

**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. 18/2022

Date of Registration : 16.03.2022

Date of Hearing : 29.03.2022

Date of Order : 29.03.2022

Before:

**Er. Gurinder Jit Singh,
Lokpal (Ombudsman), Electricity, Punjab.**

In the Matter of:

M/s. Vikas Industries, E-561,
Phase-VI, Focal Point,
Ludhiana.

Contract Account Number: 3002809832 (LS)

...Appellant

Versus

Addl. Superintending Engineer,
DS Focal Point (Spl.) Divn.,
PSPCL, Ludhiana.

...Respondent

Present For:

Appellant: Sh. Vishal Jindal,
Appellant's Representative.

Respondent : Er. Manik Bhanot,
AEE/ Commercial,
O/o ASE/ DS Focal Point (Spl.) Divn.,
PSPCL, Ludhiana.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 24.01.2022 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-421 of 2021, deciding that:

- i. *“Account of the Petitioner is required to be overhauled for six months preceding the date of first checking by ASE/ EA & MMTS-1, Jalandhar vide ECR no. 22/201 dated 16.08.2017 and from 16.08.2017 upto the date of replacement of CTPT i.e., 23.03.2019 by enhancing the consumption of this period by 12%. Amount of Rs. 292338/- be re-worked out & the same be recovered with applicable rate of Interest/Surcharges as per PSPCL instructions.*
- ii. *Matter of non-replacement of CT/PT unit for continuous period of 31 months (08/2017 to 03/2019) be investigated by the office of Dy. CE/East Circle and necessary action be taken against concerned officers/officials.”*

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 16.03.2022 i.e. beyond the period of thirty days of receipt of decision dated 24.01.2022 of the CGRF, Ludhiana in Case No. CGL-421 of 2021. The Appellant deposited the requisite 40% of the disputed amount. Therefore, the Appeal was registered on 16.03.2022 and copy of the same was sent to the Addl. SE/ DS

Focal Point (Spl.) Divn., PSPCL, Ludhiana for sending written reply/ parawise comments with a copy to the office of the CGRF, Ludhiana under intimation to the Appellant vide letter nos. 261-63/OEP/A-18/2022 dated 16.03.2022.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 29.03.2022 at 01.00 PM and intimation to this effect was sent to both the parties vide letter nos. 293-94/OEP/A-18/2022 dated 22.03.2022. As scheduled, the hearing was held in this Court and arguments of both the parties were heard.

4. Condonation of Delay

At the start of hearing on 29.03.2022, the issue of condoning of delay in filing the Appeal in this Court was taken up. The Appellant's Representative stated that the Respondent issued the fresh Demand Notice to the Appellant vide Memo No. 400 dated 04.03.2022 after implementing the decision dated 24.01.2022 of the Forum and the Appeal was filed within 30 days from the date of issue of said demand notice. The Appellant's Representative further prayed that the delay in filing the present Appeal be kindly condoned and the Appeal be adjudicated on merits in the interest of justice.

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 30 days from the date of receipt of the order of the Forum.

Provided that the Ombudsman may entertain a representation beyond 30 days on sufficient cause being shown by the complainant that he/she had reasons for not filing the representation within the aforesaid period of 30 days.”

The Court observed that the Respondent issued the fresh Demand Notice to the Appellant on 04.03.2022 i.e. beyond the period of 21 days from the date of receipt of decision dated 24.01.2022 of the Forum. The Appeal was received in this Court on 16.03.2022 i.e. after more than 30 days of receipt of the said order but within 30 days of receipt of fresh demand raised by the Respondent after implementing the decision of the Forum. It was also observed that non-condoning 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

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 its Appeal for consideration of this Court:-

- (i) The Appellant was having a Large Supply Category Connection, bearing Account No. 3002809832 with sanctioned load of 134.629 kW and CD 150 kVA in the name of M/s. Vikas Industries under DS Focal Point (Spl.) Divn., PSPCL, Ludhiana.
- (ii) The Appellant submitted that an amount of ₹ 2,92,338/- was charged to it for slowness of meter by 12% for the period of

more than 3 years. The Appellant was not satisfied with the amount raised against him.

