

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

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

APPEAL No. 77/2021

Date of Registration : 29.09.2021

Date of Hearing : 21.10.2021

Date of Order : 21.10.2021

Before:

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

In the Matter of:

Sh. Harish Kumar S/o Sh. Ruldu Ram,
R/o Palm City, Chandigarh Road Kohara,
Tehsil and Distt. Ludhiana.

Contract Account Number:R74-GT74-0054A (DS)
...Appellant

Versus

Senior Executive Engineer,
DS Division,
PSPCL, Samrala.

...Respondent

Present For:

- Appellant:
1. Sh. Dixit Garg,
Appellant's Counsel.
 2. Sh. Harish Kumar,
Appellant.
- Respondent :
1. Er. Rajesh Kumar,
Senior Executive Engineer,
DS Division, PSPCL, Samrala.
 2. Sh. Paramjeet Singh,
RA, DS Sub Divn., Kohara

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 16.07.2021 of the Consumer Grievances Redressal Forum (Forum), Patiala in Case No. CGP-160 of 2021, deciding that:

“The billing amount corresponding to consumption recorded by the disputed meter after meter reading of 5240 units in 08/2011 to final meter reading at the time of replacement of meter be recovered without any surcharge/interest as the respondent has failed to produce any record relating to meter challenged in the year 2011. However, all the other pending payments are recoverable with Surcharge/Interest. The respondent is also directed to re-check the petitioner's account and reconcile all the payments deposited by the petitioner.”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 27.08.2021 i.e. beyond the period of thirty days of receipt of copy of the decision dated 16.07.2021 of the CGRF, Patiala in Case No. CGP-160 of 2021 by the Appellant. A copy of decision dated 16.07.2021 was sent to the Appellant vide Memo No. 1722/23 dated 16.07.2021. The Appellant had deposited only 20%

(₹ 1,45,140/-) of the disputed amount of ₹ 6,71,840/- vide Receipt No. 51332 dated 22.03.2021 before filing the Petition in the CGRF, Patiala. But for filing the Appeal in this Court, 40% of the disputed amount was required to be deposited by the Appellant. The Appellant was requested to deposit the requisite 40% of the disputed amount for filing the Appeal Case in this Court vide Memo No. 1183/OEP/Harish Kumar dated 27.08.2021. Thereafter, a pre-hearing was fixed in this case on 03.09.2021 at 11.45 AM and an intimation to this effect was sent to Sr.Xen/ DS Divn., Samrala and the Appellant vide Memo No. 1211-12/OEP/Harish Kumar dated 31.08.2021. In the proceedings dated 03.09.2021, the Appellant asked for 30 days to deposit the requisite 40% of the disputed amount. So, the next date of pre-hearing was fixed for 29.09.2021 at 12.00 Noon and intimation to this effect was sent to both the parties vide Memo No. 1241-42/OEP/A-2021 dated 03.09.2021. In the hearing dated 29.09.2021, the Authorized Representative of the Respondent vide its Memo No. 6148 dated 28.09.2021 had informed this Court that 40% of the disputed amount had been deposited by the Appellant. Therefore, the Appeal was registered on 29.09.2021 and copy of the same was sent to the Sr. Xen/ DS Division, PSPCL, Samrala for sending written

reply/ parawise comments with a copy to the office of the CGRF, Patiala under intimation to the Appellant vide letter nos. 1376-78/OEP/A-77/2021 dated 29.09.2021.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 18.10.2021 at 11.30 PM and an intimation to this effect was sent to both the parties vide letter nos. 1478-1479/OEP/A-77/2021 dated 13.10.2021. But on 18.10.2021, proceedings could not be held in this case as the Respondent met with an accident. The hearing was adjourned to 21.10.2021 at 01.00 PM and an intimation to this effect was sent to both the parties vide letter nos. 1504-05/OEP/A-77/2021 dated 18.10.2021. As scheduled, the hearing was held on 21.10.2021 in this Court. Arguments were heard of both parties.

