

## THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

Shri Ashish Kumar Arora  
M/s Global Multi-specialty Hospital  
Bazpur Road, Kashipur,  
Distt. Udham Singh Nagar, Uttarakhand

Vs

The Executive Engineer,  
Electricity Distribution Division  
Uttarakhand Power Corporation Ltd.  
Kashipur, Distt. Udham Singh Nagar,  
Uttarakhand

Representation No. 24/2023

### Order

Dated: 29.09.2023

Being aggrieved with Consumer Grievance Redressal Forum, Kumaon Zone, (hereinafter referred to as Forum) order dated 29.03.2023 in complaint no. 63/2022 before the said Forum, against UPCL through Executive Engineer, Electricity Distribution Division, Uttarakhand Power Corporation Ltd., Kashipur, Distt. Udham Singh Nagar, Uttarakhand (hereinafter referred to as respondent), Shri Ashish Kumar Arora M/s Global Multi-specialty Hospital, Bazpur Road, Kashipur, Distt. Udham Singh Nagar (petitioner) has preferred this appeal for setting aside Forum order dated 29.03.2023 passed in their complaint no. 63/2023 and also setting aside the disputed assessment bill. Further orders may kindly be issued for supply of electricity properly till disposal of the appeal.

2. The petitioner under the heading grounds of appeal has averred as follows: that

- i) The Forum order is against facts and against law.
- ii) The department installed a check meter at their premises on 08.08.2022 and on the basis of the check meter a supplementary bill amounting to Rs. 8,81,244.80 was raised for a period from 03.08.2019 to 31.08.2022 (3 years 28 days). The respondent claimed that the assessment has been raised in accordance with sub regulation 5.2.2 of UERC Supply Code, Regulations,



2020 which reads as "The Licensee shall raise the bill for every billing cycle based on actual meter readings." (A reading of sub regulation 5.2.2 shows that it provides bill particulars)

- iii) The respondent has miss interpreted the billing cycle and have changed the bills. Sub regulation 1.2 (l) of UERC Regulations provides as "**1.2 (l) billing cycle or billing period** means the period as approved by the Commission for which regular electricity bills are to be prepared by the licensee for different categories of consumes". Normally it is the period between 2 meter readings i.e. monthly bill.
- iv) The readings were not the actual metered units but the assumed readings for which the department has no legal right. It does not come under the category of assessment and assessment cannot be raised by the assessing officer for a period of more than 12 months under the provisions of the Electricity Act, 2003.
- v) A perusal of electricity bills from November 2022 to May 2023 clearly suggests that the actual electricity consumption by the petitioner was not so much as has been shown by the respondents in previous years. While that covers the period of lockdown during which the minimum possible use of the installed equipments was made. Further they have stated that normally equipments used during winter is comparatively less, which results in to lesser consumption of electricity. The respondents have raised the disputed bill which is not in accordance with law.
- vi) The Forum ignoring all the aforesaid points have ordered for depositing the disputed bill in installments, which is not in accordance with law and Forum has passed the said order without using the judicial mind, so the order is liable for this appeal.
- vii) In violation of the law the junior engineer and other officers visited the premises on 07.06.2023 and orally threatened disconnection of supply.
- viii) The petitioner shall suffer loss which is difficult to be made up if supply was not maintained and it is disconnected.
- ix) The points raised in the complaint have not been adjudicated properly.



x) The appeal is liable to be allowed.

In view of aforesaid the petitioner has prayed that the Forum order under reference be quashed. The disputed assessment bill raised by the respondents be also set aside and orders be issued for maintaining supply to the petitioner's premises till disposal of the appeal.

The petitioner has also requested for condonation of delay in filing the appeal and have also requested for granting stay. **(Therefore the appeal was admitted after condoning the delay and interim stay was granted on 09.06.2023. Hearing on the stay application was held on 16.06.2023, the interim stay granted on 09.06.2023 was extended till next date of hearing with the condition that the petitioner deposits Rs. 2,00,000.00 by 30.06.2023 along with payment of current bills within prescribed due date).** The petitioner admittedly deposited Rs. 2,00,000.00 vide cheque no. 002485 dated 28.06.2023 as per records available on file. The petitioner has also submitted affidavit under oath. Contents of the appeal has also been mentioned in the affidavit.

3. Arguments from both parties were heard on 30.03.2023 by the Forum and documents available on file have been perused and it is observed that:

The complainant has a 20 KW connection under commercial category. His complaint is that he received an exorbitant amount bill of Rs. 8,81,244.79 in the month of November 2022. No tampering in the meter was made, so he committed no mistake. The complainant also submitted that he never received a bill of so much high amount since date of release of connection which is confirmed from consumer billing history. The opposite party installed a check meter at his premises at their own. The opposite party clarified that a perusal of the consumption pattern suggested that the consumption was not commensurate with his contracted load and maximum demand recorded, so a check meter was installed on 08.08.2022. During testing it was found that CT of ratio 200/5 have been installed, according to which MF should have been 40 while bills were being issued on MF 20, due to which recorded consumption was about 50% of the actual consumption. Check meter was finalized on 18.08.2022, there was no variance in the readings recorded by the 2 meters, which suggested that meter was working correctly. **The opposite party submitted sealing certificates for installation and finalization of check meter and a complete report of testing of**



**CT was also submitted.** On the basis of which the bills were re calculated and a revised bill amounting to Rs. 8,81,244.79 was raised for the period 03.08.2019 to 31.08.2022 and added in the bill for November 2022. No tampering in the meter was however found from the date of release of connection till installation of check meter and as per checking report details of seals of the metering system and CT were as in the sealing certificate issued at the time of release of connection, which clearly shows that CT chamber was never opened from the date of release of connection till installation/finalization of the check meter, so it can be assumed that CT ratio would have been 200/5 since the date of release of connection.

