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

 **ELECTRICITY, PUNJAB,**

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

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

**APPEAL NO. 52/2020**

 **Date of Registration : 29.10.2020**

 **Date of Hearing : 18.11.2020**

 **Date of Order : 20.11.2020**

**Before:**

 **Er. Gurinder Jit Singh,**

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

**In the Matter of:**

 M/s. H.M. Foods & Minerals,

 Village Jawaharpur, Derabassi,

 Distt. Mohali.

 **Contract Account Number: Z21MS210654N**

 ...Appellant

Versus

Senior Executive Engineer,

DS Division,

PSPCL, Lalru.

 ...Respondent

**Present For:**

 Appellant : 1. Sh. Mahavir Sharma,

 Appellant’s Representative (AR).

 2. Sh. Narinder Pathak,

 Appellant’s Representative (AR).

Respondent : 1. Er. Amanpreet Singh Mavi,

 Assistant Executive Engineer,

 DS Sub Division, Saidpura,

 PSPCL, Lalru.

 2. Sh. Gurpreet Singh,

 Upper Division Clerk.

Before me for consideration is an Appeal preferred by the Appellant against the order dated 17.02.2020 of the Consumer Grievances Redressal Forum (Forum), Patiala in Case No. CGP-354 of 2019, deciding that:

 *“The bills issued to the petitioner for the period 02.12.15 to the date of permanent disconnection on 18.07.18 are in order and recoverable except for an adjustment for the bills issued on N Code basis during 01/2018 & 02/2018 as the same was not adjusted in the bill issued during 03/2018”.*

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

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 29.10.2020 i.e. after more than one month of receipt of the decision dated 17.02.2020 of the CGRF, Patiala in Case No. CGP-354 of 2019. An application for condoning of delay giving reasons was also received with the Appeal. Besides, the Appellant had deposited ₹ 1,50,500 on 18.12.2019, ₹ 49,500 on 18.12.2019 and ₹ 2,80,000/- on 29.10.2020 and submitted copies of receipts against 40% of the disputed amount of ₹ 11,42,162/- with the PSPCL. Accordingly, the Appeal was registered and copy of the same was sent to the Sr. Executive Engineer/ DS Division, PSPCL, Lalru for sending written reply/parawise comments with a copy to the office of the CGRF, Patiala under intimation to the Appellant vide this office letters bearing Nos. 1048-50/OEP/A-52/2020 dated 30.10.2020.

**3.** **Proceedings**

With a view to adjudicate the dispute, a hearing was fixed in this Court on 18.11.2020 at 11.30 AM and an intimation to this effect was sent to both the sides vide letter nos. 1099/1100/OEP/A-52/2020 dated 11.11.2020. As scheduled, the hearing was held on 18.11.2020 in this Court, on the said date and time. Copies of the minutes of the proceedings were sent to the Appellant and the Respondent vide this office letter nos. 1117-18/OEP/A-52/2020 dated 18.11.2020. The order was reserved after hearing the arguments of both parties.

**4. Condonation of Delay**

At the start of hearing on 18.11.2020, the issue of condoning of delay in filing the Appeal beyond stipulated period was taken up. The Appellant’s Representative submitted that the judgment from CGRF, Patiala was received in March, 2020 before the lockdown but the Appellant could not immediately decide to approach this Court and later lockdown dashed all its hopes because all offices were closed and movements/activities were stopped by the Administration. The Appellant was further told that only the consumer or his authorized representative could file Appeal in this Court. The consumer (Proprietor of the Unit) was away from Mohali and was with his family in Mumbai. The Appellant also took time in arranging and depositing mandatory/requisite 40% of the disputed amount for filing the present Appeal.

Due to spread of COVID-19 Pandemic and stoppage of flights, the said delay was beyond the control of the Appellant and was not intentional. As such, the Appellant’s Representative requested to entertain the Appeal and to condone delay beyond the stipulated time limit.

