

**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. 62/2022

**Date of Registration : 01.11.2022
Date of Hearing : 10.11.2022
Date of Order : 10.11.2022**

Before:

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

In the Matter of:

**M/s. KMP Engineers,
F-286, Industrial Area,
Phase VIII-B, Focal Point,
S.A.S. Nagar (Mohali).**

Contract Account Number: 3000160159 (MS)

...Appellant

Versus

**Sr. Executive Engineer,
DS (Spl.) Divn., PSPCL,
Mohali.**

...Respondent

Present For:

**Appellant: Sh. Mayank Malhotra,
Appellant's Counsel.**

**Respondent : Er. Taranjeet Singh,
Sr. Executive Engineer,
DS (Spl.) Divn.,
PSPCL, Mohali.**

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 23.08.2022 of the Corporate Consumer Grievances Redressal Forum, Ludhiana (Corporate Forum) in Case No. CF-023/2022(New)/ CGP-302/2021 (Old) deciding that:

“Amount of Rs. 537505/- charged on account of slowness of meter vide notice no. 6444 dated 06.07.2021 is quashed. Account of the petitioner be overhauled from 22.01.2021 to 28.04.2021 (date of checking when fault was rectified), on the basis of the consumption recorded during the corresponding period of previous year as per Regulation no. 21.5.2(a) of Supply Code-2014.”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 01.11.2022 i.e. beyond the period of thirty days of receipt of the decision dated 23.08.2022 of the CCGRF, Ludhiana in Case No. CF-023/2022 (New)/ CGP-302/2021 (Old). The Corporate Forum had sent the decision to the Appellant vide Memo No. 1645/CGP-302/2021 dated 25.08.2022. The Appellant had deposited the requisite 40% of the disputed amount of ₹ 5,37,505/- vide receipt no. 161312095 dated 25.06.2021 for ₹ 1,27,941/- and receipt no. 187593693 dated 15.10.2022 for ₹ 1,07,501/-. Further alongwith the Appeal, the Appellant had also filed an application for condonation of delay in filing the Appeal in this

Court. Therefore, the Appeal was registered on 01.11.2022 and copy of the same was sent to the Sr. Executive Engineer/ DS (Spl.) Divn., Mohali for sending written reply/ parawise comments with a copy to the office of the CCGRF, Ludhiana under intimation to the Appellant vide letter nos. 1202-04/OEP/A-62/2022 dated 01.11.2022.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 10.11.2022 at 11.30 AM and intimation to this effect was sent to both the parties vide letter nos. 1213-14/OEP/A-62/2022 dated 02.11.2022. Arguments of both the parties were heard on 10.11.2022.

4. Condoning of Delay

At the start of hearing on 10.11.2022, the issue of condoning of delay in filing the Appeal beyond the stipulated period was taken up. The Appellant's Counsel submitted that the decision dated 23.08.2022 of the Corporate Forum was dispatched on 25.08.2022 and there was delay in filing the Appeal. The Appellant had pleaded that the Corporate Forum ordered for overhauling of the account of the Appellant from 22.01.2021 to 28.04.2021 based on the consumption recorded during the corresponding period of previous year as per Regulation No.

21.5.2 (a) of Supply Code, 2014. The Appellant waited for the implementation of the order of the Corporate Forum by the Respondent and as such, delay had been caused in filing the Appeal. The Appellant had requested for condoning of delay in filing the Appeal. 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 Counsel 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 MS Category Connection, bearing Account No. 3000160159 with sanctioned load of 97.936 kW and CD 100 kVA under DS (Spl.) Divn., Mohali in its name.
- (ii) The Appellant had filed Petition in the Corporate Forum against the demand of ₹ 5,37,505/- (reduced from ₹ 9,08,156/-) raised vide notice no. 6444 dated 06.07.2021 by AEE/ Commercial Sub Divn., Mohali but the same was denied illogically and arbitrarily. The Corporate Forum had decided to overhaul the accounts of the Appellant from 22.01.2021 to

28.04.2021 on the basis of consumption recorded during the corresponding period of previous year as per Regulation 21.5.2(a) of Supply Code, 2014. The decision of the Forum had not been implemented by the Respondent till date.

