

**COURT OF THE LOK PAL (OMBUDSMAN),
ELECTRICITY, PUNJAB,
PLOT NO. A-2, INDUSTRIAL AREA, PHASE-1,
S.A.S. NAGAR (MOHALI).**

**(Constituted under Sub Section (6) of Section 42 of
Electricity Act, 2003)**

APPEAL No. 02/2022

Date of Registration : 21.01.2022

Date of Hearing : 08.02.2022

Date of Order : 11.02.2022

Before:

**Er. Gurinder Jit Singh,
Lokpal (Ombudsman), Electricity, Punjab.**

In the Matter of:

M/s. Bahadur Ke Textiles & Knitwear Association
(SPV), 15 MLD CETP,
Vivekanand Mandir Dying Complex,
Bahadur Ke Road, Ludhiana.

Contract Account Number: 3005246712(LS)

...Appellant

Versus

Senior Executive Engineer,
DS City West (Spl.) Divn.,
PSPCL, Ludhiana.

...Respondent

Present For:

Appellant: 1. Sh. S.K. Jain,
2. Sh. Lalit Jain,
3. Sh. Rajneesh Gupta,
Appellant's Representatives.

Respondent : Er. Rajesh Kumar,
Sr. Executive Engineer,
DS City West (Spl.) Divn.,
PSPCL, Ludhiana.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 23.12.2021 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-268 of 2021, deciding that:

- “i. Decision be implemented as per point 6(i), (ii) & (iii) above.*
- ii. Dy. CE/ Op. City West Circle, Ludhiana is directed to ensure proper disciplinary action against the official/ officers responsible for wrong connections/ wrong entering of date of connection on Service connection Order which leads to revenue loss to PSPCL.”*

Point no. 6 of the decision of the Forum is reproduced as under:

- “6. Keeping in view the above, Forum came to unanimous conclusion that:*
- i. The amount charged from 20.02.2020 to 19.10.2020, has already been deposited by the petitioner without any protest after getting instalments allowed by the Respondent. So, no interference is required from Forum in this matter.*
- ii. Amount of Rs. 2003795/- charged vide notice no. 614 dated 20.05.2021 for the period 13.12.2019 to 19.02.2020 is quashed. Account be overhauled for the period 13.12.2019 to 19.02.2020 by reworking the consumption with a factor of 56.33% of base consumption charged for issuing the notice no. 614 dated 20.05.2021 of amount Rs. 2003795/-*

and revised notice be issued accordingly as per applicable tariff.

- iii. *Respondent has submitted calculations of refund due to difference between actually amount charged while overhauling the account for the period from 20.02.2020 to 19.10.2020 and applicable subsidized tariff to which petitioner agreed, so no interference is required from the Forum.”*

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 21.01.2022 i.e within the period of thirty days of receipt of the decision dated 23.12.2021 of the CGRF, Ludhiana in Case No. CGL-268 of 2021. The Appellant had already deposited the requisite 40% of the disputed amount for enabling the Appellant to file Appeal in this Court. Therefore, the Appeal was registered on 21.01.2022 and copy of the same was sent to the Sr. Executive Engineer/ DS City West (Spl.) Division, PSPCL, Ludhiana for sending written reply/ parawise comments with a copy to the office of the CGRF, Ludhiana under intimation to the Appellant vide letter nos. 62-64/OEP/A-02/2022 dated 21.01.2022.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 08.02.2022 at 12.45 PM and an intimation to this

effect was sent to both the parties vide letter nos. 94-95/OEP/A-02/2022 dated 02.02.2022. As scheduled, the hearing was held in this Court and arguments of both the parties were heard. Order was reserved. The proceedings of this hearing were sent to both parties vide letter nos. 110/111/ OEP/ A-02/2022 dated 08.02.2022.

4. Submissions made by the Appellant and the Respondent

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

(A) Submissions of the Appellant

(a) Submissions made in the Appeal

The Appellant made the following submissions in its Appeal for consideration of this Court:-

- (i) The Appellant was having a Large Supply Category Connection, bearing Account No. 3005246712 with sanctioned load of 600 kW/ 600 kVA in its name. The Managing Committee constituted by the SPV for execution of 15 MLD, CETP Plant comprised of GM (DIC), SEE (PWSSB), Retd.

Member Secretary PPCB, Retd. CE (Public Health) as Nominee Directors. The project cost of ₹ 34.17 Cr included State Govt. Assistance of ₹ 5.62 Cr, Central Govt. Assistance of ₹ 11.25 Cr and shares of SPV of ₹ 17.30 Cr.

