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

**ELECTRICITY, PUNJAB,**

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

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

**Appeal No. 99/2017**

**Date of Registration : 26.12.2017**

**Date of Hearing : 31.05.2018**

**Date of Order : 07.06.2018**

**Before:**

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

**In the matter of**

Ganpati Fastners (Pvt.) Ltd,

Plot No. E-384, Phase-6,

Focal Point, Ludhiana.

...Petitioner

Versus

Additional Superintending Engineer

DS, Estate Division (Special),

 PSPCL, Ludhiana.

 ...Respondent

**Present For :**

Petitioner **:** 1. Shri R.S. Dhiman,

 Petitioner’s Representative (PR).

 2. Shri K.D. Parti, Petitioner.

Respondent **:** . 1. Er. K.P.S. Sidhu,

 Addl. Superintending Engineer.

 2. Shri Gursatinder Singh, AAO (Revenue).

 Before me for consideration is an Appeal preferred against the order dated 11.12.2017 of the Consumers Grievances Redressal Forum (Forum) in Case No. CG-274 of 2017, deciding that:

 *“The account of the Petitioner be overhauled for a period of six months preceding the date of replacement of meter i.e. 16.08.2017.”*

**2. Facts of the Case:**

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

1. The Petitioner was having a Medium Supply Category connection with Sanctioned Load of 89.940kW and Contract Demand (CD) as 99.930kVA.
2. The Addl. S.E, Enforcement No.1, PSPCL, Ludhiana, checked the connection vide ECR No.44/468 dated 16.08.2017 on the request of the Addl. S.E, DS, Focal Point Division (Special), Ludhiana and found that Yellow Phase was not contributing towards consumption. After Peeling of the lead of Yellow Phase and making the correct connections, it was found that the Yellow Phase started contributing towards consumption. As the Meter Pulse was not coming, hence, the accuracy could not be checked. The display and Pulse of the Energy Meter was off.
3. The Enforcement further directed to replace the Energy Meter and get it tested from ME Lab.
4. The Energy Meter was replaced vide Device Replacement Application dated 16.08.2017, effected on 24.08.2017 and got tested from ME Lab on 13.09.2017 which declared the Energy Meter as Burnt and Body cracked.
5. As per ECR of the Addl. S.E, Enforcement-1, Ludhiana, the Respondent overhauled the Account of the Petitioner in terms of the provision contained in Regulation 21.5 of Supply Code-2014 for the period from 30.12.2016 to 06.07.2017 and a notice was issued to the Petitioner vide Memo No. 1952 dated 21.08.2017 to deposit Rs. 3,96,366/-.
6. Not satisfied with the above notice, the Petitioner filed a Petition in the Forum which, after hearing passed the order dated 11.12.2017 (Reference: Page 2, Para 1).
7. Aggrieved with the decision of the Forum, the Petitioner preferred an Appeal in this Court and prayed that 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 and reply of the Respondent as well as oral submissions made by the Representatives of the Petitioner and the Respondent alongwith material brought on record by both the sides.

