

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

APPEAL No. 46/2021

Date of Registration : 30.04.2021
Date of Hearing : 19.05.2021 and 01.06.2021
Date of Order : 09.06.2021

Before:

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

In the Matter of:

Prince Mohindroo,
Bobby Colony, Altas Nagar,
Hambran Road, Ludhiana-141001
Contract Account Number:3005905423(NEW)
3002869453(OLD)

...Appellant

Versus

Senior Executive Engineer,
DS Aggar Nagar Division (Special),
PSPCL, Ludhiana.

...Respondent

Present For:

- Appellant:**
1. Sh. Prince,
Appellant.
 2. Sh. Charanjit Singh,
Appellant's Representative.

Respondent : Er. Parminder Singh,
Senior Executive Engineer,
DS Aggar Nagar Division (Special),
PSPCL, Ludhiana.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 08.03.2021 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-347/2020, deciding that:

“The account of the Petitioner be overhauled as per the conclusion arrived at sr. no. (ix) above. The notice no. 8483 dated 22.07.2020 amounting to Rs. 1166696/-, be revised accordingly.”

Sr. No.(ix) referred to above reads as under:

- a. *“Petitioner be billed upto dated 28.11.2019 as per the reading of 160908 kWh recorded in DDL report.*
- b. *The account of the petitioner from 29.11.2019 to 23.03.2020 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 as per Reg. 21.5.2(d) of Supply Code, 2014.*
- c. *From 24.03.2020 to 12.06.2020 i.e. date of change of meter only fixed charges be recovered, being lockdown period.”*

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. within the stipulated period of thirty days of receipt of the decision dated 08.03.2021 of the CGRF, Ludhiana in Case No. CGL-347/2020 by the Appellant. On receipt of the Appeal, Memo No. 538/OEP/Naresh Kaushal dated 07.04.2021 was issued to the Respondent to intimate within two days as to whether the Appellant had deposited requisite 40% of the disputed amount as required under Regulation 3.18 (iii) of PSERC (Forum & Ombudsman) Regulations, 2016 so that the Appeal can be considered for registration. The Respondent, vide its Memo No. 16265 dated 16.04.2021, intimated that a sum of ₹ 2,57,039/- was still payable by the Appellant on account of 40% of the disputed amount of ₹ 11,12,826/-. The Appellant had deposited the amount of ₹ 2,58,000/- vide Receipt No. 51369 dated 23.04.2021. The effect of credit of ₹ 2,58,000/- in PSPCL system was confirmed by Sr. Xen vide e-mail dated 30.04.2021. Thus, the Appellant had deposited requisite 40% amount of ₹ 4,45,130/-. Accordingly, the Appeal was registered provisionally (pending change of the name of the consumer

applied on 11.01.2021) and copy of the same was sent to Sr. Executive Engineer/ DS Aggar Nagar Division (Special), 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. 721-723/OEP/A-46/2021 dated 30.04.2021. After pursuance with the Respondent, change in name of consumer from Sh. Naresh Kaushal to Sh. Prince Mohindroo was effected in SAP System as is evident from perusal of bill dated 30.05.2021.

3. Proceedings

- (i) With a view to adjudicate the dispute, a hearing was fixed in this Court on 19.05.2021 at 12.00 Noon and an intimation to this effect was sent to both the parties vide letter nos. 738-39/OEP/A-46/2021 dated 05.05.2021. As scheduled, the hearing was held on the said date and time. After hearing both the sides, it was conveyed that another hearing would be held on 25.05.2021 at 12.00 Noon when the Respondent will provide the information asked for from it for discussion in the hearing. Copies of the proceedings dated 19.05.2021 were sent to the Appellant and the Respondent vide letter nos. 806-07/OEP/A-46/2021 dated 19.05.2021.

- (ii) A day before the schedule hearing on 25.05.2021, the Respondent sent e-mail dated 24.05.2021 requesting for deferring the hearing on the plea that more time was required for having clarification from ME Lab. The said request was accepted and hearing was postponed to 01.06.2021 at 11.30 AM. Intimation to this affect was sent to the Appellant and the Respondent vide letter nos. 827-28/OEP/A-46/2021 dated 24.05.2021.
- (iii) The hearing dated 01.06.2021 was attended by the representatives of both the sides. Arguments were heard and the order was reserved. Copies of the minutes of the proceedings were sent to the Appellant and the Respondent vide letter nos. 872-73 /OEP/A-46/2021 dated 01.06.2021.

