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

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

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

 **APPEAL NO. 43/2019**

**Date of Registration : 30.07.2019**

**Date of Hearing : 27.09.2019**

**Date of Order : 10.10.2019**

**Before:**

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

**In the Matter of :**

 Arvinder Pal Singh,

 C/o R.G. Industries,

 Vill. Fazalpur, Near Randhawa Masandan,

Jalandhar

 ...Petitioner

 Versus

Senior Executive Engineer,

DS East Division-1, Pathankot Chowk,

PSPCL, Jalandhar

 ...Respondent

**Present For:**

Petitioner : 1 CA Sushil Kumar Vatta,

 Petitioner’s Representative (PR).

 2. Sh.J.P.Singh,

 Petitioner’s Representative (PR).

Respondent : 1. Er.Sunny Bhagra,

 Senior Executive Engineer,

 DS East Division-1,

 PSPCL, Jalandhar.

 2. Sh.Anup Jain, AAO

 Before me for consideration is an Appeal preferred by the Petitioner against the order dated 20.06.2019 of the Consumer Grievances Redressal Forum (Forum) in Case No.CGL-114 of 2019 deciding that :

*“The amount charged from 28.08.2018 to 21.01.2019 with the slowness factor of 8.15 % and the amount charged for unmetered supply period is correct 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 2499 kW and contract demand (CD) of 2499

 kVA.

1. The connection of the Petitioner was checked (on a reference made by The AEE, Tech-3, Jalandhar vide Memo No.142 dated 30.01.2019) by the Addl.S.E/MMTS-I, Jalandhar, vide ECR No. 15/290 dated 04.02.2019 whereby, it was reported that current on Red, Yellow and Blue Phases on Energy Meter was 2.6 Amp, 2.9 Amp, 2.9 Amp. respectively and due to damage of PT of 11 kV/110V, CT/PT unit, **the voltage on each phase on the Meter Terminal, was zero volts whereas the supply was running.** PTs were found bursteded, accordingly, directions were given to the Respondent to replace the CT/PT unit. DDL was not done on battery mode as it was low.
2. The 11 kV/110V, CT/PT unit was replaced on 05.02.2019 vide Sundry Job Order (SJO) No. 47 dated 04.02.2019.
3. The connection was again checked by the Addl.S.E/MMTS-I, Jalandhar vide ECR No. 33/290 dated 07.02.2019 and it was observed that Meter scroll switch was defective and the Energy Meter installed be replaced with Device Language Message Specification (DLMS) protocol Energy Meter. The Accuracy was not checked by the MMTS but DDL was taken. As per report, the connection was checked after replacement of damaged CT/PT unit.
4. The connection was again checked by the Addl.S.E/MMTS-I PSPCL, Jalandhar, vide ECR No 18/291 dated 14.02.2019 due to the reasons that “after replacement of CT/PT unit” MMTS observed that Meter Scroll button was defective and directions were given to replace the Energy Meter. DDL was also taken. The Energy Meter was replaced on 18.02.2019.
5. Based on the report of DDL, the Addl.S.E/MMTS-I, Jalandhar directed DS office, vide Memo No 626 dated 22.02.2019, to overhaul the account of the Petitioner as under:
6. During the period from 28.08.2018 to 21.01.2019, less voltage was recorded on Yellow and Blue Phases as compared to Red Phase voltage (Difference was 8.15 %), as such the account for this period be overhauled by applying the slowness factor of 8.15 %.
7. During 22.01.2019 to 04.02.2019, the connection was running directly, bypassing the Energy Meter.
8. In compliance to the above directions, the Respondent overhauled the account of Petitioner and issued supplementary bill vide Notice bearing No. 198 dated 25.02.2019, to deposit Rs 31,74,104/- by 07.03.2019 as per given below:

|  |  |  |
| --- | --- | --- |
|  (a) | Due to slowness of Energy Meter from 28.08.2018 to 21.01.2019 | Rs 15,90,464/- |
|   (b) | Due to direct supply given from 22.01.2019 to 04.02.2019 | Rs 15,83,640/- |
|  Total | Rs 31,74,104/- |

1. The Petitioner did not agree with the above Notice and filed a Petition dated 22.04.2019 in CGRF, Ludhiana who, after hearing, passed order dated 20.06.2019 (Page 2, Para 1).
2. Not satisfied with the decision of the CGRF, the Petitioner filed an Appeal in this Court and prayed to set aside the undue demand raised in the interest of justice.

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

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

1. **Submissions of the Petitioner**:

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

1. The Petitioner was given an Large Supply (LS) Category connection,

bearing Account No. 3000855468, with sanctioned load of 2499kW and contract demand of 2499kVA.

