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

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

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

 **APPEAL NO. 59/2020**

**Date of Registration : 10.12.2020**

**Date of Hearing : 16.12.2020 and 06.01.2021**

**Date of Order : 11.01.2021**

**Before:**

**Er. Gurinder Jit Singh,**

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

**In the Matter of:**

Jasjeet Kaur

C/o M/s. H.S. Nagi,

Village Phamra Abadi,

Harvinder Nagar, Bahadurke Road,

 Ludhiana,

 **Contract Account Number:3002961579 (Old)**

 **3005865154 (New)**

…Appellant

 Versus

Addl. Superintending Engineer,

DS City West Division (Special),

PSPCL, Ludhiana.

 ...Respondent

**Present For:**

Appellant : Sh. Parvesh Chadha,

 Appellant’s Representative (AR).

Respondent : Er. Ramesh Kaushal,

 Addl. Superintending Engineer,

 DS City West Division (Special),

PSPCL, Ludhiana.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 19.10.2020 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-238 of 2020, deciding that:

*“i The a/c of the Petitioner be overhauled from 05.03.2019 to 08.07.2019 i.e. date of change of meter on the basis of energy consumption of corresponding period of previous year as per Reg. 21.5.2(a) of Supply Code-2014.*

*ii Further, the adjustment of Govt. subsidy was not done by the audit party in his half margin, be adjusted now.*

*iii Further Petitioner is directed to get the change of name done immediately failing which Respondent is at liberty to take action as per instructions of the Corporation.”*

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

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 26.11.2020 i.e. within one month of receipt of the decision dated 19.10.2020 (sent by office of the CGRF, Ludhiana vide Memo No. 2992/CGL-238/2020 dated 20.10.2020) on 26.10.2020. The Appellant submitted copy of receipt no. 151044895 dated 13.11.2020 for ₹ 53,437/- and receipt no. 253760161584 dated 09.07.2020 for ₹ 53,437/-. It was observed that change in name of consumer was not yet effected despite directions given by the Forum in its decision. Besides, the Appellant had also not deposited the requisite 40% of the disputed amount. Accordingly, the Appellant was directed vide letter no. 1138-39 dated 26.11.2020 to comply with the observation about change of name and deposit of the balance amount. In response, the Appellant’s Representative intimated, vide e-mail dated 10.12.2020, that balance amount of ₹ 13,232/- had been deposited vide receipt no. 151814172 dated 02.12.2020 to complete the requisite 40% of the disputed amount. He also stated that the documents of change in name of connection had been submitted to the Respondent for necessary action. Accordingly, the Appeal was registered on 10.12.2020 to provide opportunity to the Appellant to get the change in name of connection effected and to confirm/provide evidence that requisite 40% of the disputed amount had been deposited with the PSPCL. A copy of the Appeal was, then, sent to Addl. S.E./DS City West Division (Special), PSPCL, Ludhiana for offering comments on the compliance done by the Appellant (regarding change of name and deposit of balance of 40% amount) with a copy to the office of the CGRF, Ludhiana for sending the case file under intimation to the Appellant vide letter nos. 1194-1195/OEP/A-59/2020 dated 10.12.2020. In the aforesaid letters, it was conveyed to both the sides that a pre-hearing would be held on 16.12.2020 at 12.00 Noon with the directions to attend the same.

**3.** **Proceedings**

(i) As per intimation sent to both the sides, vide letter nos. 1194-95/OEP/A-59/2020 dated 10.12.2020, the pre hearing was held in this court on 16.12.2020. Copies of the minutes of the proceedings were sent to the Appellant and the Respondent vide letter nos. 1220-21/OEP/A-59/2020 dated 16.12.2020.

(ii) A regular hearing was fixed for 23.12.2020 but the same was adjourned to 06.01.2021 on the request of the Appellant’s Representative. Both the sides were informed accordingly vide letter nos. 1256-57 dated 24.12.2020 with the direction to attend the Court on the said date & time and also ensure that change in name of the connection was effected before that date.

