**COURT OF THE LOKPAL (OMBUDSMAN),**

**ELECTRICITY, PUNJAB,**

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

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

**APPEAL NO. 44/2019**

**Date of Registration : 06.08.2019**

**Date of Hearing : 27.09.2019**

**Date of Order : 30. 09.2019**

**Before:**

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

**In the Matter of**

 Rakesh Kumar,

 c/o Green Florist ,736-B,

Pakhowal Road,

Ludhiana.

 ...Petitioner

 Versus

 Addl. Superintending Engineer,

DS City West Division(Special),

PSPCL, Ludhiana .

 ...Respondent

**Present For:**

Petitioner : 1. Sh. Parvesh Chadha,

 Petitioner’s Representative (PR).

 2. Sh.Rakesh Sood,

 Petitioner’s Representative (PR).

 3. Sh.Amit Sood,

 Petitioner’s Representative (PR).

Respondent : Er.Ramesh Kaushal,

 Addl. S.E. ,DS City West Division(Special) ,

PSPCL, Ludhiana.

Before me for consideration is an Appeal preferred by the Petitioner against the decision dated 09.07.2019 in Case No. CGL-146 of 2019 of the Consumers Grievances Redressal Forum (Forum), Ludhiana stating as under:

 “ *The decision taken by ZLDSC in its meeting held on*

 *15.03.2019 is upheld*”.

**2. Facts of the Case:**

 The relevant facts of the case are that:

1. The Petitioner was having a Non Residential Supply (NRS)

Category connection with sanctioned load of 35.740 kW and contract demand (CD) of 39.710 kVA for which, the Metering was done by providing LT CT Operated Energy Meter.

1. The Petitioner had earlier got the load extended from 8.740 kW to

35.740 kW and Three Phase Four Wire, Whole Current Energy Meter was replaced with LT CT operated Energy Meter vide Sundry Job Order (SJO) No.92/17359 dated 03.04.2006.

1. The capacity of newly installed Energy Meter was 200/5A and

that of LT CT was 100/5A. Thus, overall Multiplication Factor (MF) was 100/200= 0.5, but the billing was done incorrectly with Multiplication Factor (MF) as 1.

1. The Energy Meter, bearing S.No.04241878 of L&T make,

3x200/5A and LT CTs of capacity 100/5A, Meltek make were drawn from the Store.

1. The connection was checked by the Addl.S.E/ Enforocement-3,

 Ludhiana vide ECR No.15/3559 dated 31.08.2017 whereby, it was reported that *“ As per bill produced by the Petitioner at site, the billing was being done with MF 1 whereas at site, the capacity of Energy Meter was 200/5A and that of LT CTs was 100/5A and overall MF was 0.5”.*

1. In view of above Checking Report, the Petitioner applied for refund

for the period from 05/2006 to 10/2017 for the payment got made in excess from it.

1. The Sub Divisional Office, vide Memo No.47 dated 07.02.2018,

sent the refund case, amounting to Rs.23,15,120/- for pre-audit to the Accounts Officer/Field, Ludhiana who, vide Memo No.605 dated 15.02.2018, intimated that the period of refund had already been audited and further action be taken as per Commercial Circular (CC) No.50/2016 dated 08.11.2016.

1. In view of the above, the Petitioner filed a Petition in Zonal Dispute

Settlement Committee (ZDSC), which, after hearing, decided on 18.05.2018**,** as under:

“*That the billing of the Petitioner be revised from 13.05.2006 to 8.10.2017 by applying MF 0.5 instead of 1 and the refund be given to the Petitioner* after getting pre-audited from AO/Field, Ludhiana”.

1. In compliance to the decision of the ZDSC, the Respondent refunded

Rs.23,15,119/- to the Petitioner whereafter, the Petitioner represented to ZDSC for the payment of interest on the amount refunded, who after hearing, decided the case on 15.03.2019 as under:

“*Where the accuracy of the Meter is not involved and it is a case of application of wrong MF, the account shall be overhauled for the period this mistake continued*.

*if the consumer is liable to pay additional amount or entitled to refund in consequence of on overhaul of his account in accordance with Regulation 21.5.1, the distribution licensee shall affect recovery or adjust the excess amount in the electricity bills of the immediately succeeding months”.*

1. Not satisfied with the decision dated 15.03.2019 of the ZDSC, the

Petitioner filed a Petition dated 28.05.2019 in the CGRF, Ludhiana who, after hearing, passed the order dated 09.07.2019 (Reference Page-2, Para-1), and upheld the decision dated 15.03.2019 of the ZDSC.

