

**COURT OF THE LOK PAL (OMBUDSMAN),
ELECTRICITY, PUNJAB,
PLOT NO. A-2, INDUSTRIAL AREA, PHASE-1,
S.A.S. NAGAR (MOHALI).**

**(Constituted under Sub Section (6) of Section 42 of
Electricity Act, 2003)**

APPEAL No. 15/2023

Date of Registration : 20.06.2023

Date of Hearing : 12.07.2023

Date of Order : 12.07.2023

Before:

**Er. Anjuli Chandra,
Lokpal (Ombudsman), Electricity, Punjab.**

In the Matter of:

**M/s. Jai Ram Ji Pipes,
Amloh Road, Mandi Gobindgarh.**

Contract Account Number: 3002309832 (LS)

...Appellant

Versus

**Senior Executive Engineer,
DS Division (Spl.),
PSPCL, Mandi Gobindgarh.**

...Respondent

Present For:

**Appellant: Sh. Sukhminder Singh,
Appellant's Representative.**

**Respondent : 1- Er. Aman Gupta,
Senior Executive Engineer,
DS Division (Spl.),
PSPCL, Mandi Gobindgarh.
2- Sh. Kashmir Singh, AAO/Revenue,
PSPCL, Mandi Gobindgarh.**

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 26.05.2023 of the Corporate Consumer Grievances Redressal Forum, Ludhiana (Corporate Forum) in Case No. CF-050/2023, deciding that:

“Notice no. 4493 dated 13.03.2023 issued to the petitioner charging an amount of Rs. 2398600/- is quashed. Account of the petitioner be overhauled for a period of six months prior to the date of change of CT/PT unit & meter i.e., 15.02.2023 as per Regulation no. 21.5.1 of Electricity Supply Code and Related Matters Regulations-2014, treating the metering equipment slow by 33.33%.”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 20.06.2023 i.e. within the period of thirty days of receipt of the decision dated 26.05.2023 of the CCGRF, Ludhiana in Case No. CF-050/2023. The Appellant submitted Receipt No. 192994646 dated 10.04.2023 of ₹ 4,80,000/- & Receipt No. 194648185 dated 17.06.2023 of ₹ 1,36,000/- along with the Appeal as proof of deposit of stipulated 40% of the disputed amount. Therefore, the Appeal was registered on 20.06.2023 and copy of the same was sent to the Addl. SE/ DS (Spl.) Divn., PSPCL, Mandi Gobindgarh for sending written reply/ parawise comments with a copy to the office of the CCGRF, Ludhiana under intimation

to the Appellant vide letter nos. 470-472/OEP/A-15/2023 dated 20.06.2023.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 12.07.2023 at 12.15 PM and intimation to this effect was sent to both the parties vide letter nos. 495-96/OEP/A-15/2023 dated 05.07.2023. As scheduled, the hearing was held in this Court and arguments of both the parties were heard.

4. Submissions made by the Appellant and the Respondent

Before undertaking analysis of the case, it is necessary to go through written submissions made by the Appellant and reply of the Respondent as well as oral deliberations made by the Appellant's Representative and the Respondent along with material brought on record by both the parties.

(A) Submissions of the Appellant

(a) Submissions made in the Appeal

The Appellant made the following submissions in his Appeal for consideration of this Court:-

- (i) The Appellant was having a LS Category Connection, bearing Account No. 3002309832 with sanctioned load of 491.89 kW/ 498.00 kVA under DS (Spl.) Division, PSPCL, Mandi

Gobindgarh. The reading of the meter was taken every month and the bills as raised by the department from time to time on the basis of measured consumption had been duly paid.

- (ii) The connection of the Appellant was checked by the ASE/Enf-Cum-EA & MMTS vide ECR No. 13/8023 dated 25.01.2023 and it was reported that *“the terminal of secondary side of CT of R-phase are carbonized and ‘R’ phase is not contributing”*. The Voltage of R, Y & B phase had been mentioned as 62.0 V, 61.8 V & 61.6 V respectively. The current of R, Y & B phase has been mentioned as 0.3A, 4.6A & 4.7A respectively. The slowness of the meter was not checked at site. However, DDL of the meter was taken by Sr. Xen/Enf-Cum-EA & MMTS. Thereafter, ASE/Enf-Cum-EA & MMTS vide Memo No. 462 dated 07.03.2022 intimated the AEE/Comm., Mandi Gobindgarh (Spl.) Division that *“after scrutiny of MDAS data of the meter, it was observed that ‘R’ phase current is not contributing in meter reading since 07.01.2022, due to which 33.33% consumption was recorded less. Therefore, account of the consumer be overhauled from 07.01.2022 to the date of replacement of meter.”*
- (iii) On the basis of report of the ASE/Enf-Cum-EA & MMTS, the AEE/Comm., Mandi Gobindgarh (Spl.) Division, vide Notice

bearing Memo No. 4493 dated 13.03.2023 asked the Appellant to deposit an amount of ₹ 23,98,600/-. It had been mentioned in the Notice that data of the meter was checked online (MDAS) and 'R' phase of the CT meter was not contributing since 07.01.2022. Accordingly, the account had been overhauled from 07.01.2022 to 14.02.2023 by considering slowness factor of 33.33%.

- (iv) The demand so raised without reference to any Rule/Regulation of Supply Code or EA-2003, especially considering the fact that the account had been overhauled for more than 13 months and huge amount was charged to the Appellant. The overhauling of account for more than 13 months with slowness factor of 33.33% was apparently wrong. Therefore, the Appellant approached the Corporate Forum for Registration & Review of disputed case of the Appellant. Accordingly, as per orders of the Corporate Forum, the Appellant deposited 20% of the disputed amount and case was registered as Case No. CF-050/2023.
- (v) The Appellant made genuine submissions before the Forum based on Rules and Regulations and with reference to orders of Hon'ble Court of Ombudsman in similar case. However, the

Corporate Forum vide Final Order dated 26.05.2023 provided partial relief only.

