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

 **ELECTRICITY, PUNJAB,**

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

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

 **APPEAL NO. 25/2020**

**Date of Registration : 26.06.2020**

**Date of Hearing : 22.07.2020**

**Date of Order : 24.07.2020**

**Before:**

 **Er. Gurinder Jit Singh,**

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

**In the Matter of :**

 Sh. Kamal Kishore,

 B-24, Kashmir Nagar Road,

Harcharan Nagar,

499/1, Gali No. 2, Ranjeet Singh Park,

Ludhiana

**Contract Account Number: 3002839526**

 ...Appellant

 versus

Senior Executive Engineer,

DS CMC Division (Special),

PSPCL, Ludhiana.

 ...Respondent

**Present For:**

Appellant : Sh. G.S. Mittal

 Appellant’s Representative (AR)

Respondent : Er. Sukhbir Singh

 Senior Executive Engineer,

DS CMC Division (Special),

PSPCL, Ludhiana.

 Before me for consideration is an Appeal preferred by the Appellant against the order dated 16.06.2020 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-141 of 2020, deciding that:

 *“The a/c of the Petitioner be overhauled for six months prior to replacement of meter i.e. 13.06.2019 on basis of average consumption of six months recorded immediately after the replacement of meter because neither the previous consumption of six months is reliable nor consumption of corresponding period of last year.”*

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

A scrutiny of the Appeal and related documents received in this Court on 26.06.2020 revealed that the same was preferred within one month of the decision dated 16.06.2020 of CGRF, Ludhiana in Case No. CGL-141/2020. Besides, the Appellant had deposited a sum of ₹ 64,300/- on 07.01.2020 and ₹ 64,000/- on 22.06.2020. The difference of ₹ 300/- on account of requisite 40% of the disputed amount of ₹ 3,21,394/- was deposited on 20.07.2020. The Appeal was registered and a copy of the same was sent to the Senior Executive Engineer, DS CMC Division (Special), PSPCL, Ludhiana for furnishing written reply/parawise comments with a copy to the office of CGRF, Ludhiana for sending the Case File under intimation to the Appellant vide this office letter no. 510-12/OEP/A-25/2020 dated 30.06.2020.

**3.** **Proceedings**

With a view to adjudicate the present dispute, a hearing was fixed for 22.07.2020 and intimation to this effect was sent to both the sides vide letter no. 577-578/OEP/A-25/2020 dated 14.07.2020. After hearing, copies of proceedings were sent to the appellant and the Respondent vide this office letter no. 604-605/OEP/A-25/2020 dated 22.07.2020.

**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 Energy Meter of the Appellant got burnt and was replaced on 13.06.2019 vide MCO No. 10008421238 dated 12.06.2019. The removed Energy Meter was sent to ME Lab. vide Store Challan No. 368 dated 30.07.2019. The ME Lab. reported that the accuracy of the Energy Meter could not be checked and DDL could not be carried out as the Energy Meter was burnt.
2. The Audit Party overhauled the account of the Appellant for the period 07.02.2018 to 12.06.2019 i.e. 490 days and charged ₹ 3,21,394/- vide Memo No. 179 dated 24.09.2019. This amount was raised through supplementary bill cum notice vide Memo No. 4039 dated 03.10.2019.
3. The Appellant filed a case in ZLDSC (Zonal Level Dispute Settlement Committee) but no relief was provided.
4. Thereafter, a case was filed in the office of the CGRF, Ludhiana who decided it on 16.06.2020 as per which, relief was provided by overhauling the Appellant’s account for six months but after the replacement of the Energy Meter. The Appellant was not satisfied with the decision of the Forum.
5. The Audit Party wrongly overhauled the Appellant’s account from 02/2018 onwards because the consumption was recorded by Energy Meter in August-September, 2018 also. It was not possible that in one month, Energy Meter was working fine and in another month, Energy Meter started working improperly. In April-June, 2018; ‘zero’ consumption was recorded because the Appellant’s business was very low. No new order/demand was received in the Appellant’s Firm. When it received the order, Energy Meter also started recording the consumption. The Energy Meter may have got some defect in the period from December, 2018 to June, 2019.
6. Just in the last year 2019, the Appellant got two orders due to which, energy consumption rose for some time. Now again, the Appellant’s firm was getting less orders.
7. The relevant Regulation 21.5.2 of Supply Code-2014 dealing with “***Defective(other than inaccurate)/Dead Stop/Burnt/ Stolen Meters is as under:-***