- (ii) The Appellant's connection was released under pressure from Pollution Department for early Commissioning of 15 MLD (15 million litres per day) Common Effluent Treatment Plant (CETP) for about 35 nos. Bahadur Ke Road Textile/ Dyeing Units with different Disposal Capacities of effluents allotted to each member unit. The Electricity Connection was said to be released on 13.12.2019, which was also disputed, when the Plant and Machinery was under Installation, Trial Testing and under various stages of Trial Runs. Further, the Installation, Testing and Commissioning of the Machinery was hampered by the worldwide spread of Covid-19 in Dec., 2019 followed by movement of labour force to native States and Lockdown in the Country from 24th March, 2020.
- (iii) The Appellant submitted that out of 35 Units to be connected with the CETP, only three units were connected to CETP in Dec., 2019 as well as in Jan, 2020. Thereafter, eight units were connected to the CETP in Feb., 2020, four units in March, 2020, four units in May, 2020 to make total number of Units

with CETP as 19 out of 35 units in May, 2020. Another Two Units joined on 30.06.2020, two units on 15.07.2020, one unit on 15.08.2020, two units on 20.09.2020 and one unit on 20.10.2020 to make total number of units as 27 on 20.10.2020. As a result of above, there was extremely Low Load of the Plant and extremely Low Discharge of the Individual Units sent to the CETP for Treatment.

- (iv) The Electricity Connection of the Appellant was checked by Addl. S.E/ MMTS-4, PSPCL, Ludhiana on 12.10.2020 vide ECR 31-32/3266 (i.e. at a stage when 26 units were connected to CETP and after about 11 months of the disputed date of release of connection i.e. 13.12.2019). The irony of the checking by MMTS-4, PSPCL, Ludhiana was that it was in response to letter no. 792 dated 18.09.2020 of AEE (T-2), City West (Sp.) Division, Ludhiana requesting for checking of the New Connection. It was observed by ASE/ MMTS-4 that connections of CTs and PTs were wrong and found $V_1=6350V$, $V_2=6371V$, $V_3=6312V$, $PF=1$, Running Load 0.15 kW, 766 kWh, kVAh=890 and all the seals were intact, MF=6. The CTs and PTs connections were rectified by MMTS and the parameters were recorded again as kWh=766.1, kVAh=891.1 and $PF=1$. Further, the Electricity connection was again

checked on 19.10.2020 vide ECR 47/3266 by MMTS-4, Ludhiana.

- (v) The Appellant was served with a Notice for ₹ 58,50,340/- vide Memo No. 758 dated 19.10.2020 by the Respondent for the overhauling of the account from 20.02.2020(date of release of electricity connection as per SAP record) to 19.10.2020 based on the illegal, Irrational Methodology of taking illogical average of 7days from 12.10.2020 to 19.10.2020 for the entire period from 20.02.2020 to 19.10.2020. The High Headedness of the Respondent didn't end here as no Regulation or Section of the Act was mentioned on the notice under which the notice was issued by the Respondent. Moreover, no DDL dated 12.10.2020 and 19.10.2020 were supplied to the Appellant. The notice vide Memo No. 758 dated 19.10.2020 was in violation of Commercial Circular No. 53/2013, CC 59/2014, CC 30/2015 and order dated 26.09.2013 of Hon'ble Punjab &Haryana High Court in CWP No. 10644 of 2010 which clearly stated that while initiating proceedings against any consumer, the Competent Authority of PSPCL must quote the relevant Regulations of Supply Code, 2014 or any other Regulation framed by the Competent Authority under the Electricity Act, 2003 or the Sections of the Electricity Act, 2003. The

Commercial Circular CC 30/2015 dated 05.08.2015 clearly mentioned the serious view taken by Hon'ble PSERC for non compliance of the orders of Hon'ble Punjab &Haryana High Court.

- (vi) The Appellant was forced to make huge payments in six installments of the aforesaid disputed amount as the CETP was then recently commissioned on 30.06.2020 with huge assistance of State Govt. and Central Govt. funds. The Plant and machinery was under Test Check by the Firm Engineers and various units were regularly joining CETP. The SPV of CETP was answerable to State Govt. as well as the Central Govt. and the Hon'ble Green Tribunal because of the huge Public money invested in the Plant whose progress was regularly monitored by the Hon'ble Green Tribunal of India, Pollution Control Board Punjab and High-level Committee headed by Retired Judge of Hon'ble Punjab &Haryana High Court. The Plant was already running behind schedule for its commissioning. Moreover, the order was issued with new unapproved self-styled methodology and completely defying the orders of Hon'ble Punjab &Haryana High Court and all relevant Commercial Circulars of PSPCL.

