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

**ELECTRICITY, PUNJAB,**

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

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

**APPEAL NO.27/2019**

**Date of Registration : 03.06.2019**

**Date of Hearing : 18.07.2019**

**Date of Order : 30.07.2019**

**Before:**

 **Er. Virinder Singh, Lokpal (Ombudsman), Electricity**

**In the Matter of :**

 Rajnish Batta,

 Gali No.8,

 Guru Nanak Dev Nagar,

 Basti Jodhewal,

Ludhiana.

 ...Petitioner

 Versus

 Senior Executive Engineer,

DS Sunder Nagar Division(Special),

PSPCL, Ludhiana.

 ...Respondent

**Present For:**

Petitioner : Sh. Sukhminder Singh,

 Petitioner Representative (PR)

Respondent : Er. Deepinder Singh,

Senior Executive Engineer,

DS, Sunder Nagar Division (Special)

PSPCL, Ludhiana.

Before me for consideration is an Appeal preferred by the Petitioner against the order dated 26.04.2019 in Case No. CGL-093 of 2019 of the Consumers Grievances Redressal Forum (Forum) deciding as under:

*“The bill issued to the consumer for the period 27.12.2018 to 31.01.2019 on the basis of consumption recorded during the same month of previous year is justified and recoverable*”.

**2. Facts of the Case:**

 The relevant facts of the case are that:

1. The Petitioner was having a Large Supply (LS) Category connection

with sanctioned load of 181.902 kW and contract demand **(CD**) of 200 kVA.

1. The connection of the Petitioner was checked by the

Addl. S.E./MMTS-2, Ludhiana, vide ECR No. 27/3136 dated 22.01.2019 and it was reported that:

*“SDO (OP.I ) ਵੱਲੋ ਰੈਫਰ ਕਰਨ ਤੇ ਕਨੈਕਸ਼ਨ ਚੈਕ ਕੀਤਾ। ਖਪਤਕਾਰ ਦਾ ਮੀਟਰ old version ਦਾ ਲੱਗਾ ਹੈ। ਮੀਟਰ ਦੀ
display ਤੇ kWh/kVAh same 9,49,67,295, 8 digit ਵਿੱਚ ਰਿਕਾਰਡ ਹੋ ਰਹੇ ਹਨ। MDI 42,949 kVA ਰਿਕਾਰਡ ਹੋਈ ਹੈ। ਜੋ ਕਿ ਅਸੰਭਵ ਹੈ। ਮੀਟਰ ਦਾ software ਖਰਾਬ ਹੋ ਗਿਆ ਹੈ। ਖਪਤਕਾਰ ਨੂੰ ਜਾਰੀ ਬਿੱਲ cycle 12/2018, (14.01.2019) ਨੂੰ “D” code ਦਾ ਬਿੱਲ ਆਇਆ ਹੈ। ਮਿਤੀ 29.11.2018 ਨੂੰ MDI-148.75, kVAh-1,06,43,507, kWh-1,04,48,336, 27.12.2018 ਨੂੰ MDI-148.75 kVAh-1,07,14,631, kWh-1,05,18,748 ਰਿਕਾਰਡ ਕੀਤੀ ਹੈ। ਖਪਤਕਾਰ ਦਾ ਖਾਤਾ ਦੇਖ ਕੇ Actual/left reading ਲੈ ਕੇ ਮੀਟਰ ਬਦਲੀ ਕਰਨ ਤੱਕ average bill issue ਕੀਤਾ ਜਾਵੇ।”*

1. The Energy Meter was replaced vide Device Replacement

Application No. 100007451293 dated 23.01.2019, affected on 01.02.2019 and got checked on 16.04.2019 from ME Lab which found that accuracy of the Energy Meter was within limits but its Software was defective.

1. The bill for the month of February, 2019 was issued to the Petitioner for the period from 27.12.2018 to 31.01.2019 for Rs.5,25,580/-, on

the basis of adopted energy consumption of 82,937kVAh and 82,881 kWhunits. The due date of deposit of the bill was 21.02.2019.

