

**THE ELECTRICITY OMBUDSMAN, UTTARAKHAND**

M/s G.L.D. Agri Food  
Shri Madan Lal Goyal  
S/o Shri Ganga Ram  
R/o Pilibhit Road, Malpuri  
Post- Nakatpura, Sitarganj  
Distt. Udham Singh Nagar, Uttarakhand

Vs

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

Representation No. 43/2025

**Award**

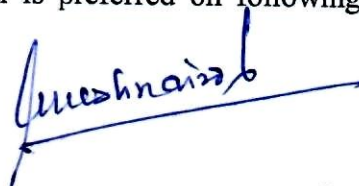
Dated:29.04 .2026

Present appeal/ representation has been preferred by the appellant against the order of Consumer Grievance Redressal Forum, Udham Singh Nagar Zone, (hereinafter referred to as Forum) dated 23.09.2025 in complaint no. 121/2025-26 by which Ld. Forum has dismissed the complaint of the appellant M/s G.L.D. Agri Food, Shri Madan Lal Goyal, S/o Shri Ganga Ram, R/o Pilibhit Road, Malpuri, Post- Nakatpura, Sitarganj, Udham Singh Nagar, Uttarakhand (petitioner) against UPCL through Executive Engineer, Electricity Distribution Division, Uttarakhand Power Corporation Ltd., Sitarganj, Distt. Udham Singh Nagar, Uttarakhand (hereinafter referred to as respondent).

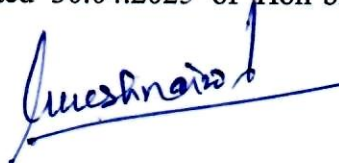
2. The petitioner in his instant appeal dated 29.09.2025 submitted along with a notarized affidavit has averred that:-
- The appeal is preferred against forum order dated 23.09.2025 in his complaint no. 121/2025 as the Forum has dismissed his complaint out rightly without appreciating and considering the documents placed on record judiciously.
  - The factual matrix leading to filing the present petition are given as below:



- A. He is a consumer for UPCL for 600 KVA load with connection no. 880K000007211 is engaged in processing of paddy in rice with the said connection.
- B. All electricity bills were regularly paid as demanded by the respondents.
- C. (C, D, E,F, G, H, I and K ) pertains to his old case no. 24/2024 before the Ombudsman which was decided vide order dated 30.04.2025 and these averments have been given simply to mention past history.
- D. (J) The petitioner has averred that as established and admitted the metering system after 28.10.2020 was having 02 no. CTs with ratio 60/5 (12) and 1 no. CT with ratio 40/5 (8) and 3 no. PTs installed with the main meter thus in these circumstances the MF of the metering system cannot be said to have its value as 12 hence revision of MF from 8 to 12 from January 2021 onwards is not correct.
- E. (L) In view of this wrong modification of MF he has been charged in excess to what is actually due upon him hence the said recovery is unauthorized, illegal and need to be refunded along with interest.
- F. (M) Having come to his notice he approached the respondent with letter no. 06.06.2025 with the request to revised the MF and returned the additional amount collected along with applicable interest. Having received no reply a reminder letter no. 09.07.2025 was sent to the department.
- G. (N) Feeling aggrieved approached Forum for necessary relief however the Forum dismissed his complaint no. 12/2025 vide its order dated 23.09.2025.
3. There was total denial of principle of natural justice by the Forum in as much as, justice should not only be done but shown to have been done which entails show cause notice, reply, opportunity of hearing and speaking order dealing with rival submission.
4. Being aggrieved with Forum order under reference dated 23.09.2025 in his complaint no. 121/2025 of the Forum, the present appeal is preferred on following amongst other grounds because :-



- A. The Forum has issued the impugned order in a most illegal, obscure, erroneous, arbitrary, unwarranted perverse, irregular and unjust manner in clear violation of the settled proposition of law resulting in manifest injustice and causing serious prejudice to the appellant and hence the same deserves to be quashed and set aside.
- B. Action of UPCL was in clear violation of principles of natural justice, equity and good conscience.
- C. The Forum did not apply judicial mind that the respondent had carried out blatant violation and committed serious irregularities. It has completely overlooked the referred judgement of Hon'ble Appellate Tribunal of Electricity New Delhi dated 14.07.2021 in appeal no. 329 of 2019 in the matter of M/s ALPS Industries vs UERC wherein it was held that once the recovery is held to be illegal and unauthorizedly recovered nothing should not come in the way of right, interest and privileged of the appellant who seeks refund of the amounts unauthorizedly and illegally recovered from it.
- D. Forum relied solely on the letter and submissions of the respondents as is evident from the judgment whiteout applying judicial mind and framing questions of law dismissed the complaint outrightly.
- E. Having received a call from the Forum for hearing scheduled on 11.09.2025, the Forum was requested to shift the hearing date on account of his medical reasons, The forum in its judgment have categorically stated that the appellant was present in hearing on 11.09.2025 which is an utter lie as he did not attend hearing on 11.09.2025.
- F. A copy of the documents submitted by opposite party were never provided to him and the complaint was dismissed without providing opportunity of hearing which is against the legal principle "**Audi Alteram Partem**"
- G. The Forum has erred in the judgment and colluded with the respondent and dismissed the complaint on the ground that the appellant has approached the Forum for getting the compliance of order no. 24/2024 dated 30.04.2025 of Hon'ble Ombudsman. Per