- (vi) The decision of the Corporate Forum was wrong and non-speaking especially considering the judgment in the case of M/s. Diana Mining Equipments (Appeal No. 63/2015) of the Court of Hon'ble Ombudsman referred in the submission made before the Corporate Forum. The Appellant was not satisfied with the decision of the Forum. Therefore present appeal was being filed.
- (vii) The consumption of the Appellant was normally consistent according to use of load/supply from the connection. The competent officer of the PSPCL was recording regular readings and never pointed out non-contribution from 'R' phase of the CT meter. Similarly, MMTS was taking DDL on regular basis as per prescribed schedule. Further, online data was also available on MDAS but the ASE/Enf.-Cum-EA & MMTS never pointed out non-contribution from 'R' phase of the CT meter. Thus overhauling of account with slowness factor of 33.33% for more than 13 months was altogether unjustified being against the rules and regulations as per Supply Code-2014. Although, the Corporate Forum had reduced the period of overhauling to 6 months but it is unjustified considering the

judgment of the Court of Hon'ble Ombudsman in the case of M/s Diana Mining Equipments (Appeal No. 63/2015).

- (viii) The slowness of meter was not tested at site. The current on R, Y & B phase had been mentioned in the Checking Report of the ASE/Enf.-Cum-EA & MMTS as 0.3A, 4.6A & 4.7A respectively. Thus 'R' phase was also contributing to some extent as the current on 'R' phase was not zero. Further, the non- contribution of R phase CT was due to carbonization of terminal of secondary side of CT of R-phase. The process of carbonization is not at once and it is slow and gradual process i.e. small stages over a period of time, rather than suddenly. Thus contribution of 'R' phase or current on 'R' phase before the period of 6 months before the checking may be much more than the current observed at the time of checking. It was pertinent to mention here that in most of the makes of HT meters, if contribution was less than 30% on any phase, it was depicted as zero in DDL or MDAS but it may or may not be zero. Thus catalogue/literature supplied with the meter was required to be studied or confirmed from the manufacturer of the meter especially where huge amount was involved. It appeared that contribution on 'R' phase cannot be zero when 0.3A current was there as per report of the ASE/Enf.-Cum-EA

& MMTS. Accordingly, the Slowness Factor may not be 33.33% during the previous period of 6 months (the period for which account can be overhauled as per Regulation 21.5 of Supply Code). Further, the temper reports of previous 3-4 DDLs may clear the current contribution on 'R' Phase CT or the Respondent may be directed to obtain and provide report from the manufacturer of the meter regarding extent of non-contribution of 'R' phase CT, for the sake of justice.

- (ix) It was also brought out that in the case of M/s Diana Mining Equipments (Appeal No. 63/2015), the Court of Hon'ble Ombudsman restricted the period of overhauling as 27.08.2014 to 30.11.2014 against 14.08.2013 to 30.11.2014 as overhauled by the Respondent/PSPCL, due to non-contribution on one phase. The Hon'ble Ombudsman observed as under (relevant portion):-

"I have gone through all the DDLs taken by MMTS on 08.07.2013, 17.09.2013, 26.11.2013, 05.02.2014, 16.04.2014, 19.06.2014, 27.08.2014, 11.11.2014 and 18.11.2014, as were brought on record and could not find any such remarks recorded on any of these DDLs. This argument seems to be after thought, just to save their skin by the MMTS staff. I don't consider the action to keep any doubtful meter under observation for such a long time as appropriate especially when the earning of revenue is involved in the correctness of the meter. I have further observed that the print out dated 08.07.2013, is also showing the current on Red phase as Zero meaning thereby that there was some defect in metering

equipment or its wiring, but has not been pointed out for taking necessary action to replace the metering equipment, which clearly proves that all of the above DDLs have been taken, just to complete the mandatory paper work, none of these DDLs after taking have been read carefully. As is evident from the documents brought to record, I am sure that the DDL dated 11.11.2014 was the 1st DDL which was analyzed by the MMTS, and found abnormality in the printout. Again the DDL was taken on 18.11.2014, just after a period of seven days to confirm the abnormality in the DDL dated 11.11.2014. After confirming the default through DDL dated 18.11.2014, the MMTS informed the CBC on the basis of DDL dated 11.11.2014 that Red phase CT was not contributing in recording the consumption and accounts should be overhauled for the period 14.08.2013 to 30.11.2014 i.e. upto replacement of CT / PT unit. One more, most important factor I have observed that the accuracy/dial test of the metering equipment has nowhere been done by the MMTS at site through ERS meter depriving the Competent Authority to ascertain the exact slowness factor, which was also a necessity when the case was found to be non-contribution of one phase. I have also gone through the other printouts of DDLs, as available on record and have noticed that zero current or less current was coming on Red Phase even before 14.08.2013. Thus, I am not convinced that the ascertained date of default as 14.08.2013 is correct. Red Phase current failure is evident even from first print out taken on 08.07.2013, which proves that the default persists from the very beginning; the report of the MMTS is quite faulty and thus the argument that the CT / PT unit was kept under observation by the MMTS is totally wrong and not maintainable.

As a sequel of my above discussions, it is concluded that the default persists since the release of connection and the Petitioner is required to pay for less billing for whole of the period upto the date of replacement of defective metering equipment but the Regulations and natural justice did not allow me to order for overhauling of Petitioner's account for whole of the period in question. Thus in view of observation in the

fore-going para that the fault was noticed in the DDL dated 11.11.2014 for the 1st time which was confirmed by MMTS after taking DDL, just after seven days on 18.11.2014, I consider it more fair and reasonable that though there were continued defaults upto the date of the DDL taken on 27.08.2014 but were not pointed out within a reasonable time i.e. before the date of taking next DDL, which was taken on 11.11.2014 read with DDL dated 18.11.2014 as provided under ESIM Clause 132.3 (d) in the case of intimation regarding PLVs/WODs. Moreover, the Respondents have failed to prove recording of any remarks or observation recorded by the MMTS on any previous DDL pointing out any default. Thus in my view, it will be more appropriate to order the overhauling of the Petitioner's account from 27.08.2014 to 30.11.2014 (the date of replacement of defective metering equipment).

