

**COURT OF THE LOK PAL (OMBUDSMAN),
ELECTRICITY, PUNJAB,
PLOT NO. A-2, INDUSTRIAL AREA, PHASE-1,
S.A.S. NAGAR (MOHALI).**

APPEAL No. 12/2021

Date of Registration : 25.02.2021
Date of Hearing : 22.03.2021
Date of Order : 24.03.2021

Before:

**Er. Gurinder Jit Singh,
Lokpal (Ombudsman), Electricity, Punjab.**

In the Matter of:

M/s. Tharaj Castings Pvt. Ltd.,
Village Kanganwal, PO Jugiana,
Ludhiana.

**Contract Account Number W11EST1218 (old)
3003018007 (new)**

...Appellant

Versus

Additional Superintending Engineer,
DS Estate Division (Special),
PSPCL, Ludhiana.

...Respondent

Present For:

Appellant: 1. Sh. Naveen Dhoopar,
Appellant.

2. Sh. R. S. Dhiman,
Appellant's Representative.

Respondent : 1. Er. Kulwinder Singh,
Additional Superintending Engineer,
DS Estate Division (Special),
PSPCL, Ludhiana.

2. Sh. Kishan Singh,
Assistant Accounts Officer.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 01.12.2020 of the Consumer Grievances Redressal Forum (Forum), Patiala in Case No. CGL-126 of 2020, deciding that:

“The amount charged on account of difference of consumption at 66 kV side and 11 kV side from 30.09.2019 to 25.10.2019, is not justified. The amount be charged from 25.10.2019 (i.e. date of RCO) to 09.12.2019 on account of difference of consumption at 66 kV side and 11 kV side as per readings available on these dates. The notice no. 91 dated 27.01.2020 amounting Rs. 827640/- be revised accordingly. The amount charged of Rs. 119700/- charged vide notice no. 88 dated 27.01.2020, is justified & recoverable.”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 25.02.2021 i.e. after stipulated period of thirty days of receipt of the decision dated 01.12.2020 of the CGRF, Patiala by the Appellant on 11.12.2020. An application for condonation of delay in filing the Appeal in this Court was also received with the Appeal. The Appellant also submitted copies of receipt nos. 140932922

dated 20.02.2020 for ₹ 47,367/- and 155790005 dated 24.02.2021 for ₹ 3,31,600/- on account of requisite 40% of the disputed amount of ₹ 9,47,340/-. Therefore, the Appeal was registered and copy of the same was sent to the Addl. Superintending Engineer/ DS Estate Division (Special), PSPCL, Ludhiana for sending written reply/ parawise comments with a copy to the office of the CGRF, Ludhiana under intimation to the Appellant vide letter nos. 224-226/OEP/A-12/2021 dated 25.02.2021.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 22.03.2021 at 11.00 AM and an intimation to this effect was sent to both the sides vide letter nos. 312-13/OEP/A-12/2021 dated 15.03.2021. As scheduled, the hearing was held on 22.03.2021 in this Court on the said date and time. Arguments were heard from both sides and the order was reserved. Copies of the minutes of the proceedings were sent to the Appellant and the Respondent vide this office letter nos. 368-69/OEP/A-12/2021 dated 22.03.2021.

4. Condonation of Delay

At the start of hearing on 22.03.2021, the issue of condonation of delay in filing the Appeal beyond the stipulated period was

taken up. The Appellant's Representative had filed an application dated 24.02.2021 alongwith the Appeal praying that the decision dated 01.12.2020 of the CGRF, Ludhiana was received by the Appellant on 11.12.2020. But, the Appeal could not be filed within the stipulated period of 30 days due to the reason that the Appellant could not arrange sufficient funds to deposit the requisite 40% of the disputed amount. The Unit of the Appellant had suffered huge set back due to COVID-19 Pandemic and resultant lockdown. The Unit had gone into deep financial straits. The Unit had to be closed and the electricity connection was also disconnected. The Appellant had now been able to raise some loans for filing the present Appeal. It was, therefore, requested that the delay in filing the Appeal be condoned otherwise the Appellant would be deprived of justice. I find that the Respondent did not object to the condonation of the delay in filing the Appeal in this Court either in its written reply or during hearing in this Court.

