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

 **ELECTRICITY, PUNJAB,**

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

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

 **APPEAL NO. 07/2020**

**Date of Registration : 05.02.2020**

**Date of Hearing : 03.06.2020**

**Date of Order : 08.06.2020**

**Before:**

**Er. Gurinder Jit Singh,**

 **Lokpal (Ombudsman), Electricity, Punjab**.

**In the Matter of :**

M/s Indus Tower Ltd.,

Plahi Gate, Anand Nagar,

Phagwara.

**Contract Account Number: 3001638741**

 ...Appellant

 versus

Senior Executive Engineer,

DS Division, PSPCL,

Phagwara.

 ...Respondent

**Present For:**

Appellant : Sh. Parvesh Chadha,

 Appellant’s Representative (AR).

 Respondent : Er. Amarpreet Singh

 Assistant Executive Engineer/Commercial,

 DS Division, PSPCL,

 Phagwara.

 Before me for consideration is an Appeal preferred by the Appellant against the order dated 31.10.2019 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL- 207 of 2019, deciding that:

 *“The bills issued to the petitioner for the period 07/2015 onwards (with Initial Reading as 98140) till the replacement of the meter be revised (with the final reading recorded as 330359) in the meter by spreading/dividing equally, the actual consumption recorded during this period.”*

**2*.* Registration of the Appeal**

A scrutiny of the Appeal and related documents revealed that the same was preferred in this Court on 05.02.2020 i.e. after about two months beyond the stipulated time limit after the decision dated 31.10.2019 of the Forum. However, an application giving reasons for condonation of delay in filing this Appeal was submitted alongwith the Appeal. Besides, the Appellant submitted documentary evidence in support of deposit of the requisite amount i.e. deposit of ₹ 1,76,601/- on 05.08.2019 and ₹ 5,38,026/- on 29.01.2020. Thereafter, the Appeal was registered and copy of the same was sent to the Senior Executive Engineer, DS Division, PSPCL, Phagwara for furnishing written reply/parawise comments and a copy was endorsed to office of the CGRF, Ludhiana for sending the Case File under intimation to the Appellant vide Memo No. 92-94/OEP/A-07/2020 dated 05.02.2020. Subsequently, the Appellant’s Representative was requested vide e-mail dated 04.04.2020 and 15.05.2020 to send proper Vakalatnama form as the Vakalatnama submitted by him was not legitimate and signed by him (AR) both as an authorized signatory of the Appellant as well as acceptor of the same to defend the same. Thereafter, vide e-mail dated 21.05.2020, the Appellant’s Representative was provided an opportunity to submit the relevant documents on 27.05.2020 in this Court. In response, Sh. Parvesh Chadha, Authorized Representative attended this Court on 27.05.2020 and submitted Vakalatnama from the authorized signatory and Articles of Association of the Appellant’s Firm. The documents were taken on record and a copy of minutes was sent to both the Appellant and the Respondent vide Memo No. 356-57/OEP/A-07/2020 dated 27.05.2020.

**3.** **Proceedings**

A hearing to adjudicate the dispute was fixed for 30.03.2020 at 12.45 PM and intimation in this regard was sent vide Memo No. 196-197/OEP/A-07/2020 dated 02.03.2020. But, owing to COVID-19 pandemic, hearing was adjourned till further orders and both the sides were informed accordingly vide Memo No. 290-291/OEP/A-07/2020 dated 20.03.2020.

Subsequently, hearing was fixed for 03.06.2020 at 11 A.M. as per intimation sent vide Memo No. 356-57/OEP/A-07/2020 dated 27.05.2020. In response, Representatives of both the parties attended the Court on the said date and time. A copy of the proceedings was sent to the Appellant as well as the Respondent vide Memo No. 382-83/OEP/A-07/2020 dated 03.06.2020.

**4. Condonation of Delay**

At the start of hearing on 03.06.2020, the issue of condonation of delay in filing the Appeal was taken up. The Appellant’s Representative submitted that delay in filing the Appeal beyond the stipulated period in this case took place as the Respondent did not issue Notice for deposit of the amount recoverable after the decision dated 31.10.2019 of the Forum. The Appellant came to know about over hauling of its account and implementation of the decision of the Forum when its bill dated 03.01.2020 was uploaded on the website of the PSPCL.

As a result, the details of the recoverable amount, as per decision of the Forum, were collected personally by the Appellant by visiting the office of the Respondent. Thereafter, the Appellant deposited the balance of the requisite amount (i.e. balance of 40%) amounting to ₹ 5,38,026/- on 29.01.2020. Accordingly, the filing of the Appeal got delayed. The Appellant’s Representative prayed the Court to condone the said delay in the interest of justice.

