

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

**(Constituted under Sub Section (6) of Section 42 of
Electricity Act, 2003)**

APPEAL No. 24/2023

Date of Registration : 25.09.2023

Date of Hearing : 13.10.2023

Date of Order : 13.10.2023

Before:

**Er. Anjuli Chandra,
Lokpal (Ombudsman), Electricity, Punjab.**

In the Matter of:

M/s. Ganpati Cotex,
New Nag Majitha-1,
Amritsar.

Contract Account Number: 3005822715

...Appellant

Versus

Addl.S.E./Sr.Xen,
DS Suburban Division, PSPCL,
Amritsar.

...Respondent

Present For:

Appellant: 1. Sh. Gurmit Singh,
2. Sh. Rahul Sehgal,
Appellant's Representatives.

Respondent : 1. Er. Jasdeep Singh,
Addl. SE/ DS Suburban Divn.,
Amritsar.
2. Sh. Amandeep Singh,
R.A.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 08.08.2023, read with Corrigendum dated 05.09.2023, of the Corporate Consumer Grievances Redressal Forum, Ludhiana (Corporate Forum) in Case No. CF-085/2023 deciding that:

“i. The decision dated 28.02.2023 of Border Zone CGRF, Amritsar is set-aside excluding investigation part which is reproduced below: -

“ਸੰਬੰਧਤ ਖਾਤੇ ਵਿਚ ਹੋਈਆਂ ਕੁਤਾਈਆਂ ਦੀ ਪੜਤਾਲ ਵੱਖਰੇ ਤੌਰ ਤੇ ਕਰਨ ਲਈ ਕਮੇਟੀ ਵੱਲੋਂ ਕੇਸ ਮੁੱਖ ਇੰਜੀ ਇਨਫੋਰਸਮੈਂਟ ਪਟਿਆਲਾ, ਜੀ ਦੇ ਦਫ਼ਤਰ ਨੂੰ ਭੇਜਣ ਦਾ ਫੈਸਲਾ ਕੀਤਾ ਜਾਂਦਾ ਹੈ।”

Notice numbers 1517 dated 22.05.2023 amounting to Rs. 1340901/- and 2575 dated 11.11.2021 amounting to Rs. 472997/- (issued against ECR no. 22/2543 dated 06.09.2021) of AEE/DS Majitha-1 S/Divn., Amritsar are quashed. Account of the petitioner be overhauled for a period of six months prior to the date of replacement of CT/PT i.e., 28.12.2021 as per Regulation no. 21.5.2(d) of Electricity Supply Code and Related Matters Regulations 2014.

ii. As decided in Border Zone CGRF, Amritsar, CE/EA &Enf., PSPCL, Patiala, shall enquire the matter and action be initiated against the delinquent officer(s)/official(s).”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 18.09.2023 i.e. within the stipulated period of thirty days of receipt of the decision dated 08.08.2023 of the CCGRF, Ludhiana in Case No.CF-085/2023, received by the Appellant on 23.08.2023. The Appeal was received through email & it was incomplete. So the

Appellant was asked vide letter no. 667/OEP/M/s Ganpati Cotex dated 18.09.2023 to send the Appeal complete in all respects. The Respondent was also asked vide letter no. 668/OEP/M/s Ganpati Cotex dated 18.09.2023 to confirm whether the Appellant had deposited the requisite 40% of the disputed amount arrived after implementation of the decision dated 08.08.2023 of the CCGRF, Ludhiana in Case No.CF-085/2023. The Respondent submitted vide Memo No. 2778 dated 19.09.2023 that as per the decision of the Corporate Forum, Ludhiana, the disputed amount of ₹ 5,62,927/- was recoverable from the Appellant & requisite 40% of this amount came out to be ₹ 2,25,171/-, out of which ₹ 1,84,000/- had been already deposited by the Appellant. So, an amount of ₹ 41,171/- more was needed to be deposited. This was conveyed to the Appellant vide letter no. 671/OEP/M/s Ganpati Cotex dated 19.09.2023. In response, the Appellant deposited ₹ 41,171/- vide Receipt No. 198166629 dated 21.09.2023 & submitted all other documents on 25.09.2023. Therefore, the Appeal was registered on 25.09.2023 and copy of the same was sent to the Add. SE/ DS Suburban Divn., Amritsar for sending written reply/ parawise comments with a copy to the office of the

CCGRF, Ludhiana under intimation to the Appellant vide letter nos. 682-84/OEP/A-24/2023 dated 25.09.2023.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 13.10.2023 and intimation to this effect was sent to both the parties vide letter nos. 705-06/OEP/A-24/2023 dated 03.10.2023. As scheduled, the hearing was held in this Court and arguments of both the parties were heard.

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 deliberations made by the Appellant's Representative and the Respondent alongwith material brought on record by both the parties.

