**COURT OF THE LOKPAL (OMBUDSMAN),**

**ELECTRICITY, PUNJAB,**

 **PLOT NO. A-2, INDUSTRIAL AREA, PHASE-1,**

 **S.A.S NAGAR (MOHALI)**

**Appeal No. 92/2017**

**Date of Registration : 04.12.2017**

**Date of Hearing : 03.05.2018**

**Date of Order : 07.05.2018**

**Before:**

 **Er. Virinder Singh, LokPal (Ombudsman) Electricity**

**In the matter of**

Arun Kumar,

S/o (Late) Smt.Shakuntla Devi,

Mangat Industries,

8, Factory Area,

Patiala.

...Petitioner

Versus

Senior Executive Engineer,

 DS West Division,

 PSPCL, Patiala.

 ...Respondent

**Present For :**

Petitioner **:** Shri R.S. Dhiman,

 Petitioner’s Representative (PR),

Respondent **:** Er. Jatinder Garg, Senior Executive Engineer,

 Before me for consideration is an Appeal preferred against the order dated 14.11.2017 of the Consumers Grievances Redressal Forum (Forum) in Case No. CG-216 of 2017 deciding that:

*“The account of the Petitioner be overhauled from the date of implementation of the MCO 147/76070 dated 27.10.2009 applying MF of 2 instead of 1. The delinquent officer/official need to be identified for ignoring the correct application of MF in the bills and suitably punished.”*

**2. Facts of the Case:**

 **The relevant facts of the case are that:**

**(i)** The Petitioner was having a Medium Supply Category connection with Sanctioned Load of 37.300kW and the Metering was being done by providing LTCT operated Energy Meter.

1. The connection was checked by the AEE, North (Tech) vide Load Checking Register (LCR) No. 75/0023 dated 13.05.2017 and found that as per CT Ratio of Energy Meter and LT CTs, the overall Multiplication Factor (MF) was 2 whereas, the billing was being done by taking MFas 1.
2. The Respondent overhauled the account of the Petitioner from 02/2010 to 03/2017 on the basis of the above LCR and issued notice dated 06.06.2017 to the Petitioner to deposit Rs. 7,35,577/- .
3. The Petitioner did not agree with the said notice and filed an Petition in the Forum, which, after hearing, passed the order dated 14.11.2017 (Reference: Page 2, Para 1).
4. Not satisfied with the decision of the Forum, the Petitioner preferred an Appeal in this Court and prayed that the undue charges raised against the Petitioner may be set-aside in the interest of justice.

**3. Submissions made by the Petitioner and the Respondent:**

Before undertaking analysis of the case, it is necessary to go through the written submissions made by the Petitioner in the Petition and reply of the Respondent as well as oral submissions of the Representatives of the Petitioner and the Respondent alongwith material brought on record by both the sides.

1. **Submissions of the Petitioner:**

The Petitioner made the following submissions for consideration of this Court:

1. The Petitioner was running an industrial unit at 8, Factory Area, Patiala and has an electricity connection, bearing Account No. 3000000168, with Sanctioned Load of 37.300kW.
2. The connection fell under North Sub Division of Commercial West Division, PSPCL, Patiala and is in the name of the Petitioner’s mother Late Smt. Shakuntla Devi. All electricity bills are being paid regularly by the Petitioner.
3. The Petitioner’s connection was checked on 13.05.2017 by the AEE, North (Tech.), PSPCL, Patiala, who reported that the overall Multiplication Factor (MF) in the Petitioner’s case was 2 while MF as 1 was being applied wrongly.
4. On the basis of this report, a demand for Rs. 7,33,577/- was raised against the Petitioner vide West Commercial Sub Division, PSPCL, Patiala memo No. 1916 dated 06.06.2017. The Petitioner’s account was overhauled from 02/2010 to 03/2017 by applying MF as 2.
5. Shocked by the huge demand, the petitioner challenged the same before the Forum which upheld the undue charges without due application of mind.
6. The Petitioner was not satisfied with this decision and as such the present Appeal was preferred for justice.
7. The Multiplication Factor came into picture due to mis-match of CT and meter ratio. Since all the metering equipment, including the Energy Meter and CTs belonged to the PSPCL and had been installed by the department’s own employees, the Petitioner had no role in the matter except safe custody of the equipment. The Petitioner was never found defaulter in so far as safe custody of the equipment was concerned.
8. Instruction No. 102.10 and 102.11 of ESIM were clear, specifically in the matter of installation of Energy Meters and CTs of matching ratio. The Respondent failed to comply with its own instructions. Therefore, the Petitioner could not be made to pay for the lapses on the part of the Distribution Licensee.
9. As per Instruction No. 104.1 (i) of ESIM, the Petitioner’s connection was required to be checked by the JE In-charge of the area at least once every six months. The Petitioner could not be held responsible in case the officials of the PSPCL failed to perform their duty according to these instructions. Had these instructions been complied with, the discrepancy of mis-match of Energy Meter and CTs would have come to notice within six months of the installation, and the Petitioner would have been saved from accumulation of arrears for more than seven years.
10. Raising arrears of more than seven years was a harsh punishment for the Petitioner who had been selling its products at rates based on cost of raw material, electricity and labour. Now, after seven years, it was not possible for the Petitioner to recover this loss from his customers.
11. The Checking Report vide LCR No. 75/0023 dated 13.05.2017 of AEE of North Sub Division, PSPCL was a fake and false document. Its perusal revealed that it was not signed by any official. The signatures of the Petitioner on this report were also forged. No charges could be raised against the Petitioner on the basis of such a fake and fabricated report.
12. The Petitioner’s account had been overhauled form 02/2010 without any evidence regarding the date of installation of the disputed Energy Meter and LT CTs There was no MCO or any Job Order available on record on the basis of which, the date of overhauling had been adopted for charging the consumer from 02/2010.
13. Keeping in view the position brought out above, the undue charges raised against the Petitioner may be set-aside in the interest of justice.
14. **Submissions of the Respondent:**