I find that the Respondent did not object to the request of the Appellant or its Representative for condonation of delay either in the written reply to the Appeal or during hearing.

In this connection, I have gone through Regulation 3.18 of 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 from the date of receipt of the 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 Appellant has given reasons for the delay but the same are not convincing. The Appellant did not bring any evidence on record of this Court to prove that it had represented to the Respondent for overhauling its account or issuing Notice for deposit of the amount recoverable from the Appellant.

I also observe that non condonation of delay in filing the Appeal would deprive the Appellant of the opportunity required to be afforded to present its case. With a view, therefore, to meet the ends of ultimate justice, the delay in preferring the Appeal beyond stipulated period is condoned and the Appellant is afforded the opportunity to present its case.

**5.** **Submissions made by the Appellant and the Respondent**:

With a view to adjudicate the dispute, it is necessary to go through written submissions made in the Appeal by the Appellant and reply of the Respondent as well as oral submissions made by their respective representatives alongwith material brought on record by both the sides.

1. **Submissions of the Appellant**
2. **Submissions made in the Appeal**

The Appellant made the following submissions in the Appeal, received on 05.02.2020, for consideration of this Court:

1. The Appellant was having an NRS category connection bearing

 Account No. 3001638741, with sanctioned load as 10.500 kW.

1. The said connection was used for Mobile Tower communication and Energy Bills were paid regularly till May, 2019.
2. The next two bills were not deposited as the same were on average basis without taking readings and were on higher side. The Sub Divisional Office was approached to correct the bills but no action was taken.
3. The bill under dispute was for the period 03.04.2019 to 22.07.2019 (110 days) for the consumption of 203367 units, which was wrong and on higher side.
4. As per bill, the Energy Meter was of AVON make with Sr. No. 29292327 but at site, Energy Meter installed was bearing Sr. No. 749279 as per snap shot attached for reference and the Meter manufacture date was 01/2009 as per Purchase Order No. MH-172/MQ-90/PO (M) dated 09.07.2008.
5. As per Meter plate, the Meter was of 6 + 1 Digits but as per data attached from 31.07.2015 to date, the readings were recorded in 5 digits with the same Meter Sr. No. 749279 but after issue of that bill, it was changed to 29292327.
6. In December 2018, the reading was recorded in 6 digits as

102109 kWh and now bill was issued for 330359 kWh. As per the record available with the Appellant, meter readings were not properly recorded. On 08.02.2016, it was recorded as 16230 kWh where as the reading on 31.07.2015 was 98140 kWh and being 6 digit Meter, there was no chance of Round complete. Neither it was marked as “X” (round complete) nor “C” (change of meter). This again appeared in the reading on 08.06.2018 with reading as 98523 kWh but on 07.12.2018, it was 102109 kWh.

1. The disputed bill was required to be rectified but the office of

 the Respondent did not do so.

1. As per bill statement, the Energy Meter was installed on 20.03.2009 and first time, the round completed was shown on 29.06.2012. The second round was shown on 31.07.2015. The meter reader recorded the reading from 02.01.2016 to 10.03.2016 as 233616 kWh to 240388 kWh but, later on, in next bill, the reading was again recorded in 5 digits but due to submission of incomplete billing data with the Appellant, the round complete was shown in 07/2015 and the Respondent had also not verified these facts from ledgers. The Forum decided the case for the spreading of consumption from 07/2015 to 10/2019.
2. The Energy Meter had completed 3 rounds but as per decision of the Forum, the account was overhauled by considering 2 rounds and after implementing the decision of the Forum, the Appellant was charged for 1,00,000 units excess for which payment had already been made. Further, the Appellant pleaded as below:-
3. 1st round completed on 02.06.2012, R-100688kWh. This reading was continuing till 30.08.2012 as 108337 kWh. On 01.11.2012, the meter reader again recorded the reading as 15350 kWh and continued recording the readings in 5 digits.
4. 2nd round was completed on/after 31.07.2015. The Meter Reader also showed 2nd round complete in the reading from 02.01.2016 to 10.03.2016 as 233616 kWh to 240388 kWh and in next bill, it again started recording readings in 5 digits.
5. 3rd round was completed on 07.06.2018 at R- 98523 kWh and false reading was recorded as 102109 on 07.12.2018 (whereas, it was 302109 kWh). The meter reader recorded false readings till 03.04.2019 as 126992 kWh and on 22.06.2019, the actual/correct reading recorded as 330359 kWh. Final Reading was 333888 kWh.
6. Thus, it was clear that the Energy Meter, since its installation to removal, had recorded the total units as 333888 kWh.
7. The DDL obtained after challenge of Energy Meter under dispute was not correct as cumulative energy recorded kWh-233888.58 & kVAh-84476.30 and total consumption was the same as per readings, as this final reading did not match with the reading at the time of removal of Energy Meter.
8. The decision of the Forum was not acceptable as the same was taken without going through data of last 5 years and PSPCL had also not furnished the complete data before the Forum. The case may be decided by setting aside the decision dated 31.10.2019 of the Forum.
9. The account of the Appellant be overhauled from the date of 1st, 2nd & 3rd round completed to the date of removal of Energy Meter by adding last figures and charges for units already deposited be deducted in the interest of justice.
10. **Submissions in the Rejoinder**