I find that the Respondent did not object to the condoning of the delay in filing the Appeal in this Court either in its written reply or during hearing in this Court.

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:

*(ii) 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.”*

It was observed that non condonation of delay in filing the Appeal would deprive the Appellant of the opportunity required to be afforded to defend the case on merits. Therefore, with a view to meet the ends of ultimate justice, the delay in filing the Appeal in this Court beyond the stipulated period was condoned and the Appellant’s Representative was allowed to present the 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 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, received in this Court on 29.10.2020, for consideration:

1. The Appellant was having a MS category connection bearing Account No. Z21MS210654N with sanctioned load (SL) as 58.71 kW installed at its works in Village Jawaharpur, Dera Bassi.
2. The Appellant had filed a Petition No. CGP-354 of 2019 against the receipt of energy bill of ₹ 7,51,700/- in the month of 01/2018 for the period 03.12.2017 to 31.12.2017 for consumption of 2980 units for 28 days, which included arrears of current year of ₹ 7,18,169/- which had been around ₹ 5 lac.
3. The Forum decided to register the case after receiving the confirmation regarding deposit of ₹ 2,00,000/- from the Appellant.
4. The Appellant had closed its business due to down fall in the beginning of 2016 and whatever bills were issued upto 18.04.2016 were duly paid.
5. The Appellant had stopped manufacturing process and shifted machinery to Phase 8-B, Industrial Area, Mohali and requested the Respondent to bill it on the basis of MMC. The Appellant had received a message from the adjoining factory that the Meter Reader had conveyed him that the meter of the Appellant was not working. The Appellant had contacted the SDO and requested to disconnect the connection and to collect the payment till date on the basis of minimum charges as factory of the Appellant was not working. The request was made in writing vide entry No. 1338 dated 17.08.2016 to the then SDO Er. Mohinder Pal. The Appellant was told by the Respondent to first get installed the new meter and thereafter, disconnection would be done. The Respondent had also advised the Appellant to deposit the payment in lump sum till the meter was replaced. The Appellant had again approached the concerned SDO for replacement of the meter vide application dated 26.08.2016 diarized vide No. 1360. The meter was changed in the last week of October, 2016 but the Respondent kept on sending bills on average basis till December, 2016. In the meantime, the Appellant had deposited ₹ 40,000/- in lump sum as average monthly rental for 4/5 months on its own. The Respondent had continued to send average consumption bill of 2015 and not on the basis of MMC. The Respondent had not corrected the bills till December, 2016 and used to issue the bills on the basis of consumption of 2015 though the meter was replaced by the Respondent in October end 2016.
6. The Appellant had made a point that if the factory was in working condition, then, how one can give in writing for disconnection of supply. The Respondent had never paid any heed to repeated requests of the Appellant to solve the issue.
7. The Appellant was assured by the Respondent that its meter’s display was not showing the reading but meter was okay. The actual reading and payment whatsoever would be charged after getting reading from ME Lab, Ropar of the Respondent.
8. The Appellant continuously received bills on average basis of 2015. The Appellant had made a written request dated 08.11.2016 to provide it the Lab report of actual consumption vide diary No. 2002 but the Respondent failed to provide the Lab report. As far as payment was concerned, the Appellant again deposited ₹ 40,000/- on 20.02.2017 on the advice of the Local Officer as MMC.
9. Mrs. Harnam Kaur was the owner of HM Foods & Minerals and the meter was in the name of the Company. After new meter was installed, the building was given on rent to Mr. Amarjeet Paswan, R/o Zirakpur who worked there till May/ June, 2017.
10. The Appellant had never received the bills physically and tried to deposit lump sum amount because online amount was on very higher side but Respondent was not ready to accept partial payment and was bent on full payment.
11. The HM Foods Building was purchased by Mrs. Suman Pathak, Chandigarh and Mrs. Nitu Devi, Chandigarh and registry dated 14.06.2017 was executed. The new owner in order to start its business, had made repeated visits to the Respondent to settle the issue by providing Lab report of actual consumption. The Respondent had failed to provide the report but to the dismay of the Appellant, the meter was thrown in the Store and was not traceable and the Appellant had helped the Store man (Mr. Satnam Singh) in March, 2019 to trace the meter. The meter was found in gunny bag but the documents for sending the Meter to ME Lab were not available/traceable. Hence the story that its reading could not be found out and the meter was shown burnt was a concocted story to cover up its fault.
12. The Appellant had filed a case in the Court at Derabassi but on the advice of the learned Judge, the Appellant withdrew the said case and filed a Petition before the Forum at Patiala narrating the factual episode. The Appellant was not given justice by the Forum also.
13. The Appellant had requested for review of its case so that the Appellant could clear the actual due amount. The Appellant had to run its factory and new meter was to be got installed. Due to non-working of the Factory, the Appellant had been constrained to pay the balance dues. The Appellant had requested for restoration of its connection.
14. The Appellant had also requested for payment of full balance amount in 60 monthly interest free and without surcharge instalments. The Appellant had agreed to pay pending amount alongwith current energy bills whatever decided by this Court and would not proceed against the decision of this Court.
15. **Submissions made in the rejoinder**

