

**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. 29/2022**

**Date of Registration : 31.05.2022**

**Date of Hearing : 09.06.2022**

**Date of Order : 09.06.2022**

**Before:**

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

**In the Matter of:**

M/s. Regency Fashions,  
Rajpura Road, Civil Lines,  
Ludhiana-141001.

**Contract Account Number: 3002811947 (LS)**

...Appellant

Versus

Senior Executive Engineer,  
DS City West (Spl.) Division,  
PSPCL, Ludhiana.

...Respondent

**Present For:**

Appellant: Sh. Gurdev Kumar,  
Appellant's Representative.

Respondent : Er. Rajesh Kumar,  
Senior Executive Engineer,  
DS City West (Spl.) Division,  
PSPCL, Ludhiana.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 11.04.2022 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-14 of 2022, deciding that:

- “i. The notice issued vide memo no. 612 dated 15.11.2021 to deposit Rs. 202570/- is quashed. As the metering equipment of the Petitioner remained inaccurate, so, the account of the Petitioner be overhauled for period of six months immediately preceding the date of replacement of metering equipment i.e., 10.08.2021 by enhancing the consumption of that period by 50%.*
- ii. Dy. CE/West Circle, PSPCL Ludhiana should ensure to initiate action against officers/officials for non-compliance of instructions/regulations quoted above, leading to revenue loss to PSPCL.”*

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

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 30.05.2022 i.e. beyond the period of thirty days of receipt of decision dated 11.04.2022 of the CGRF, Ludhiana in Case No. CGL-14 of 2022. The Appellant did not submit any evidence of deposit of the requisite 40% of the disputed amount for filing the Appeal in this Court as required under Regulation 3.18 (iii) of PSERC (Forum & Ombudsman) Regulation, 2016. Authority Letter/Vakalatnama signed by all the partners authorizing Sh. Gurdev Kumar (AR) to file this Appeal was also not submitted.

So, the Appellant was requested vide letter no. 516/OEP/M/s. Regency Fashions dated 30.05.2022 to remove the above discrepancies in the Appeal. The Appellant confirmed that 100% of disputed amount, reduced to ₹ 96,522/- from ₹ 2,02,570/- after the decision of the Forum, has been deposited by the Appellant on 16.05.2022. Further, the Appellant sent the Vakalatnama signed by all the partners of the Appellant by e-mail on 31.05.2022. Therefore, the Appeal was registered on 31.05.2022 and copy of the same was sent to the Addl. SE/ DS City West (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. 530-532/OEP/A-29/2022 dated 31.05.2022.

### **3. Proceedings**

With a view to adjudicate the dispute, a hearing was fixed in this Court on 09.06.2022 at 01.00 PM and intimation to this effect was sent to both the parties vide letter nos. 548-49/OEP/A-29/2022 dated 02.06.2022. 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 09.06.2022, the issue of condoning of delay in filing the Appeal in this Court was taken up. The Appellant's Representative stated that the Respondent had issued Revised Notice vide Memo No. 191 dated 27.04.2022 for payment of ₹ 96,522/-. The Appellant came to know after this notice that it had to pay ₹ 96,522/-. Thereafter, the Appellant filed the Appeal within one month from the receipt of revised notice of the Respondent. The Appellant's Representative further prayed that the delay in filing the present Appeal may kindly be condoned and the Appeal be adjudicated on merits in the interest of justice. I find that the Respondent did not object to the condoning of the delay in filing the Appeal in this Court either in its written reply or during hearing in this Court.

