

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

M/s Anant Powertech
Plot No. 28, Sector 5
IIE, Ranipur, SIDCUL,
Haridwar, Uttarakhand

Vs

The Executive Engineer,
Electricity Distribution Division,
Uttarakhand Power Corporation Ltd.
SIDCUL, Haridwar, Uttarakhand

Representation No. 25/2020

Order

Dated: 29.12.2020

M/s Ananat Powertech, Plot no. 28, Sector 5 IIE, Ranipur, SIDCUL, Haridwar being aggrieved with Consumer Grievance Redressal Forum, Haridwar zone (hereinafter referred to as Forum) order dated 29.09.2020 in their complaint no. 64/2020 before the said Forum against Uttarakhand Power Corporation Ltd. through its Executive Engineer, Electricity Distribution Division, SIDCUL, Haridwar in respect of their connection no. HR0K00008840 has preferred this appeal before the undersigned.

2. The Petitioner, M/s Anant Powertech has preferred an appeal with an affidavit dated 01.10.2020 against Forum's order referred to above. They have stated that a sum of Rs. 10,72,419.00 has been wrongly added in the bill showing the old meter running slow by 70.16% from 01.06.2019 to 03.12.2019 in respect of their connection no. HR0K00008840 for 75 KW contracted load It is stated that there was some error in the meter as per MRI only for a period from 04.06.2019 to 03.07.2019 where after the meter appears to be working correctly. They have pointed out that the Forum's order suffers from a number of shortcomings such as no cognizance had been taken of the MRI report in the order. Check meter was installed in their premises in November 2019. Readings before installation of check meter and thereafter are approximately the same which may be got examined. No new machine was purchased during last financial year, neither there have been any increase in power demand or consumption.

It should not be presumed that the consumer is dependent only on the Licensee and they can make an assessment at their own sweet will so they have requested that cognizance of MRI report be taken, bills for the last financial year (before and after installation of check meter) be checked. The assessment raised by the respondent be set aside in the interest of justice. They have also submitted a copy of their letter written to Forum and a copy of another letter written to Executive Engineer SIDCUL UPCL, Haridwar along with its enclosures and a copy of Forum's aforesaid order.

3. The Forum in their order after hearing both parties and perusal of the records have observed that a check meter was installed at the premises of the complainant on 17.10.2020 which was finalized on 03.12.2020 as per check meter report main meter of the complainant was found running slow by 70.16% in comparison to the check meter. As per MRI report available on the file there had been voltage failure in the meter continuously since 06/2019 and on the basis of which assessment amounting to Rs. 10,35,783.00 has been raised from 01.06.2019 to 03.12.2019 (6 months). They have concluded that the assessment raised by the opposite party is correct and as per rules in accordance with sub regulation 3.1.3 (6) of UERC (The Electricity Supply Code) Regulations, 2007 and thus the complaint is not liable to be allowed and they have thus dismissed the complaint.
4. The respondent Executive Engineer has submitted his written statement vide letter no. 1746 dated 19.10.2020. The respondent have submitted that the JE (Meter) had installed a check meter on the above connection of 75 KW on 17.10.2019 which was finalized on 03.12.2019 as per test lab's sealing certificate the old meter no. 07160039 was found running slow by 70.16%. The check meter report and the meter tamper report were examined. It is found that there has been voltage failure on R phase from 01.06.2019. Based on the above reports an assessment of Rs. 10,35,783.00 has been raised from 01.06.2019 to 03.12.2019 (the date of finalization of the meter) for slow running of meter @ 70.16% and the same assessment was added in the bill for the month of June 2020. The petitioner had approached the Forum against the said assessment where the complaint was registered as 64/2020 and the Forum after hearing the parties have decided the case in favour of the respondent vide their order dated 29.09.2020. He has substantiated his submissions with sealing reports, tamper

reports and a copy of the above reports along with copy of the assessment and bill as well as Forum's order dated 29.09.2020 has been adduced.