- (vii) After the payment of the notice amount in six installments due to precarious condition of Test Checks by the Firm Engineer, another illegal notice was served upon the Appellant by AEE/ Commercial, PSPCL, Ludhiana for ₹ 20,03,795/- vide Memo No. 614 dated 20.05.2021 based on the Half Margin of Audit observation to charge the Appellant with the same blind Methodology of taking the same average of 7 days for the period from 13.12.2019 to 19.02.2020. This notice was issued on the basis of the PTW taken by JE/Lineman instead of considering the date of release of connection as 20.02.2020 based on the MCO in the SAP record.
- (viii) Both the notices didn't quote any Regulation or Section of the Act to charge the Appellant with self-styled Methodology of average of seven days defying all rules and Regulations framed by Hon'ble PSERC.
- (ix) The Appellant challenged both the abovementioned notices before the Forum with detailed rejoinder to the Petition and detailed arguments on all the seven issues raised in the Petition, but the Forum passed the order dated 23.12.2021 with lots of gaps to justify the illogical Methodology and wrong action of the Respondent to make incorrect electricity connections, checking of the connections after a prolonged delay despite

taking monthly readings by senior officers and clear instructions given in ESIM.

- (x) The Forum didn't consider the quashing of illegal and illogical notice of the Respondent sent vide Memo No. 758 dated 19.10.2020 amounting to ₹ 58,50,340/-, later reduced to ₹ 56,63,829/- for the period 20.02.2020 to 19.10.2020 on the ground that the Appellant had already made the payment of the same in six installments without any protest. The Forum did not mention any Regulation or Section of the Act vide which wrongly claimed amount if paid by the Appellant cannot be disputed for seeking justice from the Forum. Moreover, if this perception of the Forum hold true by any yardstick, then the bills issued with 'O' Code for the said period from 20.02.2020 onwards by the Respondent should also not allowed to be overhauled by the Respondent and the notice issued vide Memo No. 758 dated 19.10.2020 be quashed.
- (xi) The Electricity connection was made on 20.02.2020 as per the SAP record and wrong CT/ PT connections made by the Respondent were purely a lapse of the Respondent for which the Appellant was not responsible. The Monthly Readings were regularly being taken by Sr. Xen/ AEE /AE level officers of the Respondent and bills were issued regularly for the recorded

consumption. There was a violation of the Instruction 81.2 of ESIM by the Respondent for which the Appellant had been made to suffer. As the Electricity connection was released on 20.02.2020 as per SAP record, AEE/ T-2, Ludhiana wrote to MMTS vide Memo No. 729 dated 18.09.2020, i.e after 7 months of the date of release of connection to check the newly released 'LS' connection. Therefore, the Appellant had no fault for the delay on the part of the Respondent to check the newly installed LS connection.

- (xii) The Electricity connection was checked on 12.10.2020 vide ECR No. 31-32/3266 by ASE/ MMTS-4 and observed that wiring of CT/PT unit was not in order. All the seals were intact. The wiring was corrected by MMTS. The Meter became OK. DDL was taken but not supplied to the Appellant. The connection was again checked by ASE/MMTS-4 on 19.10.2020 and consumption from 12.10.2020 to 19.10.2020 with Actual Monitoring Time of 7 days and 2 hours but the same was taken as 7 days period to overhaul the accounts of the Appellant from 20.02.2020 (Date of release of connection as per SAP record based on MCO) to 19.10.2020 i.e. for a period of overhauling of accounts for eight months with self-styled methodology. The wrong methodology of using seven days average for

overhauling the accounts of the Appellant from date of connection had set aside all Regulations framed by the Hon'ble PSERC and as such, the very base and roots of the notice issued vide Memo No. 758 dated 19.10.2020 were not only hypothetical and irrational but the same assumes pseudo legality and logics with the order dated 23.12.2021 of the Forum.

- (xiii) The account of the Appellant was overhauled for eight months for Defective Meter (defective wiring is a lapse of the Respondent and not the Appellant). Therefore, the notice was issued in violation of Regulation 21.5 of the Supply Code, 2014 which restricts the overhauling of the account of a consumer for the period not exceeding six months. The same view was upheld in number of orders issued by the Forum itself and the orders issued by Hon'ble Ombudsman (Electricity) Punjab.
- (xiv) The overhauling of accounts for a period exceeding six months was a blind overhauling without considering the rider Regulation 21.5.3 to account for the ground conditions and loading conditions of the plant which was commissioned on 30.06.2020. Plant of the Appellant was treating effluents of 26 units during the period from 12.10.2020 to 19.10.2020 and the average consumption for this period was blindly used for the

previous period when number of units connected with CETP were very few and the plant was under installation and it was going through test check. As the monthly discharge data of all the units as supplied regularly to Pollution Department of Govt. of Punjab was also put up before the Forum. Though, the Forum was satisfied with the low flow data of the CETP Plant for pre-commissioning and post-commissioning Test Check conditions, but failed to give justice to the Appellant without recording any Regulation or Section of the Act under which the justice was denied to the Appellant for application of Regulation 21.5.3 alongwith Regulation 21.5 of the Supply Code, 2014. The account was overhauled by taking average of seven days consumption from 12.10.2020 to 19.10.2020 as 4133 kVAh per day (28932/7) with 26 units connected to CETP whereas the per day average for first complete month of correct metering i.e. from 20.10.2020 to 21.11.2020 was only 3612.7 kVAh/ day with 27 units connected to CETP (27th unit connected on 20.10.2020). The per day average of 27 units for the period from 21.10.2020 to 22.08.2021 was 3851.92 kVAh/ day (11,36,319/ 295).