4. Condonation of Delay

At the start of hearing on 21.10.2021, the issue of condoning of delay in filing the Appeal in this Court was taken up. The Appellant in its application dated 29.09.2021 had requested that he had not received any order from the Forum passed in this case and had received the copy of the order from the Respondent on 20.08.2021 through its letter no. 1268 dated 16.08.2021 and then the Appellant came to know about passing

of the impugned order. In view of this, the Appellant had prayed for condoning of the delay, if any, in filing the Appeal. 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.”

It was also observed that non- condoning of the 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 of

30 days was condoned and the Appellant 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 Counsel 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 Domestic Supply Category Connection bearing Account No.R74-GT74-0054A in his name under DS Sub Division, Kohara and under DS Division, PSPCL, Samrala with sanctioned load of 10.790 kW.
- (ii) The Appellant had moved the application in the year 2010 before the concerned authorities for installation of new electricity connection at its residence and in this regard, the Appellant had complied with all the formalities and also paid the requisite fee. That furthermore, after the completion of

formalities, the new connection having Account No. R74-GT74-0054A under DS category was installed at the residence of the Appellant.

- (iii) After the installation of the electricity meter, the Appellant had always paid the electricity bills in time and there was no delay on the part of the Appellant in making the payments of bills till 23.07.2011.
- (iv) The Appellant had received a bill for the period from 23.07.2011 to 23.09.2011 whereby consumption of 4394 units was shown for a period of 2 months. Thereafter, the Appellant under the suspicion of the correct working of the meter challenged the same and moved an application before the concerned authorities and requested them to get the meter of the Appellant checked at the Laboratory and the Appellant had also paid the requisite fee.
- (v) Subsequently, the meter was changed as per the consumption data but it was pertinent to mention here that no report of the Lab was ever handed over to the Appellant. Moreover, the Appellant was never intimated about the date of testing of the meter, which itself showed the malafide on the part of the Respondent as he had failed to comply with the mandatory provisions of the Act.

- (vi) Subsequently in the year 2012, again the meter of the Appellant started showing the irregular readings due to which the Appellant again challenged the same before the concerned authorities but no action was taken upon the repeated requests of the Appellant and the same was never changed. It was relevant to mention here that the Department had never intimated about the date of testing nor ever served with the test results of the meter. Furthermore, upon asking by the Forum, the Respondents had made a reply that the record of the same was not available with the Department which itself showed the negligence and deficiency on the part of the Respondents.
- (vii) Thereafter no positive step was taken upon the genuine requests of the Appellant. Whenever the Appellant visited the Respondents, the Respondents in a very clever manner justified to the Appellant that the report would come in favor of the Appellant and he need not to deposit the full amount of bill and they only took the merger amount from the Appellant which the Appellant always paid on time. The dispute arose when the Appellant received the inflated bill of ₹ 9,51,850/- in the month of 01/2021 for the period from 30.12.2020 to 28.01.2021 for 555 units for consumption of 29 days for 'O' code and arrear amount of ₹ 9,46,781/- had been charged in the bill. Though

upon demanding the clarification, the Respondent had reduced the amount to ₹ 7,25,700/-.

- (viii) The Appellant had requested the Respondent several times to correct the bill of the Appellant but the Respondent failed to redress the grievance of the Appellant. Instead of redressing the grievances of the Appellant, the Respondent had illegally disconnected the electricity connection of the Appellant's house and that the Appellant was left with no alternative except to approach the Forum on 23.04.2021 for redressal of his grievance and the Forum after going through all the documents placed on record had specifically held that as the Respondent failed to trace the record of the Appellant's challenged meter so there was deficiency on the part of the Respondent but the Forum erred in directing the Respondent to recover the amount from the Appellant in respect of disputed reading/period without surcharge/interest. It was most important to mention here that the Forum had failed to consider the fact that when the record was not produced, then how the authenticity of the meter/reading can be taken into account. Moreover, it was relevant to mention here that the illegalities on the part of the Respondent proved from the fact that as per Rule 2.41 of the Punjab State Electricity Regulatory Commission (Forum and

Ombudsman), 2016, 21 days time was given to the Appellant to comply with the order from the date of receipt of order and as per rule 2.49 of the Punjab State Electricity Regulatory Commission (Forum and Ombudsman), 2016, 30 days time was there to file the Appeal before the Ombudsman though the Respondent was threatening the Appellant to disconnect the electricity connection in case the payment was not made within 10 days.

