**COURT OF THE LOK PAL (OMBUDSMAN), ELECTRICITY, PUNJAB,**

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

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

 **APPEAL NO. 14/2018**

**Date of Registration : 09.02.2018**

**Date of Hearing : 09.08.2018**

**Date of Order : 10.08.2018**

**Before:**

 **Er. Virinder Singh, Lok Pal (Ombudsman) Electricity**

**In the Matter of :**

 Satish Kumar,

 Street No.2, Hira Nagar,

 Opp.Transport Nagar,

 Ludhiana.

 ...Petitioner

 Versus

 Additional Superintending Engineer,

CMC (Special) Division,

PSPCL, Ludhiana.

 ...Respondent

**Present For:**

Petitioner : 1. Sh.Sukhminder Singh,

 Petitioner’s Representative (PR).

 2. Sh.Sandeep Arora,

 Petitioner.

Respondent : Er. Sukhbir Singh,

 Senior Executive Engineer.

 Before me for consideration is an Appeal preferred by the Petitioner against the order dated 24.11.2017 of the Consumer Grievances Redressal Forum (Forum) in Case No. CG-235 of 2017 deciding that:

“*To uphold the decision of the Zonal Dispute Settlement Committee (ZDSC) taken in their meeting held on 15.06.2017 to concur the charges levied by overhauling of Petitioner’s account for the period 15.04.2015 to 23.03.2016 amounting to Rs.1,44,328/- are correct and recoverable”*

**2**. **Facts of the Case:**

 The relevant facts of the case are that:-

1. The Petitioner was having a Non Resident Supply (NRS) Category

connection with sanctioned load of 63.380 kW and contract demand (CD) of 70 kVA within the jurisdiction of CMC Sub Division, Unit-II, under CMC (Special) Division, Ludhiana. The Metering was being done by providing Three Phase Four Wire, 10-60 Amps, Whole Current Static Energy Meter.

1. The connection was checked vide Load Checking Register (LCR)

No.039/9827 dated 11.08.2015, by the Additional Assistant Engineer (AAE) who reported that display on the Energy Meter had gone defective and readings were found “Not Visible” (NV), so, the Energy Meter be got checked from ME Laboratory.

1. The defective Energy Meter was replaced vide Device Replacement

 Application No.100001132614 dated 12.08.2015, effected on 13.08.2015.

1. The Energy Meter was checked, with the consent of the Petitioner, on dated 01.09.2015, in ME laboratory which did not giveany remarks about the working of the Energy Meter, but the readings were mentioned as 94849 kWh and 111195 kVAh.
2. The Revenue Audit Party (RAP), vide Half Margin No.175 dated 04.07.2016, overhauled the account of the Petitioner for the period from 14.04.2015 to 13.08.2015 on average consumption basis by taking the consumption of 05/2014 to 08/2014 and also from 13.08.2015 to 23.03.2016 on the basis of actual consumption, recorded by the replaced Energy Meter.
3. The Petitioner was charged a sum of Rs.1,44,328/- through Sundry Charges in the Bill dated 20.08.2016.
4. The Petitioner did not agree with the amount charged to it and submitted a representation dated 12.09.2016 to the Zonal Dispute Settlement Committee (ZDSC) which, after hearing, decided on 15.06.2017, that the amount charged to the Petitioner was correct and recoverable.
5. Not satisfied with the decision of the Zonal Dispute Settlement Committee (ZDSC), the Petitioner filed a Petition before the Forum who, after hearing, passed order dated 24.11.2017 (Reference: Page 2, Para 1).
6. Aggrieved with the decision of the Forum, the Petitioner preferred an appeal in this Court stating that raising of huge demand by overhauling the account from 15.04.2015 to 23.03.2016, was unwarranted and illegal and prayed to order overhauling/adjustment of account from 16.06.2015 to 13.08.2015 with consumption of 2882 units in the interest of justice and fairness.