To conclude, it is directed that the Petitioner's account should be overhauled from 27.08.2014 to 30.11.2014 (the date of replacement of CT /PT unit) with Slowness Factor of 27% as determined by CGRF. Accordingly, the respondents are directed that the amount excess / short, if any, may be recovered / refunded from / to the petitioner with interest under the relevant provisions of ESIM-114.

The appeal is partly allowed.

Result of above discussions clearly showed that the MMTS has miserably failed to discharge its mandatory duties and responsibilities, which is required to be investigated at the level of the Respondents to punish the delinquent officers / officials. Accordingly, it is also directed that the case should be referred to the Competent Authority to investigate the issue thoroughly to bring the delinquent officers to record and initiating disciplinary action against them. The Department is at liberty to recover the loss from the delinquent officers/officials found responsible, if any, as per their Service Regulations."

- (x) The Hon'ble Ombudsman allowed the overhauling from the date of just previous DDL taken on 27.08.2014 to 30.11.2014,

as non-contribution on one phase was pointed out by the MMTS in the DDL dated 11.11.2014 and metering equipment was replaced on 30.11.2014. Now, the MMTS can review the data on daily basis from the MDAS meter, as such the overhauling of account can be restricted to maximum period of 30 days. As observed by the Hon'ble Ombudsman in the above case, the loss to the PSPCL can be recovered from the delinquent officers/officials who failed to point out the non-contribution on one phase timely.

- (xi) However, the Corporate Forum simply mentioned that "*facts of both these cases are not exactly same*". These were very vague remarks and the Corporate Forum had not explained how the facts of both the cases were different. Actually, both the cases were very similar, as far as category of connection was concerned both were LS Connections and DDL was taken on regular basis. In both the cases, accuracy of metering equipment was involved and period of overhauling was more than 6 months. Rather, in the present case, new Technology of MDAS data of the meter was available online and can be viewed any time (even on daily basis).
- (xii) As far dissenting note/opinion of Member Finance of the Corporate Forum was concerned, it was apparently biased and

irrelevant. The opinion of Member Finance was possibly due to not proper interpretation of Supply Code Regulation and non-scrutiny of available record/data. There was no question of overhauling of account on the basis of corresponding period of succeeding year or with LDHF Formula, when consumption of previous period (with Okay status of the meter and in some months of the year-2022 consumption being more than the consumption of the year-2021) was available. Further, accuracy of the meter had been found within limits in kVAh mode as clearly mentioned in ME Lab Report. Moreover, as per ME Lab Report, result of all PT's and B & Y phase CTs were within limit but results of 'R' phase could not be taken as wire of 'R' phase CT was found broken. Therefore, meter was not recording on 'R' phase but recording correct energies on B & Y phases.

- (xiii) The nature of Industry of the Appellant was Arc Furnace. The electricity charges were one of the major input costs for fixing price of product/job work. Accordingly, the Appellant recovered the price/rate of his product/job work keeping in view energy bills regularly issued by the PSPCL. However, after more than one year, the Respondent office raised demand of huge amount from the Appellant. Needless to mention here

that the Appellant cannot recover any difference of charges from his customers on the basis of demand raised by the PSPCL. Thus, it was direct loss to the Appellant whereas there was no fault on his part. The PSPCL had technology to review the data and find out the defect in the metering equipment online from MDAS data of the meter on daily basis or at least on review of data once in a month or after analysis of DDL print-out which was taken after every 70 days. The officials who failed to perform their duty were responsible for the less billing and for the sake of justice, the amount relating to the period of more than one month should be recovered from them so that in future such lapses were not repeated.

(xiv) The Corporate Forum in its decision had ordered the overhauling of account for the period of previous 6 months from the date of replacement of metering equipment without considering the judgment of Court of Hon'ble Ombudsman in the case of M/s Diana Mining Equipments (Appeal No. 63/2015) and position as explained above, which was altogether unjustified and order of the Forum was liable to be quashed.

(xv) The Appellant humbly requested to the Hon'ble Ombudsman to set aside the decision of the Corporate Forum in the interest of

natural justice & fairness, and order the overhauling of account for one month or for a maximum period of 70 days, as per position explained above.

(b) Submissions in Rejoinder

The Appellant made the following submissions in his Rejoinder for consideration of this Court:-

- (i) The Appellant submitted that the reply given by the Respondent was incomplete and not convincing at all which was evident from the points raised in the Appeal viz-a-viz reply submitted.
- (ii) The Respondent had just repeated that A/c of the Appellant was initially overhauled for the period from 07.01.2022 to 14.02.2023 as per speaking orders of ASE/Enf.-cum-EA & MMTS given vide Memo No. 462 dated 07.03.2022. Thereafter, the period of overhauling had been revised to 6 months as per decision of the Corporate Forum. However, the reply of the Respondent was silent and not forthcoming on all the submissions made in the Petition, briefly reiterated as under:
 - (iii) The current of R, Y & B phase had been mentioned as 0.3A, 4.6A & 4.7A respectively. The slowness of the meter was not checked at site which was required to ascertain exact slowness.

However, DDL of the meter was taken by Sr. Xen/Enf-cum-EA & MMTS (tamper report not provided). MMTS wing of the Respondent was taking DDL on regular basis as per prescribed schedule. Further, online data was also available on MDAS but ASE/Enf.-cum-EA & MMTS never pointed out non-contribution from 'R' phase of the CT meter.

