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

 **ELECTRICITY, PUNJAB,**

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

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

**APPEAL NO. 45/2020**

 **Date of Registration : 29.09.2020**

 **Date of Hearing : ­­21.10.2020**

 **Date of Order : 27.10.2020**

**Before:**

 **Er. Gurinder Jit Singh,**

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

**In the Matter of :**

 Tejwinder Singh,

 Advance Plastic Industries,

Single Cycle Road,

Dhandari Kalan,

Opposite Dhandari railway Station,

Ludhiana-141014.

**Contract Account Number: 3002957466**

 ...Appellant

Versus

Addl. Superintending Engineer,

DS Estate Division (Special),

PSPCL, Ludhiana.

 ...Respondent

**Present For:**

 Appellant : Sh. G.S. Mittal,

 Appellant’s Representative (AR).

Respondent : 1. Er. Mandeep Kumar,

 Assistant Executive Engineer,

DS Estate Division (Special),

 PSPCL, Ludhiana.

 2. Sh. Krishan Singh,

 Assistant Accounts Officer.

Before me for consideration is an Appeal preferred by the Appellant against the order dated 17.08.2020 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-229 of 2020, deciding that:

 *“Supplementary bill issued vide memo no. 485 dated 06.07.2020 for ₹ 2,56,205/- is quashed. The account of the Petitioner be overhauled for six months prior to date of change of meter i.e. 16.03.2020, as per Regulation 21.5.2 (a) of Supply Code-2014 with the consumption of corresponding period of previous year. Further, subsidized rates, as applicable, be applied while overhauling the account.”*

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

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 29.09.2020 i.e. within one month of receipt of the decision dated 17.08.2020 of the CGRF, Ludhiana in Case No. CGL-229 of 2020.The Appellant sent documentary evidence showing that the registered parcel (containing copy of decision dispatched by the Forum) was sent by Postal Departmenton 03.09.2020 and delivered to him on 04.09.2020. Besides, the Appellant had deposited ₹ 51,241/- on 14.07.2020 and ₹ 10,000/- on 19.09.2020 with the PSPCL. Thus, the Appellant deposited a sum of ₹ 61,241/- with the PSPCL which was more than 40% of the disputed amount of ₹ 1,30,704/-. Accordingly, the Appeal was registered and copy of the same was sent to the Addl. Superintending Engineer/DS Estate Division (Special), 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 nos. 908-10/OEP/A-45/2020 dated 30.09.2020.

**3.** **Proceedings**

With a view to adjudicate the dispute, a hearing was fixed in this Court on 21.10.2020 at 11.00 AM and intimation to this effect was sent to both the sides vide letter nos. 983-84/OEP/ A-45/2020 dated 15.10.2020. As scheduled, the hearing was held on 21.10.2020 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. 996-97/OEP/A-45/2020 dated 21.10.2020. The order was reserved on 21.10.2020 after hearing the arguments from both sides.

