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

**ELECTRICITY, PUNJAB,**

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

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

**APPEAL No. 53/2018**

**Date of Registration : 23.08.2018**

**Date of Hearing : 06.12.2018**

**Date of Order : 11.12.2018**

**Before:**

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

**In the Matter of :**

 Savita Gupta,

 C/o Apurab Enterprises,

 H.No. 120-A,Street No. 3, Dev Nagar,

 Ludhiana.

 ...Petitioner

 Versus

 Additional Superintending Engineer,

DS Division City West Division (Special),

PSPCL, Ludhiana.

 ...Respondent

Present For:

Petitioner : 1. Smt. Savita Gupta, Petitioner.

 2. Sh. Rakesh Kumar,

Petitioner’s Representative (PR).

Respondent : Er. Harjinder Pal Singh,

 Asstt. Executive Engineer/Commercial,

 DS West Division (Special),

 PSPCL, Ludhiana.

 Before me for consideration is an Appeal preferred by the Petitioner against the order dated 17.07.2018 in Case No. CG-193 of 2018 of the Consumers Grievances Redressal Forum (Forum) deciding as under:

*“Account of the Petitioner be overhauled from 26.08.2015 to 29.12.2015 (period between last checking and the latest checking) taking slowness of the metering equipment as 44.8% as per Regulation 21.5.1 of the Supply Code-2014.”*

**2 Facts of the Case:**

The relevant facts of the case are that:

1. The Petitioner was having Medium Supply Category connection with sanctioned load of 57.560 kW and contract demand (CD) of 63.960 kVA for which, the Metering was done by providing LT CT operated static Energy Meter.

**(ii)** The connection was checked by the Addl. S.E/ Enforcement-3, PSPCL, Ludhiana vide ECR No. 40 and 41/3339 dated 29.12.2015.

**(iii)** The Petitioner was served a supplementary notice, vide memo no. 5 dated 06.01.2016 to deposit Rs.2,78,304/- on account of overhauling of account by taking slowness factor of 44.8% for the period from 08/2015 to 01/2016.

**(iv)** The Petitioner did not agree with the supplementary notice dated 06.01.2016 to deposit Rs. 2,78,304/- and represented to the Circle Dispute Settlement Committee (CDSC) which decided on 28.03.2016 that:

“*Committee after going through DDL and consumption data found that there is fall in consumption after July 2015. As the connection was set right by Addl.SE/Enforcement on dated 29.12.2015 and after that accuracy of the meter was found within limit. So, account of the consumer from 08/2015 to 01/2016 may be overhauled on the basis of average consumption recorded during Feb.2016 and March 2016.”*

**(v)** Aggrieved with the decision of the Circle Dispute Settlement Committee, the Petitioner filed a Appeal dated 11.05.2018 in the Forum, which passed the order dated 17.07.2018 (Reference: Page 2, Para 1).

**(vi)** Not satisfied with the decision of the Forum, the Petitioner preferred Appeal in this Court and prayed to set-aside the decision of the Forum and allow the Appeal in the interest of justice.

1. **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 the consideration of this Court:

1. The Forum, at the time of passing the order dated 17.07.2018, erroneously and without considering the facts and documents on record held that the account of the Petitioner be overhauled from 26.08.2015 to 29.12.2015 (period between last checking and the latest checking) by taking slowness of the metering equipment as 44.8% as per Regulation 21.5.1 of the Supply Code-2014. The Forum considered that the Energy Meter was slow between 26.08.2015 to 29.12.2015, but, it was not clear as to when the Energy Meter got slow. Only Maximum Demand was a sole parameter to show, when the Energy Meter got slow. As per record, there was a decline in the Maximum Demand values in the month of December 2015. It was, therefore, crystal clear that the Energy Meter got slow between the month of November 2015 to December 2015. So, by no stretch of imagination or calculation, the Petitioner could be penalised for the period from 26.08.2015 to 29.12.2015. The slowness of the Energy Meter could only be adjudged by relying upon the Maximum Demand which was not considered by the Forum at the time of passing the order whereas Maximum Demand was the only parameter to determine the exact timings/periodicity of slowness of the Energy Meter.
2. The present Appeal may be accepted in the interest of justice by setting aside the order dated 17.07.2018 of the Forum and the Petitioner may be charged in accordance with the Maximum Demand recorded by the Energy Meter.
3. **Submissions of the Respondent:**