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

 Before undertaking analysis of the case, it is necessary to go through written submissions made by the Petitioner and reply of the Respondent as well as oral submissions made by the Representative 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’s Firm was initially having an electric connection, bearing Account No. CS/01/0032 and was engaged in the work of Battery Overhauling/Repair, having its Work place and Office at Hira Nagar, Ludhiana under CMC (Special) Division. The Petitioner shifted its major works in 04/2015 to Village Gobindgarh (under Sahnewal Sub Division of Estate Division) and started manufacturing of Batteries. The Petitioner constituted a Partnership firm under the same name and style of Ess Pee Batteries and obtained Medium Supply Category connection, bearing Account No. 3002959300, with sanctioned load of 45.920 kW from Sahnewal Sub-Division (within the jurisdiction of Estate Division), PSPCL, Ludhiana. This connection was obtained in the name of Sh. Ashish Vinayak (one of the partners of the Firm). It was decided by the Partners that the business of the firm shall be carried out from the Site/Head Office in Hira Nagar, Street No. 2, (where the connection, bearing Account No. CS/01/0032 was existing) and Works at Fauji Colony, Village Gobindgarh (where new MS Category connection, bearing Account No.3002959300) was got installed.
2. The Petitioner noticed in 04/2015 that display on the Energy Meter was not visible and requested the Sub Divisional Officer (AEE) to check the connection. In response, the premises of the Petitioner was visited on 04.05.2015 by the Additional Assistant Engineer(AAE) who found that display of the Energy Meter had gone defective and readings were not visible. The Checking Officer directed that the Energy Meter be replaced and got checked in ME laboratory. Accordingly, the Energy Meter was replaced in 08/2015. At the time of checking, there was load of only 2 Air Conditioners and some lighting load. The Checking Officer (AAE) was told about the shifting of works from the earlier site i.e. from Hira Nagar and accordingly remarks were given in the LCR No.70/912 dated 04.05.2015 and Energy Meter was found working satisfactory. The Reading was 090079 kWh. The same Energy Meter was also checked vide LCR No.039/9827 dated 11.08.2015 on the request of the Petitioner. The Checking Officer noted that display of Energy Meter was defective and the same should be replaced and got checked in ME Laboratory. The Energy Meter was replaced on 13.08.2015.
3. After shifting of major works by the Petitioner from Hira Nagar site, the consumption of electricity from 05/2015 on works was less due to less use of electricity supply. The pattern of less consumption was very much evident from the consumption data from 05/2015 onwards till date i.e. the consumption was also less even after the replacement of the disputed Energy Meter.
4. The Energy Meter was checked with the consent of the Petitioner, on

01.09.2015, in ME laboratory which did not giveany remarks about working of the Energy Meter.

1. The Revenue Audit Party (RAP), vide Half Margin No. 175 dated

04.07.2016, overhauled the account of the Petitioner for the period from 14.04.2015 to 13.08.2015 on average consumption basis by taking the consumption of 05/2014 to 08/2014 and also from 13.08.2015 to 23.03.2016 on the basis of actual consumption, recorded by the replaced Energy Meter.

1. The Petitioner was charged a sum of Rs.1,44,328/- through Sundry Charges in Bill dated 20.08.2016.
2. The above demand was raised by overhauling of account from 15.04.2015 due to sudden defect in the display in 08/2015 (on the basis of the consumption of corresponding period of previous year) was unwarranted/ unjustified and was liable to be withdrawn.
3. The audit had overhauled the account due to fall in consumption during the disputed period. The Respondent – PSPCL was empowered to investigate the variation in consumption or less consumption, before arriving at any conclusion regarding defect in the Energy Meter. The consumer (Petitioner) was always aware of the quantum of supply used by it. Had the bills been in order, the consumer (Petitioner) would have paid the bills without any protest.
4. The official of the Respondent-PSPCL visited the premises every month for taking readings and if any defect was found then in the Energy Meter, it could report the matter for further investigation.
5. The consumer lodged complaints only when the bill was not issued

as per actual consumption recorded by the Energy Meter which was never declared defective by any authority of the Respondent-PSPCL. Had the account been liable for overhauling just for less consumption (without any report regarding the Energy Meter being defective), the audit party of the Respondent-PSPCL could again raise huge demand after the period from 03/2016 onwards as consumption recorded by the replaced Energy Meter was less as compared to the consumption recorded before 04/2015.

1. Regulation 21.5.1 of the Supply Code-2014 lays down the procedure / guidelines for overhauling the account against inaccurate Energy Meter. The accuracy of the meter was not tested at site. Further, the testing of the Energy Meter in ME Laboratory was also not done, as

display of the Energy Meter was defective. Thus, overhauling of account without test results regarding defect/erratic behaviour of the Energy Meter was against the above stated Regulation ibid.

