**COURT OF THE LOKPAL (OMBUDSMAN),**

**ELECTRICITY, PUNJAB,**

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

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

**APPEAL NO. 38/2019**

**Date of Registration : 25.06.2019**

**Date of Hearing : 10.09.2019**

**Date of Order : 17.09.2019**

**Before:**

**Er. Virinder Singh, Lokpal (Ombudsman), Electricity.**

**In the Matter of:**

Charu Industries,

Plot No,F-167,

Industrial Area, Phase-8B,

S.A.S.Nagar (Mohali)

. ...Petitioner

Versus

Addl. Superintending Engineer,

DS Division (Special),

PSPCL, S.A.S.Nagar (Mohali)

...Respondent

**Present For:**

Petitioner : 1. Sh. R.S. Dhiman ,

Petitioner’s Representative (PR).

2. Sh. B.R. Shanawal

Petitioner’s Representative (PR).

Respondent : 1. Er. G.S.Sandhu,

Addl. S.E. ,

DS Division (Special),

PSPCL, S.A.S.Nagar (Mohali).

2. Er. Mohit Nagpal,

AEE/Commercial-2,

Before me for consideration is an Appeal preferred by the Petitioner against the decision dated 29.05.2019 in Case No. CGP-83 of 2019 of the Consumers Grievances Redressal Forum (Forum), Patiala stating as under:

*“Account of the Petitioner be overhauled for the period 08.03.2018 to the date of checking i.e. 17.07.2018 (i.e. vide ECR No.44/95 dated 17.07.2018) taking slowness of metering equipment as 61.54% as per Regulation 21.5.1 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 86.910 kW and contract demand (CD) as 96.567 kVA, for which, Metering was done by providing LT CT operated Static Energy Meter.

1. The connection was checked by the Addl. S.E./Enforcement,

PSPCL, Patiala vide ECR No.44/95 dated 17.07.2018 whereby, it was reported that:

1. *“ Pulse segment B appears on display whereas segment R and*

*Y are missing.*

1. *Voltages V1 = 0V, V2 = 0V, V3= 241.35 V*

*Current i1 = 0A, i2 = 50.20 A and i3 = 54.40 A are noted on display of Meter.*

1. *Voltages V1 = 242 V, V2 = 244 V, V3 = 242 V*

*Current i1 = 49.50 A, i2 = 50.72 A and i3 = 53.65 A are noted on outgoing fuse Unit with clip on meter.*

1. *Accuracy of metering equipment is checked with LT ERS meter at running load of 29.460 kW, 0.92 PF Lag and found to be 61.64% slow. Overhaul the account as per slowness. DDL of Meter is not done as MRI was not communicating with Meter.*
2. *PT wires of Red and Yellow phases are found broken which are set right by Operation Staff. After repair, all three voltages are found in order.*
3. *Push fit seal ID 11538 is affixed on MCB and ID 11537 on CTC by Er.Rohit Kumar, J.E Op.*

***Note****: MCB is damaged due to rust, which may be replaced.*

*CTs are cracked, CT set may be replac*ed”.

1. In view of above checking, the account of the Petitioner was

overhauled for six months preceding the date of checking by considering slowness as 61.54% and a Notice, bearing No.2528 dated 26.07.2018, was issued by the Respondent to the Petitioner, for deposit of Rs 13,92,334/-.

1. Thereafter, due to clerical mistake in the amount charged, a revised

Notice was issued to the Petitioner, vide Memo No.608 dated 13.03.2019, to deposit Rs 9,62,709/- instead of Rs 13,92,334/-.

1. The Energy Meter was replaced vide Device Replacement

Application No.100006229649 dated 26.07.2018, affected on 02.08.2018 and LT CTs were replaced on 11.08.2018.

