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

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

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

 **APPEAL NO. 18/2019**

**Date of Registration : 27.02.2019**

**Date of Hearing : 16.05.2019**

**Date of Order : 30.05.2019**

**Before:**

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

**In the Matter of :**

Jai Ambey Rice & General Mills,

Village Ramnagar,

Gulla Factory Road,

Near Bhullar Dhaba,

Maur Mandi-151500.

 ...Petitioner

 Versus

Senior Executive Engineer,

DS Division ,

 PSPCL, Maur

 ...Respondent

**Present For:**

Petitioner : Sh.S.R.Jindal,

 Petitioner’s Representative (PR).

Respondent : 1. Er.Kamaljit Singh,

 Senior Executive Engineer,

 DS Division ,

 PSPCL, Maur.

 2. Sh.Kirandeep Singh,

 Revenue Accountant.

 Before me for consideration is an Appeal preferred by the Petitioner against the order dated 11.02.2019 of the Consumer Grievances Redressal Forum (Forum) in Case No.CG-11 of 2019 deciding that :

 “*Cost of the new CT/PT unit with accuracy class 0.2S circulated by Respondent Corporation and already recovered from the Petitioner is justified. Hence, the said amount is not refundable”.*

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

 The relevant facts of the case are that:-

1. The Petitioner was having a Large Supply Category connection

with sanctioned load of 200 kW and contract demand (CD) of 150 kVA, for which the metering was being done by providing CT/PT Operated HT Static Energy Meter.

1. The connection of the Petitioner was released on 13.10.2017 by

providing 11 kV/ 110V, 10/5A,CT/PT Unit of Saraf Make, bearing S.No.4469 and **accuracy class 0.5S**.

1. The said CT/ PT unit got damaged 20.08.2018 and was checked,

vide ECR No.41/748 dated 07.09.2018 by the Addl.S.E, MMTS, PSPCL, Bathinda who issued directions to replace the CT/PT unit, as Red and Yellow Phase PT were burnt out. The MMTS also instructed the DS Division that the damaged CT/PT unit be returned to M.E. Laboratory.

1. Accordingly, the CT/PT unit was replaced, vide Sundry Job Order

(SJO) No.186/1301 dated 09.09.2018, effected on 07.12.2018 when the Saraf Make, 10/5Amp, CT/PT unit, bearing S.No.3499 and accuracy class 0.2S was installed**.**

1. Taking into consideration the cost of the 0.2S CT/PT unit, procured

by the PSPCL and circulated vide Memo No.3668/3811/DB-121 dated 26.12.2018 by the Dy. Chief Engineer/Billing, PSPCL, Patiala, an estimate was prepared to replace the burnt CT/PT unit, amounting to Rs.68513/- which was deposited by the Petitioner with the Respondent.

1. Aggrieved with the above charging of cost of the CT/PT unit, the

Petitioner filed a Petition dated 14.01.2019 in the CGRF, Patiala, who, after hearing, passed the order dated 11.02.2019. (Reference Page-2, Para-1).