**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 29.09.2020, for consideration:

1. The Appellant was having a Medium Supply category electricity connection, bearing account no. 3002957466, with sanctioned load of 89.93 kW/CD-99.92 kVA in his name under DS Estate Division (Special), Ludhiana. The copy of the decision was dispatched by the Forum through registered parcel on 03.09.2020 and was delivered to the Appellant on 04.09.2020. Thus, the Appeal was filed within limitation period as required.
2. The LT Energy Meter installed at the premise of the Appellant was changed on a written request filed by the Appellant himself on 22.02.2020. As per checking report no. 31/3185 dated 04.03.2020, the ASE/ MMTS-5, Ludhiana reported that display of the Energy Meter installed at the premise was smoky/off and glass broken. No reading/no DDL/no parameters could be recorded. The meter was changed vide Device Replacement Application No. 100009883800 dated 13.03.2020 effected on 16.03.2020.
3. The removed meter was sent to ME Lab, Ludhiana vide Store Challan No. 104 dated 08.06.2020. In the ME Lab, the Energy Meter was found burnt. DDL and readings on AC/DC mode were not coming and accuracy of the meter could not be checked.
4. The Audit Party overhauled the account of the Appellant, vide Half Margin No. 66 dated 18.06.2020, from 02.07.2019 to 02.01.2020 (six months) on the basis of consumption of corresponding period of previous year and an amount of ₹ 2,56,205/- was charged to the Appellant.
5. The Appellant challenged the action of the Respondent in the CGRF, Ludhiana who after hearing quashed the demand on being found as unjustified and unfair. The Hon’ble Forum decided that instead of overhauling the account of the Appellant from 02.07.2019 to 02.01.2020 (period taken by Audit Party), the account be overhauled for six months prior to the replacement of Energy Meter i.e. 16.03.2020 as per Regulation 21.5.2 (a) of Supply Code-2014.
6. The unfair and unjustified amount of ₹ 2,56,205/- charged earlier was modified to ₹ 1,30,704/- as per revised notice issued by the Respondent vide its office letter No. 1964 dated 17.09.2020. But still the Forum erred in giving full relief to the Appellant.
7. The Forum allowed overhaulingof the account of the Appellant for six months before the change of Meter i.e. 16.03.2020 on the basis of consumption of corresponding period of previous year as per Regulation 21.5.2 (a) of Supply Code, 2014. The decision of the Forum was not in accordance with this regulation which prescribed that in case, the meter was burnt, the overhauling was only to be done for the period, the direct supply was given. Further, as per this regulation, overhauling of the account was for maximum 6 months. This meant that if under any circumstances, the Meter was not changed even within 6 months, then overhauling will be restricted to 6 months.
8. The Energy Meter was found burnt on 22.02.2020 on a complaint which was got registered by the Appellant himself and that meter was replaced on 16.03.2020 which meant the burnt Energy Meter remained installed only for 22 days. Therefore, the overhauling could only be done for 22 days instead of 6 months as per Regulation 21.5.2 of Supply Code-2014. Prior to this, the Appellant was being served with OK bills with actual consumption and no abnormality was noticed by any officer/checking authority of the Respondent. Therefore, no regulation allowed the Respondent to reverse its own bills which were served on the basis of OK status of the Meter.
9. The overhauling was done on the presumption that the consumption of the Appellant was less as compared to that of previous year and the Forum had not taken into account this fact that the fall in consumption was not due to burnt meter but this fall was continuous for the last four years due to less usage of energy and slump in market and less consumption was due to less production only as was evident that maximum demand recorded as per MDI was continuously on lower side to 40% every year. The fall in consumption was only due to market slump which was affecting badly the business for the last four years and question of overhauling the account on presumption that the Meter was recording less consumption was totally untrue, unfair and unjustified. As per ME Lab report, when accuracy could not be checked, then, how the Audit Party concluded that the meter was recording less consumption even without consulting the DDL or any checking report which showed that less energy was being recorded in Energy Meter.
10. The consumption of the Appellant after installation of new Meter was same as per data given below: -

Meter installed on 26.03.2020 with Initial Reading = 0

Reading as on 05.08.2020 = 5330 i.e. Consumption of 40 units per day

Thus, the consumption recorded by new Energy Meter was very much less than consumption of the removed Meter.

1. The fall was not only in consumption but there was considerable fall also in maximum demand recorded (MDI) due to less utilization of machinery/motive load as tabulated below:-

MDI recorded in 2016 = 77

MDI recorded in 2017 = 55

MDI recorded in 2018 = 40/55

MDI recorded in 2019 = 15

MDI recorded in 2020 = 15

From the perusal of the above data, fall in consumption as well as MDI was evident. Either some load was removed or some machinery was being used under load. Although, the Appellant had submitted before the Forum that some load was removed but the Forum observed that it was not reduced permanently. Actually, no such rules existed to show that load reduction was to be sanctioned rather the circumstances/conditions provided by the consumer about condition of less working was sufficient to prove the reason of low fall and for that purpose, the consumer cannot be made to get reduced demand/load sanctioned. Even, the consumer cannot be made to pay fixed charges for the entire period and using less load, was not harmful to PSPCL as the consumer thinks it more convenient to continue to pay fixed charges on unused contract demand to avoid so many formalities again for its extension. Therefore, the Appellant was also reluctant to get the CD reduced even knowing the fact that he was paying more but this was only in the hope for betterment in business. Moreover as per Regulation 21.5.3 of Supply Code-2004,there was no necessity to revise/reduce the CD but only it was required to mention the conditions of working which had a bearing on low computation of electricity consumption. Had the Forum considered the above regulation in true letter and spirit, the low consumption would have been given weightage and no need of overhauling the account would have arisen.

