

**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. 20/2023

Date of Registration : 07.08.2023

Date of Hearing : 17.08.2023

Date of Order : 17.08.2023

Before:

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

In the Matter of:

M/s. K.P.Agro,
Village Rouni, Near Jore Pul,
Tehsil Payal, Distt. Ludhiana.

Contract Account Number:K36LS0100004 (LS)

...Appellant

Versus

Addl. Superintending Engineer,
DS Division, PSPCL,
Khanna.

...Respondent

Present For:

Appellant: Sh. Gurcharan Singh Mittal,
Appellant's Representative.

Respondent : 1. Smt. Parvinder Kaur,
Revenue Accountant,
O/o AE/ DS S/D,
PSPCL, Jarg.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 27.06.2023 of the Corporate Consumer Grievances Redressal Forum, Ludhiana (Corporate Forum) in Case No. CF-058/2023, deciding that:

“Notice no. 907 dated 19.05.2022 issued to the petitioner charging an amount of Rs. 545619/- is quashed. Account of the petitioner be overhauled for the period from 07.12.2020 i.e. when first non-contribution of B-phase was recorded in MDAS-Data; up to date of replacement of meter and CT/PT units i.e. 21.03.2021; on the basis of the average of the consumption recorded in the corresponding period of previous year in view of Regulation no. 21.5.2(a) of Electricity Supply Code and Related Matters Regulations-2014.”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 04.08.2023 i.e. within the period of thirty days of receipt of the decision dated 27.06.2023 of the CCGRF, Ludhiana in Case No. CF-058/2023, received by the Appellant on 05.07.2023. The Respondent was asked vide letter no. 568/OEP/M/s. K.P. Agro dated 04.08.2023 to confirm whether the Appellant had deposited the requisite 40% of the disputed amount. The Respondent confirmed vide Memo No. 820 dated 07.08.2023 that the Appellant had deposited the requisite 40% of the disputed amount. Therefore, the Appeal was registered on 07.08.2023 and copy of the same

was sent to the Addl. SE/ DS Divn., PSPCL, Khanna for sending written reply/ parawise comments with a copy to the office of the CCGRF, Ludhiana under intimation to the Appellant vide letter nos. 571-73/OEP/A-20/2023 dated 07.08.2023.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 17.08.2023 and intimation to this effect was sent to both the parties vide letter nos. 582-83/OEP/A-20/2023 dated 10.08.2023. 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. K36LS0100004, in the name of M/s. K.P.Agro with Sanctioned Load of 245.154 kW/CD 252 kVA under DS Division, PSPCL, Khanna. The nature of business was Rice Sheller being Seasonal Industrial Connection.
- (ii) The Connection of the Appellant was checked by the Enforcement Wing on 24.02.2021 as per ECR No. 31/3799 and it was observed that due to some fault in meter, it needed replacement. It was also ordered to replace the CT-PT Unit. The PSPCL changed his meter as per MCO No. 181/2429, affected on 21.03.2021. However, all the bills were being issued to the Appellant on the basis of measured consumption with 'OK' status and there was no dispute as all the bills were paid and accepted by the Respondent.
- (iii) After replacement of the meter, all of a sudden, the Respondent sent the Appellant a Notice No. 907 dated 19.05.2022 (on the basis of Speaking Orders of Enforcement Staff issued on 17.05.2022 i.e. one year after the checking) for depositing ₹ 5,45,613/- due to overhauling of the Appellant's account for the period 01.09.2020 to 21.03.2021 (6 months) on the basis of consumption of corresponding previous year.

- (iv) The Appellant was not satisfied with the above charged amount and challenged the above Notice before the Corporate Forum vide Case No. CF-058/2023 which was decided by the Corporate Forum on 27.06.2023.
- (v) As per the decision of the Corporate Forum, instead of giving suitable relief, the charged amount of ₹ 5,45,613/- had now been increased to ₹ 5,52,121/- which was intimated by the Respondent vide Revised Notice No. 740 dated 17.07.2023.
- (vi) The Corporate Forum had established the Slowness Factor on the basis of MDAS Data instead of ME Lab metering equipment test results. There was no provision in Supply Code to charge a consumer on the basis of MDAS specifically when the PSPCL had issued a bill with 'OK' status. The Appellant had received all the bills with 'OK' status for the period his account had been overhauled. The account can be overhauled for the previous period, if the Slowness Factor had been established in the ME Lab or at site & 'D' code bills were issued. But in the Appellant's Case, no authority had declared that the meter was working slow nor the Appellant received any bill with 'D' Code status. All the bills were issued with 'O' Code which meant that the meter was working 'OK'.

(vii) Regulation 21.3.6 (a) of the Supply Code had been enumerated as under:-

“21.3.6 Testing of Inaccurate Meters

a) The distribution licensee shall have the right to test any consumer meter and related equipment, either at site or in the laboratory, if there is a reasonable doubt about its accuracy and the consumer shall co-operate with the distribution licensee in conducting the test. The consumer shall have the right to be present during such testing. A copy of the test results indicating the accuracy of the meter shall be provided to the consumer.”

