

**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. 25/2024

**Date of Registration : 02.12.2024
Date of Hearing : 18.12.2024, 03.01.2025
Date of Order : 17.01.2025**

Before:

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

In the Matter of:

Sh. Amit Jain,
Street No.-2 Ram Vihar,
Guru Vihar, Ludhiana.

Contract Account Number: 3008586162 (MS)

...Appellant

Versus

Additional Superintending Engineer,
DS Sunder Nagar (Spl.) Division,
PSPCL, Ludhiana.

...Respondent

Present For:

Appellant: 1. Sh. Sukhminder Singh,
Appellant's Representative.
2. Sh. Amit Jain,
Appellant.

Respondent : Er. J.S. Jandu,
Additional Superintending Engineer,
DS Sunder Nagar (Spl.) Division,
PSPCL, Ludhiana.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 20.08.2024 of the Corporate Consumer Grievances Redressal Forum, Ludhiana (Corporate Forum) in Case No. CF-133/2024, deciding that:

“Notice no. 1107 dated 05.06.2024 of AEE/Comm., DS Division, Sunder Nagar (Spl.) amounting to Rs. 11,27,626/-, is quashed. Account of the petitioner be overhauled for a period of six months prior to the date of checking i.e., 23.04.2024, as per Regulation no. 21.5.2(d) of Electricity Supply Code and Related Matters Regulations 2014 without taking cognizance of Reg. 21.5.2 (e).”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 02.12.2024 i.e. beyond the period of thirty days of receipt of the decision dated 20.08.2024 of the CCGRF, Ludhiana in Case No. CF-133/2024. The Appellant had deposited the requisite 40% of the disputed amount. Therefore, the Appeal was registered on 02.12.2024 and copy of the same was sent to the Addl. SE/ DS Sunder Nagar (Spl.) Division, PSPCL, Ludhiana for sending written reply/parawise comments with a copy to the office of the CCGRF, Ludhiana under intimation to the Appellant vide letter nos. 688-690/OEP/A-25/2024 dated 02.12.2024.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 18.12.2024 and intimation to this effect was sent to both the parties vide letter nos. 715-16/OEP/A-25/2024 dated 11.12.2024. As scheduled, the hearing was held in this Court on 18.12.2024 and arguments of both the parties were heard. This Court directed the Respondent to submit on or before 23.12.2024, the consumption data of the Appellant from year 2022 till date alongwith the MDI & the sanctioned load during this period. The six months assessment carried out for overhauling the account of the consumer and its basis may also be furnished. The next date of hearing was fixed for 03.01.2025. An intimation to this effect alongwith the copies of the proceedings dated 18.12.2024 was sent to both the parties vide letter nos. 734-35/OEP/A-25/2024 dated 18.12.2024. As scheduled, the hearing was held in this Court on 03.01.2025 and arguments of both the parties were heard. The case was closed for the pronouncement of the speaking orders.

4. Condonation of Delay

At the start of hearing on 18.12.2024, the issue of condoning of delay in filing the Appeal beyond the stipulated period was taken up. The Appellant's Representative submitted that the

Respondent had issued Revised Notice bearing Memo No. 3882 dated 05.11.2024 to deposit the amount of ₹ 7,89,004/- after the implementation of the order dated 20.08.2024 of the Corporate Forum, Ludhiana. Then the Appellant had deposited the balance 20% of the disputed amount on 30.11.2024. The reason for delay in filing the Appeal was delay in implementation of the order of the Corporate Forum, Ludhiana. He requested for the condonation of delay in filing the Appeal & prayed that Appeal be heard on merits. 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 observed that refusal to condone 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 was condoned and the Appellant's Representative 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 deliberations made by the Appellant's Representative and the Respondent along with 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 MS Category Connection bearing Account No. 3008586162 with Sanctioned Load as 84.78 kW under Sub-Division Unit-1 of DS Sunder Nagar Division, PSPCL, Ludhiana. The reading of the meter is being taken every month and amount of energy bills as raised by the Department

from time to time on the basis on measured consumption have been duly paid.