In this connection, I have gone through Regulation 3.18 of PSERC (Forum and Ombudsman) Regulations, 2016 which reads as under:

“No representation to the Ombudsman *shall lie unless:*

- (ii) *The representation is made within 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.”*

It was observed that refusal to condone the 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 alongwith 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. 3002811947 with sanctioned load of 159.64 kW/ 110.00 kVA under DS City West (Spl.) Division, Ludhiana.
- (ii) The Appellant applied for reduction of its load to 110.00 kVA. So, the meter was got checked from ASE/Enf. cum EA & MMTS-4, Ludhiana vide ECR No. 27/4010 dated 24.05.2021 on the request of AEE/Tech., DS City West (Spl.) Division, Ludhiana vide letter no. 479 dated 19.05.2021.
- (iii) While checking, it was observed that Y-Phase CT from CT/PT chamber was not contributing. Reading of current on Y-phase was recorded as Zero. DDL was taken at site.
- (iv) Further, it was recommended to replace the CT/PT unit. CT/PT unit of the Appellant was changed vide MCO No. 100014222699 dated 13.07.2021 effected on 10.08.2021. The ASE/Enf. cum EA & MMTS-4, Ludhiana issued speaking orders vide Memo No. 255 dated 28.05.2021 and recommended to overhaul the account from 03.12.2020 as current of Y-phase was not being recorded from 03.12.2020 upto date of replacement of device by increasing consumption by 50%. Accordingly, an amount of ₹ 2,02,570/- was charged to the Appellant vide Notice No. 612 dated 15.11.2021.

- (v) The Forum decided to quash the Notice issued vide Memo No. 612 dated 15.11.2021 to deposit ₹ 2,02,570/-. The Forum further decided that as the metering equipment of the Appellant remained inaccurate, so the account of the Appellant be overhauled for a period of six months immediately preceding the date of replacement of metering equipment i.e. 10.08.2021 by enhancing the consumption of that period by 50%. Accordingly, the Respondent issued Revised Notice No. 191 dated 27.04.2022 to the Appellant to deposit ₹ 96,522/-.
- (vi) The decision of the Forum was not based upon any Regulation. As per Regulation 21.5.2 of Supply Code-2014, in case of defective meters the accounts can be overhauled. The metering equipment of the Appellant was not checked for calculating the slowness of the meter by using ERS set neither at site nor at the ME Lab.
- (vii) So, considering the fact that the accuracy of the metering equipment was not checked at site or in ME Lab, the account of the Appellant cannot be overhauled as per Regulation 21.5.1 of Supply Code-2014 as decided by the Forum. Overhauling of account as per Regulation 21.5.1 of Supply Code, 2014 by treating the meter as inaccurate is wrong because the accuracy of the meter was not determined as per Regulation 21.3.6 of

Supply Code-2014. The account of the Appellant cannot be overhauled on the basis of incomplete checking report. So, the Notice for slowness based on the said incomplete checking report was needed to be quashed. This type of case had already been decided by the Ombudsman vide Appeal No. A-17 of 2022.

**(b) Submission during hearing**

During hearing on 09.06.2022, 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 LS Category Connection, bearing Account No. 3002811947 with the sanctioned load of 159.64kW/ 110.00 kVA under DS City West Division, PSPCL, Ludhiana.
- (ii) The meter installed at the premise of the Appellant was got checked from the Additional S.E./ Enforcement-cum-EA and MMTS-IV, Ludhiana vide ECR No. 27/4010 dated 24.05.2021 after the Appellant reduced its Contract Demand to 110 kVA.

While checking the meter, it was observed that yellow phase CT from CT PT chamber was not contributing. Reading of the current on yellow phase was recorded as 'zero'. DDL was taken at site and it was recommended to replace the CT PT unit which was changed vide MCO No. 100014222699 dated 13.07.2021 effected on 10.08.2021.

