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

**ELECTRICITY, PUNJAB,**

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

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

**APPEAL NO. 48/2019**

**Date of Registration : 13.08.2019**

**Date of Hearing : 03.10.2019**

**Date of Order : 10.10.2019**

**Before:**

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

**In the Matter of**

Manmeet Singh,

 c/o M/S Vibrant Inc.,

V&P.O. Ramgarh,

Chandigarh Road,

Ludhiana.

 ...Petitioner

 Versus

 Senior Executive Engineer,

DS Estate Division(Special),

PSPCL, Ludhiana .

 ...Respondent

**Present For:**

Petitioner : 1. Sh. Parvesh Chadha,

 Petitioner’s Representative (PR).

 2. Sh.Kanwarjit Singh, Advocate,

 Petitioner’s Counsel (PC).

Respondent : 1. Er.Mandeep Kumar,

 Asstt. Executive Engineer/ DS, Unit III,

Estate Division(Special),

PSPCL, Ludhiana.

 2. Sh. Krishan Singh,

Assistant Accounts Officer.

 Before me for consideration is an Appeal preferred by the Petitioner against the decision dated 10.06.2019 in Case No. CGL-119 of 2019 of the Consumer Grievances Redressal Forum (Forum), Ludhiana stating as under:

*“ The account of the Petitioner be overhauled for the six months, prior to the date of replacement of CT/PT unit (i.e. 12.12.2018), with the consumption recorded during the corresponding period of previous year, as per Regulation 21.5.2(a) of Supply Code-2014”.*

**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 200 kW and contract demand (CD) of 200 kVA and the supply was used for the processing of Fabrics.

1. The connection was checked by the Addl.S.E, MMTS-3, Ludhiana,

vide ECR No.22/3111 dated 17.09.2018 whereby, it was observed that current on one Phase (Y-Phase) was not coming on the Energy Meter. On opening the Meter Terminal Block, it was found that the wire of the Yellow Phase was oxidized at Terminal end. The same was cleaned and reconnected. The current started contributing on Yellow Phase. DDL was taken from SAP system.”STAR” was also coming on display of the Energy Meter.

1. The Energy Meter was replaced vide Device Replacement

Application No.100006699663 dated 05.10.2018, effected on 16.10.2018 and got checked on 13.11.2018 from the M.E. Laboratory, Ludhiana wherein the accuracy of the Energy Meter was checked and found within permissible limits.

1. After replacement of the Energy Meter, the connection was checked

by the Addl.S.E, MMTS-3, Ludhiana on 17.10.2018 vide ECR No.36/3112 and it was found that “STAR” was coming on display of the Energy Meter and Phase 1 & 3 were blinking whereas Phase-2 was still and current on Yellow Phase was 0 Amp. After checking of 11 kV/ 110 V, CT/PT unit, it was noticed that Yellow Phase CT was defective. As a result, the Checking Officer directed to replace the CT/PT Unit.

1. Accordingly, the CT/PT Unit was replaced, vide Device

Replacement Application No.100007026881 dated 22.11.2018. After replacement of CT/PT Unit, the connection was again checked vide ECR No.26/3116 dated 17.12.2018 and DDL was taken. The CT/PT unit was checked on 31.01.2019 from the M.E. laboratory which found that the accuracy/results of CTs and PTs were within permissible limits.

1. On the basis of the speaking orders of the Addl.S.E, MMTS-3,

PSPCL, Ludhiana vide Memo No.382 dated 24.12.2018, the account of the Petitioner was overhauled for the period as under:

|  |  |  |
| --- | --- | --- |
| **Period** | **Basis** | **Reason** |
| 06.04.2018  to 22.04.2018 | Average Basis | Unbalanced Current Contribution |
| 23.04.2018  to 17.09.2018 | Consumption enhanced by 50% | Non contribution of current on Yellow Phase |
| 03.10.2018  to 12.12.2018 | Consumption enhanced by 50% | Non contribution of current on Yellow Phase |

1. A supplementary energy bill was issued to the Petitioner vide

Memo No.398 dated 15.03.2019 and amount of Rs 12,26,938/- was charged to the Petitioner with the direction to deposit it by 01.04.2019.