4. Submissions made by the Appellant and the Respondent

Before undertaking analysis of the case, it is necessary to go through written submissions made by the Appellant and reply of the Respondent as well as oral submissions made by the Appellant and the Respondent alongwith material brought on record by both 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 was having a Non Residential Supply Category Connection with sanctioned load of 12.540 kW.
- (ii) The readings of the meter of the Appellant used to be taken by the official of the Respondent every month and the Appellant used to make payments against the bills raised by the Respondent from time to time on the basis of actual consumption or on average basis.
- (iii) The meter of the Appellant had got burnt and Meter Reader recorded 'R' code while recording readings on 30.11.2019. The burnt meter was replaced vide MCO No.100009593749 dated 16.01.2020 affected on 12.6.2020. Accordingly, energy bills from 11/2019 to 6/2020 were issued on 'R' code (average basis) which were duly paid by the Appellant. The burnt meter was checked in ME Lab and report was given on Challan No.272 dated 03.10.2020. As per report of ME lab, the meter was reported burnt, accuracy could not be checked and DDL also could not be obtained. The ME Lab added remarks on the challan that due to stopped display, meter was opened and reading chip was taken out and was checked on Zig provided

by the Company and readings were recorded as 162385 kWh/167646 kVAh. The bills to the Appellant were issued upto the reading of 29006 kWh (incremental reading in the SAP System due to meter being burnt) as recorded on 11.6.2020. On the basis of final reading as per reading Chip reported by ME Lab, the Appellant was asked to deposit an amount of ₹ 11,66,696/- for alleged unbilled consumption of 133379 units (162385 kWh minus 29006 kWh). The Appellant was shocked to receive notice of such a huge amount, as he was running very small Hosiery Unit. Therefore, the Appellant had filed a case before the CGRF, Ludhiana and as per request of the Appellant, the Forum allowed to deposit 10% of disputed amount and the case was registered for adjudication as Case No. CGL 347 of 2020 for disputed amount of ₹ 11,66,696/-. The Appellant pleaded before the Forum that he was running very small Hosiery unit with Sanctioned Load of 12.540 kW only. The meter in question was burnt from block and that may be the reason of very excess/abnormal reading of 162385 kWh as per ME Lab report. The Forum had not considered the pleadings of the Appellant and passed order dated 08.03.2021.

- (iv) The decision of the Forum was wrong, arbitrary and biased and the Appellant was not satisfied with the decision of the Forum, therefore, the present appeal was filed.
- (v) The Appellant was having small hosiery unit and work was done on small computerized flat machines with very marginal load of 0.5-1 kW of each machine. The total no. of such machines was 11 and their load was about 5-6 kW and the remaining load was AC & light load. The consumption of the Appellant was very consistent and total annual consumption was about 34000-36000 units, which was evident from the consumption data. The consumption recorded/billed in the year 2019 was also about 36000 units, matching with the consumption of previous years. The same pattern of consumption continued in the years 2020 and 2021 (upto date). The alleged unbilled consumption of 133379 units was equivalent to about 400% of consumption of complete one year (12 months). The meter in question (Sr. No.186206) was installed in 6/2019 and got burnt in 11/2019 (as reported by the meter reader). The meter was installed outside the premises of the Appellant and official of Respondent (Meter Reader) recorded readings from the meter (outside the premises) and bills as issued on 'O' code or 'R' code (average basis) had been

paid in due course. The Appellant even had no information as to when the meter reader came for recording monthly readings and as per routine of the Appellant, the energy bills were paid after receiving the same from the concerned office of PSPCL. Thus, alleged unbilled consumption of 133379 units (in addition to consumption billed) from a meter (which remained in order for about 5 months and got burnt in 11/2019) relating to a period of 5 months was next to impossible, considering the sanctioned/connected load, nature of industry and consumption pattern of the Appellant. The huge unbilled consumption of 133379 units was definitely due to some defect/erratic behavior or software problem in the meter. However, the Forum did not consider all these facts and figures and decided the case against the Appellant.

(vi) The submissions made by the Respondent before the Forum were apparently vague and ridiculous. Anyhow (for the sake of arguments) it was submitted for the consideration of this Court that:

a) The consumer was not responsible for burning of meter. The meter of the Appellant was replaced four times in the last 5-6 years i.e. in 10/2017, 01/2019, 06/2019 and 06/2020. The meter in 10/2017, 06/2019 and again in

06/2020 were replaced on 'R' code and in 01/2019 on 'D' code, which was evident from the reading record provided by the Respondent. Further, in every case of burning of meter, the reasons were required to be investigated by the Respondent instead of misleading this Court with fake allegation. Moreover, the burnt meter in 10/2017 was replaced within 1-2 days then how the Appellant can change the trend/pattern of consumption due to burning of meter.