5. The petitioner has submitted a detailed rejoinder dated 19.11.2020 wherein at the outset they have specifically and categorically denied the contents of written statement filed by the respondent being devoid of merits, baseless and no cogent explanation has been furnished with respect to the contentions of the petitioner except to the extent which are specifically and categorically admitted in rejoinder.
6. Para wise rejoinder to the reply on merits of the written statement:
 - i) Contents of para 1 of written statement is accepted to the extent that the check meter was installed, but it is denied that main meter number 07160039 was running slow to the tune of 70.16%. Further, that the check meter had to be installed and to be used for metering and billing in case the main meter fails. There are no guidelines either in UERC Regulations or CEA Regulations mandating the preparation of assessment on the basis of check meter.
 - ii) Contents of para 4 of written statement are totally denied. The existing meter 07160039 was defective and has to be dealt with as defective meter clause of UERC Regulations.
 - iii) While totally denying para 3 of written statement the petitioner has submitted that the installed meter was defective that in case of LT CT meter the voltage potential is given directly to the meter. Nothing has been mentioned in the sealing certificate which can be attributed to the presence of low voltage as shown by tamper report. Referring to a case law of Hon'ble High Court Uttarakhand in WP 197/2016 dated 12.12.2017 in the matter of M/s Sheel Chand Agro Oil private Ltd. vs UPCL wherein the Hon'ble High Court had made it clear that nothing can be presumed, if not explicitly written in the sealing certificate and in view of this case law the assessment is liable to be quashed and bill is required to be prepared afresh as per defective meter clause.
 - iv) The Forum has not perused the technical facts of the case and the defect in the meter even though these were specifically mentioned in the appeal.
7. Additional points:

- i) The Hon'ble Forum has dismissed the complaint on the basis of check meter study whereas the check meter nowhere mentions that the meter was running slow to the tune of 70.16% as claimed subsequently, hence the assessment made is arbitrary, illegal and liable to be dismissed.
- ii) Referring to CEA (Installation and Operations of Meters) Regulations, 2006 he has defined as to what the check meter is in terms of the said regulations and that such check meter shall be used for accounting and billing of electricity in case failure of main meter as per check meter, accordingly the respondent had installed the check meter to be used for billing in case of failure of main meter so any assessment based on check meter is null and void.
- iii) Even if the check meter was installed for testing of the meter than also the procedure as prescribed not followed and cannot form the basis of alleged, illegal assessment. Further referring to clause 18 (2) of CEA Regulations, 2006 he has mentioned that testing can be carried out through NABL credited laboratory only and referring to clause 1.1 of UERC Supply Code Regulations, 2007 it is stated that ***“these regulations shall be interpreted and implemented in accordance with, and not at variance from, the provisions of the Electricity Act, 2003 read with Indian Electricity Rules, 1956 and any CEA Regulations in this regard”*** As no NABL accreditation certification was provided by the respondents the entire testing procedure is faulty and assessment is not maintainable in eyes of Law and is liable to be dismissed.
- iv) The Hon'ble Forum has dismissed the complaint on the basis of clause 3.1.3 (6). However following Regulations and established law has not been taken into consideration.
 - a. That the check meter was not installed for testing of the meter but for metering and billing in case the main meter fails, no information for such testing was ever given to the petitioner. which is mandatory in terms of regulation 3.1.3 (3) of UERC Supply Code Regulations, 2007.
 - b. The respondents are bound to furnish duly authenticated test results to the consumer and meter testing report in the prescribed format Annexure V in accordance with sub regulation 3.1.3 (3) and (4) which was not provided. Respondent have removed the meter illegally and subsequently raised assessment arbitrarily which is liable to be dismissed.

