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

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

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

 **APPEAL NO. 03/2020**

**Date of Registration : 16.01.2020**

**Date of Hearing : 04.03.2020**

**Date of Order : 06.03.2020**

**Before:**

**Er. Gurinder Jit Singh,**

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

**In the Matter of :**

BILLCO Engineers Pvt. Ltd,

C-14, Phase-1,

Industrial Area,

S.A.S.Nagar (Mohali).

 ...Appellant

 Versus

Additional Superintending Engineer,

 DS Division (Special),

 PSPCL, S.A.S.Nagar (Mohali).

 ...Respondent

**Present For:**

Appellant :1. Er. Daljeet Singh Nagi,

 Appellant’s Representative (AR).

 2. Sh.Harinder Pal Singh,

 Appellant’s Representative (AR).

 Respondent : 1. Er. G.S.Sandhu,

 Addl. Superintending Engineer,

 DS Division (Special),

 PSPCL, S.A.S.Nagar (Mohali).

 2. Er.Mohit Nagal,

Assistant Executive Engineer/Commercial,

 DS Division (Special),

 PSPCL, S.A.S.Nagar (Mohali).

 Before me for consideration is an Appeal preferred by the Appellant against the order dated 11.12.2019 of the Consumer Grievances Redressed Forum (Forum), Patiala in Case No. CGP-287 of 2019, deciding that :

*“The amount of ₹ 3,25,446/- charged to the Petitioner vide Memo No.3602 dated 30.09.2019 due to the slowness of the metering equipment by 26.54% as per the checking carried out by ASE/MMTS vide ECR No.11/08 dated 26.09.2019 for a period of six months preceding the date of checking as per Regulation 21.5.1 of Supply Code 2014 is in order and is recoverable.*

 *The amount be recovered in six equal monthly installments without interest/surcharge if the Petitioner agrees with the decision of this Forum after taking an undertaking from the Petitioner for the sam*e*”*

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

A perusal of the Appeal and related documents received on 16.01.2020 revealed that the disputed amount assessed by the Forum in its decision was₹3,25,446/-. The Appellant’s Representative provided , at the time of submission of the Appeal, copies of receipts in support of deposit of ₹ 32,545/- on 23.10..2019, ₹32,545/- on 24.10.2019 and ₹65,090/- on 15.01.2020. Thus, the Appellant had deposited total amount of ₹1,30,180/- as the requisite 40% of the disputed amount. A copy of Memorandum and Articles of Association of the Appellant’s Company was also received with the Appeal. After scrutiny of documents received, the Appeal was registered on 16.01.2020 and copy thereof was forwarded to Addl.S.E, DS Division, PSPCL, S.A.S.Nagar (Mohali) for furnishing reply/parawise comments and to the CGRF, Patiala for sending the case file under intimation to the Appellant vide Memo No.42-44/OEP/A-03/2020 dated 16.01.2020.

**3.** **Proceedings**

(i) A hearing in the case was fixed for 04.03.2020 at 12.30 P.M. and intimation to this effect was sent to both the Parties vide Memo No ­­­­­137-138/ OEP/A-03/2020 dated 18.02.2020. After hearing both the sides on 04.03.2020, the order was reserved and copies of the proceedings were sent to the Appellant and the Respondent vide Memo No.210-11/OEP/03/2020 dated 04.03.2020 .

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

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

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

The Appellant made the following submissions in the Appeal, received on 16.01.2020, for consideration of this Court:

1. The Appellant was having Medium Supply category

connection with sanctioned load of 94.140 kW and contract demand of 100 kVA.

1. The Appellant continued to pay the electricity bills as were

being issued to the Appellant by the Respondent since the release of connection without any default on any occasion.

1. The connection of the Appellant was checked by the

ASE/Enforcement-cum-MMTS, PSPCL, Mohali vide ECR No.11/8 dated 26.09.2019 whereby, the Energy Meter was found running slow by 26.54% due to non contribution of one phase due to carbonization of the contact joints..

1. The AEE/Commercial, PSPCL, Mohali issued a Notice,

vide Memo No.3602 dated 30.09.2019, for the recovery of ₹3,25,446/- on account of slowness of the Energy Meter.

1. Aggrieved with the said notice issued by the

AEE/Commercial, PSPCL, Mohali, the Appellant filed a case in the CGRF, Patiala by depositing 40% amount i.e. ₹.32,545/- on 23.10.2019+ ₹32,545/- on 24.10.2019 (Total ₹65,090/-).

1. As per Regulation 21.5.1 of Supply Code-2014, the account

of inaccurate Energy Meter was to be overhauled for a period of six months immediately before the date of checking i.e. from 27.03.2019 onwards in the case of the Appellant.

1. In the DDL, got done from M.E. Laboratory,Patiala, on the

instructions of the CGRF, it was reported that the Energy Meter recorded low voltage on Blue phase for a total period of 60 days 2 hours 23 minutes during the past six months.

1. On analyzing this DDL, it as observed that the low voltage

on Blue Phase had been recorded only for a period of 80 days 21 hours and 54 minutes during the mandatory period of three years under the provisions of Regulation 21.3.5 of Supply Code-2014.

