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

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

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

 **APPEAL NO. 60/2018**

**Date of Registration : 20.09.2018**

**Date of Hearing : 27.12.2018 and 15.01.2019**

**Date of Order : 01.03.2019**

**Before:**

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

**In the Matter of :**

 Oasis Enterprises Pvt. Ltd,

 Village Talwara Road,

Mandi-Gobindgarh

 ...Petitioner

 Versus

Additional Superintending Engineer,

DS Division ,

PSPCL Mandi -Gobindgarh

 ...Respondent

**Present For:**

Petitioner : 1 Sh.Rakesh Bhatia,

 Petitioner’s Representative (PR).

 2. Er .R.S.Dhiman,

 Petitioner’s Representative (PR).

Respondent : 1. Er.Dhanwant Singh,

 Addl.Superintending Engineer,

 DS Division, PSPCL, Mandi- Gobindgarh.

 2. Sh.Bipin Dhingra.

 Revenue Accountant (RA).

 Before me for consideration is an Appeal preferred by the Petitioner against the order dated 24.08.2018 of the Consumer Grievances Redressal Forum (Forum) in Case No.CG-233 of 2018 deciding that :

*“ The decision taken by ZLDSC office of CE/Operation, Ludhiana in its meeting held on 27.03.2018 is in order and needs no interference by this Forum”.*

**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 16,000kW and contract demand (CD) of 16,000 kVA at 66 KV Supply Voltage for the load of Induction Furnace (released on 11.04.2006). The connection was running from Independent Feeder from 66 KV Talwara Road Sub-station from the date of its release i.e. 11.04.2006.

1. The Petitioner submitted its representation dated 10.06.2009 with

a request to get the Energy Meter checked as the consumption recorded by it was higher as compared to other Industries/Units of the similar nature.

1. The said Energy Meter was checked by the Addl.SE/MMTS,

Khanna vide ECR No.18/1118 dated 28.07.2009 and its accuracy was found within permissible limits.

1. The Petitioner was not satisfied with the above said checking of

MMTS and requested the Respondent on 10.11.2009 for intimating the consumption of the Grid Sub-station Energy Meter feeding the connection at Talwara Sub-station w.e.f 01.04.2009 to 31.10.2009. This information was provided to the Petitioner by the SE, DS Circle, Khanna, vide memo no.23126 dated 28.12.2009.

1. On 25.11.2009, the Petitioner submitted representation for checking

of 66 kV CTs and PTs installed at its premises and deposited the requisite fee.

1. AEE/Commercial, Mandi Gobindgarh, vide memo no.4630 dated

31.12.2009,directed thePetitioner to arrange new 66 kV CTs and PTs which were provided by the Petitioner on 22.06.2010.

1. The disputed 66 kV CTs and PTs were replaced with new ones in

08/2010 and Availability Based Tariff (ABT) Energy Meter was installed**.**

1. The Petitioner requested the Respondent on 12.04.2011 in writing

 to get disputed CTs and PTs checked at an early date.

1. The Respondent, vide memo no.2786 dated 22.07.2011,requested

the MMTS, Khanna to test the 66 kV CTs and PTs. However, MMTS, vide memo no.13215 dated 27.09.2011,intimated that there was no equipment available with its office to test the 66 kV CTs and PTs at Site and advised to get the same tested from the M.E. Laboratory.

1. 66 kV CTs already dismantled were tested in the M.E. Laboratory

on 25.04.2012 and test results of all the three 66 kV CTs were found within permissible limits, but the 66 kV PTs could not be checked as there was no facility to check the same in the M.E. Laboratory.

1. The Petitioner submitted a representation to get the 66 kV PTs

tested as the same had not been tested, but the Respondent did not get the PTs tested. Then, the Petitioner approached the CGRF for testing of 66 kV PTs and the Forum directed the Addl.SE/DS Division (Special) Mandi- Gobindgarh on 09.03.2016 to take immediate action for testing of 66 kV PTs.

1. In the meantime, the Petitioner filed a Petition on 13.06.2016 before

the Zonal Dispute Settlement Committee (ZDSC) which issued directions to get the 66 kV PTs tested from the accredited Agency and constituted a Committee of three Officers i.e. Addl.SE/DS Division (Special), Mandi-Gobindgarh, Addl.SE/Enforcement, Khanna and Addl.SE/ ME Laboratory, Ludhiana for the purpose.

1. The above said Committee visited the premises of the Petitioner on

08.03.2017 and found that three no. 66 kV PTs, bearing Serial no.20805-124, 20805-125 and 20805-123, were lying in the premises of the Petitioner in open condition. The Committee held that the condition of the PTs lying in the open from the date of dismantlement in 08/2010 till the date of their visit on 08.03.2017 which could not be explained technically and theoretically by the Committee. However, the Committee sealed the PTs which were lying in the unsealed condition in the premises of the Petitioner since 08/2010 in as and found condition. These 66 kV PTs were then tested by Yadav Measurement (P) Ltd. (YMPL), Udaipur in the presence of the Committee as stated above, at the premises of the Petitioner on 27.04.2017 and ***accuracy was found to be beyond permissible limits***.

1. ZDSC, in its proceedings held on 11.01.2018, further directed to get

the 66 kV PTs now installed at the premises of the Petitioner and at the Grid end tested. The PTs installed at the premises of the Petitioner were tested on 19.02.2018 in the presence of the Committee and results were found to be within permissible limits. The PTs installed at the Grid end were tested on 20.02.2018 and results of 2 no. PTs were found to be incorrect.

1. ZDSC heard the case of the Petitioner in its various meetings and

decided on 27.03.2018 after taking into consideration the various aspects of the case and held that there was no merit in the case of the Petitioner and the Petition was dismissed.

1. Not satisfied with the decision of the ZDSC, the Petitioner filed a

Petition on 11.06.2018 in the CGRF, who, after hearing, passed the order dated 24.08.2018. (Reference Page-2, Para-1).

