

## THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

M/s Rana Industries  
Shikarpur, Landhaura, Roorkee,  
Distt. Haridwar, Uttarakhand.

Vs

Executive Engineer,  
Electricity Distribution Division (Rural),  
Uttarakhand Power Corporation Ltd.  
Civil Lines, Roorkee,  
Distt. Haridwar, Uttarakhand

Representation No. 17/2018

### **Order**

Date: - 24.08.2018

The petitioner, M/s Rana Industries has filed this case against the order dated 17.04.2018 passed by the Consumer Grievance Redressal Forum, Haridwar zone (hereinafter referred to as Forum) in the complaint no. 10/2018. Petitioner had requested for staying the proceedings for recovery of impugned assessment for June 2016 during the pendency of this appeal. After hearing both parties a stay on coercive proceedings for recovery was granted, till disposal of the case upon deposit of a sum of Rs. 25,00,000.00 by 25.05.2018. This sum was deposited by the petitioner and deposit was confirmed by both parties.

2. Petitioner is aggrieved with the assessment of Rs. 79,99,742.02 raised in the bill for October 2017 (showing the amount as arrear adjustment as per some ref. no. 7/346 06-2016 for difference in bill amount) which he has requested may be quashed, while setting aside the order of the Forum. The case in brief is that the petitioner is a consumer of UPCL with service connection no. KNO346 and with a contracted load of 9980 KVA. His meter no. 13264929 L&T remained defective for the period 01.06.2016 till 02.07.2016 and the meter was replaced by meter no. 15581051 L&T on 02.07.2016. Petitioner has elaborated that the sealing certificate at the time of installation of new meter on 02.07.2016 mentioned that there was no display which means according to the petitioner that the meter was identified as defective (This was

not controverted by respondent in their written statement). Petitioner has maintained that he is regular in paying his monthly bills and no dues are outstanding against him except the matter under dispute. On the basis of sub regulation 3.2 of UERC (The Electricity Supply Code) Regulations, 2007 (hereinafter referred to as Supply Code, Regulations, 2007) respondent raised a bill for the period 01.06.2016 till 30.06.2016 for Rs. 91,10,037.34 on the basis of past 3 billing cycles on the ground that the meter was IDF (Correct amount as per assessment bill dated 03.07.2016 is Rs. 90,42,795.23). This bill was paid in full by the petitioner according to him and this matter was finally settled in the bill for the month of July 2016 thereafter monthly bills were raised and the same were paid. However, in the month of October 2016 (actually October 2017) an assessment of Rs. 79,99,742.00 was raised without any justification being made known and showing the amount as arrear adjustment. Petitioner has maintained that there were no arrears chargeable to him and since no calculation was given or reason indicated for raising of arrears but only mentioned that total units were wrongly assessed and now the bill has been corrected and the difference in units assessed has been shown as arrears. Petitioner has alleged that once the assessment has been made as per provisions of regulations and the same has been paid by the consumer, the liability of the period when the meter remained defective gets extinguished. Petitioner has further said that he raised objection and requested several times orally and also in writing vide his letter dated 15.01.2018 that demand raised be justified but respondent was unable to give any reason or justification for the unlawful demand. Regarding his consumption pattern, petitioner has maintained that in 2015 his average bill was around Rs. 50-60 lakhs but after increase in load in the year 2016 his consumption rose to Rs. 80-100 lakhs and during the peak demand in certain months the consumption did rise up to Rs. 130 lakhs. He has maintained that in the month of May 2016 total billable demand as per metered units was Rs. 107.25 lakhs and for the month of January to April 2016 and November and December 2016 it was even lower i.e. around Rs. 90 lakhs. Petitioner's case is that on both grounds, of compliance with regulations and on the basis of his consumption pattern, this additional assessment is neither correct nor justified. Petitioner has further asserted that the Ld. Forum has failed to consider that the respondent do not have power of reviewing the assessment made as per regulations which is binding and cannot be revised or revisited. Petitioner's case is that the UERC Regulations do not permit

respondent to make revision of the assessment, it is only open to the consumer to challenge such an assessment. The petitioner further asserts that Forum were duty bound to decide whether respondent can review the assessment and revise the same but Forum have decided totally irrelevant matter and has therefore committed illegality by believing that the substation meter can be called the consumer meter. Petitioner's case is that the substation meter cannot be used for billing the consumer but in terms of the provisions of the distribution code this is the interface meter established for the purpose of energy audit and the billing of the consumer has to be done as per the consumer meter in compliance with Supply Code Regulations, 2007. Further, the substation meter is in the custody and control of the respondent and is more than 15 Kms away from the premises of the petitioner and therefore it is totally wrong to believe, as the Ld. Forum has, that energy recorded in the substation meter would necessarily be going to the consumer. Petitioner has further asserted that Forum have committed illegality by not enquiring into the question whether respondent can raise the bill as per consumption obtained by MRI of the substation meter and therefore have acted beyond jurisdiction. Petitioner have further alleged that any act of respondent in contravention of the provisions of the regulations entails action under the provisions of section 142 read with section 146 of the Electricity Act, 2003. On these above grounds petitioner has requested that the order of the Forum dated 17.04.2018 be set aside and consequently assessment of Rs. 79,99,742.00 raised by the respondent in the bill for the month of October 2016 (actually October 2017) be quashed. Petitioner has requested for just compensation to be awarded to the petitioner for harassment and inconvenience caused.

