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

 **ELECTRICITY, PUNJAB,**

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

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

 **APPEAL NO. 28/2020**

**Date of Registration : 29.06.2020**

**Date of Hearing : 05.08.2020**

**Date of Order : 07.08.2020**

**Before:**

**Er. Gurinder Jit Singh,**

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

**In the Matter of :**

M/s Creative Lines International (P) Ltd.,

# 131/16, Circular Road,

New Bajwa Nagar,

Ludhiana.

**Contract Account Number: 3002808879**

 ...Appellant

 versus

Senior Executive Engineer,

DS City Central Division,

PSPCL, Ludhiana.

 ...Respondent

**Present For:**

Appellant : Sh. Parvesh Chadha,

Appellant’s Representative (AR).

 Respondent: Er. Sukaran Singh Grewal,

 Senior Executive Engineer,

 DS City Central Division,

 PSPCL, Ludhiana.

 Before me for consideration is an Appeal preferred by the Appellant against the order dated 06.03.2020 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-397 of 2019, deciding that:

 *“The account of the petitioner be overhauled for six months prior to the date of change of meter i.e 20.02.2019 with the consumption recorded in the same months of previous year as per Regulation 21.5.2 (a) of Supply Code-2014 and the bills charged to the petitioner for the period May/2019 to August/ 2019 on recorded consumption are justified and recoverable.”*

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

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 29.06.2020 i.e beyond the period of limitation of order dated 06.03.2020 of the CGRF, Ludhiana in Case No. CGL-397/2019. The Appellant also submitted an application for condonation of delay stating the reasons for delay in filing the Appeal in this Court. Besides the Appellant deposited ₹ 50,000/- on 04.06.2019, ₹ 45,000/- on 23.07.2019,₹ 50,000/- on 07.08.2019, ₹ 50,000/- on 09.08.2019, ₹ 16,000/- on 31.08.2019, ₹ 48,916/- on 11.10.2019 and ₹ 1,00,000/- on 10.06.2020 on account of requisite 40% of disputed amount of ₹ 7,89,411/-. Accordingly, the Appeal was registered and copy of the same was sent to the Sr.Xen/DS City Central 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 this office letter no. 513-15/OEP/A-28/2020 dated 30.06.2020.

**3.** **Proceedings**

With a view to adjudicate the case, a hearing was fixed in this Court on 05.08.2020 and intimation to this effect was sent vide this office letter no. 659-60/OEP/A-28/2020 dated 30.07.2020. Copies of the minutes of proceedings held were sent to the Appellant as well as the Respondent vide letter no. 686-87/OEP/A-28/2020 dated 05.08.2020.

**4. Condonation of Delay**

At the start of hearing on 05.08.2020, the issue of condonation of delay in filing the Appeal in this Court was taken up. The Appellant’s Representative submitted that the Appellant received a copy of order dated 06.03.2020 of CGRF, Ludhiana on 16.03.2020. Thereafter, COVID-19 pandemic lockdown came into force due to which, the Appellant’s Unit remained closed and did not function. The Appellant came to know about implementation of the order dated 06.03.2020 on receipt of Notice dated 28.05.2020 of the Respondent on 10.06.2020. Though the Appellant faced difficulty in arranging funds, it deposited the balance amount of ₹ 1 lac (against requisite 40% of disputed amount) on 10.06.2020. The Appellant’s Representative prayed that delay in filing the present Appeal occurred due to reasons given above and may be condoned in the interest of justice.

I find that the Respondent did not object to the condonation of delay in filing the Appeal in this Court either in its written reply or during hearing.

In this connection, I have gone through Regulation 3.18 of PSERC (Forum and Ombudsman) Regulations, 2016 which reads as under:

*“No representation to the Ombudsman shall lie unless:*

*(iii) The representation is made within one month from the date of receipt of the order of the Forum.*

*Provided that the Ombudsman may entertain a representation beyond one month on sufficient cause being shown by the complainant that he/she had reasons for not filing the representation within the aforesaid period of one month.”*

I observe that the reasons given by the Appellant for the delay are genuine.