1. The connection of the Petitioner was checked by ASE/MMTS 1,

Jalandhar, vide ECR No.15/290 dated 04.02.2019, ECR No. 33/290 dated 07.02.2019 and ECR No.18/291 dated 14.02.2019. Based on the examination of the DDLs and observations made in the Checking Report, the following amounts were charged to the consumer:

1. Rs 15,90,464/- on account of the slowness of the Energy Meter by 8.15% due to less contribution of voltage for the period from 28.08.2018 to 21.01.2019; and
2. Rs 15,83,640/- on account of unmetered/direct supply of the

electricity due to zero unit recorded for the period from 22.01.2019 to 4.2.2019.

1. Consequently, a Notice was served, vide Memo No. 198 dated

25.02.2019, asking to deposit total amount of Rs 31,74,104/-, as per supplementary bill.

1. Aggrieved by the said arbitrary, unjustified and wrong demand

on account of the said charges the consumer submitted a Petition before CGRF, Ludhiana on 22.04.2019.

1. The CGRF, Ludhiana, vide its Order dated 20.06.2019, upheld and

sustained the aforesaid charges, disregarding the submissions and arguments of the consumer.

1. Not satisfied with the decision of the CGRF, Ludhiana this Appeal

was preferred for justice.

1. **Regulations 18 (2)** of the Central Electricity Authority, vide

notification 2006 dated 17.03.2006, clearly stated that;

*"The testing for consumer meters shall be done at site at least once in five years. The licensee may instead of testing the meter at site can remove the meter and replace the same by a tested meter duly tested in an accredited test laboratory. In additions, meters installed in the circuit shall be tested if study of consumption pattern changes drastically from the similar months or season of the previous years or if there is consumer’s complaint pertaining to a meter. The standard reference meter of better accuracy class than the meter under test shall be used for site testing of consumer meters up to 650 volts. The testing for consumers meters above 650 volts should cover the entire metering system including CTs, PTs. Testing may be carried out through NABL accredited mobile laboratory using secondary injection kit, measuring unit and phantom loading or at any accredited test laboratory and recalibrated if required at manufacturer’s works”.*

1. **Regulation 21.3.6 (b) OF SUPPLY CODE-2014 reads as under:**

*“This Regulation again speaks that Standard Reference Meter of better accuracy class than the meter under test shall be used for site testing of consumer meter up to 650 Volts. The testing of consumer meter above 650 Volts should cover entire metering system including CTs and PTs and may be carried out in the Laboratory The onsite testing may be carried out as Regulation 18.2 of CEA Regulation 2006.”*

This Regulation further directs that Copy of the test results indicating accuracy of the meter shall be provided to the consumer immediately.

1. Instruction No. **59.1.3, 59.3, 59.4.1 and 59.5 of ESIM 2018** stated

as under:

**59.1.3**

*“The accuracy of the three phase LT CT meters and HT meters shall be checked /tested at site and /or in ME Laboratory in both Active (kWH) and Reactive Mode (kVARh) to determine the correctness of the Energy Meters.”*

**59.3**

*“Whenever a meter is found to be inaccurate by Sr.XEN/Addl.SE (Enforcement), the matter should be brought to the notice of AE/AEE/XEN (DS) and Sr.XEN/Addl.SE (MMTS) (particularly in respect of large supply consumers) in writing. On receipt of the report, the Sr.XEN/Addl.SE (MMTS) shall check the accuracy of that meter at site in the presence of the consumer after which immediate steps shall be taken by AE/AEE/XEN (DS) to replace the inaccurate meter and also to take other action as required pursuant to the checking.*

*If the meter installed at the premises of a MS consumer is found/suspected to be defective or inoperative, it shall be got checked/tested from Sr. XEN/ASE (Enforcement/DS) with the help of ERS meter at site. Sr. XEN/ASE(DS) shall also carry out checking in respect of tampering of seals and genuineness of ME/MTC (Meter Terminal Cover) or CT chamber seals.”*

**59.4.1**

***“HT/EHT meters:*** *Such meters shall be tested by the officers of Enforcement/MMTS (in as found condition) with the help of Electronic Reference Standard Meters at Normal running load/power factor of the consumers subject to the condition that the running load shall not be less than 15% of the sanctioned load. Before testing the meters, CTs connections wherever applicable shall be thoroughly checked. If CTs connections are found wrong or CTs are found out of circuit and thus not contributing, the recorded consumption shall be enhanced proportionately, keeping in view non-contribution of CTs as applicable. This consumption shall be further subject to revision as per test results of the meter.”*

**59.5**

*“All reference standard meters (RS) and meter testing equipment used by PSPCL for testing of consumer meters at consumers premises, in ME Laboratory or elsewhere may be got tested from NPL, Delhi or ERTL New Delhi or any other laboratory recognized by Central Govt/NABL once in two years.”*

1. The copies of the following specific documents were not provided or

considered by the Respondent and CGRF though the same had a bearing on the arbitrary and unjustified charges as levied by the PSPCL Authorities.