*The accounts of a consumer shall be overhauled/billed for the period meter remained defective/dead stop subject to maximum period of six months. In case of burnt/stolen meter, where supply has been made direct, the account shall be overhauled for the period of direct supply subject to maximum period of six months. The procedure for overhauling the account of the consumer shall be as under:*

1. *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.*

*c) If neither the consumption of corresponding period of previous year (para-a) nor for the last six months (para-b) is available then average of the consumption for the period the meter worked correctly during the last 6 months shall be taken for overhauling the account of the consumer.*

*d) Where the consumption for the previous months/period as referred in para (a) to para (c) is not available, the consumer shall be tentatively billed on the basis of consumption assessed as per para-4 of Annexure-8 and subsequently adjusted on the basis of actual consumption recorded in the corresponding period of the succeeding year.*

*e) The energy consumption determined as per para (a) to (d) above shall be adjusted for the change of load/demand, if any, during the period of overhauling of accounts.”*

(viii) As per above Regulation 21.5.2 (a), account be overhauled on the basis of consumption of corresponding period of last year. If that consumption was not available, then, Regulation 21.5.2 (b) was to be applied.

1. In the case of the Appellant, Audit Party has overhauled the account with the consumption of previous year which was right but Audit Party overhauled the account for a period of 490 days instead of 180 days. If the Audit Party had overhauled the account for 180 days, dispute would not have arisen.
2. The Forum decided to overhaul the account for six months but after the replacement of the Energy Meter ignoring the Regulation 21.5.2 (b) which clearly stated that the account be overhauled on the basis of energy consumption of corresponding period of previous six (6) months during which the Energy Meter was functional.
3. In the present case, Regulation 21.5.2 (b) was applicable but decision of the Forum was not as per this Regulation.
4. So, in view of the above, the Respondent be directed to overhaul the Appellant’s account for six months with consumption recorded when the meter was functional as per Regulation 21.5.2 (b) of Supply Code-2014.
5. As per the decisions of CGRF and Ombudsman available online, accounts of the Appellants were overhauled under Regulation 21.5.2 (a) of Supply Code-2014 even when the meter was not functioning for more than two years. Some of such like cases decided were CGL-128/2019 & CGL-376/2019. Accordingly, the same procedure be followed in the case of the Appellant.
6. **Submissions in Written Brief**

The Appellant prior to start of hearing on 22.07.2020, submitted the following in addition to the points already submitted in the present Appeal:

1. The shop, where the disputed Energy Meter was installed

was generally used for labour work like cutting of cloth for hosiery works. This work was got done either on order basis or sometime shop was rented out for small period of 3-4 months being a seasonal work. The Appellant tried to convince the Forum in its submissions that fall in consumption was only due to less work at the work place. It is also submitted that recording of nil consumption even for continuous period of 4-5 months was mainly due to the fact that shop was given on contract/rented out to labour for doing job work from time to time. But no legal document was prepared for such job work. Therefore, the Forum has erred in relying upon the oral statement of the Appellant. Had this reason of low consumption or fall in consumption been verified by the Respondent as required in Instruction 104.7 of ESIM by checking the site/work place, then, the facts could have been easily verified to the best satisfaction of the Respondent. But if there was any lapse on the part of PSPCL, then, the Appellant should not be penalised for treating his Energy Meter as defective, especially in a case when the site report dated 06.06.2019 and M.E. lab report clearly indicated that the Energy Meter was burnt. Even the Energy Meter was changed on the complaint of the Appellant, who himself informed the Respondent and this fact had also been mentioned in the Checking Report No. 1352/63 dated 06.06.2019 of the Junior Engineer. Therefore, variation in consumption was never authenticated in any documents of the Respondent. The whole findings of the Forum were on presumption basis keeping in view the base of the variation and fall in consumption. But no documentary evidence or testing results of any agency support this contention, with the result that the Appellant, who was small commercial shop keeper having monthly bills of ₹ 6000/-, had to face heavy financial burden and was compelled to arrange heavy payment of more than ₹ 3 lac, that too only in 15-20 days, at a time when the business was almost dump due to COVID-19. Therefore, it was prayed to take a very favourable and lenient decision, if there was any lapse on the part of the Appellant.