- (ix) The impugned order dated 16.07.2021 passed by the Forum Patiala was liable to be set aside in view of material facts that the Forum had erred in considering the meter readings after the readings of the disputed readings. It was pertinent to mention here that as per Regulation 21.5.1 of Supply Code, 2014, in case the meter on testing was found to be beyond the limits of accuracy then the consumer shall be computed in accordance with the said test results for the period not exceeding six months immediately preceding the date inaccurate meter was removed for testing in Laboratory. The relevant extract of the provision was reproduced here as under:-

“21.5.1 Inaccurate Meters: If a consumer meter on testing is found to be beyond the limits of accuracy as prescribed hereunder, the account of the consumer shall be overhauled and the electricity charges for all

categories of consumers shall be computed in accordance with the said test results for a period not exceeding six months immediately preceding the:

a) date of test in case the meter has been tested at site to the satisfaction of the consumer or replacement of inaccurate meter whichever is later; or

b) date the defective meter is removed for testing in the laboratory of the distribution licensee.

Note: Where accuracy of meter is not involved and it is a case of application of wrong multiplication factor, the accounts shall be overhauled for the period this mistake continued.”

It was pertinent to mention here that from the records prior to July, 2011; it was prima facie proved that the Appellant never consumed as much units but the Forum failed to consider the records prior to July, 2011 and committed gross illegality in considering the meter readings after the challenged period i.e. after July, 2011.

- (x) The impugned order dated 16.07.2021 passed by the Forum Patiala was liable to be set aside in view of the most material fact that the Forum had failed to consider that the Appellant had challenged the meter twice i.e. firstly in the year 2011 and thereafter in the year 2012 but both the times, the Respondent had failed to intimate to the Appellant about the date of testing of the meter as well as the result of the testing. Moreover, the

malafide on the part of the Respondent proved from the fact that even the Forum called the record but the Respondent failed to place on record the same and barely stated that the record was not traceable. It is well settled law that where the record was not available then the Department cannot collect the amount from the Appellant merely on the presumptions. Moreover, the Respondents had violated the provisions of the Supply Code, 2014 by not intimating the date of testing as well as the report of testing of the challenged meter. The relevant provision of the same was reproduced as under for the kind perusal of this Court:-

“21.3.6 Testing of Inaccurate Meters

a) The distribution licensee shall have the right to test any consumer meter and related equipment, either at site or in the laboratory, if there is a reasonable doubt about its accuracy and the consumer shall co-operate with the distribution licensee in conducting the test. The consumer shall have the right to be present during such testing. A copy of the test results indicating the accuracy of the meter shall be provided to the consumer.

b) A consumer may also request the distribution licensee to test the meter, if he doubts its accuracy. The distribution licensee shall undertake such testing either at site or in the laboratory within seven (7) days on payment of fee by the consumer as specified in the Schedule of General Charges approved by the Commission. The standard reference meter

of better accuracy class than the meter under test shall be used for site testing of consumer meter upto 650 volts. The testing of consumer meter above 650 volts should cover entire metering system including CTs, VTs and may be carried out in the laboratory. The onsite testing may be carried out as per regulations 18(2) of CEA (Installation and Operation of Meters) Regulations, 2006, as amended from time to time. A copy of the test results indicating the accuracy of the meter shall be provided to the consumer immediately.

c) If after testing, the meter is found to be inaccurate then the fee deposited in accordance with para (b) above shall be refunded by adjustment in the electricity bills for the immediately succeeding months. In case the meter is found to be correct then such fee shall be forfeited by the distribution licensee.

