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

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

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

 **APPEAL NO. 70/2018**

**Date of Registration : 03.12.2018**

**Date of Hearing : 08.02.2019**

**Date of Order : 12.02.2019**

**Before:**

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

**In the Matter of :**

Arvinder Kaur,

c/o Holic Fashions,

Street No.1, Grewal Road,

Bahadur Ke, Ludhiana

 ...Petitioner

 Versus

Addl. Superintending Engineer,

DS Division City West (Special)

PSPCL , Ludhiana.

 ...Respondent

**Present For:**

Petitioner Sh. Parvesh Chadha,

 Petitioner’s Representative (PR).

.

Respondent : Er. Ramesh Kaushal

 Additional Superintending Engineer,

 DS, City West Division (Special),

 PSPCL, Ludhiana.

 Before me for consideration is an Appeal preferred by the Petitioner against the order dated 28.08.2018 of the Consumer Grievances Redressal Forum (Forum) in Case No. CG-289 of 2018 deciding that:

*“Account of the Petitioner be overhauled from 20.07.2017 to 05.04.2018 on the basis of consumption assessed as per LDHF formula and subsequently adjusted on the basis of actual consumption recorded in the corresponding period of the succeeding year as per Regulation 21.5.2(d) of Supply Code-2014.* ”

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

 The relevant facts of the case are that:-

1. The Petitioner was having a Medium Supply Category connection

with sanctioned load of 49.900 kW and contract demand (CD of 50 kVA. The Metering was being done by providing Three Phase Four Wire, Whole Current Energy Meter of capacity 10-60 Amp.

1. The connection was released on 20.07.2017 vide Device

 Application No.100004164196 dated 08.06.2017.

1. The connection was checked by the Addl.SE/Enforcement-3,

PSPCL, Ludhiana, vide ECR No.33/3363 dated 20.02.2018, on a reference made by the AEE/Technical-2. During checking, the Display of the Energy Meter was found defective due to which, readings could not be taken and DDL was also not taken at site. The Enforcement directed the Petitioner to replace the Energy Meter and get it checked from the ME laboratory**.**

1. The Energy Meter was replaced vide Device Replacement

No.100005465593 dated 23.02.2018, effected on 22.03.2018 and got checked on 05.04.2018 from the M.E. laboratory which declared the Energy Meter as “Burnt”. DDL could not be taken. The Energy Meter was not checked in the presence of Petitioner/her representative but the **consent** of the Petitioner was taken**.**

1. The Respondent issued first energy bill for the period 20.07.2017 to

05.04.2018 for 48,503 kVAh units plus actual consumption from 22.03.2008 to 05.04.2018 for 1,483 kVAh units i.e. for 49,986 units, amounting to Rs.3,54,408/-.

1. Aggrieved with the above bill, the Petitioner filed a Petition

dated 31.07.2018 in the Forum, who, after hearing, passed the order dated 28.08.2018 (Reference: Page-2, Para-1).

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

Appeal in this Court and prayed that the bills for the disputed period from 20.07.2017 to January 2018 be issued on MMC and from January 2018 to February 2018 prior to replacement of Meter on the average as the DDL was corrupted and exact position could not worked out.

**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 Respondents 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 Medium Supply Category

connection, bearing Account No.3004600271,with sanctioned load of 49.900 kW and contract demand (CD) of 50 kVA.

**(ii)** The connection to the Petitioner was released on 20.07.2017 vide

 Device Application No.100004164196 dated 08.06.2017.

**(iii)** The Unit was not started due to non issuance of GST number which

 was issued on 22.12.2017.

**(iv)** The Unit started working in March 2018 after purchase of Panel

Board in February 2018. Even, the main machinery was installed on 05.04.2018.