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

an Appeal in this Court and prayed that cost of the CT/PT amounting to Rs.68,513/- recovered forcibly, be refunded alongwith interest and compensation for harassment without any fault on the part of the Petitioner be awarded in the interest of natural 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 an electricity connection with sanctioned load of 200 kW and contract demand (CD) of 150 kVA for Rice Mill since 13.10.2017.
2. An old CT/PT Unit, installed at the time of release of connection was of Saraf make of 10/5 Amp. capacity and was purchased by the PSPCL on 02.02.2007 for Rs.20,990/- plus Taxes, which remained installed ( prior to 13.10.2017) to a connection under the Dera Bassi Sub Division and thereafter it was installed at the premises of the Petitioner, at the time of release the connection, on 13.10.2017.
3. The connection of the Petitioner was checked by the Addl.SE/MMTS, Bathinda who issued directions to replace the CT/PT unit , as Yellow and Red Phase PTs were damaged.
4. Actually, it was the liability of the Respondent to give accurate supply upto PT point. The Respondent forcibly got deposited cost of CT/PT unit amounting to Rs.68,513/- on 14.09.2018 from the Petitioner in utter violation of instructions without investigating the reasons for damage of CT/PT unit as required under instructions contained in CC No.55/2017 dated 29.11.2017.
5. The Respondent, after deposit of the said illegal demand raised , replaced the CT/PT unit after 3 months i.e. on 07.12.2018 in violation of Standard of Performance prescribing a period of 5 days for the purpose as per Regulation 26 and 27 of Supply Code 2014.
6. The CT/PT unit was returned to and deposited in the M.E.Laboratory vide Challan No.52 dated 13.12.2018 without taking any action as per CC No. 55/2017 dated 29.11.2017.
7. The joint inspection report in terms of instructions contained in CC No.55/2017 was neither prepared nor copy of the same was supplied to the Petitioner.
8. The CT/PT unit was 11 years old and its depreciated value was very small amount. The new CT/PT unit was to be installed at the time of release of new connection on 13.10.2017 whereas no Checking Report of its accuracy by the M.E. Laboratory was submitted by the Respondent. Moreover, the Respondent got deposited the requisite security against the CT/PT unit installed from the Petitioner by way of payment of monthly rent regularly through bills for the same as per rules of the PSPCL.
9. The PSPCL circulated Schedule of General Charges/Service Connection charges, vide Appendix-1, as contained in Clause 17.17 of ESIM. Accordingly, an amount of Rs.34,080/- was recoverable in case, the CT/PT Unit after investigation, was found damaged due to the fault on the part of the Petitioner.
10. The Respondent-PSPCL charged Rs.34,080/- as the cost of CT/PT unit as per instructions ibid circulated by the PSPCL with the approval of the Hon’ble PSERC.
11. Compensation was required to be paid to the Petitioner due to delay of 3 months on the part of the Respondent to replace the CT/PT unit of the Petitioner who had deposited the cost on 14.09.2018 whereas the unit ws replaced on 07.12.2018.
12. The Respondent-PSPCL could revise the monthly rent recoverable through bills if the cost of new CT/PT unit installed on 07.12.2018 was higher than that of the previous one with the approval of the Hon’ble PSERC.
13. No fresh/revised cost of CT/PT unit recoverable from the Petitioner, in case of damage, was circulated as stated in the decision of the Forum, who had erred in deciding the case without merit and without scrutinizing the case as per instructions of the PSPCL.
14. In view of the submissions made above, the Appeal may be allowed in the interest of natural justice.
15. **Submissions of the Respondent:**

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

1. The Petitioner was having a Large Supply Category connection

with sanctioned load of 200 kW and contract demand (CD) of 150 kVA, for which the metering was being done by providing CT/PT Operated HT Static Energy Meter

1. A healthy CT/PT unit was installed at the Petitioner premises at the time of release of connection on 13.10.2017 after checking in the M.E. laboratory.
2. The connection of the Petitioner was checked by the Addl.SE/MMTS, Bathinda on 07.09.2018 vide ECR No.41/748 on being informed that CT/PT unit had got damaged.
3. A copy of the Checking Report prepared by the Addl.SE/MMTS, Bathinda, after checking, was duly handed over to the representative of the Petitioner namely Mr Parshotam.
4. A sum of Rs.68,153/- was recovered from the Petitioner as per Instruction No.56.2 of ESIM, which clearly mentioned that the cost to be recovered should be as per circulated from time to time by the licensee.
5. As CT/PT unit was not readily available when damage of the CT/PT unit of the Petitioner was noticed, the same was replaced on 07.12.2018, but direct supply to the Petitioner’s premises was restored by the AEE, Sub-urban, Sub-division, Maur vide SJO no.94/878 dated 22.10.2018.
6. The amount recovered from the Petitioner was as per instructions of the PSPCL approved by the Hon’ble PSERC.
7. In view of the submissions made, the Appeal may be dismissed.

**4.** **Analysis:**

The issue requiring adjudication is the legitimacy of the recovery/chargeability of the cost of the CT/PT Unit to the Petitioner on the same getting damaged and replaced, as per applicable regulations.

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

1. The present dispute arose after the CT/PT unit installed at the time

of release of Large Supply Category Connection on 13.10.2017, got burnt on 20.08.2018. The connection was checked by the Addl.S.E. MMTS, PSPCL, Bathinda, vide ECR No.41/748 dated 07.09.2018 vide which, the MMTS reported that Red and Yellow Phase PTs were burnt out and directions were issued for its replacement. Accordingly, the CT/PT unit was replaced, vide Sundry Job Order (SJO) No.186/1301 dated 09.09.2018, effected on 07.12.2018 and the Saraf Make, 10/5Amp, CT/PT unit, bearing S.No.3499 **with accuracy class 0.2S**, was installed**.** Taking into consideration the cost of the 0.2S CT/PT unit, procured by the PSPCL and circulated vide Memo No.3668/3811/DB-121 dated 26.12.2018 issued by the Dy. Chief Engineer/Billing, PSPCL, Patiala, an estimate was prepared to replace the burnt CT/PT unit, amounting to Rs.68,513/- which was deposited by the Petitioner with the Respondent.