1. The Forum, in its order, relied only on the consumption

pattern recorded during 2017 and 2018 as compared to the consumption of six months immediately preceding the date of checking. This fall in consumption was due to overall slump in the open Indian Market for which, the Appellant was running its industry as per demand in the market. The Appellant was doing job work for tractor Industry which was witnessing slow down.

1. The Forum totally ignored the facts that this was not a case

of defective/burnt Energy Meter, where complete overhauling for a specified period was required. In fact, the case of the Appellant was a case of make and break of contacts due to carbonization where even the accurate Energy Meter some times led low voltage. The less recording of consumption was only during the period of low voltage.

1. As per Regulation 21.3 of Supply Code - 2014, the

licensee had to conduct periodical inspection/testing of Meters installed at the consumer’s premise. But there was nothing on record to ascertain that checking was done and there was nothing adverse against the Appellant.

1. Low voltage had been recorded only for 60 days 2 hours and

23 minutes during the period of last 6 months from the date of checking. In case, period earlier than the aforesaid period is considered, the Energy Meter recorded low voltage for a total period of 80 days 21 hours and 54 minutes since the installation of the Energy Meter. Therefore, in such a case where the low voltage was recorded for some time due to make and break of contacts, the overhauling of account for complete six months was not justified and the account was required to be overhauled only for the established/actual period of recording of low voltage.

1. The Forum failed to consider the argument that less

consumption was due to slowdown of business as was evident from the monthly Summary of Sales (SGST & CGST) for the period from April 2018 to March-2019 and April 2019 to date.

1. The decision of the Forum was against the principle of

natural justice.

1. In view of the submissions made above, case may be decided on its merits by overhauling the account only for the period during which, Energy Meter recorded low voltage i.e. for 60 days 2 hours 23 minutes only during last six months as per Regulation 21.5.1 of Supply Code-2014.
2. **Submissions during Hearing**

In the hearing held in this Court on 04.03.2020, the Appellant’s Representative reiterated mainly the submissions already made in the Appeal.

1. **Submissions of the Respondent**
2. **Submissions in the written Reply to the Appeal**

The Respondent, in its defense, submitted the following, vide Memo No. 979-980/DB-86 dated 03.02.2020, for consideration of this Court:

1. A Medium Supply category connection was running in the

name of the Appellant, having Account No. as 3000159439 and sanctioned load of 94.140 kW.

1. The connection of the Appellant was checked by the

Addl.SE/Sr.Xen (Enforcement)-cum- MMTS, PSPCL, Mohali vide ECR No.11/8 dated 26.09.2019 and it was reported that the Energy Meter was running slow by 26.54%.

1. As per checking, a sum of ₹3,25,446/- was charged to the

Appellant for the slowness of Meter vide Notice, bearing No.3602 dated 30.09.2019

1. The Appellant did not agree with the amount charged and

filed a case in the CGRF, Patiala who, vide order dated 11.12.2019 upheld the demand raised and allowed the Appellant to deposit the amount in six equal installments on giving an undertaking that it agreed to the decision of the Forum.

1. Not satisfied with the decision of the Forum, the Appellant

preferred an Appeal in this Court.

1. The account of the Appellant was overhauled for a period of

six months prior to the date of checking of the connection.

1. **Submissions during Hearing**

During the course of hearing, the Respondent reiterated the submissions made in its written reply and contested the averments made by the Appellant during hearing.

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

The issue requiring adjudication is the legitimacy of the amount of ₹3,25,446/- charged to the Appellant, on account of slowness of Energy Meter to the extent of 26.54%, for a period of six months prior to date of checking i.e. 26.09.2019.

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

1. The dispute arose after the Medium Supply Category

connection of the Appellant was checked by the Addl.SE, MMTS, S.A.S Nagar vide ECR No.11/08 dated 26.09.2019, whereby, it was reported that the Energy Meter was running slow by 26.54%. The voltage on Red, Yellow and Blue Phase was 246V, 247V and 21.5 V respectively on display of the Energy Meter, whereas voltage on outgoing leads was found 246V, 248V and 245V. DDL of the Energy Meter could not be done as Meter Reading Instrument (MRI) did not communicate with Optical Port of the Energy Meter. The Potential Connection tapped from Main Cable of Blue Phase was found carbonized which was repaired by DS Office. After repair, the voltage on each phase was found OK. The readings as per ECR were kWh=817233, kVAh=879663, kVA=56.8. On the basis of the said checking, the Respondent served a Notice, vide Memo No.3602 dated 30.09.2019 to the Appellant to deposit ₹ 3,25,446/-. Aggrieved , the Appellant filed a Petition dated 31.10.2019 in the CGRF, Patiala who, dismissed the same and held that the amount of ₹ 3,25,446/- charged to the Appellant due to the slowness of the metering equipment by 26.54% as per the checking carried out by ASE/MMTS on 26.09.2019 for a period of six months preceding the date ofchecking as per Regulation 21.5.1 of Supply Code 2014 was in order and recoverable. Not satisfied with the above decision of the Forum, the Appellant filed an Appeal in this Court and prayed that the Appellant be charged only for those days during which Meter recorded low voltage i.e. for 60 days 2 hours and 23 minutes only during last six months period as per Regulation 21.5.1 of Supply Code-2014.