3. The Forum in their order have indicated that they held 5 hearings and also heard arguments advanced by Executive Engineer. Forum also convened a meeting of the Forum in the office of Superintending Engineer on 26.02.2018 and conducted a spot inspection of the substation at Mudlana from where the independent feeder for petitioner establishment is emanating. On the basis of their spot inspection, examination of the MRI of meter installed on independent feeder, and the energy account of substation for the month of June 2016, Forum concluded that energy account meter reading and the MRI reading are in sync and before June 2016 as well as after June 2016 the energy account, the independent feeder reading and the meter reading at the petitioner's establishment reveal a synchronicity (rkjrE;rk). The fact

that the IDF bill for the month of June 2016 was generated by KCC system but could not be made as per MRI reading of meter reading of the independent feeder indicates gross negligence of the department. Accordingly Forum have held the bill raised as per MRI of meter at substation end on independent feeder to be correct and reasonable and therefore decided that petitioner is liable to pay the same. They have directed the petitioner to promptly pay the bill for Rs. 79,99,740.00 and accordingly dismissed and disposed off the complaint.

4. The respondent in their written statement have, while accepting that there is no dispute about payment of regular monthly bills, disputed the petitioner's claim that supplementary demand cannot be raised once an assessment for an IDF meter has been raised. They have argued that the assessment of Rs. 79,99,242.00 in October 2016 (meaning October 2017) is not the revised amount for the bill of June 2016. They have stated that this bill is raised for consumption recorded in the meter (presumably substation end meter) and has no relation to the assessment for IDF meter. They have expressly argued that this case is not that of an IDF because they have not used 3 months average consumption for the purpose of billing, they have used the actual consumption (presumably recorded by the substation meter) by the consumer for issuing such a revised bill. Hence the bill for IDF on 3 months average basis was prepared for the month of June 2016 as per regulations and therefore respondent have argued that if any defect occurs in the meter installed at the consumer end, still consumption can be measured from the other meter. The present bill as per respondent supersedes the earlier bill raised for IDF meter. The bill of June 2016 was prepared by KCC system and as per Regulations. They have further stated that energy is supplied to the petitioner from an independent feeder on which there is no other connection. Being a high end consumer his consumption is subject to double metering system. They have stated that while meter no. 13264929 is installed at petitioner's premises, a second meter no. 13264944 is established at substation on the outgoing of the independent feeder (These meter nos. are mentioned in para 2 of their reply dated 07.07.2018) which was working correctly at that time as per energy account. They have expressly stated (in the written statement before the Forum filed on 15.02.2018 which has been stated to be part of the written statement before the Ombudsman) that there is a double metering system in the case of this consumer whereby in the event of the meter at the premises of the consumer being defective,

consumption recorded by the other correctly working meter can be used as an alternative for calculating the electricity consumption and issuing revised bill. They have also disputed the consumer's allegation that Forum have wrongly believed that energy recorded in substation would necessarily be going to consumer. Accordingly they maintain sending an electricity bill as per consumption reflected in the check meter is correct as per provisions of tariff. The assessment is not for penalizing the consumer but only to recover charges calculated by a correct meter for energy consumed. They have disputed petitioner's allegations that it has not been proved beyond doubt that energy from the substation cannot be diverted to any other person. Respondent have again reiterated that *"it is wrong to allege that the Regulations do not permit billing of the consumer on comparison of consumption with interface meter, it is not a case of billing by comparison of consumption the consumer with the interface meter. it is wrong to allege that the act of respondent is contravention of regulations."*

5. Petitioner in his rejoinder/replication filed on 14.06.2018 disputed the respondent's claim that they can always raise supplementary demand if it is not charged earlier and have requested that respondent be called upon to show under what provisions of Regulations, respondent can reassess the amount once provisions of the regulations have been applied and the amount deposited has been accepted. Petitioner have also disputed the respondent's statement that the present bill is raised for consumption recorded in the meter and has no relation to the assessment for IDF meter, and have called it a ridiculous and false allegation. If the respondent statement in their written statement is correct then they should explain why IDF bill was raised in the first instance. They have further requested that the stock issue register should be called to show the purpose for which the meter (at the substation end which is not a consumer meter) was issued and also testing report of the meter installed at the substation end. Further the petitioner have also requested information regarding which meter is used to calculate line losses of the independent feeder. This, as per petitioner, will establish that the meter at substation end, is audit meter, and not a consumer meter. In further corroboration of this allegation, petitioner have argued that the audit of energy is regularly conducted by UPCL and in the period between when the IDF bill was raised and the impugned bill was issued, 2 audits have been conducted and no objections have been raised by them (not controverted by respondent). Petitioner has also argued