1. On 04.05.2015, the Addl. Assistant Engineer (JE-I) on 04.05.2015 checked the working of the Energy Meter on heater load and found that pulse of Energy Meter working. The reading of 090079 kWh was recorded on the LCR. Thereafter regular reading was taken by the Meter Reader and as on 15.05.2015 the reading was 91498 kWh and on 16.06.2016 it was 91967 and working of the Energy Meter was in order and reading was also visible as per display of the Energy Meter. After that, the Meter Reader did not visit the premises in 07/2015 and came to record reading on 16.8.2015 and by then, the Energy Meter was replaced on the request of the Petitioner on 13.08.2015. Thus, the Petitioner informed the Respondent-PSPCL immediately when the reading was not visible on display of the Energy Meter. Further, ME laboratory mentioned final reading as 94849 kWh and consumption from 16.06.2015 to 13.08.2015 worked out to be 2882 units which was the actual real consumption as per use of supply from the Energy Meter, after shifting of works. This higher consumption be treated for overhauling / adjustment of account upto 13.08.2015 and any shortfall/excess amount be charged/refunded from/to the Petitioner.
2. After the replacement of the Energy Meter, regular bills were issued

on kWh basis i.e. billing upto 09/2015 was required to be done on kWh basis and from 01.10.2015 onwards, on kVAh basis where sanctioned load of NRS Category Connection was above 50 kW but less than 100 kW. There was some delay in the billing on kVAh basis. There was no fact /reason to overhaul the account from 13.08.2015 onwards. The reading of the Energy Meter was taken on regular basis except in 07/2015 and the Petitioner paid all the bills.

1. The Petitioner represented the ZDSC which decided that overhauling done by Revenue Audit Party (RAP) was in order. Aggrieved, the Petitioner filed a Petition in the Forum which upheld the decision of the Zonal Dispute Settlement Committee (ZDSC). The Petitioner was then left with no option but to seek the indulgence of this Court and preferred the present Appeal in the hope of justice.
2. **Submissions of the Respondent**:

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

1. The Petitioner was having a connection, bearing Account

No. 3002859754, with sanctioned load of 63.380 kW and contract demand(CD) of 70 kVA.

1. The connection of the Petitioner was checked by the Additional Assistant Engineer (AAE) vide LCR No.39/2827 dated 11.08.2015, as per which, display of the Energy Meter was reported as defective and the readings were “Not Visible”.
2. The Energy Meter was replaced vide Device Replacement

Application No.100001132614 dated 12.08.2015, effected on 13.08.2015.

1. The disputed Energy Meter, on being checked in ME Laboratory vide ME Challan No.222 dated 01.09.2015, was found dead.
2. The account of the Petitioner was rightly overhauled by the Revenue

Audit Party for the period from 15.04.2015 to 13.08.2015 on average consumption basis by taking the consumption for the month of 05/2014 to 08/2014 and also from 13.08.2015 to 23.03.2016 on actual consumption. Thus, overhauled period from 13.08.2015 to 23.03.2016 was undisputed, as it was based on the actual consumption recorded by the Energy Meter.

1. The Petitioner claim that it shifted its major works from Hira Nagar

to Gobindgarh and also started manufacturing of Batteries is not

authenticated as the Petitioner neither informed the Respondent nor applied for reduction of load.

1. While overhauling the account of the Petitioner, Audit had rightly

relied on the ME Laboratory report, whereafter the demand of Rs.1,44,328/- was raised against the Petitioner in terms of Regulation No.21.5.2 of the Supply Code-2014.

1. The Petitioner did not agree with the amount charged and represented to the Zonal Dispute Settlement Committee (ZDSC) which, after hearing the matter, decided that the amount charged to the Petitioner was correct and recoverable.
2. Not satisfied with the decision of the ZDSC, the Petitioner filed

a Petition in the Forum which, vide order dated 24.11.2017, upheld the decision of the ZDSC.

1. In view of the above, the Appeal may be dismissed.

**4. Analysis:**

 The issue requiring adjudication is the legitimacy of overhauling the account of the Petitioner for the period from 14.04.2015 to 23.03.2016 due to defect in the display of the Energy Meter.

*The points in the case emerged are deliberated and analysed as under:*

 Petitioner’s Representative (PR) contended that NRS Category connection of the Petitioner with sanctioned load f 63.380 kW (under CMC Sub Division Unit-II within the jurisdiction of CMC (Special) Division, PSPCL, Ludhiana) was checked by the Additional Assistant Engineer (AAE), vide LCR No.039/9827 dated 11.08.2015 after the Petitioner informed the said Sub Division that some defect in display of the Energy Meter and requested for checking the connection. The Additional Assistant Engineer(AAE), in its checking report mentioned that display of the Energy Meter had gone defective and reading of the Energy Meter was not visible, so, the Energy Meter be got checked from the ME Laboratory. The defective Energy Meter was replaced on 13.08.2015 and got checked on dated 01.09.2015, from ME Laboratory, which did not give any remarks about checking of Energy Meter. The accuracy of the Energy Meter was neither checked at Site nor in ME Laboratory. Based on the above checking, the Revenue Audit party (RAP), vide its Half margin No. 175 dated 04.07.2016, overhauled the account of the Petitioner from 15.04.2015 to 13.08.2015 (i.e. the from date of replacement of the Energy Meter) for energy consumption of 18665 units on average basis and from 13.08.2015 to 23.03.2016 on actual consumption of 12122 units. Petitioner’s Representative (PR) added that overhauling of the account of the Petitioner was not justified as it had shifted its major works from Hira Nagar (under CMC (Special) Division) to Village Gobindgarh (under Estate Division) and obtained a new Medium Supply (MS) connection there while retaining the office of the Firm at Hira Nagar and subsequently opening a Sales Outlet in its premises at Hira Nagar. During the oral arguments on 09.08.2018, the Petitioner placed on record the Partnership Deed which shows that business of the Petitioner shall be carried out at Head Office: Street No.2, Hira Nagar, Ludhiana and Works at: Fauji Colony, Village Gobindgarh, Tehsil and Distt. Ludhiana, as a result of shifting of operations of the Firm, less electric supply was used from 05/2015 in respect of its connection at Hira Nagar as evidenced from consumption pattern from 05/2015 onwards and even after replacement of the disputed Energy Meter on 13.08.2015.

