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

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

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

 **APPEAL NO. 25/2019**

**Date of Registration : 27.05.2019**

**Date of Hearing : 04.07.2019**

**Date of Order : 11.07.2019**

**Before:**

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

**In the Matter of :**

Harjinder Singh,

c/o Bhupinder Singh,

Quick Engg.Works,

GT Road, Rajpura

Distt. Patiala

 ...Petitioner

 Versus

Addl. Superintending Engineer,

DS Division ,

 PSPCL, Zirakpur

 ...Respondent

**Present For:**

Petitioner : Sh.Harjinder Singh

 Petitioner.

Respondent : 1. Er.Khuswinder Singh,

 Addl.Superintending Engineer,

 DS Division ,

 PSPCL, Zirakpur.

 2. Er.Shavinder Singh,

 AEE/Commercial..

 Before me for consideration is an Appeal preferred by the Petitioner against the order dated 05.02.2019 of the Consumer Grievances Redressal Forum, Patiala (Forum) in Case No.CG-14 of 2019 deciding that :

 “*Account of the Petitioner be overhauled from 02/2018 to 04/2018 on the basis of monthly minimum charges applicable as per relevant Tariff Orders’ of PSPCL”.*

**2. Condonation of Delay:**

At the outset, the issue of condonation of delay in filing the present Appeal was taken up.

 The Petitioner submitted that the Petitioner was settled at Kolkatta and could not visit Zirakpur/S.A.S Nagar (Mohali), after issuance of order dated 05.02.2019 of the Forum ( received by it on 27.02.2019), due to pressing domestic problems including the illness of its wife. The Petitioner prayed that delay in filing the Appeal in this Court within stipulated period was unavoidable and may be condoned in the interest of justice.

 The Respondent, in its reply to the Appeal, did not offer any comments on the submissions made by the Petitioner regarding condonation of delay and also did not raise any objection in this regard during the course of hearing.

In this connection, I have gone through Regulation 3.18 (ii) of the PSERC (Forum and Ombudsman) Regulation-2016 which reads as under:

“*No representation to the Ombudsman shall lie unless the representation is made within one month of the date of receipt of order of the Forum.*

 *Provided that the Ombudsman may entertain a representation beyond one month on sufficient cause being shown by the complainant that he/she had reasons for not filing the representation within the aforesaid period of one month”.*

 *I observe that though the Petitioner has given reasons for not filing the Appeal within the stipulated period, it ought to have ensured to avoid the delay to the extent possible and filed the Appeal with due promptitude. But the Petitioner did not do so and filed the present Appeal after about three months of receipt of order of the Forum. I also observe that non condonation of delay would deprive the Petitioner of the opportunity, required to be afforded, to seek remedy and would also not meet the ends of ultimate justice. With this in view, the delay in filing the Appeal in this Court is condoned and the Petitioner is afforded an opportunity to present the case.*

**3.** **Facts of the Case**:

 The relevant facts of the case are that:

1. The Petitioner was having a NRS Category connection with sanctioned load of 30 kW for which, metering was being done by providing Three Phase Four Wire, Whole Current, 10-60A, Energy Meter.
2. The Energy Meter of the said connection was replaced on ‘D’ Code (Dead) vide MCO No. 039/3521 dated 16.03.2018, affected on 27.03.2018.
3. The connection was checked vide Checking Register No. 042/218 dated 19.07.2018 and it was reported that :

*“Meter installed in the showroom of the Petitioner was checked and found to be blinking on load, showroom is permanently closed. Two lamps are in ON condition which are in this condition even in the day time and balance load is in off condition. The To-let Board with phone numbers outside the building is existing Load can not be checked as the showroom is locked.”*

1. The Petitioner was served an Energy Bill dated 15.07.2018 for Rs. 62,700/- (Current Energy Charges Rs. 2,208/- plus Sundry Charges Rs. 33,963/- plus arrear of current financial year as Rs. 26,061/-) against NIL consumption for the period from 25.05.2018 to 25.06.2018.
2. The Petitioner did not agree with the said bill and filed a Petition with the Circle Dispute Settlement Committee (CDSC), which, after hearing, decided the case on 11.09.2018 that average consumption charged for the period from 12/2017 to 02/2018 was correct and recoverable.
3. Not satisfied with the decision of CDSC, the Petitioner filed a Petition dated 16.01.2019 in the CGRF, Patiala, who, after hearing, passed order dated 05.02.2019. (Reference Page-2, Para-1).
4. Aggrieved with the decision of the CGRF, the Petitioner preferred an Appeal in this Court and prayed that its grievance may be looked into and justice be given by reviewing its Energy Account from November 2017 till date and refunding the amount recovered in excess to the Petitioner.

**4. 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 NRS Category connection, bearing

Account No. Z74GC74-0227X, with sanctioned load of 30 kW since 10.05.2010.