(iii) In the hearing held on 06.01.2021, the representatives of both the sides attended the Court. A copy of the minutes of the proceedings was sent to both sides vide letter nos. 11-12 /OEP/A-59/2020 dated 06.01.2021.

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

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

1. **Submissions of the Appellant**

**(a) Submissions made in the Appeal**

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

1. The Machinery was shifted to new connection obtained in LS Category bearing account no. 3005084381. No load was checked physically to authenticate the plea of shifting of load from the site. No LCR was prepared before replacing the defective meter. The meter was replaced as per report of meter checked by EA & MMTS-2, PSPCL, Ludhiana in a joint raid in compliance to replacement of Non DLMS meters with DLMS meters.
2. The plea of the Respondent in the reply that the Appellant had not reduced the load was not correct. It was necessary to reduce the load but it was kept pending for future planning. The load was not running full which stood authenticated from the MDI readings as under:

|  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Meter Reading Date | MDI | Units Consumed kVAh | Days | Meter ReadingEnd Date | MDI | Units Consumed kVAh | Days | MeterReading End Date | MDI | Units Consumed kVAh | Days |
| 24.01.18 | 37.06 | 8290 | 33 | 05.01.19 | 44.20 | 22657 | 31 | 08.01.20 | 22.59 | 3876 | 29 |
| 23.02.18 | 41.14 | 35571 | 29 | 05.02.19 | 46.52 | 22608 | 31 | 09.02.20 | 14.05 | 1625 | 32 |
| 23.03.18 | 38.04 | 21717 | 28 | 05.03.19 | 17.96 | 18812 | 28 | 09.03.20 | 22.66 | 3979 | 29 |
| 24.04.18 | 39.05 | 16420 | 32 | 05.04.19 | 17.90 |  207 | 31 | 08.04.20 |  1.37 | 2778 | 30 |
| 24.05.18 | 28.7 | 18234 | 30 | 06.05.19 | 27.84 |  2667 | 31 | 08.05.20 | 14.00 |  773 | 30 |
| 22.06.18 | 45.28 | 19674 | 28 | 05.06.19 | 46.52 | 15629 | 30 | 08.06.20 |  27 | 4620 | 31 |
| 24.07.18 | 45.06 | 24070 | 32 | 22.06.19 | 46.52 |  8857 | 17 | 09.07.20 |  29.8 | 9683 | 31 |
| 24.08.18 | 42.56 | 26952 | 31 | 23.06.19 | 0.00 | mco |  1 | 08.08.20 |  28.1 | 4144 | 30 |
| 24.09.18 | 21.92 | 32283 | 31 | 10.07.19 | 0.00 |  286 | 17 | 08.09.20 |  28 | 5570 | 31 |
| 24.10.18 | 41.24 | 20393 | 30 | 05.09.19 | 17.49 |  6611 | 57 | 08.10.20 |  25.3 | 4534 | 30 |
| 23.11.18 | 36.88 | 16695 | 30 | 10.10.19 | 27.68 |  4723 | 35 | 08.11.20 |  24.7 | 5222 | 31 |
| 24.12.18 | 38.42 | 21104 | 31 | 06.11.19 | 23.50 |  3572 | 27 |  |  |  |  |
|  |  |  |  | 10.12.19 | 26.90 |  4159 | 34 |  |  |  |  |

1. The Meter Reader (JE), while recording readings recorded 1st ‘D’ Code on 05.06.2019 and 2nd ‘D’ Code on 22.06.2019. JE was more responsible than a common Meter Reader to note every point while recording readings. During the reading recorded on 05.03.2019 as 17.96 kVA & consumption as 18812 kVAh and in the last year, MDI was 44 kVA and consumption was 35571 kVAh and status was OK. Similarly, in the next month, reading of MDI was 17.90 kVA and consumption was 207 units and status was OK. The MDI of new installed meter varied from 17.69 to 29.08 as the machinery was shifted and consumption was low as compared to the consumption of 2018.
2. The Respondent, in the reply, was not sure about the defect of meter as the meter seemed to be defective as the consumption was low in 02/2019. The Respondent had not maintained variation in consumption register as per ESIM Instruction No. 104.7 and instructions issued vide memo no. 399/407/DD/SR-93 dated 19.07.2018 by PSPCL on being pointed out by the Ombudsman:

*“All the ASEs/Sr. Xens to keep a vigil on the variations in the energy consumption recorded and available in SAP in respect of all categories of consumers within their respective jurisdiction, analyse the cases of abnormal decrease in consumption of current vis-a-vis previous month(s) and take immediate corrective action, wherever required, with a view to protect the interests of both the utility and the consumers.”*

1. The EA/MMTS always downloaded the DDL during the checking but as per ECR no. 30/276 dated 04.07.2019, no such remarks were recorded. DDL print should be called for as the Forum had not called for the same before deciding the matter.
2. The DDL may be provided at the cost of the Appellant from the Manufacture HPL to ascertain the exact date of defect. It was prayed that the order of the Forum be set aside and defective period be charged as per Supply Code-2014 Regulation 21.5.2 (d) for the sake of justice.
3. The Punjab Govt. Subsidy was not adjusted by Audit as well as Respondent, the same may be provided. The change of name of connection had been applied with PSPCL by depositing ₹ 37,600/- vide receipt no. 212500346897 dated 19.11.2020.
4. **Submissions in Rejoinder to written reply**

The Appellant’s Representative, in its rejoinder sent vide e-mail on 04.01.2021, stated as under:

1. The recalculation done by the Respondent as per decision of the Forum was not acceptable for amount of ₹ 3,00,264/-. The Respondent was not sure on which date, the meter was Defective/Dead Stop. The Appellant was informed by the Respondent that meter was defective due to low consumption. No such investigation was made in regard to low consumption and Appellant was not called for before charging the said amount.
2. The Govt. Subsidy rates were correct but the period was not acceptable.
3. As per requirement, fresh affidavit for Change of Name from M/s. H.S. Nagi (original consumer) to Smt. Jasjeet Kaur (Appellant) was submitted in Sub Divisional Office on 22.12.2020. The original receipts of Security (Consumption) and Security (Meter) were not available but M/s. H.S. Nagi had mentioned this in its affidavit that it would not claim Security in case, the same were traced in future.
4. JE added the Meter “D” code on 05.06.2019 but no action was taken. The Enforcement checking was done on 04.07.2019 and the meter was replaced on 08.07.2019 but the DS office showed it on 22.06.2019 against DRA No. 10000547714 dated 22.06.2019. The billing system was bogus. The Respondent had not checked the load and stated that billing was on kVAh DEMAND Basis.
5. The basis of billing was MDI. It was not in the knowledge of Appellant that an intimation to PSPCL/office was necessary before shifting of machinery. There was actually co-relation between shifting of load and demand recorded in the premises. The reason behind LOW consumption was of shifting of machinery and not the defectiveness in meter. The Appellant could not be charged on assumption basis. The MDI showed the authenticity of shifting of load. The new installed meter recorded less DEMAND as compared to old meter.
6. During the 2 months period, meter was OK and concerned JE recorded readings and MDI with ‘O’ code. The Respondent always got verification from JE by considering that JE was more responsible than other employees before any type of complaint like wrong reading, meter defect, meter burnt, meter missing etc. How he put wrong code? In the Appellant’s case, JE recorded OK code till 24.05.2019. The PSPCL cannot charge average of OK period.
7. PSPCL could not charge average on assumption of defective meter due to low consumption. Average can only be charged on authenticity either by checking agency, ME Lab, DDL of the meter. The Respondent had not replied to the point raised as per orders/instruction of the Ombudsman Electricity, Punjab circulated by PSPCL vide Memo No. 399/407/DD/SR-93 dated 19.07.2018. The Respondent also failed to act as per Instructions of ESIM applicable before charging the amount to the Appellant.
8. As per instructions to download data before replacement of Meter of MS category, lapse in this checking resulted in LOSS to Appellant. DDL was not down loaded by the Enforcement and in ME Lab, it was also not done. The reply that “Meter display was defective, so, data could not be downloaded” was not justified as the DDL had no relation with display. DDL and display of meter both function individually.
9. When a meter was under dispute and the case was pending in the Forum, how a meter could be surveyed off/dismantled? The Respondent needed to provide copy of ME challan against which, it was got surveyed off. There was a certificate on the challan that there was no court case/dispute case against its Meter. A certificate to this effect about nothing was pending was given by AEE/Comm. and RA. The evidence had been eliminated to get the actual date of defect.
10. The decision of the Forum was not on the basis of proper record and was required to be set aside. The calculation of the amount charged was correct but not accepted as the period for which, charges were levied was not correct.
11. The Appellant’s Representative submitted during the hearing on 16.12.2020 that the previous owner/consumer was out of station and will be back on 20.12.2020, as such, compliance as ordered by this Court was not done on 18.12.2020. Fresh affidavits of M/s. H.S. Nagi & Smt. Jasjeet Kaur (Appellant) were prepared and got notarised on 21.12.2020 and submitted on 22.12.2020. The copies were also e-mailed to this Court and the Respondent on the same time to verify the authenticity of the said submission.
12. The Change of Name was under process till 04.01.2021, file was with AEE/Tech-2, City West Division, Ludhiana. It was requested that Appeal may be decided for the justice.
13. **Submissions during hearing**