(iii) The brief facts giving rise to the Appeal were enumerated as under:-

a) The Appellant was regularly paying the electricity bills issued by the Respondent from time to time and nothing was due against the Appellant except ibid disputed illegal amount raised by the Respondent.

b) The Respondent had issued a notice vide Memo No. 5279 dated 11.05.2021 to deposit an amount of ₹ 9,50,949/- but the said demand was corrected to ₹ 9,08,156/- vide notice no. 6174 dated 03.06.2021. It was written in the notice that meter was running slow by 30% but the Respondent failed to supply the copies of instructions according to which amount mentioned in the notice(s) had been calculated. The issuance of these demand notices was in violation of instructions of the Corporation. The calculation had been revised a number of times hence amount in the notices also seems to be incorrect. The Respondent had not supplied copies of instructions and details of calculated

amount. The issuance of above mentioned demand notices was in violation of instructions of the Corporation.

c) The meter of the Appellant was checked by Sr. Xen/ Enf. & MMTS, Mohali vide checking report no. 22/73 dated 28.04.2021. It had been alleged in the checking report that meter was showing voltage of 0V on Blue Phase and meter was found running slow by 30% when checked with ERS meter. It had further been alleged by the Checking Officer that DDL of the meter could not be done but the officer had not mentioned any reason for not taking DDL of the meter. The Checking Officer had admitted regarding correctness of seals affixed at metering equipment and had not given any adverse remarks. There was no fault on part of the Appellant.

d) The Respondent had illegally included the wrong calculated amount of ₹ 9,08,156/- in the bill issued on 15.06.2021 for ₹ 10,36,100/- due to which illegal surcharge amount had been charged to the Appellant. Inclusion of arrear or other amount in the current bills was a violation of instructions issued by the PSPCL.

e) The Respondent further calculated the recoverable amount and reduced it to ₹ 5,37,505/- due to earlier wrong calculations vide which the recoverable amount was calculated to ₹ 9,08,156/-.

The detail of calculated amount had not been supplied by the Respondent.

- f) The Respondent had admitted before Corporate Forum that DDL report of the meter could not be carried out through Store Challan No. 32/8009 dated 08.08.2022. So, the alleged correct date on which voltage at Blue Phase had been recorded zero, cannot be ascertained.
- g) It was submitted that all bills for the period for which overhauling had been carried out had been issued on the basis of correct working of the meter and the status of the meter of the Respondent had been shown 'O' code in the bills. The Respondent had issued bills prior to checking of meter on 'O' code meaning thereby the working of the meter was correct.
- h) Due to spread of Covid-19 epidemic, the business of the Appellant was very less as factories were kept closed or opened for limited time on selective days as per instructions of the Punjab Govt. It was a tough time for survival during Covid-19 restrictions. The consumption of the Appellant was commensurate with working of industry. The economy was on the path of revival after post Covid-19 era and there was little/less work in the industry during the period for which accounts had been overhauled.

- i) The working of equipment with which voltage had been checked may not be working properly. **According to ESIM Instruction (No. 59.5), meters needs to be got calibrated/tested from NPL Delhi or ERTL, New Delhi or any other laboratory recognized by Central Govt./NABL once in two years.** It was further stated that there was every possibility of malfunctioning of equipment. The calibration report of the ERS meter had not been placed on the record.
- j) Neither DDL had been taken nor checking of the meter had been carried out in ME Lab in the presence of the Appellant.
- k) According to ESIM Instruction No. 51.1, it was the responsibility of the PSPCL to install a correct meter of suitable capacity. The Appellant had never interfered with the meter or its connection and there was no allegation as such against the Appellant.
- l) The issuance of demand notices vide Memo No. 5379 dated 11.05.2021 and Memo No. 6174 dated 03.06.2021 were in violation of instructions of Corporation, according to which recovery of charges, if any, was to be affected after serving the Appellant with a notice of show cause but no such notice had been issued to the Appellant by the Respondent. According to the instructions of the Board issued vide CC No. 64/05 which

provided that the meter with status code OK (O) in the last cycle of billing should be treated as undisputed cases. It was pertinent to mention that the Respondent had issued all bills on the basis of 'O' code, which established that meter was working correctly. It was worthwhile to state that the bill upto reading dated 10.06.2021 (wherein reading of recorded consumption was 1333399 kWh/ 1367832 kVAh) as per 'O' code and the presumption was that the meter was OK upto that period and account of the Appellant could not be overhauled for the period the status of the meter was shown as 'O' code. The recorded consumption of the meter of the Appellant remained commensurate with working of factory for the previous period.