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

an Appeal in this Court and prayed that orders may be passed to ***refund the excess amount*** paid by the Petitioner on account of defect in its 66 kV PTs from the date of installation to the date of their dismantlement ***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 Representative of the Petitioner and the Respondents 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 Large Supply Category connection

since 11.04.2006 with sanctioned load of 16,000kW and contract demand (CD) of 16,000 kVA at 66 kV Supply Voltage for the load of Induction Furnace. The connection had been running from Independent Feeder from 66 KV Talwara Road Sub-station since its release.

**(ii)** The Petitioner represented in writing to the AEE,DS Sub Division, PSPCL, Gobindgarh on 10.6.2009 that its Energy Meter was running fast as it was showing much higher consumption in comparison to similar other Units. The Petitioner requested the Respondent to test the Energy Meter and deposited the requisite fee.

**(iii)** The Energy Meter was checked on 28.07.2009 by the Addl.SE, MMTS, Khanna and found its accuracy within permissible limit.

**(iv)** Not satisfied with the results of testing of the Energy Meter by MMTS, the Petitioner again requested, vide its letter dated 25.11.2009, to the AEE/Commercial, PSPCL, Mandi- Gobindgarh to get tested the CTs/PTs as well and deposited the requisite fee for the same.

**(v)** For its own satisfaction, the Petitioner installed a **private check Energy Meter in its premises and found variation/difference of 6%.** It confirmed the Petitioner’s apprehension that it was charged for more consumption than the actual Consumption. The data of Sending end meter was obtained by the Petitioner. Its comparison with the billed consumption of the same period convinced the Petitioner about fast running of its metering equipment.

**(vi)** Then, on repeated requests to the Respondent, the Petitioner was asked, vide memo no.4630 dated 31.12.2009, by the AEE/Commercial, Mandi-Gobindgarh to arrange new 66 kV CTs/PTs, so that the challenged CTs/PTs could be dismantled for testing in the ME laboratory. In response, the Petitioner provided CTs/PTs to the Respondent on 22.06.2010 and requested for getting the disputed CTs/PTs tested at the earliest.

**(vii)** Failing to get any response, the Petitioner, on 12.04.2011, requested the Respondent to test the challenged CTs/PTs checked, but in vain.

**(viii)** After long pursuance, AEE/Commercial Mandi Gobindgarh, vide memo dated 22.07.2011, requested the Sr.Xen, MMTS, Khanna to test the disputed CTs/PTs. However, Sr.Xen, MMTS, Khanna, vide memo dated 27.09.2011, intimated that there was no equipment available with its office to test the disputed CTs/PTs at Site and advised to get the same tested from the ME Laboratory, Ludhiana.

**(ix)** As directed by the Respondent, the Petitioner further deposited the additional fee for testing the CTs/PTs. The disputed CTs/PTs were replaced in 02.08.2010 and immediately thereafter, the Grid end Energy Meter started showing more consumption than the Petitioner’s own private Meter, whereas it was showing much less before the change of CTs/PTs.

**(x)** The disputed CTs were checked in the ME Laboratory and declared OK vide ME Laboratory’s report dated 25.04.2012, but the PTs were again left untested on the plea that ME Laboratory did not have the required facility.

**(xi)** Thereafter, failure on the part of the Respondent to test the disputed PTs was brought to the notice of the CGRF on 06.03.2016, who issued directions on 09.03.2016 vide memo no.343 to the Respondent to ensure testing of the challenged equipment, but nothing moved on ground.

**(xii)** The Petitioner ultimately filed a Petition before the ZDSC/Central Zone, Ludhiana on 13.06.2016, which, in turn, formed a Committee of three Officers to inspect the disputed CTs/PTs and also ordered testing of PTs by an authorised accredited Testing Agency.

**(xiii)** Accordingly, the Petitioner got the 66 kV PTs tested from

YMPL, Udaipur in the presence of the Committee of three Officers formed by the ZDSC. As per the report, there was a ratio error of nearly 5%. ***The said Committee reported that on the basis of test results of CTs and PTs, excess recording by the Petitioner’s Energy Meter worked out to + 4.561%.***

**(xiv)** During the pendency of the case, some members of ZDSC were transferred and the new members decided that accuracy of PTs installed at the Grid as well as the new PTs installed by the Petitioner be also tested. Accordingly, this equipment was also tested by YMPL on 19.02.2018 and as per its report, the new PTs installed at the premises of the Petitioner were found OK. Results of Grid PTs were not supplied to the Petitioner by the ZDSC. Finally ZDSC dismissed the Petition of the Petitioner.

**(xv)** Aggrieved with the decision of the ZDSC, the Petitioner filed a Petition in the Forum, who, after hearing, passed the order dated 24.08.2018 (Reference Page-2, Para-1) and upheld the decision of the ZDSC.

**(xvi)** Not satisfied with the decision of the Forum, the Petitioner preferred an Appeal in this Court and prayed to refund the excess amount paid by the Petitioner on account of defect in its 66 kV PTs ***from the date of installation to date of dismantlement*** **of the defective PTs *with interest.***

1. The alibi that the Petitioner only requested for testing of Energy

Meter and not CT/PTs in the first instance, was not tenable. The Petitioner’s request dated 10.06.2009 was for testing of its Energy Meter which included testing of its 66 kV CTs and PTs also in terms of Regulation 2(w) of the Supply Code-2007.

1. The Respondents were duty bound to make all arrangements for

testing of the Energy Meter including the CTs/PTs within stipulated period of seven days in its own M.E. Laboratory or get the CTs and PTs tested from a Private Agency, but this lapse had been conspicuously ignored by the ZDSC as well as the Forum. As per Regulation 21.1 of the Supply Code-2007, it was the Licensee’s primary responsibility to install a correct Energy Meter at the premises of its consumers.

1. The ZDSC and the Forum had not held the Respondent guilty for not

getting PTs tested immediately after deposit of Energy Meter challenge Fee. In case, PSPCL did not have the facility of testing 66 kV PTs in its ME Laboratory, the Petitioner should have been advised to get the same tested from an accredited Testing Agency. The Respondents were responsible for delay in testing the disputed PTs. The Petitioner pursued the matter vigorously for getting tested PTs as evidenced from the letters written by it to all the concerned authorities.

