

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

APPEAL No. 38/2021

Date of Registration : 07.04.2021

Date of Hearing : 22.04.2021

Date of Order : 28.04.2021

Before:

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

In the Matter of:

M/s. Satpal Banarsi Dass,
Mirch Mandi,
Patiala-147001.

Contract Account Number: 3000000136

...Appellant

Versus

Additional Superintending Engineer,
DS Division Model Town,
PSPCL, Patiala.

...Respondent

Present For:

Appellant: Sh. Jivtesh Singh Nagi (Advocate),
Appellant's Counsel.

Respondent : 1. Er. Amandeep Singh,
Additional Superintending Engineer,
DS Model Town Division,
PSPCL, Patiala.

2. Er. Preetinder Singh,
Assistant Engineer.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 19.02.2021 of the Consumer Grievances Redressal Forum (Forum), Patiala in Case No. CGP-62 of 2021, deciding that:

“The petitioner’s account be overhauled for the period 01.02.20 to 31.07.20 (date of rectification of wrong connections) considering the metering equipment to be fast by 24%.”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 07.04.2021 i.e. after stipulated period of thirty days of receipt of the decision dated 19.02.2021 of the CGRF, Patiala in Case No. CGP-62 of 2021. The Appeal was accompanied by an application from Appellant’s Counsel requesting for condoning of delay in filing the Appeal in this Court. The Appellant was not required to deposit the requisite 40% of the disputed amount for filing the Appeal in this Court as this was a case of refund. Therefore, the Appeal was registered and copy of the same was sent to the Additional Superintending Engineer/DS Division, Model Town, PSPCL, Patiala for sending written reply/parawise comments with a copy to the office of the CGRF, Patiala under intimation

to the Appellant vide letter nos. 535-537/OEP/A-38/2021 dated 07.04.2021.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 22.04.2021 at 12.00 Noon and an intimation to this effect was sent to both the sides vide letter nos. 631-632/OEP/A-38/2021 dated 19.04.2021. As scheduled, the hearing was held 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 letter nos. 661-62/OEP/A-38/2021 dated 22.04.2021 vide e-mail at 14.01 hours.

4. Condonation of Delay

At the start of hearing on 22.04.2021, the issue of condoning of delay in filing the Appeal in this Court was taken up. The Appellant's Counsel submitted that Hon'ble Supreme Court of India, vide order dated 08.03.2021, stated that if limitation period was expiring prior to 14.03.2021, probationary period of 90 days shall be granted. In view of the said order, it was prayed that delay, if any, in filing the Appeal may be condoned.

I find that the Respondent did not object to the condoning 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.”

The Court observed that order dated 19.02.2021 was sent to the Appellant by the office of CGRF, Patiala vide Memo No. 459 dated 22.02.2021 while the Appeal was received in this Court on 07.04.2021 i.e. after more than 30 days of receipt of the said order. It was also 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 Counsel 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 along with 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 Medium Supply Category Connection, bearing Account No. 3000000136 with sanctioned load of 81.570 kW and Contract Demand (CD) as 90.633 kVA.
- (ii) The connection of the Appellant was checked by Sr. Xen/ Enforcement-2, Patiala vide ECR No. 30/284 dated 31.07.2020, as per which, the meter of the Appellant was found running fast by 24% and the blue phase wire was found connected to the

neutral terminal and the neutral wire was found connected to the blue phase terminal.

- (iii) Due to the aforesaid wrong connections, the Appellant was being wrongly billed in excess since 26.08.2016 to 31.07.2020 on account of fast running of the meter. The fact that the meter was running fast had been admitted by the Respondent before the Forum and had also been recorded in the order dated 09.02.2021 passed by the Forum.
- (iv) The Appellant had filed a petition before the Forum for refund of the amount paid in excess on account of the fast running of the meter and the Forum passed order dated 19.02.2021 wherein it had been observed by the Forum that the meter of the Appellant was running fast since 26.08.2016 because the blue phase wire was found connected to the neutral terminal and the neutral wire was found connected to the blue phase terminal. The Forum had further observed that serious negligence had been committed while doing the connections of the metering equipment on 26.08.2016 and the Respondent had also failed to conduct the periodical inspection/testing of the metering equipment, which could have detected the above discrepancy in metering equipment in time.