The Appellant made the following submissions in its rejoinder to reply of the Respondent as under:

1. The bill issued for the period 03.04.2019 to 22.07.2019 for 110 days of 203367 units was incorrect considering the load of 10.500 kW even as per LDHF formula as prescribed in Supply Code-2014. The consumption shown was absolutely abnormal and was not acceptable.
2. It was correct that the Sr. No of installed meter was 749279. If the discrepancy in Sr. No. shown in the bill was due to online system, it must be ensured that the same was corrected and there should not be any confusion to the consumer.
3. The data of 5 years given by the Respondent was incorrect as the meter was of 6+1 digits and since its installation, meter reader recorded the reading in 5 digits and on reaching 99999, he neither marked “X” code nor showed “C” code. The Sub-divisional office had also not checked the consumption.
4. The consumption of 110 days shown by the PSPCL could not be

203367 units i.e. 203367/110=1848.79 units per day. The mistakes were that readings on “X” code were added but meter reader omitted the figure for reasons best known to him.

1. It was clear from the meter snap shot and Sr. No. that meter was the same as was on and before 02.01.2013. As per data supplied with the Appeal, the meter was manufactured in January, 2009 as per snap shot of meter and installed between 01/2009 to 01/2013. The meter was checked vide LCR No. 29/1341 dated 10.09.2019 and the connected load was 8.200 kW against the sanctioned load of 10.500 kW.
2. The suggestion to challenge the Energy Meter was not the solution of the cause, as the Appellant did not raise any objection to the fault in Energy Meter but had pointed out that the readings were not recorded properly.
3. The bill for this abnormal consumption of 110 days be either revised on the basis of last year’s consumption as per Regulation 21.5.2 of Supply Code-2014 or on the basis of considering the 6th digit with reading where round was completed. The Respondent also agreed that per day consumption @ 1848 units was never recorded as per data submitted with reply.
4. **Submission during Hearing**

The Appellant’s Representative reiterated the submission made in its Appeal and Rejoinder (to the reply of the Respondent) during hearing on 03.06.2020 and prayed to allow the Appeal.

1. **Submissions of the Respondent**
2. **Submissions made in the Written Reply**

The Respondent, in its reply sent vide Memo No. 1409 dated 02.03.2020, made the following submission for consideration of the Court:

1. An energy bill for 110 days with energy consumption of 2,03,367 units was issued to the Appellant showing arrears of ₹ 1,21,478/- and ₹ 1,45,172/- due to adjustment on ‘L’ Code. As a result, the bill was issued for the amount of ₹ 17,66,010/.

The Appellant did not deposit the said bill due to which, surcharge of ₹ 27,410/- was added in the bill and the billed amount became ₹ 17,93,420/-.

1. The aforesaid bill was also not deposited by the Appellant, who,

 filed a case in the office of the CGRF, Ludhiana for relief.

1. As per decision of the Forum, the bills of the Appellant for the period from 2015 to 2019 were revised and a sum of ₹ 10,59,760/- was credited to its account. The Appellant was directed by the AEE/Commercial. PSPCL, Phagwara, vide Memo No. 1143 dated 31.12.2019, to deposit ₹ 9,64,053/- and also the current bill’s amount.
2. Instead of depositing the said bill, the Appellant preferred an Appeal in this Court.
3. It was worth mentioning that the Energy Meter installed in

the premise of the Appellant was having Serial No. 749279. On verification of records, it was found that this Energy Meter was installed at the premise of the Appellant at the time of release of the connection and remained installed from the year 2009 to 2019.

1. As per decision of the Forum, the Appellant was given refund

due from the year 2015. But, the Appellant had now claimed the adjustment in bills for the years from 2012 to 2015.

1. The submission made by the Appellant were correct except that the Appellant never contacted the office of the Respondent or submitted anything in writing about overhauling its account as per decision of the Forum.
2. The matter may be decided in view of the submissions made

 above.

