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. 50/2017 Date of Order : 21.12.2017

Account No. 3002961154

Sub Divisional Officer,

Water Supply & Public Health,

Atam Nagar,

Ludhiana.

 …Petitioner

*Through*

Shri Kanwarjit Singh , Petitioner’s Counsel (PC)

Versus

Punjab State Power Corporation Limited

 …Respondent

*Through*

Er. M.P. Singh,

Additional Superintending Engineer,

DS Model Town (Special) Division,

PSPCL, Ludhiana.

Petition No. 50/2017 dated 23.08.2017 was filed against order dated 18.07.2017 in case no. CG-38 of 2017 of the Consumer Grievances Redressel Forum (Forum) which decided that:

 *“The account of the Petitioner be overhauled from 25.10.2004 to 21.04.2016 by taking the slowness factor of the meter as 30.5%.”*

1. Arguments, discussions and evidence on record were held on 19.12.2017 and 21.12.2017.

3. Shri Kanwarjit Singh, Advocate Petitioner’s Counsel(PC) alongwith Shri Darshan Singh, attended the Court proceedings on behalf of the Petitioner. Er. M.P. Singh, Addl. Superintending Engineer, DS Model Town (Special) Division, PSPCL, Ludhiana, appeared on behalf of the Respondent - Punjab State Power Corporation Limited.

4. Presenting the case on behalf of the Petitioner, Shri Kanwarjit Singh, Petitioner’s Counsel (PC) stated that the Petitioner was having an electricity connection in the name of Sub Divisional Officer, Water Supply and Public Health Department, Atam Nagar, Ludhiana, having sanctioned load to the tune of 45.340kW. The connection was checked at site by Addl. S.E/Enforcement-2, PSPCL,Ludhiana on 29.03.2016 when it was reported that Energy Meter was running slow by 30.5% and that wires of the Yellow and Blue Phase of the Energy Meter were wrongly connected at Meter Terminals due to which reason, the Energy Meter was running slow when checked.

PC stated that the concerned office of the Respondent, on the basis of this report, overhauled the account of the Petitioner for the period 25.10.2004 to 14.03.2016 by applying slowness factor of 30.5% and issued notice dated 22.04.2016 to deposit Rs. 13,34,236/-. Since it was quite apparent that report of Enforcement was provisional and thus overhauling the account of the Petitioner for such a long period with slowness factor of 30.5% without taking into account the previous consumption and connected/sanctioned load, was unjustified, as such, on the request of the Petitioner, a case was registered for review in ZDSC before Chief Engineer/DS, Central Zone, PSPCL, Ludhiana, after deposit of Rs. 2,66,848/- i.e. 20% of the disputed amount of Rs. 13,34,236/- on dated 18.08.2016.

 PC further stated that ZDSC decided the case against the Petitioner on 16.12.2016 with the order that the amount charged to the consumer on account of slowness of Energy Meter was correct and recoverable without considering/discussing the prevailing applicable provisions of the law, pleadings put forward by the Petitioner, consumption pattern, nature of load and without discussing the merits of the case before the ZDSC and delivered the following decision:

*“Committee after going through the ECR No. 26/939 dated 29.03.2016 of Addl. S.E/Enforcement-2, Ludhiana ECR No. 05/947 dated 14.12.2016 , report of Addl. S.E/DS Model Town (Special) Division, Ludhiana and consumption for the last 3 years, concluded that the amount charged to the consumer on account of slowness of meter is correct and recoverable.”*

PC stated that the Petitioner challenged the decision of ZDSC before the CGRF which, after hearing the parties, adopted the same method and flatly ignoring the applicable provisions of the law and the prepositions put forward by the Petitioner in the proceedings held before the Forum decided the Appeal of the Petitioner on the same pattern, which the ZDSC adopted and decided the Appeal against the Petitioner on 18.07.2017 with the following order:

“*The account of the Petitioner be overhauled from 25.10.2004 to 21.04.2016 by taking the slowness factor of the meter as 30.5%.”*

The Petitioner was not satisfied with the decision of the Forum and has filed the present Appeal. PC stated that the account of the Petitioner had been overhauled only on the basis of the site report prepared by the officers of the PSPCL at site and as per the DDL taken. But the Energy Meter as well as LT CT unit of the Petitioner had never been checked from the view point of accurate working of the Energy Meter in the M.E. Lab, before raising the demand, when the checking authority itself opined in the checking report that after affixation of the wires in right earnest, the Energy Meter recorded correct consumption. PC added that the Energy Meter in question was installed by the PSPCL itself and the seals affixed on the Energy Meter as well as on MCB had been found intact. Besides disputed Energy Meter pertained to the office of the Sub Divisional Officer, Water Works, which was a Government Office. Furthermore, as per the instructions No: 104 of Electricity Supply Instructions Manual, “All NRS connection with load up to 50 KW in the jurisdiction of the JE shall be checked by him at least once in every six months.” Besides as per the applicable provisions of the law it was the duty of the PSPCL to install and maintain a correct Energy Meter at the point of supply, hence, penalising the consumer for such a long period could not be said to be justified even if the charges levied for slow running of Energy Meter were treated to be correct. Further, necessary investigation of the Energy Meter as well as the connection of the wires, as claimed in the checking report, was required to be done in the ME Lab but the concerned officer did not care to do so and when at the later stage, the disputed Energy Meter in question was checked in the M.E. Lab, it was found within the prescribed limit of accuracy. The highly responsible officer, who installed the Energy Meter at site could not be expected to make such type of mistake at the time of its installation, which was reported in Checking Report dated 29.03.2016. Had the Officers of the PSPCL followed the applicable instructions at the relevant time in the spirit in which the same had been incorporated by the Legislature, then, the present dispute would not have arisen and the consumer would not have been put in such like awkward position. In any condition, as per the applicable provisions of the law, PSPCL was legally not empowered, and also not supposed/required to be allowed to take the law into its hands and interpret the same (applicable instructions) in manner which suited it. In the case of slow running of Energy Meter, the overhauling of the account of any consumer whose Energy Meter, on checking at later stage was found to be beyond the prescribed limit of accuracy, the prescribed period of overhauling of the account of concerned consumer was maximum six months and in case the account of concerned consumer was overhauled beyond the period of six months then as per the legally announced prepositions, that order null and void and was required to be quashed, when the Legislature had never allowed to any Licensee to overhaul the account of the concerned consumer whose meter had been found defective at later stage beyond the period of six months. PC prayed that the officers of the PSPCL may be imparted the directions to produce such instructions under which they were legally empowered to overhaul the accounts of those consumers, beyond the period of six months, whose Energy Meters are found to be defective/ inaccurate. PC added that the applicable provisions clearly provide for checking of the Energy Meters, declared as defective at site in the M.E. Lab and on receipt of the results of checking from the M.E. Lab, PSPCL can not overhaul the account of such consumers beyond the period of six months.

PC stated that based on the readings taken by the Meter Reader, who took the readings as required under the provisions contained in Instruction No. 59.1 (i) of ESIM, the Petitioner was liable to make payment to the PSPCL, which proved that since earlier, no such defect (which had been declared now) was present in the Energy Meter, as such it was not in a position to intimate such defect. Hence, the consumption so recorded in the Energy Meter during the period25.10.2004 to 14.03.2016 to the date of checking was the actual consumption, which the consumer consumed at the relevant time. All the bills served upon the consumer during this period were of ‘O’ Code, which meant that the Energy Meter was O.K.