The accuracy test was not determined by Checking Agency and procedure of checking was not in line with above Regulation.

The Corporate Forum had itself observed on page 11 of the decision “Forum feels that observations recorded by Sr. Xen/ Enf. cum EA & MMTS, Khanna in ECR and speaking orders appears to be casual, inconclusive and are based upon assumptions...”

As per above observation of the Corporate Forum and checking procedure done in this case, it was very clear that the Corporate Forum had admitted that accuracy had been determined neither at site nor in ME Lab. Also even observed that Speaking Orders of the Checking Agency was not showing true picture of the meter. But instead of ordering rechecking of the meter, the Corporate Forum took Report of MDAS and ordered to overhaul the account from 07.12.2020 (taking plea that Blue

Phase CT had not been contributing since 07.12.2020 as per MDAS Report). Whereas the meter was checked only on 24.02.2021 and meter was replaced on 21.03.2021. If for arguments sake, we presume that Blue Phase CT had not been contributing since 07.12.2020, then why this fact was not established and authenticated in test results done by Enforcement at site. Moreover, there was no provision in Supply Code to charge a Consumer on the basis of MDAS Data. The decision of the Forum was therefore, against the provisions of Supply Code Regulations and was also unnatural and not in line with set prescribed procedure of checking of metering accuracy.

- (viii) It was also submitted for kind perusal of this Court that on one side, the Forum was taking the date 07.12.2020 as per MDAS Data by taking plea that Blue Phase CT had not been contributing. If it was so, then the consumption was required to be proportionately enhanced by taking One Phase not working and overhauling was to be done as per Regulation 21.5.1(a) of Supply Code which dealt with “inaccurate meter”. By taking the One Phase dead meant that the meter was slow by 33% and consumption of same month was required to be enhanced by making it 100% on the basis on actual Slowness of Meter. But

the Forum on the one hand taking date of 07.12.2020 assuming that “Blue Phase CT not contributing” but ordering to overhaul the account from 07.12.2020 treating the meter as “Defective” under Regulation 21.5.2 of Supply Code which dealt with “defective meter” only. In this Case, the Respondent had issued all previous bills with ‘OK’ status upto 24.02.2021 (date of checking) and overhauling of account from previous date i.e. 07.12.2020 was not justified as neither the meter had been shown as “..% slow” nor it was declared as “defective” as the Appellant had received the previous bills with ‘OK’ status.

(ix) The Respondent had charged the difference of units by applying Rate of ₹ 5.98 which was not correct. As per Tariff Policy of the Hon’ble PSERC, the Respondent could not charge more than ₹ 5/- per unit being subsidized Rate. In this way an amount of ₹ 89,413/- (i.e. 76032 units x .98 = 74511 plus 20% ED/ other cess) was straightway excess charged and the CCGRF had also erred in deciding the issue even bringing it into its notice. As per Tariff, the Respondent could not charge more than that Rate allowed by the PSERC/ TARIFF NOTIFICATIONS.

(x) The Appellant prayed that the amount charged for the period 07.12.2020 to date of checking i.e. 24.02.2021 be quashed as

there was no provision in Supply Code Regulation 21.5 to charge a consumer on the basis of MDAS Data, specifically in Case when Consumer was being served all previous period bills with Status “OK” which had already been issued and paid. However, if any discrepancy was found as per checking dated 24.02.2021, the same be charged w.e.f 24.02.2021 to date of effecting of MCO i.e. 21.03.2021 as per complete testing of meter as the Forum had itself declared the Enforcement Checking and Speaking Orders were incomplete, inconclusive and based on assumptions. It was further submitted that variation in consumption was not due to faulty meter, but it was due to season to season production being a Seasonal Industry.

- (xi) The Appellant prayed that if any amount was chargeable, the same be ordered to be charged as per Tariff Policy of Subsidized Rate which was ₹ 5/- per Unit as the Appellant was already being issued bills @ of ₹ 5/- per Unit and paid by the Appellant. There was no provision to issue arrear bill on the basis of non subsidized Rate.
- (xii) The Appellant prayed for any other relief which this Court deemed fit as per provisions of Supply Code/ other instructions applicable in this Case.

(b) Submissions made in the Rejoinder

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

- (i) The Respondent had not replied to para 1 of the Appeal which meant it had nothing to say as to under what rules it had charged the amount taking base of MDAS data as there was no provision in Supply Code to overhaul the account on the basis of MDAS data, specifically in a case when all the bills had been issued on OK code basis. Showing meter status OK means “meter working OK”.
- (ii) The Respondent had also failed to establish accuracy test of the meter on the basis of prescribed Regulations neither at site nor in ME Lab. The Respondent had explained that “it appears that B phase of the CT/PT might not have been contributing prior to 09.01.2021”, meant that there was no authenticated site testing report showing actual slowness factor of the meter. There was no provision in Supply Code regarding overhauling of account on the basis of this “presumption” specifically when the Respondent had issued bills during this period showing as meter status OK. The Respondent had also failed to explain under what Regulations the amount had been charged and the

Corporate Forum, Ludhiana had also erred in concluding the actual slowness period.

