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

 **ELECTRICITY, PUNJAB,**

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

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

**APPEAL NO. 24/2020**

**Date of Registration : 16.06.2020**

**Date of Hearing : 15.07.2020**

**Date of Order : 22.07.2020**

**Before:**

 **Er. Gurinder Jit Singh,**

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

**In the Matter of :**

 M/s Rohan Rajdeep Highways Ltd.,

 Toll Plaza Kurali-Siswan Road,

Village-Barodi,

Distt. S.A.S Nagar.

**Contract Account Number: R62 GC 62 0011 M**

 ...Appellant

versus

Additional Superintending Engineer,

DS Division, PSPCL,

Kharar.

 ...Respondent

**Present For:**

Appellant : Sh. Daljeet Singh Nagi

 Appellant’s Representative (AR).

Respondent : 1. Er. Amandeep Singh

 Additional Superintending Engineer,

 DS Division, PSPCL,

 Kharar.

 2. Er. Lalit Mohan

 Assistant Engineer

 DS Sub Division,

 PSPCL, Majra.

 Before me for consideration is an Appeal preferred by the Appellant against the order dated 12.05.2020 of the Consumer Grievances Redressal Forum (Forum), Patiala in Case No. CGP - 56 of 2020, deciding that:

 *“The account of the petitioner as overhauled for a period of six months immediately before 19.12.19, from 20.06.19 to 19.12.19 as per Regulation 21.5.1(a) of Supply Code-2014 by treating the meter as inaccurate and amount of Rs. 9,61,970/- charged to the petitioner vide memo No. 1191 dated 20.12.2019 by AEE/Op. S/D, Majra on account of slowness of metering equipment by 75% as detected by ASE/MMTS, Mohali vide ECR No 12/2003 dated 19.12.19 is in order and is recoverable.”*

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

A scrutiny of the Appeal and related documents received in this Court on 16.06.2020 revealed that the Appeal was preferred within one month of receipt of the decision dated 12.05.2020 of the CGRF, Patiala in Petition No. CGP-56 of 2020. Besides, the Appellant submitted copies of receipts for having deposited a sum of ₹ 1,92,394/- (20%) on 14.01.2020 and also ₹ 1,92,394/- (20%) on 16.06.2020 on account of requisite 40% of the disputed amount of ₹ 9,61,970/-. Accordingly, the Appeal was registered in this Court and a copy of the same was sent to the Senior Executive Engineer, DS Division, PSPCL, Kharar for sending written reply/ parawise comments and a copy to office of the CGRF, Patiala for sending the Case File under intimation to the Appellant vide letter no. 457-59/OEP/A-24/2020 dated 16.06.2020.

**3.** **Proceedings**

With a view to adjudicate the case, a hearing was fixed for 15.07.2020 at 11.30 A.M. and intimation to this effect was sent to both the Appellant and Respondent vide letter no. 526-27/OEP/A-24/2020 dated 30.06.2020. Accordingly, the hearing was held on 15.07.2020 and copies of the proceedings were sent to both the sides vide letter no. 589-90/OEP/A-24/2020 dated 15.07.2020.

**4.** **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 along with 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, for consideration of this Court:

1. The Appellant was having an NRS Category connection, bearing Account No. R62GC620011M, with sanctioned load of 86.000 kW.
2. The Appellant continued to pay the electricity bills as were being issued to the Appellant by the PSPCL since release of connection without any default on any occasion.
3. The connection of the Appellant was checked by ASE/ Enforcement-cum-EA & MMTS, Mohali vide ECR No. 12/003 dated 19.12.2019 and the Energy Meter was declared slow by 75.03% due to wrong connections of CTs and PTs.
4. The AEE, DS, PSPCL Majra issued notice for the recovery of amount ₹ 9,61,970/- due to slowness of the Energy Meter for vide Memo No. 1191 dated 20.12.2019.
5. Aggrieved by the said Notice, the Appellant filed a grievance before the CGRF, Patiala by depositing 20% of the disputed amount vide PSPCL, receipt no. 163/49040 dated 14.01.2020 for ₹ 1,92,394/-.
6. The ASE/Enforcement cum MMTS, Mohali checked the accuracy of the Energy Meter at 18.95 kW load and 0.94 PF but he should have checked it on different loads and Power Factors and then, average was to be worked out which was not done in this case. The checking officer should have also done the DIAL TEST of the Energy Meter to arrive at the correct slowness of the Energy Meter but it was not done.
7. PSPCL erred at the time of installation of the Energy Meter because, as per Regulation 21.3 of Supply Code-2014 dealing with Testing of Meter, it is the responsibility of the Distribution licensee to satisfy itself regarding the accuracy of Energy Meter before it is installed at the consumer’s premise.
8. As per Regulation 21.5.2 of Supply Code-2014, the account of a defective Energy Meter was to be overhauled for a maximum period of 6 months immediately preceding the date of checking. The said Regulation is reproduced below:-

***“21.5.2 Defective (other than inaccurate)/Dead Stop/Burnt/Stolen***

 ***Meters***

*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:*

*a) On the basis of energy consumption of corresponding period of previous year.*

*b) 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.”*

1. The Forum, in its decision, relied only on the consumption pattern recorded during 1/2019 i.e. 3899 kWh/5191 kVAh which rose to 7800 kWh/7831 kVAh during 1/2020 after the connections were set right. But this bill of 1/2020 was of 33 days duration as compared to 31 days of 1/2019.
2. It was reiterated that the Respondent should have installed the Energy Meter properly in the first instance and acted accordingly.
3. The decision of the CGRF, Patiala was against the natural justice and a severe injustice had been meted out to the Appellant by upholding the Notice issued by the Respondent for recovery of the unjustified amount of ₹ 9,61,970/- as correct.
4. In view of the facts, mentioned above, it was prayed that the case of the Appellant may be entertained in his Court to investigate the facts in the interest of justice to the Appellant and decided on merits by allowing the consumption recorded when Energy Meter was recording correctly during last 6 months period as per Regulation 21.5.2 of Supply Code-2014.
5. **Submissions in Rejoinder**

The Appellant’s Representative submitted a rejoinder on 13.07.2020 in this Court to the written reply of the Respondent stating as under:

1. When in a consumer’s premise an Energy Meter and CTs were installed for recording energy consumption, it was called metering equipment and for a consumer, accuracy of this equipment as a whole was a matter of concern. The Energy Meter was defective in the checking report dated 19.12.2019 as it was displaying CoPn in the meter display. For that reason, the accuracy of the Energy Meter at different Loads/Power Factors and Dial Test was a must which was not done by PSPCL.
2. Although the connections were set right by PSPCL on 19.12.2019, PSPCL issued bill for ‘R’ Code 2 times, ‘D’ Code 1 time, ‘C’ Code 2 times thereby implying that there was no actual consumption shown in the energy bills during the last 6 months except in the month of April, 2020 with ‘O’ Code.
3. Note, referred to by the Respondent, under Regulation 21.5.1.of Supply Code-2014 was in the case of application of wrong Multiplication Factor which was not there in the case of the Appellant. In fact, Regulation 21.5.2 was applicable as metering equipment as a whole was defective which came under this regulation. In addition to wrong connections, CoPn temper was continuously displayed on the meter display.
4. The consumption of 6 months after 19.12.2019 was not proper and was based on average. The Energy Meter now stands replaced by PSPCL.
5. **Submissions during Hearing**

During hearing, the Appellant’ Representative reiterated the submissions already made in the Appeal and the Rejoinder to written reply of the Respondent.

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

The Respondent, in its reply, sent vide letter no. 5042 dated 09.07.2020, made the following submissions for consideration of this Court:

1. It was correct and admitted that the Appellant paid each and

every bill raised by PSPCL from time to time and no defaulting amount was standing against this connection except the amount raised in Notice bearing No. 1191 dated 20.12.2019 for ₹ 9,61,970/- .