that against the provisions of the regulations respondent are arguing that there are two meters of the consumer. They have requested that respondent be asked to clarify the basis for assuming the same. Since the respondent have admitted that the meter declared IDF was fed in the KCC system and no other meter has been fed into the system shows that the second meter was not a consumer meter. Petitioner has vehemently denied that the consumption recorded in the substation meter is the actual consumption of the petitioner and he has maintained that even though his is the only connection given from this independent feeder it is always possible to give supply to any other feeder or consumer since the meter is in the possession of the respondent. Petitioner's case has been that the document dated 15.02.2018 vide which respondent had filed their written statement before the Forum was not made known to them nor a copy of the same made available to them, for them to rebut the claims made therein . Petitioner have therefore disputed the respondent argument that they had opportunity before the Forum to rebut their claim of the prevalence of a double metering system for this consumer. Petitioner have further stated that the UPCL have to function as per provisions of regulations and they cannot devise their own method of raising assessment. Petitioner has strongly rebutted the respondent claim that since petitioner is supplied energy by an independent feeder, and one meter gets defective, the consumption can be calculated from the other meter installed at the outgoing end of the feeder. The respondent claim that there is no bar for respondent installing double metering system for calculating consumption since petitioner is a high end consumer and correct billing for the same is important, has been rebutted by the petitioner. He has stated that in case this was indeed true there would be no provision regarding IDF meters for high end consumers, and the regulation would have provided for a different system. The contention of the respondent has been stated to be absurd and lacking in justification. They have also requested that respondent disclose as to how the meter at substation was installed, how sealing certificate prepared, whether consumer was called upon to witness the installation or signing the sealing certificate. Accordingly, petitioner has also said that respondent have failed to establish that the meter at the substation end is a consumer meter from which bills can be raised by them. Respondent have not used opportunities available to them to refute petitioner statement that the substation meter is an audit meter, as per regulation, from which consumer billing cannot be done, and are now barred by principle of estoppel and acquiescence.

6. After perusal of these documents a hearing was held on 20.06.2018 and arguments were heard. Respondent filed order dated 12.08.2014 passed by Ombudsman, Haryana in appeal no. 16/2014 during arguments. The following issues could not still be resolved/confirmed and respondent were directed to file a reply.

- a) Copy of order/regulation following which, substation meter is treated as billing meter.
- b) Proof/evidence to show that substation meter was working correctly, be given.
- c) Legible copy of sealing certificate dated 02.07.2018 be given

7. Respondent filed a submission vide their letter dated 07.07.2018. The respondent while filing copy of sealing certificate reiterated arguments advanced earlier, that as per UERC (Release of new HT & EHT Connections, Enhancement and Reduction of Loads) Regulations, 2008 (hereinafter referred to as HT Regulations, 2008), all loads in excess of 1MVA shall be sanctioned with independent feeders emanating from nearest 33/66/132/220 KV substation with metering arrangement at both ends. They have further stated that M/s Rana Industries is the only unit fed by this independent feeder. Further, respondent have stated that the relevant provisions of tariff RTS-7 (LT and HT industry) under the head specific conditions of supply provide as follows:

*“2. Specific Conditions of Supply*

*(iii) Supply to Steel Units shall be made available at a voltage of 33 kV or above through a dedicated individual feeder only with check meter at sub-station end. Difference of more than 3%, between readings of check meter and consumer meter(s), shall be immediately investigated by the licensee and corrective action shall be taken”*

8. Respondent have further maintained that except for the month of June 2016 a comparison of consumer meter and meter at substation end reveals difference of less than 3% whereas in the month of May 2016 the difference is 3.41%. Respondent have also stated that the founding principle of the power utility is to recover charges from consumer based on their consumption. However, in extraordinary circumstances for example NA/NR/IDF etc. provisional bills are made available as per their previous consumption history. However, high end consumer fed by independent feeder are

subject to double metering system as per provisions referred HT Regulations, 2008. As such, in case of a fault in main meter, electricity consumption by the consumer can be calculated based on the check meter and consumer can be given a bill as per actual consumption. In this context respondent have again referred order of Ombudsman, Haryana in the case of M/s JCB India Ltd. whereby they have upheld billing by substation end meter for high end consumer borne on independent feeder when his main meter is defective. Respondent further requested another opportunity for personal hearing. Specifically points a) & b) of query raised to respondent remained unanswered

9. Petitioner in their response have disputed the respondent argument that sub regulation 3, HT Regulations, 2008 provides for double metering. They provide for metering at substation end but the purpose of the meter at the substation end is not for consumer billing and provisions for billing and metering are categorically provided in chapter 3 of Supply Code Regulations, 2007. Central Electricity Authority (hereinafter referred to as CEA) is the supreme authority regarding metering. The CEA (Installation and Operation of Meter) Regulations, 2006 provide for 3 different kinds of meters namely interface meter, consumer meter and energy accounting and audit meter. Petitioner avers that the meter at the substation end can by no stretch of the imagination be called a consumer meter or a billing meter. In this letter, petitioner have given details of the order of Ombudsman, Haryana and also referred to an order by APTEL, the APEX Appellate Tribunal for electricity. In the Haryana Ombudsman order, it has been stated by the petitioner, that the order is not applicable in the instant case, since firstly, Ombudsman orders are applicable only to the state to which they apply, and secondly, the regulations of the Haryana Commission which guide the Ombudsman deliberations are at variance with provisions of UERC Regulations applicable in Uttarakhand. Further, the order is itself under challenge before the Hon'ble High Court of Punjab and Haryana.
10. While arguments had concluded on 20.06.2018, on request of the respondent, a further hearing was held on 20.07.2018. In this hearing, while the petitioner submitted that he had already filed written arguments vide their letter dated 16.07.2018 with a copy to the respondent which was got received in their office on 17.07.2018 with acknowledgement from them, they submitted that they have no concern with the

meter installed on outgoing of the independent feeder at the 33 KV substation. The respondent reiterated what they have already submitted in their written statement, letter dated 07.07.2018 and earlier hearing held on 20.06.2018. They also stated that they have not seen petitioner's letter dated 16.07.2018 and requested for a photocopy thereof from this office which was made available to them. Having received a copy of petitioner's letter dated 17.07.2018 (actually 16.07.2018), they then requested for 10 days to file their reply. Since two hearings had already concluded, no further date was allowed, but respondent were permitted to submit written arguments before 02.08.2018.