- (iv) The current on R, Y & B phase had been mentioned in the Checking Report of ASE/Enf.-cum-EA & MMTS as 0.3A, 4.6A & 4.7A respectively. Thus 'R' phase was also contributing to some extent as the current on 'R' was not zero. Further, other submissions as made in Para No. 2 of the Appeal had neither been rebutted nor replied/admitted.
- (v) The Respondent in his reply was also silent as to why the account of the Appellant cannot be overhauled for less than 6 months in view of judgment of the Court of Hon'ble Ombudsman in the case of M/s. Diana Mining Equipments (Appeal No. 63/2015). It was also submitted that the Hon'ble Ombudsman allowed the overhauling from the date of just previous DDL taken on 27.08.2014 to 30.11.2014, as non-contribution on one phase was pointed out by MMTS in the DDL dated 11.11.2014 and metering equipment was replaced on 30.11.2014. Now, the MMTS can review the data on daily

basis from the MDAS meter, as such the overhauling of the account can be restricted to maximum period of 30 days. The Respondent also had not given any reply/comments on this point/submission. Whereas, the Corporate Forum simply mentioned that the facts of both these cases were not exactly same. These were very vague remarks and the Corporate Forum had not explained how the facts of both the cases were different.

- (vi) The Respondent had not submitted any proper reply against Para No. 4, 5 and 6 of the Appeal, as such the position as explained in these paras of the Appeal may kindly be considered while arriving at any conclusion on the case. The submissions already made in these paras were not repeated for the sake of brevity.
- (vii) The Appellant again humbly requested to the Hon'ble Ombudsman to set aside the decision of the Corporate Forum in the interest of natural justice & fairness, and order the overhauling of account for one month or for a maximum period of 70 days, as per position explained above and in Para No. 5 of the Appeal.

(c) Submission during hearing

During hearing on 12.07.2023, the Appellant's Representative (AR) reiterated the submissions made in the Appeal and prayed to allow the same.

(B) Submissions of the Respondent

(a) Submissions in written reply

The Respondent submitted the following written reply for consideration of this Court:-

- (i) It was admitted that the Appellant was having LS Category Connection with Sanctioned Load as 491.89 kW/498.00 kVA under Mandi Gobindgarh (Spl.) Division. The reading of the meter was taken every month and the bills raised by the department from time to time on the basis of measured consumption had been duly paid.
- (ii) It was admitted that the connection of the Appellant was checked by Sr. Xen/ Enf.-cum-EA & MMTS vide ECR No. 13/8023 dated 25.01.2023 and it was reported that "*the terminal of secondary side of CT of R-phase are carbonised and R phase is not contributing*". The voltage of R, Y & B phase had been mentioned as 62.0 V, 61.8 V & 61.6 V respectively. The current of R, Y & B phase had been mentioned as 0.3 A, 4.6 A & 4.7 A respectively. The slowness of the meter had not

been checked at site. However, DDL of the meter was taken by Sr. Xen/ Enf.-cum-EA & MMTS.

- (iii) On the basis of report of Sr. Xen/ Enf.-cum-EA & MMTS and as per his speaking order vide Memo No. 462 dated 07.03.2023, AEE/Comm., Mandi Gobindgarh (Spl.) Division vide notice bearing Memo No. 4493 dated 13.03.2023 asked the Appellant to deposit an amount of ₹ 23,98,600/-. It had been mentioned in the notice that data of meter was checked online (MDAS) and R phase of the CT meter was not contributing since 07.01.2022. Accordingly, the account had been overhauled from 07.01.2022 to 14.02.2023 by considering slowness factor of 33.33%.
- (iv) The demand was charged to the petitioner as per speaking order issued by the Senior Executive Engineer, Enforcement-cum-MMTS, Mandi Gobindgarh after study of MDAS Data. The Appellant had filed the case before the CCGRF, Ludhiana after depositing ₹ 4,80,000/-, i.e. 20% of the disputed amount. The Corporate Forum decided the case on 26.05.2023. As per the order of CCGRF, Ludhiana dated 26.05.2023, Revised Notice No. 820 dated 09.06.2023 of ₹ 15,39,604/- was raised to the Appellant. The Appellant instead of depositing the amount filed the appeal before Hon'ble Ombudsman/ Electricity, Punjab as

Case No. A-15/2023. The Appellant had deposited the requisite 40% of the disputed amount.

- (v) The reading of the meter was recorded every month and the connection was checked by Sr. Xen/ Enf.-cum-EA & MMTS vide ECR No. 13/8023 dated 25.01.2023 in which it was reported that the R phase of the meter was not contributing.
- (vi) The account of the Appellant was overhauled for the period from 07.01.2022 to 14.02.2023 by increasing the consumption by 33.33% as per the speaking order given by the by Sr. Xen/ Enf.-cum-EA & MMTS, Mandi Gobindgarh vide Memo No. 462 dated 07.03.2023. As per speaking order, the R Phase of the CT's from secondary side terminal seemed to be carbonized. MDAS data was checked and it was observed that the current of R Phase was not contributing from 07.01.2022 to 14.02.2023. So the account of the Appellant was overhauled from 07.01.2022 to 14.02.2023(date of change of meter).
- (vii) The consumption of the Appellant was less recorded in the year 2022 as compared to the year 2021. The amount was charged to the Appellant as per speaking order issued by the Addl. SE/ Enf.-cum-EA & MMTS after study of DDL. The demand of ₹ 23,98,600/- was raised vide Notice No. 4493 dated 13.03.2023. The Appellant instead of depositing of amount filed the case

before CCGRF, Ludhiana. The CCGRF, Ludhiana decided the case on 26.05.2023 and restricted the overhauling period to 6 month as per Regulation 21.5.1 of Supply Code-2014. The Revised Notice No. 820 dated 09.06.2023 was issued to the Appellant for deposit of amount ₹ 10,59,604/- after adjustment of already deposited amount of ₹ 4,80,000/-. The Appellant, instead of depositing the amount, filed the appeal before the Hon'ble OMBUDSMAN against the order of the CCGRF, Ludhiana.