 PC further stated that as per the applicable provisions of the law, the PSPCL was not empowered to overhaul the account of any consumer for the period, the defect remained continuous in the Energy Meter or defect in LTCTs or defect in wires or connections or in the cases of wrong connections etc. As per Electricity Supply Code-2014, which had been made applicable from 01.01.2015 in the Note below Regulation 21.5.1, it has been clearly mentioned that the Licensee was empowered to overhaul the account of any consumer for the period the defect remained continuous only in the following type of case :

 *“Where accuracy of the meter is not involved and it is a case of application of wrong multiplying factor, the account shall be overhauled for the period this mistake continued.”*

 PC also stated that as per the definition of the Energy Meter given in the Supply Code:

 *“Meter means a device suitable for measuring, indicating and recording consumption of electricity or any other quantity related with electrical system and shall include, wherever applicable other equipments such as current transformer, voltage transformer with necessary wiring and accessories or capacitor voltage transformer necessary for such purpose.”*

 This definition had been appended in the Supply Code keeping in view the notification dated 10th July 2002, issued by the Central Electricity Authority.

 PC added that due to the said definition of the Meter: CT Unit and wires attached to the CT were the part of Energy Meter and this was one of the major reason, among the others and that was why, the PSPCL in the cases of defect in the CT Unit or in case of the defect in the wire attached to CT or in wrong connections was not empowered to overhaul the account of any consumer for more than six months.

 PC contended that Regulation 21.5 of Supply Code-2014 which pertains to overhauling the accounts of consumer clearly indicates as under :

***“Regulation 21.5.1*** *:If a consumer meter, on testing is found to be beyond the limits of accuracy as prescribed hereunder, the account of the consumer shall be overhauled and the electricity charges for all categories of consumers shall be computed in accordance with the said test results for a period not exceeding six months immediately preceding the:*

 *a) date of test in case the meter has been tested at site to the satisfaction of the consumer or replacement of inaccurate meter whichever is later; or*

 *b) date the defective meter is removed for testing in the Laboratory of the distribution licensee.”*

 PC contended that a number of the High Courts as well as National Consumer Disputes Redressel Commission, New Delhi, clearly decided that the maximum period for which a bill could be raised in the case of defective meter was six months and no more. In the case titled ‘Y.N. Gupta V/S D.E.S.U. I (1993) CPJ 27 (NC)’, it was decided that:

*“The maximum period for which a bill can be raised in respect of defective meter under Section26(6) (Electricity Act 1910) is six month and no more. Therefore even if a meter has been defective for, say, a period of five years, the revised charge can be for a period not exceeding six month. The reason for this is obvious. It is the duty and obligation of the licensee to maintain and check the meter. If there is default committed in this behalf by the licensee and the defective meter is not replaced, then it is obvious that the consumer should not be unduly penalized at a later point o time and a large bill raised.”*

 PC emphasized that as per the applicable instructions, it was the responsibility of the PSPCL to install a correct Energy Meter and to connect the CT Unit in right earnest and connection on each phase be given correctly at the time of installation of the Energy Meter at the point of supply and further, the sealing of the relevant portion be done immediately. In case, the Officer-in-Charge deputed to do the work of installation of meter, did not take care at the initial stage, then, the consumer should not be penalized at the later stage due to the fault of the concerned officer of the PSPCL, as such, the overhauling of the account of the consumer from the day of installation of the Energy Meter was not correct in the present consideration.

 PC also stated that the Distribution Licensee had not mentioned that under which Rules and Regulations/Instructions/Law, as per which it was empowered to overhaul the account of the consumer for more than that of six months when as per the Court judgments, the Respondent was bound to intimate/refer that law under which the consumer was required to be charged for more than that of six months.

