



BEFORE THE ELECTRICITY OMBUDSMAN, HARYANA
Haryana Electricity Regulatory Commission
Bays No. 33 - 36, Sector - 4, Panchkula-134109
Telephone No. 0172-2572299; Website: - herc.nic.in
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(Regd. Post)

Appeal No. : 2/2024
Registered on : 18.01.2024
Date of Order : 29.02.2024

In the matter of:

Appeal against the order dated 30th November, 2023 passed by CGRF UHBVNL, Panchkula in complaint no. UH/CGRF- 162/2023.

Shri Rajeshwar Sharma, Vice President, Vikram Vihar (AWHO) Apartment Owners Welfare Association, Sector - 27, U.E., Panchkula **Appellant**

Versus

1. The Executive Engineer Operation Division, UHBVN, Panchkula
2. The SDO (Operation), Sub Division UHBVN, Madanpur **Respondent**

Before:

Shri Virendra Singh, Electricity Ombudsman

Present on behalf of Appellant:

Shri B R Bharti, Advocate

Maj Gen Vishwa Mitter Tandon, Executive Member AOWA Vikram Vihar

Present on behalf of Respondents:

Shri M. G. Jindal, XEN Operation Division, UHBVN, Panchkula

Shri Rohit Kumar, SDO (Operation), Sub Division UHBVN, Madanpur

ORDER

A. Shri Rajeshwar Sharma, Vice President, Vikram Vihar (AWHO) Apartment Owners Welfare Association has filed an appeal against the order dated 30th November, 2023 passed by CGRF, UHBVNL, Panchkula in complaint No. UH/CGRF- 162/2023. The appellant has requested the following relief: -

With due respect it is submitted as under: -

1. That the appellant/complainant got an electric connection from the respondent no. 3 bearing A/c No. 9732140000 having sanctioned load 4926 KW Domestic Bulk supply in the Vikram Vihar Housing Society, Sector 27, Urban Estate, Panchkula since 01.11.2014.
2. That in the above said society 483 nos. retired Army Officers are residing with their family and availing the electricity power supply facilities for domestic purpose only.
3. That it is important to point out here that the Nigam has provided the electricity to the above said society through two nos. 11 KV feeders which are running as per time scheduled fixed by the Nigam in order to maintain

the continuity of 24 hours power supply in the society and two electricity meter bearing A/c No. 9732240000 and 0660034 have been provided on the feeders.

4. That the appellant/complainant is making regular payment of all the electricity bills raised by the respondent no.3 and nothing is outstanding against the appellant/complainant.
5. That the respondent No.3 served notice No. 6640 dated 13.06.2022 for Rs. 3,02,732/- and thereafter revise Notice No. 8164 dated 20.07.2022 for Rs. 18,98,563/- on account of short assessment due to 34.7% slow working of the meter A/c No. 9732240000 on the basis of report No. 8184/164 dated 10.05.2022 of M&P Division, Yamuna Nagar. The contents of the report are as under: -

Last checking conducted on 10.05.2022 by the M&P Team of Xen M&P, UHBVN, Yamuna Nagar and given its finding as under: -

“Visited the site and meter found running slow by 34.7%, slow due to B-phase CT secondary were found burnt from TTB. Fault rectified at the time of checking and now meter is running within limit. SDO ‘Op’ is advice to charge the slowness and intimate to XEN M&P Yamuna Nagar. SDO ‘OP’ is advice to replace the MCB being hinges welded from outside. Modem needs to be provided for billing through Automatic Meter Reading (AMR), load survey taken from CMRI.”.

6. That it is very much evident from the checking report dated 24.09.2021 conducted by the M&P Team that the meter was working within limit as per consumption utilized by the owners of Housing Society but as per checking conducted by the M&P Team, Yamuna Nagar on dated 10.05.2022 pointed out in its report that working of the meter found slow by 34.7% slow due to B-phase CT secondary were found burnt from TTB.
7. That the respondent No.3 threatened to the complainant to deposit the amounting to Rs. 18,98,563/- within 7 days failing which the supply of the Society will be disconnected without any further notice. The complainant being afraid from the disconnection of power supply of the premises where more than 483 families are residing would suffer mentally, physically being hottest day of the summer season and deposited Rs. 18,98,563/- under protest on dated 30.07.2022 vide Cheque No. 001650 dated 26.07.2022 through RTGS as per letter dated 30.07.2022 with the liberty to get the entire amount refunded through

legal process applicable in the law of natural justice as well as prevailing instructions of the Nigam.

8. That the complainant vide his representation dated 10.01.2023 submitted to the respondent no.3 with a copy to the respondent No.2 requested to refund the amount of Rs. 18,98,563/- which has been illegally recovered under pressure by threatening to disconnect the electricity supply and the amount has been deposited under protest/duress, may be refunded but no heed has been paid by the respondent Nigam till date.
9. That being aggrieved from the notice dated 13.06.2022 and 20.07.2022 the appellant/complainant filed the consumer complaint no. UH/CGRF-162/2023 before the Ld. Chairperson of CGRF, UHBVN, Kurukshetra now shifted at Panchkula for granting the following relief: -
- i) The impugned notice No. 6640 dated 13.06.2022 amounting to Rs. 3,02,732/- and second notice no. 8164 dated 20.07.2022 amounting to Rs. 18,98,563/- may please be set aside/quashed.
 - ii) To allow the refund of Rs. 18,98,563/- which has been deposited by the complainant under protest/duress through RTGS on dated 30.07.2022 vide cheque no. 001650 dated 26.07.2022 with interest @ 18% per annum/1.5% per month.
 - iii) To grant the damages amounting to Rs. 2,00,000/- on account of mental, physical & financial harassment to the entire owners of the VIKRAM VIHAR (AWHO) APARTMETN and also allowed Rs. 55000/- on account of litigation charges.
10. That the Ld. Chairperson of CGRF, UHBVN, Panchkula disposed of the complaint vide order dated 30.11.2023 by passing the following order: -
As per available load survey data for the period of meter remain show i.e. 03/2022 to 05/2022 in r/o Meter Serial NO. X1260227.