1. As per site checking report, load utisilation was much less

than sanctioned load (S.L.10.75 kW and checked load 7.5 kW). Thus, it was very clear that the actual load running at site was approximately 70% of sanctioned load Regulation 21.5.2 (e) of Supply Code-2014, clearly stated that:

“The energy consumption determined as per para (a) to (d) above shall be adjusted for the change of load/demand ,if any, during the period of overhauling of accounts”.

1. The Appellant had already requested before the Forum that

the dispute arose only when the Respondent (PSPCL) had not complied with its own instructions. Had the connection been checked when there was fall in consumption as required under Instruction 104.7, the facts could have been easily verified and dispute would not have arisen. If fault lies on the part of Respondent (PSPCL), then, the Appellant should not be penalised due to non compliance of rules by the PSPCL staff. Moreover, the Audit Party, in its audit para, had specifically observed that “this is the detail of financial loss occurred due to negligence of PSPCL staff.” and the involvement of consumer never proved for this lapse.

1. The Forum, while giving partial relief, erred in deciding the

pattern of average basis which had been ordered as succeeding period average, whereas no provision existed to overhaul the account on the basis of succeeding period. This average was chargeable only if the previous year consumption of corresponding period was not available. But, in the instant case, the average of previous period was very well on the record.

1. The Audit Party was not competent to declare any Energy

Meter defective until and unless there was specific report of competent checking agency. As per Regulation 21.5.2, the average in case of burnt meter is chargeable only for the period, the direct supply was given. Even, in the instant case the, DDL and accuracy was not authenticated by any checking agency and it was not understood as to how and under what rules, the Audit Party had concluded that the Energy Meter was defective when there were clear result of Energy Meter being BURNT and no DIRECT SUPPLY SJO ISSUED which was the actual basis of charging average.

1. This Court has already maintained this fundamental rule in

a very recent judgment in Appeal No.8/2020 titled Smt. Meena Goyal V/s PSPCL decided on 29.5.2020 and gave a very good decision that Regulation 21.5.2(d) was applicable only in case, the previous year’s consumption was not available. Even the consent of the Appellant to charge on the basis of succeeding year consumption had been totally declined since it was against the prescribed provision of the Supply Code-2014 approved by the PSERC. The operative part of the judgment was reproduced below for ready reference of this Court:

**“I agree with the Respondent that the prayer of the Appellant for overhauling its account in terms of provisions of Regulation 21.5.2 (d) of Supply Code-2014 was without merit as in the instant case, consumption of the corresponding period of previous year was available due to which the consumer was charged on the basis of**

**provisions of Regulation 21.5.2.(a) of Supply Code-2014 instead of under Regulation 21.5.2 (d). I find merit in the contention of the Respondent that provision of Regulation 21.5.2 (d) of Supply Code -2014 are applied in case, consumption of the corresponding period of previous year is not available.”**

From the above decision, it was quite clear that in the interest of justice and equity the set procedure and regulation could not be modified at the will of the licensee. Besides, as per consumption data of last 3 years, the average base could easily be taken from 1.4.2017 to 7.10.2017 when the Energy Meter was functional as per Regulation 21.5.2 (b) which clearly stated that account be overhauled for previous 6 months during which, the Energy Meter was functional.

1. Since the Appellant had never been a defaulter of PSPCL

and all the previous payments had been regularly made well in time, therefore, surcharge and interest payable due to the pendency of above dispute be also waived off as the regular bills were always paid as soon as received.

1. **Submissions during Hearing**

During hearing on 22.07.2020, the Appellant reiterated the submissions made in its Appeal and written briefs submitted prior to start of hearing.