1. As per the report supplied by YMPL, Udaipur on 28.04.2017 in the

presence of the Committee formed by the ZDSC, it had been established that there was a ratio error of nearly 5% in the disputed PTs.

1. As per the report submitted by the Members of the Committee, it

was concluded that the ***Petitioner’s metering equipment was recording + 4.561% more consumption than the actual***. This report of its own Committee had not been accepted by the ZDSC and the Forum. One of the grounds mainly relied upon by the ZDSC for repudiating the report of the Committee was long period between dismantlement and testing of the disputed PTs, but the Petitioner was not responsible for it. The Petitioner got tested the disputed PTs immediately after being advised to do so.

1. Consumption Data, as recorded on Respondent’s Sending end meter

and that of the Petitioner for the period from 30.03.2009 to 30.11.2009 from Independent Feeder revealed that 1,88,96,182 kVAh units were supplied to the Petitioner during this period whereas the Petitioner had been charged for 1,96,21,500 kVAh units during the same period as per bills received by it. Deducting line losses from 1,88,96,182 kVAh units should equal the Petitioner’s actual consumption. However, more consumption at Petitioner’s end than that recorded at Respondent’s Sub-Station clearly proved that the Petitioner’s Energy Meter was showing more consumption than the actual due to defect in the PTs. This assertion was further reinforced by the fact that the ***Grid Meter installed at the Respondent’s Sub-Station started showing more consumption than the Petitioner’s Meter after installation of New PTs in 8/2010***.

1. In an identical case of Aman Alloys Pvt. Ltd, Mandi-

Gobindgarh V/s PSPCL, in Appeal No.26/2015, this Court passed order dated 29.09.2015 to grant relief to the Petitioner. Accordingly, a relief be granted to the Petitioner.

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

 in the interest of justice.

1. **Submissions of the Respondent:**

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

1. The Petitioner had raised dispute with respect to the arrear being

demanded in accordance with the excess recording of consumption by the Energy Meter installed at its premises.

1. The Energy Meter of the Petitioner was tested at site and its

accuracy was found within permissible limits. 66 kV CT/PT units were not tested as the Petitioner did not apply for it and did not deposit the testing fees of 66 kV PT units. The dispute involving the fast running Energy Meter could not be raised in the instant appeal.

1. The Petitioner was having a Large Supply Category connection,

bearing Account No. GB11-61455 and applied on 10.06.2009 for testing of Energy Meter, which, in turn, was tested at site on 28.07.2009 by the Addl.SE, MMTS, Khanna vide ECR no. 11/1118. The working of the Energy Meter was found within limit of accuracy. The checking report was duly acknowledged and accepted by the Petitioner.

1. Because the 66 KV CTs/PTs were privately owned by the Petitioner,

hence, it was its duty to make arrangement for checking of 66 kV CTs/PTs at its own level, as there was no arrangement for testing of 66 kV CTs/PTs within PSPCL. A sum of Rs. 2400/- as testing fee for Energy Meter and normal CTs/PTs was deposited which could not cover the testing fee of 66 kV CTs/PTs, as it involved an expenditure of huge amount.

1. The Petitioner moved another representation on 25.11.2009

for checking of 66 kV CTs/PTs installed at its premises. As a result, the AEE/Commercial, Mandi-Gobindgarh, vide memo no. 2786 dated 22.07.2011, requested the ASE/MMTS, Khanna to test the 66 kV CTs/PTs of the Petitioner. However, the ASE/MMTS, Khanna, vide memo no. 13215 dated 27.09.2011, intimated that there was no equipment available with its office to test the 66 kV CTs/PTs unit at site. Accordingly, the Petitioner was advised to get the 66 kV CTs/PTs unit tested in M.E. Laboratory, Ludhiana. The additional testing fee was deposited by the Petitioner on 07.03.2012.

1. The 66 kV CTs, already dismantled from the premises of the

Petitioner, were tested in ME Laboratory, Ludhiana on 25.04.2012 and the test results of all the three CTs were found within permissible limits. The 66 kV PTs, which were dismantled from the premises of the Petitioner, could not be checked in M.E. Laboratory as there was no facility to check the same in the ME Lab and these privately owned PTs remained in the custody of the Petitioner. Therefore, it was the duty of the Petitioner to get its privately owned 66 kV CTs/PTs tested at its own level or to make arrangement for the same.

1. The Petitioner filed a Petition in the Forum for checking of PTs.

The Forum, vide memo no. 343/45 dated 09.03.2016, directed the Respondent to take necessary action for the testing of 66 kV PTs.

1. Thereafter, the Petitioner filed a Petition before the ZDSC on

13.06.2016 and the ZDSC directed to get the 66 kV PTs inspected by constituting a Committee of three officers i.e. ASE/DS, Mandi- Gobindgarh, ASE/Enforcement, Khanna and ASE/ME Lab, Ludhiana and tested in their presence from the Accredited Testing Agency. The said Committee found that the 66 kV PTs were lying in the premises of the Petitioner in open condition since their dismantlement i.e. in 08/2010. However, the Committee sealed the PTs, which were lying in the unsealed condition in the premises of the Petitioner. These 66 kV PTs were then tested by YMPL, Udaipur in the presence of the Committee Members at the premises of the Petitioner on 27.04.2017 and accuracy was found beyond permissible limits. Thereafter, on 27.03.2018, the ZDSC dismissed the Petition by holding that there was no merit in the case.

1. The Petitioner did not agree with the decision of the ZDSC and filed

a Petition on 11.06.2018 in the Forum, who, after hearing, observed that the contention of the Petitioner for the comparison to be made with energy consumption recorded by the Grid end Energy Meter installed at the premises of the Petitioner was not justified, as the Energy Meter installed at Grid end was merely used for reference purposes and the Energy Meter installed at the premises of the Petitioner was used for billing purposes. The Energy Meter installed at the Petitioner’s premises was of higher accuracy class being used for billing purposes exclusively whereas those installed at Grid End were merely used for technical evaluation. So, the Petitioner could not be billed on the basis of the energy recorded at the Grid End. The Forum, vide order dated 24.08.2018, dismissed the Petition of the Petitioner.