- (iii) In the present case, the amount had been charged presuming that CT/ PT were not contributing. If it was so, it had to be determined what the slowness factor was and the existing consumption was required to be enhanced by adding that slowness percentage to make it to 100%. But not even a single checking report was there which proved the actual slowness of the meter. Rather the CCGRF had also observed *“that speaking orders of Sr.Xen/ Enf. in ECR appears to be casual, inconclusive and are based on assumptions”*.
- (iv) It was also submitted that in case of meters, where actual slowness factor was not determined, in such cases it could be treated that meter was ‘defective’ (and not inaccurate/ meant slowness not ascertained). Then, in such case, the account could be overhauled only from the date when the meter was checked i.e. 24.02.2021 to the date of replacement of meter i.e. 21.03.2021. But in the present case, provisions of both Regulations 21.5.1 and 21.5.2 of Supply Code had been applied by intermixing both the provisions for getting maximum average formula and ignoring the prescribed procedure of

charging the amount. The Appellant was ready to pay whatever was payable as per rules.

- (v) The Respondent had not replied to para B of the Appeal regarding charging rate as ₹ 5.98 instead of ₹ 5/- as prescribed in Tariff, which meant that it had nothing to explain. Therefore, it was prayed to order to charge the amount, if any recoverable, only as per Tariff approved by the PSERC as already explained in para B of Appeal. There was no provision to charge a consumer more than that as prescribed in the Tariff.

(c) Submission during hearing

During hearing on 17.08.2023, the Appellant's Representative (AR) reiterated the submissions made in the Appeal as well as in the Rejoinder 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 Sr.Xen/ Enf. Cum EA&MMTS, Khanna checked the LS connection no. LS01/004 of the Appellant vide ECR No. 31/3799 dated 24.02.2021. It was found on the display of the meter that out of 123 segments, 3 segment was still on the running load and there was star sign (*) on the display of the

meter. The current of three phases on the display of the meter could not be checked due to defect in scroll button of the meter. Even after so many efforts, DDL of the meter could not be taken. The following values of voltage and current were recorded with the help of clip on meter by opening the terminal plate of the meter:-

Phase	Voltage	Phase	Voltage	Phase	Current
RN	45.2	RY	33.3	R	1.8A
YN	16.6	YB	70.03	Y	1.2A
BN	60.5	BR	104.8	B	0.2A

- (ii) The DS Sub Division, PSPCL, Jurg was directed to get the meter & CT/ PT unit replaced & get them checked from the ME Lab. The disputed meter & CT/ PT unit were replaced vide MCO No. 181/2429 dated 24.02.2021. The DS Sub Division, PSPCL, Jarg after getting the DDL, sent the printout of the same to the Sr.Xen/ Enf. Cum EA&MMTS, Khanna vide letter no. 738 dated 11.04.2022 for the speaking orders. It was mentioned in the speaking orders that after examining the printout of load survey of the DDL of the meter, it was found that the DDL was of the period from 09.01.2021 to 19.03.2021.

As per this printout of load survey, the B Phase CT of the CT/PT unit was not contributing current to the meter from 09.01.2021. From this, it appeared that the B Phase CT of the CT/PT unit was not contributing the current to the meter even before 09.01.2021. The Sr.Xen/ Enf. cum EA&MMTS, Khanna instructed the office of the Respondent to overhaul the account of the Appellant on the basis of consumption of the corresponding period of the previous year as per Instruction No. 21.5 of the ESIM.

- (iii) The DS Sub Division, PSPCL, Jarg overhauled the account of the Appellant and asked the Appellant vide Notice No. 907 dated 19.05.2022 to deposit the sum of ₹ 5,45,613/-. The annual kVAh consumption of the Appellant from 2016 onwards was as under:

Year	kVAh Consumption
2016	301578
2017	296070
2018	297752
2019	289847
2020	276310

But in the year 2021, when the meter of the Appellant got defective, the kVAh consumption was recorded as 191620.

(iv) The Appellant filed its petition in the Corporate Forum, Ludhiana on 03.05.2023 and the same was decided on 27.06.2023. As per the decision of the Corporate Forum, Ludhiana, the account of the Appellant was overhauled for the period (07.12.2020 to 21.03.2021) on the basis of consumption of corresponding period of previous year. The Appellant was asked to deposit the sum of ₹ 5,52,121/- vide Fresh Notice No. 740 dated 17.07.2023. The Appellant was not satisfied with the decision of the Corporate Forum, Ludhiana and filed its Appeal in this Court.

(b) Submission during hearing

During hearing on 17.08.2023, 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 ₹ 5,52,121/- charged to the Appellant vide revised Notice No. 740 dated 17.07.2023 after the implementation of the orders of the Corporate Forum.

