

**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. 74/2021

Date of Registration : 24.09.2021

Date of Hearing : 13.10.2021

Date of Order : 13.10.2021

Before:

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

In the Matter of:

Ravinder Kaur,
B-17-2412, Abdulapur Basti, Ludhiana-141001.

Contract Account Number: 3015047655 (MS)

...Appellant

Versus

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

...Respondent

Present For:

Appellant: Sh. G.S.Mittal,
Appellant's Representative.

Respondent : Er. M.P.Singh,
Addl. Superintending Engineer,
DS Model Town (Special) Division,
PSPCL, Ludhiana.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 10.08.2021 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-219 of 2021, deciding that:

“The disputed period/ bill issued on 02.08.2020 be revised as per conclusion arrived at point no. (iv) Above and amount be recovered/ refunded accordingly.”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 24.09.2021. The Appellant had received the copy of the decision dated 10.08.2021 of the CGRF, Ludhiana in Case No. CGL-219 of 2021 on 25.08.2021 after appending signature on the Dispatch Register of the Forum. The Appellant had filed the Appeal in this Court on 24.09.2021 i.e. within the stipulated period of thirty days of receipt of copy of the decision by her on 25.08.2021. The Appellant had deposited the requisite 40% of the disputed amount vide Receipt No. 151691487 dated 30.11.2020 for ₹ 1,15,330/-, Receipt No. 154454009 dated 27.01.2021 for ₹ 2,00,000/- and paid the latest bill vide Receipt No. 165780008 dated 22.09.2021 for ₹ 68,100/-. Therefore, the

Appeal was registered on 24.09.2021 and copy of the same was sent to the Addl. SE/ DS Model Town (Special) Division, PSPCL, Ludhiana for sending written reply/ parawise comments with a copy to the office of the CGRF, Ludhiana under intimation to the Appellant vide letter nos. 1346-48/OEP/A-74/2021 dated 24.09.2021.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 13.10.2021 at 12.00 Noon and an intimation to this effect was sent to both the parties vide letter nos. 1431-32/OEP/A-74/2021 dated 06.10.2021. As scheduled, the hearing was held in this Court. 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 submissions 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 was having a Medium Supply Category Connection bearing A/c No. 3015047655 in the name of Ravinder Kaur-Appellant under DS Model Town (Special) Division, Ludhiana with sanctioned Load of 34.66 kW and Contract Demand as 38 kVA. The nature of business was Hosiery Unit where Winter Garments were prepared on job work basis and normal seasonal period started in August and ends in February every year and during the period of March to July energy consumption remains 30% due to off-season period and this routine pattern was evident from the last 5 years consumption data as submitted by the Respondent itself.
- (ii) All the bills upto February, 2020 rendered to the Appellant on the basis of measured consumption were paid by the Appellant from time to time.
- (iii) After the month of 3/2020 when there was complete curfew and all the business activities were standstill, the Respondent failed to serve the Appellant any bill up to 7/2020. Even the bills were

not ready to see on the Website of PSPCL and this fact had also been admitted by the Respondent in its reply before the Forum.

- (iv) The Appellant had received a bill only in August, 2020 with 'D' Code average for the period 07.05.2020 to 08.07.2020 for 62 days with average consumption of 13545 kWh/14423 kVAh units for ₹ 2,31,430/- including an arrear of ₹ 1,32,458/- as unpaid bill of previous months (perhaps from 10.02.2020 to 06.05.2020) whereas no such arrear bill was served upon the Appellant neither in physical form nor appeared on the Website of PSPCL and this bill appeared to have been issued on average basis but no detail of charging average basis was provided. Although the Respondent admitted before the Forum that no bill had been submitted and both bills (i.e. bill for the period 10.02.2020 to 07.05.2020 for 87 days and from 07.05.2020 to 08.07.2020 for 62 days had been rendered simultaneously where the amount of earlier 87 days bill had been shown in arrear column with the result the Appellant was still not aware about the bill detail and how the bill had been prepared and how the average had been adopted? The Respondent simply mentioned that no extra charges were levied but no detail had been provided so far.

