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

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

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

 **APPEAL NO. 04/2021**

**Date of Registration : 08.01.2021**

**Date of Hearing : 03.02.2021**

**Date of Order : 08.02.2021**

**Before:**

**Er. Gurinder Jit Singh,**

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

**In the Matter of:**

M/s. Krishana Print and Processors,

Banda Bahadur Nagar,

Bahadur ke Road, Ludhiana-141007

**Contract Account Number: 3002961539**  ...Appellant

 Versus

Addl. Superintending Engineer,

DS City West Division (Special),

PSPCL, Ludhiana.

 ...Respondent

**Present For:**

Appellant: Sh. Rajesh Jain,

 Appellant’s Representative (AR).

Respondent : Er. Kanwal Preet Singh Sidhu,

 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 02.12.2020 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-291 of 2020, deciding that:

*“The account of the Petitioner be overhauled from 24.03.2020 to 10.06.2020 (date of change of meter) on the basis of average of the actual consumption recorded after change of the meter from 10.06.2020 to 09.07.2020. Further the account from 09.03.2020 to 23.03.2020 (period before lockdown) be overhauled in the basis of consumption recorded during corresponding period of previous year.”*

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

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 08.01.2021 i.e. within thirty days of receipt of the decision dated 02.12.2020 of the CGRF, Ludhiana in Case No. CGL-291 of 2020 by the Appellant. A reference was then, made vide Memo No. 38/ OEP/A-2021 dated 11.01.2021, to the ASE/ DS City West Division (Special), Ludhiana seeking confirmation about deposit of requisite amount for filing the Appeal. In response, the ASE/ DS City West Division (Special), Ludhiana intimated vide letter no. 328 dated 14.01.2021 that a sum of ₹ 85,908/-(against the disputed bills) had been lying deposited in the account of the Appellant, which was more than 40% of the disputed amount of ₹ 1,86,150/-. Therefore, a copy of the Appeal was sent to the Addl. Superintending Engineer/ DS City West 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 letter nos. 59-61/OEP/A-04/2021 dated 15.01.2021.

**3.** **Proceedings**

With a view to adjudicate the dispute, a hearing was fixed in this Court on 03.02.2021 at 11.00 AM and an intimation to this effect was sent to both the sides vide letter nos. 99-100/OEP/A-04/2021 dated 25.01.2021. As scheduled, the hearing was held in this Court on the said date and the order was reserved. Copies of the minutes of the proceedings were sent to the Appellant and the Respondent vide letter nos. 120-21/OEP/A-04/2021 dated 03.02.2021.

