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

**ELECTRICITY, PUNJAB,**

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

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

**APPEAL NO. 44/2020**

**Date of Registration : 21.09.2020**

**Date of Hearing : ­­07.10.2020**

**Date of Order : 12.10.2020**

**Before:**

**Er. Gurinder Jit Singh,**

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

**In the Matter of :**

M/s. K.N. Agro Industries,

Maur-Bathinda Road,

Maur Mandi-151509.

**Contract Account Number: B53-MS53-0003M**

...Appellant

Versus

Senior Executive Engineer,

DS Division,

PSPCL, Maur-151509.

...Respondent

**Present For:**

Appellant : 1. Sh. S.R. Jindal,

Appellant’s Representative (AR).

2. Sh. Naveen Kumar,

Appellant’s Representative (AR).

Respondent : 1. Er. Kamaljit Singh,

Senior Executive Engineer,

DS Division,

PSPCL, Maur.

2. Sh. Kirandeep Singh,

Revenue Accountant (RA).

Before me for consideration is an Appeal preferred by the Appellant against the order dated 20.08.2020 of the Consumer Grievances Redressal Forum (Forum), Patiala in Case No. CGP-169 of 2020, deciding that:

*“The account of the petitioner be overhauled for a period of six months from the date of occurrence of fault in the metering equipment i.e. 21.01.2016 with slowness of metering equipment as 66.66%. The notice issued to the petitioner vide memo No. 1008 dated 22.06.2020 be revised and the account of the petitioner be overhauled accordingly. If the petitioner agrees with the decision of the Forum, the amount charged be recovered in 6 equal monthly installments without charging any interest/surcharge by taking an undertaking from the petitioner. However, if the petitioner defaults in making timely payments of the installments then the amount shall be recovered alongwith interest/surcharge as per the General Conditions of Tariff.”*

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

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 21.09.2020 i.e. within one month of receipt of the decision dated 20.08.2020 of the CGRF, Patiala in Case No. CGP-169 of 2020. Besides, the Appellant had deposited ₹ 1,00,500/- on 06.07.2020 before filing Petition in the Forum. The Appellant also deposited ₹ 85,628/- on 14.09.2020. Thus, the Appellant deposited total amount of ₹ 1,86,128/- on account of 40% of the disputed amount of ₹ 4,64,070/-. Accordingly, the Appeal was registered and copy of the same was sent to the Senior Executive Engineer/DS Division, PSPCL, Maur for sending written reply/parawise comments with a copy to the office of the CGRF, Patiala under intimation to the Appellant vide this office letter nos. 889-91/OEP/A-44/2020 dated 22.09.2020.

**3.** **Proceedings**

With a view to adjudicate the dispute, a hearing was fixed in this Court on 07.10.2020 at 12.00 Noon and intimation to this effect was sent to both the sides vide letter nos. 915-16/OEP/A-44/2020 dated 30.09.2020. As scheduled, the hearing was held on 07.10.2020 in this Court on the said date and time. Copies of the minutes of the proceedings were sent to the Appellant and the Respondent vide this office letter nos. 943-44/OEP/A-44/2020 dated 07.10.2020.