- (ii) The Connection of the Appellant was checked during routine Checking by ASE/Enf.-cum-EA & MMTS-2, Ludhiana vide ECR No. 41/2027 dated 23.04.2024 wherein the voltage of Yellow and Blue Phase has been mentioned as 002 V and 003 V respectively. The Yellow and Blue Phase Voltage was observed to be not contributing. The accuracy of the meter was checked at site and meter was observed slow by 57.15%. The reason for Low Voltage has been mentioned as oxidation of potential wires of Yellow and Blue Phase and joint of main cable. After clearing oxidation, the voltage on all the Three Phases was observed as normal. DDL of the meter was done at site.
- (iii) On the basis of Checking dated 23.04.2024 of the ASE/Enf.-cum-EA & MMTS-2, Ludhiana, AEE/Commercial vide Notice bearing Memo No. 1107 dated 05.06.2024 asked the Appellant to deposit an amount of ₹ 11,27,626/-. As per Calculation Sheet attached with the Notice of Demand, the account of the Appellant has been overhauled from 08.11.2023 to 08.04.2024 with Slowness of 57.15%.
- (iv) The Appellant was not satisfied with the Demand of ₹ 11,27,626/-, therefore, approached Hon'ble Corporate Forum,

Ludhiana for Registration & Review of disputed Case. Accordingly, as per orders of the Corporate Forum, the Appellant deposited 20% of the disputed amount and Case was registered as Case No. CF-133/2024. The Appellant made genuine submissions based on Data/ Parameters of the DDL Report, before the Forum. However, Corporate Forum provided full relief as admissible and provided marginal relief vide Final Order dated 20.08.2024. The Corporate Forum decided as under:-

“Notice no. 1107 dated 05.06.2024 of AEE/Comm., DS Division, Sunder Nagar (Spl.) amounting to Rs. 11,27,626/-, is quashed. Account of the petitioner be overhauled for a period of six months prior to the date of checking i.e., 23.04.2024, as per Regulation no. 21.5.2(d) of Electricity Supply Code and Related Matters Regulations 2014 without taking cognizance of Reg. 21.5.2 (e).”

- (v) On the basis of decision of Corporate Forum, the AEE/Commercial, Sunder Nagar (Spl.) Division vide Notice bearing Memo No. 3882 dated 05.11.2024 asked the Appellant to deposit balance amount of ₹ 7,89,004/- (₹ 11,27,626/- - ₹ 3,38,622/- i.e. adjustment allowed). The account of the Appellant has been overhauled with LDHF Formula by taking total the use of Load for 24 hours in all the 30 days. The Appellant is not satisfied with the decision of the Forum and amount calculated

by the Respondent's office. Therefore present Appeal is being filed.

- (vi) The consumption of the Appellant is normal during the period overhauled expect some fall in consumption in the month of 04/2024. The account of the Consumer was overhauled with Slowness of 57.15% for 6 months (from 10/2023 to 08.04.2024) on the basis of Speaking Orders of the ASE/Enf.-cum-EA & MMTS-2, Ludhiana. The ASE/Enf.-cum-EA & MMTS-2 in his Speaking Orders given vide Memo No. 441 dated 04.06.2024 & again vide Memo No. 504 dated 05.08.2024 has just mentioned that 'on scrutiny of the DDL, it was observed that meter was not contributing voltage on Y-Phase & B-Phase since long and account of the Appellant be overhauled for 6 months with Slowness of 57.15%. The Respondent was requested to provide Complete DDL print out of the meter including load Survey Data. However, the Respondent provided only Load Survey Data from 21.05.2024 to 29.07.2024, besides data of Voltage Related Events for different dates starting from 02/2020 to 29.07.2024. However, the Load Survey data covering the period overhauled (10/2023 to 08.04.2024) and temper Report is not forthcoming. It is not clear as to how ASE/Enf.-cum-EA & MMTS-2 has come to the conclusion that meter was not contributing voltage on Y-

Phase & B-Phase and Voltage contribution was the same i.e. 002V and 003V as checked on 23.04.2024 (with slowness as 57.15%) for the entire period of 6 months, as overhauled by the Respondent. Although, it is clear that there is make-break of voltage on Y-Phase & B-Phase since more than 6 months whereas overhauling period cannot exceed 6 months as per regulation 21.5 of Supply Code but Y-Phase & B-Phase are contributing Voltage substantially during some period and also little contribution at some other time periods. Thus this is a clear case of make-break of voltage which is very much evident from the data of Voltage Related Events.