1. The Petitioner rented out Ground Floor of the premises to State

 Bank of Hyderabad in 07/2010.

1. The said premises was vacated by the Bank and vacant possession

was handed over to the Petitioner on 31.10.2017.

1. During the period from 07/2010 to 11/2017, the energy bills

received were regularly paid by the Bank directly to the PSPCL.

1. After vacation of the premises by the Bank, energy bills were

regularly paid by the Petitioner.

1. The dispute started in November/December 2017 when the

energy bills issued to the Petitioner were very much on higher side despite the fact that the premises remained closed and no electricity was consumed during the said period. Even then, the following payments were made to the PSPCL as demanded:

**Date Amount(in Rupees)**

08.11.2017 6079/-

22.12.2017 6068/-

09.01.2018 8272/-

29.01.2018 16970/-

17.04.2018 8000/-

17.07.2018 10000/-

17.07.2018 2540/-

26.10.2018 7000/-

04.12.2018 1000/-

26.10.2018 7000/-

04.02.2019 15431/-

27.03.2019 2500/-

29.04.2019 50780/-

21.05.2019 4570/-

1. The premises remained closed from November, 2017 onwards till

date and no body resided therein as Caretaker on behalf of the Petitioner. Even, keys of the locked premises were not given by the Petitioner to any one.

1. The Petitioner had already deposited the amount of energy bills for

the months of November 2017 to January 2018 to the tune of Rs.8272/- on 09.01.2018 and from January 2018 to April 2018 to the tune of Rs.8000/- on 17.04.18 despite the fact that the premises remained closed during this period.

1. The PSPCL had issued an energy bill to the Petitioner to the

tune of Rs.62,700/- dated 15th July 2018 (Current Energy Charges Rs.2,208/-, Sundry Charges Rs.33,963/- plus arrear of current financial year Rs.26,061/-). The amounts of sundries and arrears of current financial year shown in this bill were not justified as the premises remained locked and no electricity was consumed.

1. Aggrieved with the disputed energy bill, The Petitioner filed a

Petition in the Forum in January 2019 but the Forum granted partial relief to the Petitioner. The Forum had not given decision on all the disputed bills from 11/2017 onwards and thus had not done full justice to the Petitioner.

1. The whole of the building was lying vacant and locked after the

the premises was vacated by the Bank on 31.10.2017 and this fact was mentioned in the order (Page-5) of the Forum that as per checking dated 19.07.2018 of the connection, the show room was lying permanently closed.

1. The Petitioner had already deposited the requisite fee of Rs.12,540/-

on 17.7.2018 and also Rs.15,431/- on 4.2.2019 as prescribed for filing the case and some refund was also due to the Petitioner.

1. In the Forum’s decision, it was mentioned that the Energy Meter

was replaced on 19.07.2018. But the fact was that the replacement of the Energy Meter of the Petitioner was not in its knowledge. The checking of the connection was done by PSPCL in the absence of the Petitioner and without any intimation to the Petitioner on phone or by post.

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

by overhauling/reviewing its account and the amount recovered in excess be refunded in the interest of natural justice.

1. **Submissions of the Respondent:**

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

1. The sanctioned load of the Petitioner’s connection was 30 kW and readings of the energy consumption were being regularly recorded from 07/2016 to 11/2017.
2. Thereafter, from 11/2017 to 02/2018, less energy consumption was recorded by the Energy Meter.
3. In the month of 03/2018, Energy Meter of the Petitioner became dead and in the next month i.e. 04/2018, due to ‘C’ code (meant ‘Meter replaced and advice sent’), energy bill was generated with average consumption of corresponding period of previous year.
4. The Petitioner approached the Circle Dispute Settlement Committee (CDSC) Office of Dy. Chief Engineer/Operation Circle, S.A.S. Nagar (Mohali) for redressal of its grievance. The decision of the CDSC was in the favour of PSPCL.
5. The Energy Meter of the Petitioner was replaced being ‘D’ code as per 03/2018 Ledger vide SJO No.039/3521 dated 16.03.2018. In the Checking done, vide Checking Register No. 042/218 dated 19.07.2018 it was reported as that :

*“Meter installed in the showroom of the Petitioner was checked and found to be blinking on load and showroom was permanently closed. Two lamps are in “on” condition which are in this condition even in the day time and balance load is in off condition. There was To-Let Board with phone numbers outside the building, load cannot be checked as the showroom is locked”.*

1. The amount of Rs.8272/- were not deposited as per Ledger record. However, it was correct that Rs.8000/- were got deposited on 17.04.2018, as per record available.
2. As per MCO No.39/3521 dated 16.03.18, the Energy Meter installed at the site was replaced on 27.03.2018.
3. Average energy bill of the Petitioner was prepared from 12/2017 to

04/2018 by the Audit Party. The Petitioner filed a Petition in the CGRF, bearing Case No.14/2019 where after, the Forum directed the Respondent to prepare the energy bill on MMC basis for the period from 02/2018 to 04/2018. Accordingly, a sum of Rs.24,654/- was refunded in respect of three bills and the outstanding amount was got deposited by the Petitioner. As per CGRF decision, out of five average basis bills, bills for three months were corrected on MMC basis. The Petitioner had a grievance that the bills of the remaining two months be corrected/ revised on MMC basis.