The Appellant had made following submission in its rejoinder dated 15.11.2020 to the written reply of the Respondent: -

1. The Appellant submitted three letters in the year 2016 to the Respondent (SDO Office, Derabassi) first for disconnection of electricity, second for change of meter and third for proper billing based on ME Lab report as per promise made by the then SDO Er. Mohinder Pal Singh but till date, the Respondent failed to reply to even a single letter.
2. The Respondent had stated that Meter No. 7252308 was found defective in 05/2016 and was replaced in 01/2017 and if the information was believed to be true, then, why seven months were taken to replace the meter. In fact, the Meter was changed in third week of October but statement of Respondent was different. The Appellant had submitted a letter in the SDO Office on 08.11.2016 for proper bill based on Lab Report of the defective Meter because the Appellant had received the same on average basis even after replacement.
3. M/s. H.M. Foods & Minerals was in operation since 2010 and there was neither any dispute nor any payment due but when Factory was shut and machinery shifted to Industrial Area, Phase 8B, Mohali, huge bill amount was raised based on average for the year 2015 when the existing Meter display got defective.
4. When most of machinery was shifted in March, 2016, bill raised by Respondent was only ₹ 13,770/-.
5. It was general knowledge question who would ask for disconnection of electricity from his house/factory, where one was living or working. The Appellant requested the Respondent vide letter as per Diary No. 1338 dated 17.08.2016 for disconnection of supply.
6. The Appellant was asked to get the meter changed first and only then supply would be disconnected. This proposal was also wrong. The Respondent could have recovered the disputed amount by any means even after disconnecting the supply as it was doing so now by filing recovery suit as per information of the Appellant.
7. The Appellant was never told/ informed about the second meter removal through any means though it was mandatory to inform the Appellant before removing. How the Respondent can say that new meter was burnt? It may be possible that the Respondent did so on its own, to cover up mishandling of case.
8. On going through the statement and reports of Lab, it was noticed that the Meter that was replaced in 2016 was checked on 19.11.2019 (report date). The Appellant continuously visited the Respondent for test report of the meter (Meter No. 7252308) but to its dismay, meter was lying there in gunny bags unchecked till October, 2019. The meter was not sent for testing in Lab even after tracing the meter in the absence of supporting document of replacement.
9. The Reports of Lab showed that both reports were bearing date as 19.11.2019. This showed that the earlier meter was sent alongwith the second meter (as per Departmental version of replacement of second meter too). Was Department waiting for damage of the second meter to send them collectively for checking?
10. The Respondent disconnected the supply of the Appellant on 10.01.2018 by removing the grip in its presence when meter reading was 37222 kVAh and 32043 kWh. This was carried out by Sh. Balhar Singh in the presence of the Appellant and Sh. Avtar Singh, Foreman of adjoining factory, who called the Appellant on the spot. The Appellant could not understand why Respondent was saying that disconnection was made on 05.02.2018 while PDCO date showed in July, 2018.
11. **Submissions during Hearing**

During hearing on 18.11.2020, the Appellant’s Representative reiterated the submissions already made in the Appeal and Rejoinder to the written reply of the Respondent. He prayed to allow the Appeal in view of the submissions made by it.