My findings on the points that emerged and my analysis is as under:

- (i) The Corporate Forum in its order dated 27.06.2023 observed as under:-

“Forum observed that Connection of the petitioner was checked by ASE/ Sr. Xen, Enf. cum EA & MMTS, Khanna on 24.02.2021 and ECR no. 31/3799 dated 24.02.2021 was prepared. Relevant part of the ECR is reproduced under: -

“ਮੀਟਰ Disp. ਉਪੱਰ 123 ਸੈਗਮੈਂਟਾਂ ਵਿੱਚੋਂ 3 ਸੈਗਮੈਂਟ ਲੋਡ ਸਥਿਰ ਹੈ ਅਤੇ * ਆ ਰਿਹਾ ਹੈ। ਮੀਟਰ ਦੇ ਸਕਰੇਲ ਬਟਨ ਖਰਾਬ ਹੋਣ ਕਰਕੇ ਮੀਟਰ Disp. ਉਪੱਰ ਤਿੰਨੋਂ ਫੇਜ਼ਾਂ ਉਪੱਰ ਚਲਦਾ ਕਰੰਟ ਰਿਕਾਰਡ ਨਹੀਂ ਹੋ ਸਕਿਆ। ਮੀਟਰ ਦਾ DDL ਕਰਨ ਦੀ ਕਾਫੀ ਕੋਸ਼ਿਸ ਕੀਤੀ ਗਈ ਪ੍ਰੰਤੂ DDL ਨਹੀਂ ਹੋ ਸਕਿਆ। ਮੀਟਰ ਦੀ ਟਰਮੀਨਲ ਪਲੇਟ ਖੋਲਕੇ ਮੀਟਰ ਦੇ PT ਟਰਮੀਨਲਾਂ ਤੇ ਕਲਿੱਪ ਆਨ ਮੀਟਰ ਨਾਲ ਹੇਠ ਲਿਖੇ ਅਨੁਸਾਰ voltage ਰਿਕਾਰਡ ਕੀਤੀ ਗਈ: -RN- 45.2, YN- 16.6, BN- 60.5, RY- 33.3, YB- 70.3, BR- 104.8, ਸੀਟੀ ਦੀਆਂ ਸੈਕੰਡਰੀ ਤਾਰਾਂ ਵਿੱਚ ਕਲਿੱਪ ਆਨ ਮੀਟਰ ਨਾਲ ਚਲਦਾ ਕਰੰਟ ਵੀ ਚੈੱਕ ਕੀਤਾ ਗਿਆ। R phase CT ਵਿੱਚ 1.8 A, Y phase CT ਵਿੱਚ 1.2 A, B phase CT ਵਿੱਚ 0.2 A ਰਿਕਾਰਡ ਕੀਤਾ ਗਿਆ। ਸਪਲਾਈ ਕਟਵਾਕੇ B phase CT ਦੀਆਂ ਸੈਕੰਡਰੀ ਤਾਰਾਂ ਨੂੰ ਟਰਮੀਨਲਾਂ ਵਿੱਚੋਂ ਬਾਹਰ ਕੱਢਕੇ ਕੰਟੀਨਿਊਟੀ ਚੈੱਕ ਕੀਤੀ ਗਈ ਜੋ show ਨਹੀਂ ਹੋ ਰਹੀ ਸੀ। ਜਿਸਤੋਂ ਜਾਪਦਾ ਹੈ ਕਿ B phase ਦਾ CT ਮੀਟਰ ਨੂੰ ਕਰੰਟ ਕੰਟਰੀਬਿਊਟ ਨਹੀਂ ਕਰ ਰਿਹਾ ਜਿਸ ਕਰਕੇ ਮੀਟਰ B phase ਦੀ ਖਪਤ ਰਿਕਾਰਡ ਨਹੀਂ ਕਰ ਰਿਹਾ। CT/PT ਚੈੱਬਰ ਖੋਲਕੇ ਵੇਖਿਆ ਕਿ CT/ PT ਅੰਦਰ ਕਾਫੀ ਜੰਗਾਲ ਲੱਗਾ ਹੈ। ਸਕਿਉਰਟੀ ਸੀਲਾਂ ਜੰਗਾਲ ਕਾਰਨ ਟੁੱਟੀਆਂ ਪਈਆਂ ਹਨ। CT's ਅਤੇ PT's ਫਿਜ਼ੀਕਲੀ ਵੇਖਣ ਨੂੰ ਠੀਕ ਜਾਪਦੇ ਹਨ। ਇਸ ਲਈ ਇਸ ਮੀਟਰ ਅਤੇ ਖਰਾਬ CT/ PT unit ਨੂੰ ਤੁਰੰਤ ਬਦਲੀ ਕੀਤਾ ਜਾਵੇ। ਇਹਨਾਂ ਦੀ ਅਗਲੇਰੀ ਜਾਂਚ-ਪੜਤਾਲ, ਐਕੁਰੇਸੀ ਅਤੇ DDL ME Lab ਵਿੱਚ ਕਰਵਾਇਆ ਜਾਵੇ।”

In above mentioned ECR, it was directed to change the meter and CT/PT unit of the petitioner. Meter and CT/PT unit were changed vide MCO no. 181/2429 dated 24.02.2021 effected on 21.03.2021. Removed CT/ PT unit was checked in ME Lab vide challan no. Apr 01 dated 22.04.2021 wherein it was reported as under: -

“Results of R-φ, Y-φ CT's are within permissible limits and of B-φ are out of permissible limits as per IS upto the values shown in results.