$$\begin{aligned} &= 25935-21371 &= 4564 \\ &= 4564*50 &= 228200 \end{aligned}$$

Chargeable units for

$$\begin{aligned} \text{Slowness of meter (34.70\%)} &= 228200*34.70/65.30 \\ &= 121264 \text{ units} \\ \text{Energy Charges } 121264*5.25 &= 636636.00 \\ \text{FSA} &= 0.00 \\ \text{ED} &= 12126.40 \\ \text{M. Tax} &= 12733.72 \\ \text{Total Amount chargeable} &= 661496.12 \end{aligned}$$

The Forum directs SDO/Respondent that the calculation done on the basis of Load Survey Data from 03/2022 to 05/2022 in respect of Meter Sr. No. X1260227 is in order (as it evident from the Load Survey Data obtained from M&P Wing by SDO/Respondent). The consumption recorded on 01.09.2021 and 10.05.2022 in the Load Survey Date also almost matches with MT-1 Form of M&P Wing which further authenticates Load Survey Data. Hence the amount for 34.70% slowness charged for the period 03/2022 to 05/2022 by SDO/Respondent is in order as per Load Survey Data. The current on "B" Phase has been shown as Zero in 03/2022 which was further reset in 5/2022. Earlier charging made may be amended as above.

Therefore, the case is disposed of without cost to either of the parties.

As required under Haryana Electricity Regulatory Commission (Forum & Ombudsman) Regulations, 2020, the implementation of this decision may be intimated to this office within 21 days from the date of its receipt.

11. That on scrutiny of the above order dated 30.11.2023 passed by the Ld. Chairperson of CGRF, UHBVN, Panchkula it has been ascertained that the Ld. CGRF has not taken into consideration the provision laid down in the Rule 6.9.1 of Sale Circular No. 25/2016 in which it is clearly provided as under: -

6.9.1 Billing in case of defective/sticky/dead stop/burnt meter

- i) in case of defective/sticky/dead stop/burnt meter, the consumer, during the period of defective meter shall be billed provisionally in the following manner: -

- a. On the basis of the consumption recorded during the corresponding period of previous year when the meter was in function and recording correctly.
- b. In case the same is not available, then on the basis of average consumption of the past 6 months immediately preceding the date of the meter being found/reported defective.
- c. If period of installation of meter is less than six months, then the consumer shall be billed on the basis of average

consumption of the period from the date of installation of the meter to the date of the meter being found/reported defective.

12. That the Ld. CGRF has considered the consumption of only one electricity meter Sr. No. X1260227 of A/c No. 9732240000 ignored the consumption of other meter of A/c No. 0660340000. As per consumption of both the meter there is no variation of the consumption as presumed by the Ld. Chairperson of the CGRF. Thus, the order dated 30.11.2023 is illegal, null & void which has been passed in violation of the Nigam instructions envisaged in Sale Circular No. 14/91, SMI No. 115 & 155 as well as Sale Circular No. 25/2016.
13. That the reliable data is the actual consumption during the disputed period which is again reproduced below and integrity of this data is indisputable: -
 - (a) For disputed period (11/2021 to 05/2022) – 894900 units
 - (b) For previous year in the corresponding period – 834609 units
 - (c) For succeeding year in the corresponding period – 838550 units
14. That from the above data, it is absolutely clear that consumption was highest in the disputed period and hence, under no circumstances can it be concluded that the meter was running slow during the period 3/2022 to 5/2022. As such the order passed by the Ld. Chairperson is clearly violation of the law of natural justice as well as against the instructions provided in sale circular No. 14/91 and 25/2016 so the order dated 30.11.2023 are liable to be set aside.
15. That being aggrieved from the order dated 30.11.2023 passed by the Ld. Chairperson of CGRF, Panchkula, the appellant/complainant prefer the present appeal before this Hon'ble Forum under regulation 2.48 and 2.49 of HERC (Forum & Ombudsman) Regulation 2020 and request to grant the following relief by modifying the order dated 30.11.2023 by way of accepting the present appeal: -
 - i) To set aside the impugned notice no. 6640 dated 13.06.2022 and revised notice no. 8164 dated 20.07.2022.
 - ii) Necessary order may please be passed to refund Rs. 1898563/- deposited by the appellant/complainant under protest with interest @ 18% per annum as well as grant Rs. two lacs on account of

damages cause to the appellant/complainant and Rs. 55,000/- on account of litigation charges.

Any other relief to which the appellant/plaintiff is found entitled by this Hon'ble Court may also be awarded in favour the appellant/plaintiff.

- B.** The appeal was registered on 18.01.2024 as an appeal No. 2/2024 and accordingly, notice of motion to the Appellant and the Respondents was issued for hearing the matter on 08.02.2024.
- C.** The respondent SDO vide email dated 02.02.2024 has submitted reply, which is reproduced as under:

In this context, it is submitted that the said society have existing connections with account No. 9732240000 and 0660340000. The main meter with serial no. X1260227 for account no. 9732240000 was found slow with 34.70% slowness as per M&P Wing MT-1 Report No. 8183/164 dated 10.05.2022. Whereas check meter for same account was found working with in limit as per MT-1 Report No. 8184/164 dt. 10.05.2022. Prior to this incident the same connection was checked by M&P Wing on dated 24.09.2021 and found both meters (main meter & check meter) working with in limit as per MT-1 Report No. 5898/117 dt. 24.09.2021 and 5899/117 dt. 24.09.2021 respectively. The consumer was charged with Rs. 1898563/- vide Sundry No. 61/33/27 in 07/2022 on the basis of 6 month average as per Sale Circular no. 25/2016 clause 6.9.1-1 (b) "in case the ok reading of previous year is not available, then on the basis of average consumption of past six months immediately preceding the date of the meter being found / reported defective" as load survey data was not provided by M&P Wing at that time.