- b) As far as use of excess load was concerned, it was brought out that work was done on small computerized flat machines with very marginal load of 0.5-1 kW of each machine and major load was of AC and light load, which was already reported as per LCR 83/2283 dated 11.12.2020 as 18.37 kW.
- c) The Respondent had worked out consumption with 18.37 kW load, with the presumption that work in the hosiery unit round the clock could not be ruled out and had worked out consumption of 132264 units per year. First of all, the Respondent had not considered the fact that the major load of hosiery unit of the Appellant was of Air conditioning, which was not used for 12 months

in a year. Secondly, the entire connected load could not be used round the clock in a month. Thirdly, the disputed meter remained in working order only for about 5 months and consumption had been recorded as 162385 units. Thus, even if all the fake assumptions of Respondent were considered, then, consumption for 5 months (with LDHF formula taking all the variable as assumed by the Respondent) comes to $18.37 \text{ kW} \times 20 \text{ hours} \times 30 \text{ days} = 11022 \text{ units} \times 5 \text{ months} = 55110 \text{ units}$. Thus, even with all the fake assumptions, the consumption for 5 months comes to 55110 units, then, how the huge consumption of 162385 units recorded with erratic/defective meter could be justified.

- d) There was no question of removing computerized flat machines with very marginal load of 0.5-1 kW of each machine and total number of such machines were 11. While relying on conjectures and surmises that Respondent did not consider the fact that MDI of 15.38 KVA was recorded vide LCR No. 83/2283 dated 11.12.2020 (connected load as 18.37 kW). The Appellant cannot control the MDI of the meter, which

was another proof that assumptions of the respondent were vague and baseless.

- e) It was absolutely wrong to say that the Appellant evaded checking of his load 2-3 times. The fact was that AJE (Lineman) came in the premises of the Appellant on 03.12.2020 and incidentally on that day, the Appellant was not available and Foreman just made simple request to AJE (Lineman) that load may be checked in the presence of the owner (Consumer) and the AJE agreed without any objection. The AJE mentioned kWh and kVAh readings on the LCR dated 3.12.2020 but MDI reading had not been mentioned. Needless to mention that a small NRS Category Consumer had no authority/power and cannot stop PSPCL officials from checking of load. Moreover, PSPCL had the authority and power to depute senior officer and enforcement wing for checking of load. Thus, the allegation of the Respondent was totally baseless. The connected load was checked on 11.12.2020 vide LCR No. 83/2283 dated 11.12.2020 and connected load was reported as 18.37 kW and MDI as 15.38 kVA. The Appellant was a layman and

submitted very simple Appeal and could not rebut the allegation/fake assumptions of the Respondent. But the Appellant was assured by the Forum that justice would be done. However, it was regretted to submit here that Forum did not consider the above submissions but relied on the vague assumption of the Respondent and decided the case against the Appellant.

- (vii) The decision of the Forum was wrong and biased. The Forum even had not properly scrutinized DDL report/data. Firstly, as per DDL data, the reading as on 27.08.2019 was 29292.83 kWh and as on 28.11.2019, it was 162385.55 kWh at 22.05 hrs. The total consumption from 27.08.2019 to 28.11.2019 (93 days) comes to 133092 units and average daily consumption (taking all as working days) comes to 1431 units. The connected load of the petitioner was 18.37 KW (including Plugs, ACs etc. which were normally not used especially ACs during winter). The per day consumption even with the use of entire 18.37 kW load, 24 hours without break, comes to 440.88 kWh. Further, for average consumption of 1431 units per day, the running load should be 59.625 kW. It was very ridiculous and next to impossible that petitioner was using 59.625 kW load for 93 days, 24 hours without any break for one minute and more

so whole current meter (3x10-60 A) with cable meant for 10-20 kW was taking that much load. Further, the hosiery work was done by the Appellant with computerized machines with 0.5 -1 KW load of each machine and for running load of 59.625 kW, the consumer was supposed to have installed about 100 such machines involving investment of crores of rupees, in a small premise/unit. These figures shall be more interesting and ridiculous if the holidays and days of marginal consumption (as observed by the Forum) were excluded. As far as observations of the Forum regarding use of excess load, burning of meter and allegation of evading checking by the Appellant, position had been explained in the Appeal. The Forum had also mentioned that *'the consumption of the period after replacement of meter cannot be considered as basis to decide the case, as this was a post Covid period consumption when business was at its low'*. The meter of the Appellant was replaced on 11.06.2020 and at that time, hosiery business of the Appellant was almost normal. Moreover, data for previous years was also available and Forum could have considered the consumption data of previous 4-5 years to arrive at realistic conclusion instead of relying on fake assumption, conjectures and surmises.