In this connection, I have gone through Regulation 3.18 of PSERC (Forum and Ombudsman) Regulations, 2016 which reads as under:

“No representation to the Ombudsman shall lie unless:

(ii) *The representation is made within 30 days from the date of receipt of the order of the Forum.*

Provided that the Ombudsman may entertain a representation beyond 30 days on sufficient cause being shown by the complainant that he/she had reasons for not filing the representation within the aforesaid period of 30 days.”

It was observed that non condonation of delay in filing the Appeal would deprive the Appellant of the opportunity required to be afforded to defend the case on merits. Therefore, with a view to meet the ends of ultimate justice, the delay in filing the Appeal in this Court beyond the stipulated period was condoned and the Appellant's Representative was allowed to present the case.

5. 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.

(A) Submissions of the Appellant

(a) Submissions made in the Appeal

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

- (i) The Appellant was having a Large Supply Category Connection, bearing Account No. W11EST1218 (New Account No. 3003018007) with sanctioned load of 2500 kW and CD as 2670 kVA which was fed from the 66 kV cluster Sub Station. The other constituent of the Cluster was M/s. Manglam Recycling Pvt. Ltd. having Account No. LS-350 which now stands disconnected permanently.
- (ii) The Appellant's connection was disconnected permanently recently. The Unit of the Appellant falls within the jurisdiction of DS Estate Division (Special), PSPCL, Ludhiana. All electricity dues were being paid by the Appellant regularly as per bills raised by the Respondent.
- (iii) A sum of ₹ 8,44,193/- was raised against the Appellant on 27.01.2020 allegedly on account of difference of consumption recorded at 66 kV and 11 kV from 30.09.2019 to 09.12.2019. Similarly another sum of ₹ 1,22,094/- was raised on the same day i.e. 27.01.2020 for the same reason but for the period 09.12.2019 to 10.01.2020. Both the bills issued by the

Respondents mentioned above were wrong. The difference of 66 kV and 11 kV consumption in the first bill was shown as 44.81% and in the second bill, it was 8.97%. The Appellant was not in a position to explain this vast variation in the consumption recorded at 66 kV and 11 kV, it was obvious that there was some defect in the metering equipment of the Respondents. The Appellant's premises was situated just close to the 66 kV Sub Station at a distance of a few meters. As such, the huge difference between 66 kV and 11 kV consumption was certainly not on account of line losses.

- (iv) A similar dispute had arisen between the Appellant and Respondent in respect of this very connection in 2017. A huge amount was charged by the Respondent from the Appellant. The matter was finally decided by this Court in Appeal No. 32 of 2018 in which, it was held that this difference be limited to 1% for the purpose of billing. The same figure was held applicable to this connection but for another period in Appeal No. 46 of 2019. The same issue had cropped up again in case of the same connection. The difference of Consumption at 66 kV and 11 kV was 44.81% from 30.09.2019 to 09.12.2019 and 8.97% from 09.12.2019 to 10.01.2020. The Respondent was supposed to raise bills by taking the difference of 1% as

decided by this Court in Appeal No. 32 of 2018 and 46 of 2019 since the connection was the same and defect was also the same. But this did not happen. As such, the Appellant filed its petition before the Forum with the request to direct the Respondent to follow the decision of this Court in the present case also. But the Forum had not considered the decision of this Court in the earlier Appeals at all. Instead, the Forum in its wisdom, had upheld the charges except giving a minor relief in the period of charging.

- (v) The Appellant was not satisfied with the decision of the Forum at all and was constrained to file the present Appeal for justice.
- (vi) The distance of Appellant's 11 kV Connection was not more than 200 meter from the 66 kV Cluster Sub Station. As such, the losses to the tune of nearly 45% on a 11 kV line of about 200 meters was not justified by any stretch of imagination. It clearly indicated that there was something wrong with the metering. It was mainly on this ground that this Court, considering all aspects of the matter, had held that billing should be done treating line losses to be 1%. In the present case, nothing has changed. It was the same consumer, same connection and same site. Even the metering equipment was the

same. It was not understood as to why the Forum had not kept this in mind while deciding the case.

- (vii) That the bills issued after 10.01.2020 to date of permanent disconnection were also showing the same trend. As such, the decision in the present Appeal was liable to be applicable to these bills also.
- (viii) The Appellant had not been found wanting or responsible in any manner in the huge difference of consumption at 66 kV and 11 kV.
- (ix) It was prayed that undue charges raised against it may kindly be set aside on the pattern of decision of this Court in Appeal Nos. 32 of 2018 and 46 of 2019 as everything in the present Appeal was the same as in the said two Appeals.