PC also stated that this Court had, in the near past, decided the cases detailed below on this aspect and allowed the overhauling of the accounts of the consumer only for a period of six months:

 a) Arvinder Pal Singh

 b) Ram Lal Arora.

 c) Capital Dying

 d) Tarvinder Singh

 PC referred to the Instruction No: 59.1 (i) of ESIM as per which, Meter Reader was bound to check the meter at the time of taking monthly reading and to watch whether the Energy Meter reading advanced in the correct direction and as per Instruction No: 59.1 (ii) of ESIM, Meter Inspectors, JEs, AEs/AEEs/Xens (DS) and AEEs/XENs/Sr. Xens/Addl. S.Es (Enforcement) were to conduct the accuracy test at site with the help of meter testing instrument. In the above said situation of not checking the connection, the overhauling of the account of the consumer for the period 25.10.2004 to 14.03.2016 (more than eleven years) could not be said to be correct at any stage.

PC prayed to allow the Appeal and give the directions to overhaul the account of the Petitioner, only in terms of applicable Regulations/ Instruction No. 21.5.1 of the Supply Code-2014.

5. Defending the case on behalf of the Respondent, Er. M.P. Singh, Addl. S.E, DS Model Town (Special) Division, PSPCL, Ludhiana stated that Addl. S.E/Enforcement-2, PSPCL, Ludhiana, checked the connection of the Petitioner vide ECR No.26/939dated 29.03.2016 , and reported that the Energy Meter was running slow by 30.5% due to wrong connections.

Based on the above checking report of Addl. S.E/Enforcement-2, PSPCL, Ludhiana, AEE/Commercial Model Town (Special)Division, PSPCL, Ludhiana issued a notice bearing memo no.775 dated 22.04.2016 directing the Petitioner to deposit a sum of Rs 13,34,236/- on account of slowness of Energy Meter of the Petitioner by 30.5%.This was followed by memo no 1171 dated 21.06.2016. The Energy Meter of the petitioner was replaced vide MCO no. 100001874430 dated 21.04.2016 and was checked in the ME lab vide challan no. 2191 dated 20.04.2017. As per ME Lab report, the accuracy of the removed Energy Meter was within limits.

The Respondent contested the claim of the Petitioner who stated that the Energy Meter as well as CT Unit of the consumer had never been checked in ME Lab with a view to ensure its accurate working before raising the demand. The Respondent also stated that action was taken as per Regulation 21.3.6 of Supply Code 2014, which reads as under:

Testing of Inaccurate meters

1. The distribution license shall have the right to test any consumer meter and related equipment ‘either at site or in the laboratory’ if there is a reasonable doubts about its accuracy and the consumer shall co-operate with the distribution license in conducting the test. The consumer shall have the right to be present during such testing. A copy the test results indicating the accuracy of the meter shall be provided to the consumer.

The Respondent added that in the present case, the accuracy of the Energy Meter and LT/CTs were checked at site by the authorized officer i.e. Addl. S.E/Enforcement-2 with the help of LT ERS Meter and results were recorded in ECR no. 26/939 dated 29.03.2016. As per report, the Energy Meter was found running slow by 30.5% due to wrong connections of CTs.

The Petitioner was not satisfied with the amount charged and approached the ZDSC which directed it to install a Check Energy Meter in parallel to the existing one by connecting wires as per similar connections as shown in the sketch of ECR no. 26/939 dated 29.03.2016.After doing so, the results were checked vide ECR no. 5/947 dated 14.12.2016 and were reported as under:

Consumption of actual meter =3318 kVAh (correct connection)

Consumption of checked meter = 2280.7 kVAh (wrong connections)

Slowness = -31.26%

 The Respondent contended that from above, it proved that the Energy Meter was checked at site and checking of accuracy of the Energy Meter at site was correct. Therefore, ZDSC, vide order dated 16.12.2016 decided that amount calculated and charged to the Consumer was correct and recoverable.

 Not satisfied with the decision of the ZDSC, the Petitioner challenged the same before the Forum. The Energy Meter of the Petitioner was also checked in ME lab by challan no. 2191 dated 20.04.2017 and the accuracy was found within limits.