Further the Forum also mentioned that the opposite party violated sub clause 5.1.3 (3) of Supply Code regarding periodic testing of the metering system. If the opposite party would have carried out periodic testing in accordance with aforesaid regulation. The correct position of MF would have been ascertained at the initial stage and situation of issuing such an heavy amount bill would have not arose. Further the Forum have mentioned that sub regulation 5.2.1 provides that "The licensee shall raise the bill for every billing cycle based on actual meter readings." The Forum has taken seriously the issue of not testing the metering equipments periodically as per regulation and recording wrong MF initially at the time of release of connection. **The Forum has also recorded that as submitted by opposite party warning has been issued to the staff who had recorded wrong MF at the time of giving connection and recommended for action against him.**

4. In view of aforesaid the Forum was of the view that due to human error/carelessness billing since date of connection were issued on wrong MF 20 in place of correct MF 40 so assessment for the difference since date of connection is logical and reasonable. Although the complainant has faced financial problems in making payment of the bill, however, amount of the bill is payable. However, if the complainant requests for payment of the bill in installments the opposite party is expected to grant the installments and no LPS shall be charged on such amount, so they concluded that the complaint is liable to be allowed partially and accordingly the Forum has ordered that no relief can be granted in the assessed amount and the complainant has to pay the amount of the assessment bill. However the opposite party is directed to grant installments for recovery of the dues if the complainant applies for the same. The revised bill may be issued after deleting the amount of LPS.





5. The respondent, Executive Engineer has submitted his written statement along with an affidavit under oath vide his letter no. 3015 dated 20.06.2023, wherein point wise reply has been submitted as follows:

- i) i) & iii) No comments on para i), iii) & iv) of the petition as these are based on records.
- ii) ii) In reply to para ii) it is submitted that check meter was installed on 08.08.2022 during checking of the metering equipment. AE (Meter) Test lab Kashipur reported vide his letter no. 99 dated 25.08.2022 that during checking CT in the CT box, was found of ratio 200/5 Amp. so MF is 40 but in the bills MF is being used as 20, so action for revision of the bills may be taken, where after bills of the petitioner were revised.
- iii) iv) in reply to para v) it is submitted that bills have been revised on the basis of MF as per rules.
- iv) v) & vii) No comments on para iv), viii), ix), x) & xi) of the petition.
- v) vi) regarding para no. vii) of the petition it is submitted that the petitioner was informed for disconnection of his connection on account of outstanding dues against the bills.

**Additional submissions.**

- vi) viii) the petitioner lodged a complaint dated 18.01.2023 before the Forum regarding his bills.
- vii) ix) In the complaint before Forum, the division reported to the Forum vide letter no. 776 dated 07.02.2023 that bills were revised in accordance with the checking sealing certificate submitted by AE (Meter) Kashipur and details of the revised bill were submitted before the Forum.
- viii) x) The Forum decided complaint no. 63/2023 vide its order dated 29.03.2023 which was sent vide Forum's letter no. 401 dated 29.03.2023, which reads as follows:

“वाद आंशिक रूप से स्वीकार किया जाता है। परिवादी को उस पर प्रत्यारोपित राजस्व निर्धारण की राशि में छूट प्रदान नहीं की जा सकती है, अतः उसके द्वारा राजस्व



निर्धारण के अनुसार आकलित धनराशि का भुगतान किया जाना होगा। तथापि विपक्षी को निर्देशित किया जाता है कि वह परिवादी की मांग पर उसके भुगतान को यथासम्भव अधिकतम आसान किस्तों में करने की सुविधा प्रदान करें एवं विवादित अवधि में प्रत्यारोपित विलम्ब भुगतान शुल्क की धनराशि को पूर्ण देयक में से घटाते हुए संशोधित बिल जारी करें। विपक्षी / विभाग इस आदेश की अनुपालन आख्या आदेश प्राप्ति के 30 दिन के भीतर मंच में प्रस्तुत करें।”

- ix) xi) Regarding compliance of Forum order dated 29.03.2023, it is submitted that the petitioner has not approached his office for payment of the disputed bill in easy installment. Where after orders for waiver of LPS amounting to Rs. 57,550.000 were issued vide letter no. 1928 dated 25.04.2023. The compliance was reported to the Forum vide his letter no. 2010 dated 29.04.2023.

In view of his above submissions the respondent Executive Engineer has requested that the appeal be disposed off in department's favour. He has substantiated his submissions with documentary evidences as mentioned in the respective paragraphs of his reply.