**(v)** The Respondent issued the energy bills as under:-

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| S.No  | From | To | Days | Status | Consumption kWh | Consumption kVAh |
| 1 | 20.07.2017 | 26.10.2017 | 99 | N | 19760 | 21956 |
| 2 | 26.10.2017 | 28.11.2017 | 33 | N | 6587 | 7319 |
| 3 | 28.11.2017 | 26.12.2017 | 28 | N | 5589 | 5589 |
| 4 | 19.07.2017 | 04.01.2018 | 169 | O | 0 | 0 |
| 5 | 04.01.2018 | 06.02.2018 | 33 | D | 0 | 0 |
| 6 | 06.02.2018 | 05.03.2018 | 27 | D | 0 | 0 |
| 7 | 20.07.2017 | 05.03.2018 | 260 | O | 49981 | 49986 |
| 8 | 05.04.2018 | 01.05.2018 | 26 | O | 2423 | 2430 |
| 9 | 01.05.2018 | 05.06.2018 | 35 | O | 1765 | 1768 |

**(vi)** In the month of February 2018, the Energy Meter was burnt and there was no electricity supply in the Factory of the Petitioner, as such, the Petitioner lodged a complaint with the Respondent.

1. The officials of the Respondent visited the Site to attend the

 complaint and confirmed after checking, that the Energy Meter was burnt.

1. The Energy Meter was replaced vide Device Replacement

Application No. 100005465593 dated 23.02.2018, effected on 22.03.2018.

1. Before replacement of the Energy Meter, the Site was checked by

the Enforcement Wing of the Respondent vide ECR No.33/3363 dated 20.02.2018 and found that Display of Energy Meter was defective and readings could not be taken. The Enforcement directed the Petitioner to replace the defective Energy Meter and get it checked from the ME laboratory.

1. The Energy Meter was sent to ME laboratory, vide challan no.99

dated 05.04.2018 which declared the Energy Meter as “ **Burnt**”. The said checking of the Energy Meter was done in the M.E. laboratory **after taking consent letter from the Petitioner.**

1. The Respondent issued the disputed energy bill for the period

from 20.07.2017 to 05.04.2018 for 48,503 kVAh units plus actual consumption from 22.03.2018 to 05.04.2018 for 1,483 kVAh units i.e. for 49,986 units, amounting to Rs.3,54,408/-, which was not acceptable.

1. Aggrieved by the undue demand raised by the Respondent, the

Petitioner filed a Petition dated 31.07.2018 in the CGRF, who, after hearing, passed order dated 28.08.2018. (Reference Para-2, Page-1).

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

an Appeal in this Court and prayed that the bills for the disputed

period from 20.07.2017 to January 2018 be issued on MMC and for January 2018 to February 2018 prior to replacement of the Energy Meter on average basis as the DDL was corrupted and exact position had not been worked out. The Respondent had not maintained Energy Variation Register to investigate the reason of low and abnormal consumption of the Petitioner’s connection.

1. The office of the Respondent had not taken the monthly Energy

Meter readings. Had these been recorded every month, the non working of Factory/Unit would have been noticed. The Energy Meter was burnt about which, the Respondent was informed in time by the Petitioner. There was a laxity on the part of the Respondent and the Petitioner was penalized by charging/applying LDHF factor from the date of installation of the Energy Meter.

1. The Factory of the Petitioner was not running from the date of

release of connection ( 20.07.2017) to February 2018, so, the Petitioner should be billed as per MMC instead of LDHF as the machinery was not made operational/installed on the date of release of connection.

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

and undue charges raised against the Petitioner be set aside.

1. **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 Category

connection, bearing Account No.3004600271,with sanctioned load of 49.900 kW and contract demand (CD of 50 kVA.

**(ii)** The electricity connection to the Petitioner was released on 20.07.2017 vide Device Application No.100004164196 dated 08.06.2017.