The Respondent also submitted that old Energy Meter of the Petitioner was replaced on 25.10.2004 vide MCO no 121/62592 due to slowness of the Energy Meter by 6.65% as checked by AEE/Tech-1 Model Town, PSPCL, Ludhiana. Meter Sealing Plier with impressions J0347 was issued to Shri Balwinder Singh, AAE/Tech-1 on 21.07.1999 attested copy of the register for issuing the sealing plier with impressions J0347 to Sh. Balwinder Singh, AAE/Tech-1 on 21.07.1999 was submitted in the Forum. A copy of memo no. 2865 dated 24.05.2016 of ASE/ DS Model Town (Special)Division, PSPCL, Ludhiana, addressed to RE/MHP, Talwara vide which the official Shri Balwinder Singh was relieved from duty as per Secretary/Establishment Gazette Section, PSPCL, Patiala’s Office Order No. 316 dated 05.05.2005. In the checking report of the Addl. S.E/Enforcement-2, Ludhiana, it was mentioned that the same terminal seal was found affixed by Shri Balwinder Singh, AAE, who relinquished the charge on 24.05.2005.

The Forum decided the Appeal filed by the Petitioner vide order dated 18.07.2017 and upheld the amount charged to the Petitioner.

The Respondent further stated that the case quoted by the Petitioner of 'Y.N Gupta V/S D.E.S.U', was a different case and had no relevance with the present case. In the said case cited by the Petitioner, the Energy Meter was defective and there was no issue of wrong connections and hence accuracy was not involved.

*The Respondent stated that the case titled ‘*Satish Kapoor V/S Punjab State Electricity Board and Others *’Hon’ble Punjab and Haryana High Court had decided (AIR Page 2033) that, “if the electricity has been consumed by the appellant he is bound to pay for the same. It is true that there is no fault on the part of appellant but the appellant has proceeded on a wrong belief that he is being penalized for the same, as a matter of fact he has been asked to pay for the electricity which had been consumed but could not be recorded by the meter because of wrong phase association of the meter.”*

The Respondent further stated that the present case was similar to the Case No. 07/2013 titled ‘U.S. Metal Product Unit No. 2,SIDCUL, Haridwar (Uttrakhand) V/S Executive Engineer, Electricity Distribution Division (Rural), Uttrakhand Power Corporation Ltd., Haridwar, (Uttrakhand)’ wherein the following order was passed by the Electricity Ombudsman, Uttrakhand:

*“I have gone through all the documents and heard the arguments. One of the arguments raised by the Petitioner was that clause 3.1.3(6) of the UERC(The Supply Code) Regulations-2007 should be applied and assessment be done only for six months preceding the date of correction, cannot be accepted as clause 3.1.3(6) deals with slow running of meter due to any defect in the meter or its equipment’s i.e. CT and PT. Here there was no defect either in the meter or in the CT or PT the problem had arisen due to wrong connection of phases which is a human mistake’.*

The Respondent added that in view of this, it would not be possible to apply this Clause in the present case.

The Respondent added that a Comparative Consumption
Data Sheet showed that the slowness was there, so it was correct to charge the Consumer for the electricity it consumed for the period the Energy Meter remained installed at its premises i.e. from 25.10.2004 to 21.04.2016.

The Respondent prayed to dismiss the Appeal of Petitioner as the amount charged was correct and recoverable.

After conclusion of the arguments, the Respondent was directed also to submit the Consumption Data, of the energy consumed by the Petitioner from 01/2001to 18.12.2010, latest by 21.12.2017. Accordingly, the Respondent sent the Consumption Data from 29.11.2001 to 18.12.2010 vide e-mail dated 21.12.2017 wherein it was also stated that the Consumption Data for the period from 01/2001 to 10/2001 was not available in the records.