Later on, load survey data was provided by M&P wing on dt. 24.05.2023 it is pertinent to mention that as per load survey received from M&P wing, the data was available from 27.03.2022 to 10.05.2022 in which B phase value were shown as Zero i.e. on fault, so in view of load survey data received, the mere was faulty since / prior to 27.03.2023.

The consumer had filed complaint no. 162/2023 before hon'ble CGRF Kurukshetra and decision was awarded vide order dated 30.11.2023 with direction to this office that the calculation done on the basis of load survey data from 03/2022 to 05/2022 in respect of Meter Serial No. X1260227 is found in order (as is evident from the load survey data obtained from M&P Wing) by SDO/ Respondent). The consumption recorded on 01.09.2021 and 10.05.2022 in the

load survey data also almost matches with MT-1 Form of M&P Wing which further authenticates load survey data. Hence the amount for 34.70% slowness charged for the period 03/2022 to 05/2022 by SDO/Respondent is in order as per load survey data. The current on "B" Phase has been shown as Zero in 03/2022 which was further reset in 05/2022. Earlier charging made may be amended as above. Further, this office has adjusted the amount of Rs. 1237067/- through Sundry No. 34/17/28 in obedience of CGRF Order dated 30.11.2023.

D. The respondent SDO vide email dated 08.02.2024 has submitted reply, which is reproduced as under:

In continuation to this office memo no. 931 dt. 02.02.2024, it is further submitted that the said society having existing connections with account no. 9732240000 and 0660340000. The main meter with serial no. X1260227 for account no. 9732240000 was found slow with 34.70% slowness as per M&P Wing MT-1 Report No. 8183/164 dated 10.05.2022. whereas check meter for same account was found working with in limit as per MT-1 Report No. 8184/164 dt. 10.05.2022. Prior to this incident the same connection was checked by M&P Wing on dt. 24.09.2021 and found both meters (main meter & check meter) working with in limit as per MT-1 Report No. 5898/117 dt. 24.09.2021 and 5899/117 dt. 24.09.2021 respectively. The consumer was charged with Rs. 1858563/- vide Sundry No. 61/33/27 in 07/2022 on basis of 6 month average as per sale circular no. 25/2016 clause 6.9.1-1 (b) "In case the ok reading of previous year is not available, then on the basis of average consumption of past six months immediately preceding the date of the meter being found / reported defective" as load survey data was not provided by M&P Wing at that time.

Later on, load survey data was provided by M&P Wing on dt. 24.05.2023 it is pertinent to mention that as per load survey received from M&P wing, the data was available for period from 27.03.2022 to 10.05.2022 in which B phase values were shown as Zero i.e. on fault, So in view of load survey data received, the meter was faulty since / prior to 27.03.2023.

The consumer had filed complaint no. 162/2023 before hon'ble CGRF Kurukshetra and decision was awarded vide order dated 30.11.2023 with direction to this office that the calculation done on the basis of load survey data from 03/2022 to 05/2022 in respect of Meter Serial No. X1260227 is found in order (as is evident from the load survey data obtained from M&P Wing by SDO/

Respondent). The consumption recorded on 01.09.2021 and 10.05.2022 in the load survey data also almost matches with MT-1 Form of M&P Wing which further authenticates load survey data. Hence the amount for 34.70% slowness charged for the period 03/2022 to 05/2022 by SDO/Respondent is in order as per load survey data. The current on "B" Phase has been shown as Zero in 03/2022 which was further reset in 05/2022.

Calculation

- a) For Account no. 973224000 as per MT-1 Report w.e.f. 24.09.2021 to 10.05.2022

$$\begin{aligned} \text{Through check meter} &= 84239 \text{ (FR)} - 64763 \text{ (IR)} = 19476 \\ &= 19476 * 50 \text{ (MF)} = 973800 \end{aligned}$$

$$\begin{aligned} \text{Through main meter} &= 25935 \text{ (FR)} - 8874 \text{ (IR)} = 17061 \\ &= 17061 * 50 \text{ (MF)} = 853050 \end{aligned}$$

$$\text{Difference of units} = 973800 - 853050 = 120750$$

Amt chargeable as per difference

$$\text{Energy Charges} = 120750 * 5.25 = 633937.50$$

$$\text{FSA} = 0.00$$

$$\text{ED} = 12075.00$$

$$\text{M. Tax} = 12678.75$$

$$\text{Total amount chargeable} = 658691.25$$

- b) As per available load survey data for the period of meter remain slow i.e. 03/2022 to 05/2022 in r/o Meter Serial No. X1260227.

$$= 25935 \text{ (FR)} - 21371 \text{ (IR)} = 4564$$

$$= 4564 * 50 \text{ (MF)} = 228200$$

Chargeable units for

$$\text{Slowness of meter (34.70\%)} = 228200 * 34.70 / 65.30$$

$$= 121264 \text{ units}$$

$$\text{Energy charges} = 636636.00$$

$$\text{FSA} = 00.00$$

$$\text{ED} = 12126.40$$

$$\text{M. Tax} = 12733.72$$

$$\text{Total Amount chargeable} = 661496.12$$

$$\text{Total amount already charged} = 1898563.00$$

$$\text{Amount to be adjusted} = 1898563 - 661496.12 = 1237066.88$$

Earlier charging made may be amended as above. Further, this office has adjusted the amount of Rs. 1237067/- through Sundry No. 34/17/28 in abeyance of CGRF Order dated 30.11.2023.