(viii) In addition to above, it was also brought out that as per Instantaneous Report of DDL, present MD in kW has been mentioned as 22.30 kW and present MD in kVA as 260.82 kVA. Further, as per temper report of 'Current Event' from 25.09.2019 to 28.11.2019, the value/parameter 'I' (current) on 'R' & 'Y' phase was showing value/figure more than 200, on various dates. Furthermore, the voltage as per 'Current Event' of temper report was also abnormal on many occasions, it was 300.7V on 'B' phase at 14.57.23 hours and 307.9 V at 15.13.02 hours on 25.6.2019. It was also brought out that reading as on 28.10.2019 was 112881.50 kWh and as on 28.11.2019 was 162385.55 kWh meaning thereby consumption of 49504 units and this much of consumption was possible only if 68.76 kW load was used for 24 hours without any break for one minute and more so, whole current meter (3x10-60 A) with cable meant for 10-20 kW was actually able to sustain that much load. For this much of running load, the consumer was supposed to have installed about 125 computerized machines, which was next to impossible, as explained above. All the above facts & figures and consumption pattern of the Appellant may lead to the conclusion that meter of the Appellant was

erratic, which resulted into such a huge consumption in a period of about 5 months.

- (ix) The Forum was supposed to analyze the DDL report and above facts & figures properly instead of relying on mere doubt that consumer was using excess load than sanctioned load and meter was working correctly and amount charged was OK.
- (x) It was prayed to allow the Appeal, set aside the decision of the Forum and order for overhauling of account on average basis for the period, defective/burnt meter remained installed, as per regulation 21.5 of Supply Code-2014, in the interest of natural justice and fairness.

(b) Submissions made in the Rejoinder

The Appellant, in its rejoinder to written reply of the Respondent, reiterated mainly the submissions already made in the Appeal and prayed to allow the same.

(c) Submissions during hearings

- (i) During hearing on 19.05.2021, the Appellant and its representative reiterated the submissions made in the Appeal as well as in the Rejoinder and prayed to allow the relief claimed in the Appeal. After deliberations, the Appellant was asked to attend another hearing in this Court on 25.05.2021 at 12.00

Noon when the clarifications/information asked for from the Respondent and provided by him would be discussed.

- (ii) The hearing scheduled for 25.05.2021, was postponed on the request of the Respondent vide e-mail dated 24.05.2021. The Appellant was informed accordingly and directed to attend the hearing on 01.06.2021 at 11.30 AM vide letter nos. 827-28/OEP/A-46/2021 dated 24.05.2021.
- (iii) During hearing on 01.06.2021, the Appellant's Representative submitted an application mentioning that the Respondent had not provided the evidence asked for from it during the proceedings dated 19.05.2021. Besides, the Respondent also not satisfactorily responded to the averments made in the Appeal. It was prayed to allow the Appeal as the consumption/ amount charged to the Appellant was not correct.

(A) Submissions of the Respondent

(a) Submissions in written reply

The Respondent submitted the following written reply, in its defence, for consideration of this Court:

- (i) The Appellant was having a Non Residential Supply Category Connection bearing Account No. 3002869453 with sanctioned load of 12.540 kW.
- (ii) The meter of the Appellant was changed as per DRA No. 100009593749 dated 16.01.2020 affected on 12.06.2020 as the meter of the Appellant had burnt.
- (iii) The meter of the Appellant was checked in the ME Lab vide challan no. 272 dated 03.10.2020. As per ME Lab report, the meter was burnt, accuracy was not possible and DDL was not available. The reading of the meter as per ME Lab was 162385 whereas billing was done upto 29006 and hence, difference of 133379 units was charged for ₹ 11,66,696/- as per notice no. 8483 dated 22.07.2020. The amount related to the actual consumption charges.
- (iv) The site of the Appellant was checked vide LCR no. 88/2287 dated 03.12.2020 and reading was recorded as 012577 kWh but load was not allowed to be checked by the Foreman present there with the plea that the same be checked only in the presence of the owner. The site was again checked vide LCR no. 83/2283 dated 11.12.2020 and reading recorded was 013051 kWh and load was detected as 18.370 kW against sanctioned load of 12.540 kW. The Appellant had been using

the connection for running hosiery machines and had connected load of 18.37 kW.

- (v) The meter of the Appellant had burnt four times in last 5 years which indicated that the Appellant was using excessive load continuously.
- (vi) The Appellant did not agree with this amount and filed the case in the Forum at Ludhiana.
- (vii) The Forum decided the case on 08.03.2021. As per decision of the Forum, it was held that the account of the Appellant be overhauled as below:
 - a) The petitioner be billed up to 28.11.2019 as per the reading of 160908 kWh recorded in DDL report (as retrieved by the manufacturer of meter on the direction of CGRF, Ludhiana).
 - b) The account of the petitioner from 29.11.2019 to 23.03.2020 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 as per Reg. 21.5.2 (d) of Supply Code, 2014.
 - c) From 24.03.2020 to 12.06.2020 i.e. date of change of meter only fixed charges be recovered being lockdown period.