1. The Committee formed by the ZDSC visited the premises of the

Petitioner and found that three no. 66 kV PTs were lying in open and unsealed condition and reported that the PTs remained in the custody of the Petitioner for a long period from 08/2010 to 03/2017 in unsealed condition. Faced with such a situation, the Committee was of the opinion that it was difficult to ascertain at this stage that the PTs tested in the month of April 2017 by YMPL, Udaipur, were the same as were installed in the Petitioner’s premises and removed/replaced in 08/2010. Further, the PTs remained out of service for about seven years in unenergised state. Therefore, the test results of the PTs by the third party could not be relied upon.

1. *The Respondent had already filed a CWP No.14761 of 2018 titled*

*as PSPCL Vs Aman Alloys in the Hon’ble Punjab and Haryana High Court, Chandigarh against the order dated 29.09.2015 of this Court (referred to by the Petitioner), which was still pending for adjudication*.

1. In view of the submissions made above, the Appeal of the Petitioner

 may be dismissed.

**4. Analysis:**

 The issue requiring adjudication is the legitimacy of the claim of the Petitioner for refund of excess amount paid by it on account of defect in 66 kV PTs from the date of installation to the date of their dismantlement/replacement along with interest.

 *The points emerged in the case are deliberated and analysed as under:-*

1. The present dispute arose after the Petitioner, having a Large Supply

Category connection at 66 kV Supply Voltage for the load of Induction Furnace and running from Independent Feeder from 66 KV Talwara Road Sub–Station, submitted a representation dated 10.06.2009 to the Respondent requesting for checking of the Energy Meter as its consumption was higher than that of Industries/Units of similar nature. As a result, the Energy Meter was checked by the Addl.S.E. MMTS, Khanna, on 28.07.2009 and its accuracy was found within permissible limits. Not satisfied with the said checking, the Petitioner requested on 10.11.2009 asking for details of the consumption of the Grid Sub-Station Energy Meter feeding the connection from Talwara Sub-Station w.e.f. 01.04.2009 to 31.10.2009. This information was provided to the Petitioner by the SE, DS Circle, Khanna vide memo no.23126 dated 28.12.2009. In the meantime, the Petitioner submitted a representation on 25.11.2009 for checking of 66 kV CTs and PTs installed at its premises and deposited the requisite fee. The Petitioner was then directed on 31.12.2009 to arrange new 66 kV CTs and PTs which were provided by the Petitioner on 22.06.2010 whereafter, the disputed 66 kV CTs and PTs were replaced with accuracy class of 0.2 S in 08/2010 along with Availability Based Tariff (ABT) Energy Meter which were installed by the Respondent. The three disputed 66 kV CTs already dismantled were tested in the M.E. Laboratory on 25.04.2012 and test results thereof were found within permissible limits. But the 66 kV PTs could not be tested in the M.E. Laboratory as it did not have the facility for their testing.

I find that the Petitioner submitted representation to get the PTs tested to the Respondent, but the same were not tested. Then the Petitioner approached the Forum for testing of disputed 66 kV PTs and directions were issued, on 09.03.2016 to the Respondent to take immediate action. In the meantime, the Petitioner filed an Appeal on 13.06.2016 to the ZDSC who directed the Respondent, on 16.12.2016 to get disputed 66 kV PTs tested from the authorized/accredited Testing Agency and constituted a Committee of three Officers i.e. Addl.SE/DS Division, PSPCL, Mandi-Gobindgarh, Addl.SE/Enforcement, PSPCL, Khanna and Addl.SE/M.E. Laboratory, Ludhiana for the purpose. The Committee visited the premises of the Petitioner on 08.03.2017 and found that three no. 66 kV PTs, bearing Serial no.20805-124, 20805-125 and 20805-123 of accuracy class 0.2, were lying in the premises of the Petitioner in open condition. The Committee submitted that the condition of the PTs lying in the open from the date of dismantlement in 08/2010 till the date of their visit on 08.03.2017 which could not be explained technically and theoretically. However, the Committee sealed the PTs which were lying in the unsealed condition in the premises of the Petitioner since 08/2010 in as and found condition. These 66 kV PTs were then tested by YMPL, Udaipur in the presence of the Committee as stated above, at the premises of the Petitioner on 27.04.2017 and accuracy was found to be beyond permissible limits. The ZDSC, in its proceedings held on 11.01.2018, further directed to get the new 66 kV PTs then installed at the premises of the Petitioner and at the Grid end tested. The PTs installed at the premises of the Petitioner were tested on 19.02.2018 in the presence of the Committee and results were found to be within permissible limits. The PTs installed at the Grid end were tested on 20.02.2018 and results of 2 no. PTs were found to be incorrect.

1. A hearing in this case was held on 27.12.2018 wherein both the

sides presented their respective points of view. After deliberations, the Respondent was directed to supply the information by 11.01.2019 vide memo no.1846/OEP/A-60/2018 dated 27.12.2018 regarding:

1. The recorded monthly readings of the Energy Meter installed at Sending End of PSPCL and monthly consumption data installed at Sending end (at PSPCL Grid Sub-Station) and that at Consumer end, one year before and after the replacement of 66 kV CTs/PTs in separate two sheets.
2. Complete particulars of the old and new Energy Meter along with 66 kV CTs/PTs including date of installation of each with accuracy class.
3. Periodical calibration or otherwise of the Sending end Meter.
4. In compliance to the above directions, the Respondent submitted

during hearing dated 15.01.2019, the data relating to Grid and Consumer end consumption and line losses in percent along with particulars of the Energy Meters and 66 kV PTs & 66 kV CTs installed with accuracy class for the period from July 2009 to July 2011tabulated below:

|  |  |  |  |
| --- | --- | --- | --- |
| **Month/****Year** | **Grid end consumption** | **Consumer end consumption** | **% losses** |
| Jul-2009 | 1891331 | 1962083 | -3.7409 |
| Aug-2009 | 1620265 | 1671166 | -3.1415 |
| Sep-2009 | 2151665 | 2248166 | -4.4849 |
| Oct-2009 | 2714264 | 2816332 | -3.7604 |
| Nov-2009 | 2954864 | 3071915 | -3.9613 |
| Dec-2009 | 3113130 | 3229915 | -3.7514 |
| Jan-2010 | 2780397 | 2901416 | -4.3526 |
| Feb-2010 | 2815131 | 2925249 | -3.9116 |
| Mar-2010 | 2737864 | 2848832 | -4.0531 |
| Apr-2010 | 2635597 | 2739749 | -3.9517 |
| May-2010 | 2796597 | 2890416 | -3.3548 |
| Jun-2010 | 2596864 | 2713666 | -4.4978 |
| Jul-2010 | 3436797 | 3556665 | -3.4878 |
| Aug-2010 | 1903598 | 1908416 | -0.2531 |
| Sept-2010 | 3838663 | 3793165 | -1.1853 |
| Oct-2010 | 3569396 | 3530832 | +1.0804 |
| Nov-2010 | 3400397 | 3355665 | +1.3155 |
| Dec-2010 | 3790463 | 3714999 | +1.9909 |
| Jan-2011 | 2894130 | 2874832 | +0.6668 |
| Feb-2011 | 4103129 | 4073498 | +0.7222 |
| Mar-2011 | 3128730 | 3091249 | +1.1980 |
| Apr-2011 | 3334130 | 3294415 | +1.1912 |
| May-2011 | 3941263 | 3893915 | +1.2013 |
| Jun-2011 | 3907729 | 3861332 | +1.1873 |
| Jul-2011 | 3279130 | 3241415 | +1.1502 |

The Respondent also intimated that **Sending end Meters were not periodically calibrated and only the DDL of the Energy Meters was done by the MMTS**. At Sending (Respondent) end, the accuracy class of 66 kV Energy Meter was 0.2 while that of CTs and PTs was 0.5 at the time of installation (11.04.2006). On the other hand, the accuracy class of 66 kV Energy Meter, CTs and PTs at the Receiving (Petitioner) end since installation & during the period of dispute was 0.2. It was only in 08/2010 onwards, the accuracy class of the Metering equipment at Sending & Receiving ends was changed to 0.2S. During deliberations, the Petitioner pleaded for refund of amount paid on account of defect in its 66 kV PTs **from the date of installation to the date of dismantlement of the defective PTs with interest**. As such, it was considered necessary by the Court to call for the consumption data of Grid and Consumer end for the remaining period from the date of installation (11.04.2006) upto June 2009. Accordingly, the Respondent was directed orally and also, vide Memo No.50/OEP/A-60/2018 dated 15.01.2019 to send the aforesaid information. In response, the Respondent sent the requisite information to this Court vide e-mail dated 21.01.2019. The consumption data of Sending and Receiving end was as under:

**Comparison chart of consumption shown by Meter at Consumer end & Grid end from the date of connection to 01.08.2011:**

|  |  |
| --- | --- |
| **From Grid end** | **From Oasis Enterprises end** |
|  DateFrom To | Units consumed | Units consumed | Grid end-Consumer end | Difference in % |
| 11.04.2006 | 30.03.2009 | 75290991 | 78170000 | -2879008 | -3.8238 |
| 30.03.2009 | 30.04.2009 | 20008865 | 2084083 | -75219 | -3.7443 |
| 30.04.2009 | 30.05.2009 | 3166930 | 3286500 | -119570 | -3.7756 |
| 30.05.2009 | 30.06.2009 | 2387998 | 2481250 | -93252 | -3.9050 |
| 30.06.2009 | 31.07.2009 | 1891331 | 1962083 | -70752 | -3.7409 |
| 31.07.2009 | 31.08.2009 | 1620265 | 1671167 | -50902 | -3.1416 |
| 31.08.2009 | 30.09.2009 | 2151665 | 2248167 | -96502 | -4.4850 |
| 30.9.2009 | 31.10.2009 | 2714264 | 2816333 | -102069 | -3.7605 |
| 31.10.2009 | 30.11.2009 | 2954864 | 3071917 | -117053 | -3.9614 |
| 30.11.2009 | 31.12.2009 | 3113130 | 3229915 | -116785 | -3.7514 |
| 31.12.2009 | 30.01.2010 | 2780397 | 2901916 | -121519 | -4.3706 |
| 30.01.2010 | 02.03.2010 | 2815131 | 2925249 | -110118 | -3.9116 |
| 02.03.2010 | 31.03.2010 | 2737864 | 2848832 | -110968 | -4.0531 |
| 31.03.2010 | 30.04.2010 | 2635597 | 2739749 | -104152 | -3.9517 |
| 30.04.2010 | 31.05.2010 | 2796597 | 2890416 | -93819 | -3.3547 |
| 31.05.2010 | 30.06.2010 | 2596864 | 2713666 | -116802 | -4.4978 |
| 30.06.2010 | 02.08.2010 | 3436797 | 3556665 | -119868 | --3.4878 |
|  | Total | **143520790** | **149042656** | -5521866 | -3.8474 |
|  |  |  |  |
| 02.08.2010 | 31.08.2010 | 1903598 | 1908416 | -4818 | -0.2531\* |
|  |  |  | \*CTs/PTs changed this month on\_\_\_\_\_\_ |
|  |  |  |  |  |  |
| 31.08.2010 | 01.10.2010 | 3838663 | 3793165 | 45498 | +1.1853 |
| 01.10.2010 | 02.11.2010 | 3569396 | 3530832 | 38564 | +1.0804 |
| 02.11.2010 | 03.12.2010 | 3400397 | 3355665 | 44732 | +1.3155 |
| 03.12.2010 | 04.01.2011 | 3790463 | 3714999 | 75464 | +1.9909 |
| 04.01.2011 | 31.01.2011 | 2894130 | 2874832 | 19298 | +0.6668 |
| 31.01.2011 | 06.03.2011 | 4103129 | 4073498 | 29631 | +0.7222 |
| 06.03.2011 | 01.04.2011 | 3128730 | 3091249 | 37481 | +1.1980 |
| 01.04.2011 | 29.04.2011 | 3334130 | 3294415 | 39715 | +1.1912 |
| 29.04.2011 | 30.05.2011 | 3941263 | 3893915 | 47348 | +1.2013 |
| 30.05.2011 | 01.07.2011 | 3907729 | 3861332 | 46397 | +1.1873 |
| 01.07.2011 | 01.08.2011 | 3279130 | 3241415 | 37715 | +1.1502 |
|  | **Total** | **39187160** | **38725317** | **461843** | **+1.1926** |