 The Respondent, in its defence, stated that the demand raised against the Petitioner was as per instructions of the PSPCL and had been upheld by the ZDSC and also by the Forum. Besides, the Petitioner had never informed the Respondent that it had shifted part of its load to some other premises.

 *I find that there is a scope to minimize disputes/grievances of the consumers considerably if a vigil is kept by the Addl.S.E/Sr.Xen by monitoring the Consumption recorded for the current month vis-a-vis that of previous month(s) and available in the SAP System for all categories of consumers. This will enable the officers of the Distribution Licensee to analyse and take corrective action promptly on noticing substantial fall in consumption recorded by the Energy Meters.*

I observe that the Energy Meter was found defective on 11.08.2015 and in May 2015 and June 2015, readings were taken by the Meter Reader on 15.05.2015 and 16.06.2015 while in 07/2015, no reading was taken. Hence the account is required to be overhauled for the period from 16.06.2015 to 13.08.2015(date of replacement of the Energy Meter), as per provisions contained in Regulation 21.5.2(a) of Supply Code-2014 i.e. consumption recorded in the corresponding months of the previous year.

 I also observe that both Petitioner and the Respondent, in its reply, have admitted that there is no dispute regarding charging the Petitioner, on

actual consumption basis, for the period from 13.08.2015 (after the replacement of the disputed Energy Meter to 23.03.2016.

From the above analysis, it is concluded that account of the Petitioner is required to be overhauled for the period from 16.06.2015 to 13.08.2015 ( date of replacement of disputed Energy Meter) on the basis of consumption of the corresponding period of previous year in terms of provisions contained in Regulation 21.5.2 (a) of Supply Code-2014 and from 14.04.2015 to 15.06.2015 and from 13.08.2015 to 23.03.2016 as per actual consumption as recorded by the old and new Energy Meter respectively.

**5. Decision:**

 **As a sequel of above discussions, the order dated 24.11.2017 of the Forum in case No.CG-235 of 2017 is set aside. It is held that account of the Petitioner should be overhauled for the period from 16.06.2015 to 13.08.2015 ( date of replacement of disputed Energy Meter) on the basis of consumption recorded during the corresponding period of previous year in terms of provisions contained in Regulation 21.5.2(a) of Supply Code-2014. For the periods from 14.04.2015 to 15.06.2015 and from 13.08.2015 to 23.03.2016, the charges may be**

**levied as per actual consumption recorded by the old and new Energy Meter respectively. It is also held that no interest/surcharge should be**

**charged to the Petitioner as the Respondent defaulted in monitoring the variation in the consumption recorded by the disputed Energy Meter and taking corrective action as per rules of the PSPCL.**

**6**. The Appeal is Allowed.

**7.** Engineer-in-Chief **,** Commercial, PSPCL, Patiala has issued instructions vide letter No.399/403/DD/SR-93 dated 19.07.2018 requiring all the Addl. Superintending Engineers/ Senior Executive Engineers to keep a vigil on the variations in the Energy consumption recorded and available in SAP in respect of all categories of consumers within their respective jurisdiction, analyse the cases of abnormal decrease in consumption of current vis-a-vis previous month(s) and take immediate corrective action, wherever required, with a view to protect the interest of both the Utility and the Consumers. **The Distribution Licensee shall also conduct necessary amendment ibid in Instruction No.104.7of ESIM-2017 thereby protecting its revenue and save consumer from harassment, besides reducing the litigation to minimum level.**

8. In case, the Petitioner or the Respondent 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 the Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations-2016.

 (VIRINDER SINGH)

August 10, 2018 LokPal (Ombudsman)

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