d) In case a consumer is not satisfied with the site testing of the meter installed in his premises or the meter cannot be tested by the distribution licensee at site then the meter shall be removed and packed/sealed in the presence of consumer or occupier of the premises for testing in the laboratory and another duly tested meter shall be installed at the premises of such a consumer. In the event the distribution licensee or the consumer apprehends tampering of meter and/or its seals then the packing containing the meter shall be jointly sealed by the distribution licensee and the consumer/occupier of the premises.

e) In case of testing of a meter removed from the consumer premises in the licensee's laboratory, the consumer would be informed of the proposed date of testing through a notice

at least three (3) days in advance. In such cases, the seals shall be removed/broken in the presence of the consumer or his/her authorised representative and testing undertaken in the laboratory of the distribution licensee or any accredited laboratory within fifteen (15) days from the date of removal of meter from consumer's premises. However, such testing can be carried out by the distribution licensee in the absence of consumer if he/ she fails to associate with testing even after issue of two registered reminders or he/she gives his/her written consent for such testing without his/her presence. The signature of the consumer, or his authorized representative, if present, would be obtained on the test results sheet and a copy thereof supplied to the consumer. If the meter is found to be inaccurate or tampered, the same shall be re-packed & sealed and kept in safe custody till disposal of case in order to preserve evidence."

- (xi) The impugned order dated 16.07.2021 was liable to be set aside in view of the material fact that the Forum itself submitted in its order that there was deficiency on the part of the Respondent. Once the deficiency on the part of the Respondent was proved then no occasion arises to direct the Respondent to collect the amount without surcharge/interest. Rather the Forum had committed gross illegality in deciding the same and the amount should be taken from the Appellant on the basis of the average preceding six months from the date of the dispute as per the provisions of the act but the same was not followed by the

Forum and thus the impugned order dated 16.07.2021 was liable to be set aside on this sole ground only.

- (xii) The Appellant had deposited the 20% of the disputed amount in compliance of Rule 2.26 (B) of the Punjab State Electricity Regulatory Commission (Forum and Ombudsman), 2016.
- (xiii) The present representation was within limitation as the impugned order dated 16.07.2021 was received by the Appellant on 20.08.2021.
- (xiv) It was prayed that the Appeal may kindly be decided in favor of the Appellant and the impugned order dated 16.07.2021 be set aside and the Respondents may be directed to collect the amount on the basis of the average of preceding six months from the date of the challenge of meter in the interest of justice and equity.
- (xv) It was also prayed that till the pendency of the Appeal, the Respondent may be restrained to disconnect the electricity connection of the Appellant in the interest of justice and equity.

(b) Submissions in the Rejoinder

The Appellant had filed rejoinder dated 20.10.2021 to the written reply of the Respondent. The submissions in the rejoinder are almost the same which were highlighted in the main Appeal. The Appellant had prayed that the Respondent

had not cleared the meter challenges till today. The Respondent had failed to submit the results of testing of meters to the Appellant even after more than nine years. The Appellant stated that no single person handles the official record. The official record should be available in the office of the Respondent even after the death of concerned J.E. The Appellant had pleaded to charge him on average basis without surcharge/ interest because the necessary record was not submitted by the Respondent in this Court.

(c) Submission during hearing

During hearing on 21.10.2021, the Appellant's Counsel reiterated the submissions made in the Appeal as well as in the Rejoinder and prayed to allow the same.

(B) Submissions of the Respondent

(a) Submissions in written reply

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

- (i) The Appellant was having a Domestic Supply Category connection bearing A/c No.R74-GT74-0054A with sanctioned load of 10.790 kW running in the name of the Appellant. The Appellant was habitual of making part payment and it was

evident from the billing data of the Appellant since 12/2011. It was found that consumer had not been depositing full amount of the bills and therefore, the bill amount accumulated to ₹ 7,25,700/- with surcharge and interest on balance amount. Now, the Appellant had filed an Appeal before this Court against the decision of CGRF in Case No. CGP-160 of 2021 decided on 16.07.2021.