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

The Respondent, in its defence, made the following submissions, vide letter no. 2017 dated 13.07.2020, for consideration of the Court:

1. The Appellant was having a NRS Category connection with sanctioned load of 10.750 kW.
2. The Energy Meter installed at the premise of the Appellant was got checked vide LCR No. 02/1504 dated 06.06.2019 and found burnt. The same was replaced vide MCO No. 100008421238 dated 12.06.2019 effected on 13.06.2019. The removed Energy Meter was sent to M.E. Lab. for checking vide Store Challan No. 368 dated 30.07.2019. The M.E. Lab. reported that accuracy of the said Energy Meter could not be checked and DDL could not be carried out as the Energy Meter was burnt.
3. The account of the Appellant was overhauled by the Audit Party vide Letter No. 179 dated 24.09.2019, for the period from 07.02.2018 to 12.06.2019 for 490 days by taking the average base of consumption consumed from 09.02.2017 to 05.12.2017. Accordingly, this amount was raised through supplementary bill vide Memo No. 4039 dated 03.10.2019.
4. The Appellant failed to deposit the supplementary bill, accordingly, the amount was charged through SCA to its regular bill.
5. Aggrieved, the Appellant requested to get its case reviewed in ZLDSC. The case was sent for review in ZLDSC which, after giving due opportunity to the Appellant and after considering all the relevant facts of the case decided on 22.01.2020 to uphold the amount charged to the Appellant who, in turn, was informed accordingly vide letter no. 562 dated 17.02.2020.
6. Thereafter, the Appellant approached the Forum for review of its case with all the relevant record.
7. The Forum, after giving due opportunity to the Appellant and after considering all the relevant facts of the case, decided that the account of the Appellant be overhauled for six months prior to replacement of the Energy Meter i.e. 13.06.2019 on the basis of average consumption of six months recorded immediately after the replacement of the Energy Meter because neither the previous consumption of six months was reliable nor consumption of corresponding period of last year. The Appellant did not agree with the decision dated 16.06.2020 of the Forum.
8. The account of the Appellant was overhauled by the Audit Party for the period from 07.02.2018 to 12.06.2019 for 490 days by taking the average base of consumption of the Appellant during 09.02.2017 to 05.12.2017.
9. As per the consumption data of the Appellant, the Energy Meter was defective from 06.03.2018. The amount charged to the Appellant was recoverable.
10. The Appellant miserably failed to justify the fall in his consumption when compared to his old consumption and as compared to its load.
11. No documentary or any other evidence was submitted by the Appellant from which, it could be determined or established that in April-June, 2018; ‘Zero’ consumption was recorded because his business activity was very low and no new order was received by the Appellant’s firm. It was worth mentioning here that light load of the consumer had Lamps: 20, Plugs: 6, Fans 6, AC: 1.5 tonne Split. If one tenth of this load was in use during period, the consumption of Energy Meter could not be ‘Zero’. This fact itself confirmed that Energy Meter of Appellant became defective before being declared as burnt.
12. This plea of the Appellant had already been taken into consideration by the Forum in its decisions dated 16.06.2020 after due diligence.
13. The Appellant admitted the fact that the Energy Meter was defective and he was ready to give the average for the period of 180 days. This relief had already been given to the Appellant but he had challenged the basis of average taken into consideration.
14. The Appeal was devoid of merit and the Appellant failed to prove its case miserably in the Forum. It was prayed that the Appeal may be dismissed in the interest of justice.

**(b) Submissions during Hearing**

During hearing, the Respondent in its defence reiterated the submissions made in the written reply/parawise comments and stated that overhauling of the account of the Appellant for six months as decided by the CGRF, Ludhiana was correct.

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

The issue requiring adjudication is the legitimacy of overhauling the account of the Appellant for six months prior to replacement of burnt Energy Meter (i.e. 13.06.2019) on the basis of average energy consumption of six months recorded immediately after the replacement of the said Energy Meter on 13.06.2019.

