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

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

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

**APPEAL NO. 05/2021**

**Date of Registration : 22.01.2021**

**Date of Hearing : 24.02.2021 and 12.03.2021**

**Date of Order : 17.03.2021**

**Before:**

**Er. Gurinder Jit Singh,**

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

**In the Matter of:**

Sanjay Kumar,

C/o M/s. SID Rice Mills,

Tajo Ke Road, Tappa-148108,

Distt. Barnala.

**Contract Account Number:L62-MS62-0102W(Old)**

**L62T101000050(New)**  ...Appellant

Versus

Addl. Superintending Engineer,

DS Sub-urban Division,

PSPCL, Barnala.

...Respondent

**Present For:**

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

Appellant’s Representative.

2. Sh. Subash Chander,

Appellant’s Representative.

Respondent : 1. Er. Preet Mohinder Singh,

Addl. Superintending Engineer,

DS Sub-urban Division,

PSPCL, Barnala.

2. Er. Amandeep Singh,

Assistant Executive Engineer,

DS Sub-urban Division,

PSPCL, Barnala.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 09.12.2020 of the Consumer Grievances Redressal Forum (Forum), Patiala in Case No. CGP-331 of 2020, deciding that:

*“The demand surcharge of Rs. 2,10,960/- charged in the electricity bills for the period from 12/2018 to 03/2020 is recoverable.”*

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

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 18.01.2021 (16.01.2021 and 17.01.2021 being holidays) by e-mail i.e. within thirty days of receipt of the decision dated 09.12.2020 of the CGRF, Patiala in Case No. CGP-331 of 2020 by the Appellant on 16.12.2020. The office of the CGRF, Patiala was requested vide letter no. 62/OEP/G-29 dated 18.01.2021 to send its case file. The Appellant was not required to deposit the requisite 40% of the disputed amount of ₹ 2,10,960/- as it was a case of refund of Demand Surcharge already deposited with PSPCL. Therefore, the Appeal received with requisite documents by post on 22.01.2021 was registered on the same day and copy of the same was sent to the Addl. Superintending Engineer/DS Sub-urban Division, PSPCL, Barnala for sending written reply/ parawise comments under intimation to the Appellant vide letter nos. 75-76/OEP/A-05/2021 dated 22.01.2021.

**3.** **Proceedings**

(i) With a view to adjudicate the dispute, a hearing was fixed in this Court on 24.02.2021 at 11.00 AM and an intimation to this effect was sent to both the sides vide letter nos. 163-64/OEP/A-05/2021 dated 11.02.2021. As scheduled, the hearing was held 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 letter numbers 208-09/OEP/A-05/2021 dated 24.02.2021. As per the said minutes, it was conveyed to both the sides that next hearing will be held on 12.03.2021 at 11.30 AM. When details/evidence asked from the Respondent regarding checking of accuracy of disputed Energy Meter parameters would be deliberated.

(ii) The Appellant and its Representative did not attend the hearing held on 12.03.2021. The Appellant’s Representative had sent an e-mail dated 07.03.2021 requesting that the case be closed and decided on merits. However, the hearing was attended by Addl.S.E. and Assistant Executive Engineer, DS Sub-urban Division, Barnala. After deliberations, the order was reserved. Copies of minutes of proceedings were sent to both the sides vide letter numbers 306-07/OEP/A-05/2021 dated 12.03.2021.