Results of R-φ, Y-φ PT's are out of permissible limits as per IS upto the values as shown in results and it produces sparking above these values.

Results of B-φ PT are within permissible limits as per IS

Note: - Results may be correlated with the checking report of Enf. cum EA & MMTS in the field."

Removed meter was also checked in ME Lab and it was reported as under: -

"ਮੀਟਰ ਦੀ KVAH ਮੋਡ ਤੇ ਐਕੂਰੇਸੀ ਸੀਮਾ ਵਿਚ ਹੈ। ਖਪਤਕਾਰ ਦਾ CTPT CH. No. APR-01 ਮਿਤੀ 22.4.21 ਰਾਹੀਂ ਚੈਕ ਕੀਤਾ ਗਿਆ ਸੀ। ਜਿਸ ਤੇ ਲਿਖਿਆ ਹੈ results of B-φ CT's are out of permissible limits as per IS. DDL MRI ਤੇ ਲਿਆ ਗਿਆ ਹੈ।"

ASE/Sr. Xen, Enf. cum EA & MMTS, Khanna issued speaking orders vide Memo no. 60 dated 17.05.2022 relevant part of which is reproduced below: -

"ਮੀਟਰ ਦੇ ਡੀ.ਡੀ.ਐਲ. ਦੇ ਲੋਡ ਸਰਵੇ ਦੇ ਪ੍ਰਿੰਟ ਆਊਟ ਨੂੰ ਵੇਖਣ ਤੋਂ ਪਤਾ ਚੱਲਦਾ ਹੈ ਕਿ ਇਹ ਡੀ.ਡੀ.ਐਲ. ਮਿਤੀ 09.01.2021 ਤੋਂ 19.03.2021 ਤੱਕ ਦਾ ਹੈ। ਇਸ ਪ੍ਰਿੰਟ ਆਊਟ ਅਨੁਸਾਰ ਸੀ.ਟੀ./ਪੀ.ਟੀ. ਯੂਨਿਟ ਦਾ B Phase ਦਾ ਸੀ.ਟੀ. ਮਿਤੀ 09/01/2021 ਤੋਂ ਹੀ ਮੀਟਰ ਨੂੰ ਕਰੰਟ ਕੰਟਰੀਬਿਊਟ ਨਹੀਂ ਕਰ ਰਿਹਾ, ਜਿਸ ਜਾਪਦਾ ਹੈ ਕਿ ਸੀ.ਟੀ./ਪੀ.ਟੀ. ਯੂਨਿਟ ਦਾ B Phase ਦਾ ਸੀ.ਟੀ. ਮਿਤੀ 09/01/2021 ਤੋਂ ਪਹਿਲਾਂ ਵੀ ਮੀਟਰ ਨੂੰ ਕਰੰਟ ਕੰਟਰੀਬਿਊਟ ਨਹੀਂ ਕਰਦਾ ਹੋਵੇਗਾ। ਇਸ ਲਈ ਖਪਤਕਾਰ ਦਾ ਖਾਤਾ ESIM ਦੀ ਧਾਰਾ 21.5 ਅਨੁਸਾਰ ਪਿੱਛਲੇ ਸਾਲ ਦੇ ਅਧਾਰ ਤੇ ਸੋਧ ਦਿੱਤਾ ਜਾਵੇ।"

In accordance with the above speaking order, SDO/ DS Sub-Divn. Jarg vide his Memo no. 907 dated 19.05.2022 issued notice to petitioner to deposit an amount of Rs. 545613/- charged on account of non-contribution of B-phase. 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	2019		2020		2021		2022		2023	
	Cons	Code								
Jan	38221	O	61227	O	47164	O	38220	O	51536	O
Feb	43086	C	61389	O	27272	O	40320	O	50176	O
Mar	60988	O	54752	C	31124	O	30628	O	42624	O
Apr	52804	O	9204	O	21288	C	34184	O	4360	O

May	21456	O	37134	O	15456	O	18268	O		
Jun	2196	O	20800	O	5476	O	3464	O		
Jul	1724	O	2908	O	4808	O	2892	O		
Aug	1888	O	2432	O	3324	O	2984	O		
Sep	980	O	1605	O	3184	O	3940	O		
Oct	1604	O	847	O	2736	O	3316	O		
Nov	8084	O	2432	O	3548	O	4784	O		
Dec	46816	O	21580	O	26240	O	34416	O		
TOTAL	279847		276310		191620		217416		148696	

During the proceedings dated 22.05.2023, petitioner pleaded that quantum of his milling work varies from year to year and hence electricity consumption varies from year to year. **Forum directed the petitioner to submit comparative month wise authenticated milling record for the year 2019 to 2022 in support of his claim.** Petitioner submitted the milling record and electricity consumption as per the directions of the Forum. Forum after scrutinizing the record felt that the documents submitted by the petitioner do not support his claim.