- c. That the respondent are not authorized to give test results in any format not approved by UERC. Mentioning clause 4 of chapter 6 of Supply Code Regulations, 2007 it is stated that any documents or communication in consistent with the said regulations shall be deemed to be invalid from the date of enforcement of these regulations.
- d. No test reports for the installed check meter was provided which was mandatory and hence the assessment is liable to be dismissed.
- e. The existing meter was most arbitrarily and illegally removed in an unsealed condition from the premises without giving a fair chance to establish that the meter was working correctly and it was not tested subsequently by an Electrical Inspector or any authorized third party. He has quoted a case law WP(C) No. 1324 of 2006 (G) of Hon'ble High Court, Kerala wherein the Hon'ble High Court have subsequently allowed the appeal in favour of the consumer.
- f. The Forum failed to appreciate that without giving the test report the meter cannot be removed from the premises and this act was in violation of section 136 and 138 of electricity Act, 2003.
- v) The Hon'ble Forum has failed to appreciate that the meter was actually defective and not running slow. The petitioner has given 3 kinds of defects which can occur in the meter which are governed by 3.1.4, 3.1.3 (5) and (6) and 3.1.4 (2) of Supply Code Regulations, 2007 which deals with the cases of IDF meter, testing of meter and ADF meter respectively.
- vi) The tamper report has shown missing voltage, however it was not established whether there was actual drop in voltage at input the meter or the meter has gone defective and showing wrong tampers. It was also never established that whether the meter was running slow on account of low voltage at input or due to some technical defect in the metering system. The meter was removed without establishing all such technicalities and hence the assessment is liable to be dismissed.
- vii) The petitioner has given in table form the instantaneous values of voltage current and power factor as obtained at 13:56:39 hours on 04.10.2019 and based on these readings he has claimed that the meter was not working properly as per specifications. It is clearly established that there was technical

defect in the meter and less recording of energy if any, was due to technical defect in the meter or its accessories hence clause 3.1.3 (6) is not applicable.

- viii) The tamper report has shown presence of low voltage tampers but it is pertinent that in the instant case meter is a LT CT meter with no voltage/potential transformer connected. Voltage to the meter is directly fed from the main supply. Further the sealing certificate mentions no defect which can result in the voltage drop up to the meter so it establishes that due to the technical defect in the meter the recording of voltage is not proper. Findings mentioned in the sealing certificate are binding referring to case law of Hon'ble High Court of Uttarakhand in WP 197/2016 dated 12.12.2017 in case of M/s Sheel Chand Agro Oil Pvt. Ltd. vs UPCL the Hon'ble High Court mentions that in the sealing certificate dated 04.11.2011 the meter was found defective and MRI was not being done and hence it was replaced whereas on further examination of the sealing report dated 04.11.2011 the entries made in column 1 just runs contrary to the findings recorded by the Ombudsman because it no where remarks any finding on the sealing report that the meter was found defective and MRI could not be done and thus the Hon'ble High Court allowed the appeal in favour of the consumer.
- ix) It is a repetition of what has already been mentioned above under para v).
- x) This is also a repetition of earlier submissions.
- xi) The petitioner has submitted that respondent cannot be given benefit of doubt of its omissions and he has substantiated his submissions with Hon'ble Supreme Court case law in Civil Appeal No. 3615 of 1996 in the matter of Bombay Electricity Supply and Transport undertaking vs Laffans India Pvt. Ltd. wherein the Hon'ble Court clearly established that "The appellant cannot be permitted to take advantage of its own act and omission/zero to 6 the act of removing the meter and the omission to make a reference to the Electrical Inspector" that the respondent has no authority to recover any charges if the same has been calculated based on their whims and fancies as against the established regulations.

8. Prayer:

On the basis of aforesaid premises, it is most humbly and respectfully prayed that Hon'ble Ombudsman may graciously be pleased to allow the appeal against the unprofessional acts and deeds of the respondent and a) call for the records of the complaint case no. 64/2020 decided on 29.09.2020 for perusal and for proper adjudication of the dispute. B) set aside order dated 29.09.2020 in case no. 64/2020 by Forum. C) quash and set aside the impugned bill cum disconnection notice for extra amount of Rs. 10,35,783.00 raised by UPCL being illegal, arbitrary, perverse, malafiedly and unjust. D) quash the bill prepared beyond 3 billing cycles on the basis of the defective meter, direct the respondent to prepare the bill afresh without imposition of any LPS, pass any other order as deemed fit in the interest of justice.