**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 Appellant’s Representative 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 Appellant was having a Medium Supply Category Connection, bearing Account No. 3002961539, with sanctioned load of 87.99 kW and CD as 97.77 kVA.
2. The Appellant was regularly paying the consumption charges of electricity within the stipulated period on the basis of bills and nothing was outstanding.
3. During the lockdown period due to COVID-19 Pandemic, the electric meter installed in the premises of the Appellant got burnt even without industrial load and the Appellant informed the Respondent on Mobile App on 29.03.2020.
4. Sr. Xen/ EA & MMTS-4, Ludhiana checked the meter of the Appellant vide LCR bearing no. 45/3227 dated 21.05.2020.
5. The Respondent removed the old meter bearing Sr. No. 100004493887 and installed new meter in its place bearing Sr. No. 19491671 on 10.06.2020 having kWh reading as 207 and kVAh reading as 282 vide its Job Order No. 100010036070 dated 22.05.2020.
6. The Respondent issued the consumption bill for the period 09.03.2020 to 08.04.2020 under ‘D’ Code for ₹ 88,180/-. The Appellant deposited this amount with the Respondent vide receipt no. 142646817 dated 29.04.2020. Thereafter, another bill was issued by the Respondent from 08.04.2020 to 08.05.2020 (30 days) vide its bill date 19.05.2020 for ₹ 97,973/- on average basis. The Appellant paid this amount also vide receipt no. 143597509 on 28.05.2020.
7. The Respondent issued another bill for the period 08.05.2020 to 09.07.2020 (62 days) under ‘O’ Code for ₹ 1,43,390/- and another bill for the period 09.07.2020 to 08.08.2020 for ₹ 1,03,060/- under ‘O’ Code but in these bills, the payment made under ‘D’ Code had not been adjusted by the Respondent.
8. The Appellant had requested the Respondent on 13.08.2020 for allowing the necessary credit against the bills issued on average basis under D-Code and also to get the electric meter checked from the ME Lab.
9. As per the consent letter given by the Appellant, the burnt meter of the Appellant was got checked by the Respondent from ME Lab, Ludhiana vide Store Challan No. 716 dated 17.08.2020. The ME Lab checked the meter and declared that “ਮੀਟਰ ਸੜਿਆ ਹੈ, ਅਕੂਰੇਸੀ ਨਹੀਂ ਹੋ ਸਕਦੀ, ਡੀ.ਡੀ.ਐਲ ਅਤੇ ਏ.ਸੀ/ ਡੀ.ਸੀ ਮੋਡ ਤੇ ਰੀਡਿੰਗ ਨਹੀਂ ਆ ਰਹੀ”।
10. The Appellant filed a petition before the Forum on 21.09.2020 with the request that the excess amount charged and deposited by the Appellant on average basis under “D” Code during lockdown period be adjusted in the future consumption bills issued under “O” Code to the Appellant.
11. On 17.11.2020, the Forum asked for the proof to prove that the industry of the Appellant remained closed due to lockdown and directed to submit documentary evidence in its support and fixed the date for the purpose as 26.11.2020.
12. The Appellant’s Representative supplied photocopies of the bills bearing invoice no. 339 dated 20.03.2020 and invoice no. 340 dated 01.06.2020 to prove that Industry remained closed during the lockdown period till last week of May, 2020. In addition to it, the Appellant supplied copy of Format for the bulk passes during the lockdown period for ten employees of the Appellant to run its Industry to the General Manager, District Industries Centre, Ludhiana on 02.05.2020 to get its Industry functioning with less number of workers which was duly approved by the General Manager, Industries Centre, Ludhiana. The Forum, after verifying the documents with the originals, admitted the photocopy of the letters handed over by the Appellant’s Representative vide its letter dated 26.11.2020.
13. The Forum after hearing arguments of both the sides issued order dated 02.12.2020 which was received by the Appellant vide e-mail dated 07.12.2020 and found that main demand of the Appellant to adjust the consumption bill raised during the lockdown period on average basis under “D” code and the amount received by PSPCL/ Respondent from the Appellant to the extent of ₹ 88,180/- and ₹ 97,970/- had not been adjusted/ decided by the Forum. As such, the final order dated 02.12.2020 could not be termed as judicious order.
14. The approach of the Forum was not judicious. The Forum had not been updated by the Respondent how to treat the consumption bill raised during lockdown period by the Respondent when the establishments/industries remained closed due to Covid-19. The order of the Forum amounted to miscarriage of justice and was passed without discussing the various stands taken by the Appellant and also by the other party. As such, the impugned order was liable to be set aside/ modified. The Forum did not care to entertain the submissions made by the Authorized Representative of the Appellant.
15. In view of the submissions made above, it was prayed that the Appeal be allowed and impugned order be set aside/ modified.

(b) **Submission during hearing**

During hearing on 03.02.2021, the Appellant reiterated the submissions made in the Appeal and prayed to allow the same.

1. **Submissions of the Respondent**
2. **Submissions in written reply**

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

1. A Medium Supply Category Connection, bearing Account No. 3002961539, with sanctioned load of 87.99 kW/ CD as 97.77 kVA had been running at the premises of the Appellant.
2. The Appellant was issued energy bill for the period 09.03.2020 to 08.04.2020 and 08.04.2020 to 08.05.2020 on ‘D’ Code for ₹ 88,180/- and ₹ 97,973/-. In addition to these ‘D’ Code bills, the Appellant was issued bill under ‘O’ Code for the period 08.05.2020 to 09.07.2020 and in this bill, ‘D’ Code average bill was required to be charged for the period 08.05.2020 to 10.06.2020, which was charged for 11940 units and for 11.06.2020 to 09.07.2020, actual consumption of 7096 units (total 19036 Units) was charged to the Appellant. As per instructions of the PSPCL, the bills which are issued under ‘F’, ‘N’ or ‘L’ Code are adjusted and average of the bills issued under ‘D’ or ‘R’ Code are not adjusted.
3. The Appellant had lodged complaint regarding burning of its meter on 29.03.2020 during the period of lockdown and it was closed after repairing of the cable.
4. This connection was checked by the ASE/ MMTS-4, Ludhiana vide ECR No. 45/3227 dated 21.05.2020.
5. MCO No. 1000010036070 dated 22.05.2020 for the change of meter of the Appellant was issued and the same was effected on 10.06.2020.
6. The removed meter was checked in ME Lab vide Challan No. 716 dated 17.08.2020. The ME Lab checked the meter and declared that “ਮੀਟਰ ਸੜਿਆ ਹੈ ਐਕੂਰੇਸੀ ਨਹੀਂ ਹੋ ਸਕਦੀ DDL ਅਤੇ AC/DC ਮੋਡ ਤੇ ਰੀਡਿੰਗ ਨਹੀਂ ਆ ਰਹੇ”।
7. As per the decision of the Forum on the Petition of the Appellant, the Appellant has been given refund of ₹ 1,00,242/- on 22.12.2020 by the Respondent. The Appellant did not agree with the decision of the Forum and filed the present Appeal before this Court.