- (v) Despite knowledge of the fact that the meter of the Appellant was running fast since 26.08.2016 on account of negligence of the Respondent, the Appellant was being billed wrongly. Further, the Respondent had failed to discharge its duty of conducting mandatory periodic inspection. The Forum arbitrarily ordered that the account of the Appellant be overhauled only for the period from 01.02.2020 to 31.07.2020, which was completely arbitrary, unsustainable being illegal and against the principles of natural justice.
- (vi) The Appellant had suffered hefty financial losses since 26.08.2016 on account of fast running of the meter and wrong bills used to be issued since the said date, which was solely because of the negligence of the Respondent, as observed by the Forum in its order dated 19.02.2021. However, the account had been ordered to be overhauled only for a period of 01.02.2020 to 31.07.2020.
- (vii) The Forum had failed to take into consideration various Regulations of the Supply Code-2014 applicable in the instant case. The Appellant was entitled to get refund of the entire amount charged to it in excess through wrong bills w.e.f. 26.08.2016 in terms of Regulation 35.1.3 of the Supply Code-2014 wherein it had been categorically stated that if erroneous

bills were issued to the consumer, revised bills shall be issued with necessary corrections and the excess amount paid by the consumer shall be refunded to him with interest in the matter provided therein. The said Regulation is reproduced as under:-

“35.1.3 If on examination of a complaint, the distribution licensee finds a bill to be erroneous, a revised bill shall be issued to the consumer indicating a revised due date of payment, which shall not be earlier than seven days from the date of delivery of the revised bill to the consumer. If the amount paid by the consumer under Regulation 35.1.1 is in excess of the revised bill, such excess amount shall be refunded through adjustment first against any outstanding amount due to the distribution licensee and then against the amount becoming due to the distribution licensee immediately thereafter. The distribution licensee shall pay to such consumer interest on the excess amount at twice SBI’s Base Rate prevalent on first of April of the relevant year plus 2% from the date of payment till such time the excess amount is adjusted.”

Therefore, in terms of the aforesaid Regulation, the Appellant was entitled to get refund of the excess amount charged to it through wrong bills issued since 26.08.2016 with interest. However, the Forum had gravely erred and failed to

acknowledge the relevant regulations while adjudicating the matter in hand.

- (viii) The Respondent had failed to discharge their duty of conducting periodic inspections in terms of Regulations 21.3.5 of the Supply Code-2014, which is reproduced as under: -

“21.3.5 The distribution licensee shall also conduct periodical inspection/ testing of the meters/metering equipment installed at the consumer’s premises as per following schedule:

(i) EHT meters:-atleast once in a year

(ii) HT meters:-atleast once in 2 years

(iii) LT 3-phase meters:-atleast once in 3 years

(iv) LT 1-phase meters:- atleast once in 5 years.”

In terms of the above Regulation, the Respondent was liable to conduct periodic inspection, however, the Respondent failed to discharge its duty of conducting periodic inspection and consequently, the meter of the Appellant kept running fast and the Appellant was being issued wrong bills since 26.08.2016.

- (ix) The Respondent was bound to install ‘correct meter’ but it failed to discharge its duty as envisaged in Regulation 21.1 of the Supply Code-2014.

(x) It was prayed that the amount paid in excess by the Appellant w.e.f. 26.08.2016 on account of wrong bills issued to it, be refunded to him in terms of Regulation 35.1.3 of Supply Code-2014 alongwith interest.

(b) Submission during hearing

During hearing on 22.04.2021, the Appellant's Counsel reiterated the submissions made in the Appeal. No rejoinder to the written reply of the Respondent was submitted on behalf of the Appellant before and during the hearing.

(c) Submissions in Rejoinder sent after Hearing was closed

The Appellant's Counsel sent a rejoinder at 16.01 hours on 22.04.2021 after conclusion of arguments/hearing and also after receipt of minutes of proceedings vide e-mail sent at 14.01 hours on 22.04.2021. The contents of the rejoinder were as under:

(i) The Appellant filed the instant Appeal on 07.04.2021 and the case was fixed for hearing today, i.e. 22.04.2021. The Arguments were addressed by both parties, however, a new fact, which was not a part of the pleadings of the Respondent was introduced during the hearing.

