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

**ELECTRICITY, PUNJAB,**

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

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

**APPEAL NO. 67/2018**

**Date of Registration : 29.10.2018**

**Date of Hearing : 24.01.2019**

**Date of Order : 31.01.2019**

**Before:**

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

**In the Matter of :**

 Barjinder Singh Mann,

SCO No. 958,

Mann Complex, Village Matour,

Sector-70,

S.A.S. Nagar (Mohali).

 ...Petitioner

 Versus

 Addl. Superintending Engineer,

DS Division (Special),

S.A.S. Nagar (Mohali).

 ...Respondent

**Present For:**

Petitioner : 1. Sh. Rajesh Gaur,

 Petitioner’s Counsel (PC).

 2. Shri Barjinder Singh, Mann, Petitioner.

Respondent : Er. H.S. Oberoi,

 Addl. Superintending Engineer,

 DS Division (Special),

 S.A.S. Nagar (Mohali).

 Before me for consideration is an Appeal preferred by the Petitioner against the order dated 25.09.2018 in Case No. CG-317 of 2018 of the Consumers Grievances Redressal Forum (Forum) deciding as under:

“*To uphold the decision of the Zonal Dispute Settlement committee (ZDSC) office of Chief Engineer/Operation (South) taken in its meeting held on dated 26.06.2018. The amount charged by Respondent vide supplementary notice vide Memo No. 831 dated 27.03.2018 is justified & recoverable.”*

**2. Facts of the Case:**

The relevant facts of the case are that:

1. The Petitioner was having a Non Residential Supply (NRS) Category connection with sanctioned load of 90 kW and contract demand (CD) of 99.990 kVA for which the metering was being done by providing LT– CT operated Static Energy Meter.
2. The Petitioner was served energy bill dated 27.10.2017 for Rs. 1,20,110/- against consumption of 16,347 kVAh units for the period from 28.08.2017 to 04.10.2017.
3. The Petitioner challenged the working of the Energy Meter by depositing Meter Challenge Fee of Rs. 1,200/- on 27.11.2017.
4. The Addl. S.E/Enforcement, PSPCL, S.A.S. Nagar (Mohali), vide ECR No. 85/91 dated 19.03.2018, checked the accuracy of the Energy Meter at site and found running slow by 27.57%. On further checking, Red and Yellow Phase Potential wires were found carbonized, which were cleaned by the DS staff whereafter, voltage on all the three Phases came to normal.
5. On the basis of the checking, the account of the Petitioner was overhauled for a period of six months preceding the date of testing and a Notice bearing No. 831 dated 27.03.2018 was issued to the Petitioner to deposit the amount of Rs. 1,53,671/-.
6. Aggrieved with the Notice dated 27.03.2018, the Petitioner filed a Petition in the Zonal Dispute Settlement Committee (ZDSC) which, after hearing, decided on 26.06.2018 that:

*“After perusing the records submitted by the presenting officer and consumption data, the Committee found that in year 2016 recorded consumption of the consumer was 140147 units and in year 2017 recorded consumption of the consumer was 98202 units. This showed that due to meter of the consumer was carbonized on PTs of Red & Yellow phase, less consumption was recorded for the period 02/2017 to 08/2017. But consumer expressed at the meeting that he will submit record for less consumption in the next meeting. On 26.06.2018 consumer appeared in the meeting and submitted the documents as told in the last meeting. After verified this along with other documents submitted it is decided that notice issued to the consumer is correct and recoverable.”*

1. Not satisfied with the decision of the ZDSC, the Petitioner filed an Appeal dated 14.08.2018 in the Forum, who, after hearing, passed the order dated 25.09.2018 (Reference: Para 1, Page 2).
2. Not satisfied with the decision of the Forum, the Petitioner preferred an Appeal in this Court and prayed that the same be allowed and the penalty of Rs. 1,53,671/- be set aside.
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 along with material brought on record by both the sides.