E. The counsel for the appellant vide email dated 08.02.2024 has submitted written argument, which is reproduced as under:

1. That the appellant is using the electricity supply through DS Bulk Connection having sanctioned load 4926 KW and the respondent Nigam is providing the electricity supply through two nos. independent feeders and consumption is being recorded in two different meters bearing A/c No. 066034000 & 9732240000.
2. That a team of M&P Division, UHBVN, Yamuna Nagar, periodically checked the premises of the appellant on dated 24.09.2021 and working of meter bearing account no. 9732240000 found within limit.
3. That last checking conducted by the M&P team on dated 10.05.2022 and given the following report: -

“Visited the site and meter found running slow by 34.7%, slow due to B-phase CT secondary were found burnt from TTB. Fault rectified at the time of checking and now meter is running within limit. SDO ‘Op’ is advice to charge the slowness and intimate to Xen. M&P Yamuna Nagar. SDO ‘OP’ is advice to replace the MCB being hinges welded from outside. Modem needs to be provided for billing through Automatic Meter Reading (AMR), load survey taken from CMRI”.

4. That respondent Nigam i.e. SDO Op Sub Division, UHBVN, Madanpur on the basis of M&P checking report dated 10.05.2022 served the following notices: -

- i) Notice NO. 6640 dated 13.06.2022 amounting to Rs. 302732/- without any detail calculation and justification.
- ii) Notice NO. 8164 dated 20.07.2022 amounting to Rs. 1898568/- by giving the following details calculation.

Taken the difference of units from 11/2021 to 5/2022

$$25928 - 12283 = 13645 \text{ MF } 50 = \frac{682250 \times 3.47}{65.3} = 362542$$

Less 4% rebate = $348081 \times 5.25 = \text{total Amt. } 1898563/-$

Ground of filing the consumer complaint no. UH/CGRF-162/2023 before the CGRF, UHBVN, Kurukshetra now Panchkula.

1. That the appellant submitted a representation dated 10.01.2023 to the respondent no. 3 and requested to refund Rs. 1898563/- which has been deposited by the appellant under compelling circumstances under protest

because the SDO, OP Sub Division Madanpur threaten to debit the said amount in the account for further recovery without notice.

2. That since no response was given by the respondent no.3 then appellant filed a complaint No. 162/2023 on the following grounds: -

i) There was reliable actual consumption recorded by both meters A/c No. 9732240000 & A/c No. 0660340000 during the disputed period which is reproduced as under: -

a) Disputed period i.e. 11/2021 to 05/2022 = 894900 units

b) Previous year i.e. 11/2020 to 05/2021 = 834609 units

c) Succeeding period i.e. 11/2022 to 05/2023 = 838550 units

ii) It is clearly provided in Rule 6.9.1 of Sale Circular No. 25/2016 in case of defective/sticky/dead stop/burnt meter, the consumer account during the period of defective meter shall be billed on the basis of consumption recorded during corresponding period of previous year when the meter was functioning and recording correctly/ corresponding period.

As per above instruction noting is recoverable from the appellant but the Ld. CGRF, UHBVNL, Panchkula decided the complaint without taking into account the above mentioned policy of the UHBVN.

NOW THE PRESENT APPEAL BEFORE THIS HON'BLE APPELLATE AUTHORITY.

It is humbly prayed that order dated 30.11.2023 passed by the Ld. Chairperson of CGRF, UHBVNL, Panchkula may please be modified to the extent that nothing is recoverable from the appellant by accepting the appeal on the following grounds: -

1. That respondent No.3 produced the consumption data of main meter & check meter for disputed period i.e. 10/2021 to 5/2022 of one feeder (A/c No. 9732240000) by ignoring the consumption data of 2nd feeder (A/c No. 0660340000) where as both feeders are in active use and power supply is being provided as per power supply schedule of the Nigam and comparative data is reproduced as under (See para 10 of complaint): -

1	2	3	4	5	6
Month	Units Consumed	Month	Units Consumed	Month	Units Consumed
Nov 2020	111250	Nov 21	131400	Nov 22	107000
Dec 2020	92850	Dec 21	88400	Dec 22	104600

Jan 2021	139809	Jan 22	167900	Jan 23	125350
Feb 2021	168300	Feb 22	186450	Feb 23	232550
March 2021	94750	Mar 22	119750	Mar 23	93650
April 2021	99050	Apr 22	85200	Apr 23	55100
May 2021	128600	May 22	115800	May 23	120300
Total	834609		894900		838550

From the above noted consumption data it is very much evident that there was momentary slowness of electric meter for a day only, installed at the premises of the complainant because the consumption from Nov 2020 to May 2021 are 834609 units and also the consumption from Nov 2022 to May 2023 are 838550 units whereas the consumption for the disputed period from Nov 2021 to May 2022 are 894900 units which are higher consumption from the corresponding period prior to checking of the meter and after rectifying the fault of the meter. It might be possible that the electricity meter installed at premises of complainant burnt momentarily just prior to conduct the testing of the meter by the M&P Team whereas there is no variation in the consumption data. Thus, the alleged notices have no substance to be maintained against the complainant and liable to be set aside/quashed.

2. That it is important to highlight here that respondent No.3 himself admitted in his reply dated 22.09.2023 that data produced by him is not reliable for assessment of unit against slowness of main meter and further admitted that the both meters are not provided with the Modem facility to obtain AMR data.
3. That since Modem facility have not been provided to obtain AMR data and the firm Who manufactured & supplied the impugned meters could not retried of load survey for the period 24.09.2021 to 10.05.2022 due to 45 days memory capacity of the disputed meter. Now the question arise from where and how the respondent obtained the load survey data which has been considered by the Ld. CGRF, Panchkula.
4. That it is Cristal clear that Ld. CGRF, Panchkula has not followed the legal concept so pleaded by the appellant in its complaint and decided the complaint vide order dated 30.11.2023 on the manipulated data produced by the respondent Nigam and ordered to debit Rs. 661491.12 as per available load survey data produced by the respondent for the period of meter remained slow i.e. 3/2022 to 5/2022 which is against the provision laid down in Sale Circular No. 25/2016 Rule 6.9.31 in which it is clearly envisaged that in case of defective/burnt/dead stop DS supply meter the

account of the consumer may be billed on the basis of consumption of previous year during which meter recorded accurate reading or consumption of corresponding period which is very much available with the Nigam and produced by the appellant. Thus, there is no relevancy of load survey data for the purpose of to decide the dispute of slowness of the meter.