- (ii) It was brought on record that the consumer was being billed on kVAh consumption basis. However, in the checking conducted by the Respondents, the readings were recorded on kWh and the Forum suggested that the checking was incorrect/incomplete.
- (iii) It was further stated that since the checking was recorded in wrong unit and was incomplete, as stated in para (ii), was not a part of the pleadings and was brought on record today itself. The Appellant did not get the opportunity to oppose/respond to the said fact and therefore the instant rejoinder was sought to be placed on record.
- (iv) It was further stated during the course of arguments that since the checking done by the Respondent was incorrect/incomplete, it cannot be ascertained exactly how fast was the meter running in the requisite unit of measurement.
- (v) A plea is being raised vide this rejoinder that the Court of the Ombudsman may exercise its power under regulation 2.46 of the PSERC (Forum and Ombudsman) Regulations, 2016 which empowers the Ombudsman to issue interim orders in the interest of justice. The regulation has been reproduced herein below:

“2.46 Upon request of the Complainant, the Forum may issue such interim orders pending final disposal of the grievance as it may consider necessary including but not restricted to grant of temporary injunction to stay or prevent or restrain such act as the Forum thinks fit.”

- (vi) It is prayed interim order be issued to the Respondent to inspect/check the connection of the Appellant (who is still using the same meter as he was when the checking was first conducted) again, after restoring it to the same position as it was when the checking was conducted by the Respondents on 31.07.2020 i.e. blue phase wire be connected to the neutral terminal and the neutral wire be connected to the blue phase terminal to ascertain exactly how fast the meter was running in the proper unit of measurement.
- (vii) Interim order be issued to the respondents to inspect/check the connection of the appellant again after restoring to the same position as it was when the checking was conducted by the respondents on 31.07.2020. that is, blue phase wire be connected to the neutral terminal and the neutral wire be connected to the blue phase terminal to ascertain exactly how fast the meter was running in the proper unit of measurement, in the interest of justice, equity and good conscience.

(B) Submissions of the Respondent**(a) Submissions in written reply**

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

- (i) The Appellant was having a Medium Supply Category Connection in the name of M/s. Satpal Banarsi Dass, bearing Account No. 3000000136. The sanctioned load of the said connection was 81.570 kW and CD was 90.633 kVA.
- (ii) The connection of the Appellant was checked by Sr. Xen/Enforcement-2, Patiala vide ECR No. 30/284 dated 31.07.2020, as per which, the meter was found running 24% fast and the blue phase wire was found interchanged with the neutral.
- (iii) On 26.08.2016, the meter was replaced and the terminal seals were fixed thereon. On the date of checking i.e. 31.07.2020, the same terminal seals were found intact. The connections of the meter were corrected in the presence of Sr. Xen/Enforcement-2, Patiala where after, the accuracy test of the same meter was conducted and meter was found accurate. The meter was not replaced and the same meter was working accurately now.
- (iv) After the above checking, the Appellant filed its case before the CGRF, Patiala who, vide order dated 19.02.2021, directed that the account of the consumer be overhauled for the period

01.02.2020 to 31.07.2020 as the meter was found running fast by 24%. The energy meter installed in the consumer's premises was not defective but only the connections were wrong. As per the record, no inspection of the meter was done by Enforcement till 20.07.2020 after the meter was changed on 26.08.2016.

- (v) The Forum considered this case and decided the same under Regulation 21.5.1 of Supply Code-2014. The Court of the Ombudsman may decide whether to consider this case under Regulation 35.1.3 or 21.5.1 of Supply Code-2014.
- (vi) As per the record, no inspection of the meter was done by Enforcement till 27.07.2020 after the meter was changed on 26.08.2016.
- (vii) The energy meter and the metering equipments installed in consumer's premises were accurate but only the connections were wrong.
- (viii) The Respondent had submitted the copy of letter no. 71 dated 20.04.2021 of Sr. Xen, Enf. cum EA & MMTS-2 , Patiala along with the written reply submitted vide Memo No. 2262 dated 20.04.2021. It was reported that accuracy of the meter of Account No. 3000000136 was checked vide ECR No. 30/284 dated 31.07.2020 with running load of 34 kW at 0.98 (lag)

power factor. Pulse Test and Dial Test were done in Active Mode and meter was found running fast by +24%.

(b) Submission during hearing

During hearing on 22.04.2021, the Respondent reiterated the submissions made by it in the written reply and prayed for dismissal of the Appeal of the Appellant.

6. Analysis and Findings

The issues raised in the prayers of the Appellant requiring adjudication are

- i) refund of wrong bills issued during the period 26.08.2016 (date of installation of disputed Energy Meter) to 31.07.2020 (date of checking by the Enforcement) along with interest.
- ii) passing of interim order for issuance of directions to the Respondent to inspect/check the connection of the Appellant after restoring it to the same position as it was on the date of checking by the Enforcement on 31.07.2020.