11. Respondent have, vide their letter dated 02.08.2018, purported to submit a reply to the points raised in petitioner's letter dated 16.07.2018. While giving reply, respondent have primarily highlighted provisions of tariff RTS-7 (current RTS-5) and have stated that check meter is installed at substation end in accordance with provisions of tariff and while consumer meter is defective, high end consumers are billed as per other meter established on the feeder. The Haryana Ombudsman order has again been referred in this letter despite detailed justification given by petitioner for not placing reliance on Haryana Ombudsman order for reasons explained therein. No comment or details have been given with respect to APTEL order/judgment referred in petitioner's letter dated 16.07.2018.

(Petitioner has filed a reply in pursuance of order of the Ombudsman dated 27.07.2018 with reference to the request of the respondent for another hearing and permission to file written arguments while denying permission for a third hearing )

12. Petitioner in his letter dated 06.08.2018 has described the letter dated 02.08.2018 from the respondent as a misuse of the opportunity of filing written arguments. Even on merits petitioner has argued that the reply filed by the respondent is totally wrong and against provisions of regulations. The same points have been repeated. In brief the main objections to the arguments advanced by the respondent have been summarized as:
  - a) Installation of meter and purpose for which meter are installed are two different things. Respondent claimed that the meter installed at the substation end is a check meter to be used for billing when the main meter is defective.

This is not as per provisions of the HT regulations, 2008. Petitioner has argued that placing a meter at particular location is one thing, the purpose for which the same is used is totally different. The petitioner has quoted CEA Regulations, 2006 to give definitions of interface meter, consumer meter and energy accounting and audit meter.

- b) He has also quoted from regulation 3.1.1 regarding initial installation metering and sealing and readings of the meter. If the provisions of regulations regarding consumer meter have not been fulfilled, petitioner argues, then respondent cannot refer to any meter as the consumer meter.
- c) Further, he has also argued against the substation meter being regarded as a check meter. Petitioner has argued that unless the check meter is connected to the same core of the main meter, it cannot perform the function of checking and cannot be called a check meter vis a vis main meter.
- d) Petitioner has also again argued that the difference in consumption and energy sent out as per the substation meter can be due to various factors including malpractices and hence the provisions for investigation and corrective action in the regulations are crucial. Without complying with these regulations, respondent have considered the substation meter to be an alternate meter to a consumer meter.
- e) Another important fact highlighted by the petitioner pertains to the information now revealed by the respondent that the meter on the basis of which the revised bill of October 2017 has been issued, had already been removed in March 2017. The meter which has been claimed to be the consumer meter had been removed in March 2017 whereas the revised bill was issued in October 2017.
- f) Again, there is no provision for provisional billing for IDF meter and petitioner has alleged there is no concept of double metering in electricity law.
- g) The reference to order by Ombudsman, Haryana is also misplaced since as per Haryana regulations billing is done as per substation meter and when that meter is defective, the consumer meter is used as an alternate. It has further

been pointed out that other state Ombudsman orders are not binding especially when the relevant regulations are different. Petitioner has further stated that the said Haryana Ombudsman order is presently under challenge vide Civil Writ Petition no. 25594-14 in the Punjab and Haryana High Court. As such no reliance can be placed on this order.

- h) Petitioner has further stated that this order is directly in the teeth of the APTEL order in the matter of M/s Aditya Industries vs HPERC dated 09.09.2015 (copy attached with the reply).
  - i) Finally, petitioner has argued that he has already paid his legitimate dues once the assessment was made as per regulation since his meter was defective. Respondent does not have power of reviewing the assessment. Once the meter is admitted to be defective, there is no alternative but to raise assessment as per the regulations.
13. Both parties have been heard and the record available has been carefully examined including the record available in the file of the Forum, which has been called. The main point at issue is the justification of and legal backing for assessment of Rs. 1,70,42,537.25 for the month of June 2016 when the meter of the consumer petitioner had been rendered defective. The case quite clearly is that in the month of July 2016 a bill of Rs. 90,42,795.23 was issued as assessment through KCC billing system for defective meter of petitioner for the month of June 2016. This bill was paid without any protest by the petitioner and subsequently bills as per new meter were issued and paid as demanded. The grievance of the petitioner arose when in the bill for October 2017 raised on 02.11.2017 he was charged Rs. 79,99,742.02 as difference of bill of June 2016
14. The calculation given with written submission by respondent indicates that the revised assessment for June 2016 was for Rs. 1,70,42,537.25 and after setting off the amount of Rs. 90,42,795.23 already paid by him in the month of July 2016, the net chargeable amount Rs. 79,99,742.02 was shown as outstanding. Since admittedly, the case is of an IDF meter against which revised assessment has been made in October 2017, while the KCC billing system had already recovered bill as per regulation 3.2 of Supply Code Regulations, 2007 for defective meter in July 2016. Respondent were

repeatedly required to submit the regulation/internal orders vide which such revised assessment as per substation meter for an IDF meter is being made. Respondent have given their submissions vide their letter dated 07.07.2018 and 02.08.2018 and have presented oral arguments during 2 hearings.