(b) **Submission during hearing**

During hearing on 22.03.2021, the Appellant's Representative reiterated the submissions made in the Appeal. He also stated that connection of M/s Mangalam Recycling Pvt. Ltd. stands disconnected since 06/2017 and at present, there was only one connection i.e. of the Appellant and there was no cluster. The sanctioned load/CD of the Appellant's Connection was 1800 kW/2000 kVA and as such, the specified voltage of the Appellant was 11 kV. The billing of the Appellant should be

done at 11 kV voltage. After permanent disconnection, the cluster agreement with M/s Mangalam Recycling Pvt. Ltd. stood abrogated in 6/2017. The Appellant's billing be done on 11 kV from the date of disconnection. Further, the Appellant stated that accuracy of Energy Meter is not disputed. The Appellant's Representative, on being specifically asked submitted that accuracy of the Energy Meter installed was not disputed and billing is required to be done at 66 kV voltage as per Regulation No. 4.3 of Supply Code-2014.

(B) Submissions of the Respondent

(a) Submissions in written reply

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

- (i) A Large Supply Category Connection, bearing Account No. W11EST1218 (New Account No. 3003018007) with sanctioned load of 2500 kW and CD 2670 kVA was being fed from the 66 kV Cluster Sub Station.
- (ii) The order in Appeal Case No. 32 of 2018 was challenged on the ground that proportionate difference of consumption of energy meters installed at 66 kV and 11 kV were liable to be charged as per Regulation 4.3.3 of Supply Code-2014. Prior to 01.04.2015, the energy bills of two cluster members were being

issued on the basis of reading (consumption) of 66 kV energy meter but due to mistake from 04/2015 onwards, the billing of the above said two cluster members was started on the basis of consumption recorded independently on 11 kV energy meter. Earlier to 01.04.2015 as per instructions 9.3 (b) of ESIM only one bill was prepared on 66 kV meter consumption of two cluster members and the same was paid by them by sharing it on the basis of their 11 KV meter's consumption. However, w.e.f 01.04.2015, above said instructions were changed with Regulation 4.3.3 of Supply Code-2014 and it was required to issue two independent bills to cluster members by the Respondent. However, due to non-updation of instruction in computer SAP system, the billing from 4/2015 to 02/2020 was wrongly done in the Computer System on the basis of 11 kV energy meter consumption of two cluster members. The Appellant was correctly charged as per Supply Code Regulation 4.3.3.

- (iii) Now only one connection of the Appellant M/s. Tharaj Castings Pvt. Ltd. was running from 66 kV Cluster Sub-Station and the other connection of M/s. Manglam Recyling Ltd. was disconnected permanently due to accumulation of defaulting amount since 6/2017.

- (iv) Owing to the reason that in SAP System 66 kV meter reading was not recorded and bills were being prepared on 11 kV meter consumption of the Appellant. Therefore, 66 kV billing was not done and the difference of under assessment was being raised through supplementary bills by recording 66 kV meter reading manually. The present amount was charged through supplementary bills as per Supply Code Regulation 4.3.3 and Regulation 9.3 (b) of ESIM.
- (v) The Appellant was liable to be charged for proportionate difference of consumption of energy meters installed at 66 kV and 11 kV as per Regulation 4.3.3 of Supply Code 2014. As per Regulation 4.3.3 of Supply Code-2014, the supply on the basis of consumption recorded at 33 kV or higher voltage shall be billed for electricity charges including MMC alongwith electricity duty, octroi, fuel surcharge and shall be apportioned to the individual consumers in proportion to the consumption recorded by the meter installed on 11 kV feeders of each consumers at the Cluster Sub Station. Clause 4.3.1 to 4.3.3 of Supply Code are reproduced herein below:

“4.3.1 A group of new/existing HT/EHT consumers having their total contract demand above 4000 KVA, may jointly install a 33 KV or higher voltage cluster Sub-Station to be

owned and maintained by them. The supply of electricity shall be provided by the distribution licensee to the cluster sub-station at a voltage as specified in Regulation 4.2 above based on the sanctioned contract demand of the cluster sub-station in the premises of the leader of the group & actual cost of the HT/EHT line from feeding grid sub-station of cluster substation along with bay shall be payable by the constituent members of the Group.

4.3.2 The Licensee shall sanction the contract demand of the cluster substation and individual consumers connected to the cluster substation provided the contract demand of the cluster shall not be less than sum total of sanctioned contract demands of constituent members of the group.