- (iii) The Appellant deposited an amount of ₹ 81,642/- on 20.09.2017 against the Notice No. 2154 dated 05.09.2017 which was withdrawn. The Appellant approached the Forum but was not satisfied with the decision of the Forum and filed the Appeal in this Court.
- (iv) The Appellant prayed to quash the decision of the Forum and to overhaul its account for 6 months as per PSPCL's applicable rules/ regulations.

(b) Submission during hearing

During hearing on 29.03.2022, 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) The Appellant was having a Large Supply Category Connection bearing Account No. 3002809832 with sanctioned load/ contract demand as 134.63 kW/ 150 kVA under DS Focal Point (Spl.) Divn., PSPCL, Ludhiana.

- (ii) The Appellant was charged ₹ 81,642/- for 20% meter slowness on R Phase of its CT plus 3% Transmission Losses as per speaking orders of ASE/ MMTS-1, Ludhiana vide letter no. 498 dated 01.09.2017. The connection was again checked vide ECR No. 18/2977 dated 26.11.2018 and ECR No. 13/3120 dated 22.03.2019 and as per the ECR report, the CT/ PT unit was replaced and checked in ME Lab vide Challan No. 86 dated 08.04.2019.
- (iii) The ASE/ MMTS-1, Ludhiana issued speaking order vide letter no. 144 dated 11.04.2019 that the Red phase of CT/ PT unit was contributing less by 36% and since as per meter DDL report the Red phase was contributing less, so the account of the Appellant should be overhauled from 01.08.2015 to 23.03.2019 i.e. date of change of CT/ PT unit by enhancing the consumption by 12%.
- (iv) Although, the Appellant was charged with ₹ 2,92,338/- vide Notice No. 611 dated 09.03.2020 but after revision, net amount of ₹ 1,96,573/- was charged to the Appellant after adjusting Government subsidy and amount already charged i.e. ₹ 81,642/- vide letter no. 2154 dated 05.09.2017.
- (v) The Appellant approached the ZDSC for settlement of dispute but ZDSC deliberated the case and found that the Appellant had

not deposited 20% of the disputed amount. The case was thereby dismissed.

- (vi) The Appellant then approached the CGRF, Ludhiana. The Forum decided the case on 24.01.2022 and gave a final order in this case stating that the amount charged to the Appellant against meter slowness was correct and recoverable. The Appellant was not satisfied with the decision of the CGRF, Ludhiana and filed the Appeal in this Court against the decision of the Forum.

(b) Submission during hearing

During hearing on 29.03.2022, the Respondent reiterated the submissions made in the written reply to the Appeal and prayed for the dismissal of the Appeal. The Respondent admitted during hearing on 29.03.2022 that slowness of 12% worked out by Addl. SE/ MMTS-1, Ludhiana is not correct. It is against the regulations. He also admitted that the period of overhauling should be restricted to six months as per regulation.

6. Analysis and Findings

The issue requiring adjudication is the legitimacy of notice issued by the Respondent vide Memo no. 611 dated 09.03.2020 for ₹ 2,92,338/- on account of slowness of meter by (-) 12% as

per speaking orders of the ASE/ MMTS-1, Ludhiana further revised to ₹ 1,75,374/- vide notice no. 400 dated 04.03.2022 in compliance of decision dated 24.01.2022 of the Forum.