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

1. The Petitioner was having a Medium Supply (MS) connection with sanctioned load of 57.560 kW bearing Account No. 3002961785.
2. The premises of the Petitioner was checked by the Addl. S.E, Enforcement-3, PSPCL, Ludhiana on 29.12.2015 and reported the following particulars recorded with scroll knob as under:

Voltage Current

R-N 182 Volt. R = 50A

Y-N 334 Volt. Y=48.8A

B-N 67 Volt. B=54.4A

 The Enforcement also reported that as the correct voltage was not coming on the Energy Meter display, the accuracy of the Energy Meter was checked with LT ERS Meter and it was found slow by – 44.80%. The CT chamber of the Energy Meter was opened and potential coil and neutral wire of Red Phase was carbonized from the Main Cable. After removing the carbon and rejoining with the Main Cable, the particulars were recorded on the Energy Meter display as under:

 Voltage

 R-N 231 Volt.

 Y-N 235 Volt.

 B-N 236 Volt.

The accuracy of the Energy Meter was re-checked and found within permissible limit.

1. On the basis of the checking report of the Energy Meter, AEE/Commercial raised a demand of Rs. 2,78,304/-, on account of slowness of the Energy Meter, vide letter no. 15 dated 06.01.2018 issued to the Petitioner.
2. The Petitioner did not agree with the said demand notice and approached the Circle Level Dispute Settlement Committee (CDSC), which decided that:

*“Committee after going through DDL and consumption data found that there was fall in consumption after July, 2015. As the connection was set right by the Addl. Addl. S.E/enforcement on 29.12.015 and after that the accuracy of the Energy Meter was found within limit. The account of the Petitioner from 08/2015 to 01/2016 may be overhauled on the basis of average consumption recorded during February, 2016 and March 2016.”*

1. The Petitioner did not agree with the decision of the Circle Dispute Settlement Committee and filed a Petition before the Forum, which decided that the account of the Petitioner be overhauled from 26.08.2015 to 29.12.2015 by taking the slowness of the metering equipment as 44.8% as per Regulation 21.5.1 of the Supply Code-2014.
2. On the basis of the decision of the Forum, the AEE/Commercial revised the demand to Rs. 1,69,678/- (against the demand previously raised for Rs. 2,78,304/-) vide letter no. 241 dated 08.08.2018.
3. The checking made by the Addl. S.E/Enforcement-3, PSPCL, Ludhiana was also as per rules and there was no infirmity in the checking report.
4. The order passed by the Forum was based upon Regulation 21.5.1 of the Supply Code-2014 and was rightly applicable to the facts of the case. As such, the Appeal may be dismissed.
5. **Analysis:**
6. The issue requiring adjudication is the legitimacy of the amount of Rs. 1,69,678/- charged to the Petitioner due to overhauling of its account for the period from 26.08.2015 to 29.12.2015 for the slowness of the metering equipment by 44.8% as determined at site during checking dated 29.12.2015.

 In the present Appeal, the Petitioner has prayed to set aside the order dated 17.07.2018 of the Forum in Case No. CG-193 of 2018 directing to overhaul the account of the Petitioner for the period between 26.08.2015 (date of last checking) and 29.12.2015 (date of latest checking) by taking the slowness of the Metering Equipment as 44.8% as per Regulation 21.5.1 of the Supply Code-2014. The Petitioner’s Representative mainly argued that Maximum Demand was the sole parameter to determine the date/time from which, the Energy Meter started running slow. PR added that there was decline in Maximum Demand values during December 2015 leading to the conclusion that the Energy Meter got slow during November and December 2015, so, charging the Petitioner for the period from 26.08.2015 to 29.12.2015 for the slowness of the Energy Meter was not justified.
 I find that the Petitioner’s connection was earlier checked by the Addl. S.E.Enforcement-3, Ludhiana, vide ECR No.21/3334 dated 26.08.2015 on a reference made by the AEE/Commercial, DS City West Division (Special), Ludhiana. The Enforcement reported that accuracy of the Energy Meter was within the permissible limits and issued directions to replace the Energy Meter and send the same to M.E. Laboratory for DDL and other checking. The said Energy Meter was of HPL make having S.No.343785. I also find that the Energy Meter was not replaced which was viewed seriously by the Enforcement at the time of its next checking dated 29.12.2015. However, the Energy Meter was replaced vide Device Replacement Application No.100001205579 dated 07.09.2015, effected on 30.01.2016. I observe that the DDL of the Energy Meter was taken on 15.02.2016 and Cumulative Tamper Report reveals that Blue Phase and Red Phase link has been missing for considerable time including Red Phase missing for duration of 65 days in 12/2014. Due to Carbonization of the wires, there was **make and break** **of the connection**, due to which the Energy Meter was found slow at site during testing with LT ERS Meter.

