**COURT OF THE LOK PAL (OMBUDSMAN), ELECTRICITY, PUNJAB,**

 **PLOT NO. A-2, INDUSTRIAL AREA, PHASE-1,**

 **S.A.S. NAGAR (MOHALI).**

 **APPEAL NO. 48/2018**

**Date of Registration : 30.07.2018**

**Date of Hearing : 20.11.2018**

**Date of Order : 28 .11.2018**

**Before:**

 **Er. Virinder Singh, Lok Pal (Ombudsman), Electricity**

**In the Matter of :**

 Ajay Agro Tech. Pvt.Ltd,

 Kakarwal Chowk,

Dhuri.

 ...Petitioner

 Versus

Additional Superintending Engineer,

DS Division ,

PSPCL, Dhuri

 ...Respondent

**Present For:**

Petitioner : 1 Sh.Gopal Krishan Gupta,

 Petitioner.

 2. Sh.R.S.Dhiman,

 Petitioner’s Representative (PR).

Respondent : 1. Er.Tarsem Chand Jindal,

 Addl.Superintending Engineer,

 DS Division, PSPCL, Dhuri.

 Before me for consideration is an Appeal preferred by the Petitioner against the order dated 13.06.2018 of the Consumer Grievances Redressal Forum (Forum) in Case No.CG-121 of 2018 deciding that :

*“ 1) Energy bill generated for the period of direct supply from 13.01.2018 to 13.02.2018 on the basis of average consumption of corresponding period of previous year is justified and recoverable.*

 *2) Proportionate ToD Rebate for the period of direct*

*supply from 13.01.2018 to 13.02.2018 be allowed to the Petitioner on the basis of average consumption be worked out above as per 1st decision.”*

**2*.* Facts of the Case*:***

 The relevant facts of the case are that:-

1. The Petitioner was having a Large Supply Category connection

with sanctioned load of 264.983 kW and contract demand (CD) as 275 kVA and was availing Time of Day (ToD) Tariff.

1. The 11 kV/110 V, CT/PT unit got burnt/damaged on 11.01.2018

 and was checked by the Addl. S.E, MMTS, Patiala vide ECR No.01/498 dated 12.01.2018.

1. The CT/PT was replaced vide Device Replacement Application

No.1000005261596 dated 12.01.2018, effected on 13.02.2018. During the intervening period, the direct supply was given to the Petitioner with the approval of the Competent Authority as CT/PT unit of suitable capacity was not readily available with the Respondent. The I.R. Value of Blue Phase PT was found Zero.

1. The Petitioner was served an energy bill amounting to Rs.3,27,951/-

for the period of direct supply from 13.01.2018 to 13.02.2018.

1. The Petitioner did not agree with the said bill and filed a

Petition in the Forum, who, after hearing passed order dated 13.06.2018. (Reference Page-2, Para-1).

1. Aggrieved with the decision of the Forum, the Petitioner preferred

an Appeal in this Court and requested that the undue charges raised against the Petitioner may be set aside to meet the ends of justice.

**3. Submissions made by the Petitioner and the Respondent**:

 Before undertaking analysis of the case, it is necessary to go through written submissions made by the Petitioner and reply of the Respondent as well as oral submissions made by the Representative of the Petitioner and the Respondents alongwith material brought on record by both the sides.

1. **Submissions of the Petitioner**:

 The Petitioner made the following submissions for consideration of this Court:

1. The Petitioner was having an electricity connection, bearing

Account No.3002309954, for running a Rice Sheller and with sanctioned load of 264.983 kW and contract demand (CD) of 275 kVA.

**(ii)** The CT/PT unit of the Petitioner’s connection got damaged on 13.01.2018 resulting in sudden disturbance of Power Supply to the Petitioner. Since CT/PT unit of suitable capacity was not readily available with the Respondent, direct supply was given on 13.01.2018 with the due approval of the Competent Authority.

**(iii)** After arranging a suitable CT/PT unit, direct supply was discontinued on 13.02.2018 and proper Metered Supply was started.

**(iv)** Thereafter, the Petitioner received a notice for depositing a sum of Rs.3,27,951/- issued by the AEE, City Sub Division, Dhuri, vide memo no.313 dated 06.03.2018 , mentioning therein that this amount had been charged for 42,238 kVAh units from 13.01.2018 to 13.02.2018 (direct supply period) on average basis, based on last year of corresponding period.

 **(v)** After receiving the said notice, the Petitioner brought to the notice of the Respondent that its Plant remained shut down from 19.01.2018 to 23.01.2018 due to major fault in the shaft of the Plant and requested to modify the assessed consumption keeping this fact in view, but in vain.