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

preferred an Appeal in this Court and prayed that the Petitioner may be given interest on the excess amount of Rs. 23,51,119/- got deposited at the rate prescribed in ESIM/Supply Code till the date of refund.

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

Before undertaking analysis of the case, it is necessary to go through written submissions made by the Petitioner and reply of the Respondent as well as oral submissions made by the Representatives of the Petitioner and the Respondent 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 having NRS category connection with sanctioned load of 35.740 kW and contract demand of 39.71 kVA since 03.04.2006.
2. The Petitioner filed Petition, bearing No.714/2017-18, for seeking refund of excess amount got deposited from it on account of wrong application of Multiplication Factor of 1 instead of 0.5 and the ZDSC decided the case on 18.05.2018 in favour of the Petitioner and a sum of Rs.23,15,119/- was refunded by the Respondent.
3. The Petitioner then filed another Petition dated 22.01.2019, bearing Petition No.740/2018 for the payment of interest on the amount refunded as per decision dated 18.05.2018. The ZDSC, Ludhiana decided the case for payment of interest against the Petitioner on 08.04.2019.
4. The amount refunded was got deposited in excess from the Petitioner due to the negligence of the Respondent. This was clearly deficiency in service on the part of the Respondent.
5. The Respondent issued erroneous bills to the Petitioner by applying wrong MF of 1 instead of actual MF of 0.5 during the period from 05/2016 to 10/2017.
6. The Respondent had not checked variation in energy consumption as per Instruction No.104.7 of ESIM. Had it been done, application of wrong MF would have been detected earlier.
7. Instruction No.104.11 of ESIM had not been complied with and if it was done , this omission would have been avoided.
8. The Petitioner had paid amounts excess billed in and was entitled to interest as per provisions of Regulation 35.1.1 of Supply Code-2014.
9. The Petitioner had received the refund of excess billed amount to the tune of Rs.23,15,119/- but interest thereon was not paid. The Petitioner was entitled to interest which was approximately Rupees Ten Lac.
10. The Petitioner may be given interest on the excess amount got deposited which was refunded through bills for the period from 05/2006 to 10/2017 on account of application of incorrect/wrong Multiplication Factor (MF).
11. This Court had already awarded the interest on the excess billed amount deposited due to application of incorrect Multiplying Factor in the bills vide order dated 30.07.2018 in *Appeal No.A-12 of 2018 titled M/S Arora Food (India) Khanna Vs.PSPCL.*

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

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

1. The Petitioner was the user of NRS Category connection with sanctioned load of 35.740 kW, bearing account No.3002862556.
2. The Petitioner got the load extended from 8.740 kW to 35.740 kW vide SJO No.92/17359 dated 03.04.2006 and the Energy Meter of the Petitioner was replaced with LT CT operated Meter.
3. The capacity of the newly installed Energy Meter was 200/5 Amp and LT CTs capacity was 100/5 Amp. Thus, overall MF was to be 0.5, but billing of the Petitioner’s connection was being done with MF 1.
4. The connection of the Petitioner was checked by ASE/Enforcement-3, Ludhiana vide ECR No.15/3559 dated 31.08.2017 whereby, it was reported that “*As per bill produced by the Petitioner at site, the billing was being done with MF 1 whereas at site, the capacity of Energy Meter was 200/5A and that of LT CTs was 100/5A and overall MF was 0.5”.*
5. The Petitioner applied for refund for the period from 05/2006 to 10/2017 for the amount paid in excess by it.
6. The Petitioner filed its case for refund of amount paid in excess by it in monthly bills in ZDSC due to application of wrong MF and as per decision of the ZDSC dated 18.5.2018, a sum of Rs.23,15,119/- was refunded to the Petitioner.
7. Thereafter, the Petitioner filed its case for payment of interest on the amount refunded in the ZDSC, who decided, vide order dated 15.03.2019, that the interest was not payable to the Petitioner.
8. Even, there was no provision in the rules of PSPCL for payment of interest on the amount refunded in such like case.
9. In view of the submissions made above, the Appeal may be dismissed.