5. That Ld. Chairperson, CGRF, UHBVN, Panchkula has ignored the legal and justified pleading of the appellant which is clearly based on the following legal instruction of the Nigam as well as legal authorities of Hon'ble Punjab & Haryana High Court and Apex Court of India.

i) Rule 6.9.1 of Sale Circular No. 25/2016

ii) Rule 26 (6) of Electricity Act, 1910 in which it is clearly provided as under: -

(6) Where any difference or dispute arises as to whether any meter referred to in sub-section (1) is or is not correct, the matter shall be decided, upon the application of either party, by an Electrical Inspector; and where the meter has, in opinion of such Inspector ceased to be correct, such Inspector shall estimate the amount of the energy supplied to the consumer or the electrical quantity contained in the supply, during such time, not exceeding six months, as the meter shall not, in the opinion of such Inspector, have been correct; but save as aforesaid, the register of the meter shall, in the absence of fraud, be conclusive proof of such amount or quantity.

Provided that before either licensee or a consumer applies to Electrical Inspector under this Sub Section, he shall give to other party not less than 7 days notice of intention so to do (copy attached).

iii) Rule 56 (1) of Electricity Act, 2003

In which it is envisaged as under:- Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee or the generating company may, after giving not less than fifteen clear days notice in

writing, to such person and without prejudice to his rights to recover such charge or other sum by suit, cut off the supply line or other works being the property of such licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer.

- iv) Order dated 01.12.2008 in RSA No. 2086/2008 case titled Punjab Electricity Board and another Vs. Firm New Era Printing Mills - in which Hon'ble Punjab & Haryana High Court held as under: -

Officials of Electricity Board inspected the meter installed at premises of respondent and found the meter dead stop – Board raised a demand of Rs. 1.89 lakhs – Demand not justified – Before making assessment no opportunity was given to consumer – Section 26(6) of Electricity Act 1910 provides that where any meter is found not correct, the said meter should be referred upon an application by either party to the Electrical Inspector – Sales Manual Regulations 115 and 116 are also to be same effect – Due procedure not adopted by the Board before raising the demand – Even before making assessment of the demand against the respondent, no opportunity of hearing was granted to the respondent by the Board – Order of Meter disconnection and penalty – Set aside. 2004(1) RCR (Civil) 816 (P&H) relied.

- v) Order dated 19.07.2018 in RSA No. 5415/2016 case titled UHBVNL Vs. Vijay Kumar - in which Hon'ble Punjab & Haryana High Court held as under: -

Issuance of the impugned notices with regard to assessment of theft and compounding fee has been justified by the appellant Nigam on the strength of M&P Lab Report which apparently reflected that the meter in question was operating at a lower level i.e. 80% slow. Plaintiff had adduced and placed on record electricity bills which are the subsequent bills that had been issued by the Nigam after installation of the new meter which would reflect that the units of electricity consumed by the plaintiff even after

installation of the new meter were more or less as same recoded by the old meter and which was alleged to have been tempered – No interference – appeal dismissed.

- vi) Order dated 21.04.2005 in civil appeal no. 3615/1996 case titled Bombay Electric Supply and Transport Undertaking Vs Laffans (1) Pvt. Ltd. and others – in which Hon'ble Supreme Court of India held as under: -

Electricity Act, 1910, Section 26 – Burnt meter and meter not recording correction consumption – When meter is burnt there is nothing wrong on raising demand based on average consumption for the similar period during the previous year – So far as the period for which meter is said to be incorrect the demand when not based on finding arrived by Electric Inspector cannot be revised – licensee cannot raise an additional demand over and above the demand raised through the bills which were issued for that period and paid by the consumer – Right to raise additional bills stand lost by the licensee for its failure to proceed in accordance with section 26(6) of the Electricity Act, 1910.

Now it is humbly prayed that the order dated 30.11.2023 passed by the Ld. CGRF, Panchkula may please be modified by accepting the appeal in toto and grant the following relief –

- i) To set aside the notice dated 13.06.2022, 20.07.2022
 - ii) Allowed the refund of entire amount of Rs. 1898563/- with interest @ 18% per annum and Rs. 2 lakh as compensation as well as Rs. 55,000/- as litigation charges in the interest of natural justice.
- F.** Hearing was held on 08.02.2024, as scheduled. Both the parties were present during the hearing through video conferencing. At the outset, counsel for the appellant briefed the appeal and requested for short adjournment for submitting the rejoinder. The appellant is directed to submit the rejoinder within 7 days with an advance copy to the respondent and respondent is directed to submit response on the rejoinder if any within 7 days after receipt of the same. The matter was adjourned and shall now be heard on 28.02.2024.
- G.** The counsel for the appellant vide email dated 22.02.2024 has submitted rejoinder on the reply dated 02.02.2024 submit by respondent SDO, which is reproduced as under:

With due respect it is submitted as under: -

1. That the contents of para No. 1 of above reply is admitted to the extent that appellant have existing connection bearing A/c No. 9732240000 & 0660340000 as well as checking report dated 24.09.2021 and 10.05.2022 of Xen M&P Team Yamuna Nagar but rest of the para is wrong and denied. It is matter of consideration that respondent no. 3 SDO 'Op' Sub Division, Madanpur could not ascertained the actual period for proving the 34.7% slow working of the meter so he has taken different plea to justify his pleading and served the following notices: -
 - a) Notice No. 6640 dated 13.06.2022 for Rs. 32732/- without any detailed calculation and justification.
 - b) Notice No. 8164 dated 20.07.2022 for Rs. 1898568/- by taking the different of units from 11/2021 to 5/2022.
2. That the respondent No. 3 vide his letter No. 166 dated 22.09.2023 has admitted that meter was sent to firm for retrieval of load survey data for the period 24.09.2021 to 10.05.2022 but the same could not be retrieved due to 45 days memory capacity of said meter and further stated that the reading of check meter and main meter at fault was checked and found that there is difference of 120700 units for the period Oct/2021 to June/2022 and the units consumed during Sept/2020 to June/2021 is 443600 units further also difference observed in reading of both meters i.e. main meter and check meter due to combo units fault at check meter. So, this data is not reliable for assessment of unit against slowness of main meter and further both meter are not provided with modem facility to obtain the AMR data.
3. That it is important to point out here that Ld. CGRF vide its order dated 30.11.2023 decided the complaint of appellant on the basis of load survey data for the period of meter remained slow i.e. 3/2022 to 5/2022 whereas there is no ground/provision in any instruction of the Nigam for billing the consumer account during which meter found defective/burnt.
4. That in the last para of the reply SDO 'OP' Sub Division, Madanpur has pleaded that the consumption recorded on 01.09.2021 to 10.05.2022 in the load survey data almost matches with MT-1 Form of M&P Wing, Yamuna Nagar. It is matter of consideration that there is lot of difference between almost & exact word so the almost matches data is not reliable

because correct/accurate consumption data very much available with the respondent Nigam.

5. That the slowness of meter No. X1260227 (A/c No. 9732240000) by 34.7% as per M&P report dated 10.05.2022 is not collaborated by the factual consumption data which has been derived from the data submitted by SDO, Madanpur and it has also been reflected in the order of CGRF dated 30.11.2023. the same is reproduced below: -

Period	Consumption	Remarks
A/c No. 0660340000	A/c No. 9732240000	Total
9/2020 to 6/2021 1172550	443600 1616150	Previous year
9/2021 to 6/2022 678750	853150 1531900	Disputed period
9/2022 to 6/2023 929050	834700(-)172300(-)7700, 1583750	Succeeding yr.

6. It may please be seen from the above data % age variation wrt previous year consumption is $1616150/1531900=5.5\%$ and variation wrt succeeding year consumption is 3.3% only, hence it can be inferred conclusively that the meter was not slow running by 34.7% under any circumstances and the variation of 3% to 5% is quite nominal. Furthermore, the duration of slowness has been determined by the CGRF to be from 3/2022 to 5/2022.

7. It is therefore requested that in accordance with Para No. 6.9.1 of the Sales Circular No. 25/2016, consumption of the corresponding period of previous year be taken into account for charging for duration from 3/22 to 5/22 during which the meter was defective. The consumption for the period during which the meter was alleged to be defective and the previous year consumption of the corresponding period is reproduced below

<u>Consumption during Previous year</u>	<u>Consumption when meter was defective</u>
Mar 2021-94750	Mar 2022 – 88200
Apr 2021 – 99050	Apr 2022 – 85650
May 2021 – 128600	May 2022 – 115800
Total – 322400	Total – 289650

Difference: - 32750 units @ Rs. 5.25 = Rs. 1,71,938/- (+) ED – RS. 3275 (+) M tax – 3439 = Rs. 1,78,652/-.

Now it is therefore, humbly prayed that the order dated 30.11.2023 passed by the Ld. CGRF, Panchkula may please be modified by accepting the appeal in toto and grant the following relief –

- iii) To set aside the notice dated 13.06.2022 & 20.07.2022.
- iv) Excess amount charged from the appellant i.e. Rs. 18,98,563/- (-) Rs. 178652/- = Rs. 1719911/- may please be refunded with 18% interest as well as additional relief on account of harassment caused to 483 residents Rs. 2 lacs as damages and Rs. 55000/- as litigation charges may please be granted in the interest of natural justice.

H. The respondent SDO vide email dated 27.02.2024 has submitted reply for rejoinder dated 21.02.2024, which is reproduced as under:

In the subject cited matter, the para wise reply is submitted as per record as under: -

1. It is submitted that the said society having existing connections with account no. 9732240000 and 0660340000. The main meter with serial no.X1260227 for account no. 9732240000 was found slow with 34.70% slowness as per M&P Wing MT-1 Report No. 8183/164 dated 10.05.2022. Whereas check meter for same account was found working with in limit as per MT-1 Report No. 8184/164 DT.10.05.2022 Prior to this incident the same connection was checked by M&P Wing on dt.24/09/2021 and found both meters (main meter & check meter) working with in limit as per MT-1 Report No. 5898/117 dated 24.09.2021 and 5899/117 dated 24.09.2021 respectively. The consumer was charged with Rs.1898563/- vide Sundry No.61/33/27 in 07/2022 on basis of 6 month average as per sale circular no.25/2016 clause 6.9.1-1(b) "*in case the ok reading of previous year is not available, then on the basis of average consumption of past six months immediately preceding the date of the meter being found/reported defective*" as load survey data was not provided by M&P Wing at that time. Later on, load survey data was provided by M&P wing on dated 24.05.2023.
 - A) Notice no.6640 dt.13.06.2022 was wrongly served by then SDO for Rs.302732/-due to wrong calculation of units for above period.
 - B) Notice no.8164 dated 20.07.2022 was served for amount Rs.1898568/- after correcting the above calculation mistake.
2. It is submitted that as per load survey received from M&P wing, the data was available for period from 27.03.2022 to 10.05.2022 in which B phase value were shown as Zero i.e. on fault, So in view of load survey data

received, it was decided that the meter was faulty since /prior to 27.03.2023. Thereafter, the meter was sent to firm for retrieval of temper load survey data for the period of 24.09.2021 to 10.05.2022, but same could not be retrieve due to 45 days memory capacity of said meter. Also the PYM base could not be applied for set right the disputed period as the consumer often uses/shift his supply from one feeder to another feeder as per his requirement against both accounts and units consumed every month may vary with previous month/year.