1. **Submissions of the Petitioner:**
2. The Petitioner was running an industrial unit at E-384, Phase-6 Focal Point, Ludhiana and engaged in manufacturing of Nuts and Bolts. An Electricity Connection for the Unit, bearing Account No. 3003312855, was sanctioned for 89.940kW under Medium Supply Category.
3. On 27.07.2017, the glass of the Petitioner’s Energy Meter got damaged due to some defect therein which resulted in gas formation. The same was immediately reported to the AEE, Focal Point Sub Division in writing on 27.07.2017 itself .
4. The Energy Meter was checked by the Addl. S.E, Enforcement-1 Ludhiana on 16.08.2017. The checking officer reported that Yellow Phase was not contributing and some other defects also existed. On the basis of this report, a sum of Rs. 3,96,366/- was raised against the Petitioner by the AEE, Commercial, Focal Point Division, PSPCL, Ludhiana, vide memo No. 1952 dated 21.08.2017. This amount was charged for a period of six months prior to replacement of Energy Meter. No basis for charging the Petitioner for six months was spelled out in this notice.
5. As per the Petitioner’s own assessment, the defect of non contribution of One Phase took place on 27.07.2017 which also resulted in damage to the glass of Petitioner’s Energy Meter. Aggrieved by the undue charges, the Petitioner approached Forum for redressal of its grievance. But the Forum, without any cogent reason, upheld the totally unjustified demand raised by the Respondent. As such, the Petitioner was constrained to prefer an Appeal in this Court for justice.
6. The Energy Meter was got checked by the Respondent from the Addl. S.E, Enforcement-1 Ludhiana. The Checking Report dated 16.08.2017 of the Enforcement revealed that Yellow Phase was not contributing, Display and Pulse of the Energy Meter was missing, DDL could not be taken, accuracy of Energy Meter could not be checked and body of the Energy Meter was found broken. None of these defects was noticed by the AAE, who recorded the monthly reading of the connection on 06.07.2017. This clearly proved that there was no defect in the Energy Meter on 06.07.2017 or before that date. It was, therefore, wrong to charge the Petitioner for the period before 06.07.2017.
7. In the present case, the accuracy of the Energy Meter was not involved. As such the case was covered in terms of the instructions contained in Regulation 21.5.2 of Supply Code-2014. In accordance with the provisions of this Regulation, the Petitioner’s account was required to be overhauled for the period, the defect continued i.e. from 06.07.2017 to the date of change of Energy Meter.
8. The exact date of defect of the Petitioner’s Energy Meter could be found from its DDL Data. But, as confirmed by the Respondent, the DDL of the Energy Meter could not be taken. As such, this Data was not available. Under the circumstances, it did not mean that the Petitioner should be charged for six months, especially, when other reliable evidence to fix the date of defect was available on record. An innocent consumer, who itself reported the defect in the Energy Meter to the Respondents could not be penalized on the basis of whims.
9. The Consumption pattern of the Petitioner also indicates that the defect in the Energy Meter took place sometime after 06.07.2017 and most likely, on 27.07.2017 when smoke/gas was seen in the Energy Meter Box and glass of the Energy Meter broke. It was, therefore, unjust to punish the Petitioner for no fault on its part. The Forum has failed to establish as to how, the Consumption pattern of the Petitioner proved that the defect in the Energy Meter continued for six months.
10. In view of the submissions made above, undue charges raised against the Petitioner may be set aside in the interest of justice.
11. **Submissions of the Respondent:**

The Respondent, in its defence, submitted the following for consideration of this Court:

1. The connection of the consumer was checked by the Addl. S.E, Enforcement-1, PSPCL, who, vide ECR No. 44/468 dated 16.08.2017, observed as under:
2. The terminal plate was opened and potential was checked on each phase through a bulb. None of the Phases light up. On the contrary, when the Potential was taken from the outside main cable through temporary Neutral, then the bulb did not light up on the Yellow Phase indicating that Yellow Phase was not alive. As a conclusion of this fact, on the spot, Yellow Phase Potential wire was not working.
3. At the site, the Yellow Phase Potential wire and Neutral wire were peeled off, cleaned and reconnected, then the bulb lighted up on each Phase, meaning thereby that the Yellow Phase was not contributing towards consumption.
4. Due to non-functioning of display and pulse, the accuracy of meter could not be checked.
5. DDL could not be taken.
6. The Energy Meter should be replaced, packed and sealed and sent to ME Lab where the accuracy of the meter and other inquiries regarding the Energy Meter should be made.
7. The CT Chamber (CTC) and Meter Cup Board (MCB) of the Energy Meter was found damaged.
8. The contention of the consumer that the defect occurred on 27.07.2017 was not correct and not established from the Consumption Pattern. From October 2016 onwards, monthly consumption of the consumer had been more than 20,000kVAh units per month, which decreased in March 2017, to 19,254kVAh, with subsequent month to 16,730kVAh. So, the account overhauled for 6 months preceding 16.08.2017 was correct and recoverable.
9. In view of the above submissions, the Appeal be dismissed.

**4. Analysis:**

 The issue requiring adjudication is the legitimacy of the overhauling the account of the Petitioner whose Energy Meter was declared Burnt by ME Lab.