- (vii) It is brought out for the kind consideration of Hon'ble Ombudsman that account has been overhauled 10/2023 to 08.04.2024 and Voltage recorded on some dates at different time interval is mentioned below for kind perusal:-

Date	Time	Voltage L1	Voltage L2	Voltage L3
10.10.2023	07:15:57	245.39V	230.83V	236.99V
17.10.2023	00:36:55	249.82V	2.17V	11.51V
01.02.2024	16:13:14	245.82V	220.18V	235.18V
02.02.2024	03:46:56	253.55V	189.51V	221.00V
04.02.2024	21:00:34	252.14V	97.95V	96.91V
05.02.2024	16:23:50	240.36 V	2.45 V	11.04V
03.03.2024	01:19:46	249.73V	178.15V	207.90V
30.03.2024	09:35:16	238.99V	29.61V	227.97V
30.03.2024	15:02:42	228.38V	2.78V	10.51V

- (viii) The position of Voltage contribution on Y-Phase & B-Phase on other dates as per data of Voltage Related Events is very similar

to the position as mentioned above. Thus there may be hardly any doubt that it is clear case of make-break of Voltage and account of the Appellant cannot be overhauled for 6 months with Slowness of 57.15% as checked on 23.04.2024 when Voltage on Y-Phase and B-Phase was 002 V and 003V respectively.

- (ix) The Corporate Forum agreed that this is a Case of make-break of Voltage. The Corporate Forum observed as under:-

“The Forum observed that the meter did not record energy correctly with effect from 24.05.2022. Forum however, observed further that overhauling of the account of the petitioner treating the meter slow by 57.15% for the entire period, is not in order as this slowness is an instantaneous slowness belonging to that very instant. It keeps on varying depending upon various factors like voltage(s) of respective phases, distribution of load among different phases and power factor thereof, etc. In this case fluctuations of the voltages of yellow and blue phases are vividly depicted in the DDL Report. Hence the instantaneous slowness of 57.15% mentioned in ECR No. 41/2027 dated 23.04.2024 cannot be considered as a constant/uniform slowness for a period of six months as done by the Respondent. Accordingly, metering equipment of the petitioner is required to be treated as defective.”

- (x) The Corporate Forum arrived at the conclusion as under:-

“Forum is of the opinion that overhauling of the account for six months by increasing the consumption taking constant slowness factor of 57.15%; is not justified. Hence, notice no. 1107 dated 05.06.2024 of AEE/Comm., DS Division, Sunder Nagar (Spl.) amounting to Rs. 11,27,626/- is liable to be quashed. Account of the petitioner is required to be overhauled for a period of six months prior to the date of checking i.e., 23.04.2024 treating the meter defective, as per Regulation no. 21.5.2(d) of Electricity Supply Code and Related Matters Regulations 2014 as his previous consumption is not reliable as potential contribution of

yellow and blue phases having remained disturbed w.e.f. 24.05.2022. As the petitioner has already been using excess load and it appears that he has applied for just its regularization, no cognizance of Reg. 21.5.2 (e) is required to be taken while overhauling his account.”

- (xi) The Above conclusion of the Forum to consider the overhauling of account as per Regulation No. 21.5.2(d) of Electricity Supply Code and Related Matters Regulations, 2014 is not based on merit of the case and not convincing at all. From the incomplete DDL Report provided by the Respondent it is clear that although there is less Voltage on Yellow and Blue Phases having w.e.f. 24.05.2022 but period of less Voltage is very short as such account of the Appellant was required to be overhauled as per Regulation 21.5.2 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 consume.

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.”

- (xii) In view of above Regulation 21.5.2, the account against defective meter can be overhauled as per 21.5.2(d) where the consumption for the previous months/period as referred in para (a) to para (c) is not available. The Forum has not considered the overhauling as per para (a) to para (c) of Regulation 21.5.2, on the ground that previous consumption of the Appellant is not reliable as potential contribution of Yellow and Blue Phases having remained disturbed w.e.f. 24.05.2022. But this observation of the Forum is not convincing as it is clear from the DDL data provided by the Respondent that although there is less Voltage on Yellow and Blue Phases having w.e.f. 24.05.2022 but period of less Voltage is very short, as such consumption recorded during previous period can be considered for overhauling the account as per para (a) to para (c) of Regulation 21.5.2.

(xiii) It is also brought out for the kind consideration of Hon'ble Ombudsman that the Respondent's office has overhauled the account with LDHF Formula by considering the Industry as continuous process Industry i.e. Load x 30 days x 24 hrs x 0.6. However, Industry of the Appellant is not covered under continuous process industry and as per Annexure-8 annexed to Regulation 36 of Supply Code, 2014, the Days and Hours as per LDHF Formula are as under :-

Non-continuous industry 25 days

Single shift industry (day/night only): 08 hrs.