1. Aggrieved with the above Notice, the Petitioner filed a Petition

dated 25.04.2019 in the CGRF, Ludhiana who, after hearing, passed the order dated 10.06.2019.(Reference Page-2,Para-1).

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

preferred an Appeal in this Court and prayed that directions be given to the Respondent to withdraw the penalty raised vide Memo No.857 dated 12.07.2019, to the tune of Rs 9,02,236/- as the directions given by the Forum for overhauling the account of the consumer for a period of 6 months could not to be correct.

**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 a Large Supply Category connection,

bearing Account No.3002959250 and deposited the energy consumption charges regularly as per the demand raised by the Respondent.

1. There was variation in the consumption of any Firm due

to fluctuation in the availability of work/orders from/in the Market and thus none of the consumers was expected to utilise the electricity in a continuous and similar pattern.

1. Since there was computerised functioning/working in the Energy

Meters and appliances connected thereto (Energy Meter), there were provisions of recording every type of data which accurately expressed the position of working of that Firm, even at later stage, if that data was down loaded.

1. The AEE, DS Sub division, PSPCL, Sahnewal issued a letter,

bearing MemoNo.398 dated 15.03.2019, raising a demand of Rs 12,26,938/- mentioning that the account of the Petitioner was overhauled due to unbalanced current contribution for the period from 23.04.2018 to 17.09.2018 for non contribution of current on Yellow Phase and from 03.10.2018 to 12.12.2018 (upto the change of CT/PT) for non contribution of the current of Yellow phase. The account of the Petitioner was overhauled as per the checking report dated 17.09.2018, 17.10.2018 and speaking order dated 24.12.2018.

1. As per the version of the Respondent that from 06.04.2018 to

22.04.2018, there was unbalanced current contribution. This fact could only be confirmed/proved from the DDL of the related period if made available, since in the related energy bill, the Respondent never pointed out such fact at the relevant time, hence, at later stage the affected consumer was only in a position to verify the version pointed out by the Respondent-PSPCL through supplementary Energy Bill.

1. The DDL (Tamper Report- Sequential Storage for events off)

pertaining to the Energy Meter No.14635923, if made available, could verify the facts without any hindrance, but the DDL available on record was only for the period from 16.08.2018 to 02.10.2018.

1. The Respondent overhauled the account of the Petitioner for this

period only on the basis of presumptions as would be seen from the following:

1. The supply to the Petitioner’s connection was on HT.
2. Earlier, the reading of Large Supply connection were obtained by the

officer of the rank of AEE and that officer was duty bound, first to check the Energy Meter on the aspect of accurately working position of the Energy Meter at site.

1. During these days, the readings of the Energy Meters were noted

through Computerised System, as such, at the time of recording readings, if there was any eventuality in the working of the Energy Meter that could also be got noted at the relevant time, but none of the Officers ever pointed out such an eventuality at the relevant time in the relevant energy consumption bill nor otherwise, as such, at this stage, the DDL was the relevant document/record which could clear the picture and that DDL could be down loaded even at this stage also.

1. The account of the Petitioner was overhauled for the period from

23.04.2018 to 17.09.2018 by treating that Yellow Phase of the Energy Meter was not contributing, to the Energy Meter, the consumed consumption.

1. The Petitioner was not in a position to confirm this version of the

Respondent since the available data only pertained to the period from 16.08.2018 to 02.10.2018. In this DDL from 17.09.2018 to 02.10.2018, the Yellow phase of the Energy Meter remained in working position and contributing the recorded consumption. Thus, in this way, the Respondent overhauled the account of the Petitioner for the period from 23.04.2018 to 15.08.2018 without any authentication and only on the basis of presumptions. This period pertained to Energy Meter No.14635923.

1. The account of the Petitioner was further overhauled for the period

from 03.10.2018 to 12.12.2018.During this period, the Energy Meter, bearing No.16294828, remained installed at the premises of the Petitioner.