- (v) The said bill was wrong as the Appellant had not used so much energy as maximum period of bill i.e. 10.02.2020 to 08.07.2020 related to curfew/complete lock down. During the period from 15.03.2020 to 17.05.2020, there was complete curfew throughout Punjab and there was no business activity not in mine city of Ludhiana but also whole Punjab was badly affected. This fact was also in the notice of the Respondent since the overall monthly consumption of every Sub Division of PSPCL remained very negligible in curfew period (except the essential services etc.). It was particularly submitted that nature of business of the Appellant's industry was hosiery unit which comes into non-essential category.
- (vi) As per 'D' code, average was charged for 87 days from 10.02.2020 to 07.05.2020 with 20238 units (i.e. taking per day average as 232 units and for the period 07.05.2020 to 08.07.2020 for 62 days with 14423 unit i.e. per day average again taken as 232 means adopted same criteria of charging the average @ 232 units per day for the whole period of 10.02.2020 to 08.07.2020 (the maximum period of curfew/lock down). The Forum had not investigated the reason and pattern of charging such average from the Respondent nor the

Respondent explained its position as to how this average was charged and what formula was adopted for this overhauling?

- (vii) Since the average charged was very much on higher side being the curfew/ lock down period, the industry was not allowed to run during this period as per Administration Orders being a non essential category Unit. The Appellant challenged the above bill in the Forum and as per its orders dated 10.08.2021, the demand of ₹ 2,31,430/- raised was quashed with the orders as under:-

“1. The bill issued on dt. 02.08.2020 on “D” code on average consumption basis amounting to Rs. 231430/- is quashed.

2. The account of the petitioner be overhauled from 10.02.2020 to 22.03.2020 on the basis of consumption recorded in the corresponding period of the previous year as per regulation 21.5.2(a) of Supply Code-2014.

3. From 23.03.2020 to 14.04.2020 being curfew/ lockdown period only fix charges be charged.

4. From 15.04.2020 to 11.08.2020 i.e. date of replacement of meter on the basis of average consumption recorded after change of meter from

12.08.2020 to 10.12.2020 as this period was just post lockdown period.”

The above orders of the CGRF, Ludhiana were illegal, unjustified, against the natural justice and was also contradictory of its own findings which was established from the following Grounds of Appeal.

- (viii) As per orders of the Forum at point No.4supra, the average had been ordered to be charged from 15.04.2020 to 11.08.2020 on the basis of consumption recorded during period 12.08.2020 to 10.12.2020. Therefore, overhauling the consumption of APRIL TO AUGUST MONTHS (where normal consumption was almost 25% being off-seasonal months WITH THE CONSUMPTION OF AUGUST TO DECEMBER (where monthly consumption was about four times of off-seasonal months being full swing period) was highly objectionable, unjustified, unnatural, against the Supply Code Regulation 21.5.2 which was reproduced below for ready reference:-

Supply code 21.5.2 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.

The above proviso was maximum applied in all cases of defective/burnt meter cases. As per above Regulation, the proviso 21.5.2(a) was firstly applicable in defective meter cases and the account was to be overhauled on the basis of corresponding period of previous year consumption. And Regulation 21.5.2(b) i.e. overhauling on the basis of last six months was applicable if consumption of corresponding previous year months was not available. Similarly 21.5.2(c)

will apply if consumption of neither corresponding previous year months nor previous six months was available and 21.5.2(d) will prevail only if consumption of corresponding period under proviso 21.5.2 (a), 21.5.2(b) and 21.5.2 (c) was not available. But the Forum decided to overhaul account at its own by taking consumption of succeeding year and that too by ignoring the relevant month of succeeding year. The Forum in its order at point (iv) ordered to overhaul the account for the period 15.04.2020 to 11.08.2020 on the basis of consumption recorded after change of meter on the basis of consumption recorded from 12.08.2020 to 10.12.2020. This formula of calculating average base was neither realistic nor giving any justice and even was straightway in violation of Supply Code Regulation 21.5.2(a) which was very clearly applicable in our case as the actual consumption of the corresponding previous year months was available and was not ignorable under any law in force.

