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

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

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

 **APPEAL NO. 23/2018**

**Date of Registration : 27.03.2018**

**Date of Hearing : 06.09.2018**

**Date of Order : 11.09.2018**

**Before:**

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

**In the Matter of :**

 A.D.Enterprises,

 Railway Road,

Sirhind.

 ...Petitioner

 Versus

Additional Superintending Engineer,

DS Division,

PSPCL, Sirhind

 ...Respondent

**Present For:**

Petitioner : 1. Sh.Sudhir Arora,

 Petitioner.

 2. Sh. R.S.Dhiman,

 Petitioner’s Representative (PR).

Respondent : 1. Er. Devinder Singh,

 Addl.Superintending Engineer.

 Before me for consideration is an Appeal preferred by the Petitioner against the order dated 19.01.2018 of the Consumer Grievances Redressal Forum (Forum) in Case No.CG-306 of 2017 deciding as under:

“ Forum decides t*o uphold the decision of Circle Dispute Settlement Committee (CDSC) Operation Circle, Khanna taken in its meeting held on 14.09.2017 and also directed to the Respondent to get the matter investigated and fix the responsibility of delinquent officers/ officials”. .*

**2**. **Condonation of Delay** :

 At the outset, the issue for condonation of delay in filing the Appeal in this Court was taken up. The Petitioner’s Representative (PR) submitted that the present Appeal could not be preferred in this Court within the stipulated period of one month due to the reason that copy of the decision of the Forum, sent by it vide memo no.337-338 dated 22.01.2018 by Registered Post did not reach the Petitioner at its given address till date. The Petitioner’s Representative (PR) added that a copy of the same was sent by the Respondent i.e. Addl.SE/DS, PSPCL, Sirhind, vide endst.no.1022 dated 21.02.2018 through an official of its office, and received by the Petitioner on 23.02.2018. Thereafter, the Petitioner took time in arranging funds for depositing the requisite fee for filing the Appeal in this Court. That is why, a delay of few days beyond the stipulated period of one month from the date of receipt of the Order ibid of the Forum had occurred and may be condoned in the interest of justice.

 The Respondent, in its reply to the Appeal, did not offer any comments on the submissions made by the Petitioner regarding condonation of delay and also did not raise any objection in this regard during the course of hearing.

 In this connection, I have gone through Regulation 3.18(ii) of the PSERC (Forum and Ombudsman) Regulation-2016 which reads as under:

 “*No representation to the Ombudsman shall lie unless the representation is made within one month of the date of receipt of order of the Forum.*

 *Provided that the Ombudsman may entertain a representation beyond one month on sufficient cause being shown by the complainant that he/she had reasons for not filing the representation within the aforesaid period of one month”.*

*I observe that though the Petitioner has given reasons for not filing the Appeal within the stipulated period, it ought to be vigilant and should have kept a watch on the uploading of the decision of the Forum on its website or pursued the matter with the office of the Forum/ Respondent after the case was closed on 15.01.2018 by the Forum. I also observe that non condonation of delay would deprive the Petitioner of the opportunity, required to be afforded, to seek remedy and would also not meet the ends of ultimate justice. Thus, with a view to deliver justice, the delay in filing the Appeal in this Court is condoned and the Petitioner is afforded an opportunity to present the case.*

**3**. **Facts of the Case:**

 The relevant facts of the case are that:-

1. The Petitioner was having a Medium Supply (MS) Category

connection for Rice Sheller with sanctioned load of 37.400 kW and contract demand (CD) of 41.556 kVA, bearing Account No.3000832793. The metering was done by providing HT Energy Meter and 11 kV/110V CT-PT unit.

1. The Energy Meter of the Petitioner’s connection was replaced

due to some defect on 27.10.2016 with a new Meter of L&T Make. The replaced Energy Meter was got checked on 08.02.2017 from M.E Laboratory where DDL was taken and test results were within limits.

1. Just before the installation of new Energy Meter, there was a vast

disparity between the kVAh and kWh consumption recorded by the Energy Meter showing 11210 kVAh against 7060 kWh.

1. The Petitioner received an exorbitant bill for 10/2016 amounting

to Rs.98,500/- even though the Rice Sheller was closed due to off season period.