**(iii)** Due to defective display of the Energy Meter of the Petitioner, the

connection was checked by the Addl.SE/Enforcement-3, PSPCL, Ludhiana vide ECR No.33/3363 dated 20.02.2018 and on its report,, the Energy Meter was replaced vide Device Replacement Application No.100005465593 dated 23.02.2018, effected on 22.03.2018. The disputed Energy Meter was got checked, vide Store Challan no.99 dated 05.04.2018, from the M.E. Laboratory which reported that the Energy Meter was burnt, accuracy/DDL could not be taken.

**(iv)** The Respondent issued first bill for the period from 20.07.2017 to 05.04.2018 for 49,986 kVAh units amounting to Rs.3,54,408/-.

**(v)** The said bill was issued for the period from 20.07.2017 to 22.03.18

as per load and demand factor for 48,503 kVAh units in accordance with Regulation 21.5.2 (d) of the Supply Code-2014 and for 1,483 kVAh units as per actual consumption from 22.03.2018 to 05.04.2018 i.e. total 49,986 kVAh units (48503+1483 kVAh units).

**(vi)** The Petitioner, instead of depositing the said amount, filed a Petition

dated 31.07.2018 in the CGRF, who, after hearing, passed the Order dated 28.08.2018.

**(vii)** The Petitioner stated that GST number was issued to it on

22.12.2017, but did not submit any document in support of it, from which it could be ascertained that the Petitioner was not using the electricity.

**(viii)** The Petitioner wrongly stated that the machinery was installed on

05.04.2018, whereas as per office record of the Respondent, the Petitioner submitted the Test Report on 18.04.2017 after the installation of the Machinery and other load, from which, it was clear that the Petitioner installed the Machinery before 18.04.2017.

**(ix)** Keeping in view the submissions made, the Appeal may be dismissed.

4. **Analysis:**

 The issue requiring adjudication is the legitimacy of the overhauling of the account of the Petitioner from 20.07.2017 to 22.03.2018 on the basis of consumption assessed as per LDHF formula and subsequent adjustment on the basis of actual consumption recorded on the basis of corresponding period of succeeding year as per applicable regulations.

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

1. Petitioner’s Representative (PR) contended that though the

electricity connection to the Petitioner’s Unit was released on 20.07.2017, the Unit actually started working in March 2018 after issuance of GST Number on 22.12.2017 and subsequent installation of Penal Board in February 2018. Even the main machinery was installed in April 2018. Petitioner’s Representative (PR) added that the Petitioner be billed for on MMC basis (instead of as per LDHf formula), for the period from the date of release of connection (20.07.2017) till 22.03.2018 when the Energy Meter was replaced on the directions of Enforcement checking dated 20.02.2018.

 I find that the Respondent contested the aforesaid contention of the Petitioner as the Petitioner submitted the Test Report on 18.04.2017 after installation of the Machinery and the other load from which it was clear that the Petitioner installed the Machinery before 18.04.2017. Moreover, the Meter got burnt in 02/2018 while the Petitioner is claiming that it commissioned the Plant on 05.04.2018. Accordingly, the Petitioner was rightly billed from the date of release of connection on 20.07.2017. I also find that the electricity dues become chargeable/payable from the date of release of electricity connection to the Petitioner notwithstanding the date of issuance of GST number.

1. Petitioner’s Representative (PR) contended that in the month of

February 2018, the Energy Meter got burnt and there was no electricity supply in the Factory of the Petitioner, as such, the Petitioner lodged a complaint with the Respondent, whereafter, the officials of the Respondent visited the Site to attend the complaint and confirmed after checking, that the Energy Meter was burnt. The Energy Meter was replaced vide Device Replacement Application No. 100005465593 dated 23.02.2018, effected on 22.03.2018. Before replacement of the Energy Meter, the Site was checked by the Enforcement Wing of the Respondent vide ECR No.33/3363 dated 20.02.2018 and it was found that Display of Energy Meter was defective and readings could not be taken. The Enforcement directed the Petitioner to replace the defective Energy Meter and get it checked from the ME laboratory. The Energy Meter was sent to ME laboratory, vide challan no.99 dated 05.04.2018 which declared the Energy Meter as “ **Burnt**”. The said checking of the Energy Meter was done in the M.E. laboratory after taking consent letter from the Petitioner. The Respondent issued the disputed energy bill for the period from 20.07.2017 to 22.03.2018 for 48,503 kVAh units plus actual consumption from 22.03.2018 to 05.04.2018 for 1,483 kVAh units i.e. for 49,986 kVAh units, amounting to Rs.3,54,408/- .