1. Petitioner’s Representative (PR) argued that the ZDSC and the

Forum had not held the Respondent guilty for not getting PTs tested immediately after deposit of Energy Meter Challenge Fee. In case, PSPCL did not have the facility of testing 66 kV PTs in its ME Laboratory, the Petitioner should have been advised to get the same tested from an authorized accredited Testing Agency. The Respondents were responsible for the delay in testing the disputed PTs. The Petitioner pursued the matter vigorously for getting tested PTs as evidenced from the letters written by it to all the concerned authorities.

 The Respondent, in its defence, stated that the 66 kV PTs, which were dismantled from the premises of the Petitioner were privately/individually owned by it and hence remained in its custody. Therefore, it was the duty of the Petitioner to get its privately owned 66 kV CTs-PTs tested at its own level or to make arrangements for the same.

 I observe from the General Schedule of Charges, approved by Hon’ble PSERC, that charges for testing and calibration including sealing of HT and EHT Metering equipment i.e. Meter with CTs and PTs, was Rs.2500/- during FY 2009-10. Hence, it was the responsibility of the Respondent to get the Metering Equipment tested.

1. Petitioner’s Representative (PR) contended that as per the report

submitted by YMPL, Udaipur (accredited testing agency) on 28.04.2017 in the presence of the Committee formed by the ZDSC, it had been established that there was a ratio error of nearly 5% in the disputed PTs. **The report dated 15.06.2017 submitted by the Members of the Committee, is reproduced below**:

***“fog'oN pkps w?;H nf;; fJzNogqkJhii, wzvh r'fpzdrV, yksk BzL K21-GB11--61455***

*i'Bb b/tb Mrvk fBtokD ew/Nh,b[fXnkDk dh fwsh 05H05H2017 B{z j'Jh whfNzr ftZu fdZs/ j'J/ j[ewK dh gkbDk eod/ j'J/ nZi fwsh 15H6H2017 B{z tXhe fBrokB fJzihfBno, n?wHJhH b?p, b[fXnkDk, tXhe fBrokB fJzihfBno ;g?Pb tzv wzvb, wzvh r'fpzdrV ns/ ;hBhno ekoiekoh fJzihfBno, fJzBc'o;w?AN, yzB****k*** *tb'A M/s Oasis Enterprises, wzvh r'fpzdrV yksk BzL K21-GB11-61455 d/ whNo, ;hH Nhi ns/ ghH Nhi d/ foibNK dh x'y ehsh rJh .*

*1H ygseko dk whNo fwsh 13H11H2014 okjhA ubkB BzL 510 fwsh 13H11H2014 okjhA n?wHJhH b?p, wzvh r'fpzdrV fty/ N?;N ehsk frnk ;h, fi; ftZu whNo dh Accuracy ;hwk ftZu gkJh rJh ;h .*

*2H fJ; ygseko d/ ;hHNhi dh n?wHJhHb?p,b[fXnkDk fty/ fwsh25H04H2012 B{z N/?;fNzr ehsh rJh ;h .*

*3H ygseko d/ ghHNhH i' fe wjhBk 08$2010 d"okB pdb/ rJ/ ;B, T[j ghHNhi pdbh eoB T[gozs 08$2010 s'A b? e/ 03$2017 sZe nB;hbv jkbs ftZu ygseko dh e;Nvh ftZu oj/ jB . ZDSC d/ c?;b/ w[skpe ygseko tZb'A ftykJ/ T[;d/ njks/ ftZu gJ/ ghH Nhi B{z fwsh 08$03$2017 B{z tXhe fBrokB fJzihfBno ;g?Pb, tzv wzvb, wzvh r'fpzdrV ns/ ;hBhno ekoiekoh fJzihfBno, fJzBc'o;w?AN, yzBk tZb'A fiTA[ dh fsTA[ jkbs ftZu ;hb eo fdZs/.fJj ghH Nhi ZDSC ew/Nh d/ c?;b/ w[skpe 28$04$2017 B{z M/s YMPL, Udaipur tZb'A ygseko d/ njks/ ftZu tXhe fBrokB fJzihfBno, n?wHJhH b?p, b[fXnkDk, tXhe fBroKB fJzihfBno, ;g?Pb, tzv wzvb, wzvh r'fpzdrV ns/ ;hBhno ekoiekoh fJzihfBno, fJzBc'o;w?AN, yzBk dh jikoh ftZu u?e ehs/ rJ// .*

*4H whNo dh Accuracy, ;hH Nhi dh Accuracy ns/ ghH Nhi dh Accuracy dh x'y gVskb eoe/* n";sB *Accuracy j/m fby/ nB{;ko j?L*

 *1H whNo dh Accuracy ;hwk ftZu j? .*

 *2H ;h Nhi dh Accuracy (i) CT Sr. No. 10805-131 at 100% Burden = -0.560%*

 *(ii) CT Sr. No. 10805-129 at 100% Burden = -0.643%*

 *(iii) CT Sr. No. 10805-130 at 100% Burden = +0.118%*

 *Average Accuracy of CT’s = - 0.362%*

*3. ghH Nhi dh Accuracy (i) PT Sr. No. 20805-123 Average Accuracy at 100% Burden = +4.952%*

 *(ii) PT Sr. No. 20805-124 Average Accuracy at 100% Burden = +4.929%*

 *(iii) PT Sr. No. 20805-125 Average Accuracy at 100% Burden = +4.964%*

 *Average Accuracy of PT’s at 100% Burden = + 4.948%*

*;hH Nhi dh 100% b'fvzr ns/ gkto c?eNo :{fBNh wzB e/ whNo dh ;hH Nhi ns/ ghH Nhi dh T[go'es nB{;ko Accuracy Incorporate eoe/ whNfozr Equipment dh Overall Accuracy j/m fby/ nB{;ko nkt/rh .*