4.3.3 4[The Fixed Charges shall be levied on the basis of sanctioned contract demand of the cluster sub-station in accordance with the General Conditions of Tariff approved by the Commission for the relevant year. The Energy Charges shall be levied on the consumption recorded by the HT/EHT meter installed at the cluster sub-station. The total bill amount including fixed, energy and other applicable charges shall be apportioned to the individual consumers as under:

The Fixed Charges shall be apportioned to individual consumers in proportion to the sanctioned contract demand.

The energy & other applicable charges shall be apportioned in proportion to the consumption recorded by the meter installed on the 11 kV feeder of each consumer at the cluster substation. The licensee shall install, seal & maintain all the meters including 11 kV meters as per regulation 21 of Supply Code, 2014, as amended from time to time.]”

- (vi) The decision of this Forum in Appeal no. 32 of 2018 was not applicable to the present demand raised by the Respondent and the said order of this Court had been challenged by the Respondent by filing CWP. At present, there was no defect in the connections of meters. Appeal no. 32 of 2018 was decided by this Court keeping in view the observations in M/s. Yadav Measurement regarding non-connectedness of neutral wire of all three phases of VT's to the meter neutral terminal as recorded on pages no. 20, 21, 22 and 23 of the judgment dated 28.11.2018 of this Court. The Court had not taken into consideration the certificate of calibration of M/s. Yadav Measurement Pvt. Ltd. Point no. 7 and 11 which are reproduced as under: -

"(7) The meter error is found within specified limit as IS 14697:1999 (Re-affirmed) with latest amendment.

(11) During the removal of the connection from the meter, it was observed that the neutral wire of all three Phase of VT's was not connected to the meter neutral terminal."

The Hon'ble Ombudsman has also stated at page 21 of the order as under: -

"I find that the accuracy of the Energy Meter was found within specified limits at both ends. However, as per Technical Specification of the Energy Meter, the accuracy of the Energy Meter will record correct consumption in this type of tamper. Accordingly, the billing was done by the CBC as per provisions of Regulation 4.3.3 of the Supply Code-2014."

- (vii) Now both the meters were recording consumption correctly and the present demand had been raised as per Supply Code Regulation 4.3.3.
- (viii) The Cluster (M/s. Manglam Recycling Ltd and M/s. Tharaj Castings Pvt. Ltd.) was fed from 66 Kanganwal Sub Station and fed through 12.5 MVA Power transformer. As in cluster, the connection of M/s. Manglam Recycling Ltd was permanently disconnected in the month of 6/2017 and Ms.

Tharaj Castings Pvt. Ltd was running on just as per billing data. The connection of M/s. Tharaj Castings Pvt. Ltd. was also temporary disconnected on 30-09-2019 due defaulting amount and was reconnected vide RCO no. 118/1023 dated 25.10.2019. Due to disconnection from 30.09.2019 to 25.10.2019 for 25 days, the 66 kVA transformer had remained energized without load.

- (ix) 66 kV Power Transformer in the premises of the Appellant had also I^2R losses and heat losses. As per Technical Specification, Power transformer remained running on very low capacity, not on its optimum capacity i.e. transformer losses itself are more. The Month-wise Maximum demand of 66 kV S/S Vishkamama Ispat (M/s. Mangalam Recycling recorded at 66 kV Grid S/S Kanganwal was also attached.
- (x) Regulation 4.3.3 of Supply Code 2014 was approved by PSERC and the Appellant was/ is liable to abide by the same. The decision of this Court in appeal no. 32 of 2018 was not applicable to the present demand raised.
- (xi) At present, there was no defect in the connections of meters. Appeal no. 32 of 2018 was decided by this Court keeping in view the observations in M/s. Yadav Measurement regarding the non-connectedness of neutral wire of all three phases of

VT's to the meter neutral terminal as recorded on the judgment page no. 20, 21, 22 and 23 of judgment dated 28.11.2018 of this Court. This Court had not taken into consideration the certificate of calibration of M/s. Yadav Measurement Pvt. Ltd and point no. 7 and 11 which had been reproduced supra.