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 had a Medium Supply Category connection at 11 kV, bearing Account No. L62-MS62-0102W, with sanctioned load of 90 kW and CD as 100 kVA since 19.03.2007.
2. The meter presently in position was installed on 17.11.2018 (after replacement of defective Meter) at the premises of the Appellant. The working of old Meter was challenged, being defective, on 13.09.2018 as it was recording excess consumption/MDI beyond limit. The Forum, on being approached, observed that meter was defective and directed to overhaul the account on LYSM basis as per its order passed in Case No. CGP-220/2019 on 14.10.2019.
3. The working of the present meter (installed on 17.11.2018) was also not in order. Hence, the Appellant requested the concerned SDO to check the same but in vain. Thereafter, the Appellant made written request on 23.09.2019, which was marked to JE for checking. The JE after checking the meter, ordered to get it challenged. Accordingly, the Appellant deposited ₹ 2,400/- as meter challenge fee on 01.10.2019 vide receipt No. 398/51229.
4. As per Regulation 21.3.6 of Supply Code-2014, the challenged meter should have been checked at site/ ME Lab within a week time but inspite of repeated requests, no action had been taken by the Respondent to get it checked from MMTS/ ME Lab as per instructions. The present (disputed) meter installed on 17.11.2018, was recording MDI beyond limit against the sanctioned load of 90 kW and CD as 100 kVA with transformer capacity of 100 kVA. As a result, the Appellant had to bear heavy penalty bills on account of demand surcharge levied in each and every bill during the period from 12/2018 to 3/2020. However, ASE/ MMTS, Barnala checked the disputed meter on 06.08.2020 after a period of 310 days in violation of rules. The checking authority failed to check the meter in view of ESIM instruction No. 59.1.3 and CC No. 7/2019. Only window dressing was done, because the accuracy of the MDI wasnot checked nor any load was checked which was essential to verify the facts of the case.
5. The decision of the Forum was biased and erring because the facts of the case were not examined. The reasons for checking the meter after a period 310 days had not been investigated because the meter was required to be checked within a week as per PSPCL Standard of Performance prescribed in Supply Code-2014.
6. The recording of MDI of the meter was beyond limit and the same was not in order. The MDI on 17.05.2019 was recorded as 4.52 against consumption of 17138 units for the period 15.04.2019 to 17.05.2019. The MDI now was defective or there was snag in the meter/line or the other equipment of the Respondent that could not be checked properly. The MDI of the same meter was recorded as 177.92 kVA on 17.01.2020 against transformer capacity/cable/meter other equipments installed at the premises according to the sanctioned load of 90 kW and 100 kVA as CD. The equipments were never reported damaged during the period 12/2018 to 03/2020 when the MDI was recorded beyond limit.
7. The Appellant was charged as under:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Month | MDI | CD | Difference | Rate | Amount (₹) |
| 12/2018 | 126.48 | 100 | 26.48 | 750 | ₹ 19860 |
| 01/2019 | 124.44 | 100 | 24.44 | 750 | ₹ 18330 |
| 02/2019 | 130.80 | 100 | 30.80 | 750 | ₹ 23100 |
| 03/2019 | 117.40 | 100 | 17.40 | 750 | ₹ 13050 |
| 04/2019 | 135.80 | 100 | 35.80 | 750 | ₹ 26850 |
| 12/2019 | 148.00 | 100 | 48.00 | 750 | ₹ 36000 |
| 01/2020 | 177.92 | 100 | 77.92 | 750 | ₹ 58440 |
| 02/2020 | 109.40 | 100 | 09.40 | 750 | ₹ 07050 |
| 03/2020 | 111.04 | 100 | 11.04 | 750 | ₹ 08250 |
| Total |  |  |  |  | ₹2,10,960 |

1. The previous meter, which was replaced on 17.11.2018, was also recording MDI beyond limit as on 01.08.2010 (ToD report) in slot No. I, II, III recorded MDI as 190.47x2, 190.67x2 and 132.96x2 on 27.07.2018, which was not possible. The Forum, withdrew the disputed amount of ₹ 18,82,110/- vide Case No. CGP-220/2019 decided on 14.10.2019. Similar type of mistakes had been reported again in the present meter which was installed on 17.11.2018.
2. The Respondent had failed to perform its duty well in verifying the facts of the increase in MDI and never served notice etc. as required under Regulation 36.1.3 of Supply Code-2014 and ESIM Instruction No. 101.1 as load of the Appellant was not checked at site to verify the facts. Further, accuracy of the MDI was not checked at all.
3. In case, MDI was found defective, the billing should have been made as per ESIM instruction No. 16.1 (defective MDI)/ of General Condition of Tariff (23.1.2). If the MDI overshoot by a margin of 10% of the CD, which was permissible as per rules, the Respondent was required to investigate the facts of the increase in MDI but the Respondent took no action to verify the same. Normally, the MDI recorded on 17.01.2020 as 177.92 recorded in case where connected load 225-250 kW was running at site due to load factor and demand factor. The MDI recorded as 4.52 kVA on 17.05.2019 with a consumption of 17138 units was also not correct. The observation of the Forum in this case was not genuine and justified.
4. The Forum, in Case No. CGP-220/2019, had decided to overhaul the account in view of Regulation 21.5.2 of Supply Code-2014 as the MDI was recorded 190.53x2 against the sanctioned CD of 100 kVA whereas transformer, cable, meter and meter equipments etc. erected at the sanctioned load of 90 kW were never reported damaged. There was snag in the system of the Respondent for which, the Appellant had to bear heavy penalty on account of demand surcharge + other charges which were paid by the Appellant. There was deficiency in services on the part of the Respondent as the challenged meter was checked after 310 days. Hence, compensation of ₹ 62,000/- (310x200) be also paid to the Appellant in view of Regulation 26 of Supply Code-2014 (Standard of Performance) and the illegal charges recovered beyond rules of ₹ 2,10,960/- + other charges be refunded alongwith interest in view of Regulation 35.1.3 of Supply Code-2014.
5. The meter was not checked half yearly as per ESIM Instruction No. 106.
6. The monthly reading as per ESIM Instruction No. 81 was being recorded by JE/ JE-1, who also failed to point out the MDI readings beyond limit while recording the monthly reading, which was being recorded over and above the sanctioned CD of 100 kVA.
7. The version of the Respondent that serving of notice for exceeding of CD beyond limit was not mandatory, was not acceptable in view of ESIM Instruction No. 101.1. The MDI reading as 177.92 on 17.01.2020 was only when consumer’s connected load was 225 to 250 kVA running at site. The MDI reading recorded as 4.52 on 17.05.2019 was also not justified. The MDI was recorded half an hourly average of three segments. Hence, the version of the Forum was beyond rules and the facts of the case.
8. The clear picture and facts of the case could only be brought before the Court if the complete DDL of the disputed period was brought on record.
9. The Appellant had applied for extension in load from 90 kW to 120 kW with CD 100 kVA to 132 kVA for the additional machinery erected by the Appellant but the same had no concern with the present dispute.
10. In view of the submissions made, it was prayed that the disputed amount of ₹ 2,10,960/- + other charges + interest + compensation of delayed period be allowed in terms of Regulation 35.1.3 of Supply Code-2014.