Non- continuous process industry (day & night): 20hrs.

Thus even overhauling of account by the Respondent office with LDHF Formula is not correct.

(xiv) In view of position explained above, it is requested to Hon'ble Ombudsman that Appeal may be allowed and decision of Corporate Forum may be set aside and account of the Appellant may kindly be ordered to be overhauled on average basis in view of Regulation 21.5.2 para (a) to para (c) of Supply Code, 2014. Further, the Respondent may also be directed to provide following record/ information so that further submission can be made for the kind consideration of Hon'ble Ombudsman (if required)

- (a) Complete DDL print-out of the meter including load survey data (consisting of period overhauled) and temper report.
- (b) Copy of any Checking conducted before the checking dated 23.04.2024 of the ASE/Enf.-cum-EA & MMTS-2, Ludhiana.

(b) Submissions in Rejoinder

The Appellant submitted the following Rejoinder for consideration of this Court:-

- (i) The Respondent had agreed with the submission as per para no. 1-3 of the Appeal and just stated that the account had been overhauled on the basis of decision of the Corporate Forum, Ludhiana. Thus submission as per Appeal (para no. 1-3) may kindly be considered by the Court of Ombudsman, Electricity, Punjab while arriving at any conclusion on the case. It was also brought out for the kind consideration of the Ombudsman, Electricity, Punjab that the Respondent had not provided record as requested in the Appeal i.e.
 - a) Complete DDL printout of the meter including load survey data (consisting of period overhauled) and temper report.

- b) Copy of any checking conducted before the checking dated 23.04.2024 of ASE/Enf.-cum-EA & MMTS, Ludhiana.

As such further submission based on demanded record, was not possible.

- (ii) The conclusion of the Forum to consider the overhauling of account as per Regulation 21.5.2 (d) of Electricity Supply Code and Related Matter Regulations 2014 was not based on merits of the case and not convincing at all. From the incomplete DDL report provided by the Respondent, it was clear that although there was less voltage on yellow and blue phases having w.e.f. 24.05.2022 but period of less voltage was very short as such account of the Appeal was required to be overhauled as per Regulation 21.5.2 (a to c) as explained in the Appeal. The account against defective meter can be overhauled as per 21.5.2 (d) only where the consumption for the previous months/period as referred in para (a) to para (c) of Regulation 21.5.2 was not available. The Corporate Forum had not considered the overhauling as per para (a) to para (c) of Regulation 21.5.2, on the ground that previous consumption of the Appeal was not reliable as potential contribution of yellow and blue phases having remained disturbed w.e.f. 24.05.2022. But this observation of the Corporate Forum, Ludhiana was not

convincing as it was clear from the DDL data as provided by the Respondent that although there was less voltage on yellow and blue phases w.e.f. 24.05.2022 but period of less voltage was very short, as such consumption recorded during previous period can be considered for overhauling the account as per para (a) to para (c) of Regulation 21.5.2.

- (iii) It was also brought out for the kind consideration of the Ombudsman, Electricity, Punjab that the Respondent office had overhauled the account with LDHF formula by considering the industry as continuous process industry i.e. Load x30 days x 24 hrs x 0.6. The connection of the Appellant was under MS Category Connection with sanctioned load as 84.78 kW and industry of the Appellant was not covered under continuous process industry. The Respondent may be aware that continuous process industry was always on Independent Feeder (Category-4 Supply) but in the case of Appellant, the MS Category Connection was not on Independent Feeder.
- (iv) It was also very important to bring out to the notice of the Ombudsman, Electricity, Punjab that even Corporate Forum, Ludhiana did not mention in its decision to overhaul the account by considering the industry of the Appellant as continuous process industry.

As per Annexure-8 annexed to Regulation 36 of Supply Code-2014, the Days and Hours as per LDHF formula as under:-

Non-continuous industry:	25 days
Single shift industry (day/night only):	08 hrs
Non-continuous process industry (day & night):	20 hrs

- (v) The load-survey report had not been made available by the Respondent and if industry was presumed to have run Day/Night (which can be verified only from Load/survey report) during the month for 6 months period as overhauled, even then the overhauling of account by the Respondent office with LDHF formula (Load x30 days x 24 hrs x 0.6) was not correct.
- (vi) In view of the above position and as explained in the Appeal, it was requested to Ombudsman, Electricity, Punjab that Appeal may be allowed and decision of the Corporate Forum, Ludhiana may be set aside and account of the Appellant may kindly be ordered to be overhauled on average basis in view of Regulation 21.5.2 para (a) to para (c) of Supply Code-2014.