- (ii) In the month of October 2011, the Appellant was issued bill for 4394 units under bi-monthly billing. The Appellant challenged the accuracy of the meter and deposited meter challenge fee vide receipt no. 466/4790 dated 04.11.2011 and the meter was changed in the month of December, 2011 but due to death of the dealing hand JE Sh. Bagh Singh S/o Sh. Prem Singh, Sub Division Office Kohara; the Respondent did not have record of ME Challan. The same record had also not been found from ME Lab, Ropar.
- (iii) Due to death of the dealing hand Sh. Bagh Singh, the record of the challenged meter was not found in the office but the Forum decided that "As per Affidavit Annexure-1 the Petitioner and the Respondent both agreed to the fact that the dispute pertains to consumption of 4394 units during the period 23.07.2011 to 23.09.11 only. Forum studied the consumption data submitted

by the Respondent and observed that the consumption of the Appellant during the period Feb, 2011 to Oct, 2011 (including the disputed period) i.e. during 8 months was 8043 units. The consumption of the Appellant during the immediately succeeding corresponding period Feb, 2012 to Oct, 2012 was 8449 units and the consumption during the period Feb, 2013 to Oct, 2013 was 8268 units. This data indicates that the consumption of the Appellant recorded by the disputed meter during the period 23.07.2011 to 23.09.2011 was not abnormal and commensurate with the consumption pattern of the Appellant. Similarly, it was seen by the Respondent that in the month of Feb, 2015 to Oct, 2015, the consumption was 6851 units and from Feb, 2016 to Oct, 2016 was 7907 units so the consumption of meter challenged period was not abnormal.

- (iv) Again, the Appellant had challenged the meter and deposited challenge fee vide Receipt No. 113/6349 dated 20.11.2012. As per application Annexure-2, dispute arose of 2538 units for the period of 05.06.2012 to 11.08.2012 for 2 months. The consumption of the Appellant during the immediately succeeding corresponding period i.e. Aug, 2013 was 2096 units. As per challenge meter request, the Respondent's office issued MCO No. 41/98175 dated 20.11.2012 but the meter was

not changed due to non availability. After that the meter of the Appellant was found dead in the month of Jan, 2014 and the meter of the Appellant was changed in March, 2014 due to dead stop status. Again, the installed meter was found dead and the dead meter was changed in the month of Sep, 2014 due to non availability. Billing of the consumer from Jan, 2014 to Sep, 2014 was done on average basis.

(v) On 28.01.2021, the Appellant had received the bill of 555 units with previous arrear of due amount of ₹ 9,46,781/-. From the month of 06/2016 to 06/2019, the Appellant was charged late payment surcharge on total bill amount but as per rules of the PSPCL, the late payment surcharge was got charged on current bill so the Respondent's office gave refund of wrong late payment surcharge for the period of 06/2016 to 06/2019 amounting to ₹ 2,26,292/- vide Sundry No. 2/57/214. Thus, the bill of the Appellant was reduced from ₹ 9,46,781/- to ₹ 7,25,700/-.

(vi) Thus, the dispute no. 1 related to 4394 units and dispute no. 2 related to 2538 units but the Appellant had not paid rest of bill amount and used electricity regularly. The consumption of the Appellant during the immediately succeeding corresponding period also commensurate with the above pattern as the

Appellant's sanctioned load of 10.790 kW was sufficient to consume above disputed units. So, the amount charged in bills was recoverable.

- (vii) The Forum had decided the case of the Appellant on 16.07.2021. AEE/ DS Sub Division, Kohara issued notice no. 1268 dated 16.08.2021 to the consumer for depositing the pending amount as per decision of the Forum.

(b) Submission during hearing

During hearing on 21.10.2021, the Respondent reiterated the submissions made in the Appeal and prayed for dismissal of the Appeal. The Respondent admitted that the record relating to testing of challenged meters is not traceable and hence cannot be produced in this Court.

6. Analysis and Findings

The issue requiring adjudication is the legitimacy of bill of ₹ 9,51,850/- (subsequently revised/ corrected to ₹ 7,25,700/-) served on "O" code in the month of 01/2021 for the period from 30.12.2020 to 28.01.2021 (29 days) for consumption of 555 units with an arrear amount of ₹ 9,46,781/-.