9. Copy of case laws WP(C) no. 1324 of 2006 of Hon'ble High Court of Kerala and a copy of Annexure V has been enclosed with the rejoinder. Hearing in the case was fixed for 07.12.2020 which was adjourned and 15.12.2020 was fixed for hearing. Both parties appeared and in addition to oral arguments both parties submitted their written arguments also. The respondent submitted written arguments vide letter no. 2061 dated 14.12.2020 which is nothing but point wise reply to the petitioner's rejoinder as given below:

- i) The check meter was installed and finalized in the presence of petitioner's representative as is clear from his signatures on the sealing certificates. The check meter study was conducted for comparative study of metering and billing.
- ii) A copy of sealing certificates of installation and finalization of the check meter was given to petitioner's representative at the same time in his premises itself in which analysis report was also mentioned. The assessment has been raised as per law based on check meter report.
- iii) All details of the meters installed at consumer's premises are duly mentioned in the sealing certificate format duly approved by Hon'ble UERC.
- iv) All meters purchased by UPCL are duly tested at the testing bench of the concerned company and sample random testing out of the purchased meters is duly carried out by the authorized engineer of UPCL in the lab of the concerned company as per prescribed standards.

- v) A perusal of the MRI of the installed meter at the premises of the petitioner shows low voltage on R and B phases of the meter while voltage on Y phase was correct. The low voltage availability on R and B phases of the meter is attributable to the bi-metallic collusion on the contact point of the link feeding voltage to the meter due to which normal voltage was not being available at the input of R and B phase of the meter leading into not recording of the energy as per standard by the meter.
- vi) The old meter is removed from the premises after finalization of the check meter as per standards set by Hon'ble UERC and the check meter was installed as the main meter at the premises as is mentioned in the sealing certificate. He has further clarified that it was not a case of voltage missing but a case of voltage drop due to bi-metallic corrosion and assessment raised is clearly correct.
- vii) It is also clear from table no. 7 given by the petitioner under point no. vii) of the rejoinder that voltage on R and B phase was less than the normal voltage on account of which the meter shall be recording lesser consumption.
- viii) It is submitted that as the consumer's installed meter was a LT CT meter so voltage to the input meter terminal is given by taping from the main aluminum cable through a flexible copper wire, which is subjected to bi-metallic collusion causing voltage drop to the meter terminal and the meter records accordingly.
- ix) The old meter was removed and check meter was kept at site as main consumer meter as per standing directions from UERC and both sealing certificates are duly signed by consumer's representative. So the respectable consumer was no where kept in dark as such the assessment has been rightly made in accordance with the rules.
- x) The UPCL has complied with UERC Regulations as such the assessment is clearly as per law.
- xi) It is submitted that the check meter was installed after analyzing MRI of the existing meter on the basis of which the assessment has been raised.
- xii) It is also submitted that the assessment raised by the department is rightly correct.

Copy of sealing certificates dated 17.10.2019 and 03.12.2019 have also been submitted with this written argument.

10. The petitioner has also submitted a written argument. It is specifically submitted that contents of the appeal, rejoinder to the written statement submitted has not been repeated herein for the sake of gravity, in order to avoid repetition therefore the contents of the same may be read as part and partial of this written argument. Other contents are as follows:

- i) The table given here is a reproduction of the table already given under point 7 of the rejoinder mentioning the provisions of specifications of voltage variations. The petitioner has alleged that it can be seen from the tamper report that there was no occasion where meter was getting 0 voltage in 2 phases simultaneously, hence it is not possible technically that the meter could run 70% slow with the stated facts and circumstances as in the instant case except on account of having some technical defect in the meter. Hence the assessment is liable to be quashed.
- ii) The installed meter is LT CT meter without any potential transformer installed. The voltage to the meter is directly fed from the main line. The respondent have alleged that the meter was not getting full voltage resulting in voltage failure as per MRI report. However it is worth mentioning that no discrepancy was observed with the connection of metering system which is established beyond doubt by the sealing certificate itself as no abnormality was mentioned in the sealing certificate. Here mentioning the judgment of Hon'ble High Court Uttarakhand in WP 197/2016 dated 12.12.2017 that nothing can be presumed is not explicitly written in the sealing certificate. And thus he has submitted that due to some technical defect in the meter voltage failure is seen in the MRI report which confirms the meter is technically defective based on this he has claimed that the existing meter no. 07160039 was defective and the assessment is liable to be quashed and bill is required to be prepared afresh as per defective meter clause.
- iii) Mentioning clause 17 (2) and 18 (2) of CEA Regulations, 2006 clause 1.1 and 3.1.3 (4) of UERC Supply Code Regulations, 2007 he has stated that the entire alleged testing was not carried out as per the procedure and no NABL

accreditation certification was provided by the respondent and in view of Hon'ble High Court Bombay Judgment dated 13.08.2015 in writ petition no. 1688 of 2015 in the matter of Nestle India Ltd. vs FASSAI Hence no reliance can be placed on the results as such the assessment is not maintainable in the eyes of law and is liable to be dismissed. Further he has referred judgment of Hon'ble High Court Kerala in WP no. 20130 of 2012 and mentioning specific criteria for site testing and site calibration laboratories as prescribed by NABL petitioner has submitted that as the respondent have not followed the prescribed procedure and raised the assessment arbitrary and illegally the same is liable to be dismissed.

11. In view of submissions in the written argument the petitioner has made the same prayers as they had made in the rejoinder. He has substantiated his written arguments with case laws of Hon'ble High Court Bombay in writ petition no. 1688 of 2015, Hon'ble High Court Kerala in writ petition no. 20130 of 2012 and criteria laid down by NABL for site testing and site calibration laboratories copies of which had been adduced with the written arguments as annexure A, B and C respectively. Further referring to clause 17 (2) and 18 (2) of CEA Regulations, 2006, he has pleaded that in terms of above CEA Regulations, it is mandatory for the distribution Licensee to set up accredited testing laboratories or utilize services of other accredited laboratories.
12. At the time of hearing the petitioner inter alia has raised a question that the authenticity of the check meter is not established for want of its test results. The respondents were therefore asked to provide a copy of the test results of the check meter which has been provided by the respondent vide letter no. 2071 dated 16.12.2020 with a copy to the petitioner and the same has also been taken on record. A perusal of these results confirms the accuracy of the check meter within the prescribed limits. The petitioner vide email dated 18.12.2020 has objected the check meter test results on the basis that these results have not been signed by any official of UPCL and hence the report is having no sanctity and hence cannot be referred for adjudication of any dispute. The Hon'ble Ombudsman should take a strong note of submission of unsigned document before him by the respondent. Further, as already objected in their rejoinder and written arguments the petitioner has again submitted that it is mandatory to test the meter in NABL accredited lab then reliance cannot be

made on results if arrived at by non accredited lab and hence has requested to quash the assessment and allow the appeal. In view of objections raised by the petitioner, the respondent Executive Engineer has been asked to submit a signed copy of the check meter test report to this office and a copy thereof to the petitioner also. The signed copy of the test results has since been received and it is the same as was submitted earlier vide respondent's letter dated 16.12.2020 so his objection regarding unsigned copy of test results stands removed. The respondent has also submitted copies of the following documents.

i) NABL's certificate of accreditation dated 23.07.2018 issued to M/s YMPL.