- m) The Respondent had not supplied the copies of rules and Regulations according to which the account had been overhauled, which was mandatory as per CC No. 04/2008.
- n) The Instruction No. 104.17 of ESIM provides checking schedule for checking of connections. The Respondent had not placed any checking report carried out in compliance of these instructions. There was no allegation of any type of slowness etc. with regard to working of the metering equipment.
- o) According to Instruction No. 104.7 of ESIM, an energy Variation Register was to be maintained in the office to watch

variance in monthly consumption of the consumers. The Respondent failed to place the copy of entry in the Variation Register before the Corporate Forum, which could show that there was any variation in the recorded consumption.

p) According to Regulation 21.3 of “PSEB Electricity Supply Code and Related Matters Regulations-2017”, the Licensee had to conduct periodical inspection/testing of meters installed at the consumer’s premises. The Respondent had not placed any checking report carried out in compliance of these instructions. There was no allegation of slowness of kWh or kVAh in any previous checking reports.

q) The Corporate Forum had decided the case vide order dated 23.08.2022, issued vide Memo No. 1645 dated 25.08.2022. The order of the Corporate Forum, Ludhiana was non-speaking, arbitrary, illegal and was not sustainable in the eyes of law and was against the instruction of the PSPCL, which provides that the decision should be speaking decision.

(iv) The decision of the Corporate Forum, Ludhiana was wrong, illegal, arbitrary and against the law due to the following reasons:-

a) The Corporate Forum failed to appreciate the fact that the Respondent had illegally included the wrong calculated amount

of ₹ 9,08,156/- in the bill issued on 15.06.2021 for ₹ 10,36,100/- due to which illegal surcharge amount had been charged to the Appellant. This fact had been admitted by the Respondent in its written reply before the Corporate Forum, Ludhiana.

b) The Corporate Forum had failed to appreciate the fact that it had admitted in the decision that the date from which the voltage of V3 (i.e. Blue Phase) gone missing cannot be ascertained.

c) Due to spread of Covid-19 epidemic, the business of the Appellant was very less as factories were kept closed or opened for limited time on selective days as per the instructions of the Punjab Govt. It was a tough time for survival during Covid-19 restrictions. The economy was on the path of revival after post Covid-19 era and there was little work in the industry during the period for which accounts had been overhauled. The Corporate Forum failed to appreciate the instructions issued vide CC No. 47/2020 while deciding the case of overhauling accounts of the Appellant.

d) The Corporate Forum failed to appreciate the fact that the Respondent had not issued notice in compliance of ESIM No. 57.5 which provided that recovery of charges can be done only

after serving show cause notice to the consumer but no such notice had been issued to the Appellant by the Respondent. The Corporate Forum failed to appreciate that issuance of demand notices vide memo no. 6444 dated 06.07.2021 of AEE/ Comml., Sub Divn., Mohali was in violation of instructions of the PSPCL.