(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 humbly submitted that on its request to the Worthy Ombudsman, Electricity, Punjab, letter no. 382 dated 08.05.2023 was issued to the office of the CE/ DS (ZLDSC)

Border Zone, Amritsar. As a result, ZLDSC, Border Zone, Amritsar passed the order dated 28.02.2023 in this case. On receipt of this order, the Appellant filed a petition in the Corporate Forum, Ludhiana which was admitted on 13.07.2023 & registered under Case No. CF-085/2023. Notice to the Respondent was issued & the next date was 18.07.2023 in which the rejoinder was filed, which was taken on record. Next date of hearing was 25.07.2023 & the Appellant filed another rejoinder with no reply from the Respondent. The next date was fixed for 01.08.2023. On 01.08.2023, the Appellant again submitted another rejoinder which was taken as oral/ written discussion. The Respondent offered no comments on the rejoinders. The order passed in this case was delivered to the Appellant by Post & copy of envelope was also enclosed. The order of Corporate Forum, Ludhiana dated 08.08.2023 in Case No. CF-085/2023 was partially challenged as orders were passed by totally ignoring temporary amendment in the related Regulation 21.5.2 of the Supply Code-2014 approved by the Worthy PSERC, Chandigarh, without any proper speaking order with reasoning as per standing instruction issued in this regard.

- (ii) A Registered Post letter no. 1033 dated 05.09.2023 from the Secretary, Corporate Forum, Ludhiana was received on

14.09.2023 in which a corrigendum was received which was as under:

"Due to typographical error, the date of replacement of CT/PT was inadvertently typed as 28.12.22 at two places in Forum's observations in point no. 3(vii) at page no. 18 & again in point no. 4(i) of decision at page no. 19, in the speaking orders dated 08.08.23 in the above titled case. This date be read as 28.12.21. All other contents of the decision shall remain the same."

This corrigendum proved that as the date of replacement of CT/PT was taken as 28.12.2022 while reviewing this case, similarly same might had happened with the date of checking & 06.09.2021 might had been taken as 06.09.2022 resulting in ignoring the temporary amendment & its applicability for the time period mentioned in CC No. 20/2021 from 23.03.2021 to 30.09.2021.

- (iii) It was humbly prayed that order passed on 08.08.2023 by the Corporate Forum, Ludhiana was required to be reviewed as the Regulation No. 21.5.2 (a) of Supply Code-2014, was temporarily amended by the Competent Authorities & the Chief Engineer/ Commercial, Patiala notified this vide CC No. 20/2021 dated 30.04.2021. Regulation 21.5.2 was applicable for overhauling the account of consumers in case meters were declared defective & the temporary amendment was made applicable for the meters declared defective during the period

from 23.03.2021 to 30.09.2021 only due to worldwide declared pandemic conditions. A special mention in this regard was made in the Appeal that at the end of 2019, an unknown deadly disease named as Covid-19 broke out & spread all over the World. This deadly disease created the Pandemic conditions in all over the world & compelled /resulted in longest Lock down /shut down all over the world. Strict guidelines were imposed in Punjab by Government of Punjab/ Govt. of India. Nobody knew what was happening & the situation compelled everybody to stay at home as the matter was worsening day by day. In such prevailing conditions, some relaxations were announced with the approval of PSERC, a Competent Authority to amend & approve a Temporary Amendment/ Regulation. After approval, the Chief Engineer/ Commercial, Patiala issued the CC No. 20/2021 dated 30.04.2021 as a temporary amendment, due to these very reasons. The timing of this CC itself was a proof that in the year 2020, there was world-wide general recession all over the world due to pandemic condition of Covid -19.

- (iv) On 06.09.2021, the Appellant's connection was checked by ASE/ Enf.-cum-EA & MMTS -1, PSPCL, Amritsar vide ECR No. 22/2543 & metering equipment (METER) was declared defective. The Meter was replaced between 21.05.2022 to

18.06.2022 as Bill No. 50412243576 dated 23.06.2022 was issued for this period. Regulation 21.5.2 dealing with overhauling of consumer account in case meter was found/ declared defective is reproduced as under:

“The accounts of the Appellant shall be overhauled/ billed for the period meter remained defective/ dead stop subject to maximum period of six months. In case of burnt/stolen meter, where supply had been made direct, the account shall be overhauled for the period of direct supply subject to maximum period of six month. The procedure for overhauling the account of the Appellant shall be as under:

- a) On the basis of energy consumption of corresponding period of previous year.
- b) In case the consumption of corresponding period of the previous year as referred in para (a) above is not available, the average monthly consumption of previous six (6) months during which the meter was functional, shall be adopted for overhauling of accounts.
- c) If neither the consumption of corresponding period of previous year (para-a) nor for the last six months (para-b) is available then average of the consumption for the period the meter

worked correctly during the last 6 months shall be taken for overhauling the account of the consumer.

d) Where the consumption for the previous months/period as referred in para (a) to para (c) is not available, the consumer shall be tentatively billed on the basis of consumption assessed as per para -4 of Annexure-8 and subsequently adjusted on the basis of actual consumption recorded in the corresponding period of the succeeding year.

e) The energy consumption determined as per para (a) to (d) above shall be adjusted for the change of load/demand on prorate basis, if any, during the period of overhauling of accounts.”

(v) Regulation 21.5.3 is reproduced as under:

“Any evidence provided by the consumer about conditions of working and/or occupancy of the concerned premises during the said period(s) which might have a bearing on computation of electricity consumption shall, however be taken into consideration by the distribution licensee.”