- (iii) Thereafter, the speaking order was passed vide Memo No. 255 dated 28.05.2021 and it was recommended to overhaul the account from 03.12.2020 as current of yellow phase was not being recorded from 03.12.2020 upto date of replacement of the device by increasing consumption by 50% and the amount of ₹ 2,02,570/- was charged to the Appellant vide Notice No. 612 dated 15.11.2021.
- (iv) The Appellant deposited 20% of the disputed amount and preferred the case before the Forum. The matter was heard by the Forum and the case was decided on 11.04.2022 after giving full opportunity of being heard to both the parties and it was held by the Forum that Notice issued vide Memo No. 612 dated 15.11.2021 to deposit ₹ 2,02,570/- was quashed and as the metering equipment of the Appellant remained inaccurate, so its account be overhauled for a period of six months immediately preceding the date of replacement of meter

equipment i.e. 10.08.2021 by enhancing the consumption of that period by 50%. Thus, the relief was provided to the Appellant by the Forum.

- (v) The Appellant filed this Appeal against the said order passed by the Forum dated 11.04.2022. The Appeal was not maintainable because a well-reasoned speaking order after giving full opportunity of hearing to both the parties was passed by the Forum and the relief was also given to the Appellant.
- (vi) The grounds taken by the Appellant in the ground of the Appeal are not tenable. It was not a case where the defect was noticed in the internal meter mechanism and the plea of the Appellant that the meter was not tested in the ME Lab was totally erroneous and was not maintainable. It was a case of non-contribution of electricity by one CT which clearly proved that the meter was recording 50% less energy due to non-contribution of the yellow phase of the meter.
- (vii) The checking in this case was made in the presence of the consumer and there was no infirmity or illegality in the Checking Report. The data was also downloaded at site which clearly proved that one CT was not contributing and the meter was recording 50% less energy due to non-contribution of the energy to the meter. It was not a case of any fault in the meter

and it was not required to be sent to the ME Lab as pleaded by the Appellant. The Appellant was fully aware of this fact that the CT/PT Unit was sent in the ME Lab alongwith the consent letter.

(viii) The Respondent prayed that the Appeal filed by the Appellant may kindly be dismissed with costs.

**(b) Submission during hearing**

During hearing on 09.06.2022, the Respondent reiterated the submissions made in the written reply to the Appeal and prayed for the dismissal of the Appeal. The Respondent had admitted during hearing on 09.06.2022 that the accuracy of the disputed meter was not checked at site or in ME Lab as per Regulation No. 21.3.6 of Supply Code, 2014. Accordingly, Regulation No. 21.5.1 of Supply Code, 2014 meant for "Inaccurate Meters" cannot be made applicable to overhaul the accounts of the Appellant.

**6. Analysis and Findings**

The issue requiring adjudication is the legitimacy of the demand raised by the Respondent vide Memo No. 191 dated 27.04.2022 for ₹ 96,522/- on account of overhauling the account for six months immediately preceding the date of

replacement of metering equipment i.e. 10.08.2021 by enhancing the consumption of that period by 50% as per decision 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 connection of the Appellant was checked by ASE/ Enf. cum EA & MMTS-4, Ludhiana vide ECR No. 27/4010 dated 24.05.2021 and during checking, it was observed that Y-Phase CT from CT/PT chamber was not contributing. Reading of current on Y-phase was recorded as Zero. DDL was taken at site. The CT/PT unit of the Appellant was changed vide MCO No. 100014222699 dated 13.07.2021 effected on 10.08.2021. The ASE/ Enf. cum EA & MMTS-4, Ludhiana issued speaking orders vide Memo No. 255 dated 28.05.2021 and recommended to overhaul the account from 03.12.2020 as current of Y-phase was not being recorded from 03.12.2020 upto date of replacement of device by increasing consumption by 50%. Accordingly, an amount of ₹ 2,02,570/- was charged to the Appellant vide Notice No. 612 dated 15.11.2021 but the said demand was quashed by the Forum. Accordingly, the Respondent had issued revised notice

for ₹ 96,522/- on 27.04.2022. The decision of the Forum was not based on any Regulation. As per Regulation 21.5.2 of Supply Code-2014, in case of defective meters, the account can be overhauled. The metering equipment of the Appellant was not checked for calculating the slowness of the meter by using ERS set neither at site nor at the ME Lab. The account of the Appellant cannot be overhauled as per Regulation 21.5.1 of Supply Code-2014 as decided by the Forum. Overhauling of account as per Regulation 21.5.1 of Supply Code, 2014 by treating the meter as inaccurate was wrong because the accuracy of the meter was not determined as per Regulation 21.3.6 of Supply Code-2014. The account of the Appellant cannot be overhauled on the basis of incomplete checking report. So, the Notice for slowness based on the said incomplete checking report was required to be quashed.