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

1. PR stated that the Petitioner, vide letter dated 27.07.2017, informed the AEE, DS, Focal Point (Special), PSPCL, Ludhiana, that smoke/gas was coming out of the Energy Meter Box and glass of the Energy Meter got damaged. As a result, the Energy Meter was checked on 16.08.2017 by the Addl. S.E, Enforcement No.1, PSPCL, Ludhiana, who reported that the Yellow Phase was not contributing, display and pulse was missing, DDL could not be taken, accuracy of the Energy Meter could not be checked, body of the Energy Meter was found broken.

 Based on the above Checking Report, the AEE, Commercial, Focal Point charged the Petitioner, vide memo No.1952 dated 21.08.2017, a sum of Rs. 3,96,366/- for a period of six months. PR added that none of the defects pointed out by the Enforcement, in its Checking Report ibid, were noticed by the AAE, who took monthly reading on 06.07.2017. This clearly implied that no defect in the Energy meter existed on or before 06.07.2017. PR argued that it was, therefore, wrong to charge the petitioner for the period prior to 06.07.2017.

 The Respondent, in its defence, submitted that the disputed Energy Meter was replaced on 24.08.2017 and tested in ME Lab vide Challan No.143 dated 13.09.2017 **and found Burnt**. The Respondent added that the officer concerned of the Respondent visited the consumer’s premises for recording Energy Meter reading only for the billing purposes and the accuracy of the Energy Meter was not checked during such visits. As such, the averment of the Petitioner that no defect existed in the Energy Meter on or before 06.07.2017 was incorrect and chargeable.

1. PR argued that the Consumption Pattern of the Petitioner’s connection also indicated that the defect in the Energy Meter occurred sometimes after 06.07.2017 and most likely on 27.07.2017 when the smoke/gas was coming out of the Energy Meter Box and glass of the Energy Meter was found broken. It was, therefore, unjust to punish the Petitioner and charge it for six months for no fault on its part. PR added that the Forum failed to show how the Consumption Pattern proved that the defect in the Energy Meter continued for six months.

 The Respondent contested the contention of the PR and submitted that from October 2016 onwards, monthly consumption of the consumer had been more than 20,000kVAh units per month which got decreased, in March 2017, to 19,254kVAh units and in subsequent month to 16,730kVAh units. So, the overhauling of the account of the Petitioner for six months prior to 16.08.2017 was correct.

 *I observe that the disputed Energy meter, on testing, was declared Burnt in ME Lab, hence, the provisions relating to “Burnt” Energy Meter, as contained in Regulation 21.5.2 (a) of supply code-2014, are required to be applied. As per the provision ibid, the account of the Petitioner is to be overhauled for the period, the energy meter remained “Burnt” at site.*

From the above analysis, it is concluded that pursuant to intimation vide letter dated 27.07.2017 about smoke/gas coming out of the Energy Meter Box and damage to the Energy Meter, the same was checked on 16.08.2017 by the Enforcement and tested on 13.09.2017 in ME Lab which declared the Energy Meter “Burnt”. Since, as per material available on record, the DDL of the disputed energy meter was not taken, the account of the Petitioner is required to be overhauled for the period the Petitioner informed the Respondent about the damage to the Energy Meter till 24.08.2017 when the burnt Energy Meter was replaced in terms of provisions contained in Regulation 21.5.2 (a) of Supply Code-2014 i.e. on the basis of energy consumption of corresponding period of previous year.

**5. Decision:**

 **As a sequel of above discussions, the order dated 11.12.2017 of the Forum in Case No. CG-274 of 2017 is set-aside. It is held that the account of the Petitioner be overhauled for the period from 27.07.2017 to 24.08.2017 in terms of provisions contained in Regulation 21.5.2 (a) of Supply Code-2014 i.e. on the basis of energy consumption of corresponding period of previous year. The Respondent is, therefore, directed to re-calculate the demand and refund/recover the excess/short amount without any interest.**

**6.** The Appeal is allowed.

**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)

June 07, 2018 LokPal (Ombudsman)

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