13. Certificates of calibration of respondent's test lab at 33/11 KV substation, Jwalapur near BHEL foundry gate, Haridwar (1st test and 2nd test) issued by YMPL to the respondent with certificate numbers as YMPL/308444/100064 and YMPL/324335/114056 respectively. All the above documents were made available to the petitioner. The petitioner has submitted his objections on these submissions by the respondent via email dated 21.12.2020 and 22.12.2020, wherein the same objections that since the check meter test submitted by respondent have not been conducted in a NABL accredited laboratory either of the respondent themselves or by any other such laboratory and since NABL has accredited M.s YMPL's lab only and they are not authorized to issue accredited certificate in respect of a lab of the respondent so the respondent's lab under reference cannot be considered as a NABL accredited lab and as such the check meter test results are invalid and illegal and cannot be used for raising any assessment as has been done by the respondent. The petitioner has further mentioned that it is mandatory for the respondent to get their test labs accredited by NABL as required under clause 17 (2) and 18 (2) of CEA Regulations, 2006 as also under Supply Code Regulations, 2007 referring to Hon'ble High Court Bombay judgment dated 13.08.2015 in Writ Petition 1688 of 2015 (as have already been quoted by them in their rejoinder and written arguments) in M/s Nestle India Ltd. vs FSSAI wherein the Hon'ble Court has ruled that it is mandatory to test the meter in NABL accredited Lab and if meter was not tested in a NABL accredited lab then reliance cannot be made on the results if arrived at by non accredited lab and have therefore requested that the Hon'ble Ombudsman be kindly consider their objections before arriving at the judgment and have further requested that the appeal be allowed

and disputed assessment be quashed. Such objections have already been raised by the petitioner in their rejoinder as well as in their written arguments.

14. As regards, his objections for accreditation of the test lab by NABL or testing of meters by other accredited laboratories. It is true that no information about accreditation of UPCL labs by NABL has been provided by the respondent, so it is not known whether their labs are NABL accredited or not. However, UPCL being a public sector distribution undertaking, a sole Licensee for distribution of electricity in the State of Uttarakhand under public sector, there is no reasonable ground for not relying the meter test results by their lab even if these are not NABL accredited as mandatory under sub regulation 17 (2) of CEA (Installation and Operation of Meters) Regulations, 2006 however it is desirable that the UPCL's Labs should be NABL accredited if they are not so till now and the UPCL management is therefore advised to ensure that their test labs are got accredited by NABL at earliest possible, if not so done till now so that such objections may not be raised by any petitioner in future case, if any as also the requirements under sub regulation 17 (2) and 18 (2) of CEA (Installation and Operations of Meters) Regulation, 2006 is complied with.
15. As requested for by the petitioner the case file of complaint no. 64/2020 of the petitioner before the Forum decided by their order dated 29.09.2020 has also been summoned from the Forum.
16. Arguments from both parties have been heard. All records including case laws statutes regulations check meter installation and finalization reports, MRI reports as well as Forum's case file of complaint no. 64/2020 have been carefully perused. It is found that after observing abnormality in the MRI reports a check meter was installed at the premises of the petitioner vide sealing certificate dated 17.10.2019 and finalized vide sealing certificate dated 03.12.2019. Both sealing certificates carries signatures of the petitioner representative also. Analysis of the check meter study has been given on the back side of the sealing certificate dated 03.12.2019 according to which the existing meter was found running slow by 70.16% in KVAH and 68.28% in KWH. Based on the check meter report and MRI tamper report showing low voltage on R and B phases of the meter from 01.06.2019 onwards the respondent have raised an assessment amounting to Rs. 10,35,783.00 for the period 01.06.2019 till 03.12.2019 and added the same in the bill for the month of June 2020.