1. **Submission during Hearing**

During the hearing on 03.06.2020, the Respondent reiterated the submissions already made in its written reply.

**6.** **Analysis and Findings**

The issue requiring adjudication is the legitimacy of the demand of the Appellant to overhaul the accounts from the date of completion of 1st, 2nd and 3rd rounds of Energy Meter till the date of removal of Energy Meter by adding lac figures and deducting the units for which payments have already been made.

*My findings on the points emerged, deliberated and analysed are as under:*

1. The Appellant was having a NRS Category connection with

sanctioned load of 10.500 kW for the Mobile Tower Communication. The Metering was done by providing Three Phase Four Wire, whole current, 10-60 Amp, Static Energy Meter of AVON Make. The Respondent issued the bill amounting to ₹ 17,66,010/- to the Appellant on 22.07.2019 for consumption of 203367 kWh for the period from 03.04.2019 to 22.07.2019 (110 days).Subsequently, the Appellant challenged the working of the Energy Meter by depositing requisite fee. The Energy Meter was checked in ME Laboratory and only DDL was taken on 27.09.2019. The daily cumulative values of kWh and kVAh at 00.00 hrs was Zero, as the Energy Meter recorded only the reading of last 100 days. However, cumulative energies at the time of data collection were kWh= 2,33,888.58/ kVAh=84,476.30. As per decision of the Forum, the disputed amount was ₹ 10,59,760/-

1. The Appellant has, in the present Appeal, prayed that the overhauling of the account may be done from the date of completion of 1st, 2nd and 3rd rounds by adding Lac figures and units (for which payment already deposited) be deducted in the interest of justice:

1st round completed on dated 02.06.2012, R-100688 kWh.

2nd round completed on dated 31.07.2015, R-98140 kWh

3rd round completed on dated 07.06.2018, R-98523 kWh.

1. A perusal of the material available in the record reveals that the Meter Reader had not recorded correct readings of Energy Meter and that the Meter Reader took readings in 5 digits whereas, the Meter was of 6+1 digit. The Respondent, in its reply, mentioned that the Energy Meter was neither replaced nor checked since its installation in the year 2009.
2. It is observed that final Reading of the Energy Meter, at the time

of removal was 3,33,888 kWh but in the DDL, the commulative energy was recovered as 2,33,888 kWh, meaning that DDL was not correct and ME Lab failed to check the accuracy of the Energy Meter before taking the DDL. The connection was also checked by the DS office vide Load checking Register No. 29/1341 dated 10.09.2019 i.e. before removal of Energy Meter and the readings were Kwh = 3,33,378, kVAh = 3,83,954, S.No. of the Energy Meter was 749279, Make AVON with Capacity of 10-60 Amp.

I also observe from the decision of the Forum that relief was given to the Appellant from the year 2015 and the directions were given to overhaul the account for the period 07/2015 (Reading = 98,140 kWh) up to the date of replacement of Energy Meter by spreading/dividing equally the actual consumption recorded during this period. The Forum had given the relief as per Petition filed by the Petitioner on 16.08.2019 and the Appellant had given consent to the decision (as mentioned in Page 10 of the decision) which reads as under:

“However, the Respondent stated during oral discussion on dated 30.10.2019 that the meter reader recorded wrong readings from 07/2015 onwards and the meter was not replaced until 9/2019 **and the Petitioner agreed with the submission of Respondent and stated that the consumption was correct but it should be spread throughout the period from 07/2015 till the replacement of meter.”**

1. In the present Appeal, the Appellant has challenged/contested

the decision of the Forum and prayed for relief from 02.06.2012 since 1st round of meter reading was completed on 02.06.2012. I observe that the claim/prayer for the relief from 06/2012 is not just and fair since the Appellant had consented to decision of the Forum for overhauling of account from 07/2015 till replacement of the Energy Meter. Further, the Appellant has no justification to raise any fresh/new issue in this Court which was not raised in its Petition filed in the Forum.

I am, therefore, of the view that the fresh pleas of the Appellant raised in the Appeal are not sustainable.

7. **Decision**

As a sequel of the above discussions, the Appeal is not maintainable/sustainable and is hereby dismissed. The Appellant did not pray for relief now claimed in the present Appeal in its Petition filed in the Office of CGRF, Ludhiana in Case No. CGL-207 of 2019. Rather, both the sides (Appellant and Respondent) consented to the relief only from 2nd round of completion of meter readings till the replacement of Energy Meter.

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

**9.** In case, the Appellant 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.

 (GURINDER JIT SINGH)

June 8, 2020 Lokpal (Ombudsman)

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