- (ix) The period to be overhauled was 15.04.2020 to 21.08.2020 and as per last five years consumption data, the maximum consumption during April to August comes out to be 3000 to 4000 units per months (being normal off-peak time) and this period was ordered to be overhauled on the basis of

consumption recorded in the months of August to December where the monthly consumption during these months comes to be in between 15000 to 17000 units per month being peak production period. While passing the impugned order, the Forum had totally ignored all the present rules, Regulations and Policies of Supply Code and violated the principles of charging the average. This formula of charging average does not cover under any Regulation of Supply Code framed by PSERC.

- (x) The main reason in variation was due to the fact that in winter months i.e. August to December, the production of winter garments was on peak but in the month of April to August, this production was totally off seasonal & one fourth and consequently the consumption in off seasonal months was nearly 25% of peak seasonal month consumption. This pattern was also authenticated and can be easily established from the last five years consumption data already submitted by the Respondent and also admitted being based on true facts.
- (xi) The orders of the Forum as per para (i) to quash the average of 'D' Code was acceptable and Appellant didn't want to file any Appeal on this point.

- (xii) The orders of the Forum to charge the average from 10.02.2020 to 22.03.2020 under regulation 21.5.2(a) already given was also acceptable and Appellant didn't want to file any Appeal.
- (xiii) The orders of the Forum to charge only fix charges from 23.03.2020 to 14.04.2020 was challengeable as not justified, as the Respondent had not submitted any evidence that curfew period was only upto 14.04.2020. Rather the period of complete curfew was 23.03.2020 to 17.05.2020 as per Govt. Policy and District Magistrate Ludhiana's order dated 03.05.2020 which was very clear and indicative that the Curfew was imposed in Ludhiana District for the period 23.03.2020 to 17.05.2020 and the relaxation was only given to essential services categories. There was no order of Govt. Authorities/PSPCL showing any relaxation to Hosiery Units consumers in curfew period. The Appellant had not done any work upto 15.05.2020 and followed the Govt. orders. The last GST bill having Sr. No.G0387 was issued by the firm on 19.03.2020 and after restoration of business activity/relaxation of lock down/curfew period, first GST bill No.0001 was issued on 24.07.2020 (being first bill of financial year 2020-21) when there was some relaxations and business activities restarted with very slow speed. Therefore, the Appellant also deserves to be charged

only fix charges even after 14.04.2020 to 17.05.2020 keeping in view the Punjab Govt. restrictions/ District Magistrate, Ludhiana's orders and Policy of PSPCL as per CC No.47/2020. The Forum had already decided in similar nature of cases not to charge any average during the period 15.03.2020 to 15.05.2020 being curfew period and Appellant also want similar relief on natural justice basis.

(xiv) Keeping in view the position as explained above, the Appellant had prayed to allow relief as under to mitigate the financial and mental hardship to the Appellant:

- a) Only Fix charges be allowed to charge from 15.03.2020 to 15.05.2020 being Complete Curfew period.
- b) Defective meter average for the period 16.05.2020 to 11.08.2020 be charged as per Regulation 21.5.2(a) as per corresponding period of previous year for the period i.e.16.05.2019 to 11.08.2019 which was available as per consumption data submitted by the Respondent itself.