- (xv) The Tariff rate used by the Respondent in notice no. 758 dated 19.10.2020 had been taken as ₹ 6.27 per kVAh which was not

as per Tariff rate of ₹ 5.89/ kVAh (From 01.06.2019 to 31.05.2020) and ₹ 5.98/ kVAH (from 01.06.2020 to 31.03.2021). Also, the Govt. subsidy for LS Category of the Appellant had not been considered. The period from March, 2020 to Oct., 2020 was of lockdown/ labour problems due to COVID-19, the same also needed to be considered for overhauling of accounts in compliance to Commercial Circular No. 47/2020 issued vide Memo No. 889/93 dated 28.12.2020 of the Respondent.

(xvi) The Forum had ordered to revise the notice vide Memo No. 614 dated 20.05.2021 for the period 13.12.2019 to 19.02.2020 by considering 56.33% of the base consumption, whereas the installed capacity of the Plant in pre-commissioning stages was 8.14% in Dec 2019, 23.97% in Jan 2020, 45.66% in Feb 2020 and 56.33% in March 2020. As the Plant was commissioned on 30.06.2020, the period from Dec, 2019 to June, 2020 was pre-commissioning period when the Plant and Machinery was under installation and was not in regular operation for treatment of effluents throughout 24 hours of the day.

(xvii) The Appeal was made before Hon'ble Ombudsman (Electricity) Punjab to review the order of the Forum for the period 13.12.2019 to 19.02.2020 in view of the disputed date of

release of connection, wrong and illegal base consumption of 4133 kVAh per day. Moreover, the overhauling of accounts of the consumer cannot exceed six months for defective metering for which the onus lies on the Respondent.

(xviii) The Appellant prayed to quash the order dated 23.12.2021 issued by the Forum in Case No. CGL-268/2021 and to issue afresh order for overhauling of the accounts of the Appellant for a period not exceeding six months in compliance to Regulation 21.5 of Supply Code, 2014 with due consideration of the realistic per day average consumption duly commensurate with the average monthly flow data of the units with CETP and to pass any other order as deemed fit by this Court.

(b) Submissions made in the Rejoinder: -

The Appellant in its Rejoinder to the written reply of the Respondent, reiterated mainly the submissions already made in the Appeal and interalia stated as under: -

(i) The date of connection was stated to be 13.12.2019 whereas the date of connection in SAP record was 20.02.2020. The wrong connection was made by the Respondent and the less/negligible consumption was in commensurate with pre- commissioning

stages of very few units connected to CETP. The Respondent took a long period to even report to MMTS to check newly installed connection. No reasoning for such an unprecedented long delay to check the connections has been given in the history of the case.

- (ii) The Appellant agreed to have made payment against Notice No. 758 dated 19.10.2020 in six installments when neither the complete details of the DDL of the meter nor the complete computations of the amount were supplied to the Appellant and the plant was under Test Check Conditions of the already delayed project and the plant. Moreover, Regulation 35.1.1 of Supply Code, 2014 does not deprive the right of the Appellant to seek justice after making full payment of disputed amount.
- (iii) The history of the case also does not mention any Regulation to overhaul the accounts of the Appellant for more than six months (Regulation 21.5 of Supply Code, 2014) and further does not mention as to why two different methodologies were applied in both the orders.
- (iv) The so called well reasoned order passed by the Forum had not addressed the grievance completely by mentioning any Regulation or section of the Act under which the overhauling had been done for period exceeding six months (as clearly

provided in Regulation 21.5). No Regulation had been quoted to justify methodology of overhauling on the basis of seven days consumption without applying Rider Regulation 21.5.3 to account for the low consumption conditions duly supported with flow data and feeder consumption data.

- (v) It was agreed to the extent that disputed amount was paid in six installments but the Appellant never agreed to the correctness of the amount charged because despite asking for DDL vide Ref. no. BKTK/CETP/10/17 dated 26.10.2020, the same was not supplied till the matter was taken up with the Forum. Moreover, the detailed computations of the overhauling were not made available by the Respondent till the matter was taken before the Forum.
- (vi) No Regulation permits the overhauling of accounts beyond six months. Any overhauling of the accounts beyond six months in the instant case of defective wiring was not only against Regulation 21.5 but also against number of Circulars issued by the Licensee, this Court and orders of the Hon'ble Commission.
- (vii) The Appellant submits that despite taking monthly readings, it took such a long time to refer the checking of newly installed connection vide Memo No. 729 dated 18.09.2020 whereas the instruction 81.2 demands the reporting of abnormal variation to

SE/ Enf./ MMTS for in depth investigation. The wrong connections (if any) were made by the Respondent for which consumer/Appellant may not be penalized with overhauling beyond six months.