- (xii) The meter was tested by M/s. Yadav Measurement on 12.03.2018 and the error in the meter was found within specified limit as per IS 14697:1999 (Re-affirmed) with latest amendment. The testing was done in the presence of the Consumer and after testing and reconnecting the meter connections, the same meter exists at site. The consumer had accepted this testing report and had not raised objection regarding accuracy of the meter after 12-03-2018 (TESTING DATE). Further, the consumer had not made any challenge regarding accuracy of the meter till putting the present case in the Forum.
- (xiii) The 66 kV and 11 kV meters had been checked by ASE/MMTS-4, Ludhiana vide ECR no. 1/3233 dated 15.6.2020, 11 kV meter of M/s. Tharaj Castings vide ECR No. 2/3233 dated 15.06.2020, 66 kV Meter of M/s. Manglam Recycling Ltd. Cluster 66 kV Sub Station Meter vide ECR No. 4/3233 dated 15.06.2020, 66 kV Meter at 66 kV Sub Station, Kanganwal.

- (xiv) The order of this Court in Appeal No. 32 of 2018 was not applicable to the present case and moreover Respondent had filed CWP vide dairy no. 3063729 against the said decision and the case has not been yet fixed for hearing. Appeal no. 32 of 2018 was decided due to different facts and hence the present amount of ₹ 8,27,640/ and ₹ 1,19,700/- was correctly charged on the basis of actual readings/ consumption of 66 kV and 11 kV meters as difference of unbilled units of 66 kV meter.
- (xv) Before 6/2017, there were 2 no. connections on this 66 kV cluster connection but in 6/2017, one leader member M/s. Manglam Recycling Ltd. (CD 4555 kVA) was permanently disconnected due to defaulting amount of ₹ 4.17 Crore. Presently, only connection of the Appellant having CD 2670 KVA was running on this 66 kV cluster connection. The total consumption of 66 kV meter was payable by the Appellant itself. As per the Clause vii- a & c of Agreement of Cluster, the present demands had been correctly charged to M/s. Tharaj Castings Pvt. Ltd. vide bill memo no. 91 dt 27.1.2020 for ₹ 8,27,640/- on account of unbilled 145200 units difference of 66 kV and 11 kV meter for the period from 30-09-2019 to 09-12-2019 and ₹ 1,19,700/- for the period from 09-12-2019 to 10-01-2020 for difference of 21000 units.

- (xvi) Both the meters were recording consumption correctly and the present demand was raised as per Supply Code Regulation 4.3.3. The higher difference between 11 kV & 66 kV may be due to the under capacity of capacitors and mis-management of capacitors or any defect on the part of the Appellant.
- (xvii) In cluster 66 kV connections, there was no instruction in Supply Code, ESIM and Agreement of cluster of both members, to waive/ exempt excess over 1% difference of 66 kV meter and 11 kV meter in consumption. The Appellant was liable to pay full energy charges of 66 kV meter as per Regulation 4.3.3 and ESIM Regulation 9.3.3 as per its cluster agreement. The Forum had rightly decided the case of the Appellant.
- (xviii) The order of this Court in Appeal No. 46 of 2019 was being challenged in the Honble High Court with other reasons/ grounds alongwith the facts the Respondent had replied to this Court that the refund from 16.09.2014 to 14.03.2015 was not allowable to the consumer due to the reason that the decision dated 28.11.2018 in appeal case No 32 of 2018 was not applicable in the case No 46/2019 relating to period 16.09.2014 to 14.03.2015 i.e before 29.02.2016 (change of 66 kV meter) as the 66 kV meter (PBB-48471) as tested by M/s. Yadav

Measurements Pvt. Ltd on 12.3.2018 was installed on 29.02.2016 vide MCO No 98/86573 dated 12.10.2015 due to the reason of difference of RTC time and IST time (as per MMTS report dated 29.2.2016) in the old meter No. PBB 37371. The meter No. PBB 37371 was changed/ removed and checked in ME Lab vide Store Challan No. 201 dated 02.03.2016 and was found working in permissible limits but this Court had not taken cognizance to this fact.

- (xix) The individual consumption data of M/s. Tharaj Castings Pvt. Ltd. and data showing power factor and difference of 66 kV and 11 kV meter from 29.09.2017 to 18.06.2020 was attached with the Appeal. The difference as 44.81% was for the period 30.09.2019 to 09.12.2019 and for this period the 66 kV meter' PF was 0.67. For the other period as shown in the sheet, the percentage difference was less where the PF was more. During this period the MDI of M/s. Tharaj Castings of 11 kV meter was 1054 kVA. The maximum demand data sheet taken from 66 kV Sub Station Kanganwal of this 66 kV feeder was attached which showed that in the month of October, 2019, demand was nil and from November, 2019 to February, 2020, it was 10 Amp and in the year 2017, the demand upto June 2017, was approximately 83 Amp and after disconnection of M/s.