6. The petitioner has submitted his rejoinder along with an affidavit under oath dated 15.07.2023 as follows:

- i) At the outset, it is submitted herein that the contents of the written statement, filed by the respondent before the Hon'ble Ombudsman are specifically and categorically denied being devoid of merits, baseless and no cogent explanation has been furnished with respect to the contentions of the appellant hence denied except to the extent which are specifically and categorically admitted herein by the appellant in the forthcoming paragraphs.
- ii) That the content of para 1 is denied in totality and it is submitted that the Ld. Forum didn't peruse the documents placed on records and the various submission made during the hearing, judiciously and dismissed the petition.
- iii) That the contents of the para 2 are wrong, false and denied. That the no advance notice of the alleged check meter study was given to the appellant and neither the test report of the check meter and the CT installed along with it was given to the appellant prior to the initiation of alleged check meter study. That further all the averments of the respondent with regards to the CT ratio is





denied in totality. That the integrity of seals installed in the metering system was not ensured during the alleged check meter study and it cannot be established beyond doubt that the CT's were not replaced during the alleged check meter study.

- iv) That the content of para 3 is not admitted and denied in totality. It is pertinent to mention that relevant regulation of Hon'ble UERC had not been followed for raising the alleged assessment. The respondent never established beyond doubt the multiplication factor of the existing system is 40 as against 20. That the respondent didn't check the CT's installed in the metering system and arrived at the impugned results by conducting the alleged check meter study. It is pertinent to mention that the respondent that as per para 14 (ii) (2) (Consumer meter) of Central Electricity Authority (Installation and Operation of Meters, Amendment Regulation 2019) notified on 23.12.2019 states *"The testing of Consumer meters shall be done at site through accredited test laboratory at least once in five years and recalibrated if required. Provided that the licensee instead of testing the meter at site can remove the meter and replace the same by a meter duly tested in an accredited test laboratory. Provided also that the meter used for testing shall be of better accuracy class than the meter under test."*

That as per chapter 1.1 GENERAL clause 1.1 (4) of the UERC Electricity Supply Code Regulations, 2020 *"These regulations shall be interpreted and implemented in accordance with, and not at variance from CEA regulations amended time to time."* Hence, para 14 (ii) (2) quoted above is binding on the answering respondent. That the use of the word 'shall' make it obligatory for the respondent to carry out the test at site/consumer premises through accredited test laboratory only and the definition of 'meter' as provided in the regulation mandates that the CT's, PT's if installed along with the meter is to be tested along with the meter itself. Also, the test meter shall be of better accuracy class which in the instant dispute is of same class as that of installed meter with respect to energy meter and current transformers. The copy of CEA amended Regulation, 2019 is attached herewith at ANNEXURE-1.

That in the nutshell these specific clauses will conclude that the answering respondent is not competent to carry out any test at site/ consumer premises for which a separate accreditation is required from NABL in terms





of documents NABL 130. The specific criteria for the site testing and site calibration laboratories of NABL (NABL Document 130) is attached herewith as ANNEXURE-2.

That when the respondent is not competent for any such test so any finding of the respondent not limiting to CT ratio or otherwise can be relied upon.

- v) That the content of para 4 is denied in totality. That after the alleged correction of the MF in the bills the consumption at the premises of the appellant had not increased. That this establishes beyond doubt that there is nothing wrong in the metering system and no revision in the bills already paid is warranted. Thus, the alleged assessment is liable to be quashed.
- vi) That the content of para 5 need no reply and has been replied in aforementioned paragraphs and content of which has not been repeated herein for the sake of brevity.
- vii) That the content of para 6 is denied in totality. That the officers of the respondent threatened the appellant to deposit the alleged assessment else the supply at the premises will be disconnected.
- viii) That the content of para 7 need no reply as the respondent has not denied the submission made by the appellant and it is established that the alleged assessment has been raised arbitrarily and is abuse of power by the respondent, as provided for in the Indian Electricity Act, 2003.
- ix) That the content of para 8 need no reply and is matter of record.
- x) That the content of para 9 need no reply and is matter of record.
- xi) That the content of para 10 need no reply and is matter of record.
- xii) That the content of para 11 are wrong, false and denied. That the order of the Ld. Forum was not reasoned and is illegal and is liable to be quashed.

#### **ADDITIONAL SUPPLEMENTARY SUBMISSION**

- xiii) That the Ld. Forum in the impugned judgment at page No. 5 have stated that the seal numbers of the various seals of the meter installed at the metering system of the appellant as found during the alleged check meter study was same as was available when the meter was first installed. That on this premise the Ld. Forum held that the CT or meter was never changed from the date the meter was installed and up to the date of alleged meter testing. Hence, Ld. Forum dismissed the complaint of the appellant.





That the appellant would like to bring the factual position of the various seals present at various point of time which is as under:

| Date  | 03.08.2019<br>Meter<br>Installation | 08.08.2022<br>Check meter installation |                | 18.08.2022<br>Check meter<br>finalization |                |
|-------|-------------------------------------|--|----------------|---|----------------|
| SEALS | Main Meter                          | Main Meter                             | Check<br>Meter | Main<br>Meter                             | Check<br>Meter |
|       | 825023                              | Nil                                    | 18560          | 18560                                     | Nil            |
|       | 827275                              | Nil                                    | 18561          | 18561                                     | Nil            |
|       | 32840                               | Nil                                    | 18562          | 18562                                     | Nil            |
|       | 32841                               | Nil                                    | 18563          | 18563                                     | Nil            |
|       | 32839                               |  |                |   |                |
|       | 32838                               |  |                |   |                |
|       | 32837                               |  |                |   |                |

The sealing certificates are already available on file. That from the above table it can be easily seen that no seals which was installed along with the meter on 03.08.2019 was found present on date of alleged check meter study i.e 08.08.2022. Further the seals present on the check meter on 08.08.2022 was found installed on main meter on 18.08.2022. That the above table establishes beyond doubt that the ratio decidendi of the order of Ld. Forum, that the same seals installed along with the meter was found during the alleged check meter study is erroneous. Thus, the judgment of Ld. Forum is illegal and liable to be quashed.

