

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

M/s Henna Export Corporation
Plot No 5, Sector-8B,
IIE, B.H.E.L. Haridwar,
Uttarakhand – 249403

Vs

Executive Engineer,
Electricity Distribution Division (Rural),
Uttarakhand Power Corporation Ltd.
SIDCUL, Haridwar, Uttarakhand

Representation No. 29/2018

Order

Date: - 28.09.2018

The petitioner, M/s Henna Exports Corporation filed a representation against the order dated 04.08.2018 of the Consumer Grievance Redressal Forum, Haridwar zone (hereinafter referred to as Forum).

2. Petitioner maintains that bill for his electricity connection no. 6673 with meter no. UTP31654 has varied between Rs. 43,287.00 to Rs. 74,754.00 and there was no dispute till bill no. 1D061800006673 dated May 2018 for the period 01.05.2018 to 31.05.2018 wrongly depicting 7890 units as consumed and demanding arrears of Rs. 2,26,473.00 of which Rs. 32,105.70 was towards energy charges. Inclusive of misc. charges, a total demand of Rs. 2,78,142.00 was raised which was paid under protest by the petitioner since faced with the threat of disconnection he was left with no alternative. While petitioner claims that the demand bill is unexplained and unjustified, he admits that UPCL installed a check meter on 23.03.2018 with a remark that meter is not recording R phase voltage. The check meter was uninstalled on 26.05.2018 showing the difference between the main meter and the check meter and a remark has been made in the column of description that main meter is 38.97% slow in terms of KWh while 38.59% slow in terms of KVAh. Petitioner claims that the meter remained unchanged, the bill of Rs. 2,26,473.00 is completely unjustified and arbitrary and not based on sound principles of calculating error. The meter installed

by the UPCL remains in the open and there is no allegation of tampering and if the meter was defective it should have been changed but the same was allowed to continue even after the check meter was finalized. He has further claimed that his production has been slow in this period as compared to production in the undisputed period. The determination of working of meter as slow and rating its slowness is arbitrary and charging of arrears for past 10 months is both arbitrary and exorbitant since the check meter was installed for approximately 2 months. Accordingly petitioner has requested that the record may be called for from the Forum and since the Forum had failed to consider material points regarding complaint against the appellant and no finding has been given regarding excess consumption, the said Forum order may be set aside.

3. The Forum in their order dated 04.08.2018 have heard both parties and come to the conclusion that since the MRI of the meter established at petitioner's premises, revealed unbalanced current for a period of 6 days 23 hours and 44 minutes and a total of 60 times in the period 11.07.2017 to 01.08.2017 and the MRI also recorded voltage failure from 01.08.2017 which could not be restored till 23.03.2018, it is clear that the meter at petitioner's premises has become slow. Forum have faulted the Licensee for not analyzing the MRI findings periodically so that this failure could have been checked in time and a heavy assessment may not have been necessary on the petitioner. Quoting provisions of Supply Code Regulations 3.1.3 (6) Forum have concluded that assessment against a slow meter can be for a maximum of 6 months or till the defective meter is replaced or rectified. Accordingly, Forum ordered cancellation of assessment of Rs. 2,26,473.00 with the direction that assessment may be done for only 6 months and the additional money deposited by the petitioner may be adjusted in the next bill.
4. Respondent, in their written statement dated 05.09.2018, have stated that while examining the MRI report of the petitioner it was found that R phase voltage has been shown as 0 (zero) and accordingly a check meter was installed on 23.03.2018 and finalized on 26.05.2018 in which it was found that the connecting wire of R phase voltage was broken. Accordingly, at the time of finalization of check meter, the connecting wire was fixed and the old meter no. 31654 was allowed to continue since there was no defect in the said meter. The difference in the recorded energy between

the main meter no. 31654 (15033 units) and the check meter no. UTP31777 (24480 units) was 38.59% less in KVAh. Since the tamper report showed the connected wire of R phase voltage broken from 01.08.2017 till the time of finalization of check meter on 26.05.2018, in this total period recorded consumption was 38.59% less and therefore an assessment of Rs. 2,26,473.00 was issued in the bill of June 2018. They have also given an exemplar of another case in complaint no. 109 of 2011 in which the Forum had held that 3.1.3 (6) was not applicable and accordingly in the Forum order dated 16.02.2013 assessment @ 52.99% for the period 31.05.2007 to 16.11.2010 was ordered. The said case was appealed before the Ombudsman where the assessment was not only upheld but increased as the rate of slowness was concluded as 55.58%.