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

The Respondent, in its written reply sent vide Memo No. 5855 dated 11.11.2020, made the following submissions for consideration of the Court:

1. A Medium Supply category connection was running in the name of M/s. H.M. Foods & Minerals in Village Jawaharpur bearing Account No. Z21MS210654N with sanctioned load of 58.71 kW/ CD 65.23 kVA.
2. The connection of the consumer was disconnected on 07.03.2018 vide PDCO No. 03/2046 dated 05.02.2018 at meter reading of 40957 kVAh.
3. The Meter with Serial No. 7252308 got defective in 05/2016 and was replaced in 01/2017. The bills during the period, the Meter was defective were raised on average consumption basis.
4. The defective Meter was got checked from ME Lab, Ropar but due to internal issue the DDL was not done.
5. As per record, the total outstanding pending against this consumer was ₹ 11,88,765/-. The ‘N’ Code adjustment for the period 01/2018 and 02/2018 had already been done and total amount of ₹ 46,599/- had already been refunded to the consumer and deducted from ₹ 11,88,765/- and the net payable amount was ₹ 11,42,162/-.
6. Now the Appellant was seeking refund of average bills sent to earlier owner of the premises (i.e prior to acquiring this ownership) during 17/06/2016 to 19/12/2019, which was not refundable because after replacement of meter in 12/2016, the actual consumption was the same during 01/2017 to 12/2017. Further, it was pertinent to mention here that the consumer had not made any regular payment of bills resulting into accumulation of billed amount which further led to addition of surcharge and interest @ 1.5% per month on outstanding amount.
7. The total amount of ₹ 11,42,162/- was recoverable from the consumer and plea of the consumer regarding non-operation of their factory during period of defective meter from 05/2016 to 12/2016 was not acceptable as after replacement of meter, the consumption was the same. Further, the adjustment of amount after PDCO effected on 07.03.2018 was pending and was refundable to consumer.
8. **Additional Submissions of the Respondent**

The Senior Executive Engineer, DS Division, PSPCL, Lalru, vide Memo No. 5931 dated 16.11.2020, contested the submissions of the Appellant in its rejoinder and stated as under:

1. The Appellant stated that it had submitted three letters regarding, first disconnection of electricity, second for change of meter and third for correction of bill. The Appellant also mentioned in its earlier submitted Petition in the Forum that it had submitted disconnection letter on 17.08.2016 and then submitted change of defective meter request on 26.08.2016 and on 08.11.2016. If the consumer submitted its request for disconnection, then, why it had submitted change of defective meter request after that.

The bills during the period of 17.06.2016 to 19.12.2016 were issued on average basis and then, meter was replaced in 01/2017 whereafter, the consumption was recorded during 02/2017 to 12/2017 in a similar way as of 02/2016 to 12/2016. Hence the plea of the consumer that they had shifted all of its machinery did not seem to be genuine.

1. The bills were issued as per the instructions of PSPCL. It was correct that the meter was replaced in 01/2017. The said letter of disconnection was not found in record but it was pertinent to mention that the consumer had submitted its request to replace the defective meter twice after this date.
2. The consumer had right to get its electric connection disconnected at any time.
3. As per instructions, the defective meter replacement was the responsibility of department and as far as the information given to consumer regarding defective meter was concerned, the same was mentioned on every bill under meter status column.
4. The meter, which got defective in 2016, was returned to ME Lab in 2019 as per normal procedure. If the meter was challenged by the consumer, the same would have been checked/returned in the presence of the consumer. The explanation regarding delay in return of meter to ME Lab had already been called and suitable action was being taken against the concerned employee. But delay in return of meter was not the concern in this case as the report of ME Lab had provided the status of the Meter.
5. The connection was disconnected on 07.03.2018 and the bills issued after this date had already been reversed and refunded to the consumer.
6. **Submission during Hearing**