15. Petitioner's case as reflected in arguments as from a) to i) of para 12 above, has been that his meter was defective in the month of June 2016 because of which in July 2016 he was given an assessment bill of Rs. 90,42,795.23 on the basis of previous 3 months average, as per regulation, which he paid. Subsequently, monthly bills were issued and paid. In the bill for October 2017 an amount of Rs. 79,99,742.02 has been charged through an entry as per ref no. 07/346/06-2016 difference of bill amount as arrears whereas since he had been paying all the bills regularly no arrears were outstanding against him. It was clarified to petitioner by the respondent that they have revised the bill of June 2016 as per energy recorded in the meter installed at outgoing of the independent feeder at their 33 KV substation for 3218400 units amounting to Rs. 1,70,42,537.25 and in supersession of the earlier bill for the month of June 2016 issued in July 2016 and after adjustment of amount paid against the earlier bill the difference of Rs. 79,99,742.02 has been charged as arrears in the bill of October 2017. Petitioner has protested this on the grounds that the respondent are not entitled to recover any charges from them on the basis of energy recorded in the meter installed at the outgoing of independent feeder at their substation because there is no provision in the regulations whereby they could charge on the basis of energy recorded in the substation meter and revise the IDF bill. In support of their submission they have quoted the relevant regulations and have also given interpretation for such regulations. Further, regarding order of Ombudsman Haryana submitted by the respondent, petitioner has asserted that this is not applicable in the state of Uttarakhand firstly because the regulations in Haryana are different from those applicable in Uttarakhand as the Haryana regulations provide for billing on the basis of meter installed at substation and not on the basis of meter installed at consumer end while in the regulations of UERC there is no such provision; secondly, the order of Ombudsman of other state are not applicable in any other state and thirdly they have also submitted that the Ombudsman, Haryana's order has not become final because writ no. 25594-14 is still pending before Hon'ble High Court of Punjab and Haryana and they have therefore requested that since the revised bill of October 2017 has been

issued in contravention to the relevant regulations, the same is not sustainable and should be set aside. The petitioner has also submitted a copy of APTEL judgment dated 09.09.2015 in case no.73/2014 of M/s Aditya Industries vs HPERC and HPSEB in support of their submissions.

16. While no specific reply to points a) to i) raised by petitioner as mentioned under para 12 above, respondent have made out a case that an assessment bill for the month of June 2016 when existing meter of the consumer was defective, was issued on the basis of average consumption recorded in the month of March, April and May 2016 as per regulation 3.2 of Supply Code Regulations, 2007 for 1717400 units amounting to Rs. 90,42,795.23. This bill was generated by the KCC billing system as the consumer's meter was reported IDF. They have asserted that NA/NR and IDF bills are provisional bills and are subject to revision. They have issued a revised bill for 3218400 units recorded in the substation end meter installed at the outgoing of the independent feeder amounting to Rs. 1,70,42,537.25 and difference of this bill amount and amount of earlier IDF bill issued in the month of July 2016 amounting to Rs. 79,99,742.02 has accordingly been charged in the bill of October 2017 through an entry ref no 07/346/06-2016 difference of bill amount as arrears. In support of their action for issuing this revised bill they have submitted that being a high end consumer, double metering system has been provided as per provisions under 3.2 of HT Regulations, 2008 and also as per RTS 7 (now RTS 5) of the Tariff orders and since the difference of energy recorded at the substation meter and the units billed in the IDF bill issued in July 2016 for the month of June 2016 was 46% so they have issued this revised bill to recover the cost of energy actually consumed by the petitioner consumer. They have also held the substation meter to be a check meter as provided in Tariff under condition 2 (iii) as also sub regulation 3 of HT Regulations 2008, and have therefore claimed that they are entitled to issue the revised bill, which according to them has no relation with IDF bill issued to the consumer earlier, in the month of July 2016. However, they have not explained on which other ground or irregularity, they have issued this revised bill in supersession of the earlier bill for the month of June 2016 issued in July 2016 (as IDF meter in accordance with sub regulation 3.2.(1) of Supply Code Regulations, 2007). They have also submitted a copy of Ombudsman, Haryana order dated 12.08.2014 in appeal no. 16/2014 of M/s JCB India against order dated 14.05.2014 of CGRF, DHBN Hissar herein the bill

raised on the consumption of the meter installed at substation has been upheld by the Ombudsman, Haryana and they have submitted that the issue of revised bill being in accordance with said judgment is liable to be upheld.