- xiv) That the respondent didn't test the ratio of the CT's during the alleged check meter study. That the respondent didn't provide the test results of the check meter (including check meter and the current transformers installed with it whereas, clause 5.1.3 (5) of Hon'ble UERC (The Electricity Supply Code, Release of New Connections and related Matters) Regulation, 2020 (will be referred subsequently as UERC Supply Code, 2020) mandates "*The Licensee shall, within 30 days of receiving the complaint, carry out testing of*



*the meter as per the procedure specified herein and shall furnish duly authenticated test results to the consumer. The consumer shall be informed of proposed date and time of testing at least 2 days in advance.*

*Provided that where the licensee is installing a test/check meter along with the meter under test for verification of energy consumption, in such cases the licensee shall be required to provide a copy of the valid test report of such test/check meter to the consumer before initiating the testing."*

Thus, no finding of the alleged check meter study can be relied upon.

- xv) That the respondent has to establish two things beyond doubt. Firstly, that the MF was 40 and not 20. Secondly the CT was never changed in between the period concerned (i.e from 03.08.2019 till 08.08.2022). For establishing the MF of 40 as against 20 a valid check meter study in accordance with procedure established by **Hon'ble UERC Electricity Supply Code Regulations, 2020**, was required and for establishing that the meter or CT was not changed during the period of dispute, the serial number of seals, installed in the metering system on the subsequent sealing certificates, starting from the date of installation should have matched. That the respondent has failed to establish anything and have violated all relevant regulations and statutory procedures to create something out of nothing. Thus, assessment is liable to be dismissed.
- xvi) That the integrity of the metering system during the alleged check meter study was not maintained during the alleged testing and the seals installed on the meters found interchanged. That in this scenario it is established that the meter was opened during the alleged testing and it is also likely that the CT might have been changed to raise the arbitrary assessment. That it is pertinent to mention that the consumption of the appellant is nearly the same as was before the alleged check meter study. This itself proves that the assessment is mala fide, illegal and deserves to be quashed.
- xvii) That the respondent neither took the signature of appellant on the sealing certificates at the time of meter installation nor on the sealing certificates signed during the alleged check meter study. That the entire process and procedure adopted by the respondent is arbitrary and the alleged assessment is never due on the appellant. That no assessment can be raised by the answering respondent without procedurally complying to **clause 5.1.3 (Testing of**



meters) of UERC Supply Code, 2020 more so because of the settled law WP 1069/2021 dated 10.06.2021 of Hon'ble High Court of Uttarakhand which is having the binding effect in the instant dispute at hand. Thus, assessment is liable to be dismissed. The copy of judgment is attached at ANNEXURE-3.

- xviii) That on 27.06.2023 the respondent again visited the premises of the consumer for testing the meter without any advance notice and have calculated the MF of the system as 40. That it is submitted that the seals no. 18560 and 18561 were found present. Admittedly the same seals were found present on the metering system as per sealing certificate dated 18.08.2022. Further the said sealing certificate is also having mention of measured values of current. That how it is possible that the respondent without opening the meter had measured the values of current, because seals used by the respondent is of one time use only and cannot be reused. Thus, this clearly establishes that the entire case is fabricated by the respondent behind the back of the appellant to raise the illegal assessment.
- xix) That the sealing certificate for the installation dated 03.08.2019 is having specific mention that the CT ratio is 100/5 and the bill of the appellant never increased and remained almost same even with the MF of 40 as alleged. That this establishes beyond doubt that the CT was clandestinely changed during the alleged check meter study. Thus, no assessment/ supplementary bill is warranted and the alleged check meter study and its finding thereof is liable to be quashed.
- xx) That the disputed period of the dispute at hand starts from 03.08.2019 wherein Hon'ble UERC Electricity Supply Code Regulation, 2007 was applicable. As per clause 3.1.2 (Reading of meters) "In case of complaints of incorrect billing, entries made in the past in such cards/note books should be considered sufficient evidence for deciding the matter". That when the answering respondent have failed to establish when and why the CT's have been replaced no revision in the bill is called for. That after the alleged correction of MF the consumption has not doubled hence, the billing entries made in the past is sufficient evidence, binding and assessment is liable to be quashed.
- xxi) It is therefore most humbly prayed that Hon'ble Ombudsman (Electricity), would be pleased to take on record the Rejoinder of the appellant and allow



the appellant to argue the matter both on the averments made in the appeal memo as well as countered to the Written Statement of the answering respondent in his Rejoinder Application, as well as the appellant would crave leave of this Hon'ble Court to allow furnishing of any evidence/ documents/ judgments, to substantiate the pleadings of the appellant, for which act of kindness, the appellant shall as in duty bound, ever pray.