1. The Petitioner did not deposit the amount, as intimated by the

Respondent, hence, the amount was charged in the Energy Bill dated 22.02.2019, issued for Rs 16,10,730/- (Current Energy Charges Rs 2,17,105/- plus Sundry Charges Rs 13,93,621/-) against consumption of 33,310 kVAh units for the period from 10.01.2019 to 10.02.2019 ( 31 days).

1. The Petitioner did not agree with the bill dated 20.02.2019 and filed

a Petition dated 19.03.2019 in the CGRF, Patiala who, after hearing, passed the order dated 29.05.2019. (Reference Page-2, Para-1).

1. Not satisfied with the decision of the CGRF, Patiala, the Petitioner

preferred an Appeal in this Court and prayed that the said decision to overhaul the Petitioner’s account from 08.03.2018 to 17.07.2018 be modified to the actual period of defect i.e. from 08.04.2018 to 17.07.2018*.*

**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 alongwith 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 for its Industrial

Unit, bearing Account No. 3000160198, with sanctioned load of 86.910 kW and CD as 96.567 kVA under MS Category.

1. The Petitioner’s connection was checked by the Addl.S.E./

Enforcement, PSPCL, SAS Nagar on 17.07.2018 on the complaint of the Petitioner regarding slow running of its Energy Meter. The Petitioner was given to understand that its Energy Meter was running slow by 61.54% and that it had started working correctly after the defect was set by the Checking Officer.

1. Then, after about one year of the aforesaid checking, a sum of

Rs 13,93,621/- was added as Sundry Charges in the Petitioner’s bill dated 22.2.2019. No other details were shown about the debits raised. On verbal inquiry, it was mentioned that its account had been overhauled for six months on the basis of checking by the Enforcement Staff.

1. The Petitioner did not agree with the overhauling of its account for

six months since from the decline in consumption, the Petitioner was sure that the defect in the Metering Equipment was not for more than two/three months. The Petitioner challenged the disputed charges before the CGRF, Patiala, who gave some relief to the Petitioner, but did not give full justice.

1. As per Checking Report of the Addl. S.E/Enforcement, PSPCL,

S.A.S. Nagar, Potential Wires of Red and Yellow Phases were found broken, as a result of which, the Energy Meer was recording less consumption by 61.54%. There was nothing wrong with the accuracy of the Energy Meter. As such, the Petitioner’s account was required to be overhauled in accordance with the ‘Note’ under Regulation 21.5.1 of the Supply Code-2014. The exact period of defect could be traced from the DDL data, but the Respondent had stated that DDL could not be taken as MRI was not communicating with the Energy Meter. Therefore, the case was decided on the basis of consumption data.

1. It was evident from the Consumption Data furnished by the

Respondent during proceedings held by the Forum that the Petitioner’s consumption fell by almost 60% from 08.04.2018 and became normal after setting right of connections on 17.07.2018. Thus, the Petitioner’s account needed to be overhauled from 08.04.2018 to 17.07.2018 and not from 08.03.2018 as decided by the Forum. In view of this, the decision of the Forum was not fair and needed to be modified in a just and equitable manner.

1. The recorded consumption of the Petitioner from 08.03.2018 to

08.04.2018 was 16,438 kVAh units. It worked out to 42,740 kVAh units after applying slowness factor of 61.54%. It was far in excess of the normal monthly consumption of the Petitioner which was in the range of 20,000 to 25,000 kVAh units proving thereby that the period from 08.03.2018 to 08.04.2018 was wrongly considered by the Forum for overhauling the account of the Petitioner.

1. In view of the submissions made above, the decision of the Forum to

overhaul the account of the Petitioner from 08.03.2018 to 17.07.2018 be modified to the actual period of defect.

(**b) 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

for its Industrial Unit with sanctioned load of 86.910 kW and contract demand (CD) as 96.567 kVA.

1. The connection of the Petitioner was checked by the Addl.S.E/

Enforcement, PSPCL, SAS Nagar vide Checking No.44/95 dated 17.07.2018, whereby, it was reported that the Energy Meter was slow to the extent of 61.54%.