The Respondent submitted the following in its defence for consideration:

1. It is correct that as per instructions contained in ESIM it was the responsibility of the Corporation to install a corrected Energy Meter and the same was done in the case of the Petitioner. But, whenever the Energy Meter became in operative/inaccurate, the account of the consumer was to be overhauled accordingly.
2. The connection was checked by the AEE, North (Tech.), PSPCL, Patiala on 13.05.2017 vide LCR No. 75/0023 and it was found that the overall Multiplication Factor (MF) of 1 against actually required MF as 2 was being applied wrongly. On the basis of this report, the Petitioner’s account was overhauled from 02/2010 to 03/2017 and a demand of Rs. 7,35,577/- was raised against the Petitioner vide notice bearing No.1916 dated 06.06.2017.
3. It was incorrect on the part of the Petitioner to state that the said Checking Report was fake as original Checking Report was also produced before the Forum at the time of hearing of the case. The representative of the PSPCL signed the proceedings of the Forum mentioning about producing original copy of the report of checking. Forum also studied the Checking Report and found the same genuine.
4. The Petitioner was provided the documentary evidence asked for by it regarding the date of installation of disputed Energy Meter and CTs. The Enforcement, vide LCR No. 06/3590 dated 20.10.2009, asked for changing the Energy Meter No. 2038009. Accordingly, the Energy Meter was changed vide MCO No. 147/76070 dated 27.10.2009. In the advice, the meter ratio and CT ratio of both had been recorded as 200/5 and meter Sr. No. 4239203. The same data was migrated to SAP. The Enforcement, vide LCR No.28/3653 dated 24.04.2010, found Meter Sr. No. 4239203 as having meter ratio as 100/5Amp. and CT ratio as 200/5Amp. and remarked that MF as 2 was required to be applied for billing. But the necessary correction in ledger and SAP was not made. Again, the Enforcement vide LCR No. 46/3653 dated 30.04.2010 found the same meter No. and same ratio. At the time of checking again on 13.05.2017, it was recorded on LCR No.75/0023 that the meter Sr. No. 4239203 was having ratio of 100/5 and CT ratio 200/5Amp. and Enforcement again remarked that MF equal to 2 was required to be applied. Accordingly, on the basis of the record available, the Petitioner’s account was overhauled from 02/2010 onwards.
5. The Petitioner incorrectly pleaded to overhaul its account for a maximum period of six months as the case related to wrong application of the meter multiplication Factor resulting into less recording of consumption in the meter and as per note mentioned in Regulation 21.5 of Supply Code “*where accuracy of the meter is not involved and it is a case of application of wrong multiplication factor, the accounts shall be overhauled for the period this mistake continued”.*
6. The Appeal preferred by the Petitioner may be dismissed in view of the above submissions.

**4. Analysis:**

The issue requiring adjudication is the legitimacy of overhauling the account of the Petitioner from the date of the implementation of the MCO 147/76070 dated 27.10.2009 with application of Multiplication Factor as 02 instead of 01.