Only during period 09/2020 to 06/2021, the combo unit of check meter was faulty. Whereas during period 10/2021 to 06/2022 the check meter was ok, therefore the data for assessment of unit of slowness of main meter is very much reliable as it is matching with the consumption recorded by check meter during 10/2021 to 06/2022.

Also, E-Mail to concerned authority for providing for modem facility have already been sent for necessary action. However, the reading of both meters was available in load survey data from 01.06.2021 to 10.05.2022. So and both meters are not provided with modem facility but request for same has been sent several times to concerned authority.

3. The consumer had filed complaint no.162/2023 before hon'ble CGRF Kurukshetra and decision was awarded vide order dated 30.11.2023 with direction to this office that the calculation done on the basis of load survey data from 03/2022 to 05/2022 in respect of Meter Serial No.X1260227 is found in order (as is evident from the load survey data obtained from M&P Wing by SDO/Respondent). The consumption recorded on 01.09.2021 and 10.05.2022 in the load survey data also almost matches with MT-1 Form of M&P Wing which further authenticates load survey data. Hence the amount for 34.70% slowness charged for the period 03/2022 to 05/2022 by SDO/Respondent is in order as per load survey data.
4. It is submitted that consumption recorded on 01.09.2021 to 10.05.2022 in the load survey data almost matches with MT-1 Form of M&P Wing. The consumption data recorded through meter is for a particular date and time in its memory whereas consumption data taken by M&P Wing for a particular date and time is manual process and may vary little bit due to time frame. The data provided is accurate/correct as per record of this office.

5. The slowness of 34.70% for meter no. X1260227 (9732240000) is declared vide M&P Checking Report No. 8183 dated 10.05.2022 and calculation for consumption recorded during last year/current year/succeeding year for disputed period is detailed as under: -

Period	Account no.	Consumption (KWH Units)	Total Units	Remarks
09.2020 to 06.2021	9732240000	443600	1616150	Previous period
	0660340000	1172550		
09/2021 to 06/2022	9732240000	853150	1653164 (After addition of 121264 units of slowness)	Current period (After addition of units calculated for slowness i.e. 121264 KWH into already billed units of 1531900 kwh)
	0660340000	678750		
09/2022 to 06/2023	9732240000	834700	1763750	Succeeding period
	0660340000	929050		

Hence, it is submitted that the cumulative consumption of above society against both accounts is growing year to year as per load growth. The meter was slow in disputed period as per detail of above table and after addition of units for slowness then the same comes in actual consumption pattern.

6. It is submitted that the variation of consumption of current period under consideration i.e. 09/2021 to 06/2022 is very much more than corresponding next year period i.e. 09/2022 to 06/2023 as already explained in previous point.

It is also submitted that the refund of Rs.1237067/- has already been granted to consumer in obedience CGRF Order dated 30.11.2023. Calculation are as below: -

As per available load survey data for the period of meter remain slow i.e. 03/2022 to 05/2022 in r/o Meter Serial No. X1260227.

$$=25935(\text{FR})-21371(\text{IR}) =4564$$

$$=4564*50(\text{MF}) =228200$$

Chargeable units for

$$\text{Slowness of meter (34.70\%)} =228200*34.70/65.30 =121264 \text{ units}$$

$$\text{Energy charges } 121264*5.25 =636636.00$$

$$\text{FSA} =00.00$$

$$\text{ED} = 12126.40$$

$$\text{M.TAX} = 12733.72$$

$$\text{TOTAL Amount chargeable} =661496.12$$

$$\text{Total amount already charged} =1898563.00$$

$$\text{Amount to be adjusted} =\mathbf{1898563-661496.12=1237066.88}$$

The calculation of amount which was chargeable according to difference in consumption recorded by check meter and main meter during period

24/09/2021 to 10/05/2022 is also detailed as under for information please: (For Account no.973224000 as per MT-1 reports)

Through check meter	=	84239(FR)-64763(IR)=19476
	=	19476*50(MF)=973800
Through main meter	=	25935(FR)-8874(IR) =17061
	=	17061*50(MF) =853050
Difference of units	=	973800-853050=120750
<i>Amt chargeable as per difference</i>		
Energy Charges=120750*5.25	=	633937.50
FSA	=	0 .00
ED	=	12075.00
M.TAX	=	12678.75
Total amount chargeable	=	658691.25

The above detail is submitted as per record of this office for kind information and consideration for taking further necessary action please.

I. Shri HPS Bedi, Brig (Retd.), President Vikram Vihar vide email dated 29.02.2024 has submitted following, which is reproduced as under:

1. We submit and reiterate that meter reading of 26.6.2023 and 29.6.2023 pertain to the month of Jul 2023 and not Jun 2023 because the standard billing cycle is from 08th of a month to 08th of the next month. Any data beyond 08 Jun 2023, if considered in the month of Jun 2023, will therefore amount to compromise on the integrity of the data and distortion of facts. Hence, the consumption figures of 172300 and 7700 units pertain to the month of Jul 2023 and are being wrongfully shown by the SDO, Madanpur as part of Jun 2023 in his reply dated 02.02.2024.
2. Secondly, it was mentioned yesterday during the hearing that a meter was replaced in Jun 2023 due to defects which is grossly contradictory to the M&P reports dated 31 Dec 2022, 26 Jun 2023, 23 Aug 2023 and 31 Oct 2023 in which all the main meters and the check meters have been found to be working OK. Therefore, need to replace the meter is neither known nor understood by us because this action is not in congruence with the M&P Reports.
3. Furthermore, adding 121264 units in the consumption data of the period from 9/2021 to 6/2022 is arbitrary and simply to force fit the argument that meter was running slow by a massive 34.7% whereas we have established beyond any doubt that the year-on-year variation is only about 3% to 5%. In fact there are instances where both main and the check meter are working OK and yet the consumption data being shown

by each one for the same month(s) is different. So, addition of 121264 units is flawed and defies all logic.