- e) The Corporate Forum failed to appreciate the fact that copies of job order vide which meter & metering equipment in dispute was/ were installed, the checking report of replaced meters carried out in ME Lab/ other agency regarding accuracy of the meter before installation at the premises of the Appellant, PO containing specifications of the meter and CTs/ PTs in the premises of the Appellant had not been supplied.
- f) The Corporate Forum failed to appreciate the fact that according to Regulation 21.3 of PSERC (Electricity Supply Code and Related Matters) Regulations, 2018, the Licensee had to conduct periodical inspection/ testing of meters installed at the consumer's premises. The Respondent had not placed any checking report carried out in compliance of these instructions. There was no allegation of slowness of kWh or kVAh in any previous checking reports.

g) The Corporate Forum fail to appreciate the fact that **according to Instruction No. 59.5 of ESIM, meters need to be got calibrated/tested from NPL Delhi or ERTL, New Delhi or any other laboratory recognized by Central Govt./ NABL once in two years.** It was further stated that there was every possibility of malfunctioning of LT/ ERS from last calibration of meter. The Corporate Forum failed to appreciate the fact that the Respondent failed to place the calibration report (as required under instructions) of the equipment with which accuracy of the disputed meter had been checked in ME Lab.

h) The Corporate Forum failed to appreciate the fact that the issuances of demand notices vide Memo No. 6444 dated 06.07.2021 was in violation of instructions of the PSPCL. According to the instructions of the Board issued vide CC No. 64/05, which provided that the meter with status code OK (O) in the last cycle of billing should be treated as undisputed cases. The Corporate Forum failed to appreciate the fact that the Respondent had issued the bill prior to checking of meter as per 'O' code and the presumption was that the meter was OK upto that period and accounts of the Appellant cannot be overhauled for the period the status of the meter was shown as 'O' code. The account of the Appellant had been overhauled even for the

period when working of the meter was correct. This was the fact that the working of the meter was correct and had been admitted by the Corporate Forum, Ludhiana.

- i) The Corporate Forum failed to appreciate the fact that according to Instruction No. 51.1 of ESIM, it was responsibility of the Respondent to install a correct meter of suitable capacity. The Appellant never interfered with the meter or its connection and there was no allegation as such against the Appellant.
- j) The Corporate Forum failed to appreciate the fact that according to Instruction No. 53 of ESIM, Competent Authority had to affix seals on the meter. These seals were affixed after checking correctness of the connections of the meter/CT and consumer cannot be held responsible for wrong connection, if any, found at later stage. The Appellant cannot be penalized for wrong doings, if any, of the officer(s) of the PSPCL.
- k) The Corporate Forum failed to appreciate the fact that the Respondent had not supplied copies of job order vide which meter & metering equipment in dispute were installed, checking report of replaced meters carried out in ME Lab/other agency regarding accuracy of the meter before installation at the premises of the Appellant, PO containing specification of meter and CTs/PTs in the premises of the Appellant.

- 1) The Corporate Forum failed to appreciate the fact that according to Instruction No. 102.2 of ESIM, it was the responsibility of the Officers to ensure correctness of connection and correct working of the meter. The meter may also be checked by meter testing equipment and meter shall be sealed properly by the concerned officer. It was pertinent to mention that there was no allegation of any seal tempering etc. against the Appellant.
- m) The Corporate Forum failed to appreciate the fact that the Respondent had not supplied the copies of rules and regulations according to which the account had been overhauled, which was necessary as per CC No. 04/2008.
- n) The Corporate Forum failed to appreciate the fact that according to Instruction No. 104.7 of ESIM, an energy Variation Register was to be maintained in the office to watch variance in monthly consumption of consumers. The Respondent had failed to place the copy of entry in Variation Register before the Corporate Forum, which could show that there was any variation in the recorded consumption. There was no allegation of any type of slowness etc. with regard to working of the metering equipment.

- o) The Corporate Forum failed to appreciate the fact that the Respondent had not checked the load running on each phase, rather had applied alleged slowness assuming 30% load was running on each phase. The running of load on each phase had material effect in the overhauling of accounts, if any, due to alleged slowness of any phase.
- p) The Corporate Forum failed to appreciate the fact that it had been provided in the Regulation 21.5.1 of Supply Code 2014 that meter of the consumer had to be tested on site/ ME Lab and on testing, if it was found that meter was running beyond the limits of accuracy, the account of the consumer needs to be overhauled. But the Respondent had not placed any report of ME Lab where any error factor had been reported in working of the meter.
- q) The Corporate Forum failed to appreciate the fact that **according to regulations the meter was compulsorily required to be tested in ME Lab.** The Respondent had not checked the correctness of the meter with ERS/ reference meter in ME Lab rather had been done arithmetic calculations regarding alleged slowness of the meter. This was not the approved method for calculation of error factor either by PSERC or as per regulations of the PSPCL.