1. The account of the Petitioner was overhauled for six months

preceding the date of checking as per provisions of Regulation 21.5.1 of Supply Code-2014 and a sum of Rs 13,92,334/- was charged to the Petitioner by serving a Notice, bearing Memo No.2528 dated 26.07.2018.

1. On rechecking, the calculations of the amount charged ibid, it was

found that correct chargeable amount was Rs 9,62,709/-. Accordingly, a revised Notice was issued to the Petitioner vide Memo No.608 dated 13.03.2019, for deposit of the amount. But the Petitioner deposited only Rs 2,78,724/- on 06.03.2019.

1. LT CT’s of the Petitioner’s connection was replaced on 11.08.2018

whereas the Energy Meter was replaced on 02.08.2018.

1. The Petitioner did not agree with the amount charged to it and filed a

Petition in the CGRF, Patiala who decided to overhaul the account of the Petitioner for the period from 08.03.2018 to 17.07.2018 by taking slowness as 61.54% as per provisions of Regulation 21.5.1 of Supply Code-2014. As a result, the recoverable amount worked out to Rs 4,62,163/-. The Petitioner did not agree with the decision of the Forum and preferred an Appeal in this Court.

1. As per the decision of the CGRF, Patiala, a sum of Rs 4,62,163/- on

account slowness of Energy of Meter to the extent of 131 days i.e. from 08.03.2018 to 17.07.2018 was charged to the Petitioner.

**4. Analysis**

The issue regarding adjudication is the legitimacy of overhauling the account of the Petitioner from 08.03.2018 to 17.07.2018 taking slowness of Metering Equipment as 61.54 % as per applicable regulations.

*The points emerged in the present dispute are deliberated and analysed as under:*

1. Petitioner’s Representative contended that as per Checking Report

dated 17.07.2018 of the Addl. S.E/Enforcement, PSPCL, S.A.S. Nagar, Potential Wires of Red and Yellow Phases were found broken, as a result of which, the Energy Meer was recording 61.54 % less energy consumption. As such, the Petitioner’s account was required to be overhauled in accordance with the ‘Note’ given under Regulation 21.5.1 of the Supply Code-2014. The exact period of defect could be traced as the Respondent had stated that DDL could not be taken because MRI was not communicating with the Energy Meter. Therefore, the case was decided by the Forum on the basis of consumption data. It was evident from the consumption data furnished by the Respondent during proceedings before the Forum that the Petitioner’s consumption fell by almost 60% from 08.04.2018 and became normal after setting right of connections on 17.07.2018. Thus, the Petitioner’s account needed to be overhauled from 08.04.2018 to 17.07.2018 and not from 08.03.2018 as decided by the Forum. In view of this, the decision of the Forum was not fair and needed to be modified in a just and equitable manner. The recorded consumption of the Petitioner from 08.03.2018 to 08.04.2018 was 16,438 kVAh units. It worked out to 42,740 kVAh units after applying slowness factor of 61.54%. It was far in excess of the normal monthly consumption of the Petitioner which was in the range of 20,000 to 25,000 kVAh units proving thereby that the period from 08.03.2018 was wrongly considered by the Forum for overhauling the account of the Petitioner.

In this connection, I have perused the consumption Data of the Petitioner’s connection before and after the disputed period as tabulated below:

1. **Consumption recorded before disputed period**:

|  |  |  |
| --- | --- | --- |
| S.No. | Month | Consumption in kVAh |
| 1 | 10/2013 | 24,645 |
| 2 | 01/2014 | 26,028 |
| 3 | 06/2014 | 24,877 |
| 4 | 08/2014 | 23,321 |
| 5 | 03/2015 | 21,326 |
| 6 | 09/2015 | 25,172 |
| 7 | 10/2015 | 24,230 |
| 8 | 12/2015 | 24,422 |
| 9 | 01/2016 | 23,189 |
| 10 | 05/2016 | 22,123 |
| 11. | 08/2016 | 25,917 |
| 12 | 09/2016 | 26,573 |
| 13 | 08/2017 | 13,746 |
| 14. | 11/2017 | 12,642 |