Annexure referred in the rejoinder are CEA notification dated 23.12.2019, NABL policy 130 (specific criteria for site testing and site calibration laboratories) & Hon'ble High Court of Uttarakhand judgment in WRIT petition no. 1069 of 2021 of EE, EDD, Roorkee vs Shahjahanpuram Society, Ram Chandra Mission, Haridwar road which are available on case file

7. Further the respondent Executive Engineer was asked vide this office letter no. 589 (a) dated 22.06.2023 to submit documentary evidences, respondent has submitted his replies vide his letter no. 3096 dated 30.06.2023 and the petitioner has also submitted his comments/replies on respondent's aforesaid letter vide their letter dated 02.09.2023. The details of this office letter no. 22.06.2023, respondent letter 30.06.2023 and petitioner's letter dated 02.09.2023 are reproduced hereunder in tabulated form.

| Sr. No. | Information/clarification desired from respondent<br>(Ombudsman letter no. 589 dated 22.06.2023) | Replies submitted by respondent vide letter no. 3096 dated 30.06.2023 | Comments submitted by petitioner vide letter dated 02.09.2023   |
|---------|--|---|---|
| 1       | दिनांक 03.08.2019 को मीटर स्थपित करने का सीलिंग सर्टिफिकेट।                                      | Sealing certificate dated 30.08.2019 enclosed (page 82-83)            | That the content of point no. 1 of reply need no comment as the same is the copy of sealing certificate and pertains to record. However, it is pertinent to mention that sealing certificate dated 03.08.2019 submitted, clearly states that connection was given with current transformer (CT) of ratio 100/5. Further in the column under check meter/new meter it is categorically written that line CT ratio is 100/5 and over all multiplying factor has |



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|   |   |  | clearly been mentioned as 20. Thus, it is established beyond doubt that the connection was started with MF of 20.  |
| 2 | <p>क्या उस सीटी0 का रेसियो टेस्ट किया गया या सीलिंग सर्टिफिकेट में जो रेसियो लिखा गया था उसी को सही मान लिया गया। यदि रेसियो टेस्ट किया गया तो उसको सीलिंग सर्टिफिकेट की छायाप्रति प्रस्तुत करें।</p> | <p>यह कि माननीय विद्युत ओम्बड्समैन को अवगत कराना है कि मापक का रेसियो टेस्ट किया गया तो उसकी सीलिंग सर्टिफिकेट की छायाप्रति खण्ड कार्यालय के पत्रांक स0 3053 दिनांक 23.06.2023 के माध्यम से अधिशासी अभियन्ता, विद्युत परिक्षण खण्ड, काशीपुर से चाही गई है, जो आज दिनांक तक वांछित है।</p> <p>The respondent vide letter no. 398 dated 10.08.2023 submitted EE test letter no. 351 dated 09.08.2023 along with JE explanation</p> | <p>That the content of point No. 2 need no comment, as the respondent through letter no. 364 dated 17.08.2023, have admitted that the installed CT's were never tested. The respondent has never established the ratio of CT as 200/5 or 100/5 and have now come with a new story, with statement/ clarification from JE that the metering system was installed by him on 03.08.2019 and ratio of CT was wrongly entered as 100/5 as against 200/5, with no corroborative evidence submitted in support.</p> <p>It is pertinent to mention that the statement of JE purported to be the clarification, has been submitted through letter without having any date and the said letter was never discussed at Ld. Forum or in the WS submitted by respondent at Hon'ble Ombudsman. That the respondent cannot be allowed to bring new facts which were not discussed in the lower court.</p> <p>That the Executive Engineer, Distribution, EDD Bazpur Road in his letter no. 3838 dated 05.08.2023 to Executive Engineer, Metering have stated that installation of CT in the LTPRMC panel with respect to load is responsibility of Metering section. Per contra, in the letter no. 231 dated 28.06.2023 of the O/o Executive Engineer, Electricity Test Division, Kashipur written to Executive Engineer, Distribution, it was stated that the LTPRMC panel for the appellant had been</p> |



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|   |  |  | installed by Distribution Section. Thus, when it is disputed among the metering and test division, that under whose jurisdiction comes the installation of LTPRCM and who have actually installed the LTPRCM panel, the explanation of JE (Metering) have no significance and cannot be relied upon. That the undated explanation submitted by JE (metering) is an afterthought and at the cost of repetition it is reiterated, there were three occasions where the CT ratio and hence MF is explicitly mentioned as 100/5.   |
| 3 | कनेक्शन बिलिंग हिस्ट्री प्रस्तुत करें। | Consumer history enclosed  | That the content of point no. 3 of reply need no comment as the same is the copy of billing history and pertain to record. However, the said billing history clearly establishes that the consumption never doubles after finalization of check meter study as alleged. That before the alleged check meter study the monthly consumption with MF of 20 was 6620, 5160, 8500, 10180, 8900 units and after the check meter study with alleged MF of 40 as 10360, 5960, 3920, 4480, 4760 units. That the consumption at the premises of appellant remain same with the MF OF 20 as well as MF of 40 for respective periods. This establishes beyond doubt that the CT was replaced during the alleged check meter study. |
| 4 | कनेक्शन की तिथि तथा सीलिंग सर्टिफिकेट। | Date of connection is 03.08.2019 sealing certificate available on file | That the content of point no. 4 of reply need no comment as the same is the pertain to record and not in dispute.  |
|   |  |  | That Hon'ble Ombudsman may like to take on record that the clarification with respect to point no. 3 of letter no. 589 dated 22.06.2023 of the O/o Hon'ble Ombudsman was submitted by Executive Engineer, Metering   |