**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 in this Court on 21.09.2020, for consideration:

1. The Appellant was having an electricity connection with sanctioned load of 97.88 kW/CD-100 kVA with effect from 06.02.1998 for Fuel Farm (Gatti).
2. The Appellant deposited regularly the bills served by PSPCL before the Notice of demand of ₹ 20,07,418/- for the period 21.01.2016 to 26.11.2019 was raised by SDO/DS Sub Division, Maur vide letter no. 1008 dated 22.06.2020. The said notice was issued after seven months from the date of checking on 26.11.2019. Sr. Xen/Enforcement cum MMTS, Mansa, in his report, declared the Energy Meter slow during the period 21.01.2016 to 26.11.2019 and directed to overhaul the account beyond the instructions of the PSPCL for 46 months on the basis of DDL report.
3. The Appellant filed a Petition in the office of the CGRF, Patiala on 29.06.2020 against the demand raised by the PSPCL. The same was registered as Case No. CGP-169 of 2020 and date of first hearing was fixed as 21.07.2020 for reply of the Respondent. On 21.07.2020, the Respondent stated that the Appellant was charged from 21.01.2016 to 27.02.2019 on the basis of DDL report of the Energy Meter with slowness factor of 66.67%. The Energy Meter was reported OK during the period from 27.02.2019 to 21.10.2019. It was 35.23 % slow from 21.10.2019 to 07.11.2019. It was again OK from 07.11.2019 to 20.11.2019. The meter again became slow by 35.23% from 20.11.2019 to 26.11.2019. The Respondent also stated that the account was overhauled with slowness factor as 35.23% due to carbonized connections and after rubbing the carbon on 26.11.2019, Energy Meter started working within limits on all phases.
4. The connection was previously checked on 01.01.2016 on the request of SDO as the problem of MDI reset was there and after checking the Energy Meter by Enforcement, it was replaced on 21.01.2016. The Energy Meter’s seals were fixed by the competent authority on 21.01.2016 after its replacement, which were found intact by the Enforcement Wing, Mansa on 26.11.2019 at the time of checking of the connection. During the intervening period, no checking was performed by PSPCL as reported in the Forum on 21.07.2020.
5. The Forum, in its order dated 20.08.2020, directed to charge the Appellant for six months from 21.01.2016 with slowness factor as 66.67% beyond the instructions of PSPCL. The decision of the Forum was not reasonable because no such instructions allowed to overhaul the account from 21.01.2016. Hence the Appellant was compelled to prefer this Appeal against the wrong/illegal decision of the Forum for sympathetic consideration.
6. The Forum did not bother to give justice to the Appellant and concealed the lapse on the part of the Respondent. The Forum had not discussed the total disputed period of 46 months from 21.01.2016 to 26.11.2019 and discussed only the period of 37 months in which the Energy Meter was statedly slow by 66.67%. How it was possible that a Meter, during the disputed period, due to carbonization of connection first reported 66.67% slow and then became OK? How the carbon got removed itself without any interference/ checking of connections? The judgement was totally biased as the Forum had not fixed responsibility for lapses on the part of the Respondent and penalized the Appellant for the fault on the part of Respondent itself. The judgement passed by the Forum was not acceptable to the Appellant because gross injustice had been done to the Appellant.
7. Senior Xen/Enforcement cum MMTS, Mansa checked the connection of the Appellant on 26.11.2019 in the presence of its representative but copy of checking report was not handed over to its representative (even on demand) in violation of provisions of Regulation 21.3.6 (a) of Supply Code- 2014.
8. Further, the checking authority, should have, as per rules, submitted the copy of report of checking within 24 hours and SDO should have served the Notice of demand, if any, within 3 days in the shape of written letter for compliance of the demand notice within 15 days alongwith copy of rules/ calculations in support of amount charged/ copy of instructions against which, the demand had been raised. But, this was not done.
9. After seven months from the date of checking vide Memo No. 1008 dated 22.06.2020, SDO, DS Sub Division, Maur raised illegal/ wrong demand beyond rules of PSPCL of ₹ 20,07,418/- for the period 21.01.2016 to 26.11.2019 (46 months) without supplying copy of DDL/ME Lab report, which created doubt about intention of the Respondent in demanding the huge sum illegally beyond instructions of PSPCL.
10. Still, Meter with Serial No. 12419299 PSPCL 200/5 A (No. 00917242) installed on 21.01.2016 existed at site, as there was no change/replacement of the Meter after the checking dated 26.11.2019. The Meter was not removed and checked in ME Lab as required under the active and reactive mode. This created doubt about the intention of the Respondent.
11. PSPCL, vide its own instructions, provided under Regulation 21.5.1 of Supply Code-2014, ordered that account be overhauled for six months immediately/preceding the date of checking or replacement of inaccurate Meter whichever is later.
12. In this case, the report of the checking authority/DDL was doubtful due to snag in the Meter because of the different attitudes of the Meter reported during the period from 21.01.2016 to 26.11.2019 (disputed period) which was never possible. The behaviour of the meter was reported as below:

|  |  |  |  |
| --- | --- | --- | --- |
| Sr. No. | Period | Status of Energy Meter | Number of Months |
| 1 | 21.01.2016 to 27.02.2019 | Slow by 66.67% | 37 |
| 2 | 27.02.2019 to 21.10.2019 | OK | 8 |
| 3 | 21.10.2019 to 07.11.2019 | Slow by 35.23% | ½ |
| 4 | 07.11.2019 to 20.11.2019 | OK | ½ |
| 5 | 20.11.2019 to 26.11.2019 | Slow by 35.23% | ¼ |

1. From the above, it was very much clear that there must be some snag/ unexpected hidden obstacle in the Meter or the checking report of the Enforcement agency which was not reliable/ reasonable. The defect could not be detected by the checking agency due to inaccuracy in the Meter, hence the Meter could be treated as defective and should have been dealt under the provisions of Regulation 21.5.2(a) of Supply Code, 2014 as allowed by the Court of the Ombudsman/ Electricity, Punjab in following cases of slowness of Meter: -

|  |  |  |  |
| --- | --- | --- | --- |
| Sr. No. | Appeal case No. | Date of Order | Status of Energy Meter |
| 1 | A-05/2020 | 16.03.2020 | Slow by 67.15% |
| 2 | A-03/2020 | 06.03.2020 | Slow by 26.53% |
| 3 | A-69/2019 | 07.02.2020 | Slow by 31.06% |
| 4 | A-54/2019 | 21.11.2019 | Slow by 36.96% |
| 5 | A-38/2019 | 17.09.2019 | Slow by 61.54% |