I also observe that non condonation of delay in filing the Appeal would deprive the Appellant of the opportunity required to be afforded to present its case. With a view, therefore, to meet the ends of ultimate justice, the delay in preferring the Appeal beyond stipulated period was condoned and the Appellant was afforded the opportunity to present its case.

**5.** **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 29.06.2020, for consideration of this Court:

1. The Appellant was a consumer of PSPCL having LS Category connection bearing Account No. 3002808879 for manufacturing Hosiery items with sanctioned load of 249.930 kW and contract demand (CD) as 278.00 kVA.
2. The Appellant received energy bills and deposited the same regularly upto 11/2018 and nothing was outstanding in this account.
3. The Energy Meter installed at the premise of the Appellant was giving trouble i.e. it developed defect in Scroll Nob and as such, SDO/Commercial, City Central Division, Ludhiana wrote a letter to ASE/ MMTS-2, PSPCL, Ludhiana vide no. 12768 dated 20.12.2018, for checking. The connection was checked by the checking agency vide ECR No. 41/3133 dated 24.12.2018 and again vide ECR No. 41/3138 dated 08.02.2019.
4. The ASE/MMTS-2, Ludhiana issued speaking order, vide letter no. 155/157 dated 28.05.2019, to overhaul the account of the Appellant from 13.10.2018 to 20.02.2019 and to deposit the amount so charged within 15 days but the Appellant did not agree to it.
5. The bills issued after replacement of Energy Meter were of higher consumption while the work of hosiery was not in full swing. As such, the Energy Meter was challenged by depositing the requisite fee of ₹ 1,200/- vide Receipt No. 210900181144 dated 26.08.2019.
6. The bills for the month of May, 2019 to August, 2019 were on the higher side as compared to corresponding period of last year as per details given below:

|  |  |  |
| --- | --- | --- |
| Month | Consumption during 2018 (Units) | Consumption during 2019 (Units) |
|  |  |  |
| May |  4500 |  7696 |
| June |  4924 |  11492 |
| July |  4836 |  16176 |
| August |  5216 |  15080 |