1. Aggrieved with the exorbitant bill, the Petitioner represented on

25.11.2016 to the Circle Dispute Settlement Committee, Khanna, which, in its meeting dated 14.09.2017, upheld the charges by observing that the Energy Meter gave more kVAh consumption in the off season period due to shunt capacitors installed on the Bus Bar and this was not due to misbehaviour of Energy Meter. Hence, the amount charged was recoverable from the Petitioner.

1. Not satisfied with the decision of the CDSC, the Petitioner filed a

Petition in the Forum, who, after hearing passed order dated 19.01.2018 (Reference: Page-2, Para-1), upholding the decision of the CDSC taken in its meeting on 14.09.2017.

1. Aggrieved with the decision of the Forum, the Petitioner preferred

an Appeal in this Court and requested to set-aside undue charges on the analogy of orders passed by the Forum in Case No. CG-177/2017, CG-2/2017 and CG-22/2017.

**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 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 having a Medium Supply (MS) Category

connection with sanctioned load of 37.400 kW and contract demand (CD) of 41.556 kVA, bearing Account No.3000832793.

1. The Petitioner was served an exorbitant bill for the month of

10/2016 amounting to Rs.98,500/- against consumption of 7060 kWh/11210 kVAh units.

1. Aggrieved against the said Bill, the Petitioner represented to the

Circle Dispute Settlement Committee (CDSC) Khanna which, in its meeting held on 14.09.2017, decided that the Energy Meter gave more consumption of kVAh in the off season period due to capacitors installed on Bus Bar by the Petitioner and this was not due to misbehaviour of the Energy Meter, as such, the amount was recoverable.

1. Not satisfied with the decision of the CDSC, Khanna, the Petitioner

filed a Petition in the Forum, which, after hearing, upheld the decision of the CDSC, Khanna

1. The unusual disparity in kVAh and kWh consumption recorded in

the disputed bill was on account of the Energy Meter of changed technical specification of MQP-95 which was installed in the premises of the Petitioner in 10/2016.

1. Hon’ble PSERC had issued directions to maintain status quo

regarding billing of consumers under kVAh tariff regime existing prior to installation of the Energy Meters of changed technical specification of MQP-95. The Instructions ibid were applicable with regard to the case of the Petitioner, whose disputed Energy Meter was of the controversial specification of MQP-95.

1. In compliance to the directions issued by the Hon’ble PSERC, vide

memo no.17/PSERC/DTJ-75A dated 06.04.2017, addressed to the Chief Engineer/ARR&TR, PSPCL, the Forum had earlier ordered to maintain status quo in cases filed in the Forum bearing Case No.CG-177/2017 of Ganga Rice Mills, CG-02/2017 of Madhav Foods, and CG-22/2017 of Shri Ram Traders.

1. Accordingly, an Appeal was preferred in this Court with the

request to set aside the undue charges on the analogy of the decision taken by the Forum in the above referred cases.

1. **Submissions of the Respondent**:

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

1. The Petitioner was running a Rice Sheller on lease at Railway

Road, Sirhind and having a Medium Supply category connection with sanctioned load of 37.400 kW and Contract Demand (CD) of 41.556 kVA, bearing Account No.3000832793.

1. The Energy Meter of the Petitioner was changed due to defect on

27.10.2016 with new one. Just before the installation of the new Energy Meter, there was vast disparity between the kVAh and kWh. The consumption shown by the Energy Meter on the date of reading i.e. 10.10.2016 was recorded 11,210 kVAh against 7,060 kWh. The Petitioner was issued a bill amounting to Rs.98,500/- for 10/2016.

1. Aggrieved/shocked by the exorbitant bill, the Petitioner submitted a

representation before the Circle Dispute Settlement Committee, Khanna, which upheld the charges on the plea that high kVAh consumption was due to shunt capacitors installed on the Bus Bar by the Petitioner and the same was not due to misbehaviour of the Energy Meter.

1. Not satisfied with the decision of the CDSC, the Petitioner filed the

Petition in the Forum, which, after hearing, upheld the decision of the CDSC, Khanna taken in its meeting on 14.09.2017.

1. Not satisfied with the decision of the Forum, the Petitioner

preferred an Appeal in this Court, praying to set aside the amount charged.