Forum during the proceedings dated 16.05.2023 had observed that as per ECR no. 31/3799 dated 24.02.2021 voltages mentioned under point no. 1 'Parameter' were as under:

R 6350, Y 6350, B 6350

Whereas as per remarks, voltages on Potential terminals of the meter had been mentioned as under:-

R N 45.2, Y N 16.6, B N 60.5

Respondent was directed to get the matter regarding difference in voltage parameters clarified from the concerned checking authority. Respondent submitted clarification given in this regard by ASE/ Enf. cum EA & MMTS, Khanna vide his office Memo no. 144 dated 26.05.2023 addressed to ASE/ DS Divn., Khanna, relevant part of which is reproduced under: -

“ਚੈਕਿੰਗ ਦੌਰਾਨ ਪਾਇਆ ਗਿਆ ਸੀ ਕਿ ਮੀਟਰ ਡਿਸਪਲੇ ਉੱਪਰ 123 ਸੈਗਮੈਂਟਾਂ ਵਿੱਚੋਂ 3 ਸੈਗਮੈਂਟ ਚਲਦੇ ਲੋਡ ਤੇ ਸਥਿਰ ਸੀ ਅਤੇ ਡਿਸਪਲੇ ਉੱਪਰ () ਸਟਾਰ ਆ ਰਿਹਾ ਸੀ। ਮੀਟਰ ਦੇ ਸਕਰੇਲ ਬਟਨ ਖਰਾਬ ਹੋਣ ਕਰਕੇ ਮੀਟਰ ਡਿਸਪਲੇ ਉੱਪਰ ਤਿੰਨੋਂ ਫੇਜ਼ਾਂ ਦਾ ਚਲਦਾ ਕਰੰਟ ਚੈੱਕ ਨਹੀਂ ਹੋ ਸਕਿਆ। ਚੈਕਿੰਗ ਸਮੇਂ ਮੀਟਰ ਦੀ ਆਟੋ ਡਿਸਪਲੇ ਉੱਪਰ 3 ਫੇਜ਼ਾਂ ਦੀ ਵੋਲਟੇਜ R-6350 V, Y-6350 V ਅਤੇ*

B-6350 V ਆ ਰਹੀ ਸੀ, ਜੋ ਕਿ ਈ.ਸੀ.ਆਰ ਵਿੱਚ ਦਰਜ ਕੀਤੀ ਗਈ ਸੀ। ਇਸ ਤੋਂ ਇਲਾਵਾ ਮੀਟਰ ਦੀ ਟਰਮੀਨਲ ਪਲੇਟ ਖੋਲ ਕੇ ਕਲਿੱਪ ਆਨ ਮੀਟਰ ਨਾਲ ਹੇਠ ਲਿਖੇ ਅਨੁਸਾਰ ਮੀਟਰ ਦੇ ਪੀਟੀ ਟਰਮੀਨਲ ਤੇ ਵੋਲਟੇਜ ਅਤੇ ਕਰੰਟ ਰਿਕਾਰਡ ਕੀਤਾ ਗਿਆ ਸੀ :-

Phase	Voltage (in Volts)	Phase	Voltage (in Volts)	Phase	Current (in Amp.)
RN	45.2	RY	33.3	R	1.8 A
YN	16.6	YB	70.03	Y	1.2 A
BN	60.5	BR	104.8	B	0.2 A