1. It was correct and admitted that ASE/ENF-cum-EA & MMTS, Mohali checked the Appellant’s connection vide ECR No. 12/003 dated 19.12.2019 and found that Energy Meter of consumer was recording 75% less consumption due to wrong connections of CTs, PTs at site.
2. It was also correct that AE, DS Sub Division , PSPCL, Majra

served a Notice vide Memo No. 1191 dated 20.12.2019 for recovery of ₹ 9,61,970/- against the less recording of consumption on account of wrong connections of metering system.

1. The ASE/ENF-cum-EA & MMTS, Mohali checked the Energy Meter at 18.95 kW load and 0.94 Power Factor at the time of checking of the connection on 19.12.2019. But the submission of the Appellant for not checking the accuracy of the Energy Meter at different loads/not carrying of dial test of Energy Meter was not relevant in this case, as accuracy of Energy Meter was not questioned in this case. Only connections of CTs, PTs, which were found to be wrongly connected/done, was the main issue in this case. After checking, connections of the Energy Meter were set right and consumer was billed till date with same meter and he had not raised any objection regarding accuracy of the Energy Meter.
2. The responsibility of erring officials/officers of PSPCL for making wrong connection was being fixed. PSPCL had only overhauled the account of the consumer for slowness of meter due to wrong connections and same was in order as consumption of the consumer’s connection would had been much more had the connections not been wrong.
3. As per note under Regulation 21.5.1 of Supply Code-2014,

account was to be overhauled for the period for which, mistake continued. Regulation 21.5.2 was applicable only for Defective/Dead Stop/Burnt/Stolen Meters, which was not relevant in this case.

1. The consumption of the consumer rose to 75.03% after connections were set right.
2. **Submissions during Hearing**

The Respondent reiterated the submissions made in its written reply during hearing on 15.07.2020.

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

The issue requiring adjudication is the legitimacy of overhauling the account of the Appellant from 20.06.2019 to 19.12.2019 (date of checking by the Enforcement) as per provisions of Regulation 21.5.1 (a) of Supply Code-2014, treating the Energy Meter as inaccurate with slowness of metering equipment by 75.03% as detected at site by ASE/MMTS, Mohali, vide ECR No. 12/2003 dated 19.12.2019.

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

1. The present dispute arose when NRS Category connection of the Appellant was checked by the Addl. S.E., Enforcement-cum-E.A. & MMTS, PSPCL, Mohali vide ECR No. 12/003 dated 19.12.2019 and the Energy Meter installed at the premise of the Appellant was found running slow by 75.03% due to wrong connections of CTs and PTs. As a result, the account of the Appellant’s connection was overhauled and a Notice (alongwith calculation sheet) was served upon it by the Assistant Engineer, DS Sub-Division, PSPCL, Majra, vide Memo No. 1191 dated 20.12.2019, charging it with a sum of ₹ 9,61,970/- (for the period from 20.06.2019 to 19.12.2019) due to less recording of energy consumption by the Energy Meter installed at site. Aggrieved, the Appellant approached the CGRF, Patiala who, vide order dated 12.05.2020, upheld the said amount charged to the Appellant by the Respondent.
2. The Appellant’s Representative submitted in the present Appeal and also during hearing on 15.07.2020 that the ASE/Enforcement-cum-EA & MMTS, Mohali checked the accuracy of the Energy Meter at 18.95 kW load and 0.94 PF but he should have checked it on different loads and Power Factors and then, average was to be worked out which was not done in this case. The Checking Officer should have also done the DIAL TEST of the Energy Meter to arrive at the correct slowness of the Energy Meter but the same was not done.

