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

 **ELECTRICITY, PUNJAB,**

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

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

 **APPEAL NO. 08/2020**

**Date of Registration : 05.02.2020**

**Date of Hearing : 27.05.2020**

**Date of Order : 29.05.2020**

**Before:**

**Er. Gurinder Jit Singh,**

 **Lokpal (Ombudsman), Electricity, Punjab**.

**In the Matter of :**

Meena Bansal,

#116, Street No. 2,

Bharat Nagar Chowk,

Near PNB, Ludhiana.

**Contract Account Number: 3005392533**

...Appellant

 versus

Additional Superintending Engineer,

DS Model Town Division (Special),

PSPCL, Ludhiana.

 ...Respondent

**Present For:**

Appellant : Sh. Parvesh Chadha

 Appellant’s Representative (AR).

Respondent : Er. Surjit Singh

Additional Superintending Engineer,

DS Model Town Division (Special),

PSPCL, Ludhiana.

 Before me for consideration is an Appeal preferred by the Appellant against the order dated 20.01.2020 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-351 of 2019, deciding that:

 *“The amount of ₹* *20,140/- charged vide H.M. No. 36 dated 25.09.2019 is correct and recoverable.”*

**2*.* Registration of the Appeal**

A scrutiny of the Appeal and related documents received in this Court on 05.02.2020 revealed that the same was preferred within one month of receipt of decision dated 20.01.2020 of the CGRF, Ludhiana. The Appellant had deposited ₹ 4,030/- on 05.12.2019 and ₹ 4,060/- on 03.02.2020 on account of requisite 40% of the disputed amount of ₹ 20,140/- assessed by the Forum.

The Appeal was registered on 05.02.2020 and a copy of the same was sent to the Respondent for furnishing written reply/parawise comments and also to the CGRF, Ludhiana for sending the Case File under intimation to the Appellant vide Memo No. 95-97/OEP/A-08/2020 dated 05.02.2020. In the aforesaid reference, the attention of both the Appellant and the Respondent was drawn towards the fact that the connection was in the name of Sh. Sudesh Kumar while the Appeal had been preferred by Smt. Meena Bansal (Appellant) and it was desired to get the change of name of the consumer effected before the date of hearing.

**3.** **Proceedings**

A hearing to adjudicate the dispute was fixed for 25.03.2020 at 12 Noon and intimation to this effect was sent to the Appellant and the Respondent vide Memo No. 149-150/OEP/A-08/2020 dated 18.02.2020. But, owing to COVID-19 pandemic, the said hearing was adjourned till further orders and both the sides were informed accordingly vide Memo No.268-69/OEP/A-08/2020 dated 18.03.2020. Subsequently, hearing was fixed for 27.05.2020 at 11 A.M. for which, intimation was sent to the Appellant and Respondent vide Memo No.334-335/OEP/A-08/2020 dated 20.05.2020. Accordingly, hearing was held on 27.05.2020 at 11 A.M. and copies of the proceedings were sent to both the parties vide Memo No.351-352/OEP/A-08/2020 dated 27.05.2020.

**4.** **Submissions made by the Appellant and the Respondent**:

With a view to adjudicate the dispute, it is necessary to go through written submissions made in the Appeal by the Appellant and reply of the Respondent as well as oral submissions made by their respective representatives along with material brought on record by both the sides.

1. **Submissions of the Appellant**
2. **Submissions made in the Appeal**

The Appellant made the following submissions in the Appeal, received on 05.02.2020, for consideration of this Court:

1. The Appellant was a user of DS Category connection

with sanctioned load of 8.500 kW running at # 116, St. No. 2, Bharat Nagar Chowk, Near PNB, Ludhiana which was in the name of Sh. Sudesh Kumar. The said property was purchased by the Appellant from Smt. Krishna Wanti w/o Sh. Sudesh Kumar on 11.01.2018 but change of name of consumer had not been got effected in the records of PSPCL.

1. The Energy Meter installed at the above premise got

defective and was replaced on 27.11.2017 by the PSPCL vide Device Replacement Application no. 100005010387 dated 27.11.2017. The removed Energy Meter was sent to ME Lab for further checking vide Challan No. 4400 dated 05.12.2017.

1. As per ME Lab report, the Energy Meter was dead

stop, accuracy could not be checked and DDL was not retrieved. The Audit Party overhauled the account of the consumer vide half margin No. 36 dated 25.09.2019 and charged ₹ 20,140/- to the consumer. This amount was charged in the Energy bill issued on 22.11.2019 without giving any opportunity to the Consumer by violating its own Instruction No. 93 of ESIM as no Supplementary Bill/Notice was issued and directly debited the difference pointed out by the Audit in the bill.

1. The Appellant approached the Forum, vide application

 dated 03.12.2019, by depositing 20% of the disputed amount

(₹ 4,030/-) and payment of current bill.

1. The Audit Party overhauled the account for the period

 24.05.2017 to 28.11.2017(188 days) on the basis of consumption of corresponding period of last year. The consumption, after installing new Energy Meter, was not equal to the base taken by the Audit Party i.e. consumption of the year 2016 was much on higher side.