- (viii) The consumption recorded by the Red Phase was not healthy consumption and at the time of overhauling account the amount already charged was adjusted and demand was raised accordingly.
- (ix) The MDAS Data showed that Red Phase was not contributing from 07.01.2022 to 14.02.2023.
- (x) The Case No. A-63/2015 decided by the Hon'ble Ombudsman, which was mentioned in the petition did not exactly resemble with the case of the Appellant because in the Appeal No. 63/2015 of Hon'ble Ombudsman, the CT/PT Unit was kept under observation where as in this case, no metering equipment was kept under observation. In this case MDAS data showed that R Phase was not contributing from 07.01.2022 to

14.02.2023. So, the account was overhauled from 07.01.2022 to 14.02.2023.

- (xi) The amount/consumption already charged to the Appellant was adjusted at the time of charging of amount ₹ 15,39,604/-. The meter and CT/PT unit of the Appellant was changed vide MCO No. 100020612577 dated 06.02.2023 effected on 15.02.2023. The meter was checked in ME Lab vide Challan No. 06 dated 31.03.2023. The ME Lab reported that the result of the meter could not be obtained and act according to DDL.
- (xii) The account of the Appellant was overhauled after checking of DDL & account overhauled due to less consumption recorded from 07.01.2022 to 14.02.2023.
- (xiii) The account of the Appellant was overhauled as per the decision dated 26.05.2023 of CCGRF, Ludhiana. So the amount of ₹ 15,39,604/- was recoverable from the Appellant.

(b) Submission during hearing

During hearing on 12.07.2023, the Respondent reiterated the submissions made in the written reply to the Appeal and prayed for the dismissal of the Appeal.

5. Analysis and Findings

The issue requiring adjudication is the legitimacy of the amount of ₹ 15,39,604/- charged to the Appellant by the Respondent vide Revised Notice bearing Memo No. 820 dated 09.06.2023 on account of slowness of meter by 33.33% for a period of six months prior to the date of change of CT/PT unit & meter as per the decision of the Corporate Forum.

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

- (i) The Corporate Forum in its order dated 26.05.2023 observed as under:-

“Forum observed that connection of the petitioner was checked by ASE/Sr. Xen, Enf. cum EA & MMTS, Mandi Gobindgarh on 25.01.2023 and ECR no. 13/8023 dated 25.01.2023 was prepared. Relevant part of the ECR is reproduced under: -

“MCB ਖੋਲ੍ਹ ਕੇ ਚੈੱਕ ਕੀਤਾ ਗਿਆ ਹੈ। ਮੀਟਰ ਦੀ ਡਿਸਪਲੇ ਉਪਰ 1 ਨੰ. Segments table ਹੈ ਜਦਕਿ 2 ਅਤੇ 3 ਨੰ. Segment ਬਲਿੰਕ ਕਰ ਰਹੇ ਹਨ। ਮੀਟਰ ਦੇ ਸਕਰੋਲ ਬਟਨ ਖਰਾਬ ਹਨ। ਮੀਟਰ ਦੇ ਸਕਰੋਲ ਬਟਨ ਖਰਾਬ ਹੋਣ ਕਾਰਨ ਮੀਟਰ ਦੇ ਲੋਡ ਪੈਰਾਮੀਟਰ ਨੋਟ ਨਹੀਂ ਕੀਤੇ ਜਾ ਸਕੇ। ਮੀਟਰ ਦੀ ਟਰਮੀਨਲ ਕਵਰ ਪਲੇਟ ਖੋਲ ਕੇ ਟਰਮੀਨਲ ਬਲਾਕ ਤੇ clip on ਮੀਟਰ ਦੀ ਮਦਦ ਨਾਲ voltage ਅਤੇ ਕਰੰਟ values ਚੈੱਕ ਕੀਤੀਆਂ ਗਈਆਂ ਜੋ ਕਿ ਹੇਠ ਲਿਖੇ ਅਨੁਸਾਰ ਹੈ: -

Voltage:	R-phase – Neutral	= 62.0 V
	Y-phase – Neutral	= 61.8 V
	B-phase – Neutral	= 61.6 V
	R-phase – Y-phase	= 107.2 V
	Y-phase – B-phase	= 106.8 V
	B-phase – R-phase	= 107.3 V

Current: R-phase = 0.3 A; Y-phase = 4.6 A; B-phase = 4.7 A

ਉਪਰੋਕਤ ਤੋਂ ਸਪਸ਼ਟ ਹੈ ਕਿ R-phase ਦਾ CT contribute ਨਹੀਂ ਕਰ ਰਿਹਾ ਹੈ। CT/PT ਚੈਂਬਰ ਦਾ ਦਰਵਾਜ਼ਾ ਖੋਲ ਕੇ ਚੈੱਕ ਕੀਤਾ ਗਿਆ ਹੈ। CTs ਅਤੇ PTs ਦੀਆਂ ਸਿਕਿਉਰਿਟੀ ਸੀਲਾਂ ਦੀ ਲੈਸ਼ ਵਾਇਰ ਜੰਗ ਲੱਗਣ ਕਾਰਨ ਟੁੱਟ ਚੁੱਕੀ ਹੈ। CT/PT ਚੈਂਬਰ ਵਿੱਚ ਕਾਫੀ ਮਾਤਰਾ ਵਿੱਚ moisture ਆਇਆ ਹੋਇਆ ਹੈ। R-phase ਦੇ CT ਦੀ ਸੈਂਡਰੀ ਸਾਈਡ ਦੇ ਟਰਮੀਨਲ ਕਾਰਬਨ ਹੋਏ ਜਾਪਦੇ ਹਨ।”

In above mentioned ECR, it was directed to change the meter and CT/PT unit of the petitioner. Meter and CT/PT unit was changed vide MCO no. 100020612577 dated 06.02.2023 effected on 15.02.2023. Removed CT/PT unit was checked in ME Lab vide challan no. 06 dated 31.03.2023 wherein it was reported as under: -