(viii) The Appellant had been contesting charging with new unapproved methodology and for a period of more than six months and that too without applying Rider Regulation 21.5.3. It was a case of wrong CT/PT connections.

(ix) The Appellant didn't agree to instruction given on ECR No. 31-32/3266 for overhauling beyond six months when no Regulation under which instruction was made had been written on the ECR.

(b) Submission during hearing

During hearing on 08.02.2022, the Appellant's Representative reiterated the submissions made in the Appeal as well as in its Rejoinder and prayed to allow the same.

(B) Submissions of the Respondent

(a) Submissions in written reply

The Respondent submitted the following written reply for consideration of this Court:-

(i) The Appellant was having a Large Supply Category Connection bearing Account No. 3005246712 with

sanctioned load of 600 kW and contract demand as 600 kVA running in its name. The connection was used for water treatment plant and the date of connection was 13.12.2019.

- (ii) The connection was checked by Addl.SE/ Enforcement cum EA, MMTS-4, Ludhiana vide ECR No. 31-32/3266 dated 12.10.2020 in which it was reported that the connection of CTs and PTs on Secondary side were wrong. Because of wrong connection on all the three phases, the actual consumption was not recorded right from the date of release of connection. The Appellant was billed on less/negligible consumption recorded by the meter. The connections were set-right by AEE/ Tech. Unit-2, City West (Spl.) Division, Ludhiana. The connection was again checked on 19.10.2020 by ASE/ EA&MMTS-4, Ludhiana vide ECR No. 47/3266 to get DDL to ascertain the consumption recorded after setting right the connections. Accordingly, the account of the Appellant was overhauled from 20.02.2020 (date of connection as per SAP) to 19.10.2020.
- (iii) The Appellant was served with the notice vide Memo No. 758 dated 19.10.2020 by AEE/ Commercial, City West (Spl.) Division, Ludhiana for an amount of ₹ 58,50,340/-

adjusted to ₹ 56,63,829/-. The Appellant requested for payment in installments. The request of the Appellant was acceded to and it was permitted to deposit the amount in six monthly installments vide Memo No. 435 dated 30.10.2020 and the Appellant deposited the said amount in six monthly installments without any protest and after admitting the correctness of the amount charged to it. The Appellant was estopped by its act and conduct to raise this plea now as he had not disputed this amount at any stage nor disputed the checking report of Addl.SE/ Enforcement-cum-EA & MMTS-4, Ludhiana vide ECR No. 31-32/3266 dated 12.10.2020 and deposited the entire amount in installments after admitting the correctness of the amount charged and for this reason, the Forum observed that out of total amount of ₹ 76,67,624/-, a sum of ₹ 56,63,829/- stands deposited in six installments without any protest and as per the admissions made by the Appellant also, this amount was chargeable and rightly deposited by the Appellant.

- (iv) The Audit Party while scrutinizing the record reported that meter of the connection was received from ME Lab vide SR No. 21/6 dated 12.12.2019. A permit No. 22 dated 13.12.2019 was taken to energize the CT/ PT Unit at 8.45

PM. It was clear that the connection was released on 13.12.2019. The Audit Party charged ₹ 20,03,795/- vide Half Margin No. 388 dated 27.04.2021 for the period 13.12.2019 to 19.02.2020 on the basis of corresponding consumption of succeeding year which was charged to the Appellant vide Memo No. 614 dated 20.05.2021. The Appellant referred the matter before the Consumer Grievances Redressal Forum, Ludhiana and after hearing the Appellant and providing full opportunity of being heard, a well-reasoned and detailed order was passed by the Forum and there was no infirmity or illegality in the said order.

- (v) The question left for adjudication was only with regard to ₹ 20,03,795/- and this fact was clearly evident from the evidence collected by the Audit Party that actually the connection was given on 13.12.2019 and the amount was rightly charged for the period 13.12.2019 to 20.02.2020. The amount was charged as per Regulation 21.5 of Supply Code-2014 and there was no need to mention the Regulation in the order because it was an admitted case of the parties that the Appellant was using the electric connection but was making payment of only negligible units due to wrong CT/PT connections. The present Appeal was not made on any

legal issue/ law points to review the lawful and valid decision passed by the Forum after hearing both the parties and providing full opportunity of being heard to both the parties.

- (vi) The Respondent denied that electric connection was made on 20.02.2020. Because as per record the meter of this connection was received from ME Lab vide SR No. 21/6 dated 12.12.2019. A permit No. 22 dated 13.12.2019 was taken to energize the CT/ PT unit at 8.45 PM. No PTW was taken on 20.02.2020 to energize the CT/ PT of the Appellant. As the Appellant was a HT consumer so the CT/PT unit could not be energized without taking permit on the feeder. It was clear that the connection was released on 13.12.2019. There was no lapse on the part of the Respondent in this case.
- (vii) The Respondent submitted that monthly readings were taken and as per reading record, it was clearly evident that only negligible units were noted. It was denied that there was violation of Instruction No. 81.2 of ESIM by the Respondent. When this fact came to the knowledge that the Appellant had been consuming the electricity, running its unit and only a negligible reading was coming, the matter

was referred to MMTS for checking. It was incorrect to say that the copy of the letter was not supplied to the Appellant.