During hearing on 06.01.2021, the Appellant’s Representative reiterated the submissions made in the Appeal/Rejoinder and prayed to allow the same.

1. **Submissions of the Respondent**

**(a) Submissions in written reply**

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

1. As per decision of the Forum, account of the Appellant was overhauled from 05.03.2019 to 08.07.2019 and an amount of ₹ 3,00,264/- was recoverable vide Notice bearing no. 808 dated 02.11.2020.
2. The calculation had been done afresh considering Govt. subsidy and units to be recovered were 50044 for the period 05.03.2019 to 08.07.2019. The amount calculated was ₹ 3,00,264/-.
3. Affidavit from M/s. H.S. Nagi giving NOC for change of name to Jasjeet Kaur was received but BA-16 Receipt at the time of obtaining connection was not available.
4. The Meter installed at the premises of the Appellant was checked by Sr. Xen/MMTS-2, Phagwara in compliance of drive launched for conversion of Non DLMS meters to DLMS meters. Therefore, the connection was not checked against defective meter and MCO No. 10000547714 dated 22.06.2019 was issued with the reason “PSPCL initiated”. So, connected load of the connection had not been checked. Otherwise also, it was being billed under kVAh Tariff (Demand Based) under MS Category.
5. The consumer had not submitted any intimation (as per record) about transfer of the machinery from one premises to another premises. It cannot be ascertained from reduction of MDI alone that consumer had shifted machinery from one premises to another premises. So, there was no co-relation between the reduction of load/demand at site and low MDI recorded in this case. Therefore, no benefit of doubt can be given to the consumer on this pretext.
6. The period of 2 months was not sufficient in this case to ascertain that machinery was shifted and consumption was low as compared to consumption of 2018. Furthermore, no intimation was received from the consumer in this regard.
7. According to above, the meter seemed to be defective in 02/2019 pertained to low consumption and MDI recorded in the same month, which was justifiable from the reading taken by JE on 05.03.2019.
8. The checking was done by Sr. Xen/MMTS-2, Phagwara to replace NON DLMS meter whose display was found defective while checking. So, data could not be downloaded and Non DLMS meter was replaced with DLMS meter.
9. As inquired from ME Lab. Ludhiana, meter had been surveyed off/dismantled by the concerned office as per the regulations of PSPCL.
10. The amount calculated net of Govt. Subsidy was as under:

|  |  |  |  |
| --- | --- | --- | --- |
| Particulars  | Units | Rate | Amount |
|  | 50044 | 5.80 | 290255 |
| Less : Govt. Subsidy | 0.80 | -40035 |
| Amount to be charged  |  |  | 250220 |
|  |  |  |  |
| Taxes@ 20% |  |  | 50044 |
| Amount Recoverable (After adjusting Govt. Subsidy) |  |  | 300264 |

As per direction given by this Court, Appellant was to submit his relevant /valid documents in the office by 18.12.2020 for change of name because applicant was not a bonafide consumer of PSPCL on the date of filing the Appeal as per record. The application for change of name had not been received till date 21.12.2020 in office of the Respondent.