(ix) It was requested that the order dated 23.08.2022 passed by the Corporate Forum may be set aside. Further, the Respondent may be directed to rectify the account of the Appellant on the basis of reasonable consumption of 11992 units (97.936 kW x 25 x 8 x 60%) per month on the basis of LDHF for the period 22.01.2021 to 28.04.2021 as determined by the Corporate Forum, Ludhiana so that the Appellant may be able to deposit legitimate dues of the Corporation in instalments. The Respondent may be directed to refund the excess amount deposited alongwith interest.

(a) Submission during hearing

During hearing on 10.11.2022, the Appellant's Counsel (AC) reiterated the submissions made in the Appeal.

(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 MS Category Connection, bearing Account No. 3000160159 with sanctioned load of 97.936 kW and CD as 100 kVA.

(ii) The premises of the Appellant was checked by ASE/ Sr. Xen/ Enf. Cum EA&MMTS, Mohali vide ECR No. 73/22 dated 28.04.2021 and meter of the Appellant was found running slow by 30.0%. As per Regulation 21.5.1 of the Supply Code the account of the Appellant was overhauled for the preceding 6 months from the date of checking and a sum of ₹ 9,50,949/- was found payable by the Appellant to the Respondent and the Appellant was accordingly apprised vide notice no. 5279 dated 11.05.2021. There was some clerical mistake in the calculations, and as such, notice no. 6174 dated 11.05.2021 was issued for ₹ 9,08,156/-. Lateron, the Appellant apprised the Respondent that that there was one digit excess in the energy charges 106772, so the amount had been wrongly calculated. The calculation was again rectified and a sum of ₹ 5,37,505/- was found payable by the Appellant to the Respondent and the Appellant was apprised that a sum of ₹ 4,13,444/- was liable to be adjusted in its account. The Appellant was provided the documents for adjustable amount of ₹ 9,50,949/- - ₹ 5,37,505/- = ₹ 4,13,444/- whereas the adjustable amount was ₹ 9,08,156/- - ₹ 5,37,505/- = ₹ 3,70,651/- and the same was adjusted in the account of the Appellant on 05.07.2021 and the Appellant was informed vide notice no. 6444 dated 06.07.2021. The Appellant

did not agree with this and had filed the Petition before the Corporation Forum.

- (iii) As per the decision of the Corporate Forum, the account of the Appellant was again overhauled and a sum of ₹ 5,35,775/- was chargeable to the Appellant and the Appellant has been apprised of the same vide Notice No. 3303/3304 dated 27.09.2022. The Appellant had not agreed with this demand and had filed the present Appeal in this Court.
- (iv) The account of the Appellant was required to be overhauled as per Regulation No. 21.5.1 of the Supply Code and as such, the same was accordingly overhauled by the Respondent. .
- (v) It was correct that the Appellant was issued bill dated 15.06.2021 for ₹ 10,36,100/- in which there was a sum of ₹ 1,27,941.42 on account of current bill and ₹ 9,08,156/- charged on account of slowness of the meter.
- (vi) It was correct that the overhauled amount of ₹ 9,08,156/- was again calculated and it was found to be ₹ 5,37,505/-.
- (vii) As per checking report, the DDL of the meter of the Appellant could not be done and the meter of the Appellant was not replaced as per checking report. However, the account of the Appellant was overhauled as per checking report under Regulation 21.5.1 of the Supply Code.

(viii) The account of the Appellant was used to be checked from time to time and the action was taken as per the instructions.

(c) Submission during hearing

During hearing on 10.11.2022, the Respondent reiterated the submissions made in the written reply to the Appeal.

6. Analysis and Findings

The issue requiring adjudication is the legitimacy of the amount of ₹ 5,35,775/- charged to the Appellant by the Respondent on account of slowness of meter vide Notice No. 3303/3304 dated 27.09.2022 as per decision of the Corporate Forum.