1. The son of the Appellant started business w.e.f. 20.05.2017

as per rent deed. All the family members were supporting him in business. As such, all in the family remained with him throughout the whole day. Due to that reason, consumption during disputed period was low in the years 2018 and 2019 as compared to that in the year 2016.

1. The premise was purchased on 14.10.2002, but

the electricity connection was not got transferred and was running in the name of previous owner, Sh. Sudesh Kumar. The matter for transfer in the name of the Appellant was under process.

1. The Appellant may be charged for the period under

dispute as per consumption recorded after the installation of new Energy Meter as per Regulations 21.5.2 (d) of Supply Code-2014 instead of as per Regulation 21.5.2 (a) of Supply Code - 2014 in the interest of justice.

1. **Submissions in the Rejoinder**

The Appellant’s Representative, vide its e-mail dated 23.03.2020, submitted a rejoinder to the written reply of the Respondent stating as under:

1. The property was purchased from Smt. Krishna Wanti

w/o Sh. Sudesh Kumar on 14.10.2002. The Appellant applied to get change of name on 06.02.2020 and intimation was sent by e-mail on 06.02.2020 to this Court. As already submitted, the Appellant was not aware about getting the change in name effected and it was also not pin pointed in the proceedings in the Forum by the Respondent even not mentioned in the decision. Therefore, the plea of the Respondent to dismiss the Appeal was not correct. The change in name of the connection was applied as pointed out by this Court at the time of receipt of the Appeal. It was added that new Energy Meter, bearing Account No. 3005392533, was allocated but the Respondent had not yet finally effected the change of name.

1. The period of charging amount was 24.05.2016 to

28.11.2016 and as per Instruction No. 93 of Limitation period of 2 years came on 29.11.2018 but HM No. 36 was issued on 25.09.2019. No copy of supplementary bill was submitted before the Forum was not given now alongwith its acknowledgement.

1. The consumption after installing the new Energy

Meter, was normal consumption from 01/2018 to 01/2020 and not Managed Consumption as replied by the PSPCL because the Energy Meter was replaced on 29.11.2017 but the HM was raised in 11/2019. It was not possible for the Appellant to come to know that consumption be managed to avoid charging of average at later stage. The Appellant was using supply as per requirement/need. The reply was a supposition of the Respondent.

1. The average charged by the Audit Party was not correct and

prayer to revise it on the basis of consumption of new Energy Meter in the year 2018 or year 2019 was in the interest of justice.

1. **Submissions during Hearing**

During the course of hearing, the Appellant reiterated the submissions already made in the Appeal and prayed to allow the same. He also stated that change in name of Smt. Meena Bansal had been made affective in PSPCL SAP system and also submitted a copy of bill dated 08.04.2020 issued in the name of the Appellant.

1. **Submissions of the Respondent**
2. **Submissions made in the Written Reply**

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

1. The electricity connection, account bearing no.

3002376157 of the consumer was overhauled by the Internal Audit Wing of PSPCL for the period 24.05.2017 to 28.11.2017 on the basis of consumption of corresponding period of the previous year i.e. 24.05.2016 to 28.11.2016 vide Half Margin No. 36 dated 25.09.2019. The overhauling was done as the Energy Meter installed at premise of the Appellant got defective and was replaced vide Device Replacement Application No. 100005010387 dated 27.11.2017, effected on 27.11.2017.

1. The Audit rightly charged the amount of ₹ 20,140/- as

per Regulation No. 21.5.2 (a) of Supply Code-2014 as the removed Energy Meter was checked and declared dead stop by ME Lab, where accuracy could not be checked and DDL was not coming.

1. The Appellant stated that it had purchased property

from Mrs. Krishna Wanti but had not got change of name done in her own name till the date of filing of Appeal in this Court. The Appeal may be dismissed on this ground alone.

1. It was correct that disputed amount was charged to the

consumer but contention of charging after 2 years was totally wrong and denied. A Supplementary bill was issued to the consumer on 16.11.2019 on the basis of observations of the Audit Party vide HM No. 36 dated 25.09.2019.

1. The amount charged was for six months period prior

to replacement of the Energy Meter on the basis of consumption of corresponding period of previous year as per Regulation 21.5.2 (a) of Supply Code-2014. The consumption recorded after the replacement of the Energy Meter could be a “managed consumption” and there was no provision to charge with future consumption in case, where previous consumption was available as provided in Supply Code-2014.

1. The Appellant purchased the property on 08.01.2018. Hence,

its contention of low consumption due to business in 5/2017 could not be entertained as the Appellant’s version itself was contradictory.

1. The plea taken by the Appellant that the family members

were supporting the business of the Appellant’s son due to which consumption of electricity fell was totally illogical, ingenuine, illegal and not convincing as the CGRF, Ludhiana had already gone through the contents as well as evidence placed on record in the Petition filed before it. The Forum decided that the amount charged to the Appellant was correct. The case was rightly decided on merits and as per applicable provisions of Supply Code-2014. It was worth mentioning that the Account of the Appellant was not overhauled as per Regulation 21.5.2 (d) of Supply Code-2014, which provided charging on the basis of corresponding period of succeeding year where consumption of corresponding period of previous year was not available but in this case, consumption of such period was available. Accordingly, the account of the consumer was rightly overhauled by the Audit Party as per Regulation 21.5.2 (a), which was correct and also upheld by the Forum.