**(b) Additional submissions of Respondent**

In response to letter no. 1138-39/OEP/A-2020 dated 26.11.2020, the Respondent, vide memo no. 6143 dated 14.12.2020, intimated that:

1. A sum of ₹ 3,00,264/- was recoverable from the Appellant as per decision of the Forum. The Appellant had deposited ₹ 1,20,106/- (₹ 53,437 on 09.07.2020, ₹ 53,437 on 13.11.2020 and ₹ 13,232/- on 02.12.2020) on account of the requisite 40% of the said disputed amount.

(ii) While submitting the request for the change of name of the consumer, the Appellant submitted a statement of Smt. Jasjeet Kaur (Appellant) for transfer of security deposited by M/s. H.S. Nagi (original owner). This statement was not correct since the premises was sold by M/s. H.S Nagi to Sh. Raj Kumar and his wife, Ms. Monika. Subsequently, the said premises was sold by Sh. Raj Kumar to Smt. Jasjeet Kaur.

(iii) Therefore, NOC was required from Sh. Raj Kumar and Smt. Monika by Smt. Jasjeet Kaur for transfer of security.

(iv) Besides, receipt of BA 16 for the security deposited by M/s. H.S. Nagi was also required for keeping necessary note in the relevant record to ensure that security was not claimed again by anyone in future.

(v) After completion of these formalities, the change in the name of the consumer would be effected in records of PSPCL.

**(c) Submission during hearing**

During hearing on 06.01.2021, the Respondent reiterated the submissions made in the written reply and prayed to dismiss the Appeal. It was clarified by the Respondent that the connection had been changed in the name of Mrs. Jasjeet Kaur with Contract Account No. 3005865154.

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

The issue requiring adjudication is the legitimacy of overhauling the account of the Appellant for the period from 05.03.2019 to 08.07.2019 (date of replacement of Energy Meter) with adjustment of Government Subsidy as per applicable regulations/instructions.

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

1. As per material on record, a Medium Supply category connection with sanctioned load of 89.930 kW and contract demand as 99.920 kVA was running at the premises of the Appellant. The said connection, bearing Account No. 3002961579 originally in the name of M/s H.S. Nagi, was subsequently got transferred in the name of Smt. Jasjeet Kaur (Appellant) and was allotted Account No. 3005865154 on 05.01.2021. While recording reading of the Energy Meter, ‘D’ Code was recorded by the Meter Reader first on 05.06.2019 and again on 22.06.2019. As a result, the said Energy Meter was replaced vide Device Replacement Application No. 100008467714 dated 22.06.2019 (mentioning that change of meter was ‘PSPCL initiated’). In the meantime, Sr. Xen, MMTS-2, Phagwara checked the connection vide Checking Report No. 30/276 dated 04.07.2019 as per which, it was reported that:

“ਮੀਟਰ Non DLMS ਹੈ ਨਿਗਮ ਦੀਆਂ ਹਦਾਇਤਾ ਅਨੁਸਾਰ DLMS ਮੀਟਰ ਨਾਲ ਮੀਟਰ ਬਦਲੀ ਕੀਤਾ ਜਾਵੇ । ਉਤਾਰੇ ਮੀਟਰ ਨੂੰ ME Lab ਤੇ ਮੁੰਕਮਲ ਜਾਂਚ ਚੈਕ ਕਰਵਾਉਨ ਉਪਰੰਤ ME Lab ਨੂੰ ਵਾਪਸ ਕੀਤਾ ਜਾਵੇ । ਨਿਗਮ ਦੀਆਂ ਹਦਾਇਤਾ ਅਨੁਸਾਰ ਬਣਦੇ ਸਮੇ ਦਾ ਖਾਤਾ ਸੋਧ ਕੇ ਇੱਸ ਦਫਤਰ ਨੂੰ ਸੂਚਿਤ ਕੀਤਾ ਜਾਵੇ ।”