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|  |  |  | vide letter No. 231 dated 28.06.2023 (page 144) to Executive Engineer, EDD, Kashipur within a period of one week. However, the said letter was not forwarded to Hon'ble Ombudsman or to the appellant which not only look suspicious but delayed the adjudication of dispute at hand and further resulted in loss of precious time of Hon'ble Ombudsman. |
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8. Hearing in the case was fixed for 14.08.2023, on non receipt of clarification on point no. 2 of letter no. 589 dated 22.06.2023 the hearing date was postponed to 23.08.2023. Further in view of non receipt of reply to respondent's submissions in response to this office letter no. 589 dated 22.06.2023 from the petitioner, the hearing date was again postponed for 11.09.2023.
9. Hearing was held on the scheduled date 11.09.2023, petitioner's authorized representative appeared for arguments and he argued his case and also submitted a written argument dated 11.09.2023. Respondent was represented by AE (Meter), DAR and the then JE (Meter) who have released the connection by installing meter vide sealing certificate dated 03.08.2019 and they argued respondent's case. Arguments were concluded with mutual consent and 29.09.2023 was fixed for pronouncement of order.
10. Petitioner submitted written arguments as follows:
  - i) That the sealing certificate dated 03.08.2019 clearly state that connection was given with current transformer (CT) of ratio 100/5. Further in the column under check meter/ new mater it is categorically written that line CT ratio is 100/5 and over all multiplying factor has clearly been mentioned as 20. Thus, it is established beyond doubt that the connection was started with MF of 20.
  - ii) That the respondent has never established beyond doubt that the current transformers (CT) alleged to have been found installed in the metering system at the time of check meter installation, was same, as that was installed at the time of release of new connection of the appellant.





- iii) That as per the sanctioned load of 30 KW of the appellant, the full load will come around 55 Ampere and thus CT with ratio 100/5 very much covers the entire load variation of the appellant. Thus, CT with ratio 200/5 is not required and there was no occasion for the respondent to have chosen the CT with ratio 200/5 when the same was technically not feasible on account of underutilization. That selection of CT with ratio 100/5, for the alleged check meter study by the answering respondent validates this submission of the appellant.
- iv) That it also appears that the answering respondent have installed a multi ratio CT with ratio 100/5 and 200/5 in contravention to the regulation which mandates installation of single ratio CT in the metering system. Thus, the respondent has replaced the existing CT with new CT's with ratio 200/5 prior to carrying out alleged check meter study.
- v) That the details of current transformers (CT's) along with their serial no. was not entered by respondent in any of the sealing certificates. That the serial no. of the seals installed in the metering system at the time of first installation was not matching with the serial no. of seals as were found during the alleged check meter study. Thus, it is established beyond doubt that the metering system had been altered in between, by the respondent, for reasons known to themselves and sealing certificate for the alterations was never given to the appellant. Thus, it cannot be held that the metering system was never opened after the connection was issued till the time when check meter was installed.
- vi) That the **Executive Engineer, Distribution** in his letter No. 3838 dated **05.08.2023** to **Executive Engineer, Metering** have stated that installation of CT's in the **LTPRMC** panel, with respect to load, is responsibility of **Metering** section. Per contra, in the letter No. 231 dated **08.06.2023** of the **O/o Executive Engineer, Electricity Test Division, Kashipur** written to **Executive Engineer, Distribution** it is stated that the **LTPRMC** had been installed by **Distribution Section**. Thus, when it is disputed among the metering and test division, that under whose jurisdiction comes the installation of **LTPRMC** and who have actually installed the **LTPRMC**, the explanation of **JE (Metering)** have no significance and cannot be relied upon. That the undated explanation submitted by **JE (metering)** is an afterthought and at the cost of repetition it is reiterated that in the sealing certificate dated **03.08.2019**





for new meter installation, there were three occasions where the **CT ratio** and hence **MF** is explicitly mentioned as **100/5**.

- vii) That before the alleged check meter study the monthly consumption with **MF of 20** was 6620, 5160, 8500, 10180, 8900 units and after the check meter study with alleged **MF of 40** as 10360, 5960, 3920, 4480, 4760 units. That the consumption at the premises of appellant remains the same with MF of 20 as well as MF of 40. This establishes beyond doubt that the CT was replaced during the alleged check meter study. That further the seals installed at the check meter on day of check meter installation was found present on main meter, when check meter finalized. That it is on record, that no tampering in the metering system have been done by the appellant and also the respondent has never alleged the same. That the seals installed in the metering system is one time use only and cannot be used again. Thus, it is clearly established beyond doubt that the meter and check meter were opened during the alleged check meter study as well.
- viii) That the respondent is now disputing their own records, for raising the illegal assessment on the appellant which is illegal and liable to be quashed. That the entire action of the respondent is arbitrary and not based on any regulation as provided in **UERC Electricity Supply Code** and the **Indian Electricity Act, 2003**. Thus, assessment is liable to be dismissed.
- ix) That the respondent disconnected electricity supply of the appellant whereas the appellant was provided interim stay against disconnection by this **Hon'ble Court**. That it is pertinent to mention that the appellant is running a Hospital and this illegal action of the respondent had put the life of several patients at stake. That this further established, the respondent is having no regard with respect to regulations and is working arbitrarily as per their whims.
- x) That respondent has not noted the serial No. of the CT's installed at the premises of the appellant in the sealing certificates filled by them. That now it is impossible to ascertain which CT was actually present, at what point of time, in the metering system and when that CT was actually installed. That when the respondent cannot establish anything beyond doubt then **clause 3.1.2 (1) (Reading of meters)** of **UERC Electricity Supply Code Regulation, 2007** (as the period of dispute lie in its validity) will prevail, which states "*The meter shall be read once in every billing cycle. The Licensee shall ensure*