“Bφ ਅਤੇ Yφ ਦੇ CTs ਦੇ ਨਤੀਜੇ ISS ਦੇ ਅਨੁਸਾਰ ਸੀਮਾ ਵਿੱਚ ਹਨ ਪਰ Rφ ਦੇ CT ਦੀ ਤਾਰ ਟੁੱਟੀ ਹੋਣ ਕਰਕੇ ਨਤੀਜੇ ਨਹੀਂ ਲਏ ਜਾ ਸਕਦੇ। ਸਾਰੇ PTs ਦੇ ਨਤੀਜੇ IS ਦੇ ਅਨੁਸਾਰ ਸੀਮਾ ਵਿੱਚ ਹਨ। ਉਪਰੋਕਤ ਨਤੀਜੇ DDL ਨਾਲ ਘੋਖ ਕਰ ਲਏ ਜਾਣ ਜੀ।”

Removed meter was checked up vide challan no. 1834 dated 08.05.2023 and it was reported as under: -

“ਮੀਟਰ ਦੀ KVAH ਮੋਡ ਤੇ ਐਕੁਰੇਸੀ ਸੀਮਾ ਵਿੱਚ ਹੈ। DDL MRI ਤੇ ਲਿਆ ਹੈ। DDL ਘੋਖ ਕੇ ਬਣਦੀ ਕਾਰਵਾਈ ਕੀਤੀ ਜਾਵੇ।”

ASE/Sr. Xen, Enf. cum EA & MMTS, Mandi Gobindgarh issued speaking orders vide Memo no. 462 dated 07.03.2023 relevant part of which is reproduced below: -

“ਮੀਟਰ ਦਾ MDAS Data ਘੋਖਣ ਤੇ ਪਾਇਆ ਕਿ ਮੀਟਰ ਦੀ ਰੀਡਿੰਗ ਵਿੱਚ ਮਿਤੀ 07/01/2022 ਤੋਂ R-Phase ਦਾ ਕਰੰਟ ਕੰਟਰੀਬਿਊਟ ਨਹੀਂ ਕਰ ਰਿਹਾ। ਜਿਸ ਕਾਰਣ ਮੀਟਰ ਰਾਹੀਂ -33.33% ਘੱਟ ਖਪਤ ਦਰਜ ਕੀਤੀ ਗਈ। ਇਸ ਲਈ ਖਪਤਕਾਰ ਦਾ ਖਾਤਾ ਮਿਤੀ 07/01/2022 ਤੋਂ ਸੀਟੀ/ਪੀਟੀ ਯੂਨਿਟ ਨੂੰ ਬਦਲੀ ਕਰਨ ਦੀ ਮਿਤੀ ਤੱਕ ਸੋਧ ਕੇ ਇਸ ਦਫਤਰ ਨੂੰ ਸੂਚਿਤ ਕੀਤਾ ਜਾਵੇ।”

In accordance with the above speaking order, AEE Comm./ DS Divn. Mandi Gobindgarh vide his Memo no. 4493 dated 13.03.2023 issued notice to petitioner to deposit an amount of Rs. 2398600/- charged on account of 33.33% slowness. Petitioner did not agree to the amount charged to him and filed his case in Corporate CGRF, Ludhiana. Forum

observed the KVAH consumption pattern of the petitioner submitted by the Respondent, reproduced below: -

KVAH	2020		2021		2022		2023	
Month	Cons	Code	Cons	Code	Cons	Code	Cons	Code
Jan	75816	O	73146	O	13398	O	89796	O
Feb	62076	O	83046	O	36936	O	23328	D
Mar			85644	O	21336	O	148944	O
Apr	57612 6408	O O	71604	O	7692	O		
May	30114	O	37776 10530	O O	24996	O		
Jun	63774	O	34980	O	31542	O		
Jul	65430	O	46860	O	34692	O		
Aug	62700	O	58602	O	52854	O		
Sep	66264	O	54942 17166	O O	85320	O		
Oct	53550	O	39396	O	22182 53862	O O		
Nov	45204	O	44484	O	86808	O		
Dec	48042	O	63342	O	51786	O		
TOTAL	636990		721518		523404		262068	

Forum observed that the annual consumption of petitioner from 2020 to 2023 (upto Mar/2023) is 636990, 721518, 523404 and 262068 (upto Mar/2023) units respectively. Forum observed that there is considerable reduction in consumption during 2022 as compared to 2021.

Forum further observed MDAS data of the meter in dispute submitted by the Respondent. As per the data, current contribution of R-phase from 07.01.2022 is continuously zero and consumption recorded by the meter is only of remaining two phases. As reported in the ECR, inside condition of CT/PT chamber was very poor. Lot of moisture was there, lash wires of security seals of CT's and PT's were found broken due to rusting and it was further observed that secondary terminals of R-phase CT appeared oxidized. Further, wire of R-phase CT was found broken in ME Lab as per ME challan no. 6 dated 31.03.2023, wherein, it was further concluded and recorded that results of B and Y phase CTs were within limits according to ISS and results of all PT's were found within limits as per ISS. That means the CT/PT unit did not record any consumption on R-phase for some time and as per MDAS data, this period of non-contribution

of R-phase CT started from 07.01.2022. However, at the same time it is also evident from the above that the CT/PT units worked properly on the remaining two phases i.e., B and Y phases. Further, accuracy of the meter was found within limits in ME Lab. Hence it is established from facts/discussion that the metering equipment worked accurately on two phases i.e., Yellow and Blue but did not work on Red phase. Therefore, this is a case of inaccurate metering in which meter was not recording 1/3rd of energy. Hence, meter recorded inaccurate consumption from 07.01.2022 and this is case of inaccurate metering. The relevant regulation of Electricity Supply Code and Related Matters Regulations-2014 dealing with inaccurate meters is reproduced under: -

21.5.1 Inaccurate Meters

If a consumer meter on testing is found to be beyond the limits of accuracy as prescribed hereunder, the account of the consumer shall be overhauled and the electricity charges for all categories of consumers shall be computed in accordance with the said test results for a period not exceeding six months immediately preceding the:

- a) date of test in case the meter has been tested at site to the satisfaction of the consumer or replacement of inaccurate meter whichever is later; or*
- b) date the defective meter is removed for testing in the laboratory of the distribution licensee.*

As per point no. (a) of the above Regulation, account of the petitioner can be overhauled for a period of upto six months only and hence amount charged to petitioner for the period from 07.01.2022 to 14.02.2023 i.e., upto date of replacement of meter is not as per ibid Regulation hence is not justified.