The removed Energy Meter was checked in ME Lab vide Store Challan No. 210 dated 25.07.2019 whereby, it was reported that:

“ਮੀਟਰ ਡੈਡ ਸਟਾਪ ਹੈ, ਐਕੁਰੇਸੀ ਨਹੀ ਹੋ ਸਕਦੀ, DDL ਅਤੇ AC/DC ਮੋਡ ਤੇ ਰੀਡਿੰਗ ਨਹੀ ਆ ਰਹੀ ।”

In view of the above, the account of the consumer was overhauled by the Audit Party vide Half Margin No. 363 dated 05.02.2020 for the period from 05.03.2019 to 06.05.2019 and a sum of ₹ 2,67,187/- was charged . Accordingly, a Notice bearing No. 57 dated 10.02.2020 was issued by the AEE/Commercial, DS West Division (Special), Ludhiana and the amount was charged in the bill for 6/2020. Aggrieved, the Appellant approached the office of CGRF, Ludhiana in 7/2020. After hearing both the sides, the Forum decided on 19.10.2020 that the A/c of the consumer be overhauled from 05.03.2019 to 08.07.2019 i.e. date of change of meter on the basis of energy consumption of corresponding period of previous year as per Reg. 21.5.2 (a) of Supply Code-2014. The Forum also decided that adjustment of Govt. subsidy which was not done by the Audit Party in its Half Margin, be adjusted now.

In compliance to the decision of the Forum, the account of the consumer was overhauled and a sum of ₹ 3,00,264/- after adjustment of Government Subsidy was found recoverable as per Notice bearing No. 808 dated 02.11.2020.

1. The Appellant’s Representative argued that the recalculation as per decision of the Forum was not acceptable for the amount of ₹ 3,00,264/-. The Respondent was not sure on which date, the meter was Defective/Dead Stop. The Appellant was informed by the Respondent that meter was defective due to low consumption. No such investigation was made in regard to low consumption and Appellant was not called for before charging the said amount. The rate of Govt. Subsidy was correct but the period was not acceptable. JE added the Meter “D” code on 05.06.2019 but no action was taken. The Enforcement checking was on 04.07.2019 and the meter was replaced on 08.07.2019 but the DS office showed it on 22.06.2019 against DRA No. 100008467714 dated 22.06.2019. The billing system was bogus. The Respondent had not checked the load and stated that billing was on kVAh DEMAND Basis. The Respondent always got verification from JE by considering that JE was more responsible than other employees before any type of complaint like wrong reading, meter defect, meter burnt, meter missing etc. How he put wrong code? In the Appellant’s case, JE recorded OK code till 24.05.2019. As such, the PSPCL could not charge average of OK period and also could not charge average on assumption for defect, if any, due to low consumption. Average can only be charged on authenticity either by checking agency, ME Lab, DDL of the meter. The Appellant’s Representative prayed to set aside the decision of the Forum and allow charging the Appellant for the actual period of defect as per material on record.
2. With a view to adjudicate the present dispute, it is worthwhile to peruse the observations of the Forum in its decision (Page 10) as under:

“Forum observed that the consumption of the Petitioner for the year 2017 to 2019 is 196882, 237333 & 110602 units respectively. Consumption for the month of 04 & 05/2019 of 207 & 2667 units is very less as compared to his previous consumption and even after the replacement of the meter.”

“Forum observed that the consumption recorded during April & May/2019 is negligible/very less and Petitioner could not bring on record, any evidence in his claim regarding low consumption except for verbal statement that he has shifted the machinery to his new site, which could not be relied upon due to lack of supporting documents. Meter of the Petitioner was declared dead stop in ME Lab.”