1. **Consumption after disputed period**

|  |  |  |
| --- | --- | --- |
| S.No. | Month | Consumption in kVAh |
| 1. | 08/2018 | 11,057 |
| 2. | 09/2018 | 10,697 |
| 3. | 01/2019 | 16,655 |

1. **Consumption from 03/2018 to 07/2018:**

|  |  |  |
| --- | --- | --- |
| S.No. | Month | Consumption in kVAh |
| 1. | 03/2018 | 8,219 |
| 2. | 04/2018 | 3,960 |
| 3. | 05/2018 | 4,038 |
| 4. | 06/2018 | 5,511 |
| 5. | 07/2018 | 7,208 |

From the above table, it is seen that high consumption has been recorded before and after the disputed period i.e. when the checking was done. But during the period 03/2018 to 07/2018, less consumption was recorded due to broken PT Wires. Even the consumption of 36,237 kVAh units for the period 09.12.2017 to 08.03.2018 for 89 days i.e. 12,079 kVAh units for 30 days appears to be normal. This shows that Red and Yellow Phase PTs stopped contributing somewhere during the month of 03/2018.

1. The Petitioner, in its rejoinder dated 06.09.2019 (to the reply given

by the Respondent) submitted as under:

*“ There was a possibility of Carbonization at R and Y Phase Potential leads before complete burning of the same. In such cases, there was usually make/break at the terminals. No doubt, there was less recording during the period of make/break but it was not fair to assume total non recording during this period. Burning and breaking of potential or current leads did not take place overnight. It occurred due to carbonization of leads which was a slow and continuous process. This factor may be kept in view while deciding the matter to meet the ends of justice”.*

I find from the perusal of the Checking Report dated 17.07.2018 of the Enforcement that DDL could not be taken due to

communication failure between Optical Port of the Energy Meter and Meter Reading Instrument (MRI). ***In the absence of DDL Report, no authentic date regarding non-contribution of Red and Yellow Phase PT can be arrived****.*

I agree with the contention of the Petitioner that during the checking by the Enforcement on 17.07.2018, the Red and Yellow Phase PT Wires were found broken and this was due to carbonization of the wires tapped from Main Cable to Energy Meter, due to bi-metallic effect. Hence, the account of the consumer is required to be overhauled for the period from 08.03.2018 ( date taken by CGRF as per Consumption Data, in the absence of DDL Report) to 17.07.2018 ( Date of checking), as per provisions contained in Regulation 21.5.2 (a) of Supply Code-2014, i.e. on the basis of energy consumption of corresponding period of previous year.

**5. Conclusion:**

From the above analysis, it is concluded that the account of the Petitioner is required to be overhauled for the period from 08.03.2018 ( the date taken by the CGRF as per Consumption Data, in the absence of DDL Report) to 17.07.2018 ( date of checking) on the basis of consumption of corresponding period of previous year in terms of provisions contained in Regulation 21.5.2(a) of Supply Code-2014.

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

**As a sequel of above discussions, the order dated 29.05.2019 of the CGRF, Patiala in Case No. CGP- 83 of 2019 is modified in terms of conclusion arrived at in Para-5 above. Accordingly, the Respondent is directed to recalculate the demand and refund/recover the amount found excess/short after adjustment, if any, without interest.**

**7.** Forum is advised to decide disputes in the light of judgements passed by this Court in similar cases. The Appeals similar to this Petition have already been decided by this Court under the applicable Regulation (Para 5 above) and the Forum can decide such cases citing the judgements of this Court. This practice certainly lessens the harassment to the Consumers.

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

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)

September 17, 2019 Lokpal (Ombudsman)

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