**IN THE COURT OF OMBUDSMAN, ELECTRICITY PUNJAB,**

**66 KV GRID SUBSTATION, PLOT NO. A-2, INDL AREA, PHASE-I, SAS NAGAR, (MOHALI).**

**APPEAL No: 30 / 2016** Da**te of Order: 08 / 09 / 2016**

**Sh. JASMEET SINGH KALRA,**

**536 / 4 / A, Industrial Area C,**

**LUDHIANA. ………………..**PETITIONER

**Account No: MS-02 / 1181**

*Through:*

Sh. R.S. Dhiman, Authorised Representative

VERSUS

**PUNJAB STATE POWER CORPORATION LIMITED.**

…….….RESPONDENTS.

*Through*

Er. C.S. Brar,

Addl. Superintending Engineer, (Operation),

Operation Estate Division

PSPCL, Ludhiana.

Petition No. 30 / 2016 dated 25.05.2016 was filed against order dated 12.04.2016 of the Grievances Redressal Forum (Forum) in case no: CG- 07 of 2016 upholding the decision dated 03.09.2015 of the Zonal Dispute Settlement Committee.

2. Arguments, discussions and evidences on record were held on 08.09.2016.

3. Sh. R.S. Dhiman, the authorized representative alongwith Sh. Narinder Singh attended the court proceedings on behalf of the petitioner. Er. C.S. Brar, Addl. Superintending Engineer / Operation, Estate Division, PSPCL, Ludhiana alongwith Shri Krishan Singh, Revenue Supdt, appeared on behalf of the respondent, Punjab State Power Corporation Limited (PSPCL).

4. Sh. R.S. Dhiman, the petitioner’s counsel stated that the Petitioner is running an Industrial unit for manufacturing furniture at plot no: 536 / 4 / A, Industrial Area-C, Ludhiana having an MS category electricity connection bearing Account no: MS-02 / 1181 with sanctioned load of 99.890 KW under Estate Division, Ludhiana. The software of the meter became defective in October, 2014 and it showed negative reading. Thereafter in next month, the petitioner’s meter abnormally jumped and recorded a very high consumption. This unreasonable consumption was noticed by the petitioner at the time of recording of monthly reading by Meter Reader. The petitioner immediately challenged the meter by depositing Rs. 1200/- on 03.11.2014 due to abnormal reading. After that, the meter was checked at site with Electronic Reference Standard (ERS) Meter by Addl. SE / Enforcement-II, Ludhiana on 12.12.2014 and thereafter, the defective meter was replaced on 31.03.2015. To complete all this process, the respondents took abnormal time against the prescribed time limit of seven days as provided in Regulations.

He further stated that the meter was checked at site on 12.12.2014 wherein the accuracy of the meter was found to be within the limits but was directed to replace the meter being software of the meter defective. Based on this report, the meter was replaced on 31.03.2015 and got checked in ME Lab on 29.04.2015, where the accuracy of the meter could not be checked being the meter found burnt. The DDL was also taken but the printout could not be taken due to data corrupted. As per the site checking report, the meter was O.K. on 12.12.2014 and it burnt out somewhere after 12.12.2014 but its software became defective after the recording of reading on 30th October, 2014 because it recorded negative reading on 30.11.2014 and then the reading jumped thereafter in between 30.11.2014 to 12.12.2014 and meter stopped as is proved from the readings recorded on 12.12.2014 and 30.12.2014, which were the same. Energy bills prepared by the PSPCL on the basis of MMC / average were deposited by the Petitioner. The Revenue Audit Party of PSPCL, checked the petitioner’s account and overhauled for the period from 30.07.2014 to 31.03.2015, on the basis of consumption recorded during corresponding period of previous year from 07 / 2013 to 03 / 2014 though the working of the meter was quite correct upto 30.10.2014. On the basis of this overhauling a sum of Rs. 4,67,243/- was charged from the petitioner vide supplementary bill dated 08.07.2015. In order to get his grievance redressed, a case was represented before the Zonal Dispute Settlement Committee (ZDSC) which rejected our case. Aggrieved with the decision of the ZDSC, an appeal was filed before the Forum but the petitioner could not get any relief. The petitioner is not satisfied with these decisions and hence constrained to file the present appeal before this court of Ombudsman.