**(b) Submission during hearing**

During hearing on 03/02/2021, the Respondent reiterated the submissions made in the written reply and prayed for dismissal of the Appeal.

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

The issue requiring adjudication is the legitimacy of the overhauling the account of the Appellant from 24.03.2020 to 10.06.2020 (date of change of meter) on the basis of average of the actual consumption recorded during the period from 10.06.2020 to 09.07.2020 and for the period from 09.03.2020 to 23.03.2020 (period before lockdown) on the basis of consumption recorded during the corresponding period of the previous year.

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

1. As per material on record, the Appellant was having a Medium Supply Category Connection with sanctioned load of 87.99 kW/ CD as 97.77 kVA. The Appellant lodged a complaint online intimating the Respondent about burning of meter (during COVID-19 lockdown) on 29.03.2020 through Mobile App and the complaint was settled after repairing of the cable. The connection of the Appellant was checked by the ASE/ MMTS-4, Ludhiana vide ECR No. 45/3227 dated 21.05.2020 as per which, it was reported that:

“Connection checked as per Letter of AEE/T2 City West, Ldh No. 352 dated 18/5/20.

ਮੀਟਰ ਸੜਿਆ ਹੈ, ਮੀਟਰ ਦੀ ਡਿਸਪਲੇ ਨਹੀ ਆ ਰਹੀ, ਮੀਟਰ ਦੀ ਬਾਡੀ ਫਟ ਗਈ ਹੈ, ਮੀਟਰ ਤੁਰੰਤ ਬਦਲੀ ਕਰਕੇ M.E ਲੈਬ ਤੋਂ ਚੇਕ ਕਰਵਾਇਆ ਜਾਵੇ ਅਤੇ ਮੀਟਰ ਦਾ DDL ਕਰਵਾਇਆ ਜਾਵੇ। ਮੀਟਰ ਦੀ MTC ਪਲੇਟ ਖੋਲ ਕੇ ਕਲਿਪ ਆਨ ਮੀਟਰ ਵਲ ਮੇਨ ਲਾਈਨ ਤੋ ਆ ਰਹੀ Voltage ਚੈਕ ਕੀਤੀ ਅਤੇ ਲਾਈਨ ਕਰੰਟ ਚੈਕ ਕੀਤਾ। BΦ ਖੋਲਅਣ ਦੀ ਲੀਡ ਮੀਟਰ ਟਰਮੀਨਲ ਬਲਾਕ ਵਿੱਚੋਂ ਟੁਟੀ ਹੋਈ ਸੀ। ਮੀਟਰ ਦਾ DDL ਨਹੀ ਹੋ ਸਕਿਆ। ਖਪਤਕਾਰ ਦਾ ਖਾਤਾ PSPCL ਹਦਾਇਤਾਂ ਅਨੁਸਾਰ ਸੋਧਿਆ ਜਾਵੇ।”

After the said checking, the Meter installed at the premises of the Appellant was replaced vide Device Replacement Application No. 100010036070 dated 22.05.2020 effected on 10.06.2020. This meter was checked in ME Lab vide Challan No. 716 dated 17.08.2020 whereby, it was reported that:

“ਮੀਟਰ ਸੜਿਆ ਹੈ ਐਕੂਰੇਸੀ ਨਹੀਂ ਹੋ ਸਕਦੀ, DDL ਅਤੇ AC/DC ਮੋਡ ਤੇ ਰੀਡਿੰਗ ਨਹੀਂ ਆ ਰਹੇ।”

The Appellant was served with energy bill for the period 09.03.2020 to 08.04.2020 and 08.04.2020 to 08.05.2020 under ‘D’ Code for ₹ 88,180/- and ₹ 97,973/- respectively. Besides, in the bill under ‘O’ Code for the period 08.05.2020 to 09.07.2020, ‘D’ Code average was charged for the period 08.05.2020 to 10.06.2020, for 11940 units and for 11.06.2020 to 09.07.2020, actual consumption of 7096 units (total 19036 Units) was charged to the Appellant. The Respondent issued the bills keeping in view the requirement that bills under ‘F’, ‘N’ or ‘L’ Code were to be adjusted and average of the bills issued under ‘D’ or ‘R’ Code were not to be adjusted. Aggrieved with the bills raised, the Appellant approached the Forum who decided the case on 02.12.2020. The Appellant did not agree with the decision of the Forum and filed the present Appeal before this Court. In compliance to the said order of the Forum, the Appellant was given refund of ₹ 1,00,242/- on 22.12.2020 by the Respondent.