**(vi)** Dissatisfied with the attitude of the Respondent, the Petitioner filed a Petition in the Forum, who, vide order dated 13.06.2018, upheld the undue charges raised by the Respondent.

1. Accurate assessment of consumption in cases of defective and burnt

meters was a difficult job. Regulation 21.5.2 of the Supply Code-2014 provided various alternatives to arrive at a fairly accurate assessment in such cases. Regulation 21.5.2 (a) had been applied in the case of the Petitioner, according to which the Petitioner had been charged on the basis of consumption of the corresponding period of previous year and consumption of 42,238 kVAh had been assessed for the period of direct supply (13.01.2018 to 13.02.2018). But while working out this consumption, two factors mentioned by the Petitioner had not been considered. Firstly, break down of the Plant from 19.01.2018 to 23.01.2018 due to major fault in the shaft of the Plant and secondly, the plea of actual consumption based on DDL data. These factors had to be considered in the light of provisions of the Regulation 21.5.3 of the Supply Code2014.

1. The assessed consumption of direct supply period was quite on

higher side as was evident from the consumption data detailed below:

Period (Consumption kVAh Units)

1. 31.12.2016 to 28.01.2017 45,172

28.01.2017 to 04.03.2017 40,668

(Total for 63 days) 85,840

1. 31.12.2017 to 13.01.2018

+

 13.02.2018 to 01.03.2018 57,728

 13.01.2018 to 13.02.2018 42,238

 (assessed)

 Total for 60 days 99,966

1. In view of the above submissions, the undue charges raised against

the Petitioner may be set aside to meet the ends of justice.

**( b ) Submissions of the Respondent:**

 The Respondent, in its defence, submitted the following for consideration of this Court:

**(i)** The Petitioner was having a Large Supply Category connection

with sanctioned load of 264.983 kW and contract demand (CD) as 275 kVA and was availing Time of Day (ToD) Tariff.

1. The Petitioner was charged in terms of Regulation 21.5.2 (a) of

the Supply Code-2014 as applicable in this case. So far as the point raised by the Petitioner regarding break down of Plant due to major fault in main shaft of Rice Sheller from 19.01.2018 to 23.01.2018 was concerned, the Petitioner had not given timely intimation to the Respondent regarding shut down during these days and if it was so, the Petitioner should not have availed direct supply from the PSPCL- Respondent.

1. The plea of the Petitioner regarding assessed consumption

based on DDL report was without merit as during the period from 13.01.2018 to 13.02.2018, the supply to the Petitioner’s premises remained connected directly. In fact, provisions of Regulation 21.5.2 (a) of the Supply Code-2014 were applicable in this case for Assessed consumption and were reproduced 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*:-

1. *On the basis of energy consumption of corresponding period of previous year.*
2. *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.*
3. *If neither the consumption of corresponding period of previous year (para-a) nor for the last six months (para-b) is available than 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.*
4. *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 LDHF formula and subsequently adjusted on the basis of actual consumption recorded in the corresponding period of the succeeding year.*
5. *The energy consumption determined as per para (a) to (d) above shall be adjusted for the change of Ioad/demand, if any,* during the period of overhauling of accounts”.
6. Computation of assessed consumption of direct supply period under

Regulation 21.5.2(a) of the Supply Code-2014 was relevant in the case of the Petitioner and was worked out as under:

 Period Consumption ( kVAh Units)

31.12.2016 to 28.01.2017 45,172

28.01.2017 to 04.03.2017 40,668

Total consumption for 63 85,840

days as admitted by the Petitioner.

Consumption assessed for the period 85840/63\*31

 from 13.1.18 to 13.2.18 (31days) = 42,238

If computation of assessed consumption be made by splitting monthly consumption, then, average assessed consumption will be as under:

|  |  |  |
| --- | --- | --- |
| Period | Consumption (units) | Average consumption |
| 31.12.2016 to 28.01.2017 (29 days) | 45,172 | 24,922 (16 days) |
| 28.01.2017 to 04.03.2017 (34 days) | 40,668 | 17,941 (15 days) |
| Total | 85,840 | 42,863 (13.01.2018 to 13.02.2018 |

1. Regulation 21.5.2 (a) of the Supply Code-2014 was applied on the

basis of facts and circumstances of the case while application of Regulation 21.5.3 of the Supply Code-2014 was not considered relevant in this case.

1. In view of the submissions made above, the Appeal may be

dismissed.