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

1. The present Appeal poses a challenge to the order dated 16.06.2020 of the Forum deciding to overhaul the account of the Appellant for six months prior to replacement of the burnt Energy Meter (13.06.2019) on the basis of average consumption of six months recorded immediately after the replacement of the said Energy Meter because neither the consumption of previous six months nor consumption of corresponding period of last year was reliable.
2. As per material available on record, the connection of the Appellant was checked, on its request, by the Junior Engineer vide LCR NO. 1352 dated 06.06.2019 whereby, it was reported that the meter terminal of the Energy Meter installed at the Appellant’s premise was burnt and directions were given to take action as per instruction of the PSPCL. Accordingly, the burnt Energy Meter was replaced vide MCO No. 100008421238 dated 12.06.2019 and effected at site on 13.06.2019. Thereafter, the removed Energy Meter was checked, vide Store Challan No. 368 dated 30.07.2019, in M.E Lab. which declared the said Energy Meter ‘Burnt’ and reported that the accuracy of the Energy Meter could not be checked and DDL could not be carried out. Subsequently, the account of the Appellant was overhauled by the Audit Party vide Letter No. 179 dated 24.09.2019, for the period from 07.02.2018 to 12.06.2019 for 490 days, by taking the average base of consumption recorded from 09.02.2017 to 05.12.2017. Accordingly, an amount of ₹ 3,21,394/- was raised through supplementary bill vide Memo No. 4039 dated 03.10.2019. The Appellant failed to deposit the supplementary bill. Accordingly, the amount was charged through SCA to its regular bill.

I find that on the request of the Appellant, his case was reviewed in the meeting dated 22.01.2020 of the ZLDSC, Ludhiana which decided that the amount of ₹ 3,21,394/-, charged to the Appellant by the Audit Party for the period from 07.02.2018 (the date from which ,the Energy Meter was defective as per consumption data) till 12.06.2019(the date prior to replacement of burnt Energy Meter on 13.06.2019), was recoverable.

I also find that the Appellant was not satisfied with the above decision of ZLDSC and approached the Forum for review of its case. After hearing both the sides, the Forum decided on 16.06.2020 to direct the Respondent to overhaul the account of the Appellant for six months prior to replacement of Energy Meter(13.06.2019) on the basis of average consumption recorded immediately after replacement of the Energy Meter because neither the previous consumption of six months nor the consumption of corresponding period of last year was reliable.

1. The Appellant, in its Appeal, contended that the Audit Party wrongly overhauled the Appellant’s account from 02/2018 onwards because the consumption was recorded by Energy Meter in August-September, 2018 also. It was not possible that in one month, Energy Meter was working fine and in another month, Energy Meter started working improperly. In April-June, 2018, ‘zero’ consumption was recorded because the Appellant’s business was very low. No new order/demand was received in the Appellant’s Firm. When it received the order, Energy Meter also started recording the consumption. The Energy Meter may have got some defect during the period from December, 2018 to June, 2019. Just in the last year 2019, the Appellant got two orders due to which, energy consumption rose for some time. Now again, the Appellant’s firm was getting less orders.

In this connection, I have perused the final reading of the Energy Meter(removed from site on 13.06.2019 after being found burnt during checking on 06.06.2019) during checking dated 30.07.2019 in M.E. Lab. The final reading recorded by M.E. Lab. was 1,75,892 kWh and 2,17,822 kVAh. The consumption data of the Appellant for period 05/2015 to 05/2020 is as under:-

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Year | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
| Month | Cons. | Code | Cons. | code | Cons. | code | Cons. | code | Cons. | Code | Cons. | code |
| Jan |  |  |  |  | 574 | O |  |  | 0 | O | 3837 | O |
| Feb |  |  | 17978/5\*2=7191 | O | 2207 | O | 4318 | O | 0 | O | 142 | O |
| Mar |  |  | 169 | O | 2557 | O | 293 | O | 0 | O | 246 | O |
| April |  |  | 256 | O | 3195 | O | 7 | O | 0 | O | 4360 | N |
| May |  |  | 951 | O | 3951 | O | 0 | O | 0 | O | 0 | N |
| June |  |  | 2953 | O | 5367 | O | 0 | O | 2964753 | OO |  |  |
| July | 10046 | O | 4174 | O | 2977 | O | 91 | O |  |  |  |  |
| Aug | 8548 | O | 6125 | O | 2071 | O | 1503 | O | 9918 | C |  |  |
| Sep | 9944 | O | 3212 | O | 1664 | O | 1520 | O | 6694 | O |  |  |
| Oct |  |  | 2631 | O | 1766 | O | 882 | O | 937 | P |  |  |
| Nov |  |  |  | O | 275 | O | 49 | O | 13439 | O |  |  |
| Dec | 17978/5\*3=10787 |  | 6789 | O | 819 | O | 0 | O | 2524 | O |  |  |