1. The Respondent had not granted any opportunity to the Appellant to hear in person by serving Show Cause Notice as required under Instruction No. 57.5 of ESIM, 2018. The approval of the Competent Authority was not obtained before raising the huge amount against the Appellant.
2. As per provisions contained in Regulation 21.3.5 of Supply Code, 2014; the inspection of meter/ metering equipment was not carried out periodically after 2/3 years.
3. The monthly reading of meter with load ranging from 20 kW to 100 kW was recorded by JE as per provisions of Instructions No. 81 of ESIM, 2018. But the Officer concerned failed to point out error/defect in the Meter earlier as part of his duty.
4. There were variations in consumption which had not been checked as per instructions of PSPCL and the reason for ± 20% consumption recorded by the Meter were not investigated by the officers concerned of PSPCL
5. In view of provisions contained in Regulation 32.2 of Supply Code-2014, instruction No. 93.2 of ESIM, 2018, Section 56 (2) of Electricity Act-2003; no recovery after a period of two years could be effected from the consumer. As such, order of the Forum dated 20.08.2020 was prejudicial and beyond rules and regulations of the PSPCL.
6. The Forum had charged the Appellant from 21.01.2016 with slowness factor as 66.67% for six months whereas consumption prior to 21.01.2016 i.e. 13.04.2015 to 19.01.2016 was available of the healthy Meter amounting to 75323 units for 281 days, which had been calculated as 8040 units per month. But the Forum, in its decision, had charged the Appellant with slowness factor as 66.67% from 21.01.2016 for six months which worked out to monthly average of 16727 units. If calculation of units, was done under LDHF formula, the monthly consumption works out to be 11746 units (97.88x25x8x60%). The consumption from 03/2019 to 07/2020 had been calculated as 8315 units. Hence, the decision of the Forum was not justified and was beyond provisions of Supply Code, 2014.
7. A reference was invited to the judgment of the Hon’ble Punjab & Haryana High Court, Chandigarh which was against the cases decided by the Court of the Ombudsman as per Supply Code, 2014. To quote, for instance, was an order dated 28.03.2017 passed in CWP No. 2601 of 2017 filed by PSPCL against the Ombudsman’s order dated 23.09.2016 in Appeal Case No. A-33/2016. Moreover, CWP No. 13504/2016 was decided on 13.07.2016 in the case of PSPCL V/s M/s. Diana Mining filed against Ombudsman’s decision dated 23.09.2016 in Appeal Case No. A-63/2015. In both the said judgments, PSPCL, approached the Hon’ble High Court against the orders of the Ombudsman for overhauling the account for maximum six months but CWPs were straight away dismissed by Hon’ble High Court upholding the decision of the Ombudsman to direct PSPCL to overhaul the account for six months prior to the date of checking/ replacement of disputed Energy Meter. Therefore, as per existing provisions of Regulation 21.5.1 of Supply Code- 2014, the account of the Appellant be allowed to be overhauled prior to the date of checking i.e. 26.11.2019 for six months in view of the provisions in force.
8. The connection was checked on 26.11.2019 and notice for demand was issued on 22.06.2020 after a period of seven months in violation of Supply Code Regulation without any justification by the Respondent. If the DDL was received late, reasons for the same need to be obtained from them.
9. The charging of amount of ₹ 20,07,418/- from 21.01.2016 to 26.11.2016 was beyond rules and regulations of the PSPCL when the seals affixed on 21.01.2016 after replacement of Meter to the date of checking on 26.11.2019 were found intact. In this connection, Sr. Xen/DS Divn., Maur in the proceedings dated 21.07.2020 of the Forum, had certified that the seals were OK and there was no checking of the connection during the said period. The Respondent did not itself comply with its own instructions/rules and regulations regarding recalibration of Meter, periodical checking and watching the variation in consumption whatsoever. Therefore, there was no reason to place the huge burden on the consumer at this stage when the fault was on the part of the Respondent (PSPCL).
10. The Forum passed its order on 20.08.2020 (after the close of the case on 21.07.2020) but issued the same after one month which was also doubtful. Such type of cases decided by the Forum in the lots but in no case, decision for charging the period had been noticed by the Appellant. The decision of the Forum was itself controversial and contradictory in the eyes of law.
11. The checking agency had not checked the accuracy of Meter at site on 26.11.2019.Checking of the Energy Meter was not done in ME lab in active (kWh) and reactive mode (kVARh) to determine the correctness of the Energy Meter in view of Instruction No. 59.1.3 of ESIM-2018 and CC No. 07/2019 dated 13.02.2019 in compliance to directions of the Ombudsman. The Ombudsman, vide its orders in Appeal cases A-36, A-37 and A-38 of 2018, gave directions to the licensee to issue the instructions to all the DS Zones/Divisions that accuracy of Energy Meter be checked in both active and reactive modes to determine the correctness of Energy Meter but the Respondent had failed to comply with the instructions/ orders of the PSPCL.
12. The prices of the goods were fixed on the basis of cost of raw materials, handling charges, other charges and profits. How, the recovery due to increased cost in future could be made good from the customers to whom the goods had been already sold at the prices fixed before selling the same?
13. The burden of the amount put at this stage was harsh and killing, when there was the deficiency of services on the part of the Respondent itself. It was not understood as to how the working of meter differed during the disputed period of 46 months and carbon occurred but washed itself automatically was beyond explanations.
14. From the above, it was evident that fictitious notice was issued by the Respondent not supported by any regulations of the PSPCL. The same be withdrawn in the interest of justice and compensation be awarded for harassment caused on this account.
15. **Submissions during Hearing**