 *The points emerged are deliberated and analysed as under:*

1. The dispute arose, on the receipt of notice by the Petitioner vide Memo No. 1916 dated 06.06.2017 from the AEE/DS, North (Tech.) Sub Division, Patiala working under West Division, Commercial, PSPCL, Patiala directing it to deposit a sum of Rs..7,35,577/- ( as arrears from 02/2010 to 03/2017) on account of wrong application of Multiplication Factor (MF) as 2 instead of 1. The said notice was served to the Petitioner, after overhauling its account, based on the checking of its connection vide Load Checking Register (LCR) No. 75/0023 dated 13.05.2017, by the AEE, North (Tech) Sub Division, Patiala, who noticed that as per CT ratio of the Energy Meter and LT/CTs, the overall MF was 2 while the billing was done with MF as 1.
2. I find that the mistake started after the Enforcement Wing checked the connection vide ECR No. 06/3590 dated 20.10.2009, on the request of the AE, DS (Tech), North, PSPCL, Patiala, and issued directions that the Energy Meter and LT CT be replaced as the display of the Energy Meter was defective (CT Ratio of the Energy Meter was 200/5Amp. and LT CT was 100/5Amp.). Accordingly, the Energy Meter was replaced vide MCO No. 147/76070 dated 27.10.2009 and an advice was sent to the Compute Centre mentioning the Meter Ratio and LT CT Ratio as 200/5Amp. As per the advice ibid, necessary data was migrated to SAP Billing System.
3. The Enforcement checked the connection again vide ECR No. 28/3653 dated 24.04.2010 and noticed that the Energy meter was having CT Ratio as 100/5Amp. and LT CT Ratio as 200/5Amp. and thus MF should be 2 for the purpose of billing and reported as under:

*“whNo dh n?e{o/;h ERS Bkb u?e ehsh ns/ fBoXos ;hwk nzdo gkJh rJh .*

*B'NL 1H ygseko d/ CT 200/5 d/ jB ns/ whNo 100$5 dk j? fJ; bJh wbNhgbkfJzr c?eNo 2 bkT[Dk pDdk ;h, go ygseko d/ fpb s/ whNo ns/ CT Ratio 200/5 do;kfJnk frnk j? ns/ whNo r[DKe 1 brkfJnk frnk j? . fJ; bJh whNo r[DKe 2 brke/ yksk Ttojkb ehsk ikt/ . fJ; nDfrjbh bJh fizaaw/tko eowukoh / nfXekoh d/ Bkw fJ; dcso B{z G/i/ ikD .*

 *2H whNo dh kWH ns/ kVAH Reading ftZu pj[s coe j? . ns/ whNo Tbv toIB dk j? fJ; bJh whNo pdfbnk ikt/ . whNo ;hb Pack eoe/ ME b?p ftZu nzdo{Bh ns/ pkjobh u?fezr bJh fbnKdk ikt/ .”*

1. Based on the above report, the Respondent overhauled the account of the consumer by taking Multiplication Factor as 2 from the date of replacement of Energy Meter to the date of checking and a sum of Rs. 50,358/- was charged to the Petitioner who deposited the same with the Respondent, as stated by the Sr. XEN during oral discussions on 03.05.2018 followed by confirmation vide its e-mail 04.05.2018. However, the Respondent omitted to send the advice to the Computer Cell who prepared the bills of MS connections. Apparently, the Respondent did not take cognizance of the directions given by the Enforcement during checking dated 24.04.2010, thus, the Respondent defaulted in complying with the observations of the Enforcement’s Checking Report and this mistake continued till it was noticed on 13.05.2017 during checking by the AEE, North (Tech.), PSPCL, Patiala.

From the above analysis it is concluded that the Petitioner has already deposited the amount of Rs. 50,358/- charged on account of overhauling of its account based on the Checking Report dated 24.04.2010 of the Enforcement, while the Respondent defaulted by not giving cognizance to the directions of the Enforcement during its checking dated 24.04.2010 to apply the MF as 2. It is thus concluded that the petitioner is not liable to pay further the amount charged to it on account of wrong application of Multiplication Factor (MF).

 It also proves beyond doubt that the Respondent defaulted in complying with the instructions contained in Checking Report dated 24.04.2010 issued by the Sr. Executive Engineer/Enforcement by omitting to send the advice to the Computer Centre for incorporation of CT Ratios of the Energy Meter and LTCTs in the account of the Petitioner. It is shocking to observe that the Respondent did not ensure to replace the Energy Meter of the Petitioner in compliance tof directions ibid of the enforcement.

**5. Decision:**

 **As a sequel of above discussions, the order dated 14.11.2017 of the Forum in Case No. CG-216 of 2017 is set-aside. Accordingly, the Respondent is directed to refund the amount (40% of the disputed amount of Rs. 7,35,577/- charged against notice dated 06.06.2017), and deposited with the Respondent, without any interest.**

**6.** The Petition is disposed off accordingly.

7. In case, the Petitioner or the Respondent (Licensee) is not satisfied with the above decision, it is 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)

May 07, 2018 LokPal (Ombudsman)

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