1. As per Regulation 21.5.2 of Supply Code-2014, same treatment in case of burnt meter was to be given as in the case of stolen meter. In case of burnt/stolen meter, where supply had been made direct, the account shall be overhauled for the period of direct supply subject to maximum period of six months and in case of stolen meter, the question of charging the average before the date of stolen meter did not arise and even the Audit Party/Respondent cannot give a single instance where the average of past period in stolen case was charged, then, how and under which regulation the burnt Meter case was given a different treatment with overhauling of account when it had been clearly laid down in Regulation as under: -

Regulation 21.5.2 of Supply Code, 2014

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

1. On the basis of energy consumption of corresponding period of previous year.
2. In case the consumption of corresponding period of the previous year as referred in para (a) above is not available the average monthly consumption of previous six (6) months during which the meter was functional, shall be adopted for overhauling of accounts.

The Court of Ombudsman had already decided similar cases as per Appeal No. 21/2019 and ordered as under:

“From the above analysis, it is concluded that account of the Petitioner for the period from 25.03.2017 to 12.04.2017 (the date of replacement of the Energy Meter) is required to be overhauled on the basis of energy consumption of corresponding period of previous year in terms of provisions of Regulation 21.5.2 (a) of Supply Code-2014.”

As per the above decision, the overhauling was allowed for the actual period, the Meter remained burnt and Appellant’s case was also similar to that in so far as principle of charging the average in case of Burnt Meter was concerned. Therefore, the Appellant prays for natural justice on this ground also.

1. Keeping in view the position explained above, it was requested that the Respondent be directed to levy average charges for burnt Meter for the period 22.02.2020 to 16.03.2020 for 22 days only as per Regulation 21.5.2 of Supply Code-2014.
2. The Appellant had also brought to the notice of Forum that Respondent had not updated correct security and no interest had been given w.e.f. 01.01.2008 as admissible under Rules. The Forum had given directions to the Appellant to approach the Refund Committee.
3. Updation of Security and not allowing interest was not only refund case but it was a grievance of the Appellant. Hence, decision of the Forum to approach Refund Committee was not correct. It fell under Dispute Settlement Committee as per provisions contained in Regulation 1.5 (g) of PSERC (Forum and Ombudsman) Regulations, 2016.
4. Chief Engineer/Commercial, Patiala had issued Memo No. 575/81/DD/SR-103 dated 21.09.2020 and the issue of non updation of consumer’s security had been viewed very seriously as Hon’ble PSERC, in its Tariff Order for the FY 2020-21 vide Direction No. 6.7 (i) had reiterated that PSPCL should ensure that no consumer was deprived of the right to get interest on security deposit as per the provisions of Supply Code-2014.
5. In view of the submission made above, it was prayed that the Respondent be directed to
6. charge average for the period, the Burnt Meter remained installed i.e. from 22.02.2020 to 16.03.2020 (22 days) instead of for six months as the Energy Meter was recording energy correctly before being declared burnt.
7. update the security as actually deposited instead of only ₹ 300/- and allow interest w.e.f. 01.01.2008 as admissible under Regulation 17.4 of Supply Code-2007 amended vide Regulation 17.3 of Supply Code-2014.
8. **Submissions in the Rejoinder**

 The Appellant’s Representative, vide e-mail dated 20.10.2020, made the following submissions in its Rejoinder to the written reply of the Respondent for consideration of this Court:

1. In its reply, the Respondent only admitted that an amount of ₹ 67,500/- as ACD/Security (Consumption) and ₹ 5,250/- as Security (Meter) was deposited vide A & A No. 41615 vide BA-16 No.418/3840. But inadvertently, the date of deposit of security had been mentioned as 21.10.2019.
2. Infact, this connection was approximate 10 years old and date of release of connection as per bill was 14.04.2010. Therefore, there appeared to be typographical mistake and needed correction from the original consumer case.
3. The Forum decided the case on 17.08.2020. But, the Respondent had failed to update the security although the period of more than two months had elapsed and no specific approval of any authority was required in updating the security of consumers.
4. Further, the Respondent had not explained its position as to what action had been taken for giving interest of past period. The same were not being released due to the lapses on the part of the Respondent.
5. The Respondent be directed to explain as on what date, the Appellant’s case had been referred to Refund Committee for approval of interest of past period and what more time was required to release the arrears.
6. Moreover, it may also be cleared under what rules, the Respondent was reluctant to not to release the interest arrears. For facility of this Court, rough calculations of interest amounting to ₹ 68,787/- which was payable may be got released now.
7. Submission of the case for approval of Refund Committee was only internal matter of the Respondent and there was no Supply Code regulation under which consumer should apply to the Refund Committee. If any such provision existed, then, this Court is to decide, for what purpose, Regulatory Authority had prescribed the regulations for consumers to get relief through CGRF/Ombudsman.
8. Therefore, it was prayed that the Respondent be directed to update the security and release the arrears in whatsoever approval/manner it was required alongwith all other relief as admissible under applicable regulations.
9. Rest of the paras of written reply of the Respondent was only repetition of the lines that the Forum had correctly decided the case. The Respondent had not explained as under what rules, Audit Party had overhauled the account only on the basis of less consumption when there was no evidence of any checking authority or ME lab. or any Field officer on the basis of which, it could be ascertained that the Meter was recording less energy. If any consumer was using less energy due to less work/business, itcould not be concluded that Meter was running slow or recording less energy. It was the duty of the Respondent, as per ESIM Instruction No. 104.7.2, to check energy variation cases if there was fall in consumption more than 20%**.**
10. Had this exercise been done by the competent officer of the PSPCL, the reason of less recording of energy consumption could have been easily traced out to the best satisfaction of the Respondent.
11. It was again submitted that the Meter was changed on the request of the Appellant on 22.02.2020. As per Checking Report No. 31/3185 dated 04.03.2020 of ASE/MMTS, the display of the meter was smoky/off and Meter was giving correct reading on 02.01.2020 as kWh 600391, kVAh 597980, MDI 15, PF 99% and OK status of Meter was being shown on bill served by the Respondent. Therefore, the same meter which was giving clear readings could not be declared as incapable of giving correct readings.
12. Keeping in view the facts as explained above, the average be charged from the last reading date when the Meter was recording actual reading.
13. **Submissions during Hearing**

During hearing, the Appellant’s Representative reiterated the submissions already made in the Appeal and also the Rejoinder to the written reply of the Respondent.

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

The Respondent, in its written replysent vide Memo No. 2412 dated 14.10.2020, made the following submissions, in its defence, for consideration of the Court:

1. The Appellant was having MS Category Connection with sanctioned load of 89.930 kW and CD as 99.920 kVA.
2. This connection was checked by ASE, MMTS-5, Ludhiana vide ECR No. 31/3185 dated 04.03.2020. During checking, it was found that the Energy Meter was burnt, display off, and no parameters could be recorded. This checking was done by MMTS on the intimation of AEE, Technical Unit 2, DS Estate Division (Special), Ludhiana.
3. The Energy Meter of the Appellant was changed vide DRA No.100009883800 dated 13.03.2020 effected on 16.3.2020. The removed Energy Meter was sent to ME Lab vide Store Challan No. 104 dated 08.06.2020 and the same was declared burnt. DDL and readings were not coming on AC DC mode. Accuracy of the Energy Meter could not be checked as per ME Lab report recorded in the Store Challan.
4. The account of the Appellant was overhauled from 02.07.2019 to 02.01.2020 vide Half Margin No. 66 dated 18.6.2020 and an amount of ₹ 2,56,205/- was chargedas per Regulation 21.5 of Supply Code-2014 on the basis of average consumption of the preceding year for the same months consumption. Accordingly, the Appellant was served with a Supplementary Bill-cum-Notice vide Memo No. 485 dated 06.07.2020.
5. The Appellant approached the CGRF, Ludhiana for relief. The Forum decided the case on 17.08.2020 whereafter, a Memo bearing no. 1964 dated 17.09.2020 was issued to the Appellant intimating the revised amount recoverable as ₹ 1,30,704/-.
6. The Forum correctly decided the case, vide order dated 17.08.2020, to overhaul the account for six months prior to the date of change of the Energy Meter as per Regulation 21.5.2 (a) of Supply Code-2014 by taking consumption of corresponding period of previous year at subsidized rate.
7. The Forum observed that the contention of the consumer to overhaul the period of direct supply was not maintainable as no direct supply was given to the consumer.
8. As per SAP record (SAP sheet), R code appeared on 04.03.2020.The Addl. SE, MMTS 3, Ludhiana was intimated telephonically about burnt Meter by AEE T-2, DS Estate Division (Special). MMTS checked the Meter at site vide ECR No. 31/3185 dated 04.03.2020 and reported that the disputed Meter was smoky, display off and glass broken.
9. The Meter was replaced on 16.03.2020 and sent to ME lab Ludhiana vide Store Challan No. 104 dated 08.06.2020 by Er. Surjeet Singh AAE and was checked by ME Lab in his presence and he had signed the Store Challan. Regarding the consent of the consumer to test the disputed meter in ME lab in his absence, it was not known as to whether the consumer had given the consent or not 'as told by AAE'. The consumer had signed the DRA No. 100009883800 dated 13.03.2020 and ECR No. 31/3185 dated 04.03.2020.
10. The contention of the consumer that the decrease in the consumption was due to slump in market was not maintainable as he had not submitted any proof regarding less production/work.
11. The consumption, after change of Energy Meter related to lockdown affected period and the same could not be compared to the consumption for the year 2019 and that of 1/2020 and 2/2020.
12. The Forum rightly decided to direct the Appellant to refer the case to Refund Committee for refund of Securities.
13. As the consumer’s case was not readily traceable, his ACD/Security (Consumption) and Security (Meter) could not be updated as per instructions dated 15.05.2019 issued by Chief Engineer/Commercial, PSPCL, Patiala. As per Service Register, the consumer had applied for new connection vide A & A No. 41615 dated 21.10.2019 by depositing ₹ 67,500/- as Security (Consumption) and ₹ 5,520/- as Security (Meter) vide BA-16 No. 418/3840 dated 21.01.2019 and the same had been updated in SAP system.
14. In view of the submissions made, the Appeal may be dismissed.
15. **Submission during Hearing**

Before the start of hearing on 21.10.2020, the Respondent submitted letter no. 2493 dated 20.10.2020 in reply to information sought for by this office vide letter no. 963/OEP/ A-45/2020 dated 12.10.2020, followed by reminder vide letter nos. 983-84 dated 15.10.2020. During hearing, the Respondent reiterated the submissions made in the written reply and contested the written and oral averments made by the Appellant’s Representative.

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

The issues requiring adjudication are the legitimacy of

1. overhauling the account of the Appellant for a period of six months prior to the replacement of the disputed Energy Meter i.e. 16.03.2020 on the basis of consumption of corresponding period of previous year.
2. updation of Security (Consumption) and Security (Meter) actually deposited by the Appellant and allowing interest thereon as per applicable regulations.

*My findings on the above issues deliberated and analyzed are as under:*

**Issue (i)**

1. This issue relates to the prayer of the Appellant to overhaul its account, due to the burning of the Energy Meter installed at its premise, for the period from 22.02.2020 to 16.03.2020 (when the burnt Energy Meter was replaced) instead of six months prior to replacement of burnt Energy Meter on 16.03.2020 as decided by the Forum.
2. The Appellant’s Representative stated in the Appeal that the Energy Meter, installed at the premise of the Appellant, was replaced on a written request made by the Appellant on 22.02.2020.

I find that copy of the said written request was not attached with the present Appeal. However, the Appellant’s Representative, on being asked during hearing on 21.10.2020, submitted a copy of letter dated 22.02.2020 addressed to the Xen, PSPCL, Giaspura, Ludhiana. The said letter, bearing the acknowledgment of some official, was shown to the representatives of the Respondent who stated that the letter was not received in the diary of the Divisional office.

I also find that the Respondent, vide its letter no. 2493 dated 20.10.2020 (in response to this office letter nos. 963/OEP/A-45/2020 dated 12.10.2020 and 983-84/OEP/ A-45/2020 dated 15.10.2020) intimated that no application for change of Burnt Energy Meter was received from the Appellant. The Respondent also intimated that the connection of the Appellant was checked in his presence on 04.03.2020 by the MMTS on telephonic request by AEE/Technical, Unit-2, DS Estate Division (Special), PSPCL, Ludhiana. The Respondent also stated that written consent for checking of the disputed Energy Meter in M.E. Lab was not obtained from the Appellant.

