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

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

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

 **APPEAL NO. 54/2018**

**Date of Registration : 23.08.2018**

**Date of Hearing : 06.12.2018**

**Date of Order : 13.12.2018**

**Before:**

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

**In the Matter of :**

 Sandeep Agro Industry,

 Malerkotla Road,

Village Paharpur, Nabha

 ...Petitioner

 Versus

Senior Executive Engineer,

DS Division ,

PSPCL, Nabha

 ...Respondent

**Present For:**

Petitioner : 1. Sh.Yashvinder Puri,

 Petitioner

 2. Sh.S.R.Jindal,

 Petitioner’s Representative (PR).

Respondent : 1. Er.Sri Ram

 Assistant Executive Engineer,

 DS Division, PSPCL, Nabha

 2. Sh.Puneet Singla,

 Revenue Accountant

 Before me for consideration is an Appeal preferred by the Petitioner against the order dated 18.07.2018 of the Consumer Grievances Redressal Forum (Forum) in Case No.CG-158 of 2018 deciding that :

 *“ Overhauling of Petitioner Account from 17.12.2017 to 20.02.2018 i.e. date of replacement of Meter as well as CT/ PT on the basis of energy consumption of corresponding period of previous year as per Regulation 21.5.2(a) of the Supply Code-2014 is justified and recoverable“.*

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

 The relevant facts of the case are that:-

1. The Petitioner was having a Medium Supply(MS) Category

connection with sanctioned load of 98 kW and contract demand (CD) as 100 kVA.

1. The connection of the Petitioner was checked vide ECR

No.49/313 dated 24.01.2018 by the Sr.Xen/Enforcement-1, Patiala who reported that Red Phase PT was burst and Yellow and Blue Phases of PT were also burnt out. The Enforcement, then, directed to get the Energy Meter & 11 kV/ 440 V, CT/PT unit replaced and checked from the M.E. Laboratory.

1. A bill dated 03.02.2018 for the period from 13.12.2017 to

16.01.2018 (34 days) was issued to the Petitioner for 29,412 kVAh units (D code) on corresponding period basis for Rs.2,03,830/- and energy bill for the period from 16.01.2018 to 15.02.2018 ( 30 days) was issued on 06.03.2018 for 25,977 kVAh units amounting to Rs.3,87,763/- (including previous bill) on corresponding basis.

1. The Energy Meter along with CT/ PT unit was replaced on

20.02.2018, vide MCO No.92/60845 dated 17.02.2018 and SJO No.81/528 dated 24.01.2018.

1. The Energy Meter and CT/PT unit were got checked from the M.E.

Laboratory vide challan no.26 dated 04.04.2018 wherein, the accuracy of the Energy Meter was within permissible limits.

1. The Petitioner did not agree with the billed amount and filed a

Petition dated 26.04.2018 in the Forum, on whose directions, DDL was taken in M.E. Laboratory on 28.05.2018. The Forum after hearing, finally passed the order dated 18.07.2018 (Reference Page-2, Para-1).

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

an Appeal in this Court and prayed to review the case in the interest of justice in terms of Regulation 21.5.3 of the Supply Code-2014 and allow refund of excess amount deposited with interest.

**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 Representatives of the Petitioner and the Respondent along with 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 a Medium Supply (MS) Category

connection with sanctioned load of 98 kW and contract demand (CD) as 100 kVA.

1. The connection of the Petitioner was checked by the Addl.S.E/

Enforcement, PSPCL, Patiala on 24.01.2018 and it was reported that PT of Red Phase burst out and PTs of Yellow and Blue were also burnt. The Petitioner was also directed to bring the Energy Meter and CT/PT Unit to M.E. Laboratory for checking/testing.

1. The bill for the period from 13.12.2017 to 16.01.2018 (34 days) was

issued to the Petitioner for 29,412 kVAh units on corresponding period consumption basis of previous year and bill for the period from 16.01.2018 to 15.02.2018 was also issued for 25,977 kVAh units on similar basis.

1. The Energy Meter/ CT PT units were replaced on 20.02.2018.

Thereafter the bills were issued on actual consumption basis. The Energy Meter was replaced on 20.02.2018 i.e. after 27 days from the date of checking (24.01.2018) by the Enforcement Wing in violation of PSPCL instructions/rules.

1. The disputed bill issued on 03.02.2018 for the period from

13.12.2017 to 16.01.2018 for 29,412 units and that issued on 06.03.2018 for the period from 16.01.2018 to 15.02.2018 for 25,977 units on corresponding period consumption of previous year were not genuine and justified.

1. During the disputed period, the paddy to the Industry and the work

of milling was very slow as compared to the previous year due to moisture problem. The Petitioner had only job work under custom milling of Government Agency MARKFED. All auction and delivery of Rice to the Government was digitally controlled by the Government. The Petitioner had only finished product 26.95% milling (3135.788 MT) paddy till 07.02.2018 due to moisture problem

1. The data obtained from the Government showed that milling during

the disputed period from 08.12.2017 to 08.01.2018 was 54% and from 08.01.2018 to 08.02.2018 was 52%, hence the bills prepared on corresponding period consumption of previous year were not genuine and justified in terms of clause 21.5.3 of the Supply Code-2014.