Manglam Recycling, the demand during 2018 upto October, 2018 was approximately 68 Amp and from November, 2018 to February, 2020, it was approximately upto 11 Amp. It showed that factory of M/s. Tharaj Castings Pvt. Ltd. had remained running at approximate 10 Amp as compared to the year 2018 and 2017 when it was approximately 65 kVA. The reason of using less load as compared to 66 kV Sub Station capacity, the power factor of 66 kV remained less than that of the 11 kV individual meter of M/s. Tharaj Castings and due to this, the difference of kVAh units of 66 kV and 11 kV meter kVAh was more than 1%.

- (xx) As per Supply Code Regulation 4.3.3 the Appellant was bound to pay all the consumption as recorded by 66 kV meter as in cluster case. Hence the present Appeal is liable to be dismissed. In cluster 66 kV connections, there was no instruction to waive/exempt excess over 1% difference of 66 kV meter and 11 kV meter in consumption in Supply Code, ESIM and Agreement of Cluster of both members. Further, in compliance to the decision of the Forum, a refund of ₹ 7,40,652/- had been given to the Appellant vide notice no 52 dated 18.1.2021 by calculating the consumption by bifurcating from 30.09.2019 to 25.10.2019 and 09.12.2019. The photocopy of the refund bill, memo no. 20

dated 14.1.2020 and consumption bifurcation sheet was attached.

(xxi) In view of the above reply, it was prayed by the Respondent that the Appeal of the Appellant may be dismissed.

6. Analysis and Findings

The issue requiring adjudication is the legitimacy of the billing of the Appellant's LS category connection, fed from 66 kV cluster sub-station, for the disputed period as per applicable regulations.

The Appellant's Representative stated in its Appeal that the Appellant was having a Large Supply Category connection, bearing Account No. W11EST1218 (New Account No. 3003018007) with sanctioned load of 2500 kW and CD 2670 kVA being fed from the 66 kV Cluster Sub Station. The other constituent of the Cluster was M/s. Manglam Recycling Pvt. Ltd. having Account No. LS-350 which stood disconnected permanently. The Appellant's connection was disconnected permanently recently. A sum of ₹ 8,44,193/- was raised against the Appellant on 27.01.2020 allegedly on account of difference of consumption recorded at 66 kV and 11 kV from 30.09.2019 to 09.12.2019. Similarly another sum of ₹ 1,22,094/- was raised on the same date i.e. 27.01.2020 for the same reason but for the

period 09.12.2019 to 10.01.2020. Both the bills issued by the Respondent mentioned above were wrong. The difference of 66 kV and 11 kV consumption in the first bill was shown as 44.81% and in the second bill, it was 8.97%. The Appellant was not in a position to explain this vast variation in the consumption recorded at 66 kV and 11 kV, it was obvious that there was some defect in the metering equipment of the Respondent. The Appellant's premises was situated just close to the 66 kV Sub Station at a distance of a few metres. As such, the huge difference between 66 kV and 11 kV consumption was certainly not on account of line losses. A similar dispute had arisen between the Appellant and Respondent in respect of this very connection in the year 2017. A huge amount was charged by the Respondent to the Appellant. The matter was finally decided by this Court in Appeal No. 32 of 2018 in which, it was held that this difference be limited to 1% for the purpose of billing. The same figure was held applicable to this connection but for another period in Appeal No. 46 of 2019. The same issue had cropped up again in case of the same connection. The difference of Consumption at 66 kV and 11 kV was 44.81% from 30.09.2019 to 09.12.2019 and 8.97% from 09.12.2019 to 10.01.2020. The Respondent was supposed to

raise bills by taking the difference of 1% as decided by this Court in Appeal No. 32 of 2018 and Appeal No. 46 of 2019 since the connection was the same and defect was also the same. But this did not happen. As such, the Appellant filed its Petition before the Forum with the request to direct the Respondent to follow the decision of this Court in the present case also. But the Forum had not considered the decision of this Court in the earlier Appeals at all. Instead, the Forum, in its wisdom, had upheld the charges except giving a minor relief in the period of charging.