1. On Challenge of the working of the Energy Meter, the Respondent issued average bill for this period to the tune of ₹ 2,37,528/-. The supply was disconnected temporarily due to non-payment of bills and total outstanding amount was ₹ 5,79,961/- including Notice payment of ₹ 1,25,438/-.
2. The decision on first issue was not correct and not acceptable because the meter’s display Scrolling Nob was defective. The Respondent had not removed the meter even after issuing job order No. 7287093 dated 26.12.2018 on the basis of ECR No. 41/3133 dated 24.12.2018 and no reason were explained for keeping it pending.
3. Non replacement, the Energy Meter, created problem and the site was checked by Enforcement vide ECR No. 41/3138 dated 08.02.2019 whereby, it was pointed out that CT/PT chambers were opened and found that “One PT was Blast”. The Enforcement directed that all three units be replaced. Accordingly, the same were replaced vide job order no. 7564066 dated 11.02.2019 effected on 20.02.2019. The cost of CT/PT unit was also got deposited from the Appellant as ₹ 67,121/- whereas the same was within warranty period. As such, the same may be refunded.
4. The amount of ₹ 1,25,438/- so charged as per speaking order, vide Memo No. 155 dated 28.05.2019, of ASE/MMTS-2, Ludhiana was not correct and had been challenged as the period of overhauling the account was 13.08.2018 to 20.02.2019. Further, during the hearing of the case in the Forum, the Respondent submitted a revised calculation sheet prepared by the CBC, Ludhiana as per which, account was overhauled from 22.08.2018 to 21.02.2019 (6 months) and details of charges for 22.08.2018 to 12.10.2018 as ₹ 85,483/- were given. ₹ 1,25,438/- + ₹ 85,483/- = ₹ 2,10,921/- were charged which were not correct as the working of Energy Meter was OK till the reading dated 30.11.2018 and on 20.12.2018, no reading was taken but AEE/Commercial City Centre Division, Ludhiana wrote to ASE/MMTS, Ludhiana, vide Memo No. 12768 dated 20.12.2018 that Energy Meter was checked and site was visited. Further, MCO was issued but not affected as explained above. The CT/PT unit blasted on 08.02.2019 but changed on 20.02.2019. As such, the period during which, Energy Meter remained defective was 30.11.2018 to 20.02.2019 and the account was to be overhauled as per Regulation 21.5.2 of Supply Code-2014 for the period, the Energy Meter remained burnt.
5. The father of the Appellant, who was looking after the unit, had expired on 14.02.2019 and after his demise, the factory did not work for one and half month. As such, the business came under control after sometime. As a result, the consumption during the disputed period was low as compared to last year.
6. The decision of the Forum on second issue was also not correct due to the fact that as per working of the Appellant’s unit the consumption was more. As such, Energy Meter (which was installed on 11.02.2019) was challenged by depositing ₹ 1,200/- on 26.08.2019 but the Respondent had failed to remove the challenged Energy Meter for its testing in the presence of the representative of the Appellant. Even MCO was not issued and this was a deficiency on the part of PSPCL. Again after filing the case in the Forum, the Meter Challenge Fee of ₹ 2,800/- was deposited on 07.11.2019 and meter was replaced on 09.11.2019. The Challenged Energy Meter was sent to ME Lab on 23.01.2020 i.e 82 days late whereas it was to be got tested within 15 days from its removal as per instructions of PSPCL, which resulted in loss of data prior to 03.09.2019 and the purpose of challenge was not served. The Forum did not keep in view as to why, the Energy Meter was not replaced on challenge on 26.08.2019 and also the delay of 82 days in testing the same on replacement.
7. The deficiency was on the part of PSPCL and the Appellant was suffering as per the decision of the Forum, The DDL recorded the data from 03.09.2019 but the data prior thereto was lost due to non replacement of Energy Meter on first challenge dated 26.08.2019. As such, the period prior to challenge of Meter be charged on the basis of consumption during corresponding period of previous year.
8. **Submission in the Rejoinder**

The Appellant made the following submissions in the rejoinder to written reply of the Respondent:

1. The account was to be overhauled as per readings displayed on Energy Meter. The main reason was that only Display Scroll Nob was defective. The account overhauled, as per Regulation 21.5.2 (a) of Supply Code-2014, was not correct.
2. The reply of the Respondent was about the Meter whereas the question raised was about CT/PT unit. The CT/PT unit was blast on one PT phase and cost of CT/PT unit was got deposited but this CT/PT unit was in warranty period, as such, its cost got deposited from the Appellant be refunded. These facts could be verified from its Purchase Order, name plate & ME Lab Challan/record. There was no issue about the cost of the Energy Meter.
3. The Enforcement checked, on pin pointing by SDO, as the Display Scroll Nob was defective and the Respondent had failed to replace the Energy Meter within stipulated time and kept the Energy Meter in its office without assigning any specific reason till the CT/PT unit got damaged on one phase of PT. The period of charging became less which was more due to the deficiency in service and Appellant suffered loss from 26.12.2018 to 20.02.2020. The period was increased for overhauling against speaking orders of MMTS during the pendency of case in CGRF by considering the Energy Meter defective. The account was overhauled for six months without considering DDL/Speaking orders.
4. There was no fault of the Appellant but it was penalized for

the deficiency in service of Respondent, still, no reason had been explained. The amount of ₹ 2,10,921/- had been increased intensely to harass the Appellant.