 *P1 = √3vi Cos Ø =√3vi x1= 1.732vi*

*P2 = √3 x 1.04948v x 0.9964i x 1 = √3 x1.0457= 1.811*

*% error = P2 - P1 x100*

 *P1*

 *=(1.811 - 1.732) x100 = +4.561%*

 *1.732*

***B'NL*** *T[go'es e?be{b/PB ;hH Nhi dh 120%, 100%, 20% ns/ 5% b'fvzr dh n";sB b? e/ ehshnK rJhnK jB, id' fe ygseko dh wzBi{oP{dk ;hH vh w[skpe ;hH Nhi dh b'fvzr T[go ;hH Nhi dh Accuracy u?e BjhA ehsh rJh feT[Afe fJj ;hHNhH dh ;N?Avov N?;fNzr dk gkoN BjhA j? .*

 *d;ys d;ys d;ys*

 tXhe fBrokB fJzihgfBno tXhe fBrokB fJzihfBno tXhe fBrokB fJzihfBno

n?wHJh b?p, b[fXnkDk ;g?Pb tzv wzvb, wzvh r'fpdrV fJzBc'o;w?AN yzBk”

**Petitioner’s Representative argued that in its report ibid, the Committee concluded that the Petitioner’s metering equipment was recording 4.561% more consumption than the actual at unity Power Factor**. But this report of its own Committee had not been accepted by the ZDSC and the Forum. One of the grounds mainly relied upon by the ZDSC for repudiating the report of the Committee was long period between dismantlement and testing of the disputed PTs. *In this regard, it is observed that the Petitioner was not responsible for this delay and the Petitioner not only perused the Respondent for long period, but also got the disputed PTs tested immediately after being advised to do so*.

The Respondent, in its reply, stated that the Committee formed by the ZDSC visited the premises of the Petitioner and found that three no. 66 kV PTs were lying in open and in unsealed condition and reported that the PTs remained in the custody of the Petitioner for a long period from 08/2010 to 03/2017 in unsealed condition. Faced with such a situation, the Committee was of the opinion that it was difficult to ascertain at this stage that the PTs tested in the month of April 2017 by YMPL, Udaipur, were the same as were installed in the Petitioner’s premises and removed/replaced 0n 02.08.2010. Further, the PTs remained out of service for about seven years in unenergised condition. Therefore, the test results of the PTs by the third party could not be relied upon.

*I find that YMPL, Udaipur tested the 66 kV PTs at site at 125% of rated voltage, at 100% burden and it withstood the voltage, meaning thereby that the winding of the PTs was not damaged otherwise it would have been damaged at 125% of rated voltage*. Moreover, the PTs checked and installed on 11.04.2006 have been confirmed to be the same, as cross checked from the Service Connection Order (SCO) no. 09/17392 dated 10.04.2006 and testing report bearing Nos. YMPL/ 397931/ 86009, YMPL/ 297981/ 86010 and YMPL/ 297931/ 86011 of YMPL, Udaipur all of dated 27.04.2017 and authenticated by the Committee of the Respondent.

I also find that the Committee formed by the ZDSC, calculated the overall accuracy of Metering Equipment in ideal conditions i.e. by taking unity Power Factor of load whereas as per data supplied by the Respondent vide its e-mail dated 28.02.2019 from the date of release of Petitioner’s connection in 04/2006 to the date of replacement of Metering equipment in 08/2010, the average Power Factor during the period of dispute was 0.95. Therefore, the average accuracy calculated by the Committee, was lower and actually, it should be in the range of +4.561/ 0.95 = + 4.80 %.

1. Petitioner’s Representative (PR) cited the Order dated 29.09.2015 of

this Court in a similar Appeal case No.A-26/2015 titled *Aman Alloys Ltd, Mandi Gobindgarh V/S PSPCL* wherein relief, as claimed by the Petitioner in that Appeal, had been given.

 The Respondent submitted that the Respondent-PSPCL had filed a CWP No.14761 of 2018 in the Hon’ble Punjab and Haryana High Court challenging the order ibid of this Court and the same was pending adjudication.

1. Petitioner’s Representative (PR) argued that consumption data for

the period 30.03.2009 to 30.11.2009 from Independent Feeder revealed that 1,88,96,182 kVAh units were supplied to the Petitioner during this period whereas the Petitioner had been charged for 1,96,21,500 kVAh units during the same period as per bills received by it. Deducting line loses from 1,88,96,182 kVAh units should equal the Petitioner’s actual consumption. However, more consumption at Petitioner’s end clearly proved that the Petitioner’s Energy Meter was showing more consumption than the actual due to defect in the PTs installed at its premises. This assertion was further reinforced by the fact that the Grid Meter started showing more consumption than the Petitioner’s Meter after installation of new PTs in 8/2010.

 The Respondent contested the plea of the Petitioner by referring to the observation made by the Forum that the contention of the Petitioner that the comparison, made in the energy consumption recorded by the Grid and Energy Meter installed at the premises of the Petitioner, was not justified, as the Metering Equipment installed at Grid end was merely used for reference purposes and that installed at the premises of the Petitioner was used for billing purposes. The Metering Equipment installed at the Petitioner’s premises was of higher accuracy class being used for billing purposes exclusively whereas that installed at Grid End was merely used for technical evaluations. So, the Petitioner could not be billed on the basis of the energy recorded at the Grid end. The Forum, vide order dated 24.08.2018, dismissed the Petition of the Petitioner.

 I find from the perusal of the material brought on record that line losses before replacement of 66 kV CTs and PTs in 08/2010 were in the range of -3.1415% to -4.4849% which improved considerably and were in the range of + 0.6668% to + 1.9909 % after installation of new 66 kV CTs and PTs at the Sending and Receiving ends. Besides, decline in the energy consumption recorded by the Energy Meter was also noticed subsequent to installation of the new 66 kV CTs and PTs in 08/2010.