(vi) It was humbly submitted that relevant part of CC No. 20/2021 dated 30.04.2021 is reproduced below:

“Subject: Temporary amendment in the procedure for overhauling of consumer accounts provided in the Regulation 21.5.2 of Supply code - 2014 due to impact of Covid-19 pandemic for the FY 2021-22 only

On the subject cited above, PSPCL filed a Petition No. 17/2021 before Hon'ble Punjab State Electricity Regulatory Commission (PSERC). Hon'ble PSERC vide its order dated 22.04.2021 has decided to modify the procedure for overhauling of accounts under Regulation 21.5.2 of the Supply Code as under:

- i) The modified procedure for overhauling of accounts shall be applied to meters becoming defective/dead stop/burnt/stolen from 23.03.2021 to 30.09.2021.
- ii) The words "previous year" appearing in clause (a) to (c) of Regulation 21.5.2 of the Supply Code, 2014 shall be read as "FY 2019-20" while overhauling the consumer account due to meters becoming defective/dead stop/burn/stolen during the period 23.03.2021 to 30.09.2021 only under Regulation 21.5.2 of the Supply Code-2014."
- (vii) As per date of checking report prepared on 06.09.2021, the meter was declared defective as on 06.09.2021 & it was covered under CC No. 20/2021, though the meter was replaced in 06/2022, about 8 months later from the date of detection of the fault.
- (viii) It was worth mentioning that the Appellant's industrial connection was released in the year 2004 & checked by the Enforcement & MMTS officers many times in past since the

release of connection. It was not a new connection; as such all required averages as per Regulation 21.5.2 (a), (b) & (c) of Supply Code-2014 were available.

- (ix) Regulation 21.5.2 (d) of Supply Code-2014 was applicable only in case in which the previous period consumption was not available as per 21.5.2(a) to (c). But in the present case, temporary amendment was applicable because the connection was checked on 06.09.2021 (between the period from 23.03.2021 to 30.09.2021) as mentioned in the CC No. 20/2021 dated 30.04.2021.
- (x) Secondly it was also submitted during the oral discussion & reply that the connection was again checked & DDL was done on 02.05.2023 vide ECR No. 56/2633 before receipt of ZLDSC order dated 28.02.2023. In this ECR, the meter was tested & ESR results were mentioned as +.03%.
- (xi) It was worth mentioning here that the connection was checked by ASE Enforcement, Amritsar on 20.01.2020 on Monday, i.e. weekly off day & scroll switch was not working. The meter was replaced & new meter was installed in place of old one & removed meter was got checked in ME Lab. No action was taken as the Working of meter was found OK.

(xii) The Appellant put up & submitted the comparative consumption data for the period of 2019 which had found a place at concluding pages of the order dated 08.08.23 in this case.

(xiii) The Appellant humbly prayed this Court to kindly review the order dated 08.08.2023 of the Corporate Forum, Ludhiana for fair justice as per laws of land which had been ignored & it was in violation of Temporary Amendment approved by Competent Authorities without any reasoning & proper speaking order.

(b) Submissions made in the Rejoinder

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

(i) It was prayed that the Appellant's connection was checked by the Enforcement on 06.09.2021 vide ECR No. 22/2543 dated 06.09.2021 as explained in the request letter attached with the Appeal. A period of 3 years had elapsed to determine the period of overhauling of the account no. CA 3005822715. Even now as per letter received under reference from ASE/ DS Suburban Divn., Amritsar the concerned officials were thinking otherwise to delay the case for the redressal of genuine grievances created due to the pandemic condition of COVID-19, as they had not supplied the copy of letter intimated to this for implementation

of order 08.08.2023 of Corporate Forum, Ludhiana. On the basis of this information, the Appellant had to pay an excess amount as 40% of the disputed amount was required to be deposited for filing the present Appeal. Till date the new demand has not been delivered to the Appellant for the reasons best known to the concerned officials. They may be doing so to avoid action under Section 142 of Electricity Act, 2003.

- (ii) Some documentary evidence in the shape of screenshots/ pdf etc. as detailed below are enclosed herewith for ready references containing Rules & Regulations now applicable & also in the older days of PSEB parental organization of PSPCL.
- i) Copies of Page No. 151 to 154 explaining procedure in force in older days of PSEB regarding charging of error limit of 20%, Section 70.5 to 70.11.
 - ii) Screenshot of Section 56 of Electricity Act with mention of proceeding 6 months for calculation of average.
 - iii) Copies of Section 58 & 59 of ESIM-2018.
 - iv) Copy of page showing Section 59.4.1.
 - v) Copy of Letter No. 776/80/DD/SR-93 dated 04.11.2020 with subject "Checking of wrong CT/PT to safeguard the revenue of PSPCL" detailed instructions reiterated from time to time with reference to different clauses of ESIM &

Supply Code 2014 on the basis of decisions/ findings of worthy Ombudsman & CGRF after deciding numerous such cases by charging averages only for 6 months.