**(b) Additional Submissions of the Appellant**

The Appellant’s Representative, to whom a copy of response of ASE/DS Division, Barnala received by e-mail dated 05.03.2021 was forwarded vide e-mail on 05.03.2021, stated vide e-mail dated 07.03.2021 as under:

That in view of proceeding dated 24.02.2021 complete details about accuracy of consumption in kwh, kvah, kvarh, MDI etc in respect of checking done by MMTS vide ECR No. 040/5558 dt 6-8-2020 of disputed energy Meter parameters were demanded from the checking agency, but his reply is that checking already done has been recorded on the checking report and nothing More is available with him, hence there is no new information about the said checking. That in view of the above reply, case be closed and decision be awarded on the merits of case by allowing the appeal in favour of the petitioner alongwith interest and Compensation for non performance (Standard performance) of replacement of Meter and compensation of harassment already prayed.

**(c) Submissions during hearing**

(i) During hearing on 24.02.2021, the Appellant’ Representatives reiterated the submissions made in the Appeal and prayed to allow the same. They were, however, directed to attend the Court on 12.03.2021 at 11.30 AM to deliberate the matter further in the light of information about details of checking of accuracy of disputed Energy Meter (asked from the Respondent).

(ii) The Appellant or its Representative did not attend the hearing on 12.03.2021 as per communication sent by the Appellant’s Representative vide e-mail dated 07.03.2021 requesting that the case be decided on merits.

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

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

1. The Appellant had a MS Category connection for Rice Mill with connected load of 90 kW and CD as 100 kVA. The said connection, after extension in load on the request of the Appellant, was changed into LS Category bearing Account No. L62T10100050 with connected load of 120 kW and CD 132 kVA on 15.12.2020.
2. The Appellant had earlier challenged the working of its HT Meter with Serial No. 12384785. The same was replaced with new HT Meter with Serial No. X0762427 on 17.11.2018 as per instructions of ASE Enforcement/Sangrur vide Checking No. 3854/54 dated 12.11.2018 as per which, working of the Meter was faulty.
3. Subsequently, the Appellant challenged the new (presently installed) HT Meter by depositing Meter challenge Fee of ₹ 2,400/- vide Receipt No. 398/51229 dated 01.10.2019. But working of this Meter was found within permissible limits as per Checking No. 555/040 dated 06.08.2020 of ASE/MMTS, Barnala.
4. Not satisfied with the said checking dated 06.08.2020 of the ASE/MMTS, Barnala, the Appellant filed a case before CGRF, Patiala for refund of ₹ 2,10,960/- charged for high MDI. After hearing both the sides, the Forum passed order that the demand surcharge of ₹ 2,10,960/- charged in the electricity bills for the period of 12/2018 to 03/2020 was recoverable.
5. The disputed Meter was installed at Appellant’s premises on 17.11.2018 and was working satisfactorily. The Forum found nothing wrong with working of this Meter. The Checking was done by following standard guidelines of PSPCL and working of the Meter was found within permissible limit as per checking no. 555/040 dated 06.08.2020 of ASE/MMTS, Barnala.
6. The billing period of MS Category connection was from mid of preceding month to mid of running month. But, the MDI resets inbetween the billing period. Therefore, consumption of 17138 units for the period 15.04.2019 to 17.05.2019 was not solely related to MDI of 4.52 kVA, it covered the days after demand rose upto 135.76 kVA before getting reset on first day of month. Since, Meter records everything on load side, therefore, any faulty equipment was Appellant’s liability. So, the Appellant was charged correctly as per Schedule of Tariff.
7. This was a Case of unauthorized increase of load/demand for which,the Appellant was charged for demand surcharge accordingly. Moreover, the Appellant had started the process of extension in load with registration on 29.11.2019 which meant that the Appellant was very well aware of its increased load conditions. Now, the Appellant was seeking refund for the same period which was not acceptable. Accuracy of meter was found to be working within permissible limits as per checking no. 555/040 dated 06.08.2020 of ASE/MMTS.
8. The accuracy of Meter was found to be within permissible limits and recorded MDI was correct. It was not a case of defective MDI. Since installation of HT Meter, CT/PT unit, distribution system etc. was working till this date and working to the satisfaction of the Appellant and within permissible limits. Therefore, no question can be raised about accuracy or working of system during disputed period.
9. The checking dated 06.08.2020 was done following standard guidelines of PSPCL and working of meter was found within permissible limit as per checking done by ASE/MMTS, Barnala.
10. The results of checking showedthat the working of HT Meter was within permissible limits and same Meter installed at the Appellant’s premises even now was working to the satisfaction of the Appellant. Load of the Appellant’s connection was increased from connected load of 90 kW and CD 100 kVA to connected load of 120 kW and CD 132 kVA on 15.12.2020.