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

- (i) The Appellant's Counsel (AC) argued that the dispute arose when the Appellant received an inflated bill of ₹ 9,51,850/- in the month of 01/2021 for the period from 30.12.2020 to 28.01.2021 for 555 units for consumption of 29 days for 'O' code and arrear amounting to ₹ 9,46,781/- had been charged in the said bill. Lateron, the Respondent had corrected the amount to ₹ 7,25,700/-. The Appellant had requested the Respondent several times to correct the bill of the Appellant but the Respondent failed to redress the grievance of the Appellant. Instead of redressing the grievances of the Appellant, the Respondent had illegally disconnected the electricity connection of the Appellant's house and that the Appellant was left with no alternative except to approach the Forum on 23.04.2021 for redressal of his grievance and the Forum after going through all the documents placed on record had specifically held that as the Respondent failed to trace the record of the Appellant's challenged meter so there was deficiency on the part of the Respondent but the Forum erred in directing the Respondent to recover the amount from the Appellant in respect of disputed reading/ period without surcharge/ interest. It was most important to mention here that the Forum had failed to consider the fact that when the record

was not produced, then how the authenticity of the meter/reading can be taken into account? The AC reiterated the submissions already made in the Appeal as well as Rejoinder of the Appellant and vehemently pleaded for acceptance of the Appeal.

- (ii) The Respondent while arguing its case submitted that there was a dispute of 4394 units and 2538 units, which stands decided by the Forum. The Appellant had not been making the payments to the Respondent regularly for the electricity being consumed by the Appellant and he was a willful defaulter of the Respondent. The Forum had rightly decided the case of the Appellant vide its order dated 16.07.2021 and the order of the Forum is legal and valid and accordingly, the Appellant was under obligation to obey the order passed by the Forum. Therefore, the amount charged to the Appellant is recoverable from the Appellant. The benefit of surcharge/ interest as per decision of the Forum has been given to the Appellant and accordingly, a sum of ₹ 6,71,840/- was due from the Appellant to the Respondent after the implementation of the decision of the Forum. The Respondent prayed that the amount charged to the Respondent was recoverable and the Appeal of the Appellant is devoid of any merit.

- (iii) From the pleadings of both parties and the record made available, it is concluded that the Appellant was charged for 4394 Units for the period from 23.07.2011 to 23.09.2011 through bill issued in October, 2011 and for 2538 units for the period from 05.06.2012 to 11.08.2012 through bill issued in August, 2012 and the remaining amount was continuously outstanding and accumulating day by day due to non-payment of full bills issued by the Respondent from time to time to the Appellant.
- (iv) The Appellant after receipt of bill in the month of October, 2011 for 4394 units had challenged the accuracy of the meter and deposited ₹ 450/- as the meter challenge fee vide Receipt No. 466/4790 dated 04.11.2011 and the meter was changed in the month of December, 2011. Due to death of Sh. Bagh Singh the then concerned dealing JE, no record of ME Challan was available with the Respondent and as pleaded the said record was also not found in the ME Lab, Ropar.
- (v) Similarly, after the receipt of bill in August, 2012 for 2538 units, the Appellant had challenged the accuracy of the meter and deposited the meter challenge fee of ₹ 450/- vide Receipt No. 113/6349 dated 20.11.2012. As per the request of the Appellant, MCO No. 41/98175 dated 20.11.2012 was issued

but the meter was not changed at site due to non availability of the meters as stated by the Respondent in its written reply.