(b) Submission during hearing

During hearing on 13.10.2021, the Appellant's Representative reiterated the submissions already made in the Appeal 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 Appellant was having Medium Supply Category connection bearing Account No.3015047655 with sanctioned load of 34.66 kW and CD as 38 kVA. The billing of the Appellant was quite okay upto 10.02.2020. In the month of March & April, 2020; readings could not be taken due to lockdown. In the month of May, 2020; it was found on 07.05.2020 that meter was not working and 'D' Code was entered by the JE who used to take the readings. The meter was replaced vide MCO No. 100010641439 dated 07.08.2020 effected on 11.08.2020. The said replaced meter was sent to ME Lab vide Challan No. 1009 dated 10.04.2021, where meter was declared burnt and DDL was not coming. The Appellant was rendered with bill of ₹ 2,31,430/- for the period 10.02.2020 to 07.05.2020 (87 days) & 07.05.2020 to 08.07.2020 (62 days). The country wide Lockdown was started on 22.03.2020 & Industry was allowed to work from 15.04.2020 to onwards with

precautions. The Forum had decided the case on merits but the Appellant had filed an Appeal against the said decision.

- (ii) The lockdown was started from 22.03.2020 but reading could not be taken for the month March & April, 2020 whereas reading was taken on 07.05.2020 when 'D' Code was marked by Meter Reader/ JE.
- (iii) The Appellant was served with bills as per above details, which were generated in billing system of SAP according to provisions of charging average against 'D' Code.
- (iv) There was no curfew/ complete lockdown from 10.02.2020 to 08.07.2020, Lockdown started on 22.03.2020 & industries were asked to function with precautions from 15.04.2020.
- (v) The detail of bills issued on the basis of average of last year consumption, was as under:
- 08.07.2019 to 22.08.2019 = $10468/45 * 87 = 20238$ (for 07.05.2020 bill)
- 08.07.2019 to 22.08.2019 = $10468/45 * 62 = 14423$ (for 08.07.2020 bill)
- (xi) The Lockdown for Industries was from 23.03.2020 to 14.04.2020 only but the Forum had rightly decided the case on merits & had given maximum relief to the Appellant.

- (xii) The Forum had given maximum relief to the Appellant as per norms & instructions for over hauling which were already on the record. The period of overhauling was admitted i.e. 15.04.2020 to 21.08.2020.

(b) Submission during hearing

During hearing on 13.10.2021, the Respondent reiterated the submissions made in its reply and prayed for dismissal of the Appeal.

5. Analysis and Findings

The issue requiring adjudication is the legitimacy of

- a) bill dated 02.08.2020 for ₹ 2,31,430/- from 07.05.2020 to 08.07.2020 for 62 days including ₹ 1,32,458/- from 10.02.2020 to 06.05.2020 for 87 days; and*
- b) charging of fixed charges during the lockdown period from 15.03.2020 to 15.05.2020.*

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

The above mentioned issues are interconnected/ interlinked and as such are being taken up together for the decision of the case.

- (i) The Appellant's Representative (AR) argued that the Appellant was having a Medium Supply Category Connection bearing

A/c No. 3015047655 with sanctioned Load of 34.66 kW and Contract Demand as 38 kVA. The nature of business was Hosiery, where winter Garments were prepared on job work basis and normal seasonal period started in August and ends in February every year and during the period of March to July energy consumption remains 30% due to off-season period and this routine pattern was evident from the last 5 years consumption data as submitted by the Respondent itself. The bills upto February, 2020 tendered to the Appellant on the basis of measured consumption were paid by the Appellant from time to time. After the month of 3/2020 when there was complete curfew and all the business activities were standstill, the Respondent failed to serve the Appellant any bill upto 7/2020. Even the bills were not ready on the Website of PSPCL and this fact had also been admitted by the Respondent in its reply before the Forum.

- (ii) The Appellant had received a bill only in August, 2020 with 'D' Code average for the period 07.05.2020 to 08.07.2020 for 62 days with average consumption of 13545 kWh/ 14423 kVAh units for ₹ 2,31,430/- including an arrear of ₹ 1,32,458/- as unpaid bill of previous months (perhaps from 10.02.2020 to 06.05.2020) whereas no such arrear bill was served upon the

Appellant neither in physical form nor appeared on the Website of PSPCL and this bill appeared to have been issued on average basis but no detail of charging average basis was provided. Although the Respondent admitted before the Forum that no bill had been submitted and both bills (i.e. bill for the period 10.02.2020 to 07.05.2020 for 87 days and from 07.05.2020 to 08.07.2020 for 62 days had been tendered simultaneously where the amount of earlier 87 days bill had been shown in arrears. The Respondent simply mentioned that no extra charges were levied but no detail had been provided so far.