Petitioner through his rejoinder dated 16.05.2023 submitted that his account should not be overhauled for a period of more than 30 days in light of decision of Honorable Ombudsman in the case of M/S Diara Mining Equipments (Appeal No. 63/2015). Regarding this Forum observed that facts of both these cases are not exactly same. Although it is evident in the data of MDAS that contribution of Red phase

CT had been zero since 07.01.2022, but overhauling of account cannot be done for a period of more than six months as per above referred regulation.

However, Member/Finance did not agree to the above and expressed his dissenting opinion as under:

Connection of Petitioner was checked by ASE Enf. Cum-EA&MMTS, Mandi Gobindgarh, and as per ECR no. 13/8023 dated 25.01.2023 it was reported interalia that the meter's scroll button is defective due to this parameter of load could not be recorded. The current of R, Y, & B phase has been mentioned as 0.3A, 4.6A, & 4.7A respectively. The terminal of secondary side of CT of R phase seems carbonized and R phase is not contributing. It was directed to replace energy meter and CT/PT unit immediately & removed metering unit be brought in ME lab for further checking.

It is observed from the consumption table on page no. 14 that the consumption during the year 2021 had increased from the year 2020 and consumption in the year 2022 decreased considerably from previous years. Consumption during 01/2022 to 01/2023 varies from 7652 units per month to 86808 units per month. In some of the month consumption was reduced much more than 1/3rd which could had been reduced due to non-contribution of R phase CT's. Also, consumption after change of meter increased considerably.

It is observed that meter of the Petitioner was not tested at site nor accuracy of the meter by using ERS was determined at site, but it was checked in ME lab vide challan no. 1834 dated 08.05.2023 vide which it was found defective and accuracy on KVAH mode was found within limits. CT/PT unit was checked vide challan no. 6 dated 31.03.2023 vide which it was reported that result of B & Y phase CT's and all PT's were within limit but wire of R phase CT was found broken, due to this results of R phase CT could not be taken. So, considering the above facts and the fact that meter itself

was declared defective in ME lab although accuracy on Kvah mode was within limits and wire of the R phase CT was broken, being a part of the meter as per definition given in Reg. 2 (zo) of the Supply Code-2014. The meter in dispute is required to be treated as 'Defective Meter' for overhauling purpose.

The relevant regulation of Supply Code 2014 dealing with dead stop, burnt, defective meters is as under:

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 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.*
- 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".*

As per the speaking orders of the ASE/Sr.XEN,Enf. Cum-EA&MMTS, Mandi Gobindgarh issued vide Memo no. 462 dated 07.03.2023, the period of non-contribution on R phase

CT comes out to be more than six months i.e. 07.01.2022 to change of meter (15.02.2023), therefore, I am of the view that the account of the Petitioner should be overhauled as per regulation 21.5.2 for the period of six months prior to the date of change of metering equipment i.e., 15.02.2023 with corresponding consumption of the succeeding year as per Regulation 21.5.2 (d) of Supply Code-2014 as the consumption of the previous year is not relied upon being the meter remained defective during previous year.

Other members of the Forum considered the dissenting views expressed by Member/Finance and re-affirmed their opinion as under: -

1. The billing of the connection of the petitioner is on KVAH and accuracy of the meter has been found within limits in KVAH mode as clearly recorded on ME challan no. 1834 dated 08.05.2023 and Member/Finance has quoted the same. The field office might have erroneously (or being its scroll button defective) proposed to return the meter as defective in the ME challan but it was not actually defective. Further as per ME Lab report, result of all PT's and B & Y phase CTs were within limit but results of R phase could not be taken as wire of R phase CT was found broken hence. Therefore, meter was not recording on R phase but recording correct energies on B & Y phases and as such only 1/3rd energy was not being recorded hence, the metering equipment can be treated as in-accurate and the same cannot be treated as defective. Even ASE/Enf. Cum EA&MMTS, Mandi Gobindgarh, in his speaking order given vide memo no. 462 dated 07.03.2022 has concluded the less recording of consumption by 33.33%.
2. Further, Member/Finance has proposed the account to be overhauled as per Reg. 21.5.2(d), whereas the consumption as per Reg. 21.5.2 (a to c) is available with all the bills issued on "O" codes. Further the consumption of successive year is not available at this point so the same will be required to be overhauled tentatively with LDHF formula.

3. The metering equipment had correctly recorded 2/3rd of energy of the petitioner from 01/2022 onwards as per MDAS data, but the account cannot be overhauled for more than six months prior to the date of change of meter i.e., 15.02.2023 as per Reg. 21.5.1 of Supply Code.

Keeping in view the above, majority of the members of Corporate CGRF are still of the opinion that it will not be judicious to treat the metering equipment defective when accurate 2/3rd consumption is available. It is pertinent to mention here that in a similar case, numbered CF-90/2022 decided recently, decision was taken by Corporate CGRF on similar lines treating the metering equipment inaccurate.

Forum have gone through the written submissions made by the Petitioner in the petition, written reply of the Respondent, rejoinder by Petitioner, oral discussions made by Petitioner along with material brought on record. Keeping in view the above discussion, Forum with majority, is of the opinion that account of the petitioner is required to be overhauled for a period of six months prior to the date of change of meter & CT/PT i.e., 15.02.2023 treating the metering equipment slow by 33.33% and notice no. 4493 dated 13.03.2023 issued by the Respondent to the petitioner charging an amount of Rs. 2398600/- is liable to be quashed.