I have perused the Checking Report dated 19.12.2019 of the ASE/Enforcement-cum-EA & MMTS, Mohali which, inter-alia reads as under:

“On checking of connection CoPn 21.05.18 is found displayed on meter display. On further investigation it is found that Phase Association (connections of CTs and PTs) are wrong. Connection of red Phase PT and CT is correct. Yellow phase PT is connected in S1 terminal of yellow phase, blue phase PT is connected in S2 terminal of blue phase. Neutral is connected in PT terminal of blue phase at meter terminal. On meter terminal of yellow phase S1, CT connection is connected in PT terminal of yellow phase, S1 on blue phase CT is connected in S2 terminal of yellow phase. S2 wire of yellow phase CT is connected in S1 Terminal of blue phase, S2 wire of blue phase is connected in neutral terminal of meter. Wrong connections are shown in figure Accuracy of metering equipment checked with ERS on 18.95 kW load & 0.94 PF is found as (-) 75.03% slow. DDL of meter is done. Connections are set right by Er. Vijay Bir Singh JE in presence of AE, Majra.”

On receipt of the Appeal, the views of the ASE., Enforcement-cum-E.A & MMTS, Mohali were sought, vide this office letter no. 570/OEP/A-24/2020 dated 10.07.2020, on the submissions about checking dated 19.12.2019. In response, the ASE, Enforcement-cum-E.A & MMTS, Mohali intimated vide letter no. 287 dated 13.07.2020 as under:

“The meter of subject cited consumer was checked vide ECR No. 003/012, dated 19.12.2019 (during high winter season) and wrong connections & phase association was detected at site. This is not a case of low Phase voltage on any phase. The accuracy of meter was checked at real time running load of 18.95 kW and 0.94 Power Factor. The load at the premises of consumer comprises of AC & light load. There is no provision available with consumer for variation of load and power factor. Connection was checked in accordance with ESIM Regulation 59. The checking of meter was done on the basis of pulse and dial test and the result was recorded, accordingly.”

In this connection, it is worthwhile to peruse the provisions contained in Instruction No. 59 of ESIM-2018 which state as under:

 **“59 TESTING/CHECKING THE ACCURACY OF METERS-ADJUSTMENT OF ACCOUNTS:**

**59.1** Steps to be taken for routine testing/checking of the energy meters:

59.1.1 In order to ascertain whether the meter is working or not, Meter Readers should switch on one or two lights for a few seconds before taking monthly meter reading and watch that the meter reading advances in the correct direction.

59.1.2 Meter Inspectors, JEs, AE/AEE/XEN (DS) and AEE/XEN/Sr.XEN (Enforcement) shall conduct the accuracy test at site with the help of meter testing instrument.

**59.2** Whenever a meter is found to be in-operative by any employee other than AEE/XEN/Sr.XEN/ASE (Enforcement) of the PSPCL, the matter should be brought to the notice of AE/AEE/XEN(DS) in writing so that immediate steps may be taken to replace it and for taking any other action as considered necessary.

**59.3** Whenever a meter is found to be inaccurate by Sr.XEN/Addl.SE (Enforcement), the matter should be brought to the notice of AE/AEE/XEN (DS) and SR.XEN/Addl. SE (MMTS) (particularly in respect of large supply consumers) in writing. On receipt of the report, the Sr.XEN/Addl. SE (MMTS) shall check the accuracy of that meter at site in the presence of the consumer after which immediate steps shall be taken by AE/AEE/XEN (DS) to replace the inaccurate meter and also to take other action as required pursuant to the checking.

If the meter installed at the premises of a MS consumer is found/suspected to be defective or inoperative, it shall be got checked/tested from Sr.XEN/ASE (Enforcement/DS) with the help of ERS meter at site. Sr.XEN /ASE (DS) shall also carry out checking in respect of tampering of seals and genuineness of ME/MTC (Meter Terminal Cover) or CT chamber seals.

**59.5** All reference standard meters (RS) and meter testing equipment used by PSPCL for testing of consumers meters at consumers premises, in ME Labs. or elsewhere may be got tested from NPL, Delhi or ERTL, New Delhi or any other laboratory recognized by Central Govt./NABL once in two years.

**59.6 Adjustment of accounts of challenged meters:** The provisions of Reg-21.5 of the Supply Code-2014 (see ESIM Clause 57) shall be followed for overhauling the accounts of consumers who challenge the accuracy of meter and their meters are got tested from Enforcement/MMTS/ME Labs.”