He argued that the petitioner’s disputed meter was not burnt till 12.12.2014 when the same was checked by Addl. SE / Enforcement-2, Ludhiana at the petitioner’s premises with ERS meter and found working within permissible limits of accuracy. It had only jumped sometime in October / November, 2014. So, in case the meter was found burnt in M.E. Lab., it must have burnt after 12.12.2014 only, whereas the Revenue Audit party had overhauled the petitioner’s Account from 07 / 2014 treating the meter defective from 07 / 2014 without any evidence. This is totally wrong. The meter was found working accurately even on 12.12.2014 by Addl. SE / Enforcement-II, Ludhiana. As such, overhauling of account by audit from 07 / 2014 is based on speculation only. Variations of consumption cannot override the test results carried out with the help of proper testing equipment. Furthermore, by placing copies of Sales Tax Certificate, he argued that while overhauling the accounts for 07/2014, 08/2014, 09/2014 & 10/ 2014 on the basis of consumption for 07/2013, 08/2013, 09/2013 & 10/2013, the production record of the petitioner has not been kept in view. The gross sales during the year 2014 - 2015 were only Rs. 560.72 lakh whereas during 2013 - 2014, it was almost double at Rs. 1004.66 lakh. As such, less consumption of electricity during 2014 in comparison to 2013 neither can be ruled out nor can be compared with each other. Furthermore, the petitioner’s factory was checked by Sales Tax Department on 08.10.2014, as a result of which most of its record was seized by the department and heavy penalties were imposed which resulted disruption to the manufacturing for 2-3 months and the full production were not achieved, which also led to less power consumption. As such, the already dwindling production in the factory came to almost standstill as the petitioner got entangled in litigation with the Sales Tax Department at local and High Court Level. Under these circumstances, it is not fair to say that the petitioner’s factory was running normally and consuming high power as in the case of previous year. The checking report dated 12.08.2015, done by Addl. SE, Estate Division, Ludhiana, on the directions of ZDSC, clearly shows that there was no production in the factory at the time of checking and the finished goods and raw materials were found rusted. Even this, report of a senior officer has not been relied upon by the ZDSC and the Forum. This is a major factor which ought to have been given weight by the Forum as per Regulation 21.5.3 of the Supply Code. The Forum has rather chosen to say that the report of Addl. SE Estate Division is not sufficient to prove that there was negligible production in the factory for a long time preceding the date of checking.

He further contended that as per Regulation 21.3.6 (b) of the Supply Code, a challenged meter is required to be tested within seven days after deposit of meter challenge fee and to be replaced immediately, if found defective. In the instant case, the petitioner deposited meter challenge fee on 03.11.2014. The same was tested at site on 12.12.2014 and was replaced on 31.03.2015 inspite of the fact that it’s software was found defective. Had the petitioner’s meter been tested and replaced in accordance with the Regulations of the Supply Code, there would not have been any dispute at all. Therefore, overhauling of consumer’s account for the months from 07 / 2014, 08 / 2014, 09 / 2014 and 10 / 2014 is not required and is not justified, during which the less consumption was only due to less production of the material and the recorded consumption is as per actual and the working of the meter was quite O.K. In the end, he prayed that the undue charges levied against the petitioner may kindly be set aside in the interest of justice and issue directions to PSPCL to overhaul the accounts only for the period for which the meter remained defective.