During hearing on 22.03.2021 in this Court, the Appellant's Representative emphasized that connection of M/s Mangalam Recycling Pvt. Ltd. stood disconnected since 06/2017 and at present, there was only one connection i.e. of the Appellant and there was no cluster. The sanctioned load/CD of the Appellant's Connection was 1800 kW/2000 kVA and as such, the specified voltage of the Appellant was 11 kV. The billing of the Appellant should be done at 11 kV voltage. After permanent disconnection, the cluster agreement with M/s Mangalam Recycling Pvt. Ltd. stood abrogated in 06/2017. The Appellant's billing be done on 11 kV from the date of disconnection. The Appellant's Representative, on being

specifically asked, submitted that accuracy of the Energy Meter installed was not disputed and billing is required to be done at 66 kV voltage as per Regulation 4.3 of Supply Code-2014.

- (ii) The Respondent, in its defence, stated that prior to 01.04.2015, the energy bills of two cluster members were being issued on the basis of reading (consumption) of 66 kV energy meter but due to mistake from 04/2015 onwards, the billing of the above said two cluster members was started on the basis of consumption recorded independently on 11 kV energy meter. Earlier to 01.04.2015, as per instructions 9.3 (b) of ESIM only one bill was prepared on 66 kV meter consumption of two cluster members and the same was paid by them by sharing it on the basis of their 11 KV meter's consumption. However, w.e.f 01.04.2015, above said instructions were changed with Regulation 4.3.3 of Supply Code-2014 and it was mandatory to issue two independent bills to cluster members by the Respondent. However, due to non-updation of instructions in computer SAP system, the billing from 4/2015 to 02/2020 was done in the Computer System on the basis of 11 kV energy meter consumption of two cluster members. The Appellant was correctly charged as per Supply Code Regulation 4.3.3. Now only one connection of the Appellant M/s. Tharaj Castings Pvt.

Ltd. was running from 66 kV Cluster Sub-Station and the other connection of M/s. Manglam Recycling Ltd. was disconnected permanently due to accumulation of defaulting amount since 6/2017. Owing to the reason that in SAP System 66 kV meter reading was not recorded, bills were being prepared on 11 kV meter consumption of the Appellant. Therefore, 66 kV billing was not done and the difference of under assessment was being raised through supplementary bills by recording 66 kV meter reading manually. The present amount was charged through supplementary bills as per Supply Code Regulation 4.3.3 and Regulation 9.3 (b) of ESIM. As per Regulation 4.3.3 of Supply Code-2014, the Appellant was bound to pay all the consumption as recorded by 66 kV meter in cluster case. The present Appeal was liable to be dismissed. In cluster 66 kV connections, there was no instruction to waive/ exempt excess over 1% difference of 66 kV meter and 11 kV meter in consumption in Supply Code, ESIM and Agreement of Cluster of both members. Further, in compliance to the decision of the Forum, a refund of ₹ 7,40,652/- had been given to the Appellant vide notice no 52 dated 18.1.2021 by calculating the consumption by bifurcating from 30.09.2019 to 25.10.2019 and from 25.10.2019 to 09.12.2019.

- (iii) The Court noted the contention of the Respondent in its written reply that decision of this Court in Appeal No. A-32 of 2018 was not relevant/applicable to the present dispute. The Respondent also stated that Appeal Case No. 32/2018 was decided by this Court after taking cognizance of decision taken in another Appeal Case regarding non-connection of neutral wire of all the three phases of VTs to the meter neutral terminal. The Respondent added that order dated 18.11.2018 of this Court in Appeal Case No. A-32 of 2018 had been challenged by the Respondent (PSPCL) in the Hon'ble High Court by filing a CWP.
- (iv) As per material on record, the Cluster (M/s. Manglam Recycling Ltd and M/s. Tharaj Castings Pvt. Ltd.) was fed from 66 Kanganwal Sub Station and fed through 12.5 MVA Power transformer. The connection of M/s. Manglam Recycling Ltd in the Cluster was permanently disconnected in the month of 6/2017 and M/s. Tharaj Castings Pvt. Ltd was running on just as per billing data. The connection of M/s. Tharaj Castings Pvt. Ltd. was also temporary disconnected on 30-09-2019 due defaulting amount and was reconnected vide RCO no. 118/1023 dated 25.10.2019. Due to disconnection from

30.09.2019 to 25.10.2019 for 25 days, the 66 kVA transformer had remained energized without load.

As per evidence brought on record of this Court, the Energy Meter installed at Appellant's end and Grid end were checked by the Addl. S.E., Enforcement-cum-EA & MMTS, Ludhiana vide ECR No. 1, 2 and 4 dated 16.06.2020 on being so directed by the Forum. In the aforesaid checking reports, nothing abnormal was reported. That is why, the Appellant's Representative stated during hearing in this Court on 22.03.2021 that the accuracy of the Energy Meters was not disputed.