“Forum have gone through the written submissions made by the Petitioner in the petition, written reply of the Respondent as well as oral arguments, Forum is of the opinion that the a/c of the Petitioner is required to be overhauled from 05.03.2019 to 08.07.2019 i.e. date of change of meter on the basis of energy consumption of corresponding period of previous year as per Reg. 21.5.2 (a) of Supply Code-2014. Further the adjustment of Govt. subsidy which was not done by the audit party in his half margin, may be adjusted now.”

I find that the Forum erred in arriving at proper conclusion and deciding about the period for which the account of the Appellant was required to be overhauled in terms of provisions contained in Regulation 21.5.2 of Supply Code-2014 which reads 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 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.*

I also find that the above provisions provide for/prescribe that the account of a consumer is to be overhauled for the period the meter remained defective/ dead stop. As a natural corollary, the period of defect has to be as ascertained/established for deciding to overhaul the account of the consumer.

The above Regulation 21.5.2 (a) does not specify the criteria for ascertaining the period of defect of meter which, in turn, can be established from the evidence/ documents on record such as remarks of Meter Reader at the time of recording meter readings, checking reports, MCO, DDL etc. There is, thus, merit in the contention of the Appellant’s Representative that fall in consumption during a particular period does not lead to the conclusion that the meter remained defective during the period when the energy consumption was low as compared to that of the preceding period. The Respondent, on being asked during hearing on 06.01.2021, could not give any satisfactory/valid reply to the effect that it had any valid justification for charging the Appellant from 05.03.2019 on which date status of meter was OK.

I observe that in the instant case, the status of meter installed at the premises of the Appellant was OK on the reading dates i.e. 05.01.2019, 05.02.2019, 05.03.2019, 05.04.2019 and 06.05.2019. Subsequently, the Meter Reader recorded “D” code on 05.06.2019 and again on 22.06.2019. As a result, Device Replacement Application for change of meter was issued on 22.06.2019 which was effected on 08.07.2019 (after checking dated 06.07.2019 by MMTS). As such, the decision of the Forum to charge the Appellant for the period from 05.03.2019 to 08.07.2019 simply on noticing fall in consumption during this period is not just and fair. It appears that the meter became defective on any date after 06.05.2019 and remained as defective till its replacement on 08.07.2019. As such, the account of the Appellant is required to be overhauled for the period from 07.05.2019 to 08.07.2019 (date of replacement of meter after issuance of MCO on 22.06.2019) on the basis of consumption of corresponding period of previous year (when status of meter was OK) in terms of provisions contained in Regulation 21.5.2 (a) of Supply Code-2014. The Govt. Subsidy, if any, is also required to be adjusted as per instructions of PSPCL.

(iv) The Respondent failed to replace the defective meter for a long time which was reported as defective on 05.06.2019 while recording the monthly reading and was later on replaced on 08.07.2019. Further, the Respondent did not comply with the ESIM Instruction No. 104.7 relating to variation in energy consumption.

**6.** **Decision**

As a sequel of above discussions, the order dated 19.10.2020 of the CGRF, Ludhiana in Case No. CGL-238 of 2020 is set-aside. It is held that the account of the Appellant shall be overhauled for the period from 07.05.2019 to 08.07.2019 (date of replacement of meter) on the basis of consumption of corresponding period of previous year (when status of meter was OK) in terms of provision contained in Regulation 21.5.2 (a) of Supply Code-2014. Further, the adjustment of Govt. Subsidy, if any, will be made as per instructions of PSPCL applicable at that time. Accordingly, the Respondent is directed to recalculate the demand and refund/recover the amount found excess/short, if any, after adjustments with surcharge/interest as per instructions of the PSPCL.

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

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

**9**. In case, the Appellant or the Respondent is not satisfied with the above decision, it is at liberty to seek appropriate remedy against this order from the Appropriate Bodies in accordance with Regulation 3.28 of the Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations-2016.

 (GURINDER JIT SINGH)

 January 11, 2021 Lokpal (Ombudsman)

 SAS Nagar (Mohali) Electricity, Punjab.