1. The Meter was AMR and readings were recorded OK up to 30.11.2018. No such point was raised that one Blue Phase recorded less consumption since 09.06.2018. It was added that if there was any decrease in consumption, the Respondent should act as per provision made in Instruction No. 104.7.2 of ESIM 2018. So, this was clear deficiency in service of PSPCL which cannot claim this amount.
2. The Appellant had pointed out in Grounds of Appeal that no check on variation in consumption had been carried out as required. Had PSPCL complied with its instructions, the decrease in consumption could have been detected at first stage. Copy of the SJO/variation register was not provided to the Forum.
3. After the death of owner of the Appellant’s Unit on 14.02.2019, it was not in knowledge of his family to intimate to PSPCL regarding low consumption. The owner’s family was in the impression that lesser energy bills were due to low production in the factory.
4. The Energy Meter was challenged on 26.08.2019 but due to deficiency in service, it was neither got checked from Enforcement/MMTS nor replaced even after repeated requests made. Again, meter challenge fee of ₹ 2,800/- was deposited on 07.11.2019 whereafter, it was changed on 09.11.2019. Sorry to point out that after replacement, it was sent to ME lab on 23.01.2020 i.e. 82 days late, whereas, it was to be sent for testing within 15 days from removal from site. No reason of delay was explained in the reply by the Respondent who should explain as to why the same was kept pending without any reason.
5. The Appellant may be charged on the basis of consumption of the same period of previous year.
6. **Submissions during Hearing**

During the hearing on 05.08.2020, the Appellant reiterated the submissions already made in the Appeal and rejoinder to written reply of the Respondent.

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

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

1. The account of the consumer had been overhauled as per

Regulation 21.5.2(a) of Supply Code-2014 being meter defective as per MMTS’s observation after studying DDL printout.

1. It was correct that the Addl. S.E., MMTS-2 Ludhiana checked the connection and gave report dated 08.02.2019. This Energy Meter was purchased vide P.O M-15/MAP-21/PO/ME dated 01.07.2011. So, the same was not within warranty period. Hence, cost of Energy Meter, deposited by the Appellant, was not refundable.
2. The account of the Appellant was overhauled as per finding of

Addl. S.E./Enforcement, EA cum MMTS-5, Ludhiana vide Memo No. 20 dated 06.02.2020 after studying tamper data that the voltage of Blue Phase of the Energy Meter was less recorded w.e.f. 09.06.2018. The account of the Appellant was to be overhauled for the period 09.06.2018 to 21.02.2019. But, keeping in view the provisions of Regulation 21.5.2 of Supply Code-2014, the account had been overhauled for a period of six months i.e. 22.08.2018 to 21.02.2019 and the amount charged had been revised accordingly.

1. The amount of ₹ 2,10,921/- charged to the Appellant was correct. The working of the Energy Meter till reading date 31.11.2018 was not correct, the same was evident from DDL printout and Addl. S.E/MMTS’s report vide memo no. 20 dated 06.02.2020 and account had been overhauled for a period of six months only.
2. In case of LS category, the data of the Energy Meter was downloaded and studied by MMTS. In this case, the same practice was followed. No application was moved by the consumer for less consumption at that time.
3. The working of the Energy Meter was checked in ME Lab, Ludhiana vide Store Challan No. 771 dated 23.01.2020 and it was reported that accuracy of the meter was within limits. The data available also showed that the working of Energy Meter was correct.
4. The Appellant paid the energy charges according to recorded consumption. The contention of the consumer to charge average of last year’s consumption in case of correct Energy Meter was wrong and denied
5. The Appeal of the Appellant may be dismissed as the decision of the Forum was reasonable with speaking order and lawful.
6. **Submissions during Hearing**

During the hearings on 05.08.2020 the Respondent reiterated the submissions already made in the written reply. Besides, the Respondent apprised the Court that disputed CT/PT unit of the Appellant was not within warranty period as confirmed by the M.E. Lab. He also showed the letter from M.E. Lab. in this regard to the Court as well as the Appellant’s Representative. The Respondent also stated that Job Order No.7287093 dated 26.12.2018 was found entered in SAP system but the same was cancelled later on and Energy Meter was not replaced against this Job Order. He also stated that a sum of ₹ 1200/- deposited by the Appellant as meter challenge fee was adjusted in its subsequent energy bill.The Respondent confirmed that the Appellant had deposited 40 % of disputed amount.