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

Issue (i)

- a) In the present Appeal, the Appellant's Counsel prayed for refund of the amount charged to the Appellant due to excess billing during the period from 26.08.2016 (date of installation of disputed Energy Meter) to 31.07.2020 (date of checking of connection by the Enforcement) along with interest. He pleaded that the decision of the Forum to direct the Respondent to overhaul the account of the Appellant for a period of six months only i.e. 01.02.2020 to 31.07.2020 (instead of for whole of the disputed period of 26.07.2016 to 31.07.2020) was not just and fair on the plea that the disputed Meter had been running fast by 24 % ever since its installation on 26.07.2016. The Appellant's Counsel argued that the Appellant was billed excess during the disputed period due to failure of the Respondent to conduct periodical inspection of the connection and its failure to ensure correctness of the disputed Energy Meter during the period of dispute.
- b) As per evidence brought on record of this Court, the disputed meter (present meter) was installed on 26.08.2016 due to replacement from Non-DLMS meter to DLMS meter as per recommendations in the Enforcement Checking Report No. 14/288 dated 20.08.2016. The said meter remained installed till

now at Appellant's premises having MS Category connection with sanctioned load as 81.57 kW and CD of 90.633 kVA. The connection was checked by Sr. Xen, Enforcement-2, PSPCL, Patiala vide ECR No. 30/284 dated 31.07.2020. As per the said checking, it was reported that:

“ਮੀਟਰ ਦਾ DDL ਕਰ ਲਿਆ ਗਿਆ ਹੈ। ਚੈਕਿੰਗ ਨੰ: 23/284 ਦੀ ਲਗਾਤਾਰਤਾ ਵਿੱਚ ਮੀਟਰ ਦੀ Accuracy ਚਲਦੇ ਲੋਡ 34 kW PF 0.98 ਤੇ MT 360 ਨਾਲ ਚੈਕ ਕੀਤੀ ਗਈ। (Dial Mode) ਤੇ ਮੀਟਰ (+) 24 % ਤੇਜ਼ ਪਾਇਆ ਗਿਆ।

ਮੌਕੇ ਤੇ Blue Phase ਦੀ PT Wire ਤੇ Neutral ਤਾਰ ਦੇ ਕੁਨੈਕਸ਼ਨ ਠੀਕ ਜਗ੍ਹਾਂ ਤੇ ਕਰਕੇ ਦੁਬਾਰਾ Accuracy ਚੈਕ ਕੀਤੀ ਗਈ ਜੋ ਕਿ ਠੀਕ ਪਾਈ ਗਈ। ਤੇ ਮੀਟਰ ਤੇ ਪੈਰਾਮੀਟਰ $V_1=237V$, $V_2=240V$, $V_3=239V$, V_{ryb}/A_{ryb} ਪਾਏ ਗਏ।

ਉਪ ਮੰਡਲ ਅਫਸਰ ਨੂੰ ਹਦਾਇਤ ਕੀਤੀ ਜਾਂਦੀ ਹੈ ਕਿ ਇਸ ਮੀਟਰ ਦੇ ਲਗਾਉਣ ਵਾਲੇ ਕਰਮਚਾਰੀ/ਅਧਿਕਾਰੀ ਦਾ Sealing Record ਅਤੇ ਸੇਵਾ ਵੇਰਵੇ ਇਸ ਦਫਤਰ ਨੂੰ ਤੁਰੰਤ ਭੇਜੇ ਜਾਣ।

P SERC ਦੀਆਂ ਹਦਾਇਤਾਂ ਮੁਤਾਬਕ ਬਣਦੀ ਕਾਰਵਾਈ ਕਰਕੇ ਇਸ ਦਫਤਰ ਨੂੰ ਸੂਚਿਤ ਕੀਤਾ ਜਾਵੇ।”

ਚੈਕਿੰਗ ਉਪਰੰਤ DS ਸਟਾਫ ਵਲੋਂ ਲਗਾਈਆ ਸੀਲਾਂ

MTC-2 No. FS68801, FS68802, MCB-1No. PCS 7767857,
CTC-1No. 7767860.

Sr. Xen /Enf. cum EA & MMTS-2, Patiala had reported vide letter no. 71 dated 20.04.2021 that Dial Test & Pulse Test of meter in dispute were done on 31.07.2020 in ACTIVE MODE only and meter was found running fast by +24%.