During hearing on 18.11.2020, Asstt. Executive Engineer/DS Sub Division, PSPCL, Saidpura (Respondent) reiterated the submissions already made in its written reply and prayed for the dismissal of the Appeal. At the end of deliberations, he was directed to intimate by e-mail by 18.11.2020 positively the net disputed amount recoverable from the Appellant after effecting adjustments mentioned in the written reply and also relating to the amount charged after disconnection of the Appellant’s connection. He was also directed to send a copy of Meter Change Order (MCO) vide which the Meter installed at the premises of the Appellant was replaced in 1/2017.

**(d)** **Reply to Minutes dated 18.11.2020**

 In compliance to directions given during hearing dated 18.11.2020, the Respondent, vide memo no. 5957 dated 19.11.2020 (received by e-mail) intimated as under:

 “In this regard the office copy of MCO dated 27.09.2016 is enclosed herewith and the original copy is being traced in record and will be sent later on.

 Further, the amount after the date of PDCO which is being refunded to the consumer is Rs. 2,28,199/- as intimated by the office of AEE/DS Sub-Division, Saidpura vide memo no. 2774 dated 18.11.2020 (copy enclosed). Now the net amount of dispute is Rs. 9,13,967/-.”

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

The issue requiring adjudication is the legitimacy of the amount charged to the Appellant for the period 12/2015 to the date of permanent disconnection on 07.03.2018 with surcharge /interest as per applicable regulations/instructions.