- (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 Appeal of the Appellant was not tenable because a well-reasoned speaking order, after giving full opportunity of being heard to both the parties, was passed by the Forum and the relief was also given to the Appellant. It was

not a case where the defect was noticed in the internal meter mechanism and the plea of the Appellant that the meter was not tested in the ME Lab was totally erroneous and was not maintainable. It was a case of non contribution of electricity by one CT which clearly proved that the meter was recording 50% less energy due to non-contribution of the yellow phase of the meter. The checking in this case was made in the presence of the consumer and there was no infirmity or illegality in the Checking Report. The data was also downloaded at site which clearly proved that one CT was not contributing and the meter was recording 50% less energy due to non-contribution of the current to the meter. It was not a case of any fault in the meter and it was not required to be sent to the ME Lab as pleaded by the Appellant. The Appellant was fully aware of this fact that the CT/PT Unit was sent in the ME Lab alongwith the consent letter. The Respondent prayed that the Appeal filed by the Appellant may kindly be dismissed with costs.

(iii) The Forum in its order dated 11.04.2022 observed as under:

“Forum observed that this is LS category connection with sanctioned load of 159.64KW/110.00KVA and as per clause 81.1.1 of ESIM-2018, relating to recording of monthly readings is reproduced as under: -

81.1 Meter readings of various categories of consumers with loads upto 500 kW/kVA shall be taken by the following officials: -

*81.1.2 For all loads exceeding 100 kW/kVA: AE/AEE/XEN(DS)*

Therefore, as per above *AE/AEE/XEN(DS)* concerned is responsible for recording the readings as well as watch over the variation of the

consumption pattern. So, there is a big lapse on the part of AE/AEE/XEN(DS) concerned, for not watching the meter/metering equipment and consumption pattern continuously for a longer period of time. PSPCL defaulted in conducting periodical checks of the connection of the Petitioner as per schedule prescribed in Regulation 21.3.5 of Supply Code-2014 and instruction no. 106.1 of ESIM 2018, which provides as under:

*21.3.5 The distribution licensee shall also conduct periodical inspection/testing of the meters/metering equipment installed at the consumers' premises as per following schedule:*

- (i) EHT meters: - at least once in a year*
- (ii) HT meters: - at least once in 2 years*
- (iii) LT 3-phase meters: - at least once in 3 years*
- (iv) LT 1-phase meters: - at least once in 5 years*

106.1 Checking Schedule:

*106.1.2 The AE/AEE/XEN (DS) shall check all the HT/EHT connections upto the meter /metering equipment/ point of supply having connected load /demand more than 100 kW/kVA at least once every six months. Additionally, he will check all the small power connections, 50% of the other 3 phase connections and 10% general connections each year.*

Had the above provision been complied with by the Respondent, the fact of non-contribution of current on Y-phase could have been noticed and corrective action could have been taken earlier.

This is a very serious lapse on part of Respondent/checking Agencies, which caused a huge recurring revenue loss to the Corporation. PSPCL should take action against officers/officials who have failed to detect zero contribution of current Y-phase from 03.12.2020 onwards. Periodical inspection/testing of the meter as per Regulation was not done.

Forum further observed that checking was done on 24.05.2021. Speaking order was issued on 28.05.2021 in which non-contribution of current on Y-phase was pointed out and Respondent was directed to change the meter. But Respondent took more than 2 months to replace the meter causing revenue loss to PSPCL. Forum also observed that calculation of the amount charged is not as per instructions of the Corporation. This matter needs to be investigated and suitable action against delinquent officials/officers should be taken.