**Decision**

6. The relevant facts of the case are that the Petitioner was having a Medium Supply Category Connection in the name of Sub Divisional Officer, Water Supply and Public Health Department, Atam Nagar, Ludhiana, with sanctioned Load of 45.340kW. The Energy Meter at the premises of the Petitioner was installed on 25.10.2004, after replacement of Energy Meter (previously installed) found slow by 6.65% during checking. The Addl. S.E/Enforcement-2, PSPCL, Ludhiana, checked the connection vide ECR No. 26/939 dated 29.03.2016 and reported as under:

“*;hNh dhnK tkJh c/° dhnK n?;1 ns/ n?;2 tkJho} whNo ftZu ph c/; ftZu gkJhnK j'JhnK jB . ns/ ph c/° dhnK n?;1, n?;2 tkJhoi whNo ftZu tkJh c/; NowhBb ftZu gkJhnK j'JhnK jB . gqzs{ tkJh c/; dh g'NB;hnb tkJho whNo ftZu tkJh c/° d/ NowhBb ftZu jh brkJh j'Jh j? ns/ ph c/° dh g'N?Bµhnb tkJho whNo ftZu ph c/} NowhBb ftZu jh gkJh j'Jh j? .*

 *fJ; soKQ tkJh ns/ ph c/°K dhnK ;hNh tkJhoi B{z nkg; ftZu pdbh eoe/ bkT[D Bkb whNo xZN fJBoih foekov eo fojk j? .*

 *ph ns/ tkJh c/°K dhnK ;hNh tkJhoi B{z nkgDh nkgDh ;jh irKQ s/ bkT[D Bkb c/; sequence Uryb ns/ Aryb nk frnk j? . n?e[o/;h th ;hwK ftZu gkJh rJh .*

 *whNo dh n?wJh ;hb N[ZNh j'D ekoD fJ; B[z pdbh ehsk ikt/ . dcso foekov u?e eoe/ ygseko B{z xZN ukoi j'Jh oew ukoi ehsh ikt/ .*

 *whNo B{z n?bNh Jhnkon?; whNo Bkb u?e ehsk whNo 30.5% j'bh ubdk gkfJnk frnk . vkJhb N?;N okj] ygseko d/ whNo tZb¯ 5H4 e/vpb:{n?u foekov eoB s/ Jhnkon?; whNo tZb¯ 7H8 e/vpb:{n?u foekov ehs/ rJ/ .”*

Based on the above checking report of ASE/Enforcement-2 Ludhiana, AEE/Commercial, DS Model Town (Special) Division, Ludhiana, issued a Notice bearing memo no. 775 dated 22.04.2016 directing the Petitioner to deposit a sum of Rs 13,34,236/- on account of overhauling of its account for the period from 25.10.2004 to 21.04.2016 for slowness of Energy Meter by 30.5%.This was followed by memo no. 1171 dated 21.06.2016.In the meantime, the Energy Meter of the Petitioner was replaced vide MCO no. 100001874430 dated 21.04.2016andwas checked in the ME Lab vide Challan No. 3148 dated 27.12.2016.As per ME Lab report, the accuracy of the removed Energy Meter was within limits.

The Petitioner did not agree with the amount charged and approached the ZDSC which directed the Respondents, on the request of the Petitioner, to install a new Energy Meter parallel to the existing Energy Meter by connecting wires as per similar connections shown in the sketch of ECR no. 26/939 dated 29.03.2016. Accordingly, a Check Meter was installed on 11.11.2016, whereafter, the results were checked vide ECR no. 5/947 dated 14.12.2016 and were reported as under:

Consumption of actual meter = 3318kVAh (correct connection)

Consumption of checked meter =2280.7 kVAh(wrong connections)

Slowness = -31.26%

 The ZDSC decided on 16.12.2016 that the amount charged to the Petitioner on account of slowness of Energy Meter was correct and recoverable. Subsequently, the Energy Meter of the Petitioner was checked in ME Lab vide Challan no. 2191 dated 20.04.2017 and the accuracy was found within limits. Not satisfied with this decision, the Petitioner, approached the Forum who, vide order dated 18.07.2017 decided that the account of the Petitioner be overhauled from 25.10.2004 to 21.04.2016 by taking slowness factor of the Energy Meter as 30.5%.