17. It would be appropriate to refer the provisions of various regulations that oversee such a case as contained in the following four sets of regulations viz CEA Regulations, 2006, Supply Code Regulations, 2007, HT Regulations, 2008 and Tariff provisions as reproduced below:

**CEA (Installation and Operation of Meter) Regulations, 2006** relevant provisions are

- “2 (i) *‘Check Meter’ means a meter, which shall be connected to the same core of the Current Transformer (CT) and Voltage Transformer (VT) to which main meter is connected and shall be used for accounting and billing of electricity in case of failure of main meter;*
- (j) *‘Consumer Meter’ means a meter used for accounting and billing of electricity supplied to the consumer but excluding those consumers covered under Interface Meters;*
- (l) *‘Energy Accounting and Audit Meters’ means meters used for accounting of the electricity to various segments of electrical system so as to carry out further analysis to determine the consumption and loss of energy therein over a specified time period;*
- (n) *‘Interface Meter’ means a meter used for accounting and billing of electricity, connected at the point of interconnection between electrical systems of generating company, licensee and consumers, directly connected to the Inter-State Transmission System or Intra-State Transmission System who have to be covered under ABT and have been permitted open access by the Appropriate Commission;*
- (o) *‘Main Meter’ means a meter, which would primarily be used for accounting and billing of electricity;*
- (v) *‘Standby Meter’ means a meter connected to CT and VT, other than those used for main meter and check meter and shall be used for accounting and billing of electricity in case of failure of both main meter and check meter;”*

**UERC (Release of new HT and EHT connections, Enhancement and Reduction of Load) Regulations, 2008**

*“3.2 All loads more than 1 MVA shall be sanctioned with independent feeders emanating from nearest 33 kV/66 kV/132 kV/220 kV substation with metering arrangements at both ends.*

**UERC (The Electricity Supply Code), Regulations, 2007**

*3.2 Billing during the period defective/stuck/stopped/burnt meter remained at site*

*(1) The consumer shall be billed on the basis of the average consumption of the past three billing cycles immediately preceding the date of the meter being found or being reported defective. These Charges shall be leviable for a maximum period of three months only during which time the licensee is expected to have replaced the defective meter.*

Provision in appropriate **Tariff order** provisions 2016-17 and 2017-18.

*“RTS-7 LT and HT Industry (Present RTS -5 as per Tariff)*

*2. Specific Conditions of Supply*

*“(iii) Supply to Steel Units shall be made available at a voltage of 33 kV or above through a dedicated individual feeder only with check meter at sub-station end. Difference of more than 3%, between readings of check meter and consumer meter(s), shall be immediately investigated by the licensee and corrective action shall be taken.*

*(iv) Supply to all new connections with load above 1000 kVA should be released on independent feeders only with provisions as at (iii) above”*

18. Forum in their order have placed reliance on the MRI of the meter at the substation end and the energy account of substation for the month of June 2016. Since they felt this to be correct and reasonable they determined that the petitioner was liable to pay the same and that respondent were justified in revising the bill generated by KCC system in the month of July 2016. Nowhere in their order have the Forum referred to any regulations other than purported regulations for double metering (Whereas no regulation exists providing for double metering). However, a provision under sub

regulation 2 (1) (v) of CEA Regulations, 2006 exists for installation of a standby meter as mentioned in para 17 above. In the sequence of events followed by the respondent and found consistent by the Forum, the IDF bill generated as per provisions of regulations 3.2 by KCC system was modified by a fresh assessment that claimed to have no relationship to IDF

19. Contrary to the claim made by the respondent, that double metering for high end consumers is provided under Tariff RTS 7 under specific conditions of supply 2 (iii) and sub regulation 3.2 of HT Regulations, 2008, sub regulation 3.2 of HT Regulations, 2008 provide for metering arrangement at both ends and the Tariff provides for check meter at substation end. None of these Regulations provides for double metering as claimed by the respondent but they only provide for metering at both ends i.e. at substation at the outgoing of the independent feeder and at consumer end. It is clarified that the word check meter mentioned in aforesaid Tariff provision for the meter installed at substation end of the independent feeder does not qualify to be the check meter for billing the consumer as defined under sub regulation 2(1) (i) of CEA Regulations, 2006. The purpose of meter provided at substation end is to have a watch over the energy being sent out from the substation end and the energy billed as per consumer meter. It has further been provided in Tariff that if difference of the above two readings is more than 3% the same has to be investigated and the licensee in that event has to take corrective action but nowhere it is provided that the consumer shall be billed as per consumption recorded in the substation end meter in case of situation where the consumer meter is defective.
20. Before we arrive at a conclusion, the following fundamental points at issue need to be resolved:
  - i) Whether the consumer meter no. 13264929 was defective in the month of June 2016 and if so which is the relevant regulation under which bill for the IDF period is to be issued.
  - ii) Whether same regulation for assessment for IDF period is applicable to all categories of consumers or different regulations are applicable to different categories of consumers. Whether there is a regulation or tariff provision providing for double metering in case of a high end consumer as maintained by respondent.