Keeping in view of the above, Forum with majority came to the conclusion that notice no. 4493 dated 13.03.2023 issued to the petitioner charging an amount of Rs. 2398600/-, be quashed. Account of the petitioner be overhauled for a period of six months prior to the date of change of CT/PT unit & meter i.e., 15.02.2023 as per Regulation no. 21.5.1 of Electricity Supply Code and Related Matters Regulations-2014, treating the metering equipment slow by 33.33%.”

(ii) I have gone through the written submissions made by the Appellant in the Appeal, written reply of the Respondent as well as oral arguments of both the parties during the hearing on

12.07.2023. The Appellant had prayed for quashing the fresh demand of ₹ 15,39,604/- and overhauling its account for one month or maximum period of 70 days as against six months ordered by the Corporate Forum on the ground that the competent officer of the Respondent was recording regular readings and never pointed out non-contribution of 'R' phase of the CT meter. The MMTS department of the Respondent was also taking regular DDL of the meter of the Appellant as per prescribed schedule, i.e., after every nearly 70 days and never pointed out the same before their checking vide ECR No. 13/8023 dated 25.01.2023. Further, online data was also available on MDAS software, but the ASE/Enf.-Cum-EA & MMTS never pointed out non-contribution from 'R' phase of the CT meter. On the other hand, the Respondent controverted the pleas of the Appellant and argued that the connection of the Appellant was checked by the Sr. Xen/ Enf.-cum-EA & MMTS vide ECR No.13/8023 dated 25.01.2023 and it was reported that *"the terminal of secondary side of CT of R-phase are carbonised and R phase is not contributing"*. As per the speaking orders of Sr. Xen/ Enf.-cum-EA & MMTS vide Memo No. 462 dated 07.03.2023, the 'R' Phase of the CT's from secondary side terminal seemed to be carbonized. MDAS

data was checked and it was observed that the current of 'R' Phase was not contributing from 07.01.2022 to 14.02.2023. So the account of the Appellant was overhauled from 07.01.2022 to 14.02.2023, i.e., date on which the meter was changed. He further argued that only the reading was recorded every month, but no accuracy of meter was checked every month. It was only when Sr. Xen/ Enf.-cum-EA & MMTS in his checking report dated 25.01.2023 reported that the 'R' phase was non-contributing & the meter & CT/PT unit be replaced & sent to the ME Lab for checking, then the meter & CT/PT unit were checked.

- (iii) It is observed by this Court that CT/PT unit was checked in ME Lab vide Challan No. 6 dated 31.03.2023 in which it was reported that result of B & Y phase CT's and all PT's were within limit but wire of R phase CT was found broken, due to which the results of R phase CT could not be taken. So, the meter was declared defective in ME Lab as the wire of the R phase CT was found broken which was a part of the Metering Equipment. Hence, the meter in dispute is required to be treated as 'Defective Meter' for overhauling purpose. Also, the accuracy of the Metering Equipment comprising of meter & the CT/PT unit was neither checked at site nor in ME Lab to

determine the slowness factor of this metering equipment. So the account of the Appellant cannot be overhauled with a vague slowness factor of 33.33%. The disputed meter is to be treated as 'Defective' & the account of the Appellant be overhauled as per Regulation 21.5.2 of Supply Code-2014 and not as per Regulation 21.5.1 as decided by the Corporate Forum. As per the speaking orders of Sr. Xen/ Enf.-cum-EA & MMTS vide Memo No. 462 dated 07.03.2023, the current of 'R' Phase was not contributing from 07.01.2022 to 14.02.2023. But as per Regulation 21.5.2, the maximum period for which the account of the Appellant can be overhauled is not more than six months. However, since the current of 'R' Phase was not contributing from 07.01.2022 to 14.02.2023, so the consumption of the previous year cannot be relied upon. As such, the account of the Appellant be overhauled for the period of six months immediately preceding the date of replacement of meter on the basis of actual consumption recorded in the corresponding period of the succeeding year as per Regulation 21.5.2 (d) of the Supply Code-2014.

- (iv) The Appellant had also argued in its Appeal that its account cannot be overhauled on the basis of corresponding period of succeeding year or with LDHF Formula, when consumption of

previous period with Okay status of the meter was available. The Appellant further contended that the accuracy of the meter had been found within limits in kVAh mode as clearly mentioned in ME Lab Report. Moreover, as per ME Lab Report, result of all PT's and B & Y phase CTs were within limit but results of 'R' phase could not be taken as wire of 'R' phase CT was found broken. Therefore, meter was not recording on 'R' phase but recording correct energies on B & Y phases. The Court observed that this contention of the Appellant is self-contradictory and not based on any facts. Since the R phase CT was found broken and it was a part of the metering equipment, so the previous year consumption cannot be relied upon as the metering equipment was Defective.

- (v) In view of the above, this Court is not inclined to agree with the decision dated 26.05.2023 of the Corporate Forum in Case No. CF-050/2023. The account of the Appellant be overhauled for the period of six months immediately preceding the date of replacement of meter on the basis of actual consumption recorded in the corresponding period of the succeeding year as per Regulation 21.5.2 (d) of the Supply Code-2014.

6. Decision

As a sequel of above discussions, the order dated 26.05.2023 of the CCGRF, Ludhiana in Case No. CF-050/2023 is amended to the extent that the account of the Appellant be overhauled for the period of six months immediately preceding the date of replacement of meter on the basis of actual consumption recorded in the corresponding period of the succeeding year as per Regulation 21.5.2 (d) of the Supply Code-2014.

7. The Appeal is disposed of accordingly.
8. As per provisions contained in Regulation 3.26 of Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations-2016, the Licensee will comply with the award/order within 21 days of the date of its receipt.
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 12, 2023
S.A.S. Nagar (Mohali).

(ANJULI CHANDRA)
Lokpal (Ombudsman)
Electricity, Punjab.