(viii) The Respondent further submitted that the electricity connection was checked on 12.10.2020 in the presence of the representative of the Appellant and again it was checked by Addl. S.E/ MMTS-4 on 19.10.2020 and the amount was rightly charged on the basis of the said checking. After admitting and acknowledging the correctness of the said amount, the Appellant deposited the said amount in instalments. The Audit Party reported that the date of connection was 13.12.2019 which was based upon the documentary evidence and as per report, the account was overhauled from 13.12.2019 and the amount for that period was also rightly charged.

(ix) The Respondent submitted that it was not a case of defective meter but of wrong CT/PT connections and the account was rightly overhauled from the date of release of connection i.e 13.12.2019 as per Instruction given in ECR No. 31-32/3266 dated 12.10.2020 that the account of consumer be overhauled from the date of release of connection. There was no violation of Regulation 21.5 of Supply Code-2014. It was denied that the order was also in violation of number of

orders passed by the Forum itself and the orders passed by this Court.

(x) It was denied that the plant was treating effluents of 26 units during the period 12.10.2020 to 19.10.2020 for which the electricity consumption had been blindly used for overhauling the previous period. The rest of averments made in grounds of Appeal were totally irrelevant and in fact all the aspects were considered by the Forum while deciding the matter.

(xi) It was submitted that the revised notice was served and the necessary corrections as per calculations of the tariff rate had already been made. The detail of 6.27 rupees per unit taken in Memo No. 749 dated 19.10.2020 was as under-

Rate per unit	5/-
Including 20% taxes on Rs. 5/- I.E Rs. 1/-	1/-
Additional Surcharge	0.27/-
Total	6.27/-

The amount of ₹ 56,63,829/- was charged by taking double tax which was revised to ₹ 49,35,931/- and the refund of ₹ 7,27,898/- was given with the implementation of the CGRF decision.

(xii) It was denied as incorrect that the illegal, illogical and self-styled average of 7 days consumption from 12.10.2020 to

19.10.2020 had been taken into consideration. The Appellant had been consuming the electricity during the entire period from the date of connection till date of checking and the Appellant was liable to pay the entire amount. The major portion of the amount had already been deposited by the Appellant without raising any protest and after admitting the correctness of the amount.

- (xiii) The Respondent submitted that Government subsidy had also been given to the Appellant and the necessary deduction for the lockdown period was also granted.
- (xiv) There was neither high handedness on the part of the Respondent nor the amount charged was illegal. The decision of the Forum was also correct and as per rules. The Forum had provided full opportunity of being heard to both the parties and passed its order after giving complete hearing and following the principles of natural justice.
- (xv) The Respondent prayed that the Appeal made by the Appellant against the decision of the Forum may kindly be dismissed/ rejected with costs.

(b) Submission during hearing

During hearing on 08.02.2022, the Respondent reiterated the submissions made in the written reply to the Appeal and prayed for the dismissal of the Appeal.

5. Analysis and Findings

The issue requiring adjudication is the legitimacy of the amount charged by the Respondent due to overhauling of the Appellant's account from 13.12.2019 to 19.10.2020 as per the decision dated 23.12.2021 in Case No. CGL-268 of 2021 of the Forum.

My findings on the points emerged, deliberated and analysed are as under:

- (i) The Appellant's Representative (AR) reiterated the submissions made by the Appellant in the Appeal. He pleaded that the Appellant gave detailed arguments against both the notices dated 19.10.2020 and 20.05.2021 issued by the Respondents before the Forum but the Forum passed the order on 23.12.2021 without giving any major relief to the Appellant. The Forum didn't consider the wrong methodology with which the account of the Appellant was overhauled and arguments of the Appellant while considering the validity of the notice of the

Respondent issued vide Memo no. 758 dated 19.10.2020 and decided that no interference was required on the ground that the Appellant had already made the payment of the same in six installments without any protest which was not correct. The account of the Appellant was overhauled from 13.12.2019 to 19.10.2020 in clear violation of Regulation 21.5 of the Supply Code- 2014 which restricted the period of overhauling to the maximum period of six months. Also the account was overhauled by taking average consumption of only 7 days from 12.10.2020 to 19.10.2020 i.e. 4133 kVAh per day, without considering the rider Regulation 21.5.3 to account for the ground conditions and loading conditions of the plant which was commissioned on 30.06.2020. He further argued that the Appellant had to suffer due to the wrong connections made by the Respondent and checking of the connection after a prolonged delay despite the fact that senior officers of the Respondent were taking readings regularly. The Appellant submitted that the exact date of release of electricity connection was also an issue of dispute and prayed to quash the order dated 23.12.2021 passed by the Forum in Case No. CGL-268 of 2021 and to issue afresh order of overhauling of the account of the Appellant for a period not exceeding six months in compliance

with Regulation 21.5 of Supply Code, 2014 with due consideration of the realistic per day average consumption duly commensurate with the average monthly flow data of the units connected with CETP and to pass any other order as deemed fit by the Court.