I observe that the Respondent has defaulted in not issuing the Monthly Energy bills but the Petitioner has also defaulted in obtaining the electricity bill for its Factory as per provisions contained in Regulation 30.11 of the Supply Code-2014, reproduced as under:

“*30.11* *The distribution licensee shall issue the first bill for a new connection released during a billing cycle before the end of the next billing cycle. In case the distribution licensee fails to render the bill within the stipulated period, in such cases, on the request of the consumer, the recovery of amount of bill shall be made in instalments without any surcharge. In case a consumer does not receive the first bill by the end of the next billing cycle, he may inform the officer/functionary in charge of notified office of the distribution licensee who shall arrange for issue of the bill within ten days* .”

 Though I agree with the Petitioner that the Respondent did not keep a watch on the variations in the energy consumption through Energy Variation Register or SAP System, the Petitioner also can not escape from similar responsibility on its own part too by not bothering to bring to the notice of the Respondent the fact of non issuance of first and subsequent electricity bills after release of connection to it on 20.07.2017.

1. While adjudicating the dispute regarding the energy bill issued to

the Petitioner on 05.04.2018, the Forum based its decision in terms of the provisions of Regulation 21.5.2 (d) of the Supply Code-2014 which reads as under:

**“Defective (other than inaccurate)/ dead stop/Burnt/Stolen Meters** which states as under:

 *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.*
2. *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.*
3. *If neither the consumption of corresponding period of previous year (para-a) nor for the last six months (para-b) is available then average of the consumption for the period the meter worked correctly during the last 6 months shall be taken for overhauling the account of the consumer.*
4. *Where the consumption for the previous months/period as referred in para (a) to para (c) is not available, the consumer shall be tentatively billed on the basis of consumption assessed as per LDHF formula and subsequently adjusted on the basis of actual consumption recorded in the corresponding period of the succeeding year.*
5. *The energy consumption determined as per para (a) to (d) above shall be adjusted for the change of load/ demand, if any, during the period of overhauling of accounts.”*

 ***I observe that the provisions ibid are very much relevant in the facts and circumstances of the case. I also observe that though the Petitioner’s Representative (PR) prayed for relief as per its written submissions in the Appeal, it could not, on being asked during hearing, refer to any rule/regulation in support of its contention.***

From the above analysis, it is concluded that the account of the Petitioner is required to be overhauled for the period from 20.07.2017 (the date of release of connection) to 22.03.2018 (the date of replacement of disputed Energy Meter) on the basis of consumption assessed as per LDHF formula and subsequently adjusted on the basis of actual consumption recorded in the corresponding period of succeeding year in accordance with the provisions of Regulation 21.5.2(d) of Supply Code-2014 and for the period from 22.03.2018 to 05.04.2018, as per actual consumption recorded by new Energy Meter after its replacement. I also observe that the Respondent had installed Whole Current Energy Meter whereas the contract demand (CD) of the connection is 50 kVA, instead LT-CT Operated static Energy Meter is required to be installed. **The Respondent is directed to replace the Energy Meter with LT-CT Operated Energy Meter within 15 days of the receipt of this Order and submit a certificate in this regard**.

5. **Decision:**

 **As a sequel of above discussions, the order dated 28.08.2018 of the CGRF in Case No. CG-289 of 2018 is upheld. It is held that the Respondent shall ensure compliance of the directions given in Para-4 above.**

**6.** The Appeal is disposed of 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)

Febryary 12 , 2019 Lok Pal (Ombudsman)

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