1. As per material on record, the Energy Meter installed at the premise of the Appellant was checked by the Addl. S.E., MMTS-5, PSPCL, Ludhiana vide ECR No. 31/3185 dated 04.03.2020 as per which, it was reported that Display of the meter was smoky/off and broken glass was found. Directions were given to change the meter. Readings of parameters could not be taken. DDL of burnt meter was not taken.

Thereafter, the said Energy Meter was replaced vide Device Replacement Application No. 100009883800 dated 13.03.2020 effected on 16.03.2020. The removed Energy Meter was sent to M.E. Lab. vide Store Challan No. 104 dated 08.06.2020. M.E. Lab, in its checking report recorded on the Store Challan, reported as under:

“DDL ਅਤੇ AC & DC ਮੋਡ ਤੇ ਰੀਡਿੰਗ ਨਹੀਂ ਆ ਰਹੇ, ਮੀਟਰ ਸੜਿਆ ਹੈ, ਐਕੁਰੇਸੀ ਨਹੀ ਹੋ ਸਕਦੀ।”

The Audit Party, vide Half Margin No. 66 dated 18.06.2020, overhauled the account of the Appellant for the period from 02.07.2019 to 02.01.2020 on the basis of consumption of corresponding period of previous year. Accordingly, the Appellant was served with a Supplementary Bill-Cum-Notice by the Respondent vide Memo No. 485 dated 06.07.2020 charging a sum of ₹ 2,56,205/- to him. Aggrieved, the Appellant approached the CGRF, Ludhiana who, vide order dated 17.08.2020, directed to overhaul the account of the Appellant for six months prior to replacement of the disputed Energy Meter on 16.03.2020 on the basis of energy consumption of corresponding period of previous year. The Forum also directed that subsidized Tariff Rates, as applicable, will be applied while overhauling the account of the Appellant. Accordingly, the Respondent overhauled the account of the Appellant and issued letter no. 1764 dated 17.09.2020 intimating the revised amount recoverable as ₹ 1,30,704/-.

d) The Appellant’s Representative contended that the Forum allowed overhauling of the account of the Appellant for six months before the change of Meter i.e. 16.03.2020 on the basis of consumption of corresponding period of previous year as per Regulation 21.5.2 (a) of Supply Code, 2014. The decision of the Forum was not in accordance with this Regulation which prescribed that in case, the meter was burnt, the overhauling was only to be done for the period, the direct supply was given. Further, as per this Regulation, overhauling of the account was for maximum 6 months. This meant that if under any circumstances, the Meter was not changed even within 6 months, then, overhauling will be restricted to 6 months.The Energy Meter was found burnt on 22.02.2020 on a complaint which was got registered by the Appellant himself and that meter was replaced on 16.03.2020 which meant the burnt Energy Meter remained installed only for 22 days. Therefore, the overhauling could only be done for 22 days instead of 6 months as per Regulation 21.5.2 of Supply Code-2014. Prior to this, the Appellant was being served with OK bills with actual consumption and no abnormality was noticed by any officer/ checking authority of the Respondent. Therefore, no Regulation allowed the Respondent to reverse its own bills which were served on the basis of OK status of the Meter. The overhauling was done on the presumption that the consumption of the Appellant was less as compared to that of previous year and the Forum had not taken into account this fact that the fall in consumption was not due to burnt meter but this fall was continuous for the last four years due to less usage of energy and slump in market and less consumption was due to less production only as was evident from the fact that maximum demand recorded as per MDI was continuously on lower side to 40% every year. The fall in consumption was only due to market slump which was affecting badly the business for the last four years and question of overhauling the account on presumption that the Meter was recording less consumption was totally untrue, unfair and unjustified. As per ME Lab report, when accuracy could not be checked, then, how the Audit Party concluded that the meter was recording less consumption even without consulting the DDL or any checking report which showed that less energy was being recorded in Energy Meter.