During hearing, on 07.10.2020, the Appellant’s Representative reiterated the submissions made in the Appeal and prayed to allow the same.

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

The Respondent, in its written reply sent vide Memo No. 11015 dated 29.09.2020, made the following submissions for consideration of the Court:

1. The Energy Meter of the Appellant was checked by Sr. Xen Enforcement-cum-EA & MMTS, PSPCL, Mansa vide ECR No. 22/2305 dated 26.11.2019.
2. The checking was conducted in the presence of representative of the Appellant, Mr. Nishu (98727-81213). On checking the Energy Meter, it was found running slow by 35.23% as R-phase voltage was missing. It was clearly mentioned in the checking in the ECR which was handed over to Mr. Nishu (98727-81213) on 26.11.2019 who signed the same after reading the contents of the report thoroughly. So, it was incorrect to state that the checking report was not handed over to the representative at the time of checking.
3. The Sub Divisional Officer, vide Memo No. 2742 dated 22.12.2019 addressed to Sr. Xen, Enforcement-cum-EA & MMTS, PSPCL, Mansa requested to give speaking order against the said checking followed by reminder vide letter no. 821 dated 01.06.2020. But, no reply was received from Sr. Xen, Enforcement-cum-EA & MMTS, PSPCL, Mansa. Also the DDL of the said Energy Meter was received on 09.01.2020. Because of this issue and COVID-19 lockdown, assessment of short billing was delayed.
4. The notice for short billing was sent to the Appellant vide letter no. 1008 dated 22.06.2020 alongwith all the calculations as per instructions of PSPCL.
5. The Appellant filed a Petition before the CGRF, Patiala on 29.06.2020. The Forum ordered on 20.08.2020 to charge amount for 6 months from 21.01.2016 with slowness of 66.66%. Accordingly, the account was overhauled and the total amount recoverable from the Appellant came to ₹ 4,64,070/-.
6. In the ECR No. 22/2305 dated 26.11.2019, it was clearly mentioned that due to the carbon deposited on the wires of the Energy Meter, the Energy Meter recorded lesser energy consumption and the wires were cleaned and reattached. The amount was charged on the basis of phase dead as per DDL report. So, there was no point of doubt on working and intention of the Officer(s) of the Respondent.
7. The provisions contained in Regulation 21.5.1 of Supply Code-2014 related to inaccurate meters but in this particular case the Meter was recording less consumption due to deposit of carbon on the wire of the Meter resulting in lesser energy recording. Thus, this provision did not apply to the present case.
8. In case of CT meters, Current and voltage inputs to the Energy Meter came through CTs & PTs and Meter recorded energy on the basis of these inputs. In this particular case, carbon contents were deposited on connection points of R-phase and B-phase wires of voltage inputs and the voltage inputs stopped for that particular period. The Energy Meter recorded only those inputs which were coming to its terminals. The data got recorded in the Energy Meter and DDL report gave that the data only. There was no question on the working of the Energy Meter. The amount was charged purely on the basis of DDL report and actual consumption of the Appellant.
9. Instruction 57.5 of ESIM, 2018 related to direct supply cases and were not applicable to this case.
10. The Energy Meter was changed on 21.01.2016 and later on checked by Sr. Xen/Enforcement & EA & MMTS on 26.11.2019.
11. The reading of the Energy Meter was recorded by JE-1 posted in Sub Divisional Office.
12. No checking was carried out by the concerned JE during the disputed period.
13. No variation register was maintained by the concerned JE-1 for investigation of high/lower consumption cases.
14. The amount charged in this case was due from the date of notice i.e. 22.06.2020 which was within two years.
15. As the previous year’s consumption for the period of slowness of Energy Meter was available for the said connection, LDHF formula was not applicable for the same. The account was overhauled by taking the Meter slow by 66.67%. The LDHF Formula was not applicable to this case.
16. **Submission during Hearing**