**4. Analysis**

 The issue requiring adjudication is the legitimacy of payment of interest on the amount of Rs.23,15,119/- for the period from 05/2006 to 10/2017 billed in excess due to application of incorrect Multiplication Factor 1 instead of 0.5 actually applicable.

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

1. In the present dispute, the Petitioner has claimed interest on the amount of Rs.23,15,119/- deposited by it in excess ( through Energy Bills issued during the period from 05/2006 to 10/2017 on the basis of application of incorrect Multiplication Factor 1 (instead of actual Multiplication Factor 0.5) and refunded as per decision dated 18.05.2018 of the ZDSC, Ludhiana. The mistake in application of incorrect Multiplication Factor in the Energy Bills issued since 05/2006 ( after installation of LT CT operated Energy Meter vide SJO dated 03.04.2006) was detected when the connection of the Petitioner was checked on receipt of application dated 11.07.2017 about excessive billing as compared to its energy consumption by the Addl.S.E/ Enforcement-3, PSPCL, Ludhiana vide ECR No.15/3559 dated 31.08.2017 and it was reported that

*“ As per bill produced by the Petitioner at site, the billing was being done with MF 1 whereas at site, the capacity of Energy Meter was 200/5A and that of LT CTs was 100/5A and overall MF was 0.5”.*

 Petitioner’s Representative contended that this was clearly a case of deficiency in service on the part of the Respondent who had not complied with the provisions contained in Instruction No.104.1 of ESIM. Petitioner’s Representative added that the Petitioner was entitled to interest on the amount billed in excess by the PSPCL in terms of provisions contained in Regulation 35.1 of Supply Code-2014. Petitioner’s Representative (PR) also cited the decision of this Court in similar Appeal *Case No.A-12 of 2018 titled Arora Food (India),Khanna Vs. PSPCL* wherein interest on the amount billed in excess due to application of incorrect Multiplication Factor was allowed.

In this connection, I have perused the decision dated 09.07.2019 in this case of the CGRF, Ludhiana observing as under:

*“ Had the Enforcement/Respondent did not pinpoint the excess billing being done to the Petitioner, he would have never known this mistake which was continuing for the last 11 years. The Supply Code Regulation No. 35.1.3 quoted by the Petitioner deals with current energy bills whereas the Supply Code Regulation No.21.6 dealing with recovery/refund of charges is as under:*

 *if the consumer is liable to pay additional amount or entitled to refund in consequence of on overhaul of his account in accordance with Regulation 21.5.1, the distribution licensee shall affect recovery or adjust the excess amount in the electricity bills of the immediately succeeding months.*

 *As per Regulation 21.6 of Supply Code, the refund has already given to the Petitioner for the excess amount charged during the period 05/2006 to 10/2017.*

 *Keeping in view the above, Forum came to unanimous conclusion that the decision taken by ZDSC in its meeting held on 15.03.2019 is in order*”.

 I observe that interest is payable to the Petitioner when, it brought to notice of the Respondent for excessive billing.

1. During the course of hearing, the Petitioner was asked if it had challenged the working of the Energy Meter ( on receipt of bills not comparable with energy consumption), it replied in negative.

 I agree with the submission of the Petitioner and its Representative that the Respondent defaulted by not complying with the statutory provisions of its own rules requiring conduct of periodical inspection of the connections. At the same time, the Petitioner being a Large Supply Category Consumer also defaulted in not exercising vigilance and prudence by not taking timely cognizance of the receipt of the bills in excess of the amount due as per energy consumption shown in the energy bill. The Petitioner noticed the discrepancy in this regard on 11.07.2017 when it submitted an application to the Respondent for checking of the Energy Meter.

 *I observe that in the given circumstances, interest from 11.07.2017 till the date of actual refund is required to be paid to the Petitioner to meet the ends of justice.*

**5. Conclusion:**

From the above analysis, it is concluded that the Petitioner has suffered financial hardship due to mistake in the application of Multiplication Factor (MF) on the part of the Respondent and is entitled to interest at RBI Base Rate of the relevant financial year from the date of its application i.e. 11.07.2017 till the date of refund.

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

 **As a sequel of above discussions, the order dated 09.07.2019 of the CGRF, Ludhiana in Case No. CGL-146 of 2019 is set aside. The Respondent is directed to make payment of interest as per conclusion arrived at in Para-5 above in future energy bills.**

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)

 September30, 2019 Lokpal (Ombudsman)

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