1. The disputed Energy Meter was installed vide Device

Replacement Application No.100002404806 dated 16.08.2016 after replacing the Non-Device Language Message Specification (DLMS) Compliant Meter with DLMS Compliant Meter. which was subsequently replaced on 17.11.2019 for taking the DDL as per directions of the Forum. Accordingly, DDL was got done on 21.11.2019. The readings of the disputed Energy Meter on 17.11.2019 (date of removal) and 21.11.2019 (date of taking DDL) were the same i.e. 9,14,055 kVAh. A copy of DDL was sent to Addl.SE, MMTS by Addl.SE, DS Division (Special), PSPCL, S.A.S Nagar vide Memo No.10715 dated 27.11.2019. The MMTS, vide Memo No.865 dated 02.12.2019 informed the DS Division, PSPCL, S.A.S Nagar that less voltage was recorded on Blue Phase from 31.08.2019 to 26.09.2019 and Red Phase Voltage was restored to normal on 26.09.2019 i.e. after 404 hours 52 minutes and on 04.09.2019, it was restored after 130 hours 20 minutes. The less voltage was also recorded before 04.09.2019.

1. A perusal of the consumption pattern reveals that during

the period 03.04.2019 to 01.10.2019, it was 1,28,035 kVAh while the consumption during the corresponding period of previous year i.e. 03.04.2018 to 01.10.2018, was 1,89,458 kVAh. Thus, there was fall of consumption by 47.97%.

1. After going through the tamper events recorded in DDL, it is

seen that low voltage on Blue Phase (178.86 V) has been recorded on 02.11.2018 i.e. almost 10 months before the date of checking which was restored only on 22.01.2019 to 216.86 V after a gap of almost 81 days with voltages on healthy phases being in normal range. Thereafter, repeated occurrences and restoration of low voltages and voltage missing on Blue Phase were recorded till 26.09.2019 (the date of checking) when the carbonization was removed and connections were set right and made healthy.

1. From the tamper record, it is clear that voltage on Blue

Phase was not Zero volts at any time but some voltage was appearing all the time meaning thereby that Blue Phase was recording less consumption (not nil). The slowness of Energy Meter depends upon the Electrical parameters (Voltage, Current and Power Factor) running at that time. This phenomena was due to **Make and Break of Connection** due to carbonization of Blue Phase joint. Constant slowness factor of 26.54% for six months cannot be applied in this Case. Hence, it was not just and fair to overhaul the account as per provisions contained in Regulation 21.5.1 of Supply Code-2014 i.e. by applying slowness factor. As a matter of fact, the account of the Appellant is required to be overhauled for six months prior to date of checking by MMTS as per Regulation 21.5.2(a) of Supply Code-2014 i.e. on the basis of consumption during corresponding period of previous year.

1. On its part, The Respondent also failed to monitor the

variations in energy consumption as per provisions contained in Instruction No.102.7 of ESIM-2010/104.7.2 of ESIM-2018.

1. In some of the disputes of similar nature adjudicated by this

Court, directions were issued to PSPCL to ensure that in existing as well as in the cases of installation of new LT CT operated Energy Meters alongwith LT CT’s, Potential Wires tapped from the Main Cable shall be of the same material as that of Main Cable and connections should be made through bi-metallic thimbles to avoid bi-metallic resistance so that carbonization does not take place and with passage of time, the wires do not get disconnected contributing to less recording of consumption by the Energy Meter. In compliance to the above directions, these instructions were incorporated by the PSPCL in ESIM-2018 as Instruction No.104.5.2. In the present case, the Respondent failed to implement these instructions which led to the present dispute.

1. The Appellant’s Representative (AR) pleaded that

consumption was less due to slow down of business, as per monthly summary of sales ( SGST & CGST) for the period 04/2018 to 03/2019 and 04/2019 till date.

 In this regard, I agree with the Respondent that the above plea of the Appellant is not relevant in the present context considering the results of checking of the disputed Energy Meter by the MMTS and also from scrutiny of DDL, Tamper Data/Events and consumption pattern of the disputed Energy Meter.

**6**. **Decision**

**As a sequel of the above discussions, the order dated 11.12.2019 of the CGRF, Patiala, in Case No. CGP-287 of 2019, is set aside. It is held that the account of the Appellant shall be overhauled for a period of six months prior to the date of checking (26.09.2019) on the basis of energy consumption of corresponding period of previous year as per provisions contained in Regulation 21.5.2(a) of Supply Code-2014. It is also held that no surcharge/interest will be levied on this account because the Respondent defaulted in ensuring proper checking of Metering Equipment and energy variation required under Regulations/instructions. Accordingly, the Respondent is directed to recalculate the demand & refund/recover the amount found excess/short, if any, after adjustment.**

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

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

 (GURINDER JIT SINGH)

March 06, 2020 Lokpal (Ombudsman)

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