- vi) The definition of Meter as mentioned in ESIM 2018 at Serial No. ZV Meter means a device suitable for measuring,,,,,,,,,

As already explained, more than one notice was issued to the Appellant on different dates on the basis of ECR No. 22/2543 dated 06.09.2021 whereas in this very checking report it was clearly written that the account of the Appellant may be overhauled after receipt of ME Lab Report & findings of DDL. It was worth mentioning here that the Respondent in replies had written time & again that Section 59.4.1 of ESIM 2018. In this Section of ESIM "HT/ EHT meters. Such meters shall be tested by the officers of Enforcement/ MMTS (in found condition) with the help of ERS meters at normal running load/ power factor of the Appellant subject to the condition that the running load shall not be less than 15% of sanctioned load. But in this case, this was missing. First, the Respondent had replaced CT/PT on 28.12.2021 & after about 6 months the meter was replaced. The very first disputed amount was ₹ 4,72,997/-.

The Notice No. 2525 dated 11.11.2021 was issued to the Appellant before the replacement of CT/ PT under the seal & signature of AEE/ DS Sub Divn., Majtha-1, totally ignoring approved tariff order for FY 2021-22 without full details, speaking order, reasoning & providing opportunity to be heard by the Competent Assessing Officer.

- (iii) The Section 59.4.1 of ESIM 2018 was a processor for calculation of error %age of HT/ EHT meter but for account adjustment Section 59.6 of ESIM 2018.

“Adjustment of account of challenged meters: The provision of Reg.-21.5 of the Supply Code-2014 (See ESIM clause 57) shall be followed for overhauling the accounts of the consumers who challenge the accuracy of meter and their meter are got tested from enforcement/ MMTS/ME Labs.”

It was humbly prayed for in Clause No. 59.4.1 a processor for accuracy HT/ EHT meters with CT/ PT units is given. The account of the Appellant was to be adjusted under Regulation 21.5 of Supply Code-2014. Due to the prevailing Pandemic condition of Covid-19 a temporary amendment was approved by the Competent Commission which was notified by the CE/ Commercial, Patiala vide CC No. 20/2021 dated 30.04.2021 for overhauling the accounts of all type of consumers of PSPCL whose meters are declared defective from 23.03.2021 to

30.09.2021. The Appellant's meter was declared defective on 06.09.2021.

(iv) The Appellant had been using electricity from this connection for a long period of time. In the past the connection was being regularly checked & DDL was done & no faults reported to the Appellant. Now the readings were recorded by the PSPCL without any authentication from the Appellant or providing details except bill only for payment.

(v) The Corporate Forum, Ludhiana vide its order dated 08.08.2023 had mentioned the date of replacement of CT/ PT as 28.12.2022. In corrigendum order dated 05.09.23 of the Corporate Forum, Ludhiana the date of replacement of CT/ PT was corrected as 28.12.2021.

The matter had already been explained in the Appeal for filing an Appeal under consideration now. It was humbly prayed that an appropriate order may be passed as per CC No. 20/ 2021 please.

(c) Submissions during hearings

During hearing on 13.10.2023, the Appellant's Representatives (AR) reiterated the submissions made in the Appeal as well as in the Rejoinder and prayed to allow the same.

(B) Submissions of the Respondent

(a) Submissions in written reply

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

- (i) The site of the Appellant was checked vide ECR No. 22/2543 dated 06.09.2021 and after this the Addl. SE/Enforcement-cum-EA & MMTS-1, Amritsar had sent Memo No. 582 dated 15.09.2021 to Additional Executive Engineer, Majitha-1 Sub-division and it was reported that:

“whNo dk vhHvhHn?b x'yD s/ gkfJnk fe whNo d/ R ns/ Y Phase s/ CTs s'A whNo B{z ik oj/ e[B?e;aB ftu w/e po/e j[zdh ojh j?. fj; w/e po/e dk e[Zb ;wQK 370 fdB j?, T[es e[B?e;aB dk yksk doi j'Jh ygs B{z 66H6# tXk e/ ghHn?;HghH;hHn?b dhNk jdkfJsk w[skfpe yksk ;'fXnk ikt/.”

- (ii) Accordingly, the Additional Executive Engineer, Majitha-1, Sub division, PSPCL, Amritsar issued a notice to the Appellant bearing Memo No. 2575 dated 11.11.2021 to deposit the sum of ₹ 4,72,997/- within the 10 days of the receipt of the notice. The Appellant did not deposit the amount of ₹ 4,72,997/- and the same was charged in the Appellant's account.
- (iii) The Dy. Chief Engineer/ DS Suburban Circle, Amritsar called the meeting of Addl SE/ Sr.Xen DS Suburban Divn., Amritsar, Additional Executive Engineer, Majitha-1 Sub-Division, Amritsar, Revenue Accountant & L.D.C to discuss about the

Appellant's case and it was decided that the account of the Appellant was wrongly overhauled as it should have been overhauled as per the Instruction No. 57 (21.5.1) of the ESIM and notice issued to the Appellant be revised accordingly. So, Revised notice for ₹ 4,53,708/- was issued to the Appellant vide Memo No. 1121 dated 19.05.2022. The Appellant was not satisfied with the amount charged to him and filed its petition in Corporate Forum, Ludhiana and deposited the 20% of the disputed amount as ₹ 92,000/-. The Corporate Forum, Ludhiana informed vide letter no. 971 dated 10.06.2022 that it accept cases only having disputed amount more than ₹ 5 lacs.

