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

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

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

 **APPEAL NO. 60/2019**

**Date of Registration : 14.10.2019**

**Date of Hearing : 28.11.2019**

**Date of Order : 29.11.2019**

**Before:**

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

**In the Matter of :**

 Smt. Harjeet Kaur Chhina,

 87, Chhoti Baradari,

 Part-I, Jalandhar

 ...Petitioner

 Versus

Additional Superintending Engineer,

DS Cantt. Division,

PSPCL, Jalandhar

 ...Respondent

**Present For:**

Petitioner : Smt. Harjeet Kaur Chhina,

 Petitioner

Respondent : Er.Aseem Handa

 AEE, Commercial,

 DS Cantt. Division,

 PSPCL, Jalandhar

 Before me for consideration is an Appeal preferred by the Petitioner against the order dated 09.08.2019 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-171 of 2019, deciding that :

 *“The decision taken by CDSC city circle, Jalandhar, in its meeting held on 23.04.2019, is in order. The bills issued to the Petitioner from time to time on energy basis are correct and recoverable. Petitioner should therefore pay the outstanding amount and pay her bills regularly.”*

**2**. **Condonation of delay:**

 At the outset, the issue for condonation of delay in filing the Appeal in this Court was taken up. The Petitioner stated that the decision dated 09.08.2019 of CGRF, Ludhiana was sent by Registered Post vide Memo No. 2289-90 dated 13.08.2019 by Secretary, CGRF Ludhiana to the Petitioner at its postal address and the same was delivered to it on 27.08.2019.

The Petitioner added that it took time to arrange the money for filing an Appeal in this Court and prayed to condone the delay in filing the Appeal within the stipulated period as the same was not intentional.

 The Respondent, in its reply to the Appeal, did not offer any comments on the submissions made by the Petitioner regarding condonation of delay and also did not raise any objection in this regard during the course of hearing.

In this connection, I have gone through Regulation **3.18 (ii)** of the PSERC (Forum and Ombudsman) Regulations-2016 which reads as under:

“*No representation to the Ombudsman shall lie unless the representation is made within one month of the date of receipt of order of the Forum.*

 *Provided that the Ombudsman may entertain a representation beyond one month on sufficient cause being shown by the complainant that he/she had reasons for not filing the representation within the aforesaid period of one month”.*

 *I observe that though the Petitioner has given reasons for not filing the Appeal within the stipulated period, it ought to have taken necessary precautions to ensure that the Appeal was filed in this Court within stipulated time. I also observe that non condonation of delay would deprive the Petitioner of the opportunity, required to be afforded, to seek remedy and would also not meet the ends of ultimate justice. With this in view, the delay in filing the Appeal in this Court is condoned and the Petitioner is afforded an opportunity to present the case.*

**3**. **Facts of the Case:**

 The relevant facts of the case are that:-

1. The Petitioner was having Domestic Supply Category connection

with sanctioned load of 12.740 kW for which, the metering was being done by providing Three Phase Four Wire, Whole Current, 10-60A, Energy Meter (AVON Make, S.No.1185698).

1. The Petitioner challenged the working of Energy Meter on 07.05.2018 and the Energy Meter was replaced vide Device Replacement Application No.100005823298 dated 07.05.2018, affected on 01.06.2018 at the Final Reading of 16,541 kWh.
2. The new Energy Meter of Flash Make, bearing S.No.164508 was

installed at the initial reading of 0 kWh.

1. The Energy Meter was got checked from ME Laboratory and accuracy was found within limits. The readings were as under:

kWh = 016,551.32

kVAh = 018,471.28

1. Petitioner did not agree with the report and filed a Petition in

Circle Dispute Settlement Committee(CDSC) which decided on 23.09.2019 as under:

 *“Committee after keeping in view the account details, consumption data, ME Laboratory report and final notice served to the consumer by P.O., decided that the bills served to the consumer are correct and recoverable.”*

1. Not satisfied with the decision of CDSC, the Petitioner filed a

Petition dated 01.07.2019 in CGRF, Ludhiana who, after hearing, passed order dated 09.08.2019(Page 2, Para 1).