- (viii) In the light of the above decision of the Forum, the Respondent had issued notice no. 16206 dated 01.04.2021 and requested the Appellant to deposit a sum of ₹ 9,94,826/-.
- (ix) The Appellant was not satisfied with the decision of the Forum and filed the present Appeal before this Court. The Appellant had deposited 40% of the disputed amount with the Respondent.

(b) Additional submissions by the Respondent

On receipt of Rejoinder to written reply of the Appellant, the Respondent submitted the following defence vide e-mail dated 18.05.2021 for consideration of this Court:

- (i) The load mentioned by the Appellant was as per LCR No. 83/2283 dated 11.12.2020 which was checked after intervention of the Forum as the Appellant will fully did not get its load checked earlier (LCR No. 88/2287 dated 03.12.2020 and 61/2281 dated 21.07.2020) despite repeated requests and attempts. The load checked on 11.12.2020 cannot be taken as the actual load used by the Appellant prior to burning of meter and filing of the case before the Forum and had been downsized to influence the decision of the Forum. The sanctioned load of the Appellant was 12.54 kW which was less than that checked

load. As per decision of the Forum, the Respondent had obtained the DDL from the Manufacturing Company i.e. Flash Electronic India Pvt. Ltd. As per DDL report of Manufacturing Company, the kWh reading on 03.07.2020 was 162385. As per DDL report, the meter was showing the consumption gradually and there was not any jumping in the reading. The reading of the Appellant was not properly recorded and it seemed to be accumulation of reading. The disputed meter remained installed from 07.06.2019 to 11.06.2020 i.e. approximately for one year.

- (ii) The consumption for the year 2019 was not actual in itself as the meter was replaced twice (21.01.2019 'D' Code and 07.06.2019 'R' Code) and the actual reading/ consumption could not be retrieved. But the actual reading was retrieved from the meter replaced on 12.06.2020 and the Appellant was billed for actual consumption as per DDL. The repeated burning/ defect (5 times in a span of almost two and half year) in meter, was suspicious if the load as admitted by the Appellant was used from a 3 phase 10-60 A capacity meter. The only reason for these repeated defects was use of excessive load continuously. Since the replacement of meter on 12.06.2020, the connected load had been controlled by the Appellant and there had not been any defect in the meter. The

MDI of 15.38 kVA was recorded during the pendency of the case in the Forum, which was controlled.

- (iii) The Forum had rightly upheld the amount charged after due deliberations and after looking into the facts of the case. The DDL had shown a constant average consumption and no abrupt jump in reading. The Appellant was time and again relying on the connected load of 18.37 kW for carrying out various permutations and combinations of consumption. However, the load checked on 11.12.2020 was downsized from the actual load used prior to the burning of meter. The relief admissible due to impact of COVID-19 pandemic had already been granted by the Forum to the Appellant. The correctness of the energy recorded by meter/ DDL was substantiated by the low consumption recorded on Diwali/ Vishavkarma days (holidays) from 27.10.2019 to 29.10.2019. Had the meter been erratic, the energy consumption should not have dipped. It was wrong to state that 100 small machines would have to be installed for consuming the energy as reported by DDL as the nature and load of machines installed prior to replacement of meter was not known. Also, if the assertion of the Appellant was upheld, it was possible to use 60 kW load through a 10-60 Amp. capacity three phase meter if load was balanced and there was no jerk

load. The current values mentioned by the Appellant pertained to the tamper data events of CT bypass and was software calculated and not actually current passed through the meter. The calculations of daily energy corresponding to these events were not based on these current values e.g. daily energy of dated 25.09.2019, 28.11.2019 to show a constant normal trend. The Appellant had been misleading this Court by repeatedly stating that the consumption brought out in the DDL was not possible with 18.37 kW load. If LDHF formula was applied for 20 hour, 30 days operation with factor of 100%, the per month consumption comes out to be 11022 units:

L	D	H	F	Units per month
18.37	30	20	1	11022

Thus, yearly consumptions of the Appellant came out to be $11022 \times 12 = 132264$ units. This was based on the downsized load declared by the Appellant post the charging of amount. If the actual load prior to replacement was taken, the consumption as per DDL was fully justified and was not impossible as repeatedly stated by the Appellant. The earlier readings recorded (done by Meter Readers of Spot Billing Agency, M/s. Cosyn) may have been concealed as the Respondent had

terminated 23 Meter Readers of the Firm on account of concealment of actual readings.