In view of above, there is no ambiguity in the testing procedure adopted by the Enforcement Wing.

1. As per material brought on record of this Court, the connection of the Appellant was again checked by the ASE, Enforcement-cum-EA & MMTS, PSPCL, Mohali, vide ECR No. 79/12 dated 03.03.2020 (in compliance to directions of the CGRF, Patiala during hearing of the case) and it was reported by the said ASE/Enforcement, vide letter no. 148 dated 04.03.2020, that the Energy Meter at site was running correctly. DDL was done and its scrutiny revealed that no abnormal tamper was recorded therein from 19.12.2019 (date of first checking) till 03.03.2020 (the date of second checking).
2. On studying the DDL Report dated 19.12.2019 of the Energy

Meter of the Appellant’s connection, it is observed that as per the voltage variation tamper recorded on 11.06.2018, the following parameters were recorded:

|  |  |  |  |
| --- | --- | --- | --- |
| S.No | Voltages  | Volts  | Active Current (Amp) |
| 1. | Red | 409 |  4 |
| 2. | Yellow | 409 | -0.10 |
| 3. | Blue | 235 |  0.00 |

Similar parameters were recorded on numerous occasions from 11.06.2018 to the time of checking on 19.12.2019 and matched with the parameters recorded by the checking officer. This clearly indicated that Yellow and Blue phase CTs were not contributing towards metering w.e.f. 11.06.18. It is also observed that as per the DDL, voltage variation tamper was continuing from 16.59.42 hrs on 11.06.18 and was restored only on 19.12.19 at 14.35.11 hrs. which was only due to wrong meter connection w.e.f. 11.06.2018 to 19.12.19. Further, no voltage variation tamper was recorded after 19.12.19 when the connections were set right till the time of 2nd checking on 03.03.2020.

I find that the contention of the Appellant’s Representative that the Dial Test was not done by the Enforcement on 19.12.2019 is an after thought as the point was not raised by the Appellant while filing its Petition in the Forum or during proceedings therein.

1. The Appellant’s Representative contended that PSPCL erred

at the time of installation of the Energy Meter because, as per Regulation 21.3 of Supply Code-2014 dealing with Testing of Meter, it shall be the responsibility of the Distribution Licensee to satisfy itself regarding the accuracy of Energy Meter before it was installed at the consumer’s premise.

I observe that the Energy Meter of the Appellant was earlier replaced vide MCO NO. 161/102663 dated 16.04.2018 and meter bearing S No. PBB38908 of Secure make capacity 200/5 was installed at an initial reading of 317473.5 kWh/330095.4 kVAh by Er. Vijay Veer Singh JE. No. seal was affixed on the MCB, however, seals bearing no. FQ82690 and FQ 82691 on MTCP and FQ82692 on CT/PT were found to be affixed.

 I observe that wrong connections to the Energy Meter were made at the time of replacement of the Energy Meter during 06/2018. Moreover, CoPn 21.05.2018 i.e. meter cover open was appearing at the display of the Energy Meter continuously. The matter was never reported by the concerned official/officer to higher authority or checking agency leading to inaccurate recording of energy from 11.06.2018 onwards. This factor is further substantiated from the voltage variation tamper recorded on 18.05.2018 just before 11.06.2018 when all the parameters relating to voltage and current were OK and were as under:

|  |  |  |  |
| --- | --- | --- | --- |
| Sr.No. | Voltages | Volts | Active Current (Amp) |
| 1. | Red | 213 |  225 |
| 2. | Yellow | 212 |  196 |
| 3. | Blue | 220 |  207 |

I observe that Yellow and Blue Phases were not contributing towards metering w.e.f 11.06.2018 as Zero current was recorded on these phases continuously right from 11.06.2018.

 I am of the view that officers/officials of the PSPCL, who made wrong connections alongwith those who took the monthly readings of the Appellant’s connection and failed to notice the fall in consumption should be punished for causing a huge financial loss to the PSPCL.