4. It is therefore requested that our prayer contained at Para 7(i) and (ii) of our rejoinder dated 21.02. 2024 may please be accepted.

J. Hearing was held on dated 28.02.2024 as scheduled and remained continued on 29.02.2024. Both the parties were present through video conferencing and argued the matter at length reiterating their written submissions which are not reproduced for the sake of brevity.

K. Upon hearing both the parties and going through the record placed on file, it is observed that:

i) The Vikram Vihar Housing Society has been provided two BLDS connections bearing Account number 9732240000 and 0660340000. Each connection has two meters i.e. main meter and check meter.

ii) On 10.05.2022 the M&P Team of Xen M&P, UHBVN, Yamuna Nagar visited the site for checking the accuracy of the meters and given its finding in respect of meters installed for Account number 9732240000 as under: -

a) Main meter: -

“Visited the site and meter found running slow by 34.7%, slow due to B-phase CT secondary were found burnt from TTB. Fault rectified at the time of checking and now meter is running within limit. SDO ‘Op’ is advice to charge the slowness and intimate to XEN M&P Yamuna Nagar. SDO ‘OP’ is advised to replace the MCB being hinges welded from outside. Modem needs to be provided for billing through Automatic Meter Reading (AMR), load survey taken from CMRI.”.

b) Check meter:

“Accuracy checked and meter found working with in limit.”

iii) Considering main meter slow by 34.7%, initially the respondent SDO charged Rs. 1898563/- on the appellant for previous 6 months. Later on, the respondent SDO analyzed load survey of the meter and load survey data was available with effect from 27.03.2022. In load survey, slowness is observed from 27.03.2022 itself. Since the reading of the meter was not available on 27.03.2022, the respondent SDO has overhauled consumer’s account from 03.03.2022 (date of taking reading in 3/2022) to 10.05.2022

(date of checking of the meter by M&P team and declaring the meter slow) and refunded the excess amount charged. On the reply of the respondent the case was disposed off by the CGRF.

- iv) The appellant contended that as per clause 6.9.1 of Sale Circular No. 25/2016 in case of defective/sticky/dead stop/burnt meter, the consumer account during the period of defective meter shall be billed on the basis of consumption recorded during corresponding period of previous year when the meter was functioning and recording correctly/ corresponding period. But the Ld. CGRF, UHBVNL, Panchkula decided the complaint without taking into account the above-mentioned policy of the UHBVN.
- L.** It is worth to refer here that check meter means a meter, which shall be connected on the same line on which main meter is connected and shall be used for energy accounting and billing in case of failure of main meter. Therefore, it is responsibility of the respondent SDO to compare the consumption of main meter and check meter every month and call M&P for checking accuracy of meters in case there is difference of consumption recorded by main meter and check meter is more than permissible limit. Had the respondent SDO been vigilant and had compared the consumption of main and check meters every month, present dispute would not have arisen.
- M.** Further, since actual consumption of the appellant is available through alternate meter (Check meter), the contention of the appellant to charge as per provision of clause 6.9.1 of Sale Circular No. 25/2016 is not admissible otherwise it will defeat very purpose of installing check meter.
- N.** In view of the above facts and discussions, it is observed that in this case main meter was found slow by 34.7% on dated 10.05.2022, whereas, accuracy of check meter was found within limit on the date. It is evident from the load survey report (for 45 days) that the meter was slow from 27.03.2022 to 10.05.2022 but due to non-availability of load survey report prior to 27.03.2022, it could not be made out whether exact date on which B-phase CT secondary wire burnt and the meter became slow, is 27.03.2022 or prior to this date. The respondent SDO pleaded that on comparing the consumption of main meter with check meter from M&P previous checking ON 24.09.2021 to the checking on 10.05.2022, it is clear that the main meter remained slow from 3/2022 to 10.05.2022.

Therefore, it will be appropriate and justified to bill the appellant for period from 03.03.2022 and 10.05.2022 on the basis of actual consumption recorded in the accurate check meter and account of the appellant be overhauled accordingly for this period. The order of CGRF dated 30.11.2023 is amended up to this extent.

- O. The present appeal is disposed off in above terms.

Both the parties to bear their own costs. File may be consigned to record.

Given under my hand on 29th February, 2024.

Sd/-

(Virendra Singh)

Electricity Ombudsman, Haryana

Dated: 29.02.2024

CC-

Memo. No. 4827/HERC/EO/Appeal No. 2/2024

Dated: 01.03.2024

1. Shri Rajeshwar Sharma, Vice President, Vikram Vihar (AWHO) Apartment Owners Welfare Association, Sector – 27, Panchkula (Email bodhrambharti@gmail.com).
2. The Managing Director, Uttar Haryana Bijli Vitran Nigam Limited, Vidyut Sadan, IP No.: 3&4, Sector-14, Panchkula (Email md@uhbvn.org.in).
3. Legal Remembrancer, Haryana Power Utilities, Shakti Bhawan, Sector- 6, Panchkula – 134109 (Email lr@hvpn.org.in).
4. The Chief Engineer (Operation), Uttar Haryana Bijli Vitran Nigam Limited, Sector - 14, Panchkula (Email ceoppanchkula@uhbvn.org.in).
5. The Superintending Engineer (Operation), Panchkula, SCO 89, Sector-5, Panchkula (Email seoppanchkula@uhbvn.org.in).
6. The Executive Engineer (Operation), UHBVN, Panchkula, Flat No-517 & 518, Power colony, Industrial Area Phase-2, Panchkula (Email xenoppanchkula@uhbvn.org.in).
7. The SDO (Operation), Sub Division UHBVN, Madanpur, Near Kendriya Vihar, 2, Sector-25, Panchkula (Email sdooptmadanpur@uhbvn.org.in).