**5. ANALYSIS:**

The issue requiring adjudication is the legitimacy of the amount charged to the Petitioner for the period of direct supply i.e. 13.01.2018 to 13.02.2018 (when the CT/PT unit remained damaged) on the basis of average consumption of the corresponding period of previous year and allowing proportionate Time of Day (ToD) Tariff accordingly as per applicable regulations.

 *The points emerged are deliberated and analysed as under*:

 In the present dispute, the Petitioner has prayed to set aside the amount charged to the Petitioner for the period of direct supply ( due to damage of CT/PT Unit) for the period from 13.01.2018 to 13.02.2018 on the basis of consumption of corresponding period of previous year and allow relief in terms of provisions of Regulation 21.5.3 of the Supply Code-2014 which reads as under:

“ *Any evidence provided by the consumer about conditions of working and/or occupancy of the concerned premises during the said period(s) which might have a bearing on computation of electricity consumption shall, however be taken into consideration by the distribution licensee* ”.

 Petitioner’s Representative (PR) argued that since Plant remained shut during the period from 19.01.2018 to 23.01.2018 due to major fault in the main shaft of the Rice Sheller, actual consumption based on DDL data be taken into account. During the course of hearing on 20.11.2018, the Petitioner supplied the DDL data for readings on dated 01.12.2016, 01.01.2017, 01.02.2017 and 06.02.2017 and requested to take the average consumption for the period from 01.02.2018 to 13.02.2018 on the basis of consumption recorded as per DDL report for the period from 01.02.2017 to 06.02.2017.

The Respondent contested the plea of the Petitioner’s Representative (PR) and submitted that the Petitioner had not given timely intimation, about the shutdown of the Plant to the Respondent and if it was so, the Petitioner should not have availed direct supply during the said period of shut down. The Respondent added that provisions contained in Regulation 21.5.2(a) of the Supply Code-2014 were applicable instead in view of the facts and circumstances of the case. The Respondent further informed that the DDL after 06.02.2017 was not available. Hence, the decision of the Forum was correct and as per Regulation ibid.

I notice that the Petitioner’s plea to take the consumption for the period from 01.02.2018 to 13.02.2018 on the basis of DDL readings available from 01.02.2017 to 06.02.2017 (6 days) and not for the period from 01.02.2017 to 13.02.2017 is not sustainable under the relevant Regulation. Besides, there is no record available in the Case File that the Petitioner’s Plant remained shut down from 19.01.2018 to 23.01.2018 and no evidence was produced by the Petitioner in support of its contention in this regard.

 I would also like to reproduce the Notification No.502/6/2009/ P&D/D-1 dated 04.06.2010 of Central Electricity Authority (CEA) was issued as per powers conferred under Section 73 of the Electricity Act-2003, amending Regulation-2 of CEA (Installation and Operation of Meters) Regulations-2006, as under:

 “**2*. Consumer Meter****:*

1. *The consumer meter shall be installed by the licensee*

*either at the consumer premises or outside the consumer premises:*

 *Provided that where the licensee installs the consumer meter outside the premises of the consumer then the licensee on a request from consumer shall provide real time display unit at the premises of the consumer for his information to indicate the electricity consumed by the consumer:*

***Provided further that for the purpose of billing, the reading of consumer meter shall be taken into account”.***

 *I observe that the Forum rightly decided the billing for the disputed period (when CT/PT unit remained damaged and direct supply was given to the Petitioner) was to be done as per provisions contained in Regulation 21.5.2(a) of the Supply Code-2014 i.e. on the basis of energy consumption of corresponding period of previous year. At the same time, proportionate Time of Day (ToD) rebate for the disputed period is also admissible to the Petitioner and correctly allowed by the Forum.*

From the above analysis, it is concluded that the decision taken by the Forum to charge the Petitioner for the period of directly supply (13.01.2018 to 13.02.2018), on the basis of consumption of corresponding period of previous year, as per provisions contained in the Regulation 21.5.2 (a) of the Supply Code-2014 is correct and the amount charged is recoverable from the Petitioner. The Forum also rightly decided that the Petitioner shall be allowed rebate of ToD Tariff proportionately for the period of direct supply from 13.01.2018 to 13.02.2018.

**5. Decision:**

 **As a sequel of above discussions, the order dated 13.06.2018 of the Forum in Case No.CG-121 of 2018 is upheld.**

**6**. The Appeal is disposed off accordingly.

**7.** In case, the Petitioner 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.

 (VIRINDER SINGH)

November 28, 2018 LokPal (Ombudsman)

S.A.S. Nagar (Mohali) Electricity, Punjab.