- (iii) The said bill was wrong as the Appellant had not used so much energy as maximum period of bill i.e. 10.02.2020 to 08.07.2020 related to curfew/ complete lock down. During the period from 15.03.2020 to 17.05.2020, there was complete curfew throughout Punjab and there was no business activity not only in the city of Ludhiana but also whole Punjab was badly affected. This fact was also in the notice of the Respondent since the overall monthly consumption of every Sub Division of PSPCL remained very negligible in curfew period (except the essential services etc.). It was particularly submitted that

nature of business of the Appellant's industry was hosiery unit which comes into non-essential category.

- (iv) As per 'D' code, average was charged for 87 days from 10.02.2020 to 07.05.2020 with 20238 units (i.e. taking per day average as 232 units and for the period 07.05.2020 to 08.07.2020 for 62 days with 14423 unit i.e. per day average again taken as 232 units means adopted same criteria of charging the average @ 232 units per day for the whole period of 10.02.2020 to 08.07.2020 (the maximum period of curfew/lock down). The Forum had not investigated the reason and pattern of charging such average from the Respondent nor the Respondent explained its position as to how this average was charged and what formula was adopted for this overhauling?
- (v) Since the average charged was very much on higher side being the curfew/ lockdown period, the industry was not allowed to run during this period as per Administration Orders being a non essential category Unit. The Appellant challenged the above bill in the Forum and as per its orders dated 10.08.2021, the demand of ₹ 2,31,430/- raised was quashed with the orders that the account of the Appellant be overhauled from 10.02.2020 to 22.03.2020 on the basis of consumption recorded in the corresponding period of the previous year as per Regulation

21.5.2(a) of Supply Code-2014 and from 23.03.2020 to 14.04.2020 being curfew/ lockdown period only fixed charges be charged and from 15.04.2020 to 11.08.2020 i.e. date of replacement of meter on the basis of average consumption recorded after change of meter from 12.08.2020 to 10.12.2020 as this period was just post lockdown period. The order of the Forum was illegal, unjustified, against the natural justice and was also contradictory of its own findings. Overhauling the consumption of April to August months (where normal consumption was almost 25% being off-seasonal months with the consumption of August to December (where monthly consumption was about four times of off-seasonal months being full swing period) was highly objectionable, unjustified, unnatural, against the Supply Code Regulation 21.5.2. As per above Regulation, the proviso 21.5.2 (a) was firstly applicable in defective meter cases and the account was to be overhauled on the basis of corresponding period of previous year consumption. And Regulation 21.5.2 (b) i.e. overhauling on the basis of last six months was applicable if consumption of corresponding previous year months was not available. Similarly, 21.5.2 (c) will apply if consumption of neither corresponding previous year months nor previous six months

was available and 21.5.2(d) will prevail only if consumption of corresponding period under proviso 21.5.2 (a), 21.5.2 (b) and 21.5.2(c) was not available. But the Forum decided to overhaul account at its own by taking consumption of succeeding year and that too by ignoring the relevant month of succeeding year. The Forum in its order at point (iv) ordered to overhaul the account for the period 15.04.2020 to 11.08.2020 on the basis of consumption recorded after change of meter on the basis of consumption recorded from 12.08.2020 to 10.12.2020. This formula of calculating average base was neither realistic nor giving any justice and even was straightway in violation of Supply Code Regulation 21.5.2 (a) which was very clearly applicable in Appellant's case as the actual consumption of the corresponding previous year months was available and was not ignorable under any law in force.