- c) The billing of the Appellant during the period 26.08.2016 to 31.07.2020 was done in terms of kVAh consumption as per Tariff Orders issued by PSERC and monthly bills in this regard were sent to the Appellant by the Respondent. No inspection of the meter was done by the Enforcement till 27.07.2020 after the meter was changed on 26.08.2016. The accuracy of the meter was checked by the Enforcement on 31.07.2020 in ACTIVE MODE i.e. for kWh consumption only. The accuracy of recorded kVAh consumption of the disputed meter was not determined by the Enforcement on 31.07.2020 although it was in the knowledge of checking officer that billing of MS category connections was being done on kVAh basis. The accuracy of the said Energy Meter was not checked as required vide Commercial Circular No.07/2019 dated 13.02.2019 which is reproduced below:

“The ESIM instruction no. 59.1 provides steps to be taken for routine testing/ checking of energy meters. However, Ombudsman, Electricity, Punjab, in his Orders against Petition No. 36, 37 and 38 of 2018 has directed to issue

instructions that the accuracy of the Energy Meters be checked/ tested at site and /or in ME Laboratory in both Active (kWh) and Reactive Mode (kVARh) to determine the correctness of the Energy Meters.

Accordingly, ESIM instruction no. 59.1 is hereby amended to include the new sub-instruction 59.1.3 as under:-

59 TESTING/CHECKING THE ACCURACY OF METERS-ADJUSTMENT OF ACCOUNTS:

59.1 *Steps to be taken for routine testing/checking of the energy meters:*

59.1.1 In order to ascertain whether the meter is working or not, Meter Readers should switch on one or two lights for a few seconds before taking monthly meter reading and watch that the meter reading advances in the correct direction.

59.1.2 Meter Inspectors, JEs, AE/AEE/XEN (DS) and AEE/ XEN/ Sr.XEN(Enforcement) shall conduct the accuracy test at site with the help of meter testing instrument.

59.1.3 *The accuracy of the three phase LT*

CT meters and HT meters shall be checked/tested at site and/or in ME Laboratory in both Active (kWh) and Reactive Mode (kVARh) to determine the correctness of the Energy Meters.

Meticulous compliance of the above instructions may please be ensured.”

- d) During hearing on 22.04.2021, the Respondent, on being asked, confirmed that accuracy of the disputed Energy Meter for kVAh consumption (for which the billing for the disputed period was done) was not checked at site by the Enforcement as confirmed vide letter no. 71 dated 20.04.2021. It is observed that the test results of kWh consumption (running of disputed meter fast by +24% in ACTIVE MODE) can not be applied for overhauling of recorded kVAh consumption of the disputed Meter during the period 26.08.2016 to 31.07.2020 for which the billing was being done. Apparent Energy (kVAh) is vector sum of Active Energy (kWh) and Reactive Energy (kVARh). As such, the accuracy of meter for recorded consumption in kVAh will be entirely different as compared to kWh consumption. To apply accuracy of kWh consumption for overhauling of bills prepared on kVAh consumption basis is technically wrong and unlawful.

- e) The Court observed that the Forum erred in deciding to overhaul the account of the Appellant for the period 01.02.2020 to 31.07.2020 considering the metering equipment to be fast by 24 %. The Forum did not take into consideration that accuracy of kVAh consumption of disputed Meter was not determined during checking of Enforcement on 31.07.2020 although the bills raised for the disputed period (26.08.2016 to 31.07.2020) were for kVAh consumption. Results of testing of kWh consumption of the disputed Meter can not be made applicable to the recorded kVAh consumption of the same meter. Accordingly, the decision of the Forum based on incomplete checking of the disputed meter by the Enforcement is not correct and sustainable in the eyes of law.
- f) The prayer of the Appellant's Counsel, for refund of amount billed in excess during the disputed period on the plea that the meter was found running fast by 24 % during checking dated 31.07.2020 by the Enforcement, can not allowed due to the reason that accuracy of kVAh consumption was not determined during checking of Enforcement on 31.07.2020 and results of checking done in Active Mode only can not made applicable for overhauling of accounts of previous period prepared on kVAh consumption basis . Evidently, the checking dated 31.07.2020 by

the Enforcement was incomplete and can not be used for overhauling the accounts of the Appellant. Any plea for relief must stand scrutiny of law and should be technically correct. The Appellant's Counsel did not contest the written reply of the Respondent by filing a rejoinder before close of hearing on 22.04.2021 despite the fact that the written reply was forwarded to him vide e-mail dated 20.04.2021.