1. The Appellant’s Representative next submitted that the

 Forum, in its decision, relied only on the consumption pattern recorded during 1/2019 i.e. 3899 kWh/5191 kVAh which rose to 7800 kWh/7831 kVAh during 1/2020 after the connections were set right. But the bill of 1/2020 was of 33 days duration as compared to 31 days of 1/2019.

 I find that the Respondent, in its reply, stated that energy consumption of the Appellant’s connection would have been much more, had the connections not been wrong.

I observe that the Appellant had already been benefitted/provided relief by charging it, on the basis of energy consumption with slowness to the extent of 75.03% for the period from 20.06.2019 to 19.12.2019(six months) despite the fact that its Energy Meter was inaccurate with effect from 11.06.2018.

1. The Appellant’s Representative pleaded that the account of the Appellant was required to be overhauled in terms of provisions contained in Regulation 21.5.2 of Supply Code-2014 as the metering equipment, as a whole, was defective. He also stated that the Forum erred in upholding the action of the Respondent in overhauling the account of the Appellant under Regulation 21.5.1 (a) of Supply Code-2014.

 On the basis of checking reports including DDL done at the site on 19.12.2019 by the Enforcement coupled with the consumption pattern of the Energy Meter before and after setting right of the wrong connections, it is established that the Energy Meter installed at the premise of the Appellant was inaccurate on the date of checking by the Enforcement on 19.12.2019 as also observed by the Forum in its order under challenge in this Court. The meter was not defective. As such, Regulation 21.5.2 of Supply Code-2014 cannot be applied in this case.

 I, therefore, agree with the decision of the Forum that account of the Appellant was rightly overhauled for six months prior to the date of checking by the Enforcement on 19.12.2019 i.e. from 20.06.2019 to 19.12.2019, in terms of provisions contained in Regulation 21.5.1 (a) of Supply Code -2014, with slowness of the Energy Meter to the extent of 75.03% as determined at site by the checking officer of the Enforcement Wing.

1. On 17.07.2020 at 3:35 PM (i.e two days after the hearing held on 15.07.2020), an e-mail was received from the Appellant’s Representative stating as under:

“The CGRF in its judgment concluded that the Petitioner was rightly overhauled for a period of six months immediately before 19.12.2019 from 20.06.2019 to 19.12.2019 as per Regulation 21.5.1.(a) of Supply Code-2014 by treating the meter as inaccurate and amount of   Rs. 961970/-charged to the Petitioner vide AEE/OP S/D Majra memo no 1191 dated 20.12.2019 is in order and is recoverable. But the AEE (OP) S/Div., Majra has worked this amount for 7 months instead of 6 months as is evident from attachment with his memo no. under reference which may please be looked into before deciding the case.”

This Court is not inclined to take cognizance of any averment/submission sent after close of the arguments and issuance of minutes of proceedings. However, with a view to meet the end of justice, it will be just and fair that the Respondent reviews the calculation sheet for ₹ 9,61,970/- sent vide notice dated 20.12.2019 by the Respondent to the Appellant to find out the discrepancy, if any in calculating the amount charged for the period from 20.06.2019 to 19.12.2019 (six months) and make corrections, if necessary.

**7.** **Decision**

As a sequel of above discussions, the order dated 12.05.2020 of CGRF, Patiala in Case No. CGP-56 of 2020 is partly modified. It is held that account of the Appellant be overhauled for six months (from 20.06.2019 to 19.12.2019) prior to the date of checking by the Enforcement on 19.12.2019, in terms of provisions contained in Regulation 21.5.1 (a) of Supply Code-2014, with slowness of the Energy Meter to the extent of 75.03% as determined at site by the Enforcement. Accordingly, the Respondent is directed to recalculate the demand and refund/recover the amount found excess/short, if any, after adjustment with surcharge/interest as per instructions of the PSPCL.

**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.

 July 22, 2020 (GURINDER JIT SINGH)

 SAS Nagar (Mohali) Lokpal (Ombudsman)

 Electricity, Punjab.