1. Copy of the Test Results of the Meter S. No. PBB 35948, Secure Make when it was installed;
2. Make and Sr. No. of the testing instrument with which, the slowness of the Energy Meter as 8.15% was established along with certificate issued of NABL in respect of testing equipment;
3. Intimation of Section of the Act / ESIM No. / Supply Code Regulation as per instructions of the Hon'ble Commission which was mandatory for lodging any claim against the consumer.
4. Certified copy of the ME Laboratory Report alongwith its DDL report of the removed Energy Meter alognwith its test reports, had so far not been provided before or during the course of the decision of the CGRF.
5. While checking the damaged 11kV/110V, CT/PT unit on

04.02.2019, the ASE/MMTS-1, PSPCL, Jalandhar, observed that on the terminals of the Energy Meter, current was measured and found 2.6A, 2.9A & 2.9A on Red, Yellow and Blue Phase respectively. The three terminals of PTs, zero voltage was coming due to which, the meter display was blank. DDL was not done on battery mode as it was low, the 'B' Phase PT of CT/PT was found bursteded due to flash and there were sparks on CT's terminal also. CT/PT was instructed to be replaced. The supply of the consumer premises was also disconnected on 04.02.2019.

1. As the officials of the Sub Division concerned observed on

31.01.2019 that the Energy Meter was not showing /reflecting readings, the matter was reported to SDO (Tech) T-3 East Division, Jalandhar, which also mentioned on ECR No. 15/290 dated 04.02.2019 of Addl.S.E/MMTS-1, Jalandhar.

1. After checking, some observations about which clarifications were

sought on 01.04.2019 and 10.05.2019 but no response was given by the Respondent AEE/Commercial-1, East Division, Jalandhar.

1. The ASE/MMTS-1, again checked the connection on 07.02.2019

and 14.02.2019 and the observations in the Checking Report were not at all clear. Only the following observation was clearly readable:

1. Modem not installed and DDL done.
2. Meter to be replaced as cursor button/scroll switch was defective.

Rest of the observations were not at all clear and were confusing. In this case also some lines had been drawn which did not indicate whether these had been drawn for underlining or cutting and no space between words had been left, therefore, correct facts did not emerge and this created confusion.

1. The 11kV/110V, CT/PT was replaced on 05.02.2019. Interestingly,

the Addl.S.E/MMTS-1, Jalandhar again came to factory premises on 07.02.2019 and took the DDL and mentioned "Cursor button / Scroll Switch defective and instructed to replace the Energy Meter immediately and did not make any other observation.

1. If the Energy Meter was to be checked with regard to its

accuracy, the same should have been checked on 04.02.2019 and 07.02.2019 itself keeping in view instructions of the CEA Notification 2006 /Supply Code Regulation / ESIM Instructions as the new healthy CT/PT Unit was installed on 05.02.2019 and the same Energy meter was also existing.

1. The Forum failed to consider that the slowness of 8.15% in

the Energy Meter for the period 28.08.2018 to 21.02.2019 had as worked out by MMTS and mentioned in Memo No. 15 dated 08.04.2019 addressed to AEE, East Commercial Unit I, Jalandhar, on their own concocted formula contrary to specific regulations of CEA, New Delhi vide Notification 2006 dated 14.03.2006 amended vide Notification of 2010 of 04.06.2010 and Instruction No. 59.1.3, 59.3, 59.4.1 and 59.5 of ESIM ignoring the basis/ directions, guidelines with reference to Electronic Reference Standard Meter at different loading conditions with a preconceived mind set to levy the charges, ignoring all applicable provisions.

1. The contents of the communications of MMTS, vide No. 15 of

08.04.2019 and vide Memo No. 559 dated 28.03.2019, clearly reflected that the determination of the slowness of the Energy Meter at 8.15% had been worked out with self concocted formula and contrary to norms and guidelines whereas such slowness necessarily required to be worked out by testing the Energy Meter with Electronic Reference Standard Meter at different normal loading levels/conditions and Central Electricity Authority, New Delhi Notification No. 507/70/CEB/SPSD dated 17.3.2015, Regulation 18(2) which provided and stipulated that

*“the testing for consumer meter above 650 volts should cover the entire metering system including CT PT. Testing may be carried out with Standard Reference Meter through NABL mobile Lab using secondary injection kit, measuring Unit and phantom loading or at any accredited test laboratory.”*

1. The Forum itself observed (at Page 21 of their order) that

Methodology adopted by Addl.S.E/MMTS-1, Jalandhar to arrive at the figure of 8.15% slowness was not mentioned in any Rules and Regulations of Supply Code and despite such specific observations/findings and contrary to specific regulations, unjustly upheld the charging of wrong and unjustified demand; contrary to declared Policy and Guidelines. There was no such parallel case that contrary to specific instructions and guidelines, the slowness factor had ever been worked out on voltage factor. If such a case existed, PSPCL authorities should have been able to quote such case for comparison and reference purposes.