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

**4.** **Analysis:**

The issue requiring adjudication is the legitimacy of the overhauling/review of the account of the petitioner from 01.11.2017 onwards due to closure/locking of its premises on vacation of the same by its tenant on 31.10.2017.

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

1. The present dispute involves charging the Petitioner excessively

from 01.11.2017 onwards despite the fact that the premises, wherein its NRS category connection was installed, remained closed/locked with the vacation of the premises on 31.10.2017 by the State Bank of Hyderabad ( to which it was let out). The fact of closure/locking of the premises from 11/2017 was also mentioned in the Checking Report dated 19.07.2018, which was brought on record, during the course of hearing in the Forum.

I find that the Petitioner has submitted in this Court documentary evidence in the form of a letter, bearing No. 25 of 2019 date 27.07.2017, written by the Branch Manager, State Bank of Hyderabad, Zirakpur intimating that the premises let out to it will be vacated on 31st October 2017.

I also find that the Forum , vide its order dated 05.02.2019, decided to overhaul the account of the Petitioner for the period from 02/2018 to 04/2018 on the basis of Monthly Minimum Charges (MMC) available as per relevant Tariff Order of the PSPCL.

I observe that the Forum erred in deciding to charge the Petitioner with Monthly Minimum Charges (MMC) for the period from 2/2018 to 4/2018 because Two Part Tariff was made applicable from 01.01.2018 to this category of connection by the PSPCL. Hence, fixed charges as applicable in the Tariff Order for the relevant Financial Year plus Variable Charges i.e consumption charges were to be charged to the Petitioner from 01.01.2018 onwards.

1. A perusal of the Consumption data of the Petitioner’s connection

brought on record revealed that the Energy Meter installed at its premises was very much less from 10/2017 onwards as compared to the same during the preceding months. This was also confirmed during checking of the connection on 19.07.2018. During the course of hearing on 04.07.2019, the Respondent placed on record of this Court the Checking Report date 03.07.2019 of the Energy Meter vide Challen No. 226 from ME Laboratory, Ropar wherein it was reported that the Terminal Block of the Energy Meter was burnt. DDL of the Energy Meter was also taken. From the Load Survey Report submitted by the Respondent, it is observed that kWh and kVAh consumption was 0 (Zero) during disputed period i.e from the date of closure/locking of premises i.e. from 01.11.2017 till the date of taking DDL on 03.07.2019. This confirms the plea of the Petitioner that no energy was consumed from 01.11.2017 onwards.

1. The Respondent, in its written reply, contested the submissions

made by the Petitioner in its present Appeal that a sum of Rs. 8,272/- was deposited on 09.01.2018.

 I find that the Petitioner placed on record of this Court the photo copies of the payments of receipts in token of energy bills paid by it to the PSPCL as per details given below:

Sr.No. Receipt No. Date Amount

* 1. 68 8.11.2017 6079/-
	2. 161 22.12.2017 6068/-
	3. 108 09.01.18 8272/-

I am of the view that the Respondent should verify the above details as per its records and adjust the said payments thereafter in the account of the Petitioners.

**6. Conclusion**

 From the above analysis, it proves beyond that the premises of the Petitioner, wherein its NRS category connection was installed, remained closed from 01.11.2017 onwards as confirmed by the Respondent itself and also as per evidence brought on record of this Court by the Petitioner. Due to closure/locking of the premises from 01.11.2017 onwards, the energy consumption recorded during 01.11.2017 to 03.07.2019 was less as compared to corresponding months of previous year. Accordingly, the Petitioner is liable to be charged as per provisions of Tariff Orders in force i.e.

1. Monthly Minimum Charges (MMC) are required to be levied for the period from 01.11.2017 to 31.12.2017.
2. Fixed Charges plus actual consumption charges from 01.01.2018 to 03.07.2019.

At the same time, the payments made by the Petitioner to the PSPCL need to be duly accounted for in its account after due verification from the relevant records.

**7.** **Decision:**

**As a sequel of above discussions, the order dated 05.02.2019 of the CGRF, Patiala in Case No. CG- 14 of 2019 is modified in terms of conclusion arrived at in Para-6 above. Accordingly, the Respondent is directed to recalculate the demand and refund/recover the amount found excess/short after adjustment, if any, without interest**

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

**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)

July 11, 2019 Lok Pal (Ombudsman)

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