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

dated 25.03.2019 in the CGRF, Ludhiana, who, after hearing, passed the order dated 26.04.2019. (Reference Page-2, Para-1).

1. In view of above decision of the Forum, the Respondent issued Notice, bearing No.1676 dated 06.05.2019, to the Petitioner to deposit the amount of the bill for the period from 27.12.2018 to 31.01.2019.
2. The Petitioner felt aggrieved with the decision of the CGRF and

preferred an Appeal in this Court with the prayer to set aside the same and also the demand of Rs.5, 25,580/- as per bill issued on the basis of adopted consumption (average of 82,937 kVAh units and 82,881 kWh units) for the period from 27.12.2018 to 31.01.2019 and revise the billing since 15.12.2018 (the date on which, most of the machinery was shifted to another premises) by considering the load as 36 kW or on the basis of consumption as recorded after the replacement of the defective Energy Meter in the interest of natural justice and fairness.

**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 (LS) category connection

with sanctioned load as 181.902 kW and contract demand (CD) of 200 kVA.

1. The readings of the Energy Meter were taken every month and the

bills as raised by the Respondent from time to time, on the basis of reading of Energy Meter (up to 1,06,43,507 kVAh and 1,04,48,336 kWh as recorded on 29.11.2018) were duly paid. The DDL of the Energy Meter was taken by the ASE/MMTS, PSPCL, Ludhiana, after about every 70 days and various parameters such as voltage and current were noted on the ECR.

1. The metering equipment suddenly developed fault and reading

jumped abruptly sometime after 29.11.2018. When the Petitioner was told about it by the official taking meter readings, the matter was brought to the notice of the AEE, Sunder Nagar who referred the case to MMTS for checking of Energy Meter at site.

1. The next energy bill for the period from 27.12.2018 to 31.01.2019,

amounting to Rs. 5,25,580/- was also issued on the basis of adopted average consumption of 82,937 kVAh and 82,881 kWh units. The Petitioner was surprised to receive the 2nd abnormal bill in spite of informing the Respondent regarding shifting of majority of the load to its another unit.

1. The Petitioner again approached the AEE (Commercial) to revise

the bill as per existing load of 36 kW, instead of charging average of same period of previous year but again the bill was not revised.

1. Aggrieved with the attitude of the Respondent, the Petitioner filed

a Petition in the Forum who did not grant any relief to the Petitioner as admissible on merits.

1. The Energy Meter of the Petitioner was checked by the ASE/MMTS, Ludhiana vide ECR No. 27/3136 dated 22.01.2019 and abnormal consumption/jumping of reading was confirmed as per its checking report. The Energy Meter of the Petitioner was replaced on 01.02.2019. It was correct that normally, the bill against defective Energy Meter was revised on the basis of consumption as recorded during the corresponding period of previous year. But in the case of the Petitioner, 80% of the load had been shifted to another connection in the name of Decent Finishers Dyeing Complex (A/c No. 3004865602) under City West Division (Special), since 15.12.2018. The position could have been verified by any responsible officer when the request vide letter dated 22.01.2019 was given by the Petitioner to the Respondent’s office or Forum could have given necessary directions to the Respondent in this regard whereafter, the billing from 15.12.2018 could be revised by considering load of only 36 kW, instead of charging average adoped consumption on the basis of recorded consumption of previous period. It was clear that the Respondent and the Forum failed to take cognizance of the merits of the case and tried to justify the charging of average (based on consumption of corresponding period of previous year) on the vague and irrelevant ground that the Petitioner had not given any application and test report for reduction of load.
2. **Submissions of the Respondent:**

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

1. The Petitioner was billed on ‘D’ Code for the period from

29.11.2018 to 27.12.2018 (as its Energy Meter got defective) on the basis of consumption of corresponding period of previous year as per rules of the PSPCL. The consumer had not applied for any reduction in load. The consumer had claimed that most of its machinery except one machine of 36 kW was shifted but MDI of consumer was recorded as 43.9 kVA on 11.03.2019 even after replacement of the Energy Meter on 01.02.2019.