1. The cognizance of frequent fluctuations in electricity supply had also

 not been taken by the PSPCL authorities and CGRF.

Regulation 22 of the Supply code-2014, also recognizes the fact of fluctuations in electricity supply which stipulated and provided “*that the Distribution Licensee shall with reference to declared voltage, maintain voltage at the part of the commencement of supply to a consumer within the stipulated limits as under:*

*In the case of HT supply (+) 6 and (-)9%”*

In view of the said recognition of fluctuations in supply of electricity upto (+) 6% and (-) 9%, it was not possible for the PSPCL authorities to expect, the voltage to remain constant on all the R,Y and B phases. The exact constant voltage should have been from 6351 volts on R,Y and B Phase which the PT of 11kV/110V, CT/PT Unit should have emerged but the facts were otherwise as was evident from the various DDLs done from 2017 to 2019, copies of which were also part of the submissions before the CGRF and which had completely been disregarded and ignored while calculating the slowness of the Energy Meter and unmetered /direct supply as in this case, in view of the Petitioner’s submissions highlighting such voltages in all DDLs from 26.01.2007 to 20.03.2018, where there were no consistent voltages was reflected/appearing.

1. The CGRF was also absolutely wrong and unjustified in upholding

the unwarranted charges of Rs 15,90,464/- on account of slowness factor at 8.15% for the period in question as the reading of the Energy Meter and working thereof (being a Large Supply Category connection) had regularly been checked by an Officer of the rank of Addl.S.E, East Division, Jalandhar, and PSPCL Authorities never raised any objections as to the working of the Energy Meter and variance in consumption and due bills had been raised and also accepted for payment on the basis of impugned consumption every month, keeping in view the variance of the consumption every month.

1. The CGRF while upholding the unjustified charges in respect of

slowness of the Energy Meter also overlooked the fact that since period from 22.01.2019 to 04.02.2019 had been taken as direct supply or unmetered consumption, then, how there would be slowness factor for the similar period;

1. The CGRF, Ludhiana also unjustly **ignored the findings of**

**the subsequent ECR No. 0049/281 dated 04.10.2018 in which it was specifically observed that accuracy of the Energy Meter was checked on running load and its results were found within the prescribed limits**, however, directions were issued that the Energy Meter be replaced as the cursor button of the meter was defective, DDL was found defective and the said observations in DDL dated 04.10.2018 were made much after and subsequent to the event 28.08.2018, from the date of which the said slowness factor of 8.15% had been calculated imposed and upheld contrary to the said finding and documents on record, where the accuracy of the Energy Meter was checked on running load and its results were found within permissible limits encompassing past days results.

1. The PSPCL and the CGRF both had wrongly raised/upheld the

charges in respect of direct/unmetered supply of energy for the period 22.01.2019 to 04.02.2019 and failed to consider and appreciate the following factors:

1. The amount of Rs 15,83,640/- had been levied by applying

their own methodology. The ASE/MMTS-1, Jalandhar visited the factory on 04.02.2019 to check the damaged 11 kV/110V, CT/PT and found supply running. DDL was not taken then as 11kV/110V, CT/PT cubical was completely damaged/bursteded from inside and the battery of the meter was again low as written in the DDL Report No. 15/290 dated 04.02.2019 as the 11kV/110V, CT/PT Unit was found completely damaged/bursteded from inside.

1. Addl.S.E/MMTS-1, Jalandhar, vide Memo No. 626 dated

22.02.2019, intimated that as per DDL done on 07.02.2019 and 14.02.2019 and print out emerged indicated that direct supply had been running from 22.01.2019 to 04.02.21019 and Zero Unit was recorded. However since the CT/PT unit was found bursted/burnt out, therefore, it was not possible that direct supply of power would be reflected since CT/PT unit having burnt/bursteded out, no power would transmit.