Petitioner’s Representative (PR) stated in its Appeal that an old CT/PT Unit, installed at the time of release of the Petitioner’s connection, was of Saraf make of 10/5 Amp. capacity and was purchased by the erstwhile PSEB on 02.02.2007 for Rs.20,990/- plus Taxes and the same remained installed ( prior to checking dated 13.10.2017) to a connection under the Dera Bassi Sub Division and thereafter, it was installed at the premises of the Petitioner, at the time of release of the connection, on 13.10.2017. The connection of the Petitioner was checked on 07.09.2018 by the Addl.SE/MMTS, PSPCL, Bathinda who issued directions to replace the CT/PT unit, as Yellow and Red Phase PTs were damaged. Actually, it was the liability of the Respondent to give accurate supply upto PT point. Petitioner’s Representative added that the Respondent forcibly got deposited cost of CT/PT unit amounting to Rs.68,513/- on 14.09.2018 from the Petitioner in utter violation of instructions without investigating the reasons for damage of CT/PT unit as required under instructions contained in CC No.55/2017 dated 29.11.2017. The Respondent, after deposit of the said illegal demand raised, replaced the CT/PT unit after 3 months i.e. on 07.12.2018 in violation of Standard of Performance prescribing a period of 5 days for the purpose as per Regulation 26 and 27 of Supply Code 2014. The CT/PT unit was returned to and deposited in the M.E. Laboratory, vide Challan No.52 dated 13.12.2018, without taking any action as per CC No. 55/2017 dated 29.11.2017. The joint inspection report, in terms of instructions contained in CC No.55/2017 was neither prepared nor copy of the same was supplied to the Petitioner. The CT/PT unit was 11 years old and its depreciated value was very small amount. The new CT/PT unit was to be installed at the time of release of new connection on 13.10.2017 whereas no Checking Report of its accuracy by the M.E. Laboratory was given to the Petitioner by the Respondent. Moreover, the Respondent got deposited the requisite security against the CT/PT unit installed from the Petitioner by way of payment of monthly rent regularly through bills for the same as per rules of the PSPCL. Petitioner’s Representative contended that compensation was required to be paid to the Petitioner due to delay of 3 months on the part of the Respondent to replace the CT/PT unit of the Petitioner who had deposited the cost on 14.09.2018 whereas the unit was replaced on 07.12.2018. The Respondent-PSPCL could revise the monthly rent recoverable through bills if the cost of new CT/PT unit installed on 07.12.2018 was higher than that of the previous one with the approval of the Hon’ble PSERC.

The Respondent, in its defence submitted that the Petitioner was having a Large Supply Category connection with sanctioned load of 200 kW and contract demand (CD) of 150 kVA, for which, the metering was being done by providing CT/PT Operated HT Static Energy Meter. A healthy CT/PT unit was installed at the Petitioner’s premises at the time of release of the connection on 13.10.2017 after checking in the M.E. laboratory. Subsequently, the connection of the Petitioner was checked by the Addl.SE, MMTS, Bathinda on 07.09.2018, vide ECR No.41/748, on being informed, that CT/PT unit had got damaged. A sum of Rs.68,513/- was recovered from the Petitioner as per Instruction No.56.2 of ESIM, which clearly mentioned that the cost to be recovered should be the cost of CT/PT unit circulated from time to time by the licensee. As CT/PT unit was not readily available when it damaged, hence, the same was replaced on 07.12.2018, but direct supply to the Petitioner’s premises was restored by the AEE, Sub-urban, Sub-division, Maur vide SJO no.94/878 dated 22.10.2018. The amount recovered from the Petitioner was as per instructions of the PSPCL approved by the Hon’ble PSERC.

1. During the course of hearing on 16.05.2019, the Petitioner’s

Representative reiterated mainly the written submissions made in its Appeal and prayed for allowing the same as the Petitioner was not at fault.