1. The account of the Petitioner was overhauled as per the checking

report with the observation and treating that Secondary wiring of Yellow Phase was not recording the consumed current and treating the CT of Yellow Phase as defective, but in the ME Laboratory, working of CT was declared as within permissible limits. The available DDL pertained to the period from 19.11.2018 to 11.12.2018, therefore, the overhauling the account of the Petitioner from 03.10.2018 to 18.11.2018 was not correct and without any authentication and overhauling the account of the Petitioner for 12.12.2018 was wrong as in the DDL, there was recording of current on dated 12.12.2018. Therefore, the dispute of the Petitioner could have set right efficiently without any hindrance if the DDL for the relevant period could have been made available.

viii.The Forum decided that the account of the Petitioner be overhauled for the six month prior to date of replacement of CT/PT unit (i.e.12.12.2018) with the consumption recorded during the corresponding period of previous year as per Regulation 21.5.2(a) of SupplyCode-2014which clearly included that period also when the working position of Yellow phase in the Energy Meter as correct as seen from the available DDL.

ix. In view of the submissions made, the Appeal be allowed to meet ends of justice.

(**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 with sanctioned load of 200 kW and contract demand as 200 kVA.
2. The connection of the Petitioner was checked by the ASE/MMTS-3, PSPCL, Ludhiana vide ECR No.22/3111 dated 17.09.2018, ECR No.36/3112 dated 17.10.2018 and ECR No.26/3116 dated17.12.2018.
3. The account of the Petitioner was overhauled on the basis of speaking orders of the ASE/MMTS-3, PSPCL, Ludhiana vide its MemoNo.382 dated 24.12.2018
4. Thereafter, a supplementary Notice, bearing No.398 dated 15.03.2019, was issued to the Petitioner for a sum of Rs 12,26,938/-.
5. The Petitioner did not agree with the said Notice and preferred a Petition in the CGRF, Ludhiana instead of depositing amount raised by the Respondent vide Memo No.398 dated 15.03.2019.
6. The Forum decided the Petition vide order dated 10.06.2019 with the direction to overhaul the account of the Petitioner for the six months prior to the date of replacement of CT/PT unit(i.e.12.12.2018) with the consumption recorded during the corresponding period of previous year as per Regulation 21.5.2(a) of Supply Code-2014.
7. Accordingly, the account of the Petitioner was overhauled for six months prior to 12.12.2018 and a Notice was issued, vide bearing Memo No.857 dated 12.07.2019, on the basis of decision dated 10.06.2019 of the Forum.
8. The Petitioner did not agree with the decision of the Forum and filed Appeal before this Court.
9. The Forum had correctly decided the case for overhauling the account of the Petitioner for six months prior to 12.12.2018 as per Regulation 21.5.2(a) of Supply Code-2014.
10. Load Survey depicted that contribution of Yellow phase was missing during 03.10.2018 to 12.12.2018. Thus, the Petitioner was rightly charged.
11. In view of the submissions made above, Appeal be dismissed.

**4. Analysis**

 The issue requiring adjudication is the legitimacy of the overhauling of the account of the Petitioner’s connection for six months preceeding the replacement of CT/PT unit (12.12.2018) as per applicable regulations.

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

1. Pursuant to the decision dated 10.06.2019 of the CGRF, Ludhiana, the amount of Rs 12,26,938/- charged earlier by the Respondent vide Memo No.398 dated 13.03.2019, was reduced to Rs 9,02,236/- conveyed to the Petitioner vide Memo No.857 dated 12.07.2019. I observe that the monthly readings of Large Supply connection were taken by a responsible officer of the Respondent and nobody noticed non-blinking of Yellow Phase LED/*“*STAR” was coming on display of the Energy Meter, meaning thereby that something was wrong. The connection was required to be got checked immediately from MMTS to ensure the connection installed is working accurately and the Petitioner is charged correctly for the energy consumption used.
2. The consumption data of the Petitioner’s connection, brought