**(b) Additional Submissions of the Respondent**

The Respondent, in its additional submissions sent vide e-mail dated 23.02.2021, in response to letter no. 181 dated 17.02.2021 of this Court stated as under:

1. Accuracy of the Energy Meter was checked by ASE/MMTS, Barnala and result was found to be in permissible limits with respect to all parameters.
2. The Energy Meter was checked by ASE/MMTS, Barnala by following standard procedure as per the PSPCL guidelines. A copy of checking report was already provided along with reply to the Appeal.
3. The overloading conditions of any transformer depends upon manufacturing material’s quality, environmental conditions, initial temperature of oil etc.
4. The Appellant, in its request for challenging the Energy Meter, claimed that Energy Meter installed at its premises was running fast. There was no reference to high MDI in the said request.
5. Therefore, in compliance to directions given during hearing on 24.02.2021 by this Court, the Addl.S.E, DS Sub-urban Division, Barnala sent its response vide letter no. 1314 dated 05.03.2021 stating as under:

“ਸੀਨੀਅਰ ਕਾਰਜਕਾਰੀ ਇੰਜਨੀਅਰ ਇੰਨਫੋਰਸਮੈਂਟ/MMTS ਬਰਨਾਲਾ ਵੱਲੋਂ ਆਪਣੇ ਪੱਤਰ ਨੰ: 153 ਮਿਤੀ 05.03.2021ਨਾਲ ਇਸ ਦਫਤਰ ਨੂੰ ਸੂਚਿਤ ਕੀਤਾ ਹੈ ਕਿ ਖਾਤਾ ਨੰ. L62MS620102SID ਰਾਇਸ ਮਿੱਲ ਤਪਾ ECR No. 040/555 ਮਿਤੀ 06.08.2020 ਨੂੰ ਚੈੱਕ ਕੀਤਾ ਗਿਆ ਸੀ। ਚੈਕਿੰਗ ਰਿਪੋਰਟ ਹੀ ਆਪਣੇ ਆਪ ਵਿੱਚ ਸਵੈ-ਸਪੱਸ਼ਟ ਹੈ। ਇਸ ਤੋਂ ਇਲਾਵਾ ਆਪ ਜੀ ਨੂੰ ਦੱਸਿਆ ਜਾਂਦਾ ਹੈ ਕਿ ਇਸ ਸਬੰਧੀ ਹੋਰ ਕੋਈ ਰਿਕਾਰਡ ਉਪਲੱਬਧ ਨਹੀਂ ਹੈ। ਚੈਕਿੰਗ ਵਿੱਚ ਰਿਕਾਰਡ ਕੀਤੀ Accuracy Value KVH ਤੇ ਆਧਾਰਤ ਹੈ ਕਿਉਂਕਿ MS ਕੈਟਾਗਿਰੀ ਦੀ ਬਿੰਲਿਗ KVAH ਉੱਪਰ ਹੁੰਦੀ ਹੈ।”

**(c) Submission during hearing**

(i) During hearing on 24.02.2021, the Respondent reiterated the submissions made in the written reply and prayed to dismiss the same. However, the Respondent was directed to submit the details about checking of accuracy of parameters of disputed meter by e-mail to this Court and the Appellant by 03.03.2021. He was also directed to attend this Court for deliberating the matter further on 12.03.2021.