**(a) Submissions of the Petitioner**:

The Petitioner made the following submissions for consideration of this Court:

1. The Petitioner’s connection bearing Account No. 3000153854, had been in operation at 958, Mann Complex Village Matour, Sector-70, S.A.S. Nagar (Mohali) and there had been no problem with the Energy Meter uptil checking by the Enforcement and no dues were outstanding against the Petitioner’s connection.
2. The Respondent issued a notice to the petitioner on 27.03.2018 intimating that the connection installed at its premises was checked on 19.03.2018 by the Addl. SE/Enforcement, PSPCL, S.A.S. Nagar (Mohali) vide ECR No. 85/91 and found the Energy Meter running slow by 27.57%. Based on this checking, the Petitioner was charged a sum of Rs. 1,53,671/- for the period of previous six months from the date of checking.
3. The Petitioner, vide letter dated 06.11.2017, intimated that the Energy Meter was running faster than the normal and it requested for its inspection and challenged the working of the Energy Meter on 27.11.2017.
4. On checking the Energy Meter, the Respondent informed the Petitioner that instead of running fast, ,the Energy Meter was running slow. The Petitioner was paying the electricity bill regularly before the due date and no amount related to its Energy Meter had been pending.
5. The Energy Meter had not been tampered with which was installed by the PSPCL and its officials had been regularly checking it in every one or two months from the date of its installation. If there had been any tampering with the Energy Meter, PSPCL officials should have noticed. So, if the Energy Meter had actually been running slow, the Respondent – PSPCL was responsible because its officials did not point out any fault with the Energy Meter even after inspecting it regularly.
6. The Petitioner had sent a letter on 23.04.2018 to the Zonal Dispute Settlement Committee, PSPCL, Patiala to resolve the matter but it decided in its meeting on 26.06.2018 that the Notice issued vide letter no. 831 dated 27.03.2018 was correct and the amount of Rs. 1,53,671/- was recoverable.
7. Aggrieved by the undue demand raised by the Respondent – PSPCL, the Petitioner filed a Petition before the Forum, PSPCL, Patiala, who held that the amount charged to the Petitioner was justified and recoverable.
8. Not satisfied with the decision of the Forum, the Appeal had been preferred and the same be allowed by setting aside the penalty imposed amounting to Rs. 1,53,671/- in the interest of justice.

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

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

1. The Petitioner was having a Non Residential Supply (NRS) Category connection, bearing Account No. 3000153854, with sanctioned load of 90 kW and contract demand (CD) as 99.990 kVA and was running in the name of Barjinder Singh Mann, at 95 B, Mann Complex, Mataur.
2. The Energy Meter of the Petitioner was checked at site by the Addl. S.E, Enforcement, PSPCL, S.A.S. Nagar (Mohali) vide ECR No. 85/91 dated 19.03.2018 as per which, the Energy Meter was slow by 27.57%. Accordingly, the Petitioner was issued a notice No. 831 dated 27.03.2018 to deposit a sum of Rs. 1,53,7671/- within fifteen days.
3. The Petitioner submitted a request letter mentioning therein that its Energy Meter was running fast, but, when it was checked by the Addl. S.E, Enforcement, PSPCL, S.A.S. Nagar (Mohali), it was found running slow by 27.57%.
4. The Petitioner represented on 23.04.2018 to the Zonal Level Dispute Settlement Committee (ZDSC) which, decided on 26.06.2018 that the notice issued to the Petitioner was correct and the amount charged was recoverable.
5. The case of the Petitioner was decided on 25.09.2018 by the Forum who held that the notice issued to the Petitioner was correct and the amount was recoverable.
6. In view of the above, the Appeal may be dismissed.
7. **Analysis:**

The issue requiring adjudication is the legitimacy of the amount of Rs. 1,53,671/- charged to the Petitioner for six months preceding the date of checking of its connection by the Enforcement on 19.03.2018 when the Energy Meter was found running slow by 27.57%.

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

1. In the present dispute, the Petitioner received energy bill dated 27.10.2017 amounting to Rs. 1,20,110/- against the consumption of 16,347 kVAh units for the period from 28.08.2017 to 04.10.2017. The Petitioner deposited the bill on 06.11.2017 but challenged the working of the Energy Meter by depositing the Meter Challenge Fee of Rs. 1200/- on 27.11.2017. Accordingly, the connection was checked by the Addl. S.E/Enforcement, PSPCL, S.A.S. Nagar vide ECR No.85/91 dated 19.03.2018 at 16.720 kW load and Power Factor of 0.79 Lag and the Energy Meter was found slow by 27.57%. On further checking, the Red and Yellow Potential Wires were found carbonised and cleaned by the DS Staff as a result of which, voltage on all three phases came to normal.