 on record of this Court, is tabulated as under:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Year | 2015 | 2016 | 2017 | 2018 | 2019 |
| Month | kVAh | kVAh | kVAh | KVAh | kVAh |
| January |  |  | 102456 | 10826 | 103646 |
| February |  |  | 102900 | 100504 | 107364 |
| March |  | 296808 | 105432 | 94554 | 77518 |
| April |  | 83208 | 97976 | 56134 | 62546 |
| May |  | 80684 | 80164 | 54572 |  |
| June | 97784 | 92042 | 74078 | 49646 |  |
| July | 144762 | 82974 | 74032 | 71844 |  |
| August |  | 105434 | 74216 | 20096 |  |
| September |  | 81534 | 65382 |  |  |
| October |  | 56394 | 74158 | 91746 |  |
| November |  | 77444 | 78892 | 37466 |  |
| December | 237676 | 49910 | 104606 | 72522 |  |

I find from perusal of the Consumption Data that energy

consumption has decreased from April, 2018 onwards till the replacement of CT/PT Unit on 12.12.2018.

1. From DDL Report, it is evident that Yellow Phase contribution

failed recorded less/nominal/consumption from 04/2018 onwards upto replacement of CT/PT Unit on 12.12.2018. Since there was make and break of Yellow Phase CT connection, hence, the Forum has rightly overhauled the accounts of the Petitioner for six months, prior to the date of replacement of CT/PT Unit i.e. 12.12.2018 in terms of the consumption recorded during the corresponding period of previous year as per provisions contained in Regulation 21.5.2(a) of Supply Code-2014 which reads as under:

***“21.5.2: Defective (other than inaccurate)/Dead***

 ***Stop/Burnt/Stolen Meters:***

 *The accounts of a consumer shall be overhauled/billed for the period meter remained defective/dead stop and in case of burnt/stolen meter for the period of direct supply subject to maximum period of six months as per procedure given below:*

1. *On the basis of energy consumption of corresponding period of previous year.*
2. *In case the consumption of corresponding period of the previous year as referred in para (a) above is not available, the average monthly consumption of previous six (6) months during which the meter was functional, shall be adopted for overhauling of accounts.*
3. *If neither the consumption of corresponding period of previous year (para-a) nor for the last six months (para-b) is available then average of the consumption for the period the meter worked correctly during the last 6 months shall be taken for overhauling the account of the consumer.*
4. *Where the consumption for the previous months/period as referred in para (a) to para (c) is not available, the consumer shall be tentatively billed on the basis of consump0tion assessed as per para-4 of Annexure-8 and subsequently adjusted on the basis of actual consumption recorded in the corresponding period of the succeeding year.*
5. *The energy consumption determined as per para (a) to*

*(d above shall be adjusted for the change of load/demand, if any, during the period of overhauling of accounts”.*

1. Petitioner’s Representatives contained that though the Forum did not pass any order in regard to charging interest on the recoverable amount, the Respondent charged interest on the recoverable amount (principal amount) worked out as per the said order of the Forum and included the same in the Notice issued vide Memo No. 857 dated 12.07.2019 raising a demand of Rs 9,02,236/-. PRs argued that charging of interest by the Respondent was arbitrary and unjust as the Petitioner was not at fault at all.

I find merit in the said contention of the Petitioner’s Representative and am of the view that charging of interest on the recoverable amount is unwarranted and unjustified as the Respondent failed to check the fault appearing on the Energy Meter while taking the monthly readings.

**5. Conclusion:**

From the above analysis, it is concluded that the legitimacy of overhauling account of the Petitioner’s connection for six months prior to the date of replacement of CT/PT Unit i.e. 12.12.2018, on the basis of consumption recorded during the corresponding period of previous year, in terms of provisions contained in Regulation 21.5.2(a) of Supply Code-2014 (as decided by the CGRF, Ludhiana in its order dated 10.06.2019) proves beyond doubt. However, no interest is required to be charged from the Petitioner on the said amount as discussed in Para 4 (iv).

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

**As a sequel of above discussions, the order dated 10.06.2019 of the CGRF, Ludhiana in Case No. CGL-119 of 2019 is upheld. It is also held that no interest shall be recovered from the Petitioner 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 after adjustment, if any, 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)

 October 10, 2019 Lokpal (Ombudsman)

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