It is also worthwhile to mention the definition of meter as envisaged in Supply Code is as under: -

“Meter” means a device suitable for measuring, indicating and recording consumption of electricity or any other quantity related with electrical system and shall include, wherever applicable, other equipments such as

Current Transformer, Voltage Transformer with necessary wiring & accessories or Capacitor Voltage Transformer necessary for such purpose;

Written and oral submissions made by both the sides along with evidence/material brought on record of the Forum, have been gone through. Supply Code-2014 provides for overhauling of account in respect of inaccurate Meters (Reg. 21.5.1) reproduced as under:

21.5 Overhauling of Consumer Accounts 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. b) date the defective meter is removed for testing in the laboratory of the distribution licensee.

But Respondent overhauled the account of petitioner from 03.12.2020 to 09.08.2021 (eight months) even though the regulation no. 21.5.1 of ESIM-2018 restricted the period of overhauling to six months.

Keeping in view the above, Forum is of the opinion that that on the basis of above checking and speaking orders, it can be concluded that metering equipment of the Petitioner remained inaccurate, so, the account of the Petitioner is required to be overhauled.”

- (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 addressed by both the parties during the hearing on 09.06.2022. It is observed that the metering equipment of the Appellant was not tested at site or in ME lab as per Regulation 21.3.6 of Supply Code, 2014. The accuracy of the meter by using ERS set was not determined at site or in the ME Lab. The accuracy was required to be determined on kVAh basis because billing is being done for kVAh

consumption. The checking was not complete because the checking officer had not determined accuracy of kVAh consumption. The Respondent was asked about this but he could not give satisfactory reply. There is no provision in the regulations to charge a consumer merely on the basis of DDL reports. So, considering the fact that the accuracy of the metering equipment was not checked at site or in ME lab, the account of the Appellant cannot be overhauled for period of six months immediately preceding the date of replacement of metering equipment i.e. 10.08.2021 by enhancing the consumption of that period by 50% as decided by the Forum. Overhauling of account as per Regulation No. 21.5.1 of Supply Code, 2014 by treating the meter as inaccurate is totally wrong because the accuracy of the meter was not determined as per Regulation No. 21.3.6 of Supply Code-2014. The account of the Appellant cannot be overhauled on the basis of incomplete checking report. So, the Notice No. 191 dated 27.04.2022 revised after the decision of the Forum is hereby quashed.

- (v) Y-Phase CT from CT/ PT unit was found not contributing in the checking report issued vide ECR No. 27/4010 dated 24.05.2021. CT/ PT unit is a part of Meter as per definition given in Regulation 2 (zo) of Supply Code-2014. The meter in

dispute is required to be treated as 'Defective Meter' for overhauling purpose due to non- contribution of Y-phase CT. Accordingly, the account of the Appellant should be overhauled as per Regulation 21.5.2 (a) and (e) of Supply Code-2014 for the period of six months immediately preceding the date of replacement of the metering equipment i.e. 10.08.2021.

- (vi) The metering equipment was declared defective on 24.05.2021 vide ECR No. 27/4010 dated 24.05.2021. MCO No. 100014222699 dated 13.07.2021 was issued to replace the defective meter and the same was replaced on 10.08.2021 after more than 2 months. The meter was required to be replaced within 10 working days as per Standards of Performance laid down in Supply Code-2014. The Respondent failed to achieve Minimum Standards of Performance in the present case.

## **7. Decision**

As a sequel of above discussions, the order dated 11.04.2022 of the CGRF, Ludhiana in Case No. CGL-14 of 2022 is hereby quashed. The Account of the Appellant shall be overhauled as per Regulation 21.5.2 (a) and (e) of Supply Code-2014 for the period of six months immediately preceding the date of replacement of the metering equipment i.e. 10.08.2021.

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.

June 09, 2022  
S.A.S. Nagar (Mohali)

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