contra grievance pertains to the period subsequent to January 2021 wherein MF of the metering system was revised to 12 from existing 08. That the period under instant dispute is never related with the earlier dispute and this finding of the Forum was totally erroneous and biased and that the instant dispute is within forum's jurisdiction.

5. The Forum has deliberately not exercise their jurisdiction and dismissed the complaint in haste by wrongly applying CGRF Regulation , 2019.
6. The forum completely overlooked the factual position at hand and dismissed the complaint illegally.
7. Under the above circumstances, the appellant having left with no alternative has approached the Hon'ble Ombudsman by way of the present appeal for necessary relief and redressal.

### Prayer

In the premises aforesaid, it is most humbly and respectfully prayed that this Hon'ble Forum may graciously be pleased to:-

- a) Call for records of the case and Ld. Forum file for perusal;
  - b) Direct the respondent to revise the MF to the actual value.
  - c) Direct the respondent to calculate the excess amount collected on account of wrong MF.
  - d) Direct the respondent to refund the entire amount collected in excess on account on wrong application of multiplying factor along with applicable interest as per section 62(6) of Electricity Act, 2003.
  - e) Pass any other order or direction, which this Hon'ble Ombudsman may deem fit and proper, on the facts and circumstances and in the interest of justice.
8. The appellant has adduced copies of documents as referred under various paras of the appeal as annexure to substantiate his averments.
  9. प्रस्तुत प्रकरण में उभय पक्षों को सुनने एवं तथ्यों का अवलोकन करने पर इ समंच ने पाया कि परिवादी द्वारा अपनी वर्तमान शिकायत में विपक्षी विभाग द्वारा अपील संख्या-24/2024 के सम्बन्ध में माननीय ओम्बड्समैन द्वारा पारित आदेश दिनांक 30.04.2025 का अनुपालन नहीं किए जाने के सम्बन्ध में शिकायत की गई है। माननीय उत्तराखण्ड विद्युत नियामक आयोग द्वारा जारी UERC (Guidelines for Appointment of Member and Procedure to be followed by the Forum for Redressal of Grievance of the Consumer) Regulation, 2019 के अनुसार माननीय ओम्बड्समैन देहरादून के आदेश का अनुपालन कराना इ समंच के क्षेत्राधिकार शामिल नहीं है।

*[Handwritten Signature]*

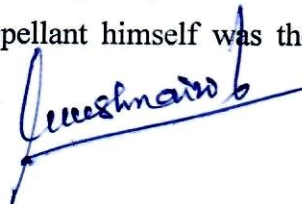
तदनुसार परिवादी की वर्तमान शिकायत के सम्बन्ध में सुनवाई करने अथवा निर्णय पारित करने का अधिकार इस मंच को प्राप्त नहीं है। अतः परिवादी की यह वर्तमल शिकायत खारिज किए जाने योग्य है।

### आदेश

परिवादी द्वारा प्रस्तुत परिवाद खारिज किया जाता है।

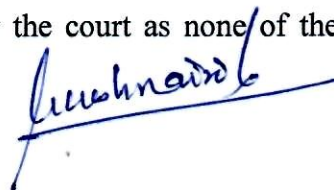
10. The respondent has submitted a written statement dated 02.01.2026 along with an notarized affidavit. He has submitted as follows:

- i. The present appeal is ex-facia not maintainable as the very same subject matter has already been adjudicated by the Hon'ble Ombudsman vide order dated 30.04.2025 and thereafter sought to be reagitated before the Forum which was rightly dismissed the complaint on 23.09.2025. The appellant having exhausted the statutory remedy and suffered adjudication is barred by the principles of resjudicata issue estoppel and constructive resjudicata from reopening settled issues under the guise of fresh appeal.
- ii. The impugned order dated 23.09.2025 passed by the Forum is a pure jurisdictional order holding that enforcement or implementation of ombudsman earlier order does not fall within the scope of the Forum under UERC Regulation, 2019. An appeal seeking reexamination of a jurisdictional refusal is misconceived as the appellant is indirectly seeking execution like relief which is impermissible in law.
- iii. The respondent has already preferred WPMS no. 2764/2025 before the Hon'ble High Court challenging