 The Respondent contested the averments of the Petitioner orally and also submitted written briefs ( in addition to its written reply to the Appeal) stating that checking of the Petitioner’s premises was done, with a view to investigate the reasons for damage of its CT/PT Unit on 20.08.2018 and the data of the concerned Feeder Channarthal (UPS) was collected from the concerned Grid Sub Station. The results of the said checking investigation were as under:

1. Though 25 Industrial connections, 1210 DS connections and 61 NRS connections were running on this Feeder, no complaint had been registered regarding supply voltage fluctuation or any other supply matter from the consumers of the above said connections on dated 20.08.2018 ( the date on which, the CT/PT Unit of the Petitioner’s connection was burnt).
2. Supply data provided by the Grid Sub Station showed that no fault, break down, over current had occurred on this Feeder during the period from 10.08.2018 to the date of damage of CT/PT i.e. 20.08.2018.
3. On checking, the consumer’s premises /Meter room, it was found that meter room was not as per Standard Design. Neither ventilation was provided nor exhaust fan was installed for air circulation. As this incident occurred in the month of August, 2018, the weather was very hot and humid. Besides, the connected load of the concerned Industry i.e Rice Sheller was minimum due to off season, there were chances of grasping moisture of CTs or PTs from air because one phase was disconnected due to off season, which had attributed to the damage of PTs of the CT/PT unit installed at the premises of the Petitioner.

The Respondent concluded by stating that damage to the CT/PT Unit occurred due to the negligence of the Petitioner as per submissions made above.

 The Respondent also submitted the copy of Sr.Xen, M.E.Division, PSPCL, Ludhiana dated 20.09.2018, wherein the rates of 0.2S accuracy class, CT/PT Units of different CT Ratio was circulated, which was taken on record.

1. Petitioner’s Representative , vide e-mail dated 17.05.2019, stated that :
2. At the time of release of the connection on 13.10.2017,

an 11 Years old and used CT/PT Unit was installed without the consent of the Petitioner, for which, security for new CT/PT Panel housed was deposited as per PSPCL instructions and monthly rent of new CT/PT Unit was Rs.469/-. Besides, the depreciated cost of CT/PT was very small.

1. The Respondent had not prepared any investigation

report of damaged CT/PT Unit within 30 days as per provisions of CC No.55/2017 and ESIM Instruction No. 56.2 and replaced the damaged CT/PT unit after 3 months in contravention of requirements of Standard of Performance (SoP).

1. Normally, PSPCL recovered cost of CT/PT Unit as Rs.34080/- in terms of provisions of ESIM Instruction No. 17.1.7, whereas cost of the unit recovered from the Petitioner was Rs.68,513/- which had not been approved by the Hon’ble PSERC and notified or revised anywhere. In the field offices, cost of the CT/PT Unit recovered was Rs.34080/- as per Schedule of General Charges circulated by the PSPCL.
2. Recovery of monthly Rent of new CT/PT Unit amounting to Rs.469/- was not justified, as security of new CT/PT Unit had already been deposited and depreciated value/cost of CT/PT unit installed at the premises of the Petitioner on 13.10.2017 was very small.
3. A clarification was required from the Commercial

Wing of the PSPCL before passing any order in the case and hearing may be fixed to deliberate the matter further in the interest of justice.

1. As per material available on record, the CT/PT Unit installed at the premises of the Petitioner on 13.10.2017 (when the connection was released), was originally received in M.E. Laboratory, Patiala from the Supplier/Firm on 05.02.2007 and thereafter, issued to M.E. Laboratory, Ropar on 07.02.2007 as intimated by the M.E. Laboratory, Patiala, vide Memo No.85 dated 07.02.2019. The aforesaid CT/PT Unit was subsequently issued to Dera Bassi Sub Division, vide SR No.06/13491 dated 14.02.2007 as intimated by the M.E. Laboratory, Ropar vide Memo No.106 dated 07.02.2019. This CT/PT Unit, on receipt from the field in the M.E. Laboratory, was tested, resealed and issued to the Petitioner connection, which was released on 13.10.2017.

 *I have noted the averments of the Respondent in its reply to the Appeal and also written submissions dated 16.05.2019 mentioning that the CT/PT Unit installed at the premises of the Petitioner on 13.10.2017 ( date of release of the connection) was healthy one and got damaged on 20.08.2018* ***due to negligence of the Petitioner*** *by not ensuring observance of precautions creating conducive environment for its smooth/safe running .There is merit in the submission of the Respondent that no complaint from any other Category of consumer regarding supply voltage fluctuation or any other supply matter from the 11 kV feeder which also fed the Petitioner, had been registered on 20.08.2018 when the CT/PT unit of the Petitioner was statedly burnt out.*

1. As per evidence on record, CT/PT Unit was procured by the Distribution Licensee from a Firm in 02/2007 and was, thus, not in warranty as contended by the Petitioner’s Representative.