- (iv) Therefore, the amount charged to the Appellant was correct and recoverable & the Appeal deserved dismissal.
- (c) **Submissions in compliance to proceedings dated 19.05.2021**

The Respondent, vide Memo No. 1889 dated 31.05.2021, submitted the following in compliance to the directions given during proceedings dated 19.05.2021

- (i) The consumer was being fed through 4 core, 16 sq mm LT XLPE cable of IS 7098(1) with rated current carrying capacity of 70 Ampere.

As discussed with ASE/ME Division, Ludhiana and the Engineer of M/s Flash Electronics telephonically on 31.05.2021, the abnormal values of current in the current tamper event were due to tampering of meter by injecting high voltage/frequency signals into the meter due to which, the CT ratios got distorted and the abnormal current values were recorded. But, these values of current did not actually pass through the meter.

- (ii) ASE/ME Division, PSPCL, Ludhiana intimated in writing that as per PO No. M. 135/MQP-131/PO(M) dated 21.02.2019, the

Flash make meter 3X240 V, 10-60 A capacity could carry about 60 A current continuously and a maximum current of 90 A for an interval of half hour.

(d) Submission during hearing

- (i) During hearing on 19.05.2021, the Respondent reiterated the submissions made by it in the written reply as well as in the additional submissions made after filing of Rejoinder by the Appellant and contested the submissions of the Appellant. After deliberations, the Respondent was directed to study the DDL Report in detail (in consultation with ME Lab.) for discussion in the next hearing to be held on 25.05.2021 at 12.00 Noon. The Respondent was also directed to intimate
- a) The maximum load which could be run on the Flash Make meter of capacity 3x240V, 10-60 A capacity.
 - b) Overloading alongwith its duration permitted in respect of Meter mentioned at Sr. No. (a).
 - c) The size of the cable feeding the connection of the consumer and its permitted loading in kVA.
- (ii) A day before the schedule hearing on 25.05.2021, the Respondent sent e-mail dated 24.05.2021 requesting for

adjournment of the hearing on the plea that more time was required for having clarification from ME Lab. The said request was accepted and hearing was postponed to 01.06.2021 at 11.30 AM. The Respondent was informed accordingly vide letter nos. 827-28/OEP/A-46/2021 dated 24.05.2021.

- (iii) During hearing on 01.06.2021, the Respondent confirmed that change in name of consumer from Sh. Naresh Kaushal to Sh. Prince Mohindroo had been effected in SAP System and the Appellant had deposited the requisite 40 % of the disputed amount for filing the Appeal in this Court. The Respondent reiterated the reply sent vide e-mail dated 31.05.2021 in response to directions given during proceedings dated 19.05.2021. He added that the consumption charged and billed was as per DDL readings and contested the submissions made by the Appellant's Representative in the Appeal/Rejoinder/ Application referred to above.

5. Analysis and Findings

The issue requiring adjudication is the legitimacy of the prayer of the Appellant for overhauling its account on average basis for the period, the defective/burnt Meter remained installed as per applicable regulations.

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

- (i) The Appellant had, in the present Appeal, prayed to set aside the order dated 08.03.2021 of the Forum and also the Notice, bearing No. 16206 dated 01.04.2021 issued by the AEE/Commercial, DS Aggar Nagar Division (Special), Ludhiana for ₹ 9,94,826/- in compliance to the directions given by the Forum in its order dated 08.03.2021 (Sr. No. ix) which is tabulated as under:

Period	Directions of the Forum in Sr. no. ix of its order
Upto 28.11.2019	As per the reading of 160908 (kWh) recorded in DDL report (As retrieved by the manufacturer of meter on the direction of CGRF, Ludhiana).
29.11.2019 to 23.03.2020	The account of the consumer 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 as per Reg. 21.5.2(d) of Supply Code, 2014.
24.03.2020 to 12.06.2020 (date of change of meter)	Only Fixed charges during lockdown period be recovered.

- (ii) As per evidence on record, the Appellant was having a NRS category connection with sanctioned load of 12.540 kW since 20.05.2015 for hosiery related work. DRA No. 100007400164

dated 15.01.2019 was effected on 21.01.2019 showing the removed meter as 'Defective' in ME Lab Challan. Again DRA No. 100008377833 dated 03.06.2019 was effected on 07.06.2019 showing the previous meter as burnt. Subsequently, the removed meter was checked vide ME Lab Challan No. 5/7 dated 21.08.2019 and declared 'burnt'. Thereafter, DRA No. 100009593749 dated 16.01.2020 was effected on 12.06.2020 showing the removed meter as 'burnt'. The said meter was checked in ME Lab vide Challan No. 26/272 dated 03.10.2020. As per M.E. Lab Report, the Meter was burnt, accuracy was not possible and DDL was not available. The reading of the said Meter as per ME Lab report, was 162385. But, billing was done upto 29006 and hence difference of 133379 kWh was charged for ₹ 11,66,696/- as per notice bearing no. 8483 dated 22.07.2020 issued by AEE/Commercial, Unit-1, DS Aggar Nagar Division (Special), PSPCL, Ludhiana. The Appellant was not satisfied with this amount and filed its case in the Forum who, after hearing, passed order dated 08.03.2021.