**6.** **Analysis and Findings**

The issues requiring adjudication are the legitimacy of

(i) the overhauling of the account of the Appellant for six months prior to the date of change of Energy Meter i.e. 21.02.2019 and correctness of energy bills for the months of May/2019 to August/2019 as per applicable regulations.

(ii) refund of cost of CT/PT unit(replaced on 21.02.2019) amounting to ₹ 67,121/- got deposited from the Appellant.

(iii) the plea of the Appellant that there was deficiency in service on the part of the Respondent-PSPCL which replaced the Energy Meter of the Appellant on 09.11.2019 but sent the same to M.E. Lab. for testing on 23.01.2020 i.e. after 82 days.

**Issue (i)**

As per material placed on record of this Court, a reference was made by DS, City Central Division, Ludhiana vide letter no.12768 dated 20.12.2018. The connection of the Appellant was checked by the ASE/MMTS-2, Ludhiana, vide ECR No. 41/3183 dated 24.12.2018 and it was reported that

 “AEE/Commercial, ਸਿਟੀ ਸੈਂਟਰਲ ਡਿਵੀਜਨ (ਸਪੈਸ਼ਲ) ਲੁਧਿਆਣਾ ਵੱਲੋਂ ਮੀਮੋ ਨੰ. 12768 ਮਿਤੀ 20.12.2018 ਅਨੁਸਾਰ ਰੈਫਰ ਕਰਨ ਤੇ ਕੁਨੈਕਸ਼ਨ ਚੈੱਕ ਕੀਤਾ ਗਿਆ । ਮੀਟਰ ਦੀਆਂ ਡਿਸਪਲੇਅ ਸਕਰੌਲਿੰਗ knobs ਖਰਾਬ ਹਨ, ਮੀਟਰ ਬਦਲੀ ਕੀਤਾ ਜਾਵੇ ।”

 Subsequently, the connection of the Appellant was again checked, on receipt of reference from the DS Division, by the ASE/MMTS-2, Ludhiana vide ECR No. 41/3138 dated 08.02.2019 whereby, it was reported that

 “Operation ਵੱਲੋਂ ਰੈਫਰ ਕਰਨ ਤੇ ਕੁਨੈਕਸ਼ਨ ਚੈੱਕ ਕੀਤਾ ਗਿਆ । ਸੀ ਟੀ, ਪੀ ਟੀ ਚੈਂਬਰ ਖੋਲ ਕੇ ਚੈੱਕ ਕੀਤਾ, Red ਫੇਜ਼ ਦਾ PT ਫਟਿਆ ਪਾਇਆ ਗਿਆ । ਮੀਟਰ ਨਾਲ ਲੱਗਿਆ Modem ਸੱੜ ਗਿਆ । ਮੀਟਰ ਵੀ ਸਮਾੱਕੀ ਹੋ ਗਿਆ ਹੈ । ਸੀ ਟੀ, ਪੀ ਟੀ ਚੈਂਬਰ, ਮੀਟਰ ਅਤੇ Modem ਤਿੰਨੇ ਬਦਲੀ ਕੀਤੇ ਜਾਣ । ਮੀਟਰ ਦਾ DDL ਨਹੀਂ ਹੋ ਸਕਿਆ, ਕੋਈ ਰੀਡਿੰਗ ਪੈਰਾਮੀਟਰ ਨੋਟ ਨਹੀਂ ਹੋ ਸਕੇ । ਸੀ ਟੀ, ਪੀ ਟੀ ਚਾਲੂ ਕਰਨ ਤੋਂ ਪਹਿਲਾਂ I/C ਅਤੇ O/G ਕੇਬਲਾਂ ਦੀਆਂ IR Values ਲਈਆਂ ਜਾਣ ।”