- (v) With a view to arrive at a reasonable and just conclusion, it is necessary to peruse the provisions relevant in the present dispute. Accordingly, Regulation 4.3.3 of Supply Code-2014 is reproduced below:

“4.3.3 4[*The Fixed Charges shall be levied on the basis of sanctioned contract demand of the cluster sub-station in accordance with the General Conditions of Tariff approved by the Commission for the relevant year. The Energy Charges shall be levied on the consumption recorded by the HT/EHT meter installed at the cluster sub-station. The total bill amount*

including fixed, energy and other applicable charges shall be apportioned to the individual consumers as under:

The Fixed Charges shall be apportioned to individual consumers in proportion to the sanctioned contract demand.

The energy & other applicable charges shall be apportioned in proportion to the consumption recorded by the meter installed on the 11 kV feeder of each consumer at the cluster substation.

The licensee shall install, seal & maintain all the meters including 11 kV meters as per regulation 21 of Supply Code, 2014, as amended from time to time.]”

A perusal of the above provisions vis-a-vis written & oral submissions alongwith evidence on record reveals that billing of the Appellant done by the Respondent for the disputed period was not done in accordance with the provisions contained in Regulation 4.3.3 of Supply Code-2014 read with the Tariff Order of the respective Financial Year. The Appellant should have been billed on 66 kV side being single cluster member/consumer after permanent disconnection of the connection of lead member, M/s Manglam Recycling Industries Pvt. Ltd. in 06/2017. The contention of the Appellant's Representative during hearing on 22.03.2021 that “after permanent disconnection, the cluster agreement with M/s

Mangalam Recycling Pvt. Ltd. stood abrogated in 06/2017” is not valid/tenable/sustainable. The Appellant was required to complete the requisite formalities for annulment of the Cluster Sub-Station agreement with the other cluster partner and the PSPCL after disconnection of the connection of M/s Mangalam Recycling Pvt. Ltd. in 06/2017 if he desired to do so. The Appellant can not claim relief simply by considering that the other cluster partner’s connection had been permanently disconnected and the agreement already entered into stood automatically annulled. The Appellant is still governed by the provisions of Cluster Sub-Station agreement. The Appellant has been given undue benefit due to non-implementation of provisions contained in Regulation No. 4.3 of Supply Code-2014 (applicable from 01.01.2015) and non-updation of instructions in SAP system. The Appellant is deemed to be connected at 66 kV supply voltage as per Regulation No. 4.3.7 of Supply Code-2014. The bills issued vide memo nos. 91 dated 27.01.2020, 88 dated 27.01.2020 and 52 dated 18.01.2021 are not as per Regulation 4.3.3 of Supply Code-2014. There is no provision in Supply Code to issue bills to members of Cluster Sub-Station in respect of difference of energy recorded by 66 kV and 11 kV energy meters. This Court

is, therefore, inclined to quash the demands raised in the above mentioned letters. The Respondent is given the liberty to raise fresh bills/demands in terms of provisions of Regulation 4.3.3 of Supply Code-2014 read with Tariff Order for respective Financial Year and thereafter take appropriate action to recover the amount of revised demands as per instructions of PSPCL. Decision of this Court in Appeal Nos. 32/2018 and 46/2019 are not applicable in the present case because the billing is to be done on the basis of energy consumption recorded at 66 kV voltage in view of Regulation 4.3.3 of Supply Code-2014.

7. Decision

As a sequel of above discussions, the order dated 01.12.2020 of the CGRF, Ludhiana in Case No. CGL-126 of 2020 is set aside. The Respondent shall be at liberty to bill the Appellant for the disputed period at 66 kV supply voltage in accordance with the provisions contained in Regulation 4.3.3 of Supply Code-2014 (as amended from time to time) read with the Tariff Order of the respective Financial Year. Thereafter, the Respondent shall also be at liberty to recalculate the demand and refund/recover the amount found excess/short, after adjustment, with surcharge/interest as per instructions of PSPCL.

8. The Appeal is disposed off accordingly.

9. 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.
10. 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.

March 24, 2021
S.A.S. Nagar (Mohali)

(GURINDER JIT SINGH)
Lokpal (Ombudsman)
Electricity, Punjab.