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

 Appeal in this Court and prayed to review the decision of the Forum

 and allow the Appeal in the interest of justice.

**4. 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 Domestic Supply Category connection

with sanctioned load of 12.740 kW for which, the metering was being done by providing Three Phase Four Wire, Whole Current, 10-60A, Energy Meter (AVON Make, S.No.1185698).

(ii) The Petitioner was residing in its premises (where DS category connection was installed) and she also remained at Chandigarh where its daughter was studying.

(iii) As the Petitioner stayed at the said premises rarely, the energy consumption of the connection installed there was expected to be very nominal.

(iv) The officials of the office of the Respondent had taken the readings of the Energy Meter on ‘N’ and ‘L’ code despite the fact that the meter was installed outside the premises in the bushes(hedge) which was accessable for taking the readings.

 (v) The Petitioner received a bill of a very high amount due to which, the Petitioner challenged the working of Energy Meter on 07.05.2018 and the Energy Meter was replaced on 01.06.2018.

(vi) The Circle Dispute Settlement Committee (CDSC) which held that the bills issued to the Petitioner were correct and recoverable.

1. Not satisfied with the decision of CDSC, a Petition was filed on

 01.07.2019 in the CGRF, Ludhiana who upheld the decision of the CDSC.

1. The order dated 09.08.2019 of CGRF, Ludhiana was not just and

 correct because it did not take into consideration the ground realities including the fact of its not staying in the premises at Jalandhar regularly/continuously and also the fact that readings were taken arbitrarily and the consumption recorded as per disputed bill was very high.

1. In view of the above submissions, the account of the Petitioner may

 be overhauled on the basis of actual readings and surcharge/interest should be waived off.

1. **Submissions of the Respondent:**

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

1. The Petitioner was having Domestic Supply Category connection

with sanctioned load of 12.740 kW for which, the metering was being done by providing Three Phase Four Wire, Whole Current, 10-60A, Energy Meter (AVON Make, S.No.1185698).

(ii) The Petitioner challenged the working of Energy Meter on 07.05.2018 and the Energy Meter was replaced vide Device Replacement Application No.100005823298 dated 07.05.2018, affected on 01.06.2018 at the Final Reading of 16,541 kWh.

1. The Energy Meter was got checked from ME Laboratory and accuracy was found within limits. The readings were as under:

kWh = 016,551.32

kVAh = 018,471.28

1. The Petitioner did make payment of most of the bills issued after the challenge of Energy Meter due to which the defaulting amount including surcharge/interest was outstanding in its account.
2. The Petitoner approach the CDSC, Jalandhar and thereafter, CGRF, Ludhiana who decided that the Energy bills issued to the Petitioner were correct and recoverable.
3. In view of the above the Appeal may be dismissed.

**5.** **Analysis:**

The issue requiring adjudication is the legitimacy of the Energy bills issued to the Petitioner and recovery of the amounts billed with surcharge/interest.

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

1. A hearing was held in this Court on 28.11.2019 when the

Representatives of both the sides presented their respective points of view. The Petitioner submitted its rejoinder to the written reply given by the Respondent stating as under:

*“I request that the payment of interest and surcharge levied may please be waived off because it was wrongly levied due to wrong billing. In addition, kindly help me in getting the load reduced, in shifting the Energy Meter to the pole/boundary of my house, replacing the old wire with higher capacity and cable/wires should be properly tapped.”*