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

1. The relevant facts of the case are that a Medium Supply Category connection, bearing Account No. Z21MS210654N, was installed in the name of M/s H.M. Foods & Minerals, Village: Jawaharpur, Tehsil: Derabassi vide SCO No. 97/24650 dated 02.01.2012 effected on 02.01.2012. The premises, on which the said Unit was situated/located, was sold, vide sale Deed dated 14.06.2017, by Smt. Harnam Kaur (owner of the plot and Proprietor of the Unit) wife of Sh. Harpal Singh to Appellant’s Representative (Smt. Neetu Devi Wife of Sh. Mahavir Sharma) and Smt. Suman Pathak wife of Sh. Narinder Pathak (Appellant’s Representative). A Meter, bearing serial No. 7252308, was installed at an initial reading of 42.5 (kWh) and 71.5 (kVAh). The energy bills issued for the period from 17.12.2015 to 18.04.2016 were on actual consumption basis showing the status of Meter as OK (‘O’ Code). Subsequently, the bills for the period from 05/2016 to 12/2016 were issued on the basis of average consumption (by taking into consideration the consumption of previous year i.e. 2015) by PSPCL system with ‘D’ Code status i.e. Meter being defective. The Meter, bearing Sr. No. 7252308 installed at the premises of the consumer, was replaced vide MCO No. 48/1007 dated 27.09.2016. The exact date of replacement of the meter had not been provided by the Respondent due to non- availability of original record but had intimated to this court vide memo no. 5985 dated 19.11.2020 that meter serial no. 725308 was changed between 03.12.2016 to 04.01.2017.At the time of replacement, it was noticed that reading was not visible due to defective display of the Meter .The removed Meter was sent to the ME Lab. vide Challan No. 42 dated 19.11.2019. As per ME Lab report, it was reported that the reading could not be retrieved as the meter was burnt and DDL could not be carried out. Subsequently, the energy bill issued during 01/2017 was on ‘C’ code basis i.e. meter having been replaced. The Appellant was, then, billed on the basis of actual consumption from 01/2017 to 12/2017 with OK status of the meter. Thereafter, the Appellant was billed on the basis of ‘N’ Code i.e. reading not taken during 01/2018 and 02/2018 which was not adjusted in the bill issued in 03/2018 for actual consumption with OK status of the meter. The connection of the Appellant was disconnected permanently on 07.03.2018 vide PDCO no. 03/2046 dated 05.02.2018 due to defaulting amount. The meter bearing Sr. No. 12417927 of the Appellant’s connection was checked at site by MMTS on 06.11.2019 at the time of removal on disconnection and was reported burnt. The removed meter was checked in ME Lab vide Challan No. 43 dated 19.11.2019 as per which the meter was declared burnt. Aggrieved, the Appellant approached the Forum for relief in December, 2019 whereafter the Forum decided the case on 17.02.2020.
2. The Appellant’s Representative submitted that it had sent three letters in the year 2016 to the Respondent (SDO Office, Derabassi) first for disconnection of electricity, second for change of meter and third for proper billing based on ME Lab report as per promise made by the then SDO Er. Mohinder Pal Singh but till date, the Respondent failed to reply to even a single letter. The Respondent had stated that Meter No. 7252308 was found defective in 05/2016 and was replaced in 01/2017 and if the information was believed to be true, then, why seven months were taken to replace the meter. In fact, the Meter was changed in third week of October but statement of Respondent was different. The Appellant had submitted a letter in the SDO Office on 08.11.2016 for proper bill based on Lab Report of the defective Meter because the Appellant had received the same on average basis even after replacement. It was general knowledge question who would ask for disconnection of electricity from his house/ factory, where one was living or working. The Appellant was asked to get the meter changed first and only then supply would be disconnected. This proposal was also wrong. The Respondent could have recovered the disputed amount by any means even after disconnecting the supply as it was doing so now by filing recovery suit as per information of the Appellant. The Appellant was never told/ informed about the second meter removal through any means though it was mandatory to inform the Appellant before removing. How the Respondent can say that new meter was burnt? It might be possible, that Respondent did so on its own, to cover up mishandling of the case. On going through the statement and reports of Lab, it was noticed that the Meter that was replaced in 2016 was actually checked in ME Lab on 19.11.2019. The Appellant continuously visited the Respondent for test report of the meter (Meter No. 7252308) but to its dismay, meter was lying there in gunny bags unchecked till October, 2019. The meter was not sent for testing in ME Lab even after tracing the meter in the absence of supporting document of replacement. The Report of Labs showed that both reports were bearing date as 19.11.2019. This showed that the earlier meter was sent alongwith the second meter (as per Departmental version of replacement of second meter too). Was the Department waiting for damage of the second meter to send them together for checking in ME Lab? The Respondent disconnected the supply of the Appellant on 10.01.2018 by removing the grip in its presence when meter reading was 37222 kVAh and 32043 kWh. This was carried out by Sh. Balhar Singh in the presence of the Appellant and Sh. Avtar Singh, Foreman of adjoining factory, who called the Appellant on the spot. The Appellant could not understand why Respondent was saying that disconnection was made on 05.02.2018 while PDCO date showed in July, 2018.
3. The Respondent contested the submissions of the Appellant and stated it had submitted three letters regarding, first disconnection of electricity, second for change of meter and third for correction of bill. The Appellant also mentioned in its earlier submitted Petition in the Forum, that it had submitted disconnection letter on 17.08.2016 and then submitted change of defective meter request on 26.08.2016 and on 08.11.2016. If the consumer submitted its request for disconnection, then, why it had submitted change of defective meter request after that. The bill during the period of 17.06.2016 to 19.12.2016 were issued on average basis and then, meter was replaced in 01/2017 whereafter, the consumption was recorded during 02/2017 to 12/2017 in a similar way as of 02/2016 to 12/2016. Hence the plea of the consumer that they have shifted all of its machinery did not seem to be genuine.