17. The petitioner's case in nutshell is that it is neither a case of less recording of energy by the meter nor it is a case of slow running of meter @ 70.16% during the period 01.06.2019 to 03.12.2019 so assessment raised by the respondent for a sum of Rs. 10,35,783.00 through the bill for the month of June 2020 is arbitrary and illegal and is not maintainable and may be quashed. They have pleaded that it is a case of defective meter and therefore assessment under relevant sub regulation of UERC supply Code Regulations, 2007 as applicable in the case of defective meter be raised afresh.
18. But the respondent's case is that since the MRI tamper report w.e.f. 01.06.2019 was showing low voltage on R and B phases of the meter continuously w.e.f. 01.06.2019 till 03.12.2019 the date of finalization of the check meter and due to this phenomenon the meter recorded 70.16% lesser energy in KVAH than what was actually consumed during this period so the assessment amounting to Rs. 10,35,783.00 is correct as per rules and is payable by the petitioner. They have further submitted that installed meter at the premises of the petitioner was an LT-CT connected meter. Voltage input to the meter input terminals is given through a flexible copper wire by taping from the main aluminum cable due to collusion at the bi-metallic joint the voltage at meter terminal gets dropped i.e. voltage availability at meter input terminal becomes lower than the normal voltage which had happened in the instant case on R and B phases. According to them it is not a case of voltage missing but a case of voltage drop and from MRI analysis it was found that while voltage on Y phase was normal but on R and B phases was less than the normal which has caused less recording in the meter the extent of which has been determined as 70.16% and period from 01.06.2019 to 03.12.2019 as per MRI tamper report and hence the assessment raised by them is genuine and has been raised in accordance with applicable laws and rules. Which has duly been upheld by the Forum vide their judgment dated 29.09.2020 in petitioner's complaint no. 64/2020 before them.
19. After careful examination of the records and the relevant regulations it is concluded that the petitioner's contention that it is neither a case of less recording nor a case of slow running of meter but a case of defective meter and therefore the assessment raised by the petitioner is arbitrary and illegal and should be quashed is not acceptable in view of the facts of the case being otherwise from their contention. They have pleaded that it is a case of defective meter and should be assessed as per relevant

regulation applicable in case of defective meter. It is clarified that the defective meter is defined in sub clause 3.1.3 (4) of UERC Supply Code regulation 2007 which reads as follows:

“3.1.4 Meter not recording

(1) If the meter is not recording/stuck as reported by the consumer, the Licensee shall check the meter within 30 days of receipt of complaint and if found stuck or identified as defective (IDF), the meter shall be replaced by the Licensee/consumer, as the case may be, within 15 days thereafter.”

And in such a case billing during the period the meter remained defective has to be done under sub regulation 3.2 (1) of the aforesaid Supply Code Regulations, 2007 which reads as follows:

“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.**”*

20. The petitioner’s plea is that their case should have been dealt with under above sub regulations but as in the instant case the existing meter was working and recording energy but not working correctly and recording lesser energy as determined by check meter study and as this meter cannot be held defective in terms of aforesaid sub regulation 3.1.3 (4) and as such sub regulation 3.2 (1) for billing during the period under refer is not applicable in the instant case. Since it is established that the meter was getting low voltage on R and B phases attributable to the phenomenon of bi-metallic collusion since 01.06.2019 till 03.12.2019 the date of finalization of the check meter resulting into less recording of energy, the extent of which is determined as 70.16% as per check meter study so the assessment amounting to Rs. 10,35,783.00 raised by them through bill for the month of June 2020 is in fact not an assessment but a supplementary bill raised to recover the cost of energy that escaped billing in the normal monthly bills for the above period as it could not be recorded in the meter due to the phenomenon as aforesaid and the same is upheld being the legitimate dues of

the respondent, which the petitioner is liable to pay to them. The petition is therefore dismissed. Forum order is upheld.

21. The petitioner's objections regarding the check meter reports not being acceptable to them not being through NABL accredited laboratory, the same has duly been addressed and clarified in the above paragraphs. The case laws submitted by them do not apply in the present case as the judgments are distinguishable on facts. Although the respondent have committed some procedural mistakes/lapses such as installation and finalization of check meter without pre intimation to the petitioner, removal of the existing meter without its testing at site or no testing of the removed meter in the Lab after removal from site to ascertain its veracity and check meter test reports submitted by respondent not being that of a NABL accredited laboratory but this has not affected the ratio decidendi for deciding the case by the undersigned. The respondent are directed to conduct any checking of the metering equipments of any consumer in future strictly in accordance with the relevant UERC and CEA Regulations as also any other provisions of electricity Act, 2003, Tariff orders and departmental orders, if any being in force for the time being.

Dated: 29.12.2020

(Subhash Kumar)
Ombudsman