ਮੀਟਰ ਦਾ ਡੀ.ਡੀ.ਐਲ. ਕਰਨ ਦੀ ਕਾਫੀ ਕੋਸ਼ਿਸ ਕੀਤੀ ਗਈ, ਪ੍ਰੰਤੂ ਸਾਈਟ ਤੇ ਡੀ.ਡੀ.ਐਲ. ਨਹੀਂ ਹੋ ਸਕਿਆ ਸੀ। ਜਿਸ ਸਬੰਧੀ ਉੱਪ-ਮੰਡਲ ਅਫਸਰ, ਜਰਗ ਨੂੰ ਉਪਰੋਕਤ ਮੀਟਰ ਅਤੇ ਸੀ.ਟੀ./ ਪੀ.ਟੀ. ਯੂਨਿਟ ਨੂੰ ਬਦਲੀ ਕਰਕੇ ਇਹਨਾਂ ਦੀ ਐਕੂਰੇਸੀ, ਜਾਂਚ-ਪੜਤਾਲ ਅਤੇ ਮੀਟਰ ਦਾ ਡੀ.ਡੀ.ਐਲ. ਐਮ.ਈ. ਲੈਬ, ਵਿਖੇ ਕਰਵਾਉਣ ਲਈ ਹਦਾਇਤ ਕਰ ਦਿੱਤੀ ਗਈ ਸੀ। ਸਬੰਧਤ ਵੰਡ ਉੱਪ-ਮੰਡਲ ਦਫਤਰ, ਜਰਗ ਵੱਲੋਂ ਮੀਟਰ ਦਾ ਡੀ.ਡੀ.ਐਲ, ਐਮ.ਈ ਲੈਬ ਲੁਧਿਆਣਾ ਵਿਖੇ ਕਰਵਾਇਆ ਗਿਆ ਅਤੇ ਇਸ ਦਫਤਰ ਨੂੰ ਭੇਜਿਆ ਗਿਆ। ਇਹ ਡੀ.ਡੀ.ਐਲ. ਮਿਤੀ 09.01.2021 ਤੋਂ 19.03.2021 ਤੱਕ ਹੀ ਉੱਪਲੰਬਧ ਹੈ। ਉਪਰੋਕਤ ਮੀਟਰ ਦੇ ਡੀ.ਡੀ.ਐਲ. ਰਿਪੋਰਟ ਨੂੰ ਵੇਖਣ ਤੋਂ ਪਤਾ ਚੱਲਦਾ ਹੈ ਕਿ ਚੈਕਿੰਗ ਸਮੇਂ ਮੀਟਰ ਨੂੰ ECR No. 31/3799 dated 24.02.2021 ਵਿੱਚ ਰਿਕਾਰਡ ਕੀਤੀ ਵੋਲਟੇਜ ਅਨੁਸਾਰ ਹੀ ਡੀ.ਡੀ.ਐਲ. ਵਿੱਚ ਵੋਲਟੇਜ ਸ਼ੇਅ ਹੋ ਰਹੀ ਹੈ। ਚੈਕਿੰਗ ਸਮੇਂ ਮੀਟਰ ਦੇ ਪੀਟੀ ਟਰਮੀਨਲ ਤੇ ਆ ਰਹੀ ਵੋਲਟੇਜ ਹੀ ਈ.ਸੀ.ਆਰ. ਵਿੱਚ ਦਰਜ ਕੀਤੀ ਗਈ ਸੀ। ਇਸ ਮੀਟਰ ਦਾ ਪੀ.ਓ. M-123/MQP-123/PR dated 24.05.2018 ਹੈ। ਮੀਟਰਿੰਗ ਸੰਸਥਾ ਨਾਲ ਰਾਬਤਾ ਕਾਇਮ ਕਰਨ ਤੇ ਉਹਨਾਂ ਵੱਲੋਂ ਇਸ ਪੀ.ਓ. ਦੀ ਕਲਾਜ਼ 16.0 (iv) ਸਬੰਧੀ, Corrigendum-II ਦੀ ਕਾਪੀ ਭੇਜੀ (ਕਾਪੀ ਨੱਥੀ) ਗਈ, ਜਿਸ ਅਨੁਸਾਰ ਸਬੰਧਤ ਮੀਟਰਿੰਗ ਸੰਸਥਾ ਵੱਲੋਂ ਇਸ ਪੀ.ਓ. ਵਿੱਚ ਹੇਠ ਅਨੁਸਾਰ Amended Clause ਪਾਈ ਗਈ:-

"The offered Meter will be capable of recording occurrence of missing potential which is defined as 55% of Vref or below in one or two phases which can happen....."

ਇਸ ਕਲਾਜ਼ ਅਨੁਸਾਰ ਮੀਟਰ ਨੂੰ ਸੀ.ਟੀ./ਪੀ.ਟੀ. ਵੱਲੋਂ ਮਿਲ ਰਹੀ ਘੱਟ ਵੋਲਟੇਜ RN 45.02 YN 16.06, BN 60.5 V ਨੂੰ ਮੀਟਰ ਵੱਲੋਂ R 6350 V, Y 6350 V, B 6350 V ਪੜ੍ਹਿਆ ਗਿਆ।

The above clarification given by ASE/Enf.cum EA & MMTS, Khanna does not seem to be correct. As per corrigendum-II

to TE no. MQP-123/2017-18/PR, missing potential is to be read and recorded at 55% or less of V_{ref} i.e. $0.55 \times 63.5 = 34.925$ Volts. In this case, meter has read and shown voltage of 6350 Volts at 11 KV (i.e. $6350 \times 110/11000 = 63.5$ Volts) on all of the three phases i.e. RN, YN and BN; when RN was 45.2 Volts and YN was 60.5 Volts on meter terminals as recorded in ECR no. 31/3799 dated 24.02.2021. This shows that meter was not reading the voltage properly hence it is to be treated as defective in spite of the fact that the results of its accuracy in KVAH mode had been found within limits in ME Lab. Moreover, results of PT's of R & Y phases were also not within limits. Hence, Forum is of the view that the entire metering equipment has to be treated as defective.

Forum feels that observations recorded by Sr. Xen/Enf. cum EA&MMTS, Khanna in ECR and speaking orders appears to be casual, inconclusive and are based upon assumptions as evident from that it has been mentioned in ECR that current in B phase is 0.2Amp and at the same time it has also been written that B phase CT is not contributing current. Further it has been written in the speaking orders that this DDL is for the period from 09.01.2021 to 19.03.2021 which is not correct. In the Tamper report of DDL, events of Magnetic Tamper dated 04.02.2019 have been recorded at Sr. no. 150. Further it has been mentioned in the speaking orders that Blue phase might have not contributing before 09.01.2021 which also is an assumption only. Respondent during proceedings argued that as per MDAS-Data, blue phase CT had not been contributing since 07.12.2020. Forum agreed that in MDAS-Data, event of zero current contribution to meter by B-phase CT was first recorded on 07.12.2020.