(ii) During hearing on 12.03.2021, the Respondent reiterated the submissions made in the written replies. On being asked, the Respondent did not provide any documentary evidence other than the letter no. 153 dated 05.03.2021 from the Sr.Xen/ Enforcement-Cum-EA & MMTS, PSPCL, Barnala in support of checking of accuracy of essential parameters/components such as kWh, kVAh, kVARh, MDI etc. of the meter challenged by the Appellant on 01.10.2019. Accuracy of kVAh & MDI was required to be determined during testing of meter at site because these parameters are required for billing purpose.

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

The issues requiring adjudication are the legitimacy of

1. refund of demand surcharge of ₹ 2,10,960/- charged in the bills for the period from 12/2018 to 03/2020 alongwith interest
2. compensation for delay in checking the Meter challenged by the Appellant and harassment caused on this account.

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

**Issue (i)**

1. The Appellant’s Representative contended that the working of the present meter (installed on 17.11.2018) was not in order. Hence, the Appellant requested the concerned SDO to check the same but in vain. Thereafter, the Appellant made written request on 23.09.2019, which was marked to JE, for checking. The JE after checking the meter, ordered to get it challenged. Accordingly, the Appellant deposited ₹ 2,400/- as meter challenge fee on 01.10.2019 vide receipt No. 398/51229. As per Regulation 21.3.6 of Supply Code-2014, the challenged meter should have been checked at site/ ME Lab within a week time but inspite of repeated requests, no action had been taken by the Respondent to get it checked from MMTS/ ME Lab as per instructions. The present (disputed) meter installed on 17.11.2018, was recording MDI beyond limit against the sanctioned load of 90 kW and CD as 100 kVA with transformer capacity of 100 kVA. As a result, the Appellant had to bear heavy penalty bills on account of demand surcharge levied in each and every bill during the period from 12/2018 to 3/2020. However, ASE/ MMTS, Barnala checked the disputed meter on 06.08.2020 after a period of 310 days in violation of rules. The checking authority failed to check the meter in view of ESIM instruction No. 59.1.3 and CC No. 7/2019. Only window dressing was done, because the accuracy of the MDI was not checked nor any load was checked which was essential to verify the facts of the case. The recording of MDI of the meter was beyond limit and the same was not in order. The MDI on 17.05.2019 was recorded as 4.52 against consumption of 17138 units for the period 15.04.2019 to 17.05.2019. The MDI was defective or there was snag in the meter/line or the other equipment of the Respondent that could not be checked properly. The MDI of the same meter was recorded as 177.92 kVA on 17.01.2020 against transformer capacity/cable/ meter/ other equipments installed at the premises according to the sanctioned load of 90 kW and 100 kVA as CD. The equipments were never reported damaged during the period 12/2018 to 03/2020 when the MDI was recorded beyond limit.In case, MDI was found defective, the billing should have been made as per ESIM instruction No. 16.1 (defective MDI) of General Condition of Tariff (Clause 23.1.2). If the MDI overshoot by a margin of 10% of the CD, which was permissible as per rules, the Respondent was required to investigate the facts of the increase in MDI but the Respondent took no action to verify the same. Normally, the MDI recorded on 17.01.2020 as 177.92 recorded in case where connected load 225-250 kW was running at site due to load factor and demand factor. The MDI recorded as 4.52 kVA on 17.05.2019 with a consumption of 17138 units was also not correct. The observation of the Forum in this case was not genuine and justified. The Appellant’s Representative prayed that the disputed amount of ₹ 2,10,960/- and other charges be refunded with interest.
2. The Respondent, in its defence, stated that the Appellant challenged the disputed HT Meter by depositing Meter challenge Fee of ₹ 2,400/- on 01.10.2019. But working of this Meter was found within permissible limits as per Checking No. 555/040 dated 06.08.2020 of ASE/MMTS, Barnala. The disputed Meter was installed at Appellant’s premises on 17.11.2018 and was working satisfactorily. The Forum found nothing wrong with working of this Meter. The Checking was done by following standard guidelines of PSPCL.The billing period of MS Category connection was from mid of preceding month to mid of running month. But, the MDI resets in between the billing period. Therefore, consumption of 17138 units for the period 15.04.2019 to 17.05.2019 was not solely related to MDI 4.52 kVA, it covered the days after demand rose upto 135.76 kVA before getting reset on first day of month. Since, Meter records everything on load side, therefore, any faulty equipment was Appellant’s liability. So, the Appellant was charged correctly as per Schedule of Tariff. This was a case of unauthorized increase of load/demand for which, the Appellant was charged for demand surcharge accordingly. Moreover, the Appellant had started the process of extension in load with registration on 29.11.2019 which meant that the Appellant was very well aware of its increased loading conditions. Now, the Appellant was seeking refund for the same period which was not acceptable. Accuracy of meter was found to be working within permissible limits as per checking no. 555/040 dated 06.08.2020 of ASE/MMTS. The recorded MDI was correct. It was not a case of defective MDI. Since installation of HT Meter, CT/PT unit, distribution system etc. was working till this date and working to the satisfaction of the Appellant and within permissible limits. Therefore, no question can be raised about accuracy or working of system during disputed period. The Respondent, on being directed by this Court, intimated vide letter no. 996 dated 23.02.2021 that accuracy of the Energy Meter was checked by ASE/MMTS, Barnala and result was found to be in permissible limits with respect to all parameters. The overloading conditions of any transformer depends upon manufacturer’s material quality, environmental conditions, initial temperature of oil etc. The Appellant, in his request for challenging the Energy Meter, claimed that Energy Meter installed at its premises was running fast. There was no reference to high MDI in his request.
3. As per evidence on record, the disputed meter challenged by the Appellant on 01.10.2019 was checked vide ECR No. 555/040 dated 06.08.2020 by the Addl.S.E, MMTS, Barnala who reported as under:

“ਉਪਰੋਕਤ connection SDO Tapa-I ਦੇ ਪੱਤਰ ਨੰ: 1305 ਮਿਤੀ 6-8-2020 ਅਨੁਸਾਰ ਚੈੱਕ ਕੀਤਾ। ਪੱਤਰ ਅਨੁਸਾਰ ਖਪਤਕਾਰ ਨੇ ਆਪਣਾ Energy Metering Unit challenge ਕੀਤਾ ਹੋਇਆ ਹੈ। ਮੌਕੇ ਉੱਪਰ CTPT Unit ਦੇ Meter ਦੀ Seal ਤੋੜ ਕੇ Energy Meter ਦਾ DDL ਕੀਤਾ ਅਤੇ Readings & Parameters Note ਕੀਤੇ। ਮੌਕੇ ਉੱਪਰ ਖਪਤਕਾਰ ਦੀ ਹਾਜਰੀ ਵਿੱਚ ਖਪਤਕਾਰ ਦੇ ਚਲਦੇ Load ਅਤੇ PF ਉੱਪਰ Energy Metering Unit ਦੀ Accuracy MT 365 Moving Test Set ਨਾਲ ਚੈੱਕ ਕੀਤੀ ਗਈ ਜਿਸ ਦੌਰਾਨ Energy Metering Unit ਦੀ Accuracy within limit (+ 0.85 %) ਪਾਈ ਗਈ ।”

1. The Forum, in its decision, observed that “since no abnormal working of the meter has been observed during the checking of meter by MMTS and also in the DDL report, there is no sufficient reason to doubt the maximum demand recorded by the meter.”
2. During hearing on 24.02.2021, the Respondent, on being specifically asked, stated that it did not have complete details about accuracy of consumption in kWh, kVAh, kVARh, MDI etc. in respect of checking done by MMTS vide ECR No. 040/555 dated 06.08.2020 of disputed Energy Meter. He offered to get the disputed Energy Meter checked again in ME Lab to ascertain the requisite details but, the Appellant’s Representative did not express his willingness for the purpose at this stage. The Respondent was, then, directed to send the requisite details about checking of accuracy of the disputed Energy Meter parameters mentioned above and send a copy of the same to this Court as well as the Appellant by 03.03.2021.Both the sides were asked to attend another hearingin this case on 12.03.2021 at 11.30 AM for deliberation in the light of information to be given by the Respondent.
3. In response to the directions given by this Court in proceedings dated 24.02.2021, the Additional S.E., DS Sub-urban Division, Barnala intimated, vide letter no. 1314 sent vide e-mail dated 05.03.2021, as under:

“ਸੀਨੀਅਰ ਕਾਰਜਕਾਰੀ ਇੰਜਨੀਅਰ ਇੰਨਫੋਰਸਮੈਂਟ/MMTS ਬਰਨਾਲਾ ਵੱਲੋਂ ਆਪਣੇ ਪੱਤਰ ਨੰ: 153 ਮਿਤੀ 05.03.2021 ਨਾਲ ਇਸ ਦਫਤਰ ਨੂੰ ਸੂਚਿਤ ਕੀਤਾ ਹੈ ਕਿ ਖਾਤਾ ਨੰ. L62MS620102SID ਰਾਇਸ ਮਿੱਲ ਤਪਾ ECR No. 040/555 ਮਿਤੀ 06.08.2020 ਨੂੰ ਚੈੱਕ ਕੀਤਾ ਗਿਆ ਸੀ। ਚੈਕਿੰਗ ਰਿਪੋਰਟ ਹੀ ਆਪਣੇ ਆਪ ਵਿੱਚ ਸਵੈ-ਸਪੱਸ਼ਟ ਹੈ। ਇਸ ਤੋਂ ਇਲਾਵਾ ਆਪ ਜੀ ਨੂੰ ਦੱਸਿਆ ਜਾਂਦਾ ਹੈ ਕਿ ਇਸ ਸਬੰਧੀ ਹੋਰ ਕੋਈ ਰਿਕਾਰਡ ਉਪਲੱਬਧ ਨਹੀਂ ਹੈ। ਚੈਕਿੰਗ ਵਿੱਚ ਰਿਕਾਰਡ ਕੀਤੀ Accuracy Value KVH ਤੇ ਆਧਾਰਤ ਹੈ ਕਿਉਂਕਿ MS ਕੈਟਾਗਿਰੀ ਦੀ ਬਿੰਲਿਗ KVAH ਉੱਪਰ ਹੁੰਦੀ ਹੈ।”

1. The Appellant’s Representative, to whom a copy of response of ASE/DS Division, Barnala received by e-mail dated 05.03.2021 was forwarded vide e-mail on 05.03.2021, stated vide e-mail dated 07.03.2021 as under:

“That in view of proceeding dated 24.02.2021 complete details about accuracy of consumption in kwh, kvah, kvarh, MDI etc. in respect of checking done by MMTS vide ECR No. 040/5558 dt 6-8-2020 of disputed energy Meter parameters were demanded from the checking agency, but his reply is that checking already done has been recorded on the checking report and nothing More is available with him, hence there is no new information about the said checking.

That in view of the above reply, case be closed and decision be awarded on the merits of case by allowing the appeal in favour of the petitioner alongwith interest and Compensation for non performance (Standard performance) of replacement of Meter and compensation of harassment already prayed.”

1. In the hearing held on 12.03.2021, the Respondent, on being asked, did not provide any documentary evidence other than the letter no. 153 dated 05.03.2021 from the Sr.Xen/ Enforcement-Cum-EA & MMTS, PSPCL, Barnala in support of checking of accuracy of essential parameters/components such as kWh, kVAh, kVARh, MDI etc. of the meter challenged by the Appellant on 01.10.2019. Accuracy of kVAh& MDI was required to be determined during testing of meter at site because these parameters are required for billing purpose.
2. There is merit in the submissions of the Appellant that the Respondent had failed to perform its duty well in verifying the facts of the increase in MDI and never served notice etc. as required under Regulation 36.1.3 of Supply Code-2014 and ESIM Instruction No. 101.1 as load of the Appellant was not checked at site to verify the facts. The Appellant’s Representative added that accuracy of the MDI was not checked at all.The meter was not checked half yearly as per ESIM Instruction.The monthly reading as per ESIM Instruction No. 81 was being recorded by JE/ JE-1, who also failed to point out the MDI readings beyond limit while recording the monthly reading, which was being recorded over and above the sanctioned CD of 100 kVA.

This Court is of the view that the aforesaid omissions need to be investigated by the Respondent and appropriate disciplinary action against the erring/defaulting officers/officials should be taken as per instructions/ regulations at the earliest.

1. Oral as well as written submissions made and evidence brought on record by both the Appellant and Respondent on this issue have been gone through. As per material on record, the Appellant challenged the working of the Meter installed at its premise by depositing Meter Challenge Fee on 01.10.2019. In its request dated 23.09.2019, the Appellant had requested that “with due respect we beg to state that the Meter installed at our industry is running fast and recording wrong/fictitious/excess readings according to our production/work etc. Kindly accept challenge fee and get it checked from ME Lab for adjustment of account of excess billing done.”

Accordingly, the checking of the connection was done at a belated stage by the Addl.S.E, MMTS, Barnala on 06.08.2020. As per checking report dated 06.08.2020, DDL was taken and accuracy of the Energy Metering Unit was reported within permissible limits. The said checking report of MMTS did not mention about checking of accuracy of essential parameters viz. kWh, kVAh, kVARh and MDI. Even after giving sufficient opportunity to the Respondent to ascertain the details from MMTS, nothing fruitful happened.