5. Respondent have further argued that as per provisions of Regulations, LT meters are expected to be inspected at an interval of 5 years. They have stated that meter was checked as is evident from sealing certificate no. 791/46 on 20.02.2017. Without the petitioner having complained the department itself had seen less consumption from August 2017 and therefore MRI report of March 2018 was checked where voltage in R phase was found 0 (zero). This checking was done within the period of 5 years where the meter was found 38.59% slow. Respondent have explained the provisions of regulation 3.1.3 (6) when no dispute has been raised about the correctness of the meter Licensee is required to change the meter within 15 days and based on the percentage variation consumer will pay for a maximum of 6 months. However, if any error or fault other than fault in the meter, results in less recording of consumption, then the assessment will be made for the period that the fault persists. In such cases the check meter is installed only to assess by what percentage the meter is fast or slow. The proposed assessment of Rs. 2,26,473.00 is as per tariff and no LPS has been charged. Respondent have therefore requested that the original assessment made by the department be upheld and the complaint of the petitioner be dismissed.
6. Petitioner have, in their rejoinder, reiterated the statement made in the petition and discounted the averments of the respondent as being untrue and contradictory. Had the connected wire of R phase been missing it should have affected functioning of devices installed at Henna factory which was not experienced. The record of consumption of units is based on use of machines and has no relationship to any other

fault. Petitioner has also disputed when the check meter was installed for and recorded variation for only 2 months, how is consumption of 9 months being corrected on the basis of the check meter. Petitioner has also used the respondent argument that no complaint have been filed by the applicant/appellant against less consumption of units whereas in the same para they have stated that the meter in question functioned at 38.59% slow which is an arbitrary assessment (It is clarified that this statement is in the context of Forum holding the Licensee responsible for not checking the meter. Respondent have shown that the meter was checked of their own accord without any complaint from the petitioner as they have analyzed the MRI report. So requirement of relevant Regulation regarding periodical checking of meter has been complied with by the respondent, thus petitioner's allegation is not sustainable). Petitioner has also again highlighted that the meter is installed in the open, no complaint of tampering has been recorded and meter has been allowed to continue even after removal of check meter proving that there is no fault in the meter hence assessment of slow meter is arbitrary and has no basis.

7. Both parties have been heard and the record, including the file of the Forum, has been called and carefully examined. It is clear from the detailed statement given by the respondent that the meter no. 31654 installed at the petitioner's premises had been checked on 20.02.2017 and was found working correctly. Examination of the MRI in the month of March 2018, showing R phase voltage 0 (zero) alerted respondent to a problem in the recording of the meter from 01.08.2017 and accordingly a check meter was installed on 23.03.2018 and finalized on 26.05.2018 which revealed that due to snapping of the connecting wire, R phase voltage was not being available to the meter so it recorded less and the difference in recording was established by the check meter result as 38.59%. The check meter was in position from 23.03.2018 to 26.05.2018 but the less recording as evidenced by the MRI, commenced from 01.08.2017. It is also clear from the respondent statement based on the entry in the sealing certificate dated 23.03.2018, "*since meter is not recording R phase voltage hence installed the check meter at the site of above said consumer.*" In the sealing certificate of 26.05.2018 it has been stated "*As per analysis main meter found 38.97% slow in terms of KWh while 38.59% slow in terms of KVAh with respect of check meter. Assessment to be raised accordingly, as per rules. Since potential of R phase found disconnected,*

reconnected to the same...” that the meter was not defective or slow due to its own fault since all parameters of the meter except for the R phase connecting wire, are working correctly as per the sealing certificate. The assessment by Licensee is not as per provisions of regulation 3.1.3 (6), as held by the Forum which is possible only for slow running of meter due to its own fault and for a period not exceeding 6 months, but in the instant case, the less recording of energy is due to non availability of voltage in R Phase of the meter, so the aforesaid Regulation is not applicable in this case.

8. As established from examination of MRI report of the installed meter no. UTP-31654, no voltage to the R phase of meter was available continuously from 01.08.2017 to 26.05.2018 (the date of check meter finalization). As such no energy was being recorded in the meter throughout above period in R phase and the meter was recording energy only on two phases. While the consumer was getting supply in all three phases, which has not been denied by the petitioner as per his averment in the rejoinder, wherein, he has mentioned that functioning of his devices has not been affected. Thus it is clear that the meter has been recording energy less than what was actually consumed during the aforesaid period due to R phase voltage missing. The extent of less recording was ascertained as 38.59% in terms of KVAh as per check meter study. Since the period of less recording of energy, its reason and extent (percentage) are clearly established and there had been no fault in the meter, the limitation of six months as per sub regulation 3.1.3 (6) of Supply Code Regulations, 2007 shall not apply in the instant case.
9. In fact the demand raised by the respondent amounting to Rs. 2,26,473.00 for the period 01.08.2017 to 26.05.2018 is not an assessment but is the demand to recover the cost of energy which was actually consumed by the petitioner during the aforesaid period but escaped billing as it could not be recorded in the meter due to non availability of voltage in the R phase of the meter as established from the examination of MRI as also visual inspection of the wire of R phase voltage which was found broken at the time of finalization of check meter on 26.05.2018. Demand raised by the respondent amounting to Rs. 2,26,473.00 for the period 01.08.2017 to 26.05.2018 is legitimate and they were entitled to recover the said amount from the petitioner, which has already been paid by the petitioner vide receipt no.

KCC6673000000622187 dated 22.06.2018 (available on file). Forum order is set aside. Petition is dismissed.

Dated: 28.09.2018

(Vibha Puri Das)
Ombudsman