*that meter readings are regularly entered in a card/book kept with the meter of each consumer. Each such entry should be made and initialed by the meter reader. In case of complaints of incorrect billing, entries made in the past in such cards/note books should be considered sufficient evidence for deciding the matter.”*

Thus, the bill raised, issued and paid are binding on both the parties.

- xi) That **Hon’ble Ombudsman** may like to take on record that the clarification with respect to point No. 3 of letter No. 589 dated 22.06.2023 of the **O/o Hon’ble Ombudsman** was submitted by **Executive Engineer, Metering** vide letter No. 231 dated 28.06.2023 to **Executive Engineer, EDD, Kashipur** (respondent herein) within a period of one week. However, the said letter was not forwarded to **Hon’ble Ombudsman** or to the appellant, which not only looks suspicious, but has also delayed the adjudication of dispute at hand and further resulted in loss of precious time of **Hon’ble Ombudsman**.
- xii) It is therefore most humbly prayed, that the **Hon’ble Ombudsman (Electricity)**, would be pleased to take on record the Written Argument of the appellant and allow the appellant to argue the matter both on the averments made in the appeal memo as well as countered to the Counter (Written Statement) of the answering respondent in his Rejoinder Application, as well as the appellant would crave leave of this Hon’ble Court to allow furnishing of any evidence/ documents/ judgments, to substantiate the pleadings of the appellant, for which act of kindness the appellant shall as in duty bound, ever pray

- 11. Arguments from both parties were heard on 11.09.2023, documents available on file adduced by both the parties have been examined carefully. Relevant CEA regulations and provisions under NABL policy as referred by the petitioner in his rejoinder have also been gone through. Forum case file of complaint no. 63/2023 was summoned and has also been perused and in view of arguments submissions and documentary evidences adduced by both parties and as are available on file the facts and circumstances of the case has been found as follows.
- 12. A 30 KW connection for Global Multi-specialty Hospital (the petitioner) Shri Ashish Kumar Arora was released by installing a meter no. 18304375 and CTs of ratio 100/5 with MF 20 vide sealing certificate dated 03.08.2019. Billing was accordingly started





with MF 20 w.e.f. the date of release of connection and that continued till 31.08.2022. The respondent installed a check meter no. 22224962 vide sealing certificate dated 08.08.2022 which was finalized vide sealing certificate dated 18.08.2022. In both these sealing certificates CTs of ratio 100/5, MF 20 were installed with the check meter and as a result of this check meter study there was no variance in the consumption recorded by the old meter no. 8304375, installed with CT ratio 100/5 vide sealing certificate dated 03.08.2019 and the check meter installed vide sealing certificate dated 08.08.2022 and finalized vide sealing certificate dated 18.08.2022. Although the respondents claimed that at the time of check meter study the CTs installed with the meter on 03.08.2019 were of ratio 200/5 and not of ratio 100/5 and therefore the correct MF was 40 instead of 20 on which the bills were issued from 03.08.2019 to 31.08.2022 and thus during that period the consumer was under billed and they therefore assessed the supplementary amount on account of difference of MF Rs. 8,81,244.80 and added the same in the bill for the month of November 2022.

13. The department was inter-alia asked to clarify whether ratio of the installed CTs were tested to ascertain that the CTs were of ratio 200/5 and not of 100/5. The department categorically submitted vide Executive Engineer Test letter no. 231 dated 28.06.2023 that "सीटी को टेस्ट नहीं किया गया था सीलिंग सर्टिफिकेट में जो रेसियो लिया गया था को ही सही माना जाए" but on visual inspection they found that the installed Ct were of the ratio 200/5. They also submitted an undated statement of the then JE who had released the connection through sealing certificate dated 03.08.2019 that he had by default mentioned the CT ratio of 100/5 in the said sealing certificate but the CTs were of the ratio 200/5. This statement of the JE has not been corroborated by any documentary evidence so this statement and department's averment on the basis of simply visual inspection that installed CT at the time of release of connection through sealing certificate dated 03.08.2019 were not considered to be reliable for want of any documentary evidences. Further the full load current of a 30 KW connection cannot be more than 50 Amp. and CT of ratio of 100/5 is sufficient for this connection.