- (vi) The period to be overhauled was 15.04.2020 to 21.08.2020 and as per last five years consumption data the maximum consumption during April to August comes out to be 3000 to 4000 units per months (being normal off-peak time) and this period was ordered to be overhauled on the basis of consumption recorded in the months of August to December where the monthly consumption during these months comes to

be in between 15000 to 17000 units per month being peak production period. While passing the impugned order, the Forum had totally ignored all the present rules, Regulations and Policies of Supply Code and violated the principles of charging the average. This formula of charging average had not been covered under any Regulation of Supply Code framed by PSERC.

- (vii) The main reason in variation was due to the fact that in winter months i.e. August to December, the production of winter garments was on peak but in the month of April to August, this production was totally off seasonal & one fourth and consequently the consumption in off seasonal months was nearly 25% of peak seasonal month consumption. This pattern was also authenticated and can be easily established from the last five years consumption data already submitted by the Respondent and also admitted being based on true facts.
- (viii) The orders of the Forum as per para (i) to quash the average of 'D' Code was acceptable and Appellant didn't want to file any Appeal on this point. The orders of the Forum to charge the average from 10.02.2020 to 22.03.2020 under regulation 21.5.2(a) already given was also acceptable and Appellant didn't want to file any Appeal. The orders of the Forum to

charge only fixed charges from 23.03.2020 to 14.04.2020 was challengeable as not justified, as the Respondent had not submitted any evidence that curfew period was only upto 14.04.2020. Rather the period of complete curfew was 23.03.2020 to 17.05.2020 as per Govt. Policy and District Magistrate Ludhiana's order dated 03.05.2020 which was very clear and indicative that the Curfew was imposed in Ludhiana District for the period 23.03.2020 to 17.05.2020 and the relaxation was only given to essential services categories. There was no order of Govt. Authorities/ PSPCL showing any relaxation to Hosiery Units consumers in curfew period. The Appellant had not done any work upto 15.05.2020 and followed the Govt. orders. The last GST bill having Sr. No. G0387 was issued by the firm on 19.03.2020 and after restoration of business activity/ relaxation of lock down/ curfew period, first GST bill No. 0001 was issued on 24.07.2020 (being first bill of financial year 2020-21) when there was some relaxations and business activities restarted with very slow speed. Therefore, the Appellant also deserves to be charged only fixed charges even after 14.04.2020 to 17.05.2020 keeping in view the Punjab Govt. restrictions/ District Magistrate, Ludhiana's orders and Policy of PSPCL as per CC No.

47/2020. The Forum had already decided in similar nature of cases not to charge any average during the period 15.03.2020 to 15.05.2020 being curfew period and the Appellant also wanted similar relief on natural justice basis.

- (ix) The Respondent while arguing its case, controverted the pleas raised by the AR and contested the same being untenable and unsustainable. The Respondent stated that the Appellant was having Medium Supply Category connection with sanctioned load of 34.66 kW and CD as 38 kVA. The billing of the Appellant was quite okay upto 10.02.2020. In the month of March & April, 2020; readings could not be taken due to lockdown. In the month of May, 2020; it was found on 07.05.2020 that meter was not working and 'D' Code was entered by the JE who used to take the readings. The meter was replaced vide MCO No. 100010641439 dated 07.08.2020 effected on 11.08.2020. The said replaced meter was sent to ME Lab vide Challan No. 1009 dated 10.04.2021, where meter was declared burnt and DDL was not coming. The Appellant was rendered with bill of ₹ 2,31,430/- for the period 10.02.2020 to 07.05.2020 (87 days) & 07.05.2020 to 08.07.2020 (62 days). The country wide Lockdown was started on 22.03.2020 & Industry was allowed to work from 15.04.2020 to onwards with

precautions. The Forum had decided the case on merits. The lockdown was started from 22.03.2020 but readings could not be taken for the month of March & April, 2020 whereas reading was taken on 07.05.2020 when 'D' Code was marked by Meter Reader/ JE. The Appellant was served with bills as per above details, which were generated in billing system of SAP according to provisions of charging average against 'D' Code.