1. The amount charged in the bill was due to excessive kVAh

read by the Energy Meter as the shunt capacitors were installed at Bus Bar, whereas the directions/instructions issued by the Hon’ble PSERC related to changing of tariff protocol of ToD Energy Meters. The amount charged to the Petitioner did not relate to ToD consumption, rather the same related to General Consumption of kVAh (import).

1. The bill for 10/2016 raised on the basis of actual consumption

amounting to Rs.98,500/- was correct and recoverable from the Petitioner.

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

**4. Analysis:**

 The issue requiring adjudication is the legitimacy of the bill for 10/2016 amounting to Rs.98,500/- raised against the consumption of 7060 kWh/11210 kVAh units due to low Power Factor recorded by the Energy Meter.

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

1. The Petitioner’s Representative (PR) contended that the Petitioner was served an exorbitant bill for the month of 10/2016 amounting to Rs.98,500/- against consumption of 7060 kWh/11210 kVAh units. Aggrieved against the said Bill, the Petitioner represented to the Circle Dispute Settlement Committee (CDSC) Khanna which, in its meeting held on 14.09.2017, decided that the Energy Meter showed high consumption of kVAh in the **off season period** due to capacitors installed on Bus Bar by the Petitioner and this was not due to misbehaviour of the Energy Meter, as such, the amount was recoverable. Not satisfied with the decision of the CDSC, Khanna, the Petitioner filed a Petition in the Forum, which, after hearing, upheld the decision of the CDSC, Khanna. The Petitioner’s Representative added that unusual disparity in kWh and kVAh consumption recorded in the disputed bill was on account of the Energy Meter of changed technical specification of MQP-95 which was installed on 27.10.2016 in the premises of the Petitioner. Hon’ble PSERC had issued directions to maintain status quo regarding billing of consumers under kVAh tariff regime existing prior to installation of the Energy Meters of changed technical specification of MQP-95. The Instructions ibid were applicable to the case of the Petitioner, whose disputed Energy Meter was of the controversial technical specification of MQP-95.

The Respondent, in its written statement, submitted that the Energy Meter had recorded high consumption of kVAh in the **off seasonal period** as the Petitioner had installed capacitors on the Bus Bar and the higher consumption was not due to misbehaviour of the Energy Meter. The letter referred dated 06.04.2017of Hon’ble PSERC, by the Petitioner relates only to ToD consumption Energy Meters. The amount charged in the bill was due to excess kVAh (import) consumed due to installation of shunt capacitors at Bus Bar. The Petitioner’s Representative (PR) referred to the directions/instructions issued by the Hon’ble PSERC vide letter dated 06.04.2017, which, in fact related to changing of Tariff Protocol of ToD Energy Meters. The Respondent also stated that the amount charged to the Petitioner did not relate to ToD consumption, rather, the same was related to General Consumption of kVAh (import). Hence, the bill raised on the basis of actual consumption amounting to Rs.98,500/- was correct and recoverable from the Petitioner.

However, the Respondent, on being asked during hearing, clarified that the disputed Energy Meter did not conform to technical specification of MQP-95 (as contended by the PR), but, instead, was of MQP-38. As such, the submissions made by the Petitioner’s Representative (PR) were not relevant in the present context. The Respondent produced the proof for proving that the disputed Energy Meter conformed to specification MQP-38.

 I observe that the Energy Meter of the Petitioner bearing Sr. No.12477801, L&T Make was replaced due to some defect, with new Energy Meter bearing Sr.No.16294766 of L&T Make vide Device Replacement Application dated 27.10.2016. This replaced Energy Meter was got checked from ME Laboratory on dated 08.02.2017 and test results were within limits. DDL was taken and readings were verified as under:

 kWh = 78738.4

 kVAh = 90881.5

I find that the Final Readings taken at the time of replacement of Energy Meter were as under:

 kWh = 78693

 kVAh = 90836

As per ME Laboratory report, the Energy Meter was of Purchase Order No.M-29 dated 24.05.2012 and of specification MQP-38.