- (iv) So the Appellant filed its case in Zonal Level Dispute Settlement Committee, Border Zone, Amritsar. ZLDSC in its order dated 28.05.2023 decided that the account of the Appellant be overhauled for the period of 370 days before the date of checking on 06.09.2021 till the change of CT/PT on 28.12.2021 by charging 3 times the reading recorded on one phase. After pre-audit, Notice was issued to the Appellant vide Memo No. 1517 dated 22.05.2023 for ₹ 13,40,901/- and the difference of amount [₹ 13,40,901/- (-) ₹ 4,72,997/- = ₹ 8,67,904/-] was charged to the account of the Appellant.

- (v) The Appellant filed an Appeal against the order of ZLDSC in the Corporate Forum, Ludhiana bearing Case No. CF-085/2023 and it was decided on 08.08.2023.
- (vi) As per the Instruction No. 59.4.1 of the ESIM “if CT connections are found wrong of CTs are found out of circuit and thus not contributing, the recorded consumption shall be enhanced proportionately, keeping in view non-contributing of CTs as applicable. This consumption shall be further subject to revision as per test result of meter.”
- (vii) As per the decision of the Zonal Level Dispute Settlement Committee, checking report of the Addl. SE/Enforcement-cum-EA & MMTS-1, Amritsar & DDL report, the account of the Appellant was overhauled by increasing the recorded consumption on one phase proportionately by 66 % and the same was charged to the Appellant.
- (viii) As per the Commercial Circular No. 20/2021, in case of Defective/Dead Stop/Burnt/Stolen:

The modified procedure for overhauling of accounts shall be applied to meters becoming defective/ dead stop/ burnt/ stolen from 02.03.2021 to 30.09.2021.

The words “previous year” appearing in clause (a) to (c) of Regulation 21.5.2 of the Supply Code, 2014 shall be read as

“FY 2019-20” while overhauling the consumer account due to meters becoming defective/dead stop/burnt/stolen during the period 23.03.2021 to 30.09.2021 only under regulation 21.5.2 of the Supply Code-2014.

- (ix) The above instructions were related to meter only but in this case, only the Blue Phase of the CT/PT unit was contributing while the Red Phase & Yellow Phase of 11 kV CT/PT unit were not contributing in the consumption. The CC No. 20/2021 was not applicable in this case because the meter was Ok and Red Phase & Yellow Phase were not contributing in the consumption.
- (x) As per Instruction No. 59.4.1 of the ESIM, the amount was chargeable to the Appellant.
- (xi) The order of the Corporate Forum, Ludhiana was not implemented yet and this office had seek the advice vide Memo No. 4567 dated 28.08.2023 from the office of the Secretary, Legal Cell, PSPCL, Patiala for filing appeal against the decision of the Corporate Forum, Ludhiana. As the amount of the Appeal was more than ₹ 10 lacs, so they had asked for the comments of the Chief Engineer, DS Border Zone. This office had written a letter vide Memo No. 5024 dated 29.09.2023 to SE, DS Suburban Circle, PSPCL, Amritsar for the further

action in this regard. After Legal opinion, the decision of the Corporate Forum, Ludhiana would be implemented accordingly.

(b) Submission during hearing

During hearing on 13.10.2023, the Respondent reiterated the submissions made in the written reply to the Appeal and prayed for the dismissal of the Appeal.

5. Analysis and Findings

The issue requiring adjudication is the legitimacy of the claim of the Appellant that its account be overhauled for a period of six months prior to the date of replacement of CT/PT, i.e. 28.12.2021 as per Regulation 21.5.2 (a) of Supply Code-2014 in view of CC No. 20/2021 instead of Regulation 21.5.2 (d) as decided by the Corporate Forum, Ludhiana.

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

- (i) The Corporate Forum in its order dated 08.08.2023 observed as under:-

“Connection of the petitioner was checked by ASE/Enf. cum EA & MMTS-1, PSPCL, Amritsar on 06.09.2021 and ECR no. 22/2543 dated 06.09.2021 was prepared. Relevant part of the observations recorded in ECR is reproduced below: -

“ਮੀਟਰ ਦੀ ਡਿਸਪਲੇ ਤੇ ਫੇਜ਼ ਸੈਗਮੈਂਟ 1 ਅਤੇ 2 ਸਥਿਰ ਹਨ ਜਦਕਿ ਫੇਜ਼ ਸੈਗਮੈਂਟ 3 ਬਲਿੰਕ ਕਰ ਰਿਹਾ ਹੈ। ਮੀਟਰ ਦੀਆਂ KWH, KVAH pulses ਬਲਿੰਕ ਕਰਦੀਆਂ ਪਾਈਆਂ ਗਈਆਂ। ਮੀਟਰ ਦੀ ਡਿਸਪਲੇ ਤੇ ਸਟਾਰ sign ਆ ਰਿਹਾ ਹੈ। ਮੀਟਰ ਦੀ ਡਿਸਪਲੇ ਤੇ R ਅਤੇ Y phase ਤੇ ਕਰੰਟ 0.00 ਹੈ ਅਤੇ B phase ਤੇ ਕਰੰਟ .825 Amp ਚੱਲ ਰਿਹਾ ਹੈ। ਲੋਡ 0.00 ਹੋਣ ਸਬੰਧੀ ਪੜਤਾਲ ਹਿੱਤ LT ਸਾਈਡ ਤੇ ਕਰੰਟ ਕਲਿਪਆਨ ਮੀਟਰ ਨਾਲ ਨੇਟ ਕੀਤਾ ਗਿਆ ਜੋ ਕਿ R-67.7, Y-74.8, B-59.5 Amp ਚਲਦਾ ਕਰੰਟ ਦਰਜ ਕੀਤਾ ਗਿਆ। ਮੀਟਰ ਦੀ ਸਕੈਂਡਰੀ CT Leads ਤੇ Clip on ਨਾਲ Voltage ਅਤੇ ਕਰੰਟ ਚੈੱਕ ਕੀਤੇ ਗਏ ਜੋ ਕਿ R Y phase ਤੇ ਕਰੰਟ 0.00 Amp ਹਨ। ਇਸੇ ਹਾਲਤ ਵਿੱਚ ਮੀਟਰ ਦਾ DDL ਕੀਤਾ ਗਿਆ।”