1. The MMTS/PSPCL Authroities, while adopting the requisite

values of current as 2.6A on Red Phase, 2.9A on Yellow Phase & 2.9A on Blue Phase vide ECR No. 15/290 dated 04.02.2019 for calculating the direct/unmetered supply factor on the basis that though CT/PT unit was burnt/bursteded but due voltage and current were found running but Meter Consumptions recording remained static and since the factory was running, it was a case of direct/unmetered supply. But while assuming so, MMTS/PSPCL Authorities while charging the consumer and CGRF, while upholding the said arbitrary/unjustified charges in respect of direct/unmetered supply had completely disregarded and overlooked the obvious fact as to whether the current as reflected above was also found running on the secondary side of the load to substantiate the alleged direct/unmetered supply. There was no such observations and finding of such facts in their report as the same was assumed since the factory at that time itself was running on installed Diesel Generating set of 500 kVA and three Nos DG Sets of 82 kVA each.

1. AEE/Commercial-1, Jalandhar was instructed to overhaul the

account of the consumer as per instructions of the PSPCL. The Sr. XEN/East Division Jalandhar overhauled the account of the consumer from 22.01.2019 to 04.02.2019 and levied Rs 15,83,640/- on the basis of average consumption. There was no basis or calculations on the basis of which, the said charges had been worked out and levied, since the consumption in the month of January 2019, February 2019, and subsequent months, as per correct Meter was worked out to be in the range of 3,00,000 to 3,30,000 kVAh unit per month which should have been taken the basis, if any, for calculating the charges for the unmetered/direct supply after due considerations of the submissions made above.

1. The AEE/Technical, East Division, Jalandhar was kept

informed/apprised that due to recession in the business, the fall in consumption had taken place and one transformer of 400kVA already stood damaged / non functional since 26.12.2018. Therefore, the fall in consumption was duly justified as evidenced by the comparative consumption data.

1. In view of the damage of 400kVA transformer, energy was

not consumed since 26.12.2018, therefore, fall in consumption vis a vis recession in business, stood stand duly justified. Moreover, from the perusal of the consumption data from December, 2018 to 06.06.2019 vis a vis sales figures in a period when the Energy Meter functioned as per correct meter from 04.02.2019 onwards also reflected consumption from 3,09,030 to 3,29,580 kVAh units from 07.12.2018 onwards, while unjustifiably charging the unjustified demand by the PSPCL Authorities and while upholding the said unjustified and wrong charges had been completely been overlooked by the Forum.

1. AEE/Commercial, East Div. Jalandhar, vide Memo No. 4025

dated 07.05.2019, intimated that the Petitioner’s account had been overhauled as per Regulation 21.5.1 of Supply Code-2014 which was incorrect as it had failed to take cognizance of the facts mentioned above. Therefore, fall in consumption would be obvious which were relevant factor and its bearing had not been taken into consideration by PSPCL Authorities and CGRF for granting due relief in respect thereof.

1. The consumer’s business had been falling and facing

recession due to position of the Government supply orders from Telangna State due to Assembly election on 07.12.2018 and follow up of the Lok Sabha Elections in 2019. Due to lower demand from the Government sector, there was consequent lower production level and consequent lower electricity consumption of the assessee’s unit as compared to that in the corresponding period alongwith turnover figures in respect of fall in sales in the relevant period.

1. While upholding the unmetered/direct supply, the slowness

factor of 8.15% had no bearing in the calculation of unmetered/direct supply consumption thereof and should have been reduced therefrom in view of the fact that since the period from 22.01.2019 to 04.02.2019 had been taken as direct supply or unmetered consumption, then, there was no reason for any slowness factor for the similar period. Rationally considering that the consumer was charged for direct supply, there would not be any slowness factor of the Energy Meter for the same period, therefore, this tantamounted to be simultaneous double charge i.e. one for direct supply/unmetered period and another for slowness factor; which, by any logic or rationale, was unjustified and absolutely wrong.

1. Therefore, in view of the aforesaid submissions, the charges

in respect of unmetered supply for the period from 22.01.2019 to 04.02.2019, the due relief in respect of the slowness factor of the Energy Meter @8.15% needed to be considered and due relief be allowed, which, on the present parameters itself, worked out to be Rs 1,29,067/- (being 8.15% of Rs 15,83,646/-) in addition to the impact of the other grounds and arguments as submitted in proceeding paras.

1. in view of the submission made, it was prayed that the Appeal

be allowed and the requisite relief be granted.

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

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

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

bearing A/C No.3000855468 with sanctioned load of 2499 kW and contract demand (CD) of 2499 kVA.

1. The connection was checked by the Addl.SE/MMTS-1, PSPCL,

Jalandhar vide ECR No.15/290 dated 04.02.2019 and subsequently vide Checking No.32/290 dated 07.02.2019 and 18/291 dated 14.02.2019 and DDL was taken. After checking the connection, the Addl.S.E, MMTS-1, PSPCL, Jalandhar, reported that 11 kV/110V, CT/PT unit was flashed/burnt and found damaged. Addl.S.E, MMTS-1, PSPCL, Jalandhar directed to replace the CT/PT unit.