During hearing, Sr. Executive Engineer/ DS Divn., PSPCL, Maur reiterated the submissions already made in its written reply and prayed for the dismissal of the Appeal.

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

The issue requiring adjudication is the legitimacy of the overhauling the account of the Appellant for six months from the date of occurrence of fault in the metering equipment (21.01.2016) with slowness of metering equipment as 66.66% as decided by the forum on 20.08.2020 in Case No. CGP-169 of 2020.

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

1. The relevant facts of the case are that the connection of the Appellant having sanctioned load of 97.88 kW and CD 100 kVA, was checked by Sr. Xen, Enforcement cum EA & MMTS, PSPCL, Mansa vide ECR No. 22/2305 dated 26.11.2019. This checking was done in the presence of representative of the Appellant. The accuracy of the metering equipment was checked on running load on 26.11.2019 with LT ERS set. It was found that kWh consumption recording was -35.27% and kVARh consumption recording was -29.12%. Further, the metering equipment was found recording kWh consumption as -35.23% as per Dial Test conducted at site. The connections were again done after removing/ cleaning of carbon from the wires and the metering equipment was again tested on running load at site. Results were within permissible limits. DDL was also done at site. Sub-Divisional Officer, vide letter no. 2742 dated 22.12.2019, requested Sr. Xen, Enforcement cum EA & MMTS, PSPCL, Mansa to give speaking orders against the said checking. The matter was followed up with the Enforcement vide letter no. 821 dated 01.06.2020 but no reply was received. Based on DDL report of the said Energy Meter received in the office of the Sr. Xen/DS Division, Maur on 09.01.2020, a Notice for short billing alongwith calculations of the amount charged for ₹ 20,07,418/- was sent to the Appellant vide letter no. 1008 dated 22.06.2020. Aggrieved, the Appellant filed a Petition on 29.06.2020 in the Forum who, after hearing both sides, decided on 20.08.2020 that the Appellant be charged for 6 months from 21.01.2016 with slowness of 66.66%. Accordingly, the account of the Appellant was overhauled and the total amount recoverable from the Appellant worked out as ₹ 4,64,070/-. Not satisfied with the decision of the Forum, the Appellant had preferred the present Appeal and prayed to allow the same in the interest of justice.

(ii) As per material on record, Sr. Xen/ Enforcement cum EA & MMTS, PSPCL, Mansa checked the connection of the Appellant in the presence of Appellant’s Representative vide ECR No.22/2305 dated 26.11.2019 and reported as under:

ਉਪਰੋਕਤ ਖ਼ਪਤਕਾਰ ਦਾ ਅਹਾਤਾ ਨਿਮਨ ਹਸ਼ਤਾਖਰ ਦੀ ਟੀਮ ਵੱਲੋਂ ਚੈੱਕ ਕੀਤਾ ਗਿਆ। ਮੌਕੇ ਤੇ ਮੀਟਰ ਦੀ ਡਿਸਪਲੇ ਉੱਪਰ **‘**R**-**ਫੇਜ਼’ ਦਾ ਸੈਗਮੈਂਟ ਨਹੀਂ ਆ ਰਿਹਾ, ਜਦਕਿ ਬਾਕੀ ਦੋ ਸੈਗਮੈਂਟ ‘Y’ ਅਤੇ **‘**B**’** ਆ ਰਹੇ ਹਨ। MCBਦੀ ਸੀਲ ਤੋੜ੍ਹੀ ਅਤੇ ਮੀਟਰ ਦੀ ਡਿਸਪਲੇ ਤੇ ਉਪਰੋਕਤ ਅਨੁਸਾਰ ਪੈਰਾਮੀਟਰ ਹਨ। ਮੀਟਰ ਦਾ DDL ਕਰਲਿਆ ਗਿਆ ਹੈ। ਮੀਟਰ ਦੀ ਪਲੱਸ ਚਲ ਰਹੇ ਲੋਡ ਉੱਪਰ ਫਲਿਕਰ ਕਰ ਰਹੀ ਹੈ। ਕਲਿਪ ਆਨ ਮੀਟਰ ਨਾਲ ਮੀਟਰ ਦੀ ਡਿਸਪਲੇ ਉੱਪਰ ਆ ਰਹੇ ਕਰੰਟ ਦਾ ਮਿਲਾਨ ਕਰ ਲਿਆ ਗਿਆ ਹੈ।