 I find that the Respondent did not give any valid justification/evidence to establish that the overhauling of the Appellant’s account in the present dispute by the Audit Party or the Forum was in accordance with applicable regulations/ instructions. The Respondent simply submitted that the directions for overhauling the disputed account were given by the Audit Party and subsequently by the Forum taking into consideration the presumption that the meter was running slow/defective and resultant fall in energy consumption recorded during the period prior to the Energy Meter getting burnt.

e) A perusal of the oral and written submissions made by both the sides alongwith theevidence brought on record by both the sides reveals that status of the disputed Energy Meter upto issuance of bill dated 20.01.2020 (with date of reading as 02.01.2020) was OK but in the bill dated 09.03.2020 (for the period 02.01.2020 to 04.03.2020), status of the disputed Meter was ‘R’ Code. The disputed Energy Meter, on being checked at site by MMTS on 04.03.2020 and also by the ME Lab. on 08.06.2020 was reported/declared burnt. As such, the provisions contained in Regulation 21.5.2 of Supply Code-2014 are relevant in the present context but the same were applied/interpreted incorrectly. However, the same are reproduced below:

***“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 months. 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.”*

After carefully perusing the above provisions, there is no reason to disagree with the submission of the Appellant in its rejoinder that its account is required to be overhauled for the period from 02.01.2020 (date of reading when the meter was OK) to 16.03.2020 (date of change of Burnt Energy Meter) on the basis of energy consumption recorded during the corresponding period of previous year when the status of the said Energy Meter remained OK in terms of provision of Regulation 21.5.2 (a) of Supply Code-2014 reproduced above. Further for overhauling the account of the Appellant for the period from 02.01.2020 to 16.03.2020, tariff as applicable at that point of time shall be applied/charged. Thus, this issue is decided in favour of the Appellant.

 f) It is observed that the Respondent defaulted in complying with the provisions contained in Regulation 21.4.1 of Supply Code- 2014 which reads as under:

“*In case a consumer’s meter becomes defective/dead stop or gets burnt, a new tested meter shall be installed within the time period prescribed in Standards of Performance on receipt of complaint [or detection by the distribution licensee]. If the meter is burnt due to reasons attributable to the consumer, the distribution licensee shall debit the cost of the meter to the consumer who shall also be informed about his liability to bear the cost. In such cases the investigation report regarding reasons for damage to the meter must be supplied to the consumer within 30 days. However, supply of electricity to the premises shall be immediately restored even if direct supply is to be resorted to, till such time another tested meter is installed.”*

 The Respondent may ensure in future that necessary compliance of the above provisions is invariably made so that reasons for the meters getting burnt are known to the licensee and the consumer as well.

 g) The Respondent did not keep a watch on the variations in energy consumption of the connection of the Appellant as per instructions of PSPCL. Had the Respondent monitored the variations in the energy consumption of the Appellant, its apprehension about the Meter running slow/defective prior to 02.01.2020 could have been cleared/removed.

**Issue (ii)**

This issue relates to the prayer of the Appellant to issue directions to the Respondent to update the Security (Consumption) and Security (Meter) apart from allowing interest thereon as per applicable regulations.

 I observe that the Appellant had not raised this issue in its Petition No. CGL-229 of 2020 filed in CGRF, Ludhiana. Accordingly, the Appellant cannot prefer its Appeal for this purpose/issue in the Appellant Court when he did not seek appropriate remedy in the appropriate body that is Forum. This is, however, without prejudice to his right to approach the Respondent (PSPCL) for redressal of its grievance in this regard. This issue is disposed off accordingly.

**7.** **Decision**

As a sequel of above discussions, the order dated 17.08.2020 of the CGRF, Ludhiana in Case No. CGL-229 of 2020 is set-aside. It is held that:

1. The Account of the Appellant shall be overhauled for the period from 02.01.2020 (date of reading when meter was OK) to 16.03.2020 (date of change of burnt Energy Meter) on the basis of energy consumption recorded during the corresponding period of previous year when the status of the Energy Meter remained OK in terms of provision of Regulation 21.5.2 (a) of Supply Code-2014. For overhauling the Appellant’s account for the period from 02.01.2020 to 16.03.2020, tariff as applicable at that point of time shall be applied/charged. 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.
2. The plea of the Appellant for issuing direction for updation of Securities deposited and allowing interest thereon is not maintainable as the Appellant did not raise this issue through its Petition in the CGRF, Ludhiana who also did not pass any order in this regard.

**8**. The Appeal is disposed off 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 27, 2020 Lokpal (Ombudsman)

 SAS Nagar (Mohali) Electricity, Punjab.