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

- (i) The Appellant's Counsel (AC) reiterated the submissions made by it in the Appeal and argued that the Corporate Forum failed to appreciate the fact that the Respondent had not issued notice in compliance of ESIM No. 57.5 which provided that recovery of charges can be done only after serving show cause notice to the consumer but no such notice had been issued to the Appellant by the Respondent. Further, demand notice issued vide Memo No. 6444 dated 06.07.2021 was in violation of instructions of the PSPCL. The Respondent had issued the bill

prior to checking of meter as per 'O' code and the presumption was that the meter was OK upto that period and accounts of the Appellant cannot be overhauled for the period when the status of the meter was shown as 'O' code. The account of the Appellant had been overhauled even for the period when working of the meter was correct. The Appellant had never interfered with the meter or its connection and there was no allegation as such against the Appellant. Further, according to Instruction No. 104.7 of ESIM, an energy Variation Register was required to be maintained in the office to watch variance in monthly consumption of consumers. The Respondent had failed to place the copy of entry of Variation Register before the Corporate Forum, which could show that there was any variation in the recorded consumption. The Respondent had applied alleged slowness assuming 30% load was running on each phase. The running of load on each phase had material effect in the overhauling of accounts, if any, due to alleged slowness of any phase. Regulation 21.5.1 of Supply Code 2014 provides that meter of the consumer had to be tested on site/ ME Lab and on testing, if it was found that meter was running beyond the limits of accuracy, the account of the consumer needs to be overhauled. But the Respondent had not placed any

report of ME Lab where any error factor had been reported in working of the meter. The Appellant had requested that the order dated 23.08.2022 passed by the Corporate Forum may be set aside and the Respondent may be directed to rectify the account of the Appellant on the basis of reasonable consumption of 11992 units (97.936 kW x 25 x 8 x 60%) per month on the basis of LDHF for the period 22.01.2021 to 28.04.2021 as determined by the Corporate Forum, Ludhiana so that the Appellant may be able to deposit legitimate dues of the Corporation in instalments.

- (ii) On the other hand, the Respondent controverted the pleas raised by the Appellant and argued that the premises of the Appellant was checked by ASE/ Enf. cum EA&MMTS, Mohali vide ECR No. 73/22 dated 28.04.2021 and meter of the Appellant was found running slow by 30.0%. As per Regulation 21.5.1 of the Supply Code, 2014; the account of the Appellant was overhauled for the preceding 6 months from the date of checking and a sum of ₹ 5,37,505/- was finally charged to the Respondent. Feeling aggrieved by the said demand, the Appellant had filed Petition in the Corporate Forum and as per the decision of the Corporate Forum, the account of the Appellant was again overhauled and a sum of ₹ 5,35,775/- was

chargeable to the Appellant and the Appellant had been apprised of the same vide Notice No. 3303/3304 dated 27.09.2022. The account of the Appellant was required to be overhauled as per Regulation No. 21.5.1 of the Supply Code whereas the Forum had ordered to charge the account of the Appellant as per Regulation 21.5.2 (a) of the Supply Code. The account of the Appellant was used to be checked from time to time and the action was taken as per the instructions of the Respondent.

- (iii) The Corporate Forum while deciding the Petition of the Appellant had observed as under in its decision:-

“Forum observed that the annual consumption from 2018 to 2022 has been recorded as 261871, 272393, 295755, 311043 & 227193(up to 07/2022) units respectively. The meter was found running slow by 30% during the checking dated 28.04.2021. From the consumption data, it appears that the consumption during Jan/2021 is 46721 units, highest amongst the corresponding period of any year from 2018 to 2022. Consumption reduced considerably during Feb/2021 to 18409 units. Further as stated in ECR no. 73/22 dated 28.04.2021, DDL of the meter could not be obtained at the time of checking of the connection. Respondent was directed to get the DDL of the meter and submit its report. Site was again checked by Sr. Xen/ASE, Enforcement-cum-EA & MMTS, Mohali vide ECR No. 007/272 dated 04.08.2022, where display of the meter was found smoky & DDL could not be done. Meter of the petitioner was replaced and checked in ME Lab vide

challan no. 32/8009 dated 08.08.2022, as per which the display was not getting on and DDL of the meter could not be taken in spite of repeated efforts because the meter was internally burnt.