ਉਪਰੋਕਤ ਮੀਟਰਿੰਗ ਯੂਨਿਟ ਦੀ ਐਕੁਰੈਸੀ zera ਦੇ LT ERSਸੈੱਟ ਨਾਲ ਚੱਲਦੇ ਲੋਡ ਉਪਰ ਕੀਤੀ ਗਈ । ਇਸ ਅਨੁਸਾਰ kWh ਦੇ ਨਤੀਜੇ -35.27 % ਅਤੇ kVARh ਦੇ ਨਤੀਜੇ -29.13 % ਪਾਏ ਗਏ । ਮੀਟਰ ਦਾ ਚੱਲ ਰਹੇ ਲੋਡ ਉੱਪਰ ਡਾਇਲ ਟੈਸਟ ਵੀ ਕੀਤਾ ਗਿਆ । ਡਾਇਲ ਟੈਸਟ ਸਮੇਂ ਖਪਤਕਾਰ ਦੇ ਮੀਟਰ ਉੱਪਰ 1.00 (ਇੱਕ) kWhਯੂਨਿਟ ਦੇ ਮੁਕਾਬਲੇ zera ਦੇ LT ERS ਸੈੱਟ ਉੱਪਰ 1.544 kWh, ਯੂਨਿਟ ਰਿਕਾਰਡ ਹੋਈ । ਇਸ ਰੀਡਿੰਗ ਅਨੁਸਾਰ ਮੀਟਰਿੰਗ ਯੁਨਿਟ –35.23 % (ਹੌਲੀ) ਚੱਲਦਾ ਪਾਇਆ ਗਿਆ । ਮੀਟਰ ਦੀਆਂ ਪੋਟੈਂਸ਼ਲ ਦੀਆਂ ਤਾਰਾਂ ਦੇ ਕੁਨਕੈਸਨ ਕਾਰਬਨ ਉਤਾਰ/ਸਾਫ਼ ਕਰਕੇ ਦੁਬਾਰਾ ਕੀਤੇ ਗਏ ਅਤੇ ਮੀਟਰ ਦੀ ਡਿਸਪਲੇ ਉੱਪਰ ਚੈੱਕ ਕਰਨ ਤੇ ਪਾਇਆ ਕਿ ਤਿੰਨੋ ਸੈਗਮੈਂਟ (R, Y, B) ਆ ਗਏ ਹਨ । ਮੀਟਰ ਦੀ ਡਿਸਪਲੇ ਉੱਪਰ ਵੋਲਟੇਜ਼ Rਫੇਜ਼› 246 V, Yਫੇਜ਼ › 247V, Bਫੇਜ਼**›** 246V ਆ ਗਈ ਹੈ । ਇਸ ਉਪਰੰਤ ਮੀਟਰਿੰਗ ਯੂਨਿਟ ਦੀ ਐਕੁਰੈਸੀ ਚੱਲ ਰਹੇ ਲੋਡ ਤੇ ਚੈੱਕ ਕੀਤੀ ਗਈ ਜਿਸ ਦੇ ਨਤੀਜੇ ਪਾਵਰਕਾਮ ਦੀਆਂ ਨਿਰਧਾਰਿਤ ਸੀਮਾਂ ਅੰਦਰ ਪਾਏ ਗਏ । ਇਹ ਸਾਰੀ ਕਾਰਵਾਈ ਖਪਤਕਾਰ ਦੇ ਨੁਮਾਇੰਦੇ ‘ਨੀਸੂ’ ਦੀ ਹਾਜ਼ਰੀ ਵਿੱਚ ਕੀਤੀ ਗਈ । ਇਸ ਦੀ ਵੀਡੀਓਗਰਾਫੀ ਕਰ ਲਈ ਗਈ ਹੈ । DDL ਪੜਨ ਉਪਰੰਤ ਆਪ ਦੇ ਦਫ਼ਤਰ ਨੂੰ ਸੂਚਿਤ ਕਿੱਤਾ ਜਾਵੇਗਾ । ਬਾਕੀ ਬਣਦੀ ਕਾਰਵਾਈ ਪਾਵਰਕਾਮ ਦੀਆਂ ਹਦਾਇਤਾਂ ਅਨੁਸਾਰ ਕੀਤੀ ਜਾਵੇ । ਇਸ ਕੁਨੈਕਸ਼ਨ ਲਈ ਵਰਤਿਆ ਗਿਆ MCB ਨਾਨ-ਸਟੈਂਡਰਡ ਹੈ । ਇਸ ਨੂੰ ਪਾਵਰਕਾਮ ਦੇ ਨਿਯਮਾਂ ਅਨੁਸਾਰ ਲਗਾਇਆ ਜਾਵੇ । ਲਗਾਈਆਂ ਸੀਲਾਂ ਹੇਠ ਲਿਖੇ ਅਨੁਸਾਰ ਹਨ;

MTC-Fk03741/Fk03742 (2 No.)