1. The Petitioner’s Representative (PR) next contended that in

compliance to the directions issued by the Hon’ble PSERC, vide memo no.17/PSERC/DTJ-75A dated 06.04.2017, addressed to the CE/ARR&TR, PSPCL, the Forum had earlier ordered to maintain status quo in cases filed in the Forum bearing No.CG-177/2017 of Ganga Rice Mills, CG-02/2017 of Madhav Foods, and CG-22/2017 of Shri Ram Traders. I have noted the contention of the Petitioner referring to the decision in Appeal No.CG-177/2017 and similar other Petitions/ Appeals, in the Forum and this Court as per which, bill for the period from 31.03.2017 to 30.04.2017 was ordered to be issued on converted kVAh reading, as the disputed Energy Meter conformed to **technical specifications MQP-95.** ThePSPCL has changed the Tariff Protocol of ToD Energy Meters from Lag only to Lag + Lead Protocol, due to which, the Energy Meters were showing the Power Factor (PF) in the range of 0.1 to 0.2 and the consumers got inflated bills.

*I agree with the contention of the Petitioner’s Representative (PR) during hearing that the Hon’ble PSERC, vide its Order dated 28.02.2018, in the Petition No.47 of 2017 filed by PSPCL, decided that all such Energy Meters procured against specification MQP-95, should either be replaced with LAG only Tariff Protocol ToD Meters or the Tariff Protocol of all the Meters procured against these specifications be changed. But, on pursuing the records, I find that the Petitioner did not take this plea either in the Circle Dispute Settlement Committee or in the Forum. Besides, it has been proved beyond doubt that the disputed Energy Meter conforms to specification MQP-38, proving that the claim raised by the Petitioner in this Court is invalid.*

1. A perusal of the Consumption Data reveals that consumption

from 01.09.2016 till the replacement of the Energy Meter on 27.10.2016 was 6588 kWh and 10298 kVAh units and the Power Factor was worked out to 0.63. As per DDL, the consumption from 01.09.2016 to 01.10.2016 at 00.00 hrs was 5270 kWh units and 8310 kVAh units and Power Factor (PF) came to 0.63. The consumption data shows that during seasonal period, the Power Factor (PF) was recorded in the range of 0.92 while Power Factor (PF) during off season period was in the range of 0.71, 0.72 and 0.63.

 *I observe that the Petitioner did not act wisely and responsibly by not pointing out variations in the energy consumption noticed from the bills issued to it . At the same time, the Respondent also did not discharge its duty sincerely by not keeping a watch on the variations in energy consumption noticeable from the SAP/Energy Variation Register maintained in the Divisional Office.*

 *I find merit in the decision of the CDSC which was upheld by the Forum observing that Energy Meter gave more consumption of kVAh in the* ***off season period*** *due to capacitors permanently connected/ installed on Bus Bar which remained ‘ON’ during this period. I observe that the evidence brought on record of this Court by the Respondent during hearing that the removed Energy Meter was not of Technical Specification MQP-95, but of specification MQP-38 is correct. It proves that the plea of the Petitioner’s Representative (PR) regarding applicability of the instructions by the Hon’ble PSERC, vide memo no.17/DTJ-75A dated 06.04.2017, in the case of the Petitioner’s disputed Energy Meter conforming to the controversial technical specification of MQP-95, is not sustainable.*

 From the above analysis, it is concluded that Energy Meter found installed during the period of dispute and replaced on 27.10.2016, was of Technical Specification MQP-38 and not of MQP-95 as claimed by the Petitioner in the Appeal filed in this Court. It is also established that the Power Factor during the disputed period was 0.63 which can not be attributed to wrong recording by the Energy Meter but the Power Factor during **off season period was low** due to shunt capacitor permanently installed on the Bus Bar remained ‘ON’ resulting into higher consumption in kVAh units since during off season period, the inductive load was less due to which the kWh units drawn were less while the permanently ‘ON’ capacitors kept on producing large amount of kVARh units. Had the Petitioner acted wisely, it would have installed 11kV switched capacitors which would have automatically got switched in & out proportional to the inductive load of the Petitioner.

 Summarising, the consumption in kWh and kVAh recorded by the Energy Meter during the period of dispute is correct. The readings in kWh and kVAh also matches with DDL print out. Hence, there is no doubt that Energy Meter recorded higher kVAh consumption.

**5. Decision:**

 **As a sequel of above discussions, the order dated 19.01.2018 of the Forum in Case No.CG-306 of 2017 is upheld.**

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

**7**. 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)

September 11, 2018 LokPal (Ombudsman)

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