- (ii) On the other hand, the Respondent controverted the pleas raised by the Appellant in its Appeal and reiterated the submissions made by the Respondent in the written reply. The Respondent argued that the Forum had rightly decided not to interfere while considering the validity of the notice of the Respondent issued vide Memo no. 758 dated 19.10.2020 as the Appellant had not disputed this amount at any stage nor disputed the checking report of Addl.SE/Enforcement-cum-EA&MMTS-4, Ludhiana vide ECR No. 31-32/3266 dated 12.10.2020 and deposited the entire amount in installments after admitting the correctness of the amount charged. The Respondent further submitted that it was not a case of defective meter but of wrong CT/ PT connections and the account was rightly overhauled from the date of release of connection i.e. 13.12.2019 to 19.10.2020 as per the instructions given in ECR No. 31-32/3266 dated 12.10.2020 as the meter was not recording the correct energy. The account was correctly overhauled from 20.02.2020 to

19.10.2020 on the basis of average consumption during 12.10.2020 to 19.10.2020 and the period of 13.12.2019 to 19.02.2020 was overhauled on the basis of corresponding consumption of succeeding year. The Appellant had been consuming the electricity during the entire period and the necessary deduction for the lockdown period was also granted. The Respondent further argued that when the fact came to their knowledge that the Appellant had been running its unit and only a negligible reading was coming, the matter was referred to MMTS for checking and there was no delay on their end. The Respondent also denied the contention of the Appellant that the electric connection was released on 20.02.2020. He submitted that as per record, the meter of this connection was received from ME Lab vide SR No. 21/6 dated 12.12.2019. A permit No. 22 dated 13.12.2019 was taken to energize the CT/PT unit at 8.45 PM. No PTW was taken on 20.02.2020 to energize the CT/PT of the consumer. As the Appellant was a HT consumer so the CT/PT unit could not be energized without taking permit on the feeder which showed that the connection was released on 13.12.2019. The Respondent prayed that the Appeal made by the Appellant against the

decision of the Forum may kindly be dismissed/ rejected with costs.

(iii) The Forum in its order dated 23.12.2021 observed as under:

“But from the above discussion, it is clear that initially plant was not running at full load. So, charging for that period has to be judiciously done to resolve the present issue.

In view of the above discussion and the written submissions made the Petitioner in the petition, rejoinder, written reply of the Respondent as well as oral arguments made by the Petitioner and the Respondent comments along with the material brought on the record, the Forum is of the opinion that charging of petitioner from 13.12.2019 to 19.02.2020 charged vide notice no. 614 dated 20.05.2021 is not justified. Consumption should be reworked with a factor of 56.33% of base consumption charged for issuing the notice no. 614 dated 20.05.2021 of amount Rs. 2003795/- and revised notice be issued accordingly as per applicable tariff.

As per the prevailing instructions, appropriate rate needs to be charged taking into the account the subsidized rate applicable if any for the period of overhauling.

In the instant case, connections were wrong from the day of release of connection. Initially, the petitioner was charged from 20.02.2020 to 12.10.2020. The same has been deposited by the petitioner without any protest. Now raising that issue in the present, petition is not appropriate. Moreover, Respondent himself admitted and provided the calculation of refund due to applicability of subsidized tariff to which petitioner agreed during the proceedings. So, Forum finds no valid reason to interfere in that period of charging.

The genesis of this issue arose because of wrong connection in the first instance and thereafter entering the wrong date of connection on Service Connection Order

(SCO) by the concerned officials which resulted into wrong date of connection is SAP system.

6. Keeping in view the above, Forum came to unanimous

conclusion that: -

- i. The amount charged from 20.02.2020 to 19.10.2020, has already been deposited by the petitioner without any protest after getting instalments allowed by the Respondent. So, no interference is required from Forum in this matter.
 - ii. Amount of Rs. 2003795/- charged vide notice no. 614 dated 20.05.2021 for the period 13.12.2019 to 19.02.2020 is quashed. Account be overhauled for the period 13.12.2019 to 19.02.2020 by reworking the consumption with a factor of 56.33% of base consumption charged for issuing the notice no. 614 dated 20.05.2021 of amount Rs. 2003795/- and revised notice be issued accordingly as per applicable tariff.
 - iii. Respondent has submitted calculation of refund due to difference between actually amount charged while overhauling the account for the period from 20.02.2020 to 19.10.2020 and applicable subsidized tariff to which petitioner agreed, so no interference is required from the Forum.”
- (iv) I have gone through the written submissions made by the Appellant in its Appeal as well as in the Rejoinder, written reply of the Respondent as well as oral arguments advanced by both the parties during hearing on 08.02.2022. The contention of the Appellant was that its account should be overhauled for maximum six months as per Regulation No. 21.5 of Supply Code, 2014 in conjunction with Regulation 21.5.3 to account for the ground conditions and Load factor as the plant was fully