 Aggrieved with the decision of the Forum, the Petitioner has preferred an Appeal in this Court.

The Petitioner, in its Petition, and the Respondent in its reply thereto, have cited decisions of this Court, Hon’ble Punjab and Haryana High Court, Hon’ble Electricity Ombudsman, Uttrakhand and Hon’ble National Consumer Dispute Redressel Commission, New Delhi, in support of their respective contentions for allowing/dismissing the Appeal.

I have gone through the written submissions made in the Petition by the Petitioner and written reply of the Respondent as well as oral arguments of the Representatives of the Petitioner and the Respondent alongwith material brought on record by both the sides.

 The issue requiring adjudication is the legitimacy of the amount charged to the Petitioner after overhauling its account for the period from 25.10.2004 to 21.04.2016 by taking the slowness factor as 30.5% as per applicable regulations.

*My finding on the points emerged and deliberated are as under:*

1. PC argued that as per provisions contained in Instruction No. 59.1 (i) of ESIM, the Meter Reader was bound to check the Energy Meter at the time of taking monthly reading and to watch whether the meter reading was proportional to the load.

*I find that since, the Petitioner was having a Medium Supply category connection and monthly readings were supposed to be taken by AAE who failed to notice the wrong connections of CTs, as Arby was coming on Meter display and ‘STAR’ was also coming on the Meter display which clearly showed negligence on the part of the Respondent (PSPCL).*

1. PC argued that Instruction No. 59.1 (ii) of ESIM prescribed that AE/AEE/Sr.XEN or ASE (DS)/ASE, /Enforcement were required to conduct accuracy test at site with the help of Meter Testing Instrument. PC pleaded that had the necessary checking been done in terms of provisions ibid, the dispute involving the overhauling of the Petitioner’s account for more than eleven years would not have arisen and the undue hardship caused on this account could have been avoided. PC also argued that the Respondent violated the instructions contained in Instruction No. 104 of ESIM requiring checking of connections once in every six months. PC added that it was the duty of the PSPCL to install and maintain a correct Energy Meter at the point of Supply, hence, penalising the Petitioner for a long period of eleven years was not justified even if the Energy Meter was running slow during the disputed period as contended by the Respondent.

*I observe that notwithstanding work load vis-à-vis manpower availability/constrains, the Distribution Licensee defaulted in monitoring/ensuring the compliance of the codal provisions requiring periodical checking of the connections which led to the present dispute.*

1. The Respondent, in its reply to the Petition, stated that as per study of Consumption Data of the Petitioner’s connection, during the disputed period, it was noticed that the Petitioner was rightly charged, due to slowness detected, for the energy consumed by the Energy Meter from the date of its installation i.e. 25.10.2004 to the date of its replacement on 21.04.2016 .

 With a view to make a fair assessment of consumption recorded and billed for during the disputed period, the Respondent was directed to send, by 21.12.2017, to this Court, the Consumption Data also for the period from 01/2001to 12/2010. Accordingly, the Respondent, vide its e-mail dated 21.12.2017, sent the Consumption Data also of the Energy Meter for the period 29.11.2001 to 18.12.2010 while the Consumption Data for the period 01/2001 to 10/2001 was not sent as the same was not available in records.

*I have studied the consumption pattern of the Energy Meter which reveals variations in some months making it difficult to form any definite opinion as connection has been taken for Water Works purposes and quantity of Energy consumed depends on a variety of factors including Seasonal Variations.*