As discussed above, the meter had not been recording values of potential as per specification; hence it is to be treated as defective. Moreover, results of B-phase CT and PT's of R & Y-phases were also found out of permissible

limits in ME Lab. Hence, Forum is of the view that the entire metering equipment is required to be treated as defective. 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”.*

Forum observed that failure of Blue phase CT as per load survey report was recorded from 09.01.2021 but as per MDAS-Data, event of non-contribution of had been

recorded on 07.12.2020 but the account of the petitioner has been overhauled from 09/2020 to 02/2021 i.e. for a period of six months, which is not justified. Forum feels that period of defect cannot be taken before 07.12.2020 on assumption basis/without any evidence, hence the metering equipment is required to be treated as defective w.e.f. 07.12.2020 and account of the petitioner needs to be overhauled for the period from 07.12.2020 onwards only.

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 is of the opinion that amount of Rs. 545613/- charged to the petitioner vide notice no. 907 dated 19.05.2022 is liable to be quashed. Account of the petitioner is required to be overhauled for the period from 07.12.2020 i.e. when first non-contribution of B-phase was recorded in MDAS-Data; up to date of replacement of meter and CT/PT unit i.e. 21.03.2021; on the basis of the average of the consumption recorded in the corresponding period of previous year in view of Regulation no. 21.5.2(a) of Electricity Supply Code and Related Matters Regulations-2014.”

- (ii) I have gone through the written submissions made by the Appellant in the Appeal as well as in the Rejoinder, written reply of the Respondent as well as oral arguments of both the parties during the hearing on 17.08.2023. The Appellant’s Representative (AR) argued that the account can be overhauled for the previous period only if the Slowness Factor had been established in the ME Lab or at site & ‘D’ code bills were

issued. He also argued that in the present case, neither any authority had declared that the meter was working slow, nor the Appellant received any bill with 'D' Code status and that all the bills were issued with 'O' Code which meant that the meter was working 'OK'. It is observed by this Court that the CT/ PT unit was found defective during the checking by Sr. Xen/ Enforcement-cum-EA&MMTS, Khanna at site as well as in the ME Lab. Therefore, the metering equipment was defective. As such, the account of the Appellant can be overhauled for a maximum period of six months preceding the date of removal of the defective metering equipment i.e 21.03.2021 as per Regulation 21.5.2 of the Supply Code-2014.

- (iii) The Load Survey data obtained from the printout of the DDL was only from the 09.01.2021 and as per this data; B Phase CT of the CT/PT unit was not contributing current to the meter from 09.01.2021 onwards. Sr. Xen/ Enforcement-cum-EA & MMTS, Khanna assumed that the B Phase CT of the CT/PT unit was not contributing the current to the meter even before 09.01.2021. The account of the Appellant was overhauled by the Respondent as per Regulation 21.5.2 (a) for the period even before 09.01.2021, for six months. However, as per the MDAS data of the meter, the event of zero current contribution to

meter by B Phase was first recorded on 07.12.2020 and the CCGRF held that the account be overhauled from 07.12.2020. I am also of the opinion that the account of the Appellant was to be overhauled for the period from 07.12.2020 to the date of replacement of the meter & CT/PT unit i.e. 21.03.2021 on the basis of the consumption recorded in the corresponding period of the previous year as per Regulation 21.5.2 (a) of the Supply Code-2014. As such, I find no merit in the present arguments of the Appellant regarding the issue raised in the present Appeal for reduction in the period of overhauling of its account. The decision of the Corporate Forum, Ludhiana is upheld in respect of this part of the Appeal.

- (iv) In regard to the prayer of the Appellant that the excess tariff had been charged at the time of overhauling of its account, the Respondent admitted during the proceedings that the subsidy allowed by the Govt. of Punjab to the Industrial consumers is not being passed on to the Appellant in the present case. I am of the opinion that the Appellant cannot be penalized for no fault on its part. There should be no discrimination and the subsidy allowed to other Industrial consumers should also be passed on to the Appellant. As such, the Respondent is directed to pass on

the subsidy given to LS consumers for the disputed period to the Appellant.

- (v) The Appellant also raised a issue that even though the period of overhauling was decreased by the decision of the Corporate Forum, but his liability was increased from ₹ 5,45,613/- to ₹ 5,52,121/- instead of decreasing. The Respondent is directed to check it and remove the discrepancy, if any.
- (vi) In view of the above, the decision dated 27.06.2023 of the Corporate Forum in Case No. CF-058/2023 is amended to the extent that the subsidy allowed to other LS consumers for the disputed period, be allowed to the Appellant.

6. Decision

As a sequel of above discussions, the order dated 27.06.2023 of the CCGRF, Ludhiana in Case No. CF-058/2023 is amended to the extent that the subsidy allowed to other LS consumers for the disputed period, be allowed to the Appellant.

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.

August 17, 2023
S.A.S. Nagar (Mohali).

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