- g) The Court noted that the Forum, vide its order dated 19.02.2021, decided that "An enquiry be conducted by SE/Operation Circle, Patiala for taking suitable disciplinary action against the delinquent officers/officials who have done wrong connections of metering equipment at the time of installation of meter and against those who have failed to conduct periodical inspection of metering equipment leading to non-detection of the discrepancy in the metering equipment in time."

This Court agrees with above decision of the Forum.

- h) The issue (i) is decided against the Appellant in view of position discussed and findings given above after due consideration.

Issue (ii)

- a) A hearing to adjudicate the dispute in view of the Appeal preferred by the Appellant was held on 22.04.2021. The deliberations were held and both the sides reiterated their

respective point of view. At the end of the proceedings, they were apprised that arguments were closed and the order was reserved. Copies of minutes of the proceedings were sent to the Appellant and the Respondent vide letter nos. 661-62/OEP/A-38/2021 dated 22.04.2021 sent by e-mail at 14.01 hours on 22.04.2021. Subsequently, an e-mail was received at 16.01 hours on 22.04.2021 from the Appellant's Counsel stating that new facts had emerged during the proceedings that accuracy of the energy consumption was required to be checked in terms of kVAh billed instead of in kWh done by the Respondent. He prayed that "interim order be issued to the respondents to inspect/check the connection of the appellant again after restoring to the same position as it was when the checking was conducted by the respondents on 31.07.2020 that is, blue phase wire be connected to the neutral terminal and the neutral wire be connected to the blue phase terminal to ascertain exactly how fast the meter was running in the proper unit of measurement, in the interest of justice, equity and good conscience." In this connection, he referred to Regulation No. 2.46 of the PSERC (Forum and Ombudsman) Regulation-2016 vesting the Forum with the power to issue interim order pending final disposal of the grievance as it may consider necessary.

- b) The Court observed that the plea of the Appellant's Counsel in its rejoinder sent after hearing that new facts had emerged during hearing was incorrect. Besides, the Appellant's Counsel did not contest the written reply of the Respondent by filing a rejoinder despite the fact that the written reply was forwarded to him vide e-mail dated 20.04.2021. The Appellant did not raise any such issue either in its Appeal or during hearing on 22.04.2021 when it was made clear that arguments stood closed and the order was reserved. Besides, Regulation 2.46 referred to above has been quoted out of context and is not relevant in the present dispute as, being not applicable to the Court of the Ombudsman, Electricity, Punjab. In fact, the Regulation 2.46 is meant for the Forum (CGRF). The Respondent may consider, if it deemed fit and proper, the prayer of the Appellant for conducting rechecking of the connection in terms of applicable regulations/instructions.
- c) The submissions made by the Appellant's Counsel in its rejoinder sent by e-mail after conclusion of the hearing/closing of arguments are afterthought and are not maintainable/sustainable. The decision is based on the documents submitted by both parties and on the basis of arguments of both sides. The basic principles/laws of Electrical Engineering cannot be

overlooked while passing the final order even if the parties of this case have not pointed out in this regard during the proceedings of the case.

- d) The issue (ii) is disposed of accordingly after due consideration.

7. Decision

As a sequel of above discussions, the order dated 19.02.2021 of the CGRF, Patiala in Case No. CGP-62 of 2021 relating to overhauling of accounts for the period 01.02.2020 to 31.07.2020 is set-aside. It is held that:

- (i) The account of the Appellant can not be overhauled on the basis of checking report (ECR No. 30/284 dated 31.07.2020) of Enforcement because billing was done on kVAh basis. The accuracy of the meter determined in Active Mode only can not be made applicable for recorded and billed kVAh consumption. As a natural consequence, the prayer of the Appellant for refund of excess billed amount, if any, is rejected after due consideration.
- (ii) The prayer of the Appellant for issuance of directions to the Respondent for checking the connection again for determining accuracy of kVAh consumption after restoring to the same position as it was when the checking was

conducted by the Respondent on 31.07.2020 is an afterthought and was not part of original petition/appeal thus is not maintainable/sustainable in the eyes of law. However, the Respondent is at liberty to consider and decide this prayer of the Appellant regarding rechecking of the connection as per applicable regulations/instructions.

8. The Appeal is disposed of 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.

April 28, 2021
S.A.S. Nagar (Mohali)

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