- (iii) Written as well as oral submissions alongwith evidence brought on record by both the Appellant and the Respondent have been gone through. The Appellant had contested the decision dated 08.03.2021 of the Forum and the averments of the Respondent

in its defence. The Appellant submitted that the Respondent had not given any evidence regarding current carrying capacity of 4 core, 16 sq mm LT cable and 3x240V, 10-60 A meter. Anyhow as per the information supplied by the Respondent, 4 core, 16 sq mm LT XLPE cable can carry maximum current of 70 Ampere. Similarly, 3x240V, 10-60 A meter can continuously carry current of 60 Ampere. Further, the maximum current carrying capacity of 90 Ampere for an interval of half hour is admissible for this meter.

As per DDL report , there was consumption of 49504 units (for 30 days) from 28.10.2019 to 28.11.2019 and this much of consumption was possible only if 68.76 kW load was used 24 hours without any break of one minute. However, in view of current carrying capacity of 4 core, 16 sq mm LT cable and 3x240 V, 10-60 A, Meter; this much load of 68.76 kW cannot be sustained by the meter and 4 core, 16 sq mm LT cable. Similarly, for other time intervals, the consumption recorded as per DDL report was abnormal and the same was not sustainable with installed meter and feeding LT cable. Thus from the perusal of DDL report, it was quite evident that behavior of the meter was quite erratic and recording of abnormal consumption may be due to software problems. As far as assumption of

tempering of meter by injection of high voltage/ frequency signals into the meter was concerned, it was totally baseless and was an afterthought. The Appellant requested to allow the Appeal and set aside the decision of the Forum.

- (iv) The details of energy consumption of the Appellant's connection as per readings taken during the period January 2018 to May 2021 are tabulated below:

Month	2018		2019		2020		2021	
	Con.	Code	Con.	Code	Con.	Code	Con.	Code
Jan.	3481	O	2209	O	3199	R		
Feb.	4064	O			2077	R	2986	N
Mar.	3620	O	OLD:1847 NEW:2551	C	1833	R	1986 2559	N O
Apr.	4766	O	2999	O	4550	R	1453	O
May	4652	O	3113	O	3559	R	1935	O
Jun.	4952	O	4952	R				
Jul.			OLD:155 NEW:1822	C				
Aug.	3294	O	2635	O	OLD:3559 NEW:7493	O		
Sep.	2692	O	3126	N	6122 1774	N O		
Oct.			3105	N	1621	N		
Nov.	2289	O	5498	O	2016	N		
Dec.	2271	O	1774	R	3310 1654	O O		

- (v) It is observed that the submission of the Appellant that the Forum did not properly scrutinize the DDL/load survey which was got done from the manufacturer of the disputed meter as per directions of the Forum during proceedings of the case is not without merit. For instance, as per DDL data, the reading as on 27.08.2019 was 29292.83 kWh and as on 28.11.2019, it was 160908.45 kWh. The total consumption from 27.08.2019 to 28.11.2019 (93 days) comes to 131615 units and average daily

consumption (taking all as working days) comes to 1415 units. A perusal of the DDL reports (particularly Daily Load Survey Reports) reveals that the consumption recorded during the disputed period appears to be very much on higher side and unrealistic taking into consideration the rated capacity of the meter and feeding cable. Running of load of 60-70 kW (against sanctioned load of 12.540 kW) in the Load Survey Reports could not be explained by the Respondent which is beyond rated capacity of meter and the feeding LT cable. The Respondent failed to explain and prove the accuracy of the main documentary evidence (DDL reports) which was the basis of overhauling of accounts of the Appellant. Inaccurate and unrealistic readings appearing in the DDL reports downloaded after burning of the meter may be due to software problems. As such, this Court is not inclined to allow the Respondent to overhaul the accounts of the Appellant on the basis of unreliable/unrealistic DDL reports. The Respondent could not give any satisfactory reply about ignoring the readings recorded by the Meter Readers. There is no provision in the Supply Code to overhaul the accounts of the consumer on the basis of DDL reports when the readings of the accurate meter are available

upto 05.11.2019. These readings have not been nullified by any inquiry report of the Respondent.