- (vi) This Court is not inclined to agree with the findings and decision of the Forum in this case which are not based on any regulations/ instructions of PSPCL.
- (vii) The applicable regulations to decide the dispute relating to the years 2011 & 2012 are Supply Code, 2007 regulations.
- (viii) The Appellant had no dispute of bills till 23.07.2011. The first dispute was in respect of bill for the period of 23.07.2011 to 23.09.2011 whereby the consumption of 4394 units was shown for two months. The Appellant represented against this bill in the office of the Respondent and also deposited Meter Challenge fee of ₹ 450/- vide Receipt No. 466/4790 dated 04.11.2011. The testing of Challenged Meter was to be done by the Distribution Licensee within seven days on payment of requisite fee as per Regulation No. 21.4 of Supply Code, 2007. The Challenged Meter was changed in December, 2011 as per written reply of the Respondent. The results of testing of the Meter have not been supplied to the Appellant till today. These results have not been submitted in this Court. The delay was more than 9 years. The Meter Challenge has not been settled by the Respondent till now. Evidence i.e. Challenged Meter & its

testing results have not been preserved by the Respondent. It was a serious negligence on the part of the Respondent. Under these circumstances, this Court had no other alternative than to treat the challenged Meter as defective meter and overhaul the disputed period accordingly. The disputed period is from 23.07.2011 to date of replacement of challenged meter during December, 2011. The reliable consumption for the corresponding period of the previous year (2010) was not available. As such, the Appellant should be billed during the disputed period as per consumption assessed in the manner indicated in para-4 of Annexure-8 of Supply Code, 2007 (LDHF formula). The meter Challenge fee of ₹ 450/- should also be refunded as per Regulation No. 21.4 (b) (ii) of Supply Code, 2007.

- (ix) Second dispute was relating to the bill for the period 05.06.2012 to 11.08.2012 for 2538 units. The Appellant represented against this bill in the office of the Respondent and deposited ₹ 450/- as meter challenge fee vide Receipt No. 113/6349 dated 20.11.2012. MCO No. 41/98175 dated 20.11.2012 was issued for replacing the Challenged Meter and the same was changed in March, 2014 as per written reply of the Respondent. The challenged meter was to be tested within

seven days of deposit of fee as per Regulation No. 21.4 of Supply Code, 2007. This meter was replaced after more than one year. The test results have not been sent to the Appellant even till today and Meter Challenge has not been settled even after 9 years. This is very serious lapse and total failure of Supervisory staff of the Respondent. The evidence required to settle this dispute has not been preserved and produced in this Court. The Case is now about nine years old and cannot be kept pending for more time. The benefit of non-production of record/ documents required to settle the issue should be given to the Appellant. This Court shall now settle this issue by treating the meter defective. The disputed period from 05.06.2012 to 11.08.2012 shall be overhauled on the basis of consumption assessed in the manner indicated in para-4 of Annexure-8 of Supply Code, 2007. The meter challenge fee of ₹ 450/- shall be refunded to the Appellant as per Regulation No. 21.4 (b) (ii) of Supply Code, 2007.

- (x) The Appellant is habitual of making part payments and failure of the Respondent to take timely action as per Supply Code to recover the defaulting amount had resulted in arrears of heavy amount. The Respondent should take appropriate action immediately for recovery of pending amount.

- (xi) The lapses of various officials/ officers should be investigated and suitable disciplinary action should be initiated.

7. Decision

As a sequel of above discussions, it is decided that:

- a) The order dated 16.07.2021 of the CGRF, Patiala in Case No. CGP-160 of 2021 is set aside.
- b) The disputed periods from 23.07.2011 to date of replacement of challenged meter during December, 2011 and from 05.06.2012 to 11.08.2012 shall be overhauled on the basis of consumption to be assessed in the manner indicated in para-4 of Annexure-8 of Supply Code, 2007. Meter Challenge fees deposited vide Receipt No. 466/4790 dated 04.11.2011 and Receipt No. 113/6349 dated 20.11.2012 shall be refunded to the Appellant as per Regulation No. 21.4 of Supply Code, 2007. The amount on account of this overhauling shall be recovered without any surcharge/ interest because the whole delay in settling this issue is on the part of the Respondent who had failed to submit the record in this Court.
- c) All other outstanding/ pending payments are recoverable with surcharge/ interest as applicable from time to time.

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.

October 21, 2021
S.A.S. Nagar (Mohali)

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