The bills were issued as per the instructions of PSPCL. It was correct that the meter was replaced in 01/2017. The said letter of disconnection was not found in record but it was pertinent to mention that the consumer had submitted its request to replace the defective meter twice after this date. The consumer had a right to get the electric connection disconnected at any time. As per instructions, the defective meter replacement was the responsibility of department and as far as the information given to consumer regarding defective meter was concerned, the same was mentioned on each bill under meter status column. The meter, which got defective in 2016, was returned to ME Lab in 2019 as per normal procedure. If the meter was challenged by the consumer, the same would have been checked/returned in the presence of consumer. The explanation regarding delay in return of meter to ME Lab has already been called and suitable action was being taken against the concerned employee. But delay in return of meter was not the concern in this case as the report of ME Lab had provided the status of the Meter. The connection was disconnected on 07.03.2018 and the bills issued after this date had already been reversed and refunded to the consumer.

1. The Respondent incorrectly charged the Appellant for the period from 05/2016 to 12/2016 by issuing bills on the basis of average consumption (by taking into consideration the consumption of previous year i.e. 2015) by PSPCL system/software with ‘D’ Code status i.e. Meter being defective. The action of the Respondent in this regard was in contravention of the provisions contained in Regulation 21.5.2 (a) and (b) of Supply Code 2014 which are 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 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 month. The procedure for overhauling the account of the consumer shall be as under:*

*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.”*

(v) Regulation 21.4.1 of Supply Code 2014 provide as under:

“21.4.1 *In case a consumer’s meter becomes defective/dead stop or gets burnt, a new tested meter shall be installed within the time period prescribed in Standards of Performance on receipt of complaint [or detection by the distribution licensee]. If the meter is burnt due to reasons attributable to the consumer, the distribution licensee shall debit the cost of the meter to the consumer who shall also be informed about his liability to bear the cost. In such cases the investigation report regarding reasons for damage to the meter must be supplied to the consumer within 30 days. However, supply of electricity to the premises shall be immediately restored even if direct supply is to be resorted to, till such time another tested meter is installed.”*

I observe that though the meter installed at the premises of the Appellant got defective somewhere in May, 2016 as is evident from the reading record of the meter from 05/2016 to 12/2016, the same was not replaced within the stipulated time limit as specified in Annexure-5 of Supply Code-2014. This is violation of Standards of Performance. At the same time, the licensee defaulted by not investigating the reasons of the burning of meters as per Regulation 21.4.1 of Supply Code-2014.

(vi) It is observed that the Respondent did not take appropriate and prompt action on the request dated 17.08.2016 of the Appellant for disconnection of its connection. The Respondent also did not take cognizance of the defaulting dues of the consumer and did not disconnect the supply by not complying with the provisions of Regulation 32.1of Supply Code-2014 reproduced below:

*“32.1 Where a consumer fails to deposit the billed amount with the distribution licensee by the due date mentioned in the bill, the distribution licensee may, after giving not less than fifteen clear days notice in writing to such consumer and without prejudice to his other rights to recover such amount by suit, disconnect supply to the consumer and for that purpose disconnect any electric supply line or other works being the property of such a distribution licensee until such charges or other sum together with any expenses incurred by the distribution licensee in disconnecting and reconnecting the supply are paid. Provided that the supply of electricity shall not be disconnected if a consumer makes payment under protest as per Regulation 35.1 of these Regulations;. Provided further that except in the case of theft of electricity, the supply of electricity to a consumer shall not be disconnected on a day when the next day is a holiday in the offices of the distribution licensee.”*

In this connection, it is relevant to peruse Instruction No.92.1 and 92.2 of ESIM- 2018 which read as under:

*“92.1 Disconnection of supply of electric energy to a consumer who defaults in making payment of the electric bills is not an end in itself but is only the first step towards not only arresting further accumulation of arrears but even forcing him to make the payment. However, all out efforts shall be made to recover the amount and such efforts shall not be relaxed unless the recovery is actually affected.*

*92.2 If a disconnected consumer does not seek reconnection within a period of one month, the meter shall be removed and security consumption shall be adjusted against the defaulting amount. The service line must not be allowed to remain idle for more than 6 months. However, where SE/Dy.CE (DS) gives approval in writing that there is a definite possibility of connection being reconnected, the service line and equipment be allowed to remain in position beyond six months but not beyond one year.”*

I observe that since the connection of the Appellant was disconnected on 07.03.2018, its pending dues should have been finalized after adjusting the security deposited by the consumer. It is not just and fair to raise energy charges on average/MMC basis after permanent disconnection of supply on 07.03.2018.