1. The Energy Meter was got checked on 04.04.2018 in the M.E.

Laboratory which found that its accuracy was within permissible limits, whereas PT’s of CT/PT unit were found burnt.

1. DDL recorded at site by the Enforcement Wing, Patiala on

24.01.2018 was not produced in the Forum. Moreover, as per direction of the Forum, DDL taken in the ME Laboratory on 28.05.2018, after a long period, showed tampered data, which is tabulated below:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| S.No. | Temper Type | Status | Count | Dur. |
| a | Voltage variation over voltage start no specific phase | Yes not restored. | 2 | NA |
| b | Voltage variation under voltage start no specific phase | Yes not restored. | 15 | NA |
| c | Current imbalance start | Yes not restored. | 1 | NA |
| d | Low PF- start poly phase value or value on single phase supply. | Yes not restored. | 25 | NA |
| e | Invalid voltage start | Yes not restored. | 1 | NA |

1. Complete DDL was not recorded whereas it should have been taken

on date of checking i.e. 24.01.2018 by the Enforcement, whereas DDL recorded in M.E. Laboratory on 28.05.2018 showed period 14.10.2017 to 19.12.2017 which was not relevant in the present case. Moreover complete DDL was not provided by the Respondent and it had not attached cumulative readings and tamper report etc. The DDL provided was incomplete for the purpose of adjudicating the present dispute.

1. The consumption data in kVAh of the energy consumption of

the Petitioner for the years 2015-16,2016-17 and 2017-18 was as under:

|  |  |
| --- | --- |
|   |  Consumption in kVAh |
| Month | 2015-16 | 2016-17 | 2017-18 | Code | Remarks |
| April | 11022 | 150 | 21998 | OK | - |
| May | 631 | 556 | 5120 | OK | - |
| June | 389 | 342 | 5050 | OK | - |
| July | 393 | 650 | 4016 | OK | - |
| August | 547 | 850 | 1904 | OK | - |
| September | 396 | 782 | 1142 | OK | - |
| October | 533 | 1028 | 956 | OK | - |
| November | 7747 | 14906 | 10010 | OK | - |
| December | 20647 | 9150 | 12990 | OK | - |
| January | 18022 | 29412 | 29412 | D | Corresponding period consumption of previous year. |
| February | 22026 | 25997 | 25977 | D | Corresponding period consumption of previous year.  |
| March | 10785 | 32176 | 17020 | C | Actual basis |

1. In view of the submissions made above, the Appeal may be allowed and undue charges raised may be set aside in the interest of justice.

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

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

1. The Petitioner was having a Medium Supply (MS) Category

connection, bearing Account No. 3002957544, with sanctioned load of 98 kW and contract demand (CD) as 100 kVA and metering was being done by providing HT static Energy Meter.

1. The reading on 15.01.2018 was not taken as the display of Energy

Meter was defective. Accordingly, the Respondent posted ‘D’ Code and informed the Sr.Xen/Enforcement-1,Patiala to check the connection vide letter no.81 dated 18.01.2018.

1. The connection of the Petitioner was checked by the Sr.Xen/

Enforcement-1, PSPCL, Patiala vide ECR No.49/313 dated 24.01.2018 in the presence of the Petitioner and found Red Phase PT burst and Yellow and Blue Phase of PTs also burnt.

1. Accordingly, the bill for the month of 02/2018 ( i.e. from 13.12.2017

to 16.01.2018) was made on ‘D’ Code, (on the basis of consumption recorded in corresponding period of previous year) for 29,412 kVAh units based on as per Regulation 21.5.2(a) of the Supply Code-2014.

1. The Energy Meter and CT/PT unit was replaced on 20.02.2018

vide MCO No.92/60845 dated 17.02.2018 and SJO No.81/528 dated 24.01.2018.

1. Thereafter, the bill for the month of 03/2018 (i.e. from 16.01.2018 to

15.02.2018) was also prepared/ issued on ‘D’ Code (on average basis) for 25,977 kVAh units based on consumption of corresponding period of previous year as per Regulation 21.5.2 (a) of the Supply Code-2014.

1. Regulation 21.5.2 (a) of the Supply Code- 2014 relating to

**Defective (other than inaccurate)/ dead stop/Burnt/Stolen Meters** read 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. No consumption was recorded on the Energy Meter of the Petitioner

from 17.12.2017 due to damaged CT/PT unit.

1. Thus, the Energy Meter of the Petitioner did not record energy

consumption from 17.12.2017 to 20.02.2018 i.e. the period during which the defective CT/PT remained installed.

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

 dismissed.