5. Er. C.S. Brar, Addl. Superintending Engineer / Operation, Estate Division, PSPCL, Ludhiana on behalf of the respondents submitted that Account no: MS – 02 - 1181 is running in the name of Sh. Jasmeet Singh Kalra having sanctioned load of 99.890 KW under MS category. The connection was checked by the Addl. S.E. / Enforcement-2, Ludhiana on 12.12.2014 vide Enforcement Checking Register No.28 / 927 wherein the KWH reading of the meter was noted as 9496729.5, meter software was found to be defective and the meter was directed to be replaced and be sent to the M.E. Lab for internal checking in duly packed seal. The MCO of the defective meter was issued on 03.11.2014 and thereafter, the meter was checked by the Enforcement on 12.12.2014 and thereafter, the meter was replaced on 31.03.2015. This meter was checked in the M.E. Lab on 29.04.2015 where it was found burnt. In M.E. Lab, it was also noticed that the Meter Data remained corrupt while dumping it from Meter Reading Instrument ( MRI) to Personnel Computer ( PC). As claimed by the petitioner, the meter was not found O.K. during checking on 12.12.2014 as the Enforcement staff in its report has clearly mentioned that the software of the meter was defective. Thereafter, the consumption of the petitioner was analyzed by the Revenue Audit Party (RAP), Ludhiana wherein it was found that the recording of the consumption is on the lower side since 07 / 2014 and has detected short assessment of Rs. 4,67,243 vide Half Margin no: 37 dated 23.06.2015 by overhauling the account for the months from 07 / 2014 to 03 / 2015. The consumption data clearly shows that the consumption during the corresponding period in the previous year and also in the succeeding year was much higher in comparison to the disputed period so recording of less consumption during the disputed period cannot be ruled out due to defect in the software of the meter.

The case was challenged before the ZDSC which decided the case in favour of the respondents PSPCL as amount charged was correct and recoverable. An appeal was filed before the Forum which upheld the decision of the ZDSC. The Petitioner’s arguments that the meter’s working upto 12.12.2014 are incorrect as is evident that its software was found defective and it was declared as burnt in the M.E. Lab on 29.04.2015 and moreover, prior to it, the meter recorded minus consumption and then after recording excess consumption it became dead stop. The recoding of decrease in consumption clearly proves that the meter remained erratic since 07 / 2014. The Forum has also observed in its decision that the petitioner could not produce any evidence in support of his arguments that work in the factory remained suspended due to sealing of factory by the Sales Tax & Excise Department. The petitioner could not substantiate his version that work in the factory was very less / negligible during the disputed period, due to raid by the Sales Tax Department and subsequently imposing of heavy penalty and filing of appeal in the Hon’ble Punjab & Haryana High Court. The fall of consumption from 07 / 2014 to 10 / 2014 and negative consumption in subsequently months indicate erratic behavior of the meter.

He next submitted that, as per directions of ZDSC, the premise of the consumer was checked by Addl. SE / Estate Division, Ludhiana on 12.08.2015 whereas the disputed period is from 07 / 2014 to 03 / 2015 and thus this report is afterwards which cannot affect the facts retrospectively. The Forum’s view that reporting of rusty chairs / other material at site by Addl. SE / Operation during his checking dated 12.08.2015 and the statement of Sh. Narinder Singh, representative of petitioner that the factory was sealed in 08 / 2014, is not sufficient to support the arguments put forth regarding closure/ negligible work in the factory during the disputed period. The Revenue Audit of PSPCL has rightly concluded that the defect in the meter was from 07 / 2014 onwards till its replacement on 31.03.2015 due to drop in consumption by more than 75% as recorded for the period 07 / 2014 to 10 / 2014. The evidences regarding sales and taxation, now submitted by the petitioner, have never been submitted earlier either to the concerned office or to any lower authority. Therefore, this seems to be fabricated evidences thereafter.

He further stated that this meter was to be changed after getting it checked from Enforcement and the meter was checked by the Enforcement on 12.12.2014 against MCO dated 03.11.2014 and replaced on 31.03.2015. It was tested in the M.E. Lab on 29.04.2015 without any abnormal delay. The Forum has rightly decided the case in favour of PSPCL as consumption data from 07 / 2014 to 03 / 2015 clearly proves that the consumption during this period is too less than the previous year 2013 and succeeding year 2015 and this is due to defective meter. Therefore, the overhauling of the account from 07 / 2014 till the date of replacement of the meter is correct, justified and in accordance with the Regulations. In the end, he requested to dismiss the appeal of the petitioner.