- (x) The Respondent argued that there was no curfew/ complete lockdown from 10.02.2020 to 08.07.2020, Lockdown started on 22.03.2020 & industries were asked to function with precautions from 15.04.2020. The Forum had given maximum relief to the Appellant as per norms & instructions for overhauling which were already on the record. The period of overhauling was admitted i.e. 15.04.2020 to 21.08.2020.
- (xi) From the above, it is concluded that the Appellant was served with a bill dated 02.08.2020 for ₹ 2,31,430/- generated on 'D' code basis. The meter of the Appellant was reported as burnt and was replaced vide MCO No. 100010641439 dated 07.08.2020 effected on 11.08.2020. The said replaced meter was sent to ME Lab vide Challan No. 1009 dated 10.04.2021 and it was reported as under: -

“whNo ;fVnk j? n?e{o/;ah BjhA j' ;edh, DDLBjhA nkfojk”

- (xii) It was evident that the meter of the Appellant was burnt and DDL could not be taken. In such situation, the only alternative left with the Respondent was to charge the Appellant with average consumption as per provisions of Regulation 21.5.2 of the Supply Code, 2014 which is reproduced as under: -

“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.”

- (xiii) The Forum had decided to overhaul account by taking consumption of succeeding year and that too by ignoring the relevant month of succeeding year. The Forum in its orders at point (iv) ordered to overhaul the account for the period 15.04.2020 to 11.08.2020 on the basis of consumption recorded after change of meter on the basis of consumption recorded from 12.08.2020 to 10.12.2020. This formula of calculating average base was neither realistic nor gave any justice and even was straightway in violation of Supply Code Regulation 21.5.2 (a) which was very clearly applicable in this case as the actual consumption of the corresponding previous year months was available and was not ignorable under any law in force. It was pertinent to note that during the period from 22.03.2020 to 15.04.2020 there was complete curfew throughout State of Punjab and there was no business activity not only in Ludhiana city but also in whole of the State of Punjab.

- (xiv) The burnt meter was replaced on 11.08.2020 vide MCO No. 100010641439 dated 07.08.2020. The meter was declared burnt by ME Lab as per report on Challan No. 1009 dated 10.04.2021. The period to be overhauled is 10.02.2020 to 11.08.2020. The Appellant had not challenged the decision of the Forum regarding overhauling of the account for the period 10.02.2020 to 14.04.2020. The period of overhauling from 15.04.2020 to 11.08.2020 is under challenge in this Appeal.
- (xv) The Respondent had clarified in its reply that lockdown started on 22.03.2020 and industries were asked to function with precautions from 15.04.2020. Lockdown period for the industries was from 23.03.2020 to 14.04.2020. The prayer of the Appellant to levy Fixed Charges only from 15.04.2020 to 17.05.2020 can't be acceded to.
- (xvi) The decision of the Forum to overall the account of the Appellant for the period from 15.04.2020 to 11.08.2020 i.e. date of replacement of meter on the basis of average consumption recorded after change of meter from 12.08.2020 to 10.12.2020 is not realistic and rational. It was not based on Supply Code regulations reproduced above. Therefore, it would be just & fair to decide that the account of the Appellant for the disputed period (15.04.2020 to 11.08.2020) should be

overhauled as per Regulation No. 21.5.2 (a) of Supply Code, 2014. Both parties gave consent to this decision.

6. Decision

As a sequel of above discussions, it is decided to modify the order dated 10.08.2021 of the CGRF, Ludhiana in Case No. CGL-219 of 2021 to the extent that the account of the Appellant for the period from 15.04.2020 to 11.08.2020 shall be overhauled as per Regulation No. 21.5.2 (a) of Supply Code, 2014.

Accordingly, the Respondent is directed to recalculate the demand and refund/ recover the amount found excess/ short after adjustment, if any, with surcharge/ interest (if applicable) 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.

October 13th, 2021
S.A.S. Nagar (Mohali)

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