It is observed that during the period from the challenge of the Meter i.e. 10/2019 till the date of checking i.e. 06.08.2020, MDI recorded vis-a-vis the contract demand is tabulated below:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Month | MDI | CD | Difference | Rate | Amount (₹) |
| 12/2019 | 148.00 | 100 | 48.00 | 750 | ₹ 36000 |
| 01/2020 | 177.92 | 100 | 77.92 | 750 | ₹ 58440 |
| 02/2020 | 109.40 | 100 | 09.40 | 750 | ₹ 07050 |
| 03/2020 | 111.04 | 100 | 11.04 | 750 | ₹ 08250 |

It is, therefore not just and fair to charge demand surcharge mentioned above to the Appellant during the period from 10/2019 to 06.08.2020 on account of difference between MDI and CD beyond the permissible range in the absence of valid evidence in form of testing/checking of accuracy of essential parameters i.e. kWh, kVAh, kVARh and MDI. It is also observed that the Forum, in its decision, erred in concluding that demand surcharge charged for the period 12/2018 to 03/2020 was recoverable without keeping in view the instructions of PSPCL regarding checking of accuracy of all parameters of challenged Energy Meter. In the present case, the Respondent was responsible for not complying with the instructions issued by PSPCL from time to time in regard to checking of challenged Energy Meter within the stipulated time limit and as per relevant guidelines for checking the accuracy of all the parameters required for billing purpose. The checking of the meter done by Enforcement/ MMTS vide ECR no. 040/555 dated 06.08.2020 is incomplete and vague. Accuracy of the meter had been written as +0.85% but it was not mentioned in the ECR that the same was in respect of which energy parameter. Accuracy of MDI was not checked which is also used for billing purpose.

The Appellant had challenged the working of the meter on 01.10.2019 by depositing meter Challenge fee of Rs. 2400/-. He had not challenged the energy bills issued prior to 10/2019 by depositing the requisite fee. As such, demand surcharge included in energy bills prior to 10/2019 is recoverable from the Appellant. However, due to non- checking of MDI of the meter by the Enf. even on challenging of the meter accuracy by the Appellant, the MDI shall be treated as defective for billing purpose and Demand Surcharge for the months of 12/19, 01/20, 02/20 and 03/20 (prior to checking dated 06.08.2020) shall be overhauled as per Clause No. 16 of General Conditions of Tariff ( Tariff order FY 2019-20).

**Issue (ii)**

1. The Appellant stated in its Appeal that there was deficiency in service on the part of the Respondent (PSPCL) who was responsible for the delay of 310 days in checking the accuracy of the disputed Meter. The Appellant also stated that working of the Meter installed at its premises was challenged on 01.10.2019 by depositing the requisite meter challenge fee. But, the same was checked, after repeated requests, on 06.08.2020 by the ASE/MMTS, Barnala. The Appellant’s Representative prayed to award compensation to the Appellant to the tune of ₹ 62,000/- (310 daysx ₹ 200/- per day) in terms of provisions contained in Regulation 26 of Supply Code-2014.
2. It is observed that the Appellant did not give any representation to the Competent Authority /Body pointing out deficiency in service on the part of the licensee or make any complaint regarding non observance of Standard of Performance as per procedure laid down in Regulation No. 26 of Supply Code-2014. Thus, the plea of the Appellant for grant of compensation due to delay in checking the accuracy of the working of the Meter challenged by it is not maintainable/sustainable in the eyes of law. Accordingly, this issue is decided against the Appellant after due consideration.

**6.** **Decision**

As a sequel of above discussions, the order dated 09.12.2020 of the CGRF, Patiala in Case No. CGP-331 of 2020 is set aside. It is held that:

1. demand surcharges levied for the months of 12/2018, 01/2019, 02/2019, 03/2019 and 04/2019 are recoverable from the Appellant. Further, the demand surcharges for the months of 12/2019, 01/2020, 02/2020 and 03/2020 already levied/charged shall be overhauled by treating MDI as defective as per Clause No. 16 of General Conditions of Tariff (Tariff Order FY 2019-20). Accordingly, the Respondent is directed to recalculate the demand and refund/recover the amount found excess/short after adjustment, if any, as per instructions of PSPCL.
2. The prayer of the Appellant for grant of compensation on account of delay in checking the accuracy of the working of disputed Energy Meter is not maintainable, hence, not allowed.

**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)

March 17, 2021 Lokpal (Ombudsman)

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