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

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

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

 **APPEAL NO. 39/2018**

**Date of Registration : 13.07.2018**

**Date of Hearing : 25.10.2018**

**Date of Order : 01.11.2018**

**Before:**

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

**In the Matter of :**

 Jalam Singh,

 Street No.3, Manna Singh Nagar

G.T.Road, Opp. Chand Cinema,

Ludhiana.

 ...Petitioner

 Versus

Additional Superintending Engineer,

DS, City West Division (Special),

PSPCL, Ludhiana

 ...Respondent

**Present For:**

Petitioner : 1. Sh Parvesh Chadha.

 Petitioner’s Representative(PR).

Respondent : Er.Ramesh Kaushal,

 Addl.Superintending Engineer.

 Before me for consideration is an Appeal preferred by the Petitioner against the order dated 05.06.2018 of the Consumer Grievances Redressal Forum (Forum) in Case No.CG-99 of 2018 deciding:

*“ Energy bills generated of the Petitioner from 01.08.2015 to the date of replacement of meter i.e. 21.07.2018 (vide 12.04.2016 MCO no.10000121160 dated 05.10.2015 effected on 21.07.2016) with OK status of the meter are justified and recoverable from the Petitioner”.*

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

 The relevant facts of the case are that:-

1. The Petitioner was having a Non Residential Supply Category

connection with sanctioned load of 34.630 kW. The Metering was being done by providing Three Phase Four Wire, Whole Current, 10-60 Amp, Energy Meter. The connection was being used for manufacturing of hosiery material.

1. The Petitioner was served an energy bill dated 18.04.2016 for a sum

of Rs.2,28,700/- {Current charges: Rs.2,73,119/- minus arrear of previous Financial Year: Rs.44,890/- plus arrears of current Financial Year: Rs.470/-} against consumption of 33,728 kWh units with “O.K” status of Energy Meter for the period from 01.08.2015 to 12.04.2016 (254 days). Thereafter, two energy bills were generated with O.K. status of Energy Meter and the disputed amount increased to Rs.2,47,330/-.

1. The Reading was also checked by the Respondent on request dated

12.04.2016 of the Petitioner and it was found by the Respondent that the reading of Energy Meter was 1,14,438 kWh.

(iv) The Energy Meter, bearing S.No.794723 of AVON Make, was challenged by the Petitioner on 19.04.2016 and was replaced on 21.07.2016**.** The Final Reading of this meter was 1,16,229 kWh.

1. The challenged Energy Meter was checked on 11.08.2016 in M.E.

laboratory with the consent of the Petitioner. The M.E. Laboratory concluded that accuracy of the Energy Meter was within limits and Final Reading was taken as kWh = 1,16,229/ kVAh = 1,44,212. DDL of the Energy Meter was also taken.

1. Subsequently, the M.E .Laboratory, vide e-mail dated 10.11.2016,

intimated that the data of Energy Meter bearing S.No.794723, make AVON was downloaded on testing but corrupted when dumped on Base Computer**.**

1. The Petitioner did not agree with the energy bills and filed a

Petition dated 25.11.2016 with the Zonal Dispute Settlement Committee (ZDSC), who, after hearing, decided that since the disputed amount exceeds Rs.2,00,000/-, the Committee did not have the jurisdiction to adjudicate the dispute. Accordingly, the consumer was asked to seek remedy from the Forum.

1. Accordingly, the Petitioner filed an Appeal dated 19.03.2018 in the

Forum, who, after hearing, passed the order dated 05.06.2018. (Reference Page-2, Para-1).

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

an Appeal in this Court and prayed for justice.

**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 along with 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 Non Residential Supply Category

connection, bearing Account No.3002864096, with sanctioned load of 34.630 kW.

(ii) The electricity supply was being used for Godown as the Petitioner was doing business of Trading of Cloth to be used in hosiery garments. No excess load was being used, even, the full sanctioned loaded was not used.

(iii) Earlier, it was planned to use the supply for the hosiery manufacturing and load was obtained and machinery was installed, but due to some market problem, production was not started, but load was not changed/reduced. Due to using the connection in godown, the consumption was not according to full sanctioned load.