commissioned on 30.06.2020. I agree with the contention of the Appellant that the Forum had erred in deciding to overhaul the account of the Appellant for the period from the date of release of connection (13.12.2019) to 19.10.2020 i.e. for more than six months. The account of the meter with wrong connections of CT/PTs cannot be overhauled for more than six months. The accuracy of the meter with wrong connections was not checked on 12.10.2020 as per ECR No. 31-32/3266 which is a lapse on the part of the Licensee. As such, this meter can not to be treated as 'Inaccurate Meter'. Alternatively, the meter in dispute shall be treated as 'Defective' during the entire period from 13.12.2019 to 12.10.2020 when the CT/ PT connections were set right. The maximum period for which account can be overhauled is six months as per Supply Code, 2014. The account cannot be overhauled on the basis of consumption recorded during the period of seven days (12.10.2020 to 19.10.2020) only. As such, the account of the Appellant should be overhauled for the maximum period of 6 months preceding the date of checking, i.e. from 13.04.2020 to 12.10.2020 on the basis of corresponding consumption of succeeding year as per Regulation No. 21.5.2 (d) of Supply Code, 2014.

- (v) The demands raised by the Respondent vide Memo No. 758 dated 19.10.2020 and Memo No. 614 dated 20.05.2021 were not based on any regulations and tariff orders of PSERC. These demands are illegal and can be challenged as per PSERC (Forum & Ombudsman) Regulations, 2016. The Consumer cannot be denied the opportunity to challenge these demands as per law even if the payment has been made by the Appellant to the Respondent. This appeal case is being examined strictly as per law/ regulations/ tariff orders.
- (vi) Permit No. 22 dated 13.12.2019 was taken to energize the CT/ PT unit at 8.45 PM and no PTW was issued on 20.02.2020 to energize the CT/ PT of the consumer. As the Appellant was a HT consumer so the CT/ PT unit could not be energized without taking permit on the feeder which showed that the connection was released on 13.12.2019 and the Billing Report of the DDL also support this fact. The Appellant in its Appeal admitted that 3 units were connected to the CETP in Dec, 2019 as well as in Jan, 2020. The Appellant had agreed during proceedings in the Forum that the Connection was released on 13.12.2019 (refer page 6 of decision dated 23.12.2019 of the Forum). So, this Court is of the view that the connection was

released on 13.12.2019 which was acceptable to both parties during hearing on 08.02.2022.

- (vii) As for as applicability of Regulation No. 21.5.3 of Supply Code-2014 and CC No. 47/2020 is concerned, both parties have failed to produce authenticated data/ documents so as to enable this Court to give relief during Covid period. The orders of the Competent Authorities relating to closing of this connection during Covid were not submitted.
- (viii) It took about ten months to detect wrong connections of Metering Equipment which were set right on 12.10.2020. The Respondent may take disciplinary action against the officials/ officers responsible for making wrong connections / entering of wrong date of release of connection on Service Connection Order resulting in loss of revenue to PSPCL and undue harassment to the Consumer.
- (ix) The Respondent had failed to comply with the regulations, instructions, orders etc. as pointed out in Annexure- LP-4 of the Appeal. Had the Respondent complied with these regulations, instructions& orders, this dispute may not have arisen.
- (x) In view of the above, this Court is not inclined to agree with the decision dated 23.12.2021 of the Forum in case no. CGL-268 of 2021. The Account of the Appellant should be overhauled

for six months prior to date of checking on 12.10.2020, on which CT/ PT connections were corrected, on the basis of Regulation No. 21.5.2 (d) & (e) of Supply Code-2014. Regulation Nos. 21.5.2 (a), (b) & (c) of Supply Code-2014 cannot be applied in this case because consumption of electricity prior to period of dispute (19.12.2019 to 12.10.2020) is not available.

(xi) **Decision**

As a sequel of above discussions, the order dated 23.12.2021 of the CGRF, Ludhiana in Case No. CGL-268 of 2021 is hereby quashed. The account shall be overhauled for six months prior to date of checking on 12.10.2020 on the basis of Regulation No. 21.5.2 (d) & (e) of Supply Code-2014. The rates of electricity shall be charged strictly as per tariff orders of PSERC.

7. The Appeal is disposed of accordingly.
8. As per provisions contained in Regulation 3.26 of Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations-2016, the Licensee will comply with the award/ order within 21 days of the date of its receipt.

9. In case, the Appellant 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.

February 11, 2022
S.A.S. Nagar (Mohali)

(GURINDER JIT SINGH)
Lokpal (Ombudsman)
Electricity, Punjab.