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

- (i) The Appellant's Representative (AR) reiterated the submissions made in the Appeal. He pleaded that the Appellant was charged ₹ 2,92,338/- for slowness of meter by 12% for the period of more than 3 years. He prayed that decision of the Forum be quashed and the account of the Appellant be overhauled for a period of 6 months as per PSPCL guidelines.
- (ii) On the other hand, the Respondent controverted the pleas raised by the Appellant in its Appeal and reiterated the submissions made by the Respondent in the written reply. The Respondent argued that the CT/PT unit of the Appellant was checked in ME Lab vide Challan No. 86 dated 08.04.2019 and the ASE/ MMTS-1, Ludhiana issued speaking orders vide Memo No. 146 dated 11.04.2019 that the Red phase of CT/PT unit was contributing less by 36% and since as per meter DDL report, the Red phase was contributing less, so the account of the Appellant should be overhauled from 01.08.2015 to 23.03.2019 i.e. date of change of meter by enhancing the consumption by

12%. The Appellant was charged with ₹ 2,92,338/- vide Notice No. 611 dated 09.03.2020 but after revision, net amount of ₹ 1,96,573/- was charged to the Appellant after adjusting Government subsidy and amount already charged = ₹ 81,642/- vide letter no. 2154 dated 05.09.2017. The Respondent prayed for the dismissal of the Appeal.

(iii) The Forum in its order dated 24.01.2022 observed as under:

“Forum observed that the Petitioner connection was checked by ASE EA/MMTS Shakti Sadan, Jalandhar vide ECR no. 22/201 and 23/201 dated 16.08.2017 wherein it was found that current on R phase of CT/PT unit was less contributing. Due to non-submission of DDL data taken by MMTS-1 Jalandhar, data was downloaded vide ECR no. 43/2961 dated 24.08.2017. Respondent raised notice no. 1953 dated 21.08.2017 by enhancing consumption on one phase and sort clarification vide his memo no. 1965 dated 21.08.2017 about how much percentage was red phase CT was not contributing. Connection of the Petitioner was checked again vide ECR no. 47/2961 dated 31.08.2017 wherein accuracy was checked by LT-ERS meter on dial test and it was found that against 2.5 units recorded on LT-ERS meter, meter was recording only 2 units means meter was slow by 20% and necessary action was asked to be taken after considering 3 % transmission charges. ASE MMTS-1 Ludhiana vide his memo no. 498 dated 01.09.2017 issued speaking orders which were, consumption of the petitioner needs to be enhanced by 23% for six months prior to 16.08.2017 till the replacement of CT/PT unit and accordingly notice raised vide memo no. 1853 dated 21.08.2017 by respondent be revised. Respondent issued revised notice vide memo no. 2154 dated 05.09.2017 amounting Rs. 81642/- as per speaking order above. CT/PT of the Petitioner was checked in ME lab vide challan no. 86 dated 08.04.2019 and ASE MMTS-1 Ludhiana issued speaking orders on ME report vide its memo no. 146 dated 11.04.2019 as per which account of the Petitioner was overhauled from 01.08.2015 to change of meter i.e. 23.03.2019 by enhancing the consumption by 12% due to non contribution of Red phase and amount of Rs. 292338/- was calculated and notice no. 611 dated 09.03.2020 was raised of Rs. 196573/- after adjusting govt. rebate and Rs. 81642/- (amount already charged vide notice no. 2154 dated 05.09.2017). Forum observed that as per the speaking orders of ASE MMTS-1 Ludhiana red phase CT was contributing less to the tune of 36% and further as per ME lab report result of R phase CT's are out of permissible

limit. Therefore, it can be adjudged that the working of meter equipment was not correct and hence was defective.

Relevant regulation of Supply Code dealing with overhauling of accounts in case of defective meter is here under:

Regulation 21.5.2 of Supply Code 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”.*

However, forum further observed that the CT/PT unit was not replaced by Respondent even after the observations regarding immediate replacement of CT/PT unit in various ECRs placed on record (22/201 dated 16.08.2017 and 47/2961 dated 31.08.2017), which shows sheer negligence on Respondent's part leading to recurring revenue loss to PSPCL, this matter needs to be investigated and action be taken against concerned officers/officials accordingly. Furthermore, it has been observed that delay in replacement of defective CT/PT unit gave an advantage/benefit of utilizing more energy as compared to energy recorded by the defective metering equipment, to the petitioner (unknowingly to him) at the cost of PSPCL, which should not had have happened.