- iii) What is the status of substation end meter in terms of its correctness and the existence of the meter at site at the time of issue of revised bill in October 2017. Also whether this meter is a check meter for consumer as per relevant regulations or is it a interface meter or an audit and account meter for the substation end. The questions raised by petitioner as mentioned above in their points at b) and c) in para 12 above, remain unanswered and unaddressed.
21. Admittedly, the consumer meter no. 13264929 installed at consumer's premises remained defective during the month of June 2016. For billing in IDF meter case, sub regulation 3.2 (1) of Supply Code Regulations, 2007 is the relevant sub regulation and there is no other provision in any Regulations or Tariff, to bill a consumer for IDF meter. Neither there is any provision for subsequent revision of an IDF bill. Issue of bill by the respondent for the month of June 2016 when the consumer meter was IDF, through KCC billing system was consistent with the aforesaid regulation and therefore a legitimate bill. Issue of revised bill by the respondent in the month of October 2017, superseding this earlier legitimate bill, on the basis of energy recorded by the substation end meter, is inconsistent with the relevant regulation quoted above and therefore cannot sustain. Further, the averment made by the respondent that NA/NR and IDF bills are provisional and can be revised is not fully correct. While NA/NR bills are issued as per provisions of sub regulation 3.1.2 (iii) of Supply Code Regulations, 2007 and are provisional bills, IDF bills issued as per provisions of sub regulation 3.2 (i) of Supply Code Regulations, 2007 are not provisional bills and hence are not subject to any subsequent revision. As such the IDF bill issued in the month of July 2016 through KCC billing system is a firm bill for that month and cannot be revised.
22. Regulation 3.2 (i) of Supply Code Regulations, 2007 quoted above provides for billing for consumer supplied by a defective/stuck/stopped or burnt meter. No categories of consumer are either mentioned or implied in this regulation. Despite repeated requests and directions respondent could not present any regulations/internal orders vide which high end consumers can be treated differently for the purpose of billing for the period meter remained defective. The respondent, instead of issuing IDF bill as per sub regulation 3.2.1 of Supply Code Regulations, 2007, could have issued bill for metered units for the month of June 2016, in case they had installed

standby meter as per provisions of 2.1 (v) of CEA Regulations, 2006 and in that case the standby meter would have been treated as the consumer's meter in working order. In that situation it would have not been a case of defective meter. But this is not the situation in the instant case, as there is no evidence on record to show that standby meter as per CEA sub regulation 2.1 (v) had been installed at the consumer's end. The meter at substation end is not a check meter for billing the consumer as already pointed out above. While no information has been given as to investigation undertaken or corrective action taken, a firm bill for IDF meter was revised by subsequent assessment in October 2017 when the said meter had already been removed in March 2017. Further, if as the respondent have claimed, there was a difference of 46% between reading of substation meter and consumer meter (which was defective so not clear how reading was taken) it was incumbent on respondent to investigate. This not being the case it is not open to respondent to revise a bill issued as per provisions of regulation 3.2 (i) of Supply Code Regulations, 2007. As such the billing for defective meter can only be as per Regulation 3.2 (i) of Supply Code Regulations, 2007 in the instant case, as was done by respondent in their bill dated 03.07.2016 for the month of June 2016.

23. As far as the status of substation end meter is concerned respondent have stated both before the Forum as well as before the Ombudsman that the substation end meter is the check meter and has been recording correctly. Hence respondent case has been since the consumer meter was defective, the IDF bill issued in July 2016 for the month of June 2016 can be revised (since it was a provisional bill) with the reading from the substation end meter which is working correctly and under the provisions of double metering system as per HT Regulations, 2008 3.2 and Tariff. The operative portions of these averments are 'check meter' 'provisional bill' 'meter working correctly' and 'double metering system'. The substation end meter claimed to be the check meter does not answer to the definition of check meter under 2.1 (i) of CEA Regulations, 2006 quoted above which may be used for accounting and billing of electricity in case of failure of consumer's (main) meter. Respondent have taken the stand that billing of high end consumers can be legitimately done on the basis of readings at the substation end meter (which they refer as check meter). Specific conditions of supply 2 (iii) of the appropriate tariff do not hold good in the instant case as clarified above. The substation end meter therefore does not qualify as a check

meter for billing the consumer in the event of his meter being defective, being inconsistent with sub regulation 2.1 (i) read with sub regulation 2.1.(v) of CEA Regulations, 2006 regarding respondent's contention that the bill raised under sub clause 3.2. (i) of Supply Code Regulations, 2007 in July 2016 was a provisional bill and thus is subject to revision, is not correct as already explained in preceding paras. Their submission that the substation end meter was working correctly as is evident from energy account is not acceptable because while it is true that during the period June 2016 when consumer meter was rendered defective, the substation end meter was working but that it was working correctly cannot be accepted unless supported by a study through installation of a check meter (with the substation end meter) and unless variations in the consumption recorded by the two meters are within permissible limits of  $\pm 3\%$  as specified under rule 57 (1) of Indian Electricity Rules 1956. Since this procedure has not been followed as no evidence in support thereof has been adduced, their contention that the substation end meter was working correctly during the period under reference cannot be accepted. Further, their submission that double metering arrangement has been provided in the case of this consumer as required under special supply conditions 2 (iii) of appropriate tariff RTS-7 and sub regulation 3 of HT Regulations, 2008 appears to be a misinterpretation of the said regulations. The correct position has been explained in paras above.