 I find that though the Respondent provided direct supply to the Petitioner’s connection on 22.10.2018 (after checking dated 07.09.2018 and confirming that the CT/PT Unit had got damaged) , it actually installed the new CT/PT Unit, on its availability on 07.12.2018. I also find that the Petitioner has strongly objected to the delay of about 3 months in replacing the damaged/burnt CT/PT Unit of the Petitioner’s connection.

 *I observe that the Respondent needed to be more responsive in promptly discharging its obligations/delivering service and should have made all possible efforts to arrange and replace the disputed CT/PT Unit expediently.*

 I also observe that PSPCL, vide Commercial Circular (CC) No.55/2017, amended ESIM Instruction Nos.56.2 and 57.5 in consonance with the Regulation 21.4.1 of the Supply Code-2014, which reads as under:

**Clause 56 Consumer's responsibility for loss or damage of Meter:**

***"56.2*** *If 11 kV CT/PT unit is damaged/burnt, procedure as per Reg- 21.4.1 of Supply Code- 2014 be followed for replacement i.e. if the CT/PT unit gets damaged/burnt, the new CT/PT unit shall be installed within the time period prescribed in Standards of Performance (Presently five days) on receipt of complaint. If the CT/PT unit is burnt due to reasons attributable to the consumer, the PSPCL shall debit the cost of the CT/PT unit to the consumer who shall also be informed about his liability to bear the cost. In such cases the investigation report regarding reasons for damage to the CT/PT unit must be supplied to the consumer within 30 days. The cost to be recovered shall be as per cost of CT/PT unit circulated from time to time. However, supply of electricity to the premises shall be immediately restored even if direct supply is to be restored to, till such time another tested CT/PT unit is installed.*

*The direct supply for various categories other than DS such as LS, MS, SP, NRS, BS etc. shall be allowed as per instruction 57.5 i.e. it can be allowed in dire emergencies by load sanctioning authority till the replacement of CT/PT unit and within time period specified in Standards of Performance and if circumstances still persist, then direct supply be given beyond this time period with the written approval of load sanctioning authority."*

 In view of the above, it proves beyond doubt that the Petitioner is required to bear the cost of replacement of burnt/damaged CT/PT Unit in terms of provisions ibid. A perusal of the General Schedule of Charges, approved by Hon’ble PSERC reveals that the cost of 11 kV Metering Panels housed with CT/PT unit, is Rs.34,080/- for 0.5S accuracy class. Since the new CT/PT Unit of accuracy class 0.2S was installed on 07.12.2018 in the present case, total cost of Meter/Metering equipment is chargeable as per Clause 17.1.9 of General Schedule of Charges which were circulated by the Sr.Xen, M.E. Division, PSPCL, Ludhiana on 20.09.2018. Accordingly, the Petitioner has been rightly charged the cost of the CT/PT unit installed on 07.12.2018 by the Respondent.

**5. Conclusion**:

From the above analysis, it is concluded that damage to the CT/PT Unit of the Petitioner on 20.08.2018 occurred due to negligence of the Petitioner who has rightly been charged for the cost of new CT/PT Unit (Saraf Make, 10/5 Amp of 0.2S Accuracy) installed at its premises on 07.12.2018. Had the Petitioner taken necessary precautions and created congenial environment for ensuring smooth running of the CT/PT Unit installed at its premises on 13.10.2017, the damage to the same could have been avoided and dispute would not have arisen.

**6.** **Decision:**

**As a sequel of above discussions, the order dated 11.02.2019 of the CGRF, Patiala in Case No. CG- 11 of 2019 is upheld.**

**7.** The Appeal is disposed of accordingly.

8. Chief Engineer/Commercial, PSPCL, Patiala shall issue instructions as under:

**(a)** to all the Engineers-in-Chief/Chief Engineers (DS) inviting attention to its Commercial Circular No.55/2017 dated 29.11.2017 (referring to amended Instruction No.56.2 and 57.5 of ESIM in accordance with Regulation 21.4.1 of Supply Code-2014) and issue directions for meticulous compliance of the instructions issued therein for supply of investigation report to the consumer concerned giving the reasons for damage to Energy Meters and Metering Equipments within 30 days.

**(b)** the DS Organisation shall ensure that the Metering Equipments be installed in well ventilated room and there shall be no dampness in the area to avoid the catching of moisture by CTs and PTs. All the existing Metering Equipments shall be got checked from Enforcement/MMTS/DS Organisation by 31.12.2019 and they shall certify that the Metering Equipments have been installed in well ventilated room for proper air circulation to avoid damage of CT/PT Units.

**9.** 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)

May 30, 2019 Lok Pal (Ombudsman)

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