Forum observed that in the absence of DDL report, correct date from which the voltage of V₃ (i.e., blue phase) gone missing cannot be ascertained, moreover the slowness cannot be assumed as 30% throughout the period as the oxidation of the joints does not take place suddenly and is a gradual process rather and it takes quite some time to affect the accuracy of meter after its onset. Therefore, overhauling the account for a period of six month i.e., the maximum period, does not seem to be justified.

Perusal of the consumption data reveals that the MDI recorded by the meter during the month Jan/2021 of 90.56 KVA appears to be normal indicating that the metering equipment had been working properly upto 21.01.2021. Further in the month of Feb/2021 although the MDI was recorded as 88.86kVA but the consumption had decreased considerably, which confirms that something went wrong after 21.01.2021, hence, metering equipment can be treated as defective after 21.01.2021. 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 have gone through the written submissions made by the Petitioner in the petition, written reply of the Respondent as well as rejoinder/oral arguments and other material brought on record. Keeping in view the above, Forum is of the opinion that amount of Rs. 537505/- charged on account of slowness of meter vide notice no. 6444 dated 06.07.2021 is not in order. Account of the petitioner is required to be overhauled from 22.01.2021 to 28.04.2021 (date of checking when fault was rectified), on the basis of the consumption recorded during the corresponding period of previous year as per Regulation no. 21.5.2(a) of Supply code-2014.

Keeping in view of the above, Forum came to the unanimous conclusion that amount of Rs. 537505/- charged on account of slowness of meter vide notice no. 6444 dated 06.07.2021 is liable to be quashed. Account of the petitioner be overhauled from 22.01.2021 to 28.04.2021 (date of checking when fault was rectified), on the basis of the consumption recorded during the corresponding period of previous year as per Regulation no. 21.5.2(a) of Supply code-2014.”

- (iv) I have also gone through pleadings of both the parties and the material brought on record. Corporate Forum had passed a detailed well reasoned order dated 23.08.2022 in this case. The findings of the Corporate Forum regarding not treating the meter in dispute as ‘Inaccurate Meter’ are correct. There is no doubt that the recording of energy by the disputed meter is beyond accuracy limit. The other alternative left to overhaul the accounts of the Appellant is by treating the meter as “Defective” and Regulation 21.5.2 of Supply Code, 2014 will be applicable. The Corporate Forum had decided to overhaul the accounts of the Appellant for the period from 22.01.2021 to 28.04.2021 against maximum period of six months as specified in regulations after going through the relevant consumption data. The perusal of the prayer of the Appeal reveals that the Appellant also wants overhauling of the accounts for the period

22.01.2021 to 28.04.2021. I find no reasons to disagree with the period of overhauling decided by the Corporate Forum.

- (v) The instructions contained in Commercial Circular No. 20/2021 are applicable to meters becoming defective from 23.03.2021 to 30.09.2021. The meter in dispute is covered in these instructions.
- (vi) The Appellant had prayed to overhaul the accounts for the period 22.01.2021 to 28.04.2021 with LDHF formula contained in Annexure-8 of the Supply Code, 2014. This Court is not inclined to accept this prayer because the reliable consumption data required to overhaul the accounts as per Regulation 21.5.2 (a) of Supply Code, 2014, is available.
- (vii) In view of the above, the accounts of the Appellant for the period 22.01.2021 to 28.04.2021 should be overhauled as per Regulation 21.5.2 (a) & (e) of the Supply Code, 2014 to be read with Commercial Circular No. 20/2021.

7. Decision

As a sequel of above discussions, the account of the Appellant be overhauled for the period from 22.01.2021 to 28.04.2021 (date of checking when fault was rectified) as per Regulation 21.5.2 (a) & (e) of the Supply Code, 2014 to be read with Commercial Circular No. 20/2021.

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.

November 10, 2022
S.A.S. Nagar (Mohali)

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