6. The brief facts of the case are that the Petitioner is having Medium Supply category connection with sanctioned load of 99.890 KW. The petitioner challenged the accuracy of energy meter by depositing requisite challenge fee on 03.11.2014 due to recording of abnormal reading. The connection at site was checked by the Enforcement on 12.12.2014 wherein the accuracy of meter was found to be within limits but the software of the meter was declared as defective and meter was directed to be replaced, which was replaced on 31.03.2015. The meter was got checked / tested from M.E. Lab on 29.04.2015 wherein the meter was declared burnt due to which the accuracy of meter could not be checked. Though, the DDL was taken but data was found to be corrupted when dumped from Meter Reading Instrument. (M.R.I.) to (Personnel Computer) P.C., as such print-out could not be taken. The energy bills, during the period from 11 / 2014 to 03 / 2015, were issued on average / MMC basis, which were deposited by the Petitioner. Thereafter, the Revenue Audit Party (RAP), checked the Petitioner’s account on 23.06.2015 and directed to overhaul the account from 07 / 2014 to 31 / 03 / 2015 on the basis of consumption recorded during same month of previous year and to charge Rs. 4,67,243/- as under assessment; accordingly, a supplementary bill was issued to the petitioner on 08.07.2015. Aggrieved with the demand, the petitioner made an appeal with the Zonal Dispute Settlement Committee (ZDSC) which decided that the amount charged by RAP is correct and is recoverable from the consumer. The Forum also upheld the decision of the ZDSC.

The petitioner vehemently argued that the meter become defective in 10 / 2014 as it recorded high consumption thus it was challenged on 03.11.2014. Thereafter it recorded negative consumption and then in the next month, the meter reading abnormally jumped. The challenged meter was checked by Enforcement at site on 12.12.2014 which declared meter’s software as defective and directed to replace the meter but the respondents replaced the meter on 31.03.2015 against the prescribed limit of seven days as provided in the Regulations. The meter was found burnt during the checking in M.E. Lab on 29.04.2015, where the accuracy of the meter could not be checked whereas at site, the accuracy of meter was found within limits during checking of enforcement on 12.12.2014 meaning thereby that the meter was O.K. upto 12.12.2014 and only the software was defective and the meter burnt out thereafter. The petitioner further argued that his account was overhauled for the period from 07 / 2014 to 31.03.2015, on the basis of consumption recorded during the period from 07 / 2013 to 31.03.2014, which is wrong as no overhauling of account for the period from 07 / 2014 to 10 / 2014 was required as the working of the meter during this period was correct. By placing copies of Sales Tax certificates on record, he further argued that in comparison to 2013 – 14, there was less production during 2014 – 15, resulting less power consumption during the disputed period, which has not been kept in view by the ZDSC & Forum while deciding his appeal. It was also argued that the work of the petitioner during 2014 remained disrupted due to Excise Department raid on 08.10.2014 which caused disturbance of the manufacturing process for 2-3 months. Thus the overhauling of accounts for the month of 07 / 2014 to 10 / 2014 is not justified and the recorded consumption is as per actual being the working of meter correct. Closing his arguments, it was prayed that directions to respondents be issued to overhaul the account for the period for which the meter remained defective after considering the genuineness of low consumption as per Regulation 21.5.3 of Supply Code - 2014.

The respondents argued that after challenge of meter by the petitioner, the Enforcement Wing checked the connection at site on 12.12.2014, wherein software of meter was found defective but accuracy was within limits, meaning thereby that the meter was not O.K., as claimed by the petitioner. The consumption of the petitioner’s connection was analyzed by Revenue Audit Party (RAP) wherein it was found that the recording of the consumption was on lower side since July 2014; hence RAP suggested overhauling of accounts from 07 / 2014 to the date of replacement of meter. He further argued that consumption data clearly shows that the consumption during the corresponding period in the previous year and also in the succeeding year was higher and thus higher consumption during disputed period too, cannot be ruled out. The evidences regarding Sales and Taxation, now submitted by the petitioner were never submitted to the concerned office or to ZDSC & Forum. Therefore, this seems to be manipulated evidence at a later stage. Hence, the overhauling of the account from 07 / 2014 upto replacement of meter is correct, justified and in accordance with Regulations & prayed to dismiss the appeal.