 In compliance to the above directions of the MMTS, the Energy Meter, CT/PT chamber and Modem were replaced on 21.02.2019. The removed Energy Meter was sent to M.E. Lab. for checking vide Store Challan no.2646 dated 26.02.2019 whereby, M.E. Lab. reported as under:

 “Meter is burnt. Accuracy could not be determined. DDL and on AC/DC load, the reading are not coming. U/W is alright.”

 As per directions of the ASE/MMTS-2, Ludhiana, vide letter no.155 dated 28.05.2019, the Audit Party overhauled the account of the Appellant, vide Half Margin No.78 dated 24.06.2019 for the period 13.10.2018 to 20.02.2019(one day prior to replacement of Energy Meter on 21.02.2019) and charged the Appellant a sum of ₹ 1,25,438/-. The Appellant challenged the working of the Energy Meter by depositing ₹ 1200/- on 26.08.2019 as the Appellant felt that consumption during 06/2019, 07/2019 and 08/2019 was much more as compared to the consumption during corresponding period of last year. Though Job Order No.7287093 dated 26.12.2018 was issued (as per SAP system), the same was cancelled and the said amount was adjusted in energy bills. Aggrieved, the Appellant filed a case in the office of the CGRF, Ludhiana in 11/2019 and the same was registered on 30.12.2019. In the meantime, the Appellant again challenged the working of its Energy Meter by depositing Meter Challenge Fee of ₹ 2840/- on 07.11.2019 whereafter, the Energy Meter was replaced on 09.11.2019 at final reading of kWh 19,323, kVAh 22,566 and MDI 10.10 kVA. The challenged/removed Energy Meter was checked on 23.01.2020 in M.E. Lab. which reported as under:

 “ਮੀਟਰ ਐਕੁਰੇਸੀ ਸੀਮਾ ਵਿੱਚ ਹੈ । DDL MRI ਤੇ ਲਿਆ ਹੈ । U/W ਠੀਕ ਹੈ ।”

I have perused ME Lab report as per which, the accuracy of the Energy Meter was found within permissible limit and ultrasonic welding was found intact. A perusal of the DDL printout of the challenged Energy Meter reveals that the consumption recorded by the Energy Meter from 03.09.2019 to 09.11.2019 i.e. 67 days was recorded as 6,816 kWh and no abnormal consumption/jumping of meter was observed during the period the data was available.

The consumption data of the Appellant’s connection is tabulated below:-

|  |  |  |  |
| --- | --- | --- | --- |
| Year | 2015 | 2016 | 2017 |
| Month | kvah | MDI | Code | Kvah | MDI | Code | Kvah | MDI | Code |
| Jan |  |  |  | 8652 | 55 | O | 5646 | 51 | O |
| Feb |  |  |  | 7164 | 57 | O | 8532 | 48 | O |
| Mar |  |  |  | 15816 | 62 | O | 8904 | 49 | O |
| April |  |  |  | 11442 | 73 | O | 7860 | 52 | O |
| May |  |  |  | 20934 | 120 | O | 8040 | 38 | O |
| June |  |  |  | 23928 | 115 | O | 12936 | 76 | O |
| July | 43104 | 110 | O |  |  |  |  |  |  |
| Aug | 9972 | 75 | O |  |  |  | 20460 | 68 | O |
| Sept | 3480 | 56 | O | 24834 | 102 | O | 9990 | 67 | O |
| Oct | 13014 | 99 | O | 17970 | 99 | O | 10122 | 49 | O |
| Nov | 8820 | 82 | O | 2190 | 79 | O | 8496 | 8 | O |
| Dec |  |  |  |  |  |  | 22390 |  | O |