(c) Submission during hearing

During hearings on 18.12.2024 & 03.01.2025, the Appellant's Representative reiterated the submissions made in the Appeal & the Rejoinder and prayed to allow the same.

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

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

- (i) The Appellant was having MS Category Connection bearing account no. 3008586162 with sanctioned load/CD as 84.780 kWh/85 kVA under DS Sunder Nagar Division (Special), PSPCL, Ludhiana in the name of Mr. Amit Jain.
- (ii) The connection of the Appellant was checked by ASE/Enforcement-cum-EA & MMTS-2, PSPCL, Ludhiana during the routing checking vide ECR No. 41/2027 dated 23.04.2024. As per the ECR report, phase segment 1 was visible but segment 2 & segment 3 were missing on display of the meter, the voltage of Red, Yellow & Blue phases were displayed as 238 V, 002 V & 003 V respectively, the accuracy was checked by LTERS and the meter was found 57.15% slow, it was directed that the account of the Appellant be overhauled as per results of the report.
- (iii) Upon further checking, it was found that joint of the potential wires of Yellow and Blue phases with the main cable were oxidized. The oxidation of joints were got removed upon which,

the voltages of Red, Yellow & Blue phases were displayed as 242 V, 240 V & 242 V respectively; DDL was done.

- (iv) The ASE/Enforcement-cum-EA & MMTS-2, PSPCL, Ludhiana issued speaking orders vide Memo No. 441 dated 04.06.2024 stipulating in its that accuracy of the meter at site was checked and it was found (-) 57.15% slow and that on examining DDL it was observed that voltage of Yellow Phase and Blue Phase was not contributing in meter since long time and it was directed to overhaul the account of the Appellant treating the meter 57.15% slow, for a period of 6 months.
- (v) As per the speaking orders, account of the Appellant was overhauled for the period from 12.10.2023 to 08.04.2024 and AEE/Comm., DS Sunder Nagar division (Spl.), PSPCL, Ludhiana issue notice to the Appellant vide Memo No. 1107 dated 05.06.2024 asking him to deposit amount of ₹ 11,27,626/- within 7 days. The Appellant did not agree to the amount charged to him and filed its case in Corporate Forum, Ludhiana. The Corporate Forum, Ludhiana admitted the case in its proceeding dated 26.07.2024 and heard it on 31.07.2024, 06.08.2024 & finally on 13.08.2024 & passed the speaking orders with the instructions/directions to quash the Notice No.

1107 dated 05.06.2024 of ₹ 11,27,626/- issued by AEE/Comm., DS Sunder Nagar division (Spl.), PSPCL, Ludhiana.

- (vi) The account of the Appellant was overhauled for a period of six months prior to the date of checking i.e. 23.04.2024 as per Regulation 21.5.2 (d) of Supply Code-2014 without taking cognizance of Regulation 21.5.2 (e).
- (vii) The order of the Corporate Forum, Ludhiana had been implemented and the Appellant had been given relief of ₹ 3,38,622/- and asked to deposit the amount of ₹ 7,89,004/-.
- (viii) The Appellant was not satisfied with the decision of the Corporate Forum, Ludhiana and filed its Appeal in the Court of Ombudsman, Electricity, Punjab.
- (ix) The amount was charged on the basis of the speaking orders passed by the Corporate Forum, Ludhiana with the instructions/directions to quash the Notice No. 1107 dated 05.06.2024 of ₹ 11,27,626/- issued by AEE/Comm., DS Sunder Nagar division (Spl.), PSPCL, Ludhiana. The account of the Appellant was overhauled for a period of six months prior to the date of checking i.e. 23.04.2024 as per Regulation 21.5.2 (d) of Supply Code-2014 without taking cognizance of Regulation 21.5.2 (e). After overhauling the account of the Appellant as per the decision of the Corporate Forum, Ludhiana, a new notice was

served vide Memo No. 3882 on 05.11.2024 to deposit amount of ₹ 7,89,004/-.

- (x) The account was overhauled with LDHF formula by considering the industry as continuous process industry after considering the DDL report.
- (xi) The Notice No. 1107 dated 05.06.2024 of ₹ 11,27,626/- issued by AEE/Comm., DS Sunder Nagar division (Spl.), PSPCL, Ludhiana was quashed. The account of the Appellant was overhauled for a period of six months prior to the date of checking i.e. 23.04.2024 as per Regulation 21.5.2 (d) of Supply Code-2014 without taking cognizance of Regulation 21.5.2 (e). After overhauling the account of the Appellant as per the decision of the Corporate Forum, Ludhiana, a new notice was served vide Memo No. 3882 on 05.11.2024 to deposit amount of ₹ 7,89,004/-. The amount was correct and should be deposited by the Appellant.