**(ii)** In its report, ASE/MMTS-2 did not mention about any reduction in

load or shifting of machinery. Rather, the MMTS reported that the bill should be issued on the basis of average till issuance of the bill for the period from 27.12.2018 to 31.01.2019. Accordingly, the consumer was billed on the basis of consumption for the corresponding month of last year.

1. The consumer had not applied for any reduction in load and had

 not also submitted any test report.

1. MDI of consumer’s connection was recorded 43.9 kVA on

11.03.2019 even after replacement of the Energy Meter. As per records, connected load of the consumer was still 181.902 kW.

1. The Appeal may be dismissed in view of the submissions made

above.

**4. Analysis:**

The issue requiring adjudication is the legitimacy of amending the bill dated 11.02.2019 for the period from 27.12.2018 to 31.01.2019 amounting to Rs. 5,25,580/- on the basis of adopted energy consumption of 82,937 kVAh and 82,881 kWh units.

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

1. Petitioner’s Representative stated that the Petitioner had shifted

most of the machinery since 15.12.2018 to its another unit at Bahadur-ke-Road, as such, adopted average consumption was on the higher side. Therefore, after receiving the bill, the Petitioner, vide letter dated 22.01.2019 sent a request (before the due date of the bill) to AEE (Commercial), Sunder Nagar to revise the bill as per existing/ installed load of 36 kW but the bill was not revised and the Petitioner was left with no choice but to pay the bill of abnormal consumption. Subsequently, bill for the period 27.12.2018 to 31.01.2019 amounting to Rs.5, 25,580/-, was issued on the basis of adopted energy consumption of 82,937kVAh units and 82,881 kWhunits.The due date of deposit of the bill was 21.02.2019.The Petitioner, on coming to know about abnormal consumption at the time of taking reading of Energy Meter by Meter Reader, brought the matter to the notice of SDO, Sunder Nagar who referred the case to MMTS for checking. Accordingly, the connection was checked by the Addl.S.E./MMTS-2, Ludhiana, vide ECR No. 27/3136 dated 22.01.2019 and it was reported that:

 *“SDO (OP.I ) ਵੱਲੋ ਰੈਫਰ ਕਰਨ ਤੇ ਕਨੈਕਸ਼ਨ ਚੈਕ ਕੀਤਾ। ਖਪਤਕਾਰ ਦਾ ਮੀਟਰ old version ਦਾ ਲੱਗਾ ਹੈ। ਮੀਟਰ ਦੀ
display ਤੇ kWh/kVAh same 9,49,67,295, 8 digit ਵਿੱਚ ਰਿਕਾਰਡ ਹੋ ਰਹੇ ਹਨ। MDI 42,949 kVA ਰਿਕਾਰਡ ਹੋਈ ਹੈ। ਜੋ ਕਿ ਅਸੰਭਵ ਹੈ। ਮੀਟਰ ਦਾ software ਖਰਾਬ ਹੋ ਗਿਆ ਹੈ। ਖਪਤਕਾਰ ਨੂੰ ਜਾਰੀ ਬਿੱਲ cycle 12/2018, (14.01.2019) ਨੂੰ “D” code ਦਾ ਬਿੱਲ ਆਇਆ ਹੈ। ਮਿਤੀ 29.11.2018 ਨੂੰ MDI-148.75, kVAh-1,06,43,507, kWh-1,04,48,336, 27.12.2018 ਨੂੰ MDI-148.75 kVAh-1,07,14,631, kWh-1,05,18,748 ਰਿਕਾਰਡ ਕੀਤੀ ਹੈ। ਖਪਤਕਾਰ ਦਾ ਖਾਤਾ ਦੇਖ ਕੇ Actual/left reading ਲੈ ਕੇ ਮੀਟਰ ਬਦਲੀ ਕਰਨ ਤੱਕ average bill issue ਕੀਤਾ ਜਾਵੇ।”*