A perusal of the above consumption data, reveals that the consumption of the Appellant for different periods was as under:-

|  |  |
| --- | --- |
| Period | Consumption ( kWh) |
| 5/2015 to 12/2015 | 39,325 |
| 1/2016 to 12/2016 | 34,451 |
| 1/2017 to 12/2017 | 27,423 |
| 3/2018 to 5/2019 | 4,345 |
| 6/2019 to 12/2019  | 37,229 |

This data clearly shows that the Energy Meter of the Appellant remained defective during the period Mar/2018 to May/2019 and was not recording actual consumption used by the Appellant. The meter reader did not put ‘D’ code even when the consumption of the Appellant was recorded zero during the peak season of May and June, 2018 which benefitted the Appellant at the cost of PSPCL. Had the Meter Reader put ‘D’ code during the month of March/April, 2018, the Energy Meter of the Appellant would have been changed and bill on measured consumption would have been issued to the Appellant.

I find that the Respondent failed to notice/monitor the variation in consumption and particularly fall in consumption which was zero during eight months of disputed period. The licensee (PSPCL) failed to take necessary action to get the variation in energy consumption and working of the Energy Meter checked so as to avoid undue benefit to the Appellant. The consumption recorded, after change of Energy Meter, is very much on the higher side. The account was overhauled by the Audit Party for the period 02/2018 to 06/2019. The Appellant claimed in the Appeal that during the year the Energy Meter remained defective, his work was less and consequently consumption was also less which could not be relied upon because the Appellant did not provide any documentary evidence to prove that during this period, his work was less.

1. The Appellant’s Representative stated during hearing on

22.07.2020 that the shop, where the disputed Energy Meter was installed, was generally used for labour work like cutting of cloth for hosiery works. This work was got done either on order basis or sometimes shop was rented out for small period of 3-4 months being a seasonal work. The Appellant tried to convince the Forum in its submissions that fall in consumption was only due to less work at the work place. Besides, recording of nil consumption even for continuous period of 4-5 months was mainly due to the fact that shop was given on contract/rented out to labour for doing job work from time to time. But no legal document was prepared for such job work, therefore, the Forum erred in relying upon the oral statement of the Appellant. Had this reason of low consumption or fall in consumption been verified by the Respondent as required in Instruction 104.7 of ESIM, 2018 by checking the site/work place, then, the facts could have been easily verified to the best satisfaction of the Respondent. But if there was any lapse on the part of PSPCL then, the Appellant should not be penalised for treating his Energy Meter as defective, especially in a case when, the site report and M.E. lab report clearly indicated that the Energy Meter was burnt. Even the Energy Meter was changed on the complaint of the Appellant, who himself informed the Respondent and this fact had also been mentioned in the Checking Report No. 1352/63 dated 06.06.2019 of the Junior Engineer. Therefore, variation in consumption was never authenticated in any documents of the Respondent that the Energy Meter was defective. The whole findings of the Forum were on presumption basis keeping in view the base of the variation and fall in consumption. But no documentary evidence or testing results of any agency support this contention, with the result that the Appellant, who was small commercial shopkeeper having monthly bills of ₹ 6000/-, had to face heavy financial burden and was compelled to arrange heavy payment of more than ₹ 3 lac, that too only in 15-20 days, at a time when the business was almost dump due to COVID-19. Therefore, it was prayed to take a very favourable and lenient decision, if there was any lapse on the part of the Appellant.