MCB- Fk03739 (1 No.)

CTC-Fk03740 (1 No.)

I observe that the said checking was done in the presence of the representative of the Appellant, Nishu who had signed the ECR in token of having seen the process of checking by the Enforcement. The billing of this connection is being done on kVAh consumption basis but the checking agency had not determined the accuracy of kVAh consumption recorded by the meter. It is not understood how the kVAh consumption of the Appellant has been enhanced on the basis of slowness of kWh consumption recording of the meter while issuing demand notice vide letter no.1008 dated 22.06.2020?

(iii) It is observed that the disputed Energy Meter was installed at site on 21.01.2016 vide MCO No. 188/3359 dated 04.01.2016 and the same remained installed there upto the date of checking by the Enforcement on 26.11.2019. During this period, no checking of the disputed Energy Meter was done by any agency. The previous checking of the connection was done on 01.01.2016 vide ECR no. 05/1684. Both the seals that were affixed at the time of effecting MCO on 21.01.2016 were found to be still intact as per checking done on 26.11.2019.The account of the Appellant was overhauled by the respondent vide letter no. 1008 dated 22.06.2020 purely as per DDL report provided by the Enforcement wing.

I have perused the DDL report supplied by the Respondent and observed that the B-phase and R-phase of the disputed Energy Meter were dead from 21.01.2016 to 27.02.2019 and then again R-phase failed from 21.10.2019 to 07.11.2019 and from 20.11.2019 to 26.11.2019.The disputed Energy Meter remained erratic/defective from the date of the installation at site on 21.01.2016 till the date of checking on 26.11.2019.

I find merit in the contention of the Appellant’s representative that the behaviour of the metering equipment as reported below during the period from 21.01.2016 to 26.11.2019 (disputed period) was never possible and can not be explained:-

|  |  |  |  |
| --- | --- | --- | --- |
| Sr. No. | Period | Status of Energy Meter | Number of Months |
| 1 | 21.01.2016 to 27.02.2019 | Slow by 66.67% | 37 |
| 2 | 27.02.2019 to 21.10.2019 | OK | 8 |
| 3 | 21.10.2019 to 07.11.2019 | Slow by 35.23% | ½ |
| 4 | 07.11.2019 to 20.11.2019 | OK | ½ |
| 5 | 20.11.2019 to 26.11.2019 | Slow by 35.23% | ¼ |

In this connection I have gone through the written reply of the Respondent stating that:

“In case of CT meters, Current and voltage inputs to the meter comes through CTs and PTs and Meter records energy on the basis of that inputs. In this particular case, carbon contents are deposited on connection points of R-phase and B-phase wires of voltage inputs and the voltage inputs stopped for that particular period. The Meter records only what inputs are coming to its terminals. The data gets recorded in the Meter and in DDL report we get all that data only. There is no question on the working of the meter. The amount is charged purely on the basis of DDL report and actual consumption of the consumer.”

In this connection, it is worthwhile to peruse the definition of Meter given in Regulation 2 (zo) of Supply Code-2014 which states as under:

*“****Meter”*** *means a device suitable for measuring, indicating and recording consumption of electricity or any other quantity related with electrical system and shall include, wherever applicable, other equipments such as Current Transformer, Voltage Transformer with necessary wiring & accessories or Capacitor Voltage Transformer necessary for such purpose;”*

Taking into consideration the above definition, the aforesaid submissions of the Respondent are not sustainable. The respondent failed to explain how the meter sometimes behaved accurately and then became slow for quite a long time whereas the seals of the meter affixed on 21.01.2016 were intact on the date of checking by the Enforcement on 26.11.2019 ?

I am of the view that the connections of the metering equipment were not done properly on 21.01.2016 at the time of change of Energy Meter vide MCO no. 188/3359 dated 04.01.2016. It is evident from the DDL report because R-phase and B-phase of the disputed meter were dead from 21.01.2016 to 27.02.2019. There was no point to apply the slowness factor of 66.66 % to the metering equipment for overhauling the account of the Appellant for 6 months from 21.01.2016 as decided by the Forum because the accuracy of the Energy Meter was not checked at site or in ME lab on 21.01.2016 or thereafter till 26.11.2019. The overhauling of accounts as decided by the forum is not as per Supply Code-2014.