**(ii)** Petitioner Representative contended during hearing dated 18.07.2019 that the Petitioner was unable to find any instruction which prescribed that before shifting of load or i.e. before using load less than the sanctioned load, it was mandatory to apply for reduction of load. As per the knowledge of the Petitioner, there could not be any such instruction/rules as the consumer had the option to use less load vis-a-vis sanctioned load and reinstall the load afterwards, as per requirement at a later stage, instead of first applying for reduction of load and again submitting application for extension in load (especially in the case of the Petitioner). It was worth mentioning that as per Regulation 2.41 and 2.47 of the Consumer Complaint Handling Procedure (CCHP) approved by the Hon’ble PSERC, it was prescribed that “the decisions of the Forum will be recorded duly supported by reasons and every order made by the Forum shall be a speaking order.” But in view of the position explained above, the order passed by the Forum, without mentioning relevant rules/instructions and being non- speaking, was liable to be quashed/set aside. PR added that the software of the Energy Meter had been declared defective during checking on 16.04.2019 in ME Laboratory and Load Survey/MDI/Consumption/reading data were not available in DDL print-out provided by the Respondent. PR submitted that the Petitioner was not seeking any relief on account of Fixed Charges/MMC for which, reduction of load was required. The Petitioner was pleading for charging of average against defective/dead stop Energy Meter due to shifting of the majority of load to other premises which was also substantiated by the consumption/MDI after the replacement of the Energy Meter on 01.02.2019.

At the end of the deliberations, PR was directed to bring on record of this Court the documentary evidence in regard to the date on which the connection was released to the Petitioner at new premises i.e, at Bahadur-ke-Road Ludhiana in addition to the particulars of Load and CD sanctioned and sale of the premises at which, the disputed connection was installed.

1. In compliance to the above directions given by this Court, the

Petitioner sent e-mail dated 22.07.2019 forwarding therewith the bill dated 10.01.2019 of the connection at new premises. A perusal of this bill revealed that the connection was in the name of Decent Finishers Dyeing Complex, Bahadur-Ke-Road, Ludhiana and the same was released on 18.04.2018 for the sanctioned load of 400kW and contract demand of 400 kVA. The Petitioner stated that it had applied for the said connection during January 2018. The Petitioner also sent a photocopy of sale deed dated 03.04.2019 registered in token of its having sold the premises to (where the disputed connection was installed and from where, it shifted most of the machinery) to Sh. Shiv Kumar.

1. I observe that Petitioner has provided the requisite evidence

that it had sold the premises (at which disputed connection was installed), vide sale dead dated 03.04.2019, to Sh. Shiv Kumar and shifted most of the machinery (till 15.12.2018) to new premises at Bahadur-Ke-Road, Ludhiana for which, an electricity connection in the name of Decent Finishers Dyeing Complex was released with sanctioned load of 400 kW and contract demand of 400 kVA. There is, thus, merit in the plea of the PR for review/revision of the bill for the period from 27.12.2018 to 31.01.2019 in the interest of justice in terms 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 or 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.”*

However, since the Petitioner did not get the sanctioned connected load/ contract demand reduced through Application & Agreement Form, the Petitioner is liable to pay Fixed Charges on sanctioned contract demand of 200kVA.

**5. Conclusion:**

From the above analysis, it is concluded that the disputed bill for the

period from 27.12.2018 to 31.01.2019 amounting to Rs. 5,25,580/- is required to be amended on the basis of average consumption of six months after replacement of the Energy Meter on 01.02.2019 in view of the evidence provided by the Petitioner as required under Regulation 21.5.3 of the Supply Code-2014. Besides, Fixed Charges on sanctioned contract demand of 200kVA is required to be levied as per Tariff Order for the FY 2018-19 and 2019-20 because the Petitioner did not get reduced the said load/contract demand.

**6. Decision:**

As a sequel of above discussions, the order dated 26.04.2019 **in Case No.CGL-093 of 2019 is set aside.** It is held that the disputed bill for the period from 27.12.2018 to 31.01.2019 for Rs.5,25,580/- be amended in terms of conclusion arrived at in Para 5 above. Accordingly, the Respondent is directed to recalculate the demand and refund/recover the amount found excess/short, if any, after adjustment, without interest.

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

**8.** 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 30, 2019 Lokpal (Ombudsman)

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