 I have also perused the reply given by the Addl.SE, DS Division, Mandi Gobindgarh, on 15.01.2019, stating that the Sending end Energy Meter was not calibrated. As a result, no definite opinion about the accuracy of the Energy Meter beyond permissible/specified limits, at both ends can be formed.

 I have also gone through the consumption data submitted by the Respondent on being so directed during hearing on 15.01.2019 from 11.04.2006 to 02.08.2010 (before replacement of metering equipment) and from 02.08.2010 to 01.08.2011(after replacement of metering equipment) of Sending end and Receiving end.

 *I find from perusal of this data that before replacement of disputed 66 kV CTs/PTs, the average line losses were -3.8474% and after replacement, the average line losses were + 1.1926% which proves the contention of the Petitioner that there was fault in recording consumption of the Petitioner’s connection from the date of installation of 66 kV CTs/PTs till their replacement. The losses after replacement seem to be genuine, keeping in view the length of 66 kV line as 0.50 km as confirmed by the Respondent vide e-mail, in response to this Court memo no.176 dated 05.02.2019 directing to send the Single line diagram along with the length of line by 12.02.2019.*

1. On the directions of ZDSC, the 66 kV PTs installed at 66 kV

Talwara Road Grid Sub Station on Oasis Enterprises Independent Feeder were got tested from YMPL, Uaidpur on 20.02.2018 and found that error of PTs was not within the permissible limits. Accordingly, the Respondent was directed to send the test results of these 66 kV PTs by 20.02.2019 vide this Court memo no.204/OEP/A-60/2018 dated 13.02.2019.

 In response, the Respondent submitted the test results of 66 kV PTs installed at Grid Sub Station and tested by YMPL, Udaipur on 20.02.2018, vide e-mail dated 21.02.2019. From the study of test results, it has been found that Mehru make, **2 Core**, 66 kV PTs of Voltage Transformer (VT) ratio 66 kV/√3/110V/√3, **of accuracy class 0.5**, bearing S.Nos.OP-1209, OP-1204 and OP-1208 were installed. *I have found that while none of the three PTs was defective, as claimed by the Respondent. The accuracy of only one PT, bearing S.No.OP-1204 was not within permissible limits while that of other two was within permissible limits as per IS-3156 Part 2:1992 with latest amendment.*

 I find from the above results that at Sub-Station end, the PTs of 0.5 accuracy were installed whereas at consumer end PTs of 0.2 accuracy were installed during the period of dispute.

 I also find from the perusal of decision of Forum that Meter installed at Grid end is merely used for reference purpose and Meter installed at consumer premises is used for billing purpose which is not having relevance with Regulation notified by Central Electricity Authority (CEA) vide No.502/6/2009/DP&D/D-1 dated 04.06.2010 which reads as under:

 *“(2)* ***Consumer Meter :***

 ***(a) 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”****.*

 From the above, it is clear that if the Energy Meter installed at outside the premises of the consumer then only for the purpose of billing the reading of consumer Meter should be taken into account. In the present case, the metering equipment is installed in the premises of Respondent (Sending end) and Petitioner (Receiving end).

**5. CONCLUSION:**

From the above analysis, it is concluded that the amount charged to the Petitioner from the date of installation of 66 kV CTs/PTs till the date of their dismantlement/replacement, for its connection running from 66 kV Independent Feeder from 66 kV Talwara Road Sub-Station, is not fair and genuine. The Petitioner deserves relief due to excess billing as evidenced from the consumption and line losses before and after replacement of its 66 kV CTs and PTs in August 2010 of 0.2S accuracy class due to installation of ABT Energy Meter and also keeping in view the findings of the Committee of three Officers (constituted by the ZDSC), based on the testing of the disputed 66 kV CTs in M.E. Laboratory of the Respondent and of 66 kV PTs by the Accredited Testing Agency, YMPL, Udaipur as per which, the disputed Metering Equipment of the Petitioner recorded 4.561% energy consumption more than actual at unity Power Factor which becomes 4.80% at average 0.95 Power Factor of the Petitioner, as conveyed by the Respondent in its e-mail dated 28.02.2019, during the period of dispute. The Petitioner has claimed that its Energy Meter was faster by 6%. The Respondent is required to bear a maximum limit of transmission losses @ 2.5% fixed by the Hon’ble PSERC, while the average line losses on 66 kV Talwara Road Sub-Station- Oasis Enterprises Independent line have been recorded in the range of less than +1.1926 % after replacement of 66 kV PTs at the Receiving and Sending ends in August 2010. It will, therefore, be just and fair if the charging limit of losses is restricted to + 1.1926 %. Since before replacement of PTs, the average line losses were (-) 3.8474%, the Petitioner is allowed an overall relief of 3.8474+1.1926 = 5.04 % on monthly billing from the date of installation of the Energy Meter and its associated equipment (11.04.2006) to the date of replacement of defective PTs on 02.08.2010 by reducing the consumption of Receiving end by 5.04% and as per regulations of Hon’ble PSERC.

**6.** **Decision:**

 **As a sequel of above discussions, the order dated 24.08.2018 of the CGRF in Case No. CG-233 of 2018 is set-aside. It is held that the Petitioner shall be allowed an overall relief as per conclusions arrived at in Para-5 above. It is also held that the difference of the amount so worked out shall be refunded to the Petitioner through future bills/adjustments against outstanding dues.**

**7.** The Appeal is disposed of accordingly

**8.** Chief Engineer/Commercial, PSPCL, shall issue instructions to all the Engineers-in-Chief/Chief Engineers/DS Zones, Chief Engineer/ Enforcement and Chief Engineer/Metering to ensure periodical testing of the Energy Meters installed on the C&R (Control & Relay) Panels at various Grid Sub-stations as per IS:13010 and 13779. It shall also be ensured that before installation/commissioning of new C&R Panel, the Energy Meter installed on it is tested as per IS:13010 and 13779 and sealed in respective M.E. Laboratory. These instructions shall be incorporated in ESIM.

**9.** 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)

March 01, 2019 Lok Pal (Ombudsman)

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