- (vi) It is also observed that the Appellant had not provided any evidence in support of its claim for relief during the COVID-19 lockdown period from 24.03.2020 to 11.06.2020 (a day before change of meter on 12.06.2020). Even on being asked during hearing on 01.06.2021, the Appellant or its Representative did not mention about having any documentary or other valid evidence to prove that there was practically no business activity in the unit during the said period. Thus, the Forum erred in deciding that “From 24.03.2020 to 12.06.2020 i.e. date of change of meter only fixed charges be recovered, being lockdown period.”
- (vii) In regard to overhauling the account of the Appellant’s connection for the post 28.11.2019 period (when the meter remained burnt), it is worthwhile to peruse the instructions relevant as per Regulation 21.5.2 of Supply Code-2014 reproduced below:

“21.5.2 Defective (other than inaccurate)/Dead Stop/Burnt/Stolen Meters

The accounts of a consumer 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 has 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 consumer 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, if any, during the period of overhauling of accounts.”*

The disputed meter replaced on 12.06.2020 was a burnt meter as per report of ME lab. As such, the account of the Appellant can be overhauled maximum up to six months prior to 12.06.2020. It is observed that provisions of Regulation 21.5.2 (a) & (b) cannot be applied in this case for overhauling the account of the Appellant for the period from 12.12.2019 to 11.06.2020 (a day before the change of meter on 12.06.2020) because the available consumption required to overhaul the account is not reliable. As a result, provisions contained in Regulation 21.5.2 (c) have to be applied for overhauling the Appellant's account for the period from 12.12.2019 to 11.06.2020. As per this provision, the overhauling will be done

on the basis of average of the consumption for the period the meter worked correctly i.e. during 07.06.2019 to 05.11.2019.

- (viii) It is observed that the meter was found burnt on 02.12.2019 while recording reading of the meter. DRA No. 100009593749 dated 16.01.2020 was issued for the replacement of the burnt meter which was effected on 12.06.2020 after more than six months. It is a clear case of violation of Regulation 21.4.1 of Supply Code, 2014 and Standards of Performance. The meter was replaced four times in 10/2017, 01/2019, 06/2019 and 06/2020 but investigation reports were not prepared as per provisions of Regulation 21.4.1 of Supply Code, 2014 so as to determine the cause of burning of the meters as is evident from the perusal of this Regulation reproduced below:

“21.4 Defective/ Dead Stop/Burnt/Stolen Meters

21.4.1 In case a consumer’s meter becomes defective/dead stop or gets burnt, a new tested meter shall be installed within the time period prescribed in Standards of Performance on receipt of complaint or detection by the distribution licensee. If the meter is burnt due to reasons attributable to the consumer, the distribution licensee shall debit the cost of the meter to the consumer who shall also be informed about his

liability to bear the cost. In such cases the investigation report regarding reasons for damage to the meter must be supplied to the consumer within 30 days. However, supply of electricity to the premises shall be immediately restored even if direct supply is to be resorted to, till such time another tested meter is installed.”

- (ix) From the above analysis, it is concluded that:
- a) The Appellant is required to be charged for the consumption as per actual recorded meter readings for the period the disputed meter was Ok since the consumption taken from the DDL report is not realistic/genuine considering all the relevant factors/parameters.
 - b) The account of the Appellant is required to be overhauled for the period from 12.12.2019 to 11.06.2020 on the basis of average of the consumption for the period the meter worked correctly i.e. 07.06.2019 to 05.11.2019 in terms of provision contained in Regulation 21.5.2 (c) of Supply Code-2014.
 - c) The Appellant is not entitled to any relief in respect of its claim for the COVID-19 lockdown period from 24.03.2020 to 11.06.2020 as it had not brought on record of this Court

necessary evidence about the unit having remained closed/not worked.

6. Decision

As a sequel of above discussions, the order dated 08.03.2021 of the CGRF, Ludhiana in Case No. CGL-347 of 2020 is set aside.

It is held that:

- (i) The Appellant shall be charged for the consumption as per actual recorded meter readings upto the date the disputed meter was OK.
- (ii) The account of the Appellant shall be overhauled for the period from 12.12.2019 to 11.06.2020 on the basis of average of the consumption for the period the meter worked correctly i.e. 07.06.2019 to 05.11.2019 in terms of provisions contained in Regulation 21.5.2 (c) of Supply Code-2014.
- (iii) The Appellant shall not be allowed any relief for the COVID-19 lockdown period from 24.03.2020 to 11.06.2020 and this period shall be overhauled as per Sr. No. (ii) above.
- (iv) Accordingly, the Respondent is directed to refund/recover the amount found excess/short after adjustment, if any with surcharge/interest as per instructions of PSPCL.

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.

June 09, 2021
S.A.S. Nagar (Mohali)

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