**4. ANALYSIS:**

The issue requiring adjudication is the legitimacy of the overhauling of the account of the Petitioner for the period from 17.12.2017 to 20.02.2018 (the date of replacement of the Energy Meter) on the basis of energy consumption of the corresponding period of previous year as per Regulation 21.5.2(a) of the Supply Code-2014.

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

1. The dispute arose when the Sub Divisional Office noticed during the

reading taken in 01/2018 that the display of the Energy Meter was off and recorded ‘D’(Defective) status of Energy Meter and the Sr.Xen/ Enforcement was requested by the Respondent, vide memo no.81 dated 18.01.2018, to check the connection of the Petitioner. In response, the connection was checked by the Sr. Xen/ Enforcement-1, PSPCL, Patiala, vide ECR No. 49/313 dated 24.01.2018 and found thatEnergyMeter‘s display was not coming. The Enforcement reported that Red Phase PT was burst and Blue & Yellow Phases of PT were burnt out. The Enforcement , then, directed to get the Energy Meter & 11 kV/ 440V, CT/PT unit replaced and thereafter checked from the M.E. Laboratory**.** Accordingly, the Energy Meter and CT/PT unit were replaced on 20.02.2018 vide MCO No.92/60845 dated 17.02.2018 and SJO No.81/528 dated 24.01.2018. The disputed Energy Meter and CT/PT unit were got checked from M.E. Laboratory vide challan No.26 dated 04.04.2018 wherein, the accuracy of Energy Meter was found within permissible limits.

 I have perused DDL dated 04.04.2018 and 28.05.2018 taken in the M.E. laboratory which showed that voltage variation event was started on 19.12.2017 at 15.41 hrs and restored on 04.04.2018 (when checked in M.E. Laboratory). Evidently, the Energy Meter did not record the consumption from 19.12.2017 to 20.02.2018 i.e. the date upto which defective CT/PT unit remained installed, meaning thereby that direct supply was availed by the Petitioner without the knowledge of the Respondent and **no approval of the Competent Authority of the PSPCL was taken**.

I observe that the Respondent was also responsible for not complying promptly with the directions issued by the Enforcement during checking dated 24.01.2018 for replacement of the burnt Energy Meter (including CT/PT) and its checking was got done from the M.E. Laboratory on 04.04.2018 (i.e.43 days from the date of its replacement) I observe that the said action of the Respondent was violative of guidelines for observance of time schedule stipulated in Standard of Performance (SoP). The Respondent also defaulted in allowing direct supply to the Petitioner without getting the approval of the Competent Authority.

1. During the course of hearing, Petitioner’s Representative (PR) pleaded that the Paddy to the Industry and work of the milling during the disputed period was very slow as compared to last year due to moisture problem. The Petitioner had only Job Work under custom milling of Government Agency. Petitioner’s Representative (PR) added that auction and delivery of rice to the Government was digitally controlled by the Government. The Petitioner had only finished product 26.95% milling (3135.788 MT) paddy till 07.02.2018 due to moisture problem. Petitioner’s Representative (PR) also referred to the data obtained from the Government on-line, already attached with the present Appeal. As the Petitioner’s Representative (PR) did not bring on record of this Court an authenticated/valid Certificate from Government Agency as an evidence in support of its contention, it was directed to submit duly authenticated Certificate from the Government Agency in this regard for consideration by 13.12.2018 positively. In compliance, the Petitioner sent, on 10.12.2018, the requisite details duly authenticated/certified by the Branch Manager, MARKFED, Nabha and Manager (D) FCI, Nabha.

 On perusing above detail, I find merit in the contention of the Petitioner’s Representative that the paddy to the Industry and the work of milling was actually less during the disputed period as compared to last year to the tune of 93% to 89% and justice be done to the Petitioner in view of provisions contained in 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* ”.

 From the above analysis, it is concluded that overhauling of Petitioner’s account for the period from 17.12.2017 to 20.02.2018 (i.e. date of replacement of the burnt Energy Meter including CT/PT) on the basis of energy consumption of corresponding period of previous year as per Regulation 21.5.2 (a) of the Supply Code-2014 is not justified. Instead, it will be appropriate to take recourse to the provision contained in Regulation 21.5.3 of the Supply Code-2014 with a view to meet the ends of ultimate justice and overhaul the charges during the disputed periods i.e. 17.12.2017 to 16.01.2018 and 17.01.2018 to 20.02.2018 by reducing the consumption by 7% and 11% respectively of the consumption of corresponding periods during 2016-17.

**5. Decision:**

 **As a sequel of above discussions, the order dated 18.07.2018 of the Forum in Case No.CG-158 of 2018 is set aside. It is held that overhauling of the account of the Petitioner for the disputed period shall be done as per conclusion arrived at as para 4 above. The Respondent is directed to recalculate the demand and excess/short amount shall be refunded/recovered without any interest.**

**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)

December 13, 2018 Lok Pal (Ombudsman)

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