I find that as per the report of the Enforcement, the Energy Meter installed at the Petitioner’s premises was of L&T make of CT ratio 100/5Amp. In L&T make Energy Meter, whenever there is any discrepancy, the “STAR” comes on display but the officer/official taking the Monthly Readings did not notice it. The Instantaneous Report of Print out of DDL taken on 19.03.2018 showed that the Voltage on Red, Yellow and Blue Phase was 55.03 V, 237.08V, 212.09 V respectively. Hence, the voltage on Red Phase was very much less than the normal Voltage.

I also find that the Tamper Report of print out of DDL under the Head “**Failure type Status/Count/duration**” shows that Voltage failure on Red Phase, the status was **Event ON** and duration was 385 Days 19 Hours 44 Minutes and 0 Second and similarly on Blue Phase Voltage failed for 375 Days, 8 Hours, 40 Minutes and 0 Second and Sequential storage for **Events ON** shows that the voltage failure on Red Phase occurred on 10.03.2018 at 11.20 hrs.

1. A perusal of the Consumption Data shows that in the year 2016, the recorded consumption was 1,40,147 kVAh units and in the year 2017, the recorded consumption was 98,202 kVAh units.

I find that in view of the decision of ZDSC and CGRF, the account of the Petitioner was overhauled for six months from 26.08.2017 to 19.03.2018 (203 days) which was proportionately converted to 180 days and the amount of Rs.1,53,671/- were charged.

I also observe from the Consumption Data placed on record that monthly Power Factor, recorded was very low due to non-installation of capacitors due to which the kVAh consumption was very high as compared to kWh consumption. Since the billing is being done on kVAh consumption recorded by the Energy Meter, hence, the bills were higher.

I observe that the Respondent overhauled the account for six months as per provisions contained in Regulation 21.5.1 of the Supply Code-2014 preceding the date of testing by slowness factor of 27.57%, but, I am of the view that it is not just and fair because it was **make and break of the connections** due to carbonization of the PT Wires and slowness will not remain the same as it depends on Electrical Parameters i.e. Voltage, Current and Power Factor. Hence, it is more appropriate that the account be overhauled for six months prior to the date of checking as per provisions contained in Reg. 21.5.2 (a) and (b) of the Supply Code-2014, reproduced as under:

***“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:*

*(a) On the basis of energy consumption of corresponding period of previous year.*

*(b)* *In case the consumption of corresponding period of the previous year as referred in para (a) above is not available, the average monthly consumption of previous six (6) months during which the meter was functional, shall be adopted for overhauling of accounts.”*

I am also of the view that the consumption shall not be compared with previous year consumption as contained in Reg. 21.5.2 (a) of the Supply Code-2014 because during the year 2017, the consumption remained less as compared to the year 2016 and as is evident from the tamper data that the voltage was less on Red and Blue Phase from normal voltage for approximately one year.

1. In line with the observations/directions of this Court in various cases related to contact resistance arising out of carbonization 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.”*

I observe 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.

From the above analysis, it is concluded that the account of the Petitioner is required to be overhauled for six months prior to the date of checking i.e. 19.03.2018 by the Enforcement in terms of provisions contained in Regulation 21.5.2 (b) of the Supply Code-2014 i.e. by taking the average consumption from 10/2016 to 03/2017.

1. **Decision:**

**As a sequel of above discussions, the order dated 25.09.2018 of the Forum in Case No. CG-317 of 2018 is modified. It is held that the account of the Petitioner shall be overhauled for a period of six months prior to the date of checking by the Enforcement i.e. 19.03.2018 in terms of provisions contained in regulation 21.5.2 (b) of the Supply Code-2014. Accordingly, the Respondent is directed to recalculate the demand and refund/recover the amount found excess/short after adjustment, if any, without interest/surcharge because the Respondent failed to check the carbonization of PT wires while taking monthly reading by the officer/official.**

1. The Appeal is disposed of accordingly.
2. Chief Engineer/Commercial, PSPCL, Patiala shall take suitable action 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/carbonization of all LT-CT meters by 31.03.2019 to avoid unnecessary disputes.**
3. The Petitioner shall improve its Power Factor within next three months as the Power Factor of its connection was in the range of 0.5 Lag to 0.75 Lag, which is very low and harms the Power system of the licensee-Respondent. The Respondent shall monitor this and similar such cases and start the drive for improvement of the consumers’ Power Factor in its area of Power system.
4. 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 the Regulation 3.28 of the Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations – 2016.

 (VIRINDER SINGH)

January 31, 2018 LokPal (Ombudsman)

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