1. After replacement of CT/PT unit, Addl.S.E, MMTS-1, PSPCL,

Jalandhar again checked the connection of the Petitioner on 07.02.2019 and 14.02.2019. Addl.S.E, MMTS-1, PSPCL, Jalandhar also took DDL of Energy Meter. As per DDL report, it was found that due to defective/damaged CT/PT from 22.01.2019 to 04.02.2019, nil energy consumption was recorded whereas the supply of the consumer was running. In addition to above, as per DDL Report, PTs of 11kV/110V, CT/PT unit were faulty from 28.08.2018 to 21.02.2019 and not recording actual voltage to the Energy Meter. During this period i.e. from 28.08.2018 to 21.01.2019, Energy Meter recorded less consumption to the tune of 8.15%. Addl.S.E, MMTS-1, PSPCL, Jalandhar also directed to overhaul the account from 22.01.2019 to 04.02.2019 as per direct supply/unmetered supply. Accordingly, a sum of Rs. 15,90,464/- was charged from 28.08.2018 to 21.01.2019 as per slowness factor of 8.15 % and Rs 15,83,640/- were charged for direct supply from 22.01.2019 to 04.02.2019. Thus supplementary bill of Rs 31,74,104/- was sent to the Petitioner giving full details vide Memo No.198 dated 25.02.2019.

1. The amount charged was correct and as per checking done by the

Addl.SE/MMTS-1, PSPCL, Jalandhar and report prepared as per conditions at site of the connection.

1. The Forum decided that the amount of Rs.31,74,104/- charged to

the Petitioner was correct and recoverable.

1. The Energy Meter was tested before installation at the Petitioner’s

premises as per specification, norms and rules and regulations.

1. The Forum stated in its order that the methodology adopted by the Addl.S.E, MMTS-1, PSPCL, Jalandhar to arrive at figure of 8.15% slowness, although was not mentioned in rules and regulations of Supply Code, yet it was quite fair as percentage difference was calculated based on instantaneous voltage recorded on14.02.2019 and 30.08.2018 i.e. when the PTs were recorded correctly after replacement of CT/PT unit, as compare when CT/PT unit was defective. This was also justified as without the slowness factor too, the consumption of the Petitioner during the disputed period had been recorded higher than that of corresponding period of previous year. Further, as per the DDL report, there was certainly less contribution of voltage during this period which certainly had reduced less recording of consumption, therefore, it could be concluded that the slowness of 8.15% had been rightly applied as calculated and detailed in the Addl.SE/MMTS-1, PSPCL, Jalandhar’s Memo No.15 dated 08.04.2019.
2. There were no fluctuations of power mentioned in the checking by the Addl.S.E, MMTS-1, PSPCL, Jalandhar and the Petitioner had also never intimated about fluctuation of voltage.
3. The amount charged for slowness factor period and direct supply/unmetered supply period was calculated separately.
4. The Addl.S.E/MMTS-1, PSPCL, Jalandhar intimated, vide Memo No.626 dated 22.02.2019, that direct supply had been running from 22.01.2019 to 04.02.2019 and nil energy consumption was recorded during that period.
5. The direct supply/unmetered supply charges had been charged on units calculated on the basis of current period consumption of same month when direct supply occurred and the amount charged had also been worked out accordingly.
6. The Petitioner had never intimated about the recession in its business and also not provided any documentary evidence to the concerned office as well as to the Forum for consideration.
7. The amount charged during the direct supply period i.e. 22.01.2019 to 04.02.2019 did not include the amount charged due to the slowness factor of 8.15% for that period.
8. The Appeal may be dismissed in view of the submissions made above.

**4. ANALYSIS:**

The issue requiring adjudication is the legitimacy of the amount of Rs 15,90,464/- charged to the Petitioner on account of slowness of Metering Equipment by 8.15% during the period from 28.08.2018 to 21.01.2019 and also of Rs 15,83,640/- due to direct supply given from 22.01.2019 to 04.02.2019.