1. The Carbonization took place due to non-use of Thimbles (Aluminium to Aluminium or Bi-metallic), as a result of which, there may be loose connection due to which, spark might took place, resulting into carbonization of the connections.

 I observe that despite issuance of directions by the Enforcement during checking dated 26.08.2015 to replace the Energy meter, the same was replaced after more than five months on 30.01.2016. Thus, the onus for not taking timely corrective action rests with the Respondent itself.

 I am of the view that provisions continued in Regulation 21.5.2 (a) of the Supply Code-2014, reproduced below, are relevant in the present context as due to make and break of connections, the slowness will not remain same:

***“21.5.2: Defective (other than inaccurate)/Dead***

 ***Stop/Burnt/Stolen Meters:***

 *The accounts of a consumer shall be overhauled/billed for the period meter remained defective/dead stop and in case of burnt/stolen meter for the period of direct supply subject to maximum period of six months as per procedure given below:*

1. *On the basis of energy consumption of corresponding period of previous year.”*

 From the above analysis, it is concluded that the account of the Petitioner for the period from 26.08.2015 to 29.12.2015, is required to be overhauled based on consumption of corresponding period of previous year in terms of provisions contained in Regulation 21.5.2 (a) of the Supply Code-2014.

1. **Decision:**

 **As a sequel of above discussions, the order dated 17.07.2018 of the forum in Case No. CG-193 of 2018 is set aside. It is held that the account of the Petitioner shall be overhauled for the period from 26.08.2015 to 29.12.2015, based on consumption of the corresponding period of previous year, in terms of provisions contained in Regulation 21.5.2 (a) of the Supply Code-2014. It is also held that no interest/surcharge shall be charged to the Petitioner on this account as the Respondent failed to comply with its own instructions to take corrective action with due promptitude. Accordingly, the Respondent is directed to recalculate the demand and refund/recover the amount found excess/short, if any, without interest/surcharge.**

**6.** In line with the observations/directions of this Court in various cases related to contact resistance arising out of carbonisation of the main and tapping wires connected to the Energy Meter, Engineer-in-Chief /Commercial, PSPCL, Patiala vide memo no. 384/ 88//DD/SR-93 of 12.07.2018 issued instructions to all Engineer-in-Chiefs/Chief Engineers/DS to ensure that, “*During the installation of LT CT operated Energy Meters along with LT CT that the potential wires tapped from the main cable shall be of the same material as that of the main cable (directly or preferably through bi-metallic) to avoid bi-metallic resistance due to which the carbonization takes place and with the passage of time, the wires get disconnected contributing to less recording of consumption by the Energy Meter and also the CTs/PTs leads should be connected at Energy Meter terminal through ferrules which are provided by the manufacturer.”* It has, however, been observed that the instructions ibid have not so far been implemented as is evident from the fact that **the same have not been found uploaded on the website of PSPCL and as such, these instructions have escaped the knowledge of the field officers/officials.** This shows gross negligence and lukewarm approach on the part of Respondent - PSPCL. Chief Engineer/Commercial, PSPCL, Patiala shall take appropriate steps to ensure implementation of the directions of this Court besides uploading of the aforesaid instructions on the website of the PSPCL without further delay with a view to see that all the field officers/officials become familiar with these instructions and invariably implement the same and **carry out a massive drive to rectify the problem of contact resistance/carbonisation of all LT CT meters by 31.03.2019 to avoid unnecessary disputes.**

7. The Appeal is disposed off accordingly.

1. In case, the Petitioner or the Respondent (Distribution 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 the Punjab State Electricity Regulatory Commission

(Forum and Ombudsman) Regulations – 2016.

(VIRINDER SINGH)

December 11. 2018 LokPal (Ombudsman)

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