(iv) The Petitioner received the bills for the period from 01.08.2015 to

12.04.2016 amounting to Rs.2,28,700/- (after refund/adjustment of Rs.44890/-), subsequent bill for the period from 12.04.2016 to 14.05.2016 for a sum of Rs.2,38,950 included previous balance of Rs.2,32,093/- and next bill for the period from 14.05.2016 to 17.06.2016 for a sum of Rs.2,47,616/- inclusive of previous balance of Rs.2,93,082/-, out of which the Petitioner paid Rs.60,000/- .

(v) Due to abnormal consumption shown in the Energy bills, the Petitioner challenged the Energy Meter by depositing the Energy Meter Challenge Fee on 19.04.2016.

(vi) The Energy Meter was replaced on 21.07.2016. The said Energy Meter was got checked in the M.E. Laboratory vide Challan No.20 dated 11.08.2016.

(vii) As per report of the M.E. Laboratory, the accuracy of the challenged Energy Meter was within limit and DDL was taken.

(viii) The Petitioner requested on 17.11.2016 to supply the DDL report, but its request was declined on the plea that data had been corrupted during dumping it on Base Computer.

(ix) The Petitioner did not agree with the bills and filed a Petition in the Zonal Dispute Settlement Committee (ZDSC), who, after hearing, decided that the disputed amount exceeded the limit of Rs.2 Lakh prescribed for deciding the disputes by the Committee. Accordingly, the Petitioner was asked to approach the Forum for resolution of dispute of the Petitioner.

1. The electricity supply of the Petitioner ’s connection was

disconnected on 06.03.2018 without any notice. The Petitioner visited the office of the Respondent and was told that the case had been decided by the Forum and the amount was recoverable.

1. The energy bills were issued on ‘O’ code upto 01.08.2015. The

Petitioner paid all the bills issued. The subsequent bill was again issued on ‘O’ Code for the period from 01.08.2015 to 12.04.2016 for 254 days of the consumption 33,728 units kWh, the per day consumption worked out as 132.787 units and monthly consumption worked out as 3983.62 units which was not acceptable/genuine as even the sanctioned load was not used.

1. As per Instruction No.55.2 of ESIM, the challenged Energy Meter

was to be replaced within 7 days and tested in the ME Laboratory within 10 days.

1. No DDL was provided due to data getting corrupted as intimated by

the ME Laboratory, as such the Energy Meter was inaccurate, but no action was taken to correct the bills issued erroneously.

1. Respondent had not maintained Energy Variation Register to keep a

watch on the variation in energy consumption and investigate the reason of abnormal consumption of the Petitioner’s connection.

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

**(b) Submissions of the Respondent**:

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

1. The Petitioner was having a NRS connection with sanctioned load

of 34.630 kW, bearing Account No.3002864096.

1. The bill for the period from 01.08.2015 to 12.04.2016 was issued for

 33,728 units amounting to Rs.2,32,093/- including surcharge.

1. The bill for the month of 05/2016 was issued for 100 units and the

bill for the month of 06/2016 was issued for 1002 units amounting to Rs.8534/-, thus, the total amount (including Rs.2,32,093/-) and surcharge came to Rs.2,47,616/-.

1. The Petitioner challenged the Energy Meter on 19.04.2016 by

depositing the Energy Meter Challenge Fee, whereafter, the said Energy Meter was replaced on 21.07.2016.

1. The challenged Energy Meter was got checked in the ME laboratory

vide Challan No.20 dated 11.08.2016 and as per its report, the accuracy of the Energy Meter was within limit.

1. The final reading was reported as 1,16,229 kWh. Subsequently, the

ME laboratory, vide email dated 10.11.2016, intimated that the data of the Energy Meter bearing Serial No.794723, AVON make was downloaded on testing, but corrupted on dumping on Base Computer.

1. The Petitioner did not agree with the report of the M.E. Laboratory

and filed a Petition in the ZDSC who, after hearing, decided that the disputed amount exceeded Rs.2 Lakh and the Committee did not have the jurisdiction to hear and decide this case.

1. The Petitioner, then, filed a Petition in the Forum, who, after

hearing, decided that energy bills of the Petitioner generated from 01.08.2015 to the date of replacement of the Energy Meter i.e. 21.07.2016 with OK status of the Energy Meter were justified 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 energy bills raised for the period from 01.08.2015 to the date of replacement of the Energy Meter i.e. 21.07.2016 as per applicable regulations.