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

1. In the present dispute, the connection of the Petitioner was checked (on a reference made by the AEE, Tech-3, Jalandhar vide Memo No.142 dated 30.01.2019) by the Addl.S.E/MMTS-I, Jalandhar, vide ECR No. 15/290 dated 04.02.2019 whereby, it was reported that current on Red, Yellow and Blue Phases on the Energy Meter terminal was 2.6 Amp, 2.9 Amp, 2.9 Amp. respectively and due to damage of PT of 11 kV/110V, CT/PT unit, **the voltage on each phase was zero volts on the Meter Terminal, despite the fact that the supply was running.** PTs were found bursteded, accordingly, directions were given to the Respondent to replace the CT/PT unit. DDL was not done on battery mode as it was low. In compliance to the above directions, the 11 kV/110 kV, CT/PT unit was replaced on 05.02.2019 vide SJO No. 47 dated 04.02.2019. The connection was again checked by the Addl.S.E/MMTS-I, Jalandhar, vide ECR No. 33/290 dated 07.02.2019 and it was observed that Meter Scroll switch was defective and directed that the Energy Meter be replaced with DLMS Meter. The Accuracy was not checked by the MMTS but DDL was taken. As per its report, the connection was checked after replacement of damaged CT/PT unit. Subsequently, the connection was again checked by the Addl.S.E/MMTS-I PSPCL, Jalandhar, vide ECR No 18/291 dated 14.02.2019 after replacement of CT/PT unit. MMTS observed that Meter Scroll button was defective and directed to replace the Energy Meter. DDL was also taken. As per the said directions, the Energy Meter was replaced on 18.02.2019. Based on the report of the DDL, MMTS directed the Respondent, vide Memo No. 626 dated 22.02.2019, to overhaul the account of the Petitioner for the period from 28.08.2018 to 21.02.2019 (for slowness of Energy Meter by 8.15%) and from 22.01.2019 to 04.02.2019 for giving the direct/unmetered supply.
2. A hearing was given to the Petitioner and the Respondent on 27.09.2019 when both the sides reiterated the submissions made in the Petition/written reply and also placed the relevant material on record of this Court. During the course of deliberations, Petitioner’s Representatives stated that the amount charged to the Petitioner for the period from 28.08.2018 to 21.01.2019 for the slowness of Energy Meter (by 8.15%) was not recoverable as per provisions of The Electricity Act-2003/Supply Code-2014. PR added that the amount charged to the Petitioner for the period of 22.01.2019 to 04.02.2019 due to direct Power Supply was not justified and it could produce documentary evidence in support of the details of fall in production of goods manufactured as a reason for fall in energy consumption during the disputed period. PR also stated that demand for the products of Petitioner’s industry declined due to Elections to the Lok Sabha and Legislative Assembly of The State of Telangana. Accordingly, the PR was directed to send the balance sheet of the Petitioner’s firm for the predisputed and disputed period latest by 04.10.2019 by e-mail (oep.mohali@gmail.com) to enable this Court to ascertain the factual position and adjudicate the dispute.
3. In response to the directions ibid, CA S.K.Vatta, Petitioner’s Representative sent, vide e-mail dated 04.10.2019 ( and also through special messenger) copy of the Audited Profit & Loss Account and Balance Sheet for the year ended 31.03.2019 alongwith Monthwise sales as per Books of Accounts for the period 01.04.2018 to 31.03.2019 alongwith monthwise sales also duly declared and reflected in requisite Format on e-system in due compliance to the applicable GST Act provisions of the consumer entity. PR stated in its e-mail ibid that the case of the Petitioner was in respect of defective CT/PT, as the PT’s of the same bursteded, thus not contribute for the period 22.01.2019 to 04.02.2019, therefore, the relevant applicable provisions were not of Regulation 21.5.1 of Supply Code-2014 as wrongly relied upon by the PSPCL authorities while dealing with overhauling of consumer’s account. But the case of the consumer was not of defective/stolen or burnt meter but was of defective/bursteded CT/PT unit. The applicable provisions are Condition of Supply Clause No. **23**, read with Regulation 73.8 of the Sales Regulation which reads as under:

**73.8** The cases involving incorrect connection, defective CTs and PTs, genuine calculation mistake etc were not governed under the above mentioned instructions but under the provisions of Condition No. 23 of the Clause of Supply which reads as under:

“*Where the accuracy of meter is not involved and it is a case of incorrect connections or defective CTs/PTs, genuine calculation mistakes etc, charges will be adjusted in favour of Board/consumer, as the case may be, for the period the mistake/defect continued”.*

PR stated that the aforesaid documents and submissions may be considered in view of its detailed arguments during the course of hearing and written submissions made in the Appeal. PR prayed that the post defective period consumption figure after the installation of Energy Meter on 05.02.2019 may be adopted for overhauling the Petitioner’s account, as prayed during oral discussions, and 8.15% slowness factor as added for calculating the chargeable amounts which worked out to be at Rs 1,29,067/- (being 8.15% of Rs 15,83,647/-) be also reduced as submitted in its Appeal on account of the direct supply charges.

1. The written and oral submissions alongwith the evidence brought on record by both the sides in this Court have been gone through. The DDL dated 07.02.2019 has been studied and found from tamper report data that from 28.08.2018 to 21.01.2019, there was unbalance of voltage on Yellow and Blue Phases as compared to Red Phase voltage to the tune of 8.15 %. I observe that the MMTS should have taken the accuracy of the Energy Meter at site with ERS Meter to ascertain the slowness of the disputed Energy Meter.