Further it was directed to get the accuracy of meter and CT/PT unit checked in ME Lab. CT/PT unit was replaced on 28.12.2021 vide MCO no. 100015515598 dated 11.10.2021. CT/PT unit was checked in ME Lab vide challan no. 210 dated 27.01.2022 where it failed in the testing. As per letter no. 2110 dated 24.07.2023, meter of the petitioner was replaced on 11.06.2022. ASE/Enf. cum EA & MMTS-1 issued speaking orders vide Memo no. 582 dated 15.09.2021 wherein it was mentioned that there had been ‘Make-Break’ of R & Y Phases of CTs for a duration of 370 days. It was further directed to overhaul the account of the petitioner by increasing the consumption recorded by meter by 66.6% as per the instructions of PSPCL. In accordance with the speaking orders, AEE/Sub-Division Majitha-1 charged an amount of Rs. 472997/- vide his memo no. 2575 dated 11.11.2021. Petitioner did not agree to this amount and the case was considered by Dy. CE/Sub-urban Circle and it was decided that account of the petitioner is required to be overhauled as per Regulation no. 54(21.5.1) of ESIM. Accordingly, a revised notice amounting to Rs. 453708/- was issued to him by AEE/Sub-Division Majitha-1 vide his memo no. 1121 dated 19.05.2022. Petitioner did not agree to the amount charged to him and filed his case in Border Zonal CGRF, Amritsar. Zonal CGRF, Amritsar decided the case in its hearing dated 28.02.2023 as under: -

“ਮਿਤੀ 06.09.2021 ਦੀ ਚੈਕਿੰਗ ਤੋਂ 370 ਦਿਨ ਪਹਿਲਾਂ ਤੋਂ ਲੈ ਕੇ ਸੀ.ਟੀ./ਪੀ.ਟੀ ਦੇ ਬਦਲਣ ਦੀ ਮਿਤੀ 28.12.2021 ਤੱਕ (Red & Yellow Phase ਦੇ CTs ਖਪਤ ਵਿੱਚ

Contribute ਨਾ ਕਰਨ ਕਰਕੇ) ਇਕ ਫੇਜ਼ ਤੇ ਹੀ ਰਿਕਾਰਡ ਹੋਈ ਖਪਤ ਨੂੰ 3 ਗੁਣਾਂ ਕਰਦੇ ਹੋਏ ਖਪਤ ਅਨੁਸਾਰ ਪ੍ਰੀ ਆਡਿਟ ਕਰਵਾਉਣ ਉਪਰੰਤ ਖਪਤਕਾਰ ਨੂੰ ਚਾਰਜ ਕੀਤੀ ਜਾਵੇ। ਇਸ ਤੋਂ ਇਲਾਵਾ ਕਮੇਟੀ ਵੱਲੋਂ ਇਹ ਵੀ ਦੇਖਿਆ ਗਿਆ ਹੈ ਕਿ ਉਪ ਮੰਡਲ ਦਫਤਰ ਮਜੀਠਾ-1 ਵੱਲੋਂ ਖਪਤਕਾਰ ਨੂੰ ਨੋਟਿਸ ਨੰਬਰ 2575 ਮਿਤੀ: 11.11.2021 ਨਾਲ ਚਾਰਜ ਕੀਤੀ ਰਕਮ ਸਹੀ ਕੈਲਕੁਲੇਟ ਨਹੀਂ ਕੀਤੀ ਗਈ। ਇਸ ਉਪਰੰਤ ਦਫਤਰ ਵੱਲੋਂ ਬਿਨਾਂ ਕਿਸੇ ਯੋਗ ਵਿੱਧੀ ਤੋਂ ਖਪਤਕਾਰ ਨੂੰ ਰੀਵਾਇਜਡ ਨੋਟਿਸ ਨੰਬਰ 1121 ਮਿਤੀ: 19.05.2022 ਭੇਜਿਆ ਗਿਆ ਹੈ। ਇਸ ਲਈ ਸੰਬੰਧਤ ਖਾਤੋਂ ਵਿੱਚ ਹੋਈਆਂ ਕੁਤਾਈਆਂ ਦੀ ਪੜਤਾਲ ਵੱਖਰੇ ਤੌਰ ਤੇ ਕਰਨ ਲਈ ਕਮੇਟੀ ਵੱਲੋਂ ਕੇਸ ਮੁੱਖ ਇੰਜੀ ਇਨਫੋਰਸਮੈਂਟ ਪਟਿਆਲਾ, ਜੀ ਦੇ ਦਫਤਰ ਨੂੰ ਭੇਜਣ ਦਾ ਫੈਸਲਾ ਕੀਤਾ ਜਾਂਦਾ ਹੈ।"