(b) Submission during hearing

During hearings on 18.12.2024 & 03.01.2025, the Respondent reiterated the submissions made in the written reply to the Appeal and prayed for the dismissal of the Appeal.

6. Analysis and Findings

The issue requiring adjudication is the legitimacy of amount of ₹ 7,89,004/- (reduced from ₹ 11,27,626/-) charged to the Appellant vide Revised Notice bearing Memo No. 3882 dated 05.11.2024 after implementation of the decision dated 20.08.2024 of the Corporate Consumer Grievances Redressal Forum, Ludhiana in Case No. CF-133/2024.

My findings on the points that emerged and my analysis is as under:

- (i) The Corporate Forum in its order dated 20.08.2024 observed as under:-

“Forum observed that the connection of the petitioner was checked by ASE/Enf. cum EA & MMTS-2, Ludhiana during routine checking and ECR No. 41/2027 dated 23.04.2024 was prepared. As recorded in the ECR, phase segment 1 was visible but segments 2 and 3 were missing on display of meter; the voltages of Red, Yellow & Blue phases were displayed as 238 V, 002 V and 003 V respectively; accuracy was checked by LTERS and meter was found 57.15% slow; It was directed that account of the petitioner be overhauled as per results. Upon further checking, it was found that joints of the potential wires of yellow and blue phases with the main cable were oxidized. The oxidation of joints was got removed upon which, the voltages of Red, Yellow & Blue phases were displayed as 242 V, 240 V and 242 V respectively; DDL was done. ASE/Enf. cum EA & MMTS-2, Ludhiana issued speaking orders vide his memo no. 441 dated 04.06.2024 stipulating in it that accuracy of meter at site was checked and it was found (-)57.15% slow and that on

examining DDL it was observed that voltage of Y phase and B phase was not contributing in meter since long time and it was directed to overhaul the account of the petitioner treating the meter 57.15% slow, for a period of 6 months. As per the above said speaking orders, account of the petitioner was overhauled for the period from 12.10.2023 to 08.04.2024 and AEE/Comm., DS Division, Sunder Nagar (Spl.) issued notice to the petitioner vide Memo. 1107 dated 05.06.2024 asking him to deposit amount of Rs. 11,27,626/- within 7 days. Petitioner did not agree to the amount charged to him and filed a case in Corporate CGRF, Ludhiana. Forum observed the consumption data of the petitioner supplied by the Respondent tabulated below:

Year	2021		2022		2023		2024	
Month	Cons	Code	Cons	Code	Cons	Code	Cons	Code
Jan	2494	O	1257	O	406	O	9337	O
Feb	3510	O	4273	O	1845	O	12511	O
Mar	4031	O	3553	O	1482	O	20248	O
April	3123	O	2184	O	2076	O	15721	O
May	3215	O	1423	O	828	O	29699	O
June	1095	O	505	O	157	O	48796	O
July	2781	O	922	O	9227	O	29498	O
Aug	3545	O	2334	O	17017	O	28526	O
Sept	4168	O	2752	O	17528	O		
Oct	4951	O	2117	O	16210	O		
Nov	3048	O	1670	O	16726	O		
Dec	1626	O	443	O	16424	O		
Total	37587		23433		99926		194336	

The annual consumption of petitioner for the year 2021 to 2024 (upto 08/24) has been recorded as 37587, 23433, 99926 and 194336 units respectively. Forum observed that the annual consumption of the petitioner has increased considerably w.e.f. July/2023. Further sudden increase in the consumption is also visible after setting right the potential contribution by removing oxidation of joints on 23.04.2024 which confirms the findings of the checking officer recorded in ECR No. 41/2027 dated 23.04.2024 regarding missing potential of yellow and blue phases.

During hearing dated 31.07.2024, the petitioner was asked to explain the reason behind increase in his

consumption after removal of oxidization of the joints of potential wires by the checking authority on 23.04.2024. Petitioner in his written OD, submitted on 13.08.2024, stated that the reason for increase in his consumption was increase in production and full utilization of installed load/machinery.