In this connection, it is worthwhile to peruse the provisions contained in Rule 54 (ii) of The Electricity Rules, 2005 which reads as under:

**54. *“Declared voltage of supply to consumer-****Except with the written consent of the consumer or with the previous sanction of the State Government a supplier shall not permit the voltage at the point of commencement of supply as defined under rule 58 to vary from the declared voltage-*

*(i) in the case of low or medium voltage, by more than 6 per*

 *cent, or;*

 *(ii)* ***in the case of high voltage, by more than 6 per cent on***

***the higher side or by more than 9 per cent on the lower***

 ***side, or;***

 *(iii) in the case of extra-high voltage, by more than 10 percent*

 *on the higher side or by more than 12.5 per cent on the*

 *lower side.”*

I observe from a perusal of the above Rule, that the declared voltage of supply to the HT consumer is +6%/-9%. In the present case, the difference of voltage variation has been worked out as -8.15%, hence, the overhauling of accounts by applying slowness factor of 8.15% is not sustainable.

1. Petitioner’s Representative next contended that the consumer’s business had been falling and facing recession as it was not getting supply orders from Government of Telangna State due to Assembly Election on 07.12.2018 and follow up of the Lok Sabha Elections in 2019. Due to lower demand from the Government sector, there was consequent lower production level and consequent lower electricity consumption of the assessee’s unit as compared to that in the corresponding period alongwith turnover figures in respect of fall in sales in the relevant period. While upholding the unmetered/direct supply, the slowness factor of 8.15% had no bearing in the calculation of unmetered/direct supply consumption thereof and should have been reduced therefrom in view of the fact that since the period from 22.01.2019 to 04.02.2019 had been taken as direct supply or unmetered consumption, then, there was no reason for any slowness factor for the similar period. Rationally considering that the consumer was charged for direct supply, there would not be any effect of slowness factor on the consumption. Therefore, this tantamounted to be simultaneous double charge i.e. one for direct supply/unmetered period and another for slowness factor; which, by any logic was unjustified and absolutely wrong.

In this regard, I have noted the contention of the Respondent that the Add.S.E., MMTS-1, Jalandhar intimated, vide Memo No.626 dated 22.02.2019, that direct supply had been running from 22.01.2019 to 04.02.2019 and nil energy consumption was recorded during that period. The direct supply/unmetered supply charges had been charged on units calculated on the basis of consumption recorded during corresponding period of previous year.

I observe that the amount charged to the Petitioner for direct supply/unmetered supply period (22.01.2019 to 04.02.2019) was calculated separately and the apprehensions of the PR about inclusion of amount of slowness factor period (28.08.2018 to 21.01.2019) in the amount charged for direct supply period (22.01.2019 to 04.02.2019 ) are incorrect.

I have perused the Trading, Profit and Loss Account, Balance Sheet and Sales figures of the Petitioner’s industry submitted by the Petitioner’s Representative and observed that sales, purchases and profit during the disputed period (of the year 2018-19) are not less than those of the corresponding period of the preceeding year (2017-18). Similarly, profit of the Petitioner’s Industry during 2018-19 is more than that of 2017-18. Thus, the submission of the PR about fall in energy consumption for the period of direct supply (22.01.2019 to 04.02.2019) was attributable to less demand for its products/work in the industry is not corraborated by the documentary evidence submitted by it to this Court vide e-mail dated 04.10.2019.

Accordingly, the amount of Rs 15,83,640/- charged to the Petitioner for the direct/unmetered supply from 22.01.2019 to 04.02.2019 by the Respondent and upheld by the Forum is sustainable in the eyes of law.

**5. Conclusion:**

From the above analysis, it is concluded that :

1. The amount of Rs 15,90,464/- charged to the Petitioner, for the period from 28.08.2018 to 21.01.2019, due to slowness of Energy Meter to the extent of 8.15% is not recoverable in view of provisions contained in Rule 54(ii) of the Electricity Rules-2005.
2. The amount of Rs 15,83,640/- charged to the Petitioner for the period from 22.1.2019 to 04.02.2019 on account of direct supply/unmetered consumption is recoverable as the Petitioner failed to produce the requisite evidence justifying its contention that fall in energy consumption during this period was due to less production/demand for the goods manufactured by the Petitioner’s Industry.
3. **Decision**

**As a sequel of above discussions, the order dated 20.06.2019 in Case No.CGL-114 of 2019 is modified 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.**

**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)

October 10, 2019 Lokpal (Ombudsman)

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