1. As per material placed on record by the Respondent, it is observed that the Petitioner has not been paying its bills regularly after December 2015. As a result, the amounts billed were getting accumulated every month and stood at Rs 1,34,680/- as on 12.07.2019. During the period, the Petitioner deposited only Rs 10,000/- on 26.02.2017, Rs 10,000/- on 01.11.2017 and Rs 22,160/- on 08.01.2019.
2. The details of energy consumption recorded during the year 2015 to 2019 as tabulated as under:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Year |  2015 |  2016 |  2017 |  2018 |  2019 |
| Month | Cons.kWh | Code | Cons.kWh | Code | Cons.kWh | Code | Cons.kWh | Code | Cons.kWh | Code |
| Jan |  |  | 345 | O | 51 | O |  |  | 79 | N |
| Feb |  |  | 79 | O |  |  | 3973 | L | 510 | O |
| March | 439 | O | 210 | O | 269 | N | 562 | O | 534 | O |
| April | 300 | O | 302 | O | 57 | L | 555 | O | 1668 | O |
| May |  |  | 110 | O | 617 | O | 532 | L | 135 | O |
| June |  |  | 416 | O | 544 | N | 806 | O | 199 | O |
| July |  |  | 471 | O | 419 | O | 433 | C | 643 | O |
| Aug |  |  | 814 | N | 179 | O | 741 | L |  |  |
| Sep | 1857 | O | 1009 | O | 657 | N | 1196 | L |  |  |
| Oct |  |  | 130 | O | 130 | N | 3696 | L |  |  |
| Nov | 755 | O | 184 | O | 3385 | O | 7286 | L |  |  |
| Dec | 99 | O | 44 | O | 1500 | O | 431 | O |  |  |

I find from the perusal of the above consumption data that most of the bills issued during 2017 and 2018 were on ‘N’ and ‘L’ codes, which were adjusted subsequently when the bill was issued on “O” code. The consumption recorded during this period appears to be normal. However, readings taken and bills issued during October 2017 and November 2017 were higher due to ‘L’ code i.e. locked premises which was finally adjusted in December 2017 when bill on ‘O’ code was issued.

1. A perusal of the Print out of DDL taken on 17.04.2019 (placed in the file of CGRF) showed readings were as under:

 kWh = 16,551.32

 kVAh = 18,471.28

 I find that these readings match those as per ME Laboratory report.

1. From the cumulative kWh & kVAh energy consumption for last ‘100 Power ON’ days at 24:00 hours, it is observed that there was no jumping of reading as contented by the Petitioner.
2. After perusing the written as well as oral submissions made by the Petitioner and the Respondent along with the evidence brought on the record, I find that some bills for disputed period were issued during the years 2017 and 2018 initially on ‘L’ and ‘N’ code and energy consumption of the said month was taken arbitrarily on average basis and the Petitioner did not pay the bills. Therefore, the outstanding bills were taken in the next bills with surcharge and interest.

I observe that no surcharge/interest is required to be levied on the bills erroneously/arbitrarily issued by the Respondent. I also observe that the Petitioner requested, vide its rejoinder to help it in getting the load of its connection reduced and also for shifting of Energy Meter at appropriate place. In this connection, the Respondent shall look into the request of the Petitioner, extend all possible help in the matter and report compliance to this office within 15 days of issuance of this Order.

**6. Conclusion**:

From the above analysis, it is concluded that the Petitioner’s account is required to be overhauled by taking into consideration the actual energy consumption based on DDL for the period when readings were taken on ‘N’ and ‘L’ code during the years 2017, 2018 & 2019. Besides, no surcharge/interest shall be levied on the amount which became defaulting due to issuance of energy bills on the basis of readings taken arbitrarily.

**7.** **Decision:**

**As a sequel of above discussions, the order dated 09.08.2019 of the CGRF, Ludhiana in Case No. CGL-171 of 2019 is set-aside. It is held that the account of the Petitioner shall be overhauled as per conclusion arrived at in Para 6 above. Accordingly, the Respondent is directed to recalculate the demand and refund/recover the amount found excess/short after adjustment, if any, without surcharge/interest. The Respondent is also directed to extend all possible help to the Petitioner in reduction of its load and shifting of Energy Meter at appropriate place outside its premises and report compliance within 15 days of issuance of this Order.**

**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)

November 29, 2019 Lokpal (Ombudsman)

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