1. The Appellant’s Representative submitted that the Appellant had filed a Petition before the Forum on 21.09.2020 with a request that the excess amount charged and deposited by the Appellant on average basis under “D” Code during lockdown period be adjusted in the future consumption bills issued under ‘O’ Code. On 17.11.2020, the Forum asked for the proof to prove that the industry of the Appellant remained closed due to lockdown and directed to submit documentary evidence in its support and fixed next date in the case for 26.11.2020.The Appellant’s Representative supplied photocopies of the bills bearing invoice no. 339 dated 20.03.2020 and invoice no. 340 dated 01.06.2020 to prove that Industry remained closed during the lockdown period till last week of May, 2020. In addition to it, the Appellant supplied copy of Format for the bulk passes during the lockdown period for ten number employees of the Appellant to run its Industry submitted to the General Manager, District Industries Centre, Ludhiana on 02.05.2020 to get its Industry functioning with less number of workers which was duly approved by the General Manager, Industries Centre, Ludhiana. The Forum after verifying the said documents with the originals, admitted the photocopy of the letters handed over by the Appellant’s Representative vide its letter dated 26.11.2020. After hearing arguments of both the sides, the Forum passed order dated 02.12.2020 which was received by the Appellant vide email dated 07.12.2020. A perusal of this order revealed that main demand of the Appellant to adjust the consumption bill raised during the lockdown period on average basis under “D” code and the amount received by PSPCL/ Respondent from the Appellant to the extent of ₹ 88,180/- and ₹ 97,970/- had not been adjusted/ decided by the Forum. As such, the order dated 02.12.2020 cannot be termed as judicious order. The approach of the Forum was not judicious. The Forum had not been updated by the Respondent how to treat the consumption bill raised during lockdown period by the Respondent when the establishments/industries remained closed due to COVID-19. The order of the Forum amounted to miscarriage of justice and was passed without discussing the various stands taken by the Appellant and also by the other party. As such, the impugned order was liable to be set aside/ modified. The Forum did not care to entertain the submissions made by the Authorized Representative of the Appellant.
2. The Respondent, in its written reply and also during oral submissions in this Court on 03.02.2021, submitted that the Appellant had been given sufficient relief by the Forum as per regulations/instructions of PSERC/PSPCL and was given a refund of ₹ 1,00,242/- on 22.12.2020. The Respondent added that the claim of the Appellant for further relief was not supported by any evidence to the effect that the energy consumption during disputed period was nil/negligible. Besides, the Appellant had not referred to any regulations/instructions as per which, the relief claimed in the present Appeal was admissible. The Respondent prayed to dismiss the Appeal.
3. From the above analysis, it is observed that a complaint about the defect in the meter installed at the premises of the Appellant was lodged by the Appellant with the PSPCL on 29.03.2020. In response, the officials of the Respondent repaired the cable connecting the meter and settled the complaint. Thereafter, the Appellant did not lodge any grievance regarding any problem of electricity supply with PSPCL. The bills for the period from 09.03.2020 to 08.04.2020 and 08.04.2020 to 08.05.2020 were issued showing the status of the meter as defective (‘D’ code). The connection was checked by ASE/ MMTS-4, Ludhiana vide ECR No. 45/3227 dated 21.05.2020 whereafter Device Replacement Application for replacement of the meter was issued on 22.05.2020 and the same was effected on 10.06.2020. Subsequently, the meter was checked in ME Lab on 17.08.2020 and declared burnt. The grievance of the Appellant about incorrect charging for the disputed period was redressed to the permissible extent by the Forum vide order dated 02.12.2020. As a result, the Appellant was given refund of ₹ 1,00,242/- on 22.12.2020. It is also observed that the Appellant could not provide any legal/documentary evidence in support of his claim for more relief about charging during the lockdown period. Besides, no reference to rules/regulations was given to support the prayer on being asked during hearing on 03.02.2021. As such, the claim of the Appellant in the present Appeal, not substantiated/corroborated by evidence/authority, is not sustainable in the eyes of law. Accordingly, this Court is not inclined to modify the order dated 02.12.2020 of the Forum in Case No. CGL-291/2020.

**6.** **Decision**

As a sequel of above discussions, the order dated 02.12.2020 of the CGRF, Ludhiana in Case No. CGL-291 of 2020 is upheld.

**7.** The Appeal is disposed of 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 Petitioner 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)

February 08, 2021 Lokpal (Ombudsman)

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