1. **Submission during Hearing**

During the Course of hearing on 27.05.2020, the Respondent reiterated the submission made in its written reply and prayed to dismiss the Appeal.

**5.** **Analysis and Findings**

The issues requiring adjudication is the legitimacy of the amount of ₹ 20,140/- charged to the consumer by the Audit Party, vide HM No. 36 dated 25.09.2019, for the period from 24.05.2017 to 28.11.2017 when the Energy Meter remained Dead Stop.

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

1. The present dispute relates to Domestic Category

connection bearing Account No. 3002376157 with sanctioned load of 8.500 kW for which, the metering was done by providing Single Phase, Two Wire, 10-60 Amp, Static Energy Meter. The said connection was installed in the name of Sh. Sudesh Kumar (previous owner) at its premise which was purchased by the Appellant, who did not get the change of name effected till the filing of the present Appeal in this Court. The Energy Meter installed in the premise got defective due to which Device Replacement Application No. 100005010387 dated 27.11.2017 was issued andeffected on 27.11.2017. The Final Reading was 17328 kWh. The disputed Energy Meter was got checked from ME Lab on 05.12.2017as perwhich, it was reported that the said Energy Meter was Dead Stop, accuracy could not be checked and DDL was not coming. The Final Reading was 017328 kWh/019883 kVAh. Subsequently, the Account of the consumer was overhauled by the Internal Audit Party vide Half Margin No. 36 dated 25.09.2019, for the period 24.05.2017 to 28.11.2017 in terms of provisions contained in Regulation 21.5.2 (a) of Supply Code – 2014 by taking the consumption of the corresponding period of previous year. Accordingly, an amount of ₹ 20,140/- was charged in the bill dated 22.11.2019 relating to the period 20.09.2019 to 22.11.2019 under the Head “Sundry Charges.” The Appellant was aggrieved with the amount charged by the Respondent and approached the Forum who, after hearing, decided that the amount of ₹ 20,140/- charged vide H.M No. 36 dated 25.09.2019 was correct and recoverable. Not satisfied with the decision of the Forum, the appellant filed an Appeal in this Court with a request that the account for the period under dispute be overhauled as per consumption recorded after installation of new Energy Meter as per Regulation 21.5.2 (d) instead of as per Regulation 21.5.2 (a) of Supply Code-2014 in the interest of justice.

1. A perusal of the consumption data reveals that all the

Energy Bills from 27.01.2016 to 20.09.2019 were prepared on ‘O’ Code i.e. indicating that the disputed Energy Meter was O.K. However, the same was replaced on 27.11.2017 due to the reason that the said Energy Meter was defective which was found Dead Stop in ME Lab during checking/testing.

1. From the consumption data, it is clear that

consumption during the reading taken on 28.09.2017 and 29.11.2017 was ‘Zero’. It is evidentthat the Energy Meter was Dead stop but status of Meter was shown as ‘O’ code on both the reading dates.

1. A scrutiny of the Appeal revealed that Appellant agreed with

the overhauling of the account but prayed to overhaul the account as per provisions of Regulation 21.5.2 (d) of Supply Code - 2014 i.e. as per LDHF formula which was subsequently adjusted on the basis of actual consumption recorded in the corresponding period of the succeeding year, on the plea that her son started his own business and all the family members were helping him in business due to which no one stayed at home from 10 A.M. to 10 P.M. The Appellant also pleaded that it had informed the Forum through e-mail dated 14.01.2020 (after closing of case on 13.01.2020) and sent the copy of rent deed. Infact, the Rent deed was without date and also was not authenticated by Notary/Executive Magistrate.

 I find that the Respondent, in its reply, stated that the said plea of the Appellant was illogical and illegal as the Forum had considered the pleadings of the Appellant and also gone through evidence provided by the Appellant.

I agree with the Respondent that the prayer of the Appellant for overhauling its account in terms of provisions of Regulation 21.5.2 (d) of Supply Code-2014 was without merit as in the instant case, consumption of the corresponding period of previous year was available due to which the consumer was charged on the basis of provisions of Regulation 21.5.2.(a) of Supply Code-2014 instead of under Regulation 21.5.2 (d). I find merit in the contention of the Respondent that provision of Regulation 21.5.2 (d) of Supply Code -2014 are applied in case, consumption of the corresponding period of previous year is not available.

 There is no dispute regarding charging of disputed amount after more than two years by Audit Party because the Appellant had prayed to overhaul the account as per consumption recorded during the succeeding year instead of preceding year.

**6. Decision**

 As a sequel of above discussions, the order dated 20.01.2020 of CGRF, Ludhiana in Case No. CGL-351/2019 is upheld as the account of the Appellant for the disputed period was overhauled correctly as per provisions of Regulation 21.5.2 (a) of Supply Code - 2014.

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

**8.** 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.

 (GURINDER JIT SINGH)

May 29, 2020 Lokpal (Ombudsman)

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