The Respondent had been asked vide the Initial Proceedings dated 26.07.2024 to check and intimate to the Forum that whether the meter of the petitioner was V_{ref} compliant. Further whether the slowness mentioned in ECR No. 41/2027 dated 23.04.2024 was arrived at through Dial Test or Impulse Based test. It was stated in reply submitted by the Respondent on 31.07.2024 that the meter was V_{ref} compliant. Forum was not convinced with this reply in view of the information/documents already made available to it hence asked the Respondent again vide proceedings dated 31.07.2024 to re-check that whether the meter was V_{ref} compliant and submit factual position to the Forum. Respondent retracted from his earlier statement and submitted his written comments on 06.08.2024 that the meter in fact is not V_{ref} compliant. ASE/Enf. cum EA & MMTS-2, Ludhiana vide Memo No.504 dated 05.08.2024 addressed to AEE/Comm., DS Division, Sunder Nagar (Spl.) intimated that the accuracy of meter was checked on site through dial test and the meter was found slow by 57.15%.

On perusal of the DDL report, it is revealed that contribution of potential to the meter has remained erratic w.e.f. 24.05.2022. Few sample values of potential recorded at different point of time are reproduced below: -

Sr. No.	Date & Time	Potential (Volts)		
		R	Y	B
1.	24.05.2022 at 14:19:29	241.18	163.31	102.92
2.	09.06.2022 at 15:49:47	244.35	10.51	2.08
3.	27.10.2022 at 17:22:27	237.84	11.74	23.55
4.	16.01.2023 at	243.23	28.75	11.15

	17:36:52			
5.	18.05.2023 at 06:10:58	241.32	91.75	99.90
6.	05.07.2023 at 12:58:38	250.56	240.45	245.81
7.	17.07.2023 at 18:49:58	242.77	2.24	9.38
8.	17.10.2023 at 00:36:55	249.82	2.17	11.51
9.	02.02.2024 at 18:12:48	237.68	2.51	6.27
10.	04.02.2024 at 21:00:34	252.14	97.95	96.91

It can be observed from the above that there has been variation in potential of Y and B phases with effect from 24.05.2022. Respondent overhauled the account of the petitioner by enhancing the consumption of the period from 12.10.2023 to 08.04.2024 treating the meter of the petitioner slow by 57.15% in the entire duration. Forum observed from the DDL report of the meter that event of under voltage on Y-phase and B-phase was first recorded on 24.05.2022 at 14:19:29 when voltage was recorded as 163.31 V and 102.92 V respectively. The variation continued till the date of checking i.e. 23.04.2024 when the potential connections of yellow and blue phases were set right by removing oxidation of joints. As it was clarified by the Respondent during hearing dated 06.08.2024 that the meter is not V_{ref} compliant hence, Forum observed that in that case the meter was not capable of recording energy at $V_{reference}$ in case of missing one/two potential to it. Forum agreed to the submission of the Respondent from perusal of the data/documents made available to it that the meter in dispute is not V_{ref} compliant and hence observed that the meter did not record energy correctly with effect from 24.05.2022. Forum however, observed further that overhauling of the account of the petitioner treating the meter slow by 57.15% for the entire period, is not in order as this slowness is an instantaneous slowness belonging to that very instant. It keeps on varying depending upon various factors like voltage(s) of respective

phases, distribution of load among different phases and power factor thereof, etc. In this case fluctuations of the voltages of yellow and blue phases are vividly depicted in the DDL Report. Hence the instantaneous slowness of 57.15% mentioned in ECR No. 41/2027 dated 23.04.2024 cannot be considered as a constant/uniform slowness for a period of six months as done by the Respondent. Accordingly, metering equipment of the petitioner is required to be treated as defective.

The relevant regulation of Supply Code-2014 dealing with dead stop, burnt, defective meters is as under:

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

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

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

Forum observed further that the petitioner has applied for Extension in load and Contract Demand from 84.780 kW/ 85 kVA to 149.780 kW/ 150 kVA. Perusal of consumption data indicates that the petitioner had already installed load more than the sanctioned load and he has already been using substantial additional load, as Maximum Demands of 88.14 kVA, 99.86 kVA, 93.52 kVA and 87.3 kVA have already been recorded w.e.f. June/2023 despite of his meter having been slow. MDI of 114.9Kva has also been recorded during May/2024 after setting right the potential contribution on 23.04.2024 although extension in his load as applied by him has not been released yet. This clearly indicates that the petitioner was using excess load since July/2023.