(iv) It is observed that in view of the history and behaviour of the disputed Energy Meter from 21.01.2016 (date of installation) to 26.11.2019 (date of checking), it deserves/requires to be treated as defective for overhauling of accounts as per Supply Code- 2014. Wiring is a part of the Meter as per its definition given in Supply Code. Any defect in wiring or its loose connections means that the whole metering equipment is defective. Energy recorded by such meter cannot be relied upon. Moreover, there is no valid justification to overhaul the energy account of the Appellant for 6 months from 21.01.2016 with slowness of 66.66% as decided by the Forum in its order dated 20.08.2020.

(v) The provisions for overhauling the accounts relating to a defective Energy Meter are given in Regulation 21.5.2 of Supply Code-2014 which are reproduced as under:

**“*21.5.2 Defective (other than inaccurate)/Dead Stop/ Burnt/ Stolen Meters***

*The accounts of a consumer shall be overhauled/billed for the period meter remained defective/dead stop 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 month. The procedure for overhauling the account of the consumer shall be as under:*

*a) 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.”*

In the present dispute, provisions of Regulations 21.5.2(a) to (c) are not relevant as the behaviour of the disputed Energy Meter was defective / erratic from 21.01.2016 (date of installation) to 26.11.2019 (date of checking by Enforcement) and consumption recorded during this period can not be used/ relied upon for overhauling the energy accounts of the Appellant in the present dispute.

In the given circumstances, the only option available is to overhaul the account of the Appellant for 6 months prior to date of checking (26.11.2019) on the basis of energy consumption of the corresponding period relating to the succeeding year in terms of provisions contained in Regulation 21.5.2(d) & (e) reproduced above.

(vi) The Respondent defaulted in ensuring compliance of Regulation 21.3.5 of Supply Code-2014 regarding periodical inspection / testing of the metering equipment. The energy variation was not monitored at divisional/sub divisional level as per instructions of the licensee as admitted by the Respondent in the reply and also during hearing on 07.10.2020. Had the Respondent complied with the requisite instructions regarding periodical inspection/checking and variations in energy consumption of the disputed Energy Meter, the present litigation/dispute could have been avoided.

I observe that the Forum had, in its decision dated 20.08.2020, directed the SE/ DS Circle, PSPCL, Bhatinda to conduct a detailed enquiry in regard to lapses on the part of officers/officials of PSPCL for not ensuring compliance of codal provisions resulting into avoidable litigation and financial loss to PSPCL. This is required to be followed up till its logical conclusion.

(vii) The billing of Medium Supply industrial connections is being done on kVAh basis as per tariff orders issued by the PSERC from time to time but the accuracy of the disputed meter on kVAh basis was not determined by the Enforcement during checking on 26.11.2019. kWh and kVAh are two different units of measuring electricity consumption. Overhauling the accounts of the Appellant in terms of kVAh consumption by the Respondent on the basis of slowness of kWh mode of the meter is incorrect/illegal. Accuracy of kVAh consumption recorded by the Energy Meter should also be determined by checking agencies/ ME labs wherever billing is done on kVAh basis. Inaccuracy in kWh consumption recorded by the Energy Meter can not be made applicable to kVAh consumption recorded by the same Energy Meter. kVAh is a vector sum of kWh & kVARh.

(viii) The Appellant’s Representative has cited a number of decisions of the Hon’ble Punjab and Haryana High Court and also of this Court in support of its claim for relief to the Appellant. In this connection, it is worth mentioning that facts and circumstances in the cases cited in the Appeal are different from those of the present dispute and thus, cannot be made the basis for consideration in this case. Adjudication of the present dispute has been done on the basis of Supply Code Regulations and facts/figures provided by both parties in this case.

**7.** **Decision**

As a sequel of above discussions, the order dated 20.08.2020 of the CGRF, Patiala in Case No. CGP-169 of 2020 is set-aside. It is held that the account of the Appellant shall be overhauled for six months prior to 26.11.2019 (date of checking by the Enforcement) on the basis of energy consumption of the corresponding period of the succeeding year in terms of provisions contained in Regulation 21.5.2 (d) & (e) of Supply Code-2014. Accordingly, the Respondent is directed to recalculate the demand and refund/recover the amount found excess/short after adjustment, if any with surcharge/interest as per instructions of PSPCL. No compensation shall be payable to the Appellant as prayed for.

**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)

October 12, 2020 Lokpal (Ombudsman)

SAS Nagar (Mohali) Electricity, Punjab.