24. In the face of petitioner's vehement denial that being the only consumer on this independent feeder the energy recorded in the substation end meter has been consumed by them, no further evidence has been mounted to show that there was no diversion of energy from the substation end meter to some other feeder.
25. Based on the above analysis and exposition of relevant regulations, it is clear that respondent erred in revising a firm bill issued on the basis of regulation 3.2 (i) for a defective meter. They also erred in regarding the substation end meter as a check meter to enable them to issue a revised bill knowing fully well that this meter is installed on a different core and far away and is not in the control of the petitioner/consumer. Further, contrary to specific conditions of supply mentioned in the Tariff respondent have not undertaken an investigation when they found a difference of 46% between the substation end meter and the bill raised in July 2016 but merely used this as the ground for revising the bill which they are not authorized

to do. Respondent have also submitted that the substation end meter is working correctly on the basis of energy account prepared by them. It is implied that respondent are agreeing that the substation end meter is the energy accounting and audit meter as defined under sub regulation 2.1 (l) of CEA Regulations, 2006.

26. Having clarified various regulations under the aforesaid four sets of Regulations vis-a-vis their applicability in the instant case and after perusal of the documents and records on file as well as hearing arguments from both the parties in the two hearings held on 20.06.2018 and 20.07.2018, it is concluded that:
- i) This is admittedly a case of IDF meter in the month of June 2016. Assessment bill based on average consumption of 1717400 units amounting to Rs. 90,42,795.23 issued in the month of July 2016 is the legitimate bill being consistent with relevant regulation 3.2 (i) of Supply Code Regulations, 2007. The same has been duly paid by the petitioner without any protest, and is a correct bill.
  - ii) Revised assessment prepared for 3218400 units, based on consumption recorded in the substation end meter in the month of June 2016 amounting to Rs. 1,70,42,537.25 and charging the differential amount of Rs. 79,99,742.02 in the bill for the month of October 2017 issued in November 2017 through an entry 'Ref: 07/346/06-2016 difference of bill amount' being inconsistent with relevant Regulations, is not a legitimate demand.
27. Petitioner's reference to the order in the case of M/s Sai Enterprises as a precedent to guide the present case in favour of the petitioner is an incorrect reference since the case in Sai Enterprises pertained to CT polarity reversal which issue has no bearing on the present case.
28. Respondent have, in their arguments on 20.06.2018 and subsequently in their written reply dated 07.07.2018 and 02.08.2018, referred the order of Ombudsman, Haryana to support their case for billing by substation end meter in the case of high end consumers. This order does not support the present case since orders of another state Ombudsman do not carry exemplary value in another state, specially when the relevant regulations are at variance. Further, as pointed out by the petitioner, the order

itself is not final and is presently under challenge before the Hon'ble High Court of Punjab and Haryana.

29. As concluded in para 26 above, in terms of provisions of Regulations the substation end meter cannot be used as a billing meter. This ratio has been upheld in the order of APTEL (Appellate Tribunal of Electricity) dated 09.09.2015 in appeal no.73/2014 and IA nos. 142 and 197 of 2014 of M/s Aditya Industries vs HPERC and HPSEB. Relevant operative portion of the said order is reproduced below: -

*“The appeal is allowed and the impugned order dated 24.08.2013 passed in Petition no. 181 of 2012 by the State Commission is hereby set aside.*

*The petition no. 181 of 2012, filed by the appellant/petitioner, before the State Commission seeking directions to Himanchal Pradesh State Electricity Board Ltd., the R.No.2, herein, to re-do the calculations and overhaul the appellant's accounts by taking into consideration only consumption recorded by the energy meter installed at the appellant's premises and to issue the bills in future on the basis of meter reading recorded by the meter installed at the appellant's premises and also to restrain the Electricity Board from raising the monthly bills on the basis of consumption recorded by meter installed at the grid sub-station and also direct the Board to re-fund excess amount so charged since the date of 2005 is allowed with interest @ 5% p.a. The respondent no. 2 HPSEBL is accordingly ordered. The State commission, Respondent no. 1, is further directed to ensure compliance of this order...”*

The existence of this order has not been challenged by the respondent nor have they averred that the same has been agitated before the Hon'ble Supreme Court as per provisions of section 125 of the Electricity Act, 2003. The order is unequivocal that substation end meter (even where regulations provide for billing through substation end meter) cannot be used for consumer billing.

30. In view of the above discussions and clarifications regarding applicability of the provisions under the relevant regulations and conclusion drawn above it is established that petitioner's contentions have force, while the respondent have not been able to establish their case and their actions are found meritless. As such the petition is liable to be allowed.

31. Petition is allowed. Forum's impugned order dated 17.04.2018 is set aside. Bill issued in July 2016 for Rs. 90,42,795.23 is upheld and assessment drawn up in October 2017 for Rs. 1,70,42,537.25 and consequently demand of Rs. 79,99,742.02, through bill dated 02.11.2017 for October 2017, is set aside. Further, respondent are directed to refund a sum of Rs. 25,00,000.00 deposited by the petitioner in compliance with order dated 23.05.2018 of Ombudsman by way of adjustment in the next first bill to be issued after the date of this order. Stay on coercive action for recovery of dues granted vide stay order dated 23.05.2018 stands vacated as infructuous. Respondent are directed to ensure compliance within 30 days from the date of this order.

Dated: 24.08.2018

(Vibha Puri Das)  
Ombudsman