1. It is observed that the Respondent, on being directed during hearing dated 18.11.2020, intimated vide e-mail dated 19.11.2020 that the amount after the date of PDCO which is being refunded to the consumer is ₹ 2,28,199/-. He also intimated that the net amount of dispute is ₹ 9,13,967/-. The Respondent also intimated vide memo no. 5985 dated 19.11.2020, that as per the available billing record of this consumer, the meter serial number 0725308 was changed between dated 03.12.2016 to 04.01.2017 vide MCO No. 48/1007 dated 27.09.2016. The original record of this consumer is not traceable yet.
2. From the above analysis, it is concluded that:
3. The account of the Appellant’s connection in respect of the period (05/2016 to 12/2016) when it was charged for ‘D’ Code status of the meter is required to be overhauled for a period of six months prior to the actual date of replacement of the meter vide MCO No. 48/1007 dated 27.09.2016 on the basis of consumption of corresponding period of previous year in terms of provisions contained in Regulation 21.5.2 (a) of Supply Code 2014. In case the actual date of replacement of meter bearing Sr. No. 07252308 is not forthcoming from the record of the respondent then this date may be taken as 04.01.2017 for overhauling of accounts of the Appellant.
4. The account of the Appellant’s connection relating to Meter bearing Sr. No. 12417927, due to meter having been reported burnt as per ME Store Challan No. 43 dated 19.11.2019 and checking dated 06.11.2019 of MMTS is required to be overhauled for the period from 20.12.2017 to 07.03.2018(Date of effecting PDCO) as per provisions contained in Regulation 21.5.2 (b) of Supply Code 2014.

c) Surcharge/Interest will be leviable as per instructions of PSPCL.

d) Since the Appellant did not challenge or object to the other bills issued by PSPCL during the years 2016 to 2018, he is liable to pay the same along with surcharge / interest.

(e) The Appellant had also prayed for allowing payment of balance amount in 60 installment without interest/ surcharge. Interest/Surcharge cannot be waived off. However, he may request the Respondent for installments which may be considered by the Respondent as per instructions of PSPCL.

**7.** **Decision**

As a sequel of above discussions, the order dated 17.02.2020 of the CGRF, Patiala in Case No. CGP-354 of 2019 is set-aside. It is held that:

1. The account of the Appellant’s connection relating to Meter with Sr. No. 07252308 (declared as Burnt by ME Lab vide Endst. No. 589 dated 19.11.2019) shall be overhauled for a period of six months prior to the actual date of replacement of the meter vide MCO No. 48/1007 dated 27.09.2016 on the basis of consumption of corresponding period of previous year in terms of provisions contained in Regulation 21.5.2 (a) of Supply Code -2014.
2. The account of the Appellant’s connection relating to Meter bearing Sr. No. 12417927 (meter having been reported burnt as per ME Store Challan No. 43 dated 19.11.2019 and checking dated 06.11.2019 of MMTS) shall be overhauled for the period from 20.12.2017 to 07.03.2018 (Date of effecting PDCO) as per provisions contained in Regulation 21.5.2 (b) of Supply Code 2014.

(iii)Since the Appellant did not challenge or object to the other bills issued during the years 2016 to 2018, the claim for any relief regarding the disputed amount is not sustainable. Hence, the same is not allowed.

(iv)Accordingly, the Respondent is directed to recalculate the demand and recover/refund the amount found excess/short after adjustment, if any, with surcharge/interest.

**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)

 November 20, 2020 Lokpal (Ombudsman)

 SAS Nagar (Mohali) Electricity, Punjab.