The Appellant’s Representative also prayed to this Court on 22.07.2020 to issue direction to the Respondent (PSPCL) to charge the Appellant for six months prior to replacement of Energy Meter (13.06.2019) on the basis of maximum energy consumption recorded during six months consecutively in the year 2016 or 2017 when the disputed Energy Meter remained functional.

On the other hand, the Respondent, in its defence, contested the averments of the Appellant’s Representative during hearing and submitted that overhauling of the account of the Appellant for six months prior to replacement of burnt Energy Meter (13.06.2019), as decided by the Forum, was in order.

1. With a view to arrive at a just and fair conclusion for adjudication of the present dispute, the provisions contained in Regulation 21.5.2 of Supply Code-2014 dealing with *“****Defective (other than inaccurate)/Dead Stop/Burnt/ Stolen Meters are reproduced and discussed below:-***

*The accounts of a consumer shall be overhauled/billed for the period meter remained defective/dead stop subject to maximum period of six months. In case of burnt/stolen meter, where supply has been made direct, the account shall be overhauled for the period of direct supply subject to maximum period of six months. The procedure for overhauling the account of the consumer shall be as under:*

1. *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.*

 *c) If neither the consumption of corresponding period of previous year (para-a) nor for the last six months (para-b) is available then average of the consumption for the period the meter worked correctly during the last 6 months shall be taken for overhauling the account of the consumer.*

*d) Where the consumption for the previous months/period as referred in para (a) to para (c) is not available, the consumer shall be tentatively billed on the basis of consumption assessed as per para-4 of Annexure-8 and subsequently adjusted on the basis of actual consumption recorded in the corresponding period of the succeeding year.*

*e) The energy consumption determined as per para (a) to (d) above shall be adjusted for the change of load/demand, if any, during the period of overhauling of accounts.”*

I observe that provisions of Regulation 21.5.2 (a) referred to above cannot be applied in the instant case as corresponding period of previous year was from 13.12.2017 to 12.06.2018 and the energy consumption during this period is not reliable though status of the Energy Meter was shown ‘O’ i.e. O.K.

Regulation 21.5.2 (b) of supply Code-2014, can be considered for overhauling the Appellant’s account as prayed by its representative during hearing on 22.07.2020. He had requested that the Appellant be charged for six months prior to date of replacement of Energy Meter (13.06.2019) on the basis of average of maximum of energy consumption for six months consecutively relating to the year 2016 or 2017. Accordingly, taking into consideration the energy consumption of the Appellant’s connection, average of maximum of energy consumption for 05/2016 to 10/2016 works out to 3341 (20046/6) kWh per month while average of maximum of energy consumption available from 03/2017 to 08/2017 comes to 3353 (20118/6) kWh per month. During the above periods, the Energy Meter remained functional showing ‘O’ status.

1. PSPCL should take appropriate action against the

officers/officials who failed to watch the energy variations in this case and did not take corrective action to replace the disputed Energy Meter.

1. Investigation report in respect of Burnt Meter was not

prepared by the Respondent and not sent to the Appellant as per provisions contained in Regulation 21.4.1 of Supply Code -2014. This is a lapse on the part of the Respondent.

1. From the above analysis, it is concluded that the account

of the Appellant is required to be overhauled for six months preceding the replacement of Energy Meter on 13.06.2019 in terms of provisions contained in Regulation 21.5.2 (b) of Supply Code-2014, based on the average of energy consumption recorded during 3/2017 to 8/2017 (3353 kWh per month) when the disputed Energy Meter remained functional. The Appellant representative have given consent in this regard. PSPCL supported the decision of the Forum in this case although the same is not as per Regulations of Supply Code-2014.

**7. Decision**

As a sequel of above discussions, the order dated 16.06.2020 of CGRF, Ludhiana in Case No. CGL-141 of 2020 is set aside. It is held that the account of the Appellant shall be overhauled for six months preceding the date of replacement of Energy Meter on 13.06.2019 in terms of provisions contained in Regulation 21.5.2 (b) of Supply Code-2014, based on the average of maximum of energy consumption recorded during 3/2017 to 8/2017 (3353 kWh per month) when the disputed Energy Meter remained functional. 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 off 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)

 July 24, 2020 Lokpal (Ombudsman)

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