In accordance with the above decision of Zonal CGRF, Amritsar, AEE/Sub-Division Majitha-1 revised the amount charged to the petitioner to Rs. 1340901/- vide notice no. 1517 dated 22.05.2023. Petitioner did not agree to the decision dated 28.02.2023 of Border Zone CGRF, Amritsar vide which the amount charged to him was enhanced to Rs. 1340901/- and filed his case in Corporate CGRF, Ludhiana. Forum observed further that revised notice amounting to Rs. 453708/- was issued to the petitioner vide memo no. 1121 dated 19.05.2022 overhauling the account of the petitioner for a period of 180 days as per Regulation no. 21.5.1 of ESIM. Forum observed that after checking the connection of the petitioner by ASE/Enf. cum EA & MMTS-1, Amritsar vide ECR no. 22/2543 dated 06.09.2021, speaking orders were issued vide Memo no. 582 dated 15.09.2021. Relevant part of the speaking orders is reproduced below: -

"ਮੀਟਰ ਦਾ ਡੀ.ਡੀ.ਐਲ ਘੋਖਣ ਤੇ ਪਾਇਆ ਕਿ ਮੀਟਰ ਦੇ R & Y Phases ਤੇ CTs ਤੋਂ ਮੀਟਰ ਨੂੰ ਜਾ ਰਹੇ ਕੁਨੈਕਸ਼ਨ ਵਿੱਚ ਮੇਕ-ਬਰੇਕ ਹੁੰਦੀ ਰਹੀ ਹੈ। ਇਸ ਮੇਕ ਬਰੇਕ ਦਾ ਕੁੱਲ ਸਮਾਂ 370 ਦਿਨ ਹੈ। ਉਕਤ ਕੁਨੈਕਸ਼ਨ ਦਾ ਖਾਤਾ ਮੀਟਰ ਦੇ ਦਰਜ ਹੋਈ ਖਪਤ ਨੂੰ 66.6% ਵਧਾ ਕੇ ਪੀ.ਐਸ.ਪੀ.ਸੀ.ਐਲ ਦੀ ਹਦਾਇਤਾਂ ਮੁਤਾਬਿਕ ਖਾਤਾ ਸੋਧਿਆ ਜਾਵੇ।"

It is clear from the above speaking order that it is a case of 'Make-Break' of contribution of R & Y-phase CT meaning that there was no continuous failure of current of any phase and in that case a uniform slowness factor of 66.67% cannot be applied and the metering equipment is required to be treated as defective. However, Respondent has overhauled account

of the petitioner for a period of 370 days assuming non-contribution of R & Y-phase CT as constant/uniform over the entire period of overhauling which is not justified.

Further it is observed that Border Zonal CGRF, Amritsar decided the case on grounds of Regulation no. 59.4.1 of ESIM as a result of which amount charged to the petitioner was increased to Rs. 1340901/-. Regulation no. 59.4.1 of ESIM is reproduced below: -

“59.4.1 HT/EHT meters: Such meters shall be tested by the officers of enforcements/MMTS (in as found condition) with the help of Electronic Reference Standard Meters at normal running load/power factor of the consumers subject to the condition that the running load shall not be less than 15% of the sanctioned load. Before testing the meters, CTs connections wherever applicable shall be thoroughly checked. If CTs connections are found wrong or CTs are found out of circuit and thus not contributing, the recorded consumption shall be enhanced proportionately, keeping in view non-contribution of CTs as applicable. This consumption shall be further subject to revision as per test results of the meter.”

Forum observed that the above clause of ESIM is not in conformity with PSERC Supply Code. It appears that this clause was probably drafted keeping view the mechanical meters and is required to be reviewed and redrafted in order to make it relevant to contemporary era of solid-state electronic meters. Further in continuation with the clause 59 of ESIM, clause 59.6 defines the adjustment of accounts in which it has been mentioned that Reg. 21.5 of Supply Code-2014 shall be followed for overhauling the accounts.

In accordance with the decision of Border Zonal CGRF, Amritsar, account of the petitioner was overhauled for the period from 370 days prior to the date of checking i.e., 06.09.2021 upto date of replacement of CT/PT unit i.e., 28.12.2021 by increasing the consumption already recorded by the meter by 66.67%. Forum observed that CT/PT unit was changed on 28.12.2021 and was checked in ME Lab vide challan no. 210 dated 27.01.2022 where it was found ‘fail’ in

the accuracy test. Hence, metering equipment of the petitioner is required to be treated as defective and account of the petitioner is required to be overhauled for a period of six months prior to the date of replacement of defective CT/PT unit as per clause no. 21.5.2 of Supply Code-2014. The relevant regulation of Supply Code 2014 dealing with dead stop, burnt, defective meters is as under:

Regulation 21.5.2 of Supply Code 2014 dealing with Defective (other than inaccurate)/Dead Stop/Burnt/Stolen Meters is as under: -