|  |  |  |  |
| --- | --- | --- | --- |
| Year | 2018 | 2019 | 2020 |
| Month | kvah | MDI | Code | Kvah | MDI | Code | Kvah | MDI | Code |
| Jan | 8344 | 53 | O | 6048 | 31 | O |  |  |  |
| Feb |  |  |  | 7268 | 53 | D |  |  |  |
| Mar | 13276 | 31 | O | 34883584 | 47 | O |  |  |  |
| April | 4452 | 29 | O | 5180 | 25 | O |  |  |  |
| May | 4500 | 39 | O | 7696 | 29 | O |  |  |  |
| June | 4924 | 43 | O | 11492 | 22 | O |  |  |  |
| July | 4856 | 42 | O | 16176 | 53 | O |  |  |  |
| Aug | 5216 | 38 | O | 15080 | 45 | O |  |  |  |
| Sept | 2288 | 38 | O | 509610476 | 4956 | O |  |  |  |
| Oct | 3380 | 39 | O | 10652 | 52 | O |  |  |  |
| Nov | 3588 | 19 | O | 4572 | 40 | O |  |  |  |
| Dec |  |  |  | 6344 | 59 | O |  |  |  |

I observed that the Energy Meter of the Appellant was checked by ASE/MMTS-2, Ludhiana on 08.02.2019 and reported that Red phase of the PT burst, modem burnt and meter smoky. After re-examining the DDL of the Energy Meter, ASE/MMTS-5 Ludhiana directed the Respondent vide memo no. 20 dated 06.02.2020 that as per tamper report, the contribution of blue phase was very less as compared to other phases since 09.06.2018. As per the direction of the ASE/MMTS-5, Ludhiana given vide memo no. 20 dated 06.02.2020, the Respondent again overhauled the account of the Appellant and charged ₹ 85,483/-. The Forum decided that the account of the Appellant be overhauled for six months prior to the date of change of Energy Meter on the basis of the consumption recorded in the same months of previous year in terms of provisions of Regulation 21.5.2 of Supply Code-2014.

I find that the Appellant had compared the consumption of 2019 with 2018 when the Energy Meter was recording less consumption due to very less contribution of blue phase voltage whereas the consumption of the Appellant for the year 2016 and 2017 is on the higher side as compared to the consumption of the Appellant for the year 2018 and 2019. In view of the consumption pattern, ME Lab report and DDL printout; the plea of the Appellant that the Energy Meter recorded excess consumption is not sustainable. Besides, consumption of the Appellant after change of Energy Meter in 11/2019 is also on the higher side. Therefore, the amount charged to the Appellant in the monthly bills of May/2019 to August/2019 is justified.

 I find that the plea of the Appellant Representatives that due to the death of the owner of the unit on 14.02.2019, its family remained busy in domestic affairs and the unit remained closed for some time resulting in low electricity usage is not sustainable. This is due to the reason that consumption during this period as compared to that of previous year was not lesser but on higher side.

I am of the view that the account of the Appellant be overhauled for six months prior to the date of replacement of Burnt Energy Meter i.e. 21.02.2019 as per provision contained in Regulation 21.5.2 of Supply Code-2014 which reads as under:-

 “*The accounts of a consumer shall be overhauled/billed for the period meter remained defective/dead stop subject to maximum period of six months. In case of burnt/stolen meter, where supply has been made direct, the account shall be overhauled for the period of direct supply subject to maximum period of six months. The procedure for overhauling the account of the consumer shall be as under:*

1. *On the basis of energy consumption of corresponding period of previous year.*

*b) 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.*

*c)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.*

*d)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 consumption 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.*

*e)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.”*

I find that Regulation 21.5.2 (a) of Supply Code-2014 can not be applied in this case because energy consumption for the corresponding period of previous year(21.08.2017 to 20.02.2018) is not reliable because Meter status during February, 2018 is ‘D’. Next option is to apply Regulation 21.5.2 (b) of Supply Code-2014. Accordingly, the accounts of the Appellant is required to be overhauled for six months prior to the date of replacement of Energy Meter(21.02.2019) on the basis of average of energy consumption for six months from August, 2017 to January, 2018 because the energy consumption during this period is reliable and the Energy Meter was functional with ‘O’ status.