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

1. Petitioner’s Representative contended that the energy bills

were issued on ‘O’ code upto 01.08.2015. The Petitioner paid all the bills issued. The subsequent bill was again issued on ‘O’ Code for the period from 01.08.2015 to 12.04.2016 for 254 days for the consumption of 33,728 kWh units, hence per day consumption worked out as 132.787 units and monthly consumption worked out as 3983.62 units which was not acceptable/genuine as the sanctioned load was not fully used. Due to abnormal consumption shown in the Energy bills, the Petitioner challenged the Energy Meter by depositing the Energy Meter Challenge Fee. The Energy Meter was replaced on 21.07.2016. The said Energy Meter was got checked in the M.E. Laboratory vide Challan No.20 dated 11.08.2016 on the consent of the Petitioner. As per report of the M.E. Laboratory, the accuracy of the challenged Energy Meter was within limit and DDL was taken. The Petitioner requested on 17.11.2016 to supply the DDL report, but its request was declined on the plea that data had been corrupted when dumped on Base Computer. Petitioner’s Representative (PR)added that as per Instruction No.55.2 of ESIM, the challenged Energy Meter was to be replaced within 7 days and tested in the ME Laboratory within 10 days. No DDL was provided due to data getting corrupted as intimated by the ME Laboratory, as such the Energy Meter was inaccurate, but no corrective action was taken.

I observe that as per Standard of Performance, approved by the Hon’ble PSERC as laid down in the Supply Code-2014, the Energy Meter was required to be replaced within 7 days of the request for challenge accompanied with the requisite fee deposited receipt and got tested from M.E. laboratory within 10 days. I also find that date of issue of Job Order for Device Replacement 05.10.2015 does not appear to be correct, because the Petitioner challenged the Energy Meter on 19.04.2016 making it difficult to believe that the Job Order was issued on 05.10.2015. Even then, the Respondent failed to adhere to the observance of time schedule prescribed by the Hon’ble PSERC for replacement and testing of the challenged Energy Meter.

1. Petitioner’s Representative argued that the Respondent had not

maintained Energy Variation Register to investigate the reason of significant variation in the energy consumption of the Energy Meter installed at the Petitioner’s premises.

I have perused the consumption data placed on record which reveals that consumption recorded from 17.09.2012 to 01.08.2015 for 1047 days was 1315 kWh units and thus on an average for a month of 30 days, the consumption was 38 kWh units (1315x30/1047). However, before 17.09.2012, the monthly consumption was in the range of 2000 kWh units per month which came down drastically at a meager level in the year 2014 and Mid of year 2015. During the period from 08/2015 to 03/2016, reading of the Energy Meter was not taken. After replacement of the disputed Energy Meter on 21.07.2016, the monthly consumption varied from 2000 to 5000 kWh units per month. The consumption recorded was 33,728/- kWh units for the period from 01.08.2015 to 12.04.2016 for 254 days i.e. 3999 kWh units per month which is comparable with LDHF formula for NRS Category connection which comes out to be 4156 kWh units per month.( 34.630x12x25x40%) as per LDHF formula.

*I also observe that the Respondent did not exercise necessary vigil on the variation in energy consumption, analyse the reasons thereof and take corrective action in the case of the Petitioner having a Non Residential Supply (NRS) Category connection of 34.63 kW. Had the Respondent exercised vigil and prudence by monitoring the variation ibid through SAP/ Energy Variation Register, appropriate action to rectify the omission could have been taken earlier and the dispute avoided.*

 From the above analysis, it is concluded that the averments made by the Petitioner regarding inaccuracy of the disputed Energy Meter are not sustainable as also evidenced by the report of the M.E. Laboratory wherein the disputed Energy Meter, on being tested, was found O.K. Accordingly, the energy bills issued to the Petitioner for the period from 01.08.2015 to 21.07.2016 (the date of replacement of the Energy Meter) are correct and recoverable.

**5. Decision:**

 **As a sequel of above discussions, the order dated 05.06.2018 of the Forum in Case No.CG-99 of 2018 is upheld. It is also held that no interest/surcharge shall be levied on the billed amount for the disputed period as the Respondent defaulted in ensuring compliance of the requirements of Standard of Performance laid down in the Supply Code-2014 regarding replacement of the challenged Energy Meter and its testing in the M.E. Laboratory within the stipulated period and for not keeping an eye on the energy variation of a NRS consumer having a load of 34.63 kW.**

**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)

November 1, 2018 LokPal (Ombudsman)

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