“The accounts of a consumer shall be overhauled/billed for the period meter remained defective/dead stop and in case of burnt/stolen meter for the period of direct supply subject to maximum period of six months as per procedure given below:

- a) On the basis of energy consumption of corresponding period of previous year.*
- b) In case the consumption of corresponding period of the previous year as referred in para (a) above is not available, the average monthly consumption of previous six (6) months during which the meter was functional, shall be adopted for overhauling of accounts.*
- c) If neither the consumption of corresponding period of previous year (para-a) nor for the last six months (para-b) is available then average of the consumption for the period the meter worked correctly during the last 6 months shall be taken for overhauling the account of the consumer.*
- d) Where the consumption for the previous months/period as referred in para (a) to para (c) is not available, the consumer shall be tentatively billed on the basis of consumption assessed as per para -4 of Annexure-8 and subsequently adjusted on the basis of actual consumption recorded in the corresponding period of the succeeding year.*
- e) The energy consumption determined as per para (a) to (d) above shall be adjusted for the change of load/demand, if any, during the period of overhauling of accounts”.*

It is further observed that in this case, 21.5.2 (a) cannot be considered for overhauling because the consumption recorded during the corresponding period of the previous year cannot be relied upon as there was ‘Make-Break’ in the contribution of currents of R & Y phases for an unknown

period. Hence, consumption of succeeding year is required to be taken as a basis for overhauling the account of the petitioner.

Forum have gone through written submissions made by the Petitioner in the petition, written reply of the Respondent, its rejoinder along with the relevant material brought on record. In view the above, Forum is of the opinion that the Border Zone CGRF, Amritsar erred in deciding that the account of the Petitioner be overhauled for the period of 370 days immediately preceding the date of change of the defective CT/PT unit by increasing the consumption by a factor of 66.67%. Hence, this Forum is not inclined to agree with the decision dated 28.02.2023 of Border Zone CGRF, Amritsar and as such is liable to be set-aside (excluding investigation part). Notice numbers 1517 dated 22.05.2023 amounting to Rs. 1340901/- and 2575 dated 11.11.2021 amounting to Rs. 472997/- (issued against ECR no. 22/2543 dated 06.09.2021) of AEE/DS Majitha-1 S/Divn., Amritsar are liable to be quashed. Account of the petitioner is required to be overhauled for a period of six months prior to the date of replacement of CT/PT i.e., 28.12.2021 as per Regulation no. 21.5.2(d) of Electricity Supply Code and Related Matters Regulations 2014.”

- (ii) I have gone through the written submissions made by the Appellant in the Appeal, written reply of the Respondent as well as oral arguments of both the parties during the hearing on 13.10.2023. The Appellant’s Representative (AR) pleaded that the Appellant had partially challenged the decision dated 08.08.2023 of the Corporate Forum, Ludhiana. The Appellant was satisfied with the part of the decision of the Corporate Forum that the period of the overhauling had been reduced to

six months, but had challenged the other part of the decision in which it had decided that the account of the Appellant be overhauled as per Regulation 21.5.2 (d) of the Supply Code-2014 instead of Regulation 21.5.2 (a). He pleaded that the CT/PT unit of the Appellant was found defective during the inspection of its connection by the ASE/ Enforcement-cum-EA&MMTS-1, Amritsar on 06.09.2021 vide ECR No. 22/2543. Since the metering equipment was found defective on 06.09.2021, so it was covered under CC No. 20/2021 issued by the PSPCL with the approval of the PSERC. According to the CC No. 20/2021, for the overhauling of the accounts applied to meters becoming defective/dead stop/burnt/stolen from 23.03.2021 to 30.09.2021, the words “previous year” appearing in clause (a) to (c) of Regulation 21.5.2 of the Supply Code, 2014 shall be read as “FY 2019-20”. He pleaded that since the consumption of the FY 2019-20 was available, so the account of the Appellant be overhauled as per Regulation 21.5.2 (a) of the Supply Code, 2014 read with CC No. 20/2021 dated 30.04.2021 instead of Regulation 21.5.2 (d) as decided by the Corporate Forum, Ludhiana. To check the veracity of this claim of the Appellant, the DDL of the meter of the Appellant installed during the FY 2019-20 was sought from the

Respondent. The Respondent submitted that meter bearing Serial No. 18490085 was installed during this period which was checked by the ASE/ Enf.-cum-EA & MMTS, Amritsar on 20.01.2020 & it was found that scroll switch was not working. The meter was replaced on 17.09.2020 & it was checked in the ME Lab on 01.10.2020 & DDL was taken. It was observed on studying this DDL dated 01.10.2020, that the Tamper Report indicated 'Make-Break' of R & Y Phases. As such, it can be reasonably concluded that the consumption data for this period cannot be considered as reliable. Therefore, the account of the Appellant cannot be overhauled as per Regulation 21.5.2 (a) of the Supply Code, 2014 read with CC No. 20/2021 dated 30.04.2021. The arguments of the Appellant in this regard are rejected after due consideration.

6. Decision

As a sequel of above discussions, the order dated 08.08.2023 of the CCGRF, Ludhiana in Case No. CF-085 of 2023 is hereby 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 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.

October 13, 2023
S.A.S. Nagar (Mohali)

(ANJULI CHANDRA)
Lokpal (Ombudsman)
Electricity, Punjab.