I have gone through the written submissions made in the petition, written reply of the respondents and oral arguments of the petitioner and the representative of PSPCL as well as other materials brought on record. In the present case, the dispute is regarding the period of overhauling of accounts. The respondents overhauled the account from 07 / 2014 upto replacement of meter whereas; the petitioner argued that meter had recorded correct energy during 07 / 2014, 08 / 2014, 09 / 2014 & 10 / 2014, as such no overhauling for these months is required. The Revenue Audit report dated 23.06.2015, shows that the overhauling of the Petitioner’s account has been recommended mainly due to fall in consumption during 07 / 2014, 08 / 2014, 09 / 2014 and 10 / 2014 but no rules / regulations providing overhauling in such cases, have been mentioned in their report. I have also noticed that the reasons for fall in consumption from 07 / 2014 were required to be investigated by the Respondents as provided in instruction no: 102.7 of ESIM, but no such investigation report has been brought to record to support the overhauling during these months.

The analysis of the consumption data, placed on the record, is undisputed which shows that KWH & KVAH reading during 10 / 2014 was 1079989 KWH and 1141833 KVAH respectively, whereas in 11 / 2014, it was 1076989 KWH and 1133927 KVAH, meaning thereby the recording of negative consumption, and thereafter during 12 / 2014, the KWH / KVAH recorded reading was 9496729 / 1119193 respectively resulting recording consumption of 84.20 lakh units in the month, which is sufficient to prove that evidently the meter became defective after 30.10.2014, the date of recording the reading during the month of 10 / 2014. I have also noticed that the KWH / KVAH readings were recorded in the Enforcement Checking report dated 12.12.2014 is 9496729.5 / 1114605.2 respectively which tallies with the reading recorded on 30.12.2014, which shows that the meter was certainly defective on 12.12.2014 and there is no merit in arguments of petitioner that working of meter was correct on 12.12.2014. I also find no merits in arguments of the Petitioner that while overhauling of his account, the checking report dated 12.08.2015 of Addl. S.E. / Estate Division, Ludhiana was not kept in view wherein he had clearly mentioned that there was no production and the material lying on site was found rusty, because the report dated 12.08.2015 was carried out on the directions of ZDSC, whereas the production was affected during 10 / 2014, when Sales Tax Department raided the premises of the petitioner and as per Petitioner’s statement, his work suffered for 2-3 months, which cannot be presumed for ten months.

As a sequel of above discussions, it is evidently coming out that the working of the meter was correct till 10 / 2014 and it became defective / burnt only after taking the reading for the month of 10 / 2014 (30.10.2014). The reasons for low consumption in 10 / 2014 are proved from the data supplied by the Petitioner regarding raid conducted by Excise Department on 08.10.2014 due to which the production / manufacturing process remained disrupted. As such, no overhauling of Petitioner’s account for the months of 07 / 2014 to 10 / 2014 (30.10.2014) is required to be done but thereafter the overhauling is certainly required from 30.10.2014 to the date of replacement of meter (31.03.2015) Accordingly, it is held that the overhauling of the account of the petitioner should be done only for the period from 11 / 2014 to 31.03.2015 (replacement of meter), strictly as per Regulation 21.5.2 (a) of Supply Code-2014 i.e. on the basis of energy consumption of corresponding period of previous year.

The respondents are directed to recover / refund the amount excess / short, if any, from / to the petitioner with interest under the relevant provisions of ESIM - 114.

7. The petition is partly allowed.

(MOHINDER SINGH)

Place: SAS Nagar. Ombudsman,

Dated: 08.09.2016. Electricity Punjab,

SAS Nagar, (Mohali)