Therefore, keeping in view of the above, Forum is of the opinion that the a/c of the Petitioner is required to be overhauled for six months preceding the date of first checking by ASE EA & MMTS-1, Jalandhar vide ECR no. 22/201 dated 16.08.2017 and from 16.08.2017 up to the date of replacement of CTPT i.e., 23.03.2019 by enhancing the consumption of this period by 12%. Amount of Rs. 292338/- be re-worked out & the same be recovered with applicable rate of Interest/Surcharges as per PSPCL instructions.”

- (iv) 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 29.03.2022. The contention of the Appellant is that its account should be overhauled for maximum six months as per Regulation No. 21.5 of Supply Code, 2014. I agree with the contention of the Appellant that the Forum had erred in deciding to overhaul the account of the Appellant for the period of more than two years from 16.02.2017 to 23.03.2019. As per the ME Lab report on Store Challan No. 86 dated 08.04.2019, the disputed CT/ PT unit was defective. CT/PT unit is a part of Meter as per definition of Meter given in Regulation 2 (zo) of Supply Code, 2014. Since the CT/PT unit is defective, so the whole Meter shall be treated as defective. The account of the Appellant should be overhauled for six months prior to replacement of the CT/PT unit on 23.03.2019 by treating the meter as defective as per Regulation No. 21.5.2 of Supply

Code, 2014. The Appellant cannot be penalized for the misdeeds of the employees of the Respondent. The account cannot be overhauled on the basis of consumption recorded during the previous year as during that period also the CT/ PT unit was defective. As such, the account of the Appellant should be overhauled for the maximum period of 6 months preceding the date of replacement of disputed CT/PT unit, i.e. from 24.09.2018 to 23.03.2019 on the basis of corresponding consumption of succeeding year as per Regulation No. 21.5.2 (d) & (e) of Supply Code, 2014.

- (v) The ASE, MMTS-1, Ludhiana issued speaking orders vide its Memo No. 146 dated 11.04.2019 as per which the account of the Appellant was overhauled from 01.08.2015 to 23.03.2019 by enhancing the consumption by 12 % due to non-contribution of Red Phase. These orders are not based on any regulation & hence are illegal. 12 % slowness of Meter was not determined at site or in ME lab as per Regulation No. 21.3.6 of Supply Code, 2014. The Respondent had failed to justify these orders of MMTS during hearing on 29.03.2022.
- (vi) The Respondent failed to replace the CT/ PT unit as per checking report of the ASE/EA & MMTS-1, Jalandhar dated 16.08.2017 within the stipulated period of 10 working days as

per Standards of Performance laid down in Supply Code-2014. The CT/PT unit was replaced on 23.03.2019 after a gap of more than 19 months. The officials of the Respondent did not adhere to the Standards of Performance resulting in revenue loss to the Licensee. This should be investigated and action should be taken against erring officers/officials for giving undue benefit to the Appellant.

- (vii) In view of the above, this Court is not inclined to agree with the decision dated 24.01.2022 of the Forum in Case No. CGL-421 of 2021. The Account of the Appellant should be overhauled for six months prior to date of replacement of disputed CT/PT unit, i.e. from 24.09.2018 to 23.03.2019 on the basis of corresponding consumption of succeeding year as per Regulation No. 21.5.2 (d) & (e) of Supply Code, 2014.

7. Decision

As a sequel of above discussions, the order dated 24.01.2022 of the CGRF, Ludhiana in Case No. CGL-421 of 2021 is hereby quashed. The Account of the Appellant should be overhauled for six months prior to date of replacement of disputed CT/ PT unit, i.e. from 24.09.2018 to 23.03.2019 on the basis of corresponding consumption of succeeding year as per Regulation No. 21.5.2 (d) & (e) of Supply Code, 2014. The

applicable rates in respect of assessed consumption shall be as per tariff orders issued by the Commission from time to time.

8. The Appeal is disposed of accordingly.
9. 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.
10. 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.

March 29, 2022
S.A.S. Nagar (Mohali)

(GURINDER JIT SINGH)
Lokpal (Ombudsman)
Electricity, Punjab.