Forum has gone through written submissions made by the Petitioner in the petition, written reply of the Respondent, its rejoinder along with the relevant material brought in the record. In view of the above discussion, Forum is of the opinion that overhauling of the account for six months by increasing the consumption taking constant slowness factor of 57.15%; is not justified. Hence, notice no. 1107 dated 05.06.2024 of AEE/Comm., DS Division, Sunder Nagar (Spl.) amounting to Rs. 11,27,626/- is liable to be quashed. Account of the petitioner is required to be overhauled for a period of six months prior to the date of checking i.e., 23.04.2024 treating the meter defective, as per Regulation no. 21.5.2(d) of Electricity Supply Code and Related Matters Regulations 2014 as his previous consumption is not reliable as potential contribution of yellow and blue phases having remained disturbed w.e.f. 24.05.2022. As the petitioner has already been using excess load and it appears that he has applied for just its regularization, no cognizance of Reg. 21.5.2 (e) is required to be taken while overhauling his account.”

- (ii) I have gone through the written submissions made by the Appellant in his Appeal & Rejoinder to the reply, written reply

of the Respondent & the data placed on the record by both the parties as well as oral arguments of both the parties during the hearings on 18.12.2024 & 03.01.2025. The Appellant's Representative pleaded that the Corporate Forum had not considered the overhauling as per para (a) to para (c) of Regulation 21.5.2, on the ground that previous consumption of the Appellant was not reliable as potential contribution of Yellow and Blue Phases having remained disturbed w.e.f. 24.05.2022. This observation of the Forum was not convincing as it was clear from the Data Download (DDL) provided by the Respondent that although there was less Voltage on Yellow and Blue Phases w.e.f. 24.05.2022, but period of less Voltage was very short, as such consumption recorded during previous period can be considered for overhauling the account as per para (a) to para (c) of Regulation 21.5.2. This Court has gone through the DDL provided by the Respondent & found the observation of the Corporate Forum that the contribution of potential to the meter has remained erratic w.e.f. 24.05.2022 as correct. During checking by the ASE/Enforcement cum EA&MMTS-2, Ludhiana on 23.04.2024, it was found that the joints of the wires of yellow and blue phases with the main cable were oxidized. Upon removing the oxidation of these joints, the voltages of

Red, Yellow & Blue phases displayed as 242 V, 240 V & 242 V respectively which were, before removing oxidation, displaying as 238 V, 002 V & 003 V respectively earlier. The process of oxidation is a time taking process & not an instantaneous process. Therefore, it is concluded that the previous consumption of the disputed meter is not reliable. The account of the Appellant should be overhauled for six months prior to the date of checking, i.e. 23.04.2024, on the basis of actual consumption of the corresponding period of succeeding year as per Regulation 21.5.2 (d) of Supply Code-2014.

(iii) The Appellant's Representative further pleaded that the Respondent's office had overhauled the account with LDHF Formula by considering the Industry as continuous process Industry i.e. Load x 30 days x 24 hrs x 0.6. However, Industry of the Appellant is not covered under continuous process industry. In this regard, this court asked the Respondent whether the conditions for treating the industry as continuous process industry as explained in Explanation to Regulation 35 (1) of Supply Code-2014, reproduced under, has been met:-

“Explanation: The continuous supply of electricity shall mean supply to the consumer without application of regulatory measures viz power cuts, off days etc. as applicable to general

category consumers except as specifically approved by the Commission under section 23 of the Act.”

The Respondent admitted that the supply to the Appellant was not being provided from an independent feeder and regulatory measures viz power cuts, off days etc. were applicable to the Appellant as applicable to general category consumers. The Appellant had also not applied for continuous process industry status. Therefore, the Respondent is directed to overhaul the account of the Appellant considering it General industry & issue fresh notice accordingly and subsequently overhaul the account of the Appellant on the basis of actual consumption of the corresponding period of the succeeding year as per Regulation 21.5.2 (d) of Supply Code-2014.

7. Decision

As a sequel of above discussions, the order dated 20.08.2024 of the Corporate Consumer Grievances Redressal Forum, Ludhiana in Case No. CF-133/2024 is hereby upheld. However, the Respondent is directed to issue fresh notice to the Appellant considering it General industry and subsequently overhaul the account of the Appellant on the basis of actual consumption of the corresponding period of the succeeding year as per Regulation 21.5.2 (d) of Supply Code-2014.

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, he 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.

January 17, 2025
S.A.S. Nagar (Mohali).

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