It is also pertinent to mention that in response to petitioner's reply against point no. 3, the petitioner has submitted that before the alleged check meter study the monthly consumption with MF 20 was 6620, 5160, 8500, 10180 and 8900 units per bill and after the check meter study with alleged MF 40 as 10360, 5960, 3920, 4480 and 4760 units per bill and the petitioner has submitted that the consumption at the premises



remain same with MF 20 as well as MF 40 for the respective periods, this establishes beyond doubt that the CT was replaced during the alleged check meter study. The bill wise consumptions given by the petitioner as above were verified from the consumer billing history and these details were found correct. The total recorded consumption in these billing cycles with 20 MF and 40 MF are 39360 units and 29420 units respectively, thus average monthly consumption on 20 MF and 40 MF comes out as 7872 units and 5896 units respectively, thus as per records the consumption on 40 MF is considerably less than what it was with MF 20. This also suggests that CTs of ratio 100/5 as mentioned in sealing certificate dated 03.08.2019 were installed at the time of release of connection and thus MF 20 was correct and there has been no under billing during the period 03.08.2019 to 31.08.2022.

14. Further It is also mentioned here that in the check meter CTs of ratio 100/5 were installed as mentioned in the sealing certificates dated 08.08.2022 and 18.08.2022 and MF of the check meter in these sealing certificates is mentioned as 20. A perusal of the three sealing certificates shows that a number of seals have been mentioned to have been installed at the meter as per sealing certificate dated 03.08.2019, however there is no mention of any seals on the meter installed on 03.08.2019 in the sealing certificate dated 08.08.2022, but some seals have been shown installed on the check meter in this sealing certificate and these seals have been shown installed on the installed meter in sealing certificate 18.08.2022. Omission of seals on the installed meter in sealing certificate 08.08.2022 and transfer of seals shown installed on check meter in sealing certificate 08.08.2022 on the installed meter in sealing certificate 18.08.2022 suggests that some foul play/tampering with the metering equipments would have been done by the respondents, sometime during check meter study and therefore their claim that CTs of ratio 200/5 were actually installed with the meter instead of 100/5 as mentioned in sealing certificate dated 03.08.2019 does not prove to be a factually correct and genuine claim. (The petitioner has given factual position of seals present at various points of time in his rejoinder as mentioned under para 6 (xiii) of this order.
15. It has also been observed that there is a dispute between the Executive Engineer (Distribution) and the Executive Engineer (Test) as to who is responsible and have installed LTPRMC. The Executive Engineer (Test) vide his letter dated 28.06.2023 has resolved the dispute and clarified that “मेर्सस ग्लोबल मल्टीस्पेसिलिटि हॉस्पिटल के



परिसर पर नये संयोजन पर स्थापित LTPRMC को आप द्वारा ही साईट पर स्थापित किया गया था। जिसमें पहले से ही सीटी0 स्थापित होती है।”


16. The respondent Executive Engineer was asked vide letter no. 589 dated 22.09.2023 to clarify and provide information on 4 no. points, including one as mentioned at para no. 13 above, his replies were received vide letter no. 3096 dated 30.06.2023 and petitioner's response was received vide letter dated 02.09.2023. All these information are given in tabulated form under para 7 of this order.
17. The petitioner in his petition, rejoinder, written arguments as well as in oral arguments in hearing submitted that entire process of check meter study replies regarding dispute on CT ratios installed vide sealing certificate dated 03.08.2019 have objected that the respondents have not acted in accordance with relevant regulations and have also not followed CEA regulations as amended in 2019 and have also not followed NABL policy 130 and thus the assessment/supplementary bill raised on account of difference of MF (40-20) amounting to Rs. 8,81,244.80 for the period 03.08.2019 to 31.08.2022 imposed in the bill for the month of November 2022 is illegal and arbitrary and is therefore liable to be quashed. The petitioner has also prayed that Forum order dated 29.03.2023 in complaint no. 63/2023 is also liable to be set aside not being legally valid.
18. In view of above discussions/deliberations and facts of the case it is borne out that the respondents have not been able to establish beyond doubt that CTs of ratio 200/5 instead of CTs of ratio 100/5 were installed with the meter which was installed vide sealing certificate dated 03.08.2019 and their claim that actual MF since date of release of connection was 40 instead of 20 does not prove to be factually correct and genuine. Further the Executive Engineer (Test) vide his letter dated 28.06.2023 has clearly admitted that “सीटी को टेस्ट नहीं किया गया था सीलिंग सर्टिफिकेट में जो रेसियो लिया गया था को ही सही माना जाए” Such being the case it is established that correct CT ratio of the CTs installed with the meter vide sealing certificate dated 03.08.2019 was 100/5 and therefore correct MF was 20 which was used for issuing bills from 03.08.2019 to 31.08.2022 and therefore their demand amounting to Rs. 8,81,244.80 raised on account of difference of MF 40-20 for the period 03.08.2019 to 31.08.2022 raised through bill for the month of November 2022 does not prove to be a genuine demand from the department and the same is liable to be quashed and set aside and



the same is accordingly quashed and set aside. Forum order is set aside. Petition is allowed.

19. The respondents are directed to withdraw the impugned assessment amounting to Rs. 8,81,244.80 raised through bill for the month of November 2022 on account of difference of multiplying factor as mentioned above. A sum of Rs. 2,00,000.00 admittedly deposited by the petitioner as a condition of stay order may be refunded to the petitioner by way of adjustment in the future bill (s).

Dated: 29.09.2023

  
(Subhash Kumar)  
Ombudsman