*** ***Result***

*At 11 kW -74.16 %*

*At 14 kW -71.15 %*

*At 16 kW -83.12 %*

*Average Result -76.14 % (Slow)*

 *On conducting dial test, ERS Meter showed a consumption of 7 units, however, Energy Meter recorded consumption of only one unit. The Respondent stated that it was incorrect on the part of PR to suggest that checking was not conducted according to the rules and regulations. As regards the Instructions No. 59.4 of ESIM, the Respondent submitted that the connection was checked as per provisions contained in instrcution no. 59.4 of ESIM. Further, as regards the step checking at 0, 10, 20, 30, 50 ,70, 100% of load as contained in ESR 70.6.1*

*instructions and CC No. 01/88 and 42/92, it was clear that ESR was superseded with ESIM vide Commercial Circular No. 02 / 2011 dated 04.01.2011. Hence, the said regulations are not in existance at present.*

*I, thus, agree with the Respondent that the checking of the Energy Meter on 16.12.2016 by A.S.E, Enforcement, Sri Muktsar Sahib was done in view of provisions contained in instrcution no. 59.4 of ESIM. However, I am of the view that due to wrong connections of Red and Blue Phase of CTs at Energy Meter Terminal, there was phase disassociation and in these conditions, slowness depends on electrical parameters i.e. voltage, current and power factor and in such a situation, the slowness factor will not remain the same or constant throughout the period of six months. Accordingly, I do not agree with the decision of Forum that ovehauling of the account be done for six months with slowness factor of 76.14% as determined at site.*

*iii ) PR next contended that DDL recorded of the Energy*

*Meter by checking Agency / ME Lab, Bathinda / Patiala were different as recorded by Sr. XEN, Enforcement, Sri Muktsar Sahib at the time of checking on 16.12.2016. The Respondent contested this contention and stated that the Energy Meter was tested at ME Lab and DDL was rightly obtained. I observed from the study of Cumulative Energy Data recorded at 24-00 hours of each DDL taken in ME Lab, Bathinda and ME Lab, Patiala and did not notice any discrepancy therein.*

*iv) The Petitioner raised another point of dispute by stating that the Respondent did not have any proof/record of affixing the seals at the time of release of connection on 06.05.2013 and at the time of replacement of the Energy Meter on 04.08.2014 and also desired that cause of affixing the Seals by the authorized persons on 12.12.2016 was required to be investigated. I observe that the Forum took cognizance of this issue and in compliance to its order dated 21.06.2017, a Committee comprising Dy. Chief Engineer, Sri Muktsar Sahib, Addl. S.E., Gidderbaha and A. O. (Field) was constituted to investigate the matter. The Committee found Shri Karamjit Singh, Junior Engineer accountable for the lapses. I find that disciplinary action had been initiated against the said J.E. by issuance of charge sheet dated 04.07.2017.*

*v) PR argued that readings of the Energy Meter were not recorded by the competent person. The Respondent contested this point and rightly stated that reading of the Energy Meter was recorded by the Meter Reader deputed by the AEE, City Sub Division, Sri Muktsar Sahib and that, duty of the Meter Reader was to record the reading of the Energy Meter and not to inspect the Energy Meter but I do not agree with the arguments of the Respondent on this point as the official, taking the reading could easily notice the condition of the Energy Meter from LED provided on each phase which was visible through the Glass provided on MCB.*

*vi) PR also argued that wrong connections on 16.12.2016 were checked in the absence of the Petitioner or his representative. In this connection, I noted the contention of the Respondent that the checking was conducted by the Area Incharge Junior Engineer, AEE and A.S.E, Enforcement, Sri Muktsar Sahib and that the Petitioner left the site after the checking started. I find that this was also mentioned in the Checking Report dated 16.12.2016. Hence, I do not agree with the contention of the Petitioner that checking was not done in the presence of consumer’s representative.*

*vii) PR raised the main point of dispute that amount charged by applying the slowness factor of 76.14%was not genuine and justified in the eyes of rules. PR also argued that the business of the Petitioner was not running well and thus the Petitioner got the load reduced from 39.980kW to 9.446kW. I find that the amount was charged on the basis of checking report dated 16.12.2016 of A.S.E, Enforcement, Sri Muktsar Sahib who checked the working of the Energy Meter with ERS Meter and found the Energy Meter was running slow by 76.14% implying that working of the Energy Meter on the date of checking was inaccurate. I am of the view that owing to wrong connections of Red and Blue Phase CTs, Phase disassociation conditions took place and slowness in such situations will depend on electrical parameters i.e. voltage, current and power factor due to which slowness factor will not remain the same throughout the period of six months and extent of slowness can not be determined. Accordingly, it will not be just and fair to take the slowness factor determined at site during checking dated 16.12.2016 to overhaul the account. Rather, it will be appropriate to overhaul the account of the Petitioner for six months (except the month where MMC was charged) prior to the date of checking i.e. 16.12.2016 by taking into account the consumption of the corresponding period of previous year because evidences and consumption data placed on record show that there was very nominal consumption due to less work, keeping in view the evidences provided by the Petitioner and in terms of Regulation 21.5.3 of Supply Code-2014 which reads as under:*

***“****Any evidence provided by the consumer about conditions of working and / or occupancy of the concerned premises during the said period (s) which might have a bearing on computation of electricity consumption shall, however be taken into consideration by the distribution licensee.”*

As a sequel of above discussions, I have no hesitation to set aside the decision dated 21.06.2017 of the Forum in case no. CG 47 of 2017. It is held that the account of the Petitioner be overhauled for a maximum period of six months prior to the date of checking i.e. 16.12.2016 (except MMC period) based on the consumption of corresponding period of previous year in terms of provisions contained in Regulation 21.5.2 (a) and 21.5.3 of Supply Code-2014 as per law of natural justice and evidences provided by the Petitioner. Accordingly, the Respondent is directed to recalculate the demand as per directions given above and amount found short / excess should be recovered / refunded without interest since the Petitioner also can not escape the responsibility for not getting the load reduced prior to checking by Enforcement when there was no work in the Hotel / Restaurant, as claimed by him during oral arguments. No compensation and expenses for defending the case will be payable to the Petitioner.

7. The Appeal is disposed off accordingly.

8. Chief Engineer, DS, West Zone, PSPCL, Bathinda should ensure to monitor the conclusion of disciplinary proceedings against the delinquent officials expeditiously as decided by the Forum.

9. In case, the Petitioner or the Respondent (Licensee) is not satisfied with the above decision, they are at liberty to seek appropriate remedy against this order from the appropriate Bodies in accordance with Regulation 3.28 of Punjab State Electricity Regulatory Commission (Forum & Ombudsman) Regulations – 2016.

 ( VIRINDER SINGH)

 LokPal (Ombudsman)

Place: SAS Nagar (Mohali) Electricity, Punjab,