1. PC argued that the account of the Petitioner had been

overhauled for the period from 25.10.2004 to 21.04.2016 on the basis of checking of the connection at site by Addl. S.E/Enforcement-2, Ludhiana on 29.03.2016. DDL was taken but the Energy Meter was well as LT CTs of the connection had never been checked from the view point of accurate working of the Energy Meter in the ME Lab., before raising the demand, when the checking authority itself opined in the Checking Report that after affixation of the wires in right earnest, the Energy Meter recorded correct consumption. PC added that the Energy Meter in question was installed by the officers/officials of the PSPCL itself and the seals affixed on the Energy Meter as well as on MCB had been found as in intact position. Also, the said Energy Meter pertained to the office of SDO, Water Works, which was a Government office. Besides this, as per the applicable provisions of the law, it was the duty of the PSPCL to install and maintain a correct Meter at the point of supply, hence, penalising the Consumer for such a long period could not be said to be justified even if slow running of Energy Meter was treated to be correct. PC also referred to the provisions contained in Regulation 21.5.1 and 21.5.2 of Supply Code-2014 as per which, if an Energy Meter, on being tested, was found to be inaccurate/defective, the account of the Consumer shall be overhauled, in accordance with the test results, for a period not exceeding six months. PC also referred to the Appeal Cases decided by this Court in Appeals filed by Shri Arvinder Pal Singh, Ram Lal Arora, Capital Dyeing and Tarvinder Singh, in the recent past wherein it was decided to overhaul the account of the Petitioner for a period of six months in accordance with the test results of the respective Energy Meter tested in terms of provisions contained in Regulation 21.5 of Supply Code-2014. PC further cited the decision of Hon’ble National Consumer Dispute Redressel Commission in the case titled ‘Y.N. Gupta V/S D.E.S.U. (1993) CPJ-27(NC)’ in support of its contention for overhauling the account of the Petitioner for a period of six months.

 The Respondent contested the claim of the Petitioner and stated that the accuracy of the Energy Meter was checked at site by the authorised officer i.e. Addl. S.E., Enforcement-2, Ludhiana with the help of LT ERS Meter vide ECR No. 26/939 dated 29.03.2016 and it was reported that the Energy Meter was found running slow by 30.5% due to wrong connections of CTs, therefore, action was taken as per Regulation 21.3.6 of Supply Code-2014. The Respondent added that the ZDSC and the Forum also, vide their order dated 16.12.2016 and 18.07.2017 respectively, decided that the amount charged to the Petitioner, due to overhauling of its account with slowness as 30.5% from the date of installation of the disputed Energy Meter to the date of its replacement, was recoverable. The Respondent also stated that the present case was similar to the Case No. 07/2013 titled ‘M/s U.S. Metal Product Power Corporation Limited, Haridwar’ wherein it was observed that when there was no defect in the Energy Meter or CT or PT and the problem arose due to wrong connection of wires, the consumer’s plea for overhauling its account for six months preceding the date of connection could not be accepted.

 *I observe that the Energy Meter of the Petitioner was inaccurate due to wrong connections, as evidenced from the results of checking done by Addl. S.E/Enforcement-2, Ludhiana with the help of LT ERS Meter vide ECR No. 26/939 dated 29.03.2016. This is further confirmed by the instantaneous values coming on the print out of DDL showing clearly that the connections were “reverse”. I am of the view that the case of ‘Inaccurate Meter’ is covered in terms of provisions contained in Regulation 21.5.1 of Supply Code-2014. That is why, I do not find it appropriate to discuss the citations referred to by the Petitioner or the Respondent in support of their respective contentions.*

 **As a sequel of above discussions, it is held that the account of the Petitioner should be overhauled under the provisions of Regulation 21.5.1 of Supply Code-2014 for a period of six months prior to the date of replacement of disputed Energy Meter by applying the slowness factor of 30.5% as determined during checking dated 29.03.2016 by the Enforcement. Accordingly, the Respondent is directed to recalculate the demand and refund/recover the amount excess/short with interest from the Petitioner as the onus to maintain and check the Energy Meter periodically rests with the Respondent.**

7. The Appeal is disposed off accordingly.

8. 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 and Ombudsman) Regulations – 2016.

 (VIRINDER SINGH)

 LokPal (Ombudsman)

Place: S.A.S. Nagar (Mohali) Electricity, Punjab,