 I also observed on the basis of foregoing discussions that the Energy bills charged to the Appellant for the months of May, 2019 to August, 2019 on recorded consumption are correct and are recoverable.

 **Issue (ii)**

In the present Appeal, the Appellant has prayed forrefund of cost of CT/PT unit(replaced on 21.02.2019) amounting to ₹ 67,121/- which was deposited with PSPCL and pleaded that the CT/PT unit was within warranty period. Addl.SE/ME Division, PSPCL, Ludhiana had intimated vide memo no.375 dated 03.08.2020 that CT/PT unit of this connection was not burnt within warranty period. As such, cost of CT/PT unit amounting to ₹ 67,121/- is fully recoverable.

**Issue (iii)**

The Appellant contended that there was deficiency in service on the part of the Respondent(PSPCL) which replaced the Energy Meter of the Appellant on 09.11.2019 but sent the same to M.E. Lab. for testing on 23.01.2020 i.e. after 82 days.

 I agree with the plea of the Appellant’s Representative in this regard and observe that the Respondent did not comply with the provisions contained in Regulation 21.3.6(e) of Supply Code-2014 requiring to get the Energy Meter tested within 15 days of its removal from the site. Thus there was clear deficiency in service on the part of the Respondent(PSPCL) and appropriate action needs to be taken by PSPCL against the delinquent officers/officials. Had the Respondent got the meter tested within 15 days of its removal from the site, meter challenge would have been cleared much earlier.

 From the above analysis, it is concluded that:

1. The account of the Appellant is required to be overhauled for six months prior to the date of replacement of the Energy Meter (21.02.2019) on the basis of average of energy consumption for six months from August, 2017 to January, 2018 in terms of provisions contained in Regulation 21.5.2(b) of Supply Code-2014. In addition, the energy bills based on recorded consumption for the months of May, 2019 to August, 2019 are justified and recoverable from the Appellant. The Appellant shall also be liable to pay surcharge/interest as per instructions of PSPCL.
2. The Appellant is not entitled to claim cost of burnt CT/PT unit deposited by it as the same was beyond warranty period.
3. There was deficiency in service on the part of the Respondent(PSPCL) for undue delay in sending the Energy Meter(removed on 09.11.2019) for testing in ME Lab on 23.01.2020 against the stipulation of 15 days from the date of removal as required under Regulation 21.3.6 (e) of Supply Code-2014. PSPCL may take appropriate action for this lapse on its part.

**7.** **Decision**

As a sequel of above discussions, the order dated 06.03.2020 of CGRF, Ludhiana in Case no. CGL-397/2019 is set aside. It is held that:

1. The account of the Appellant shall be overhauled for six months prior to the date of replacement of the Energy Meter (21.02.2019) on the basis of average of energy consumption for six months from August, 2017 to January, 2018 in terms of provisions contained in Regulation 21.5.2(b) of Supply Code-2014. Besides, the energy bills charged to the Appellant for the months of May, 2019 to August, 2019 on the basis of recorded consumption are justified and recoverable. Accordingly, the Respondent is directed to re-calculate the demand and refund/recover the amount found excess/short after adjustment, if any, with surcharge/interest as per instructions of PSPCL.
2. The cost of CT/PT unit deposited by the Appellant is not refundable as the same was burnt beyond warranty period.

**8**. The Appeal is disposed of accordingly.

**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.

 (GURINDER JIT SINGH)

 August 07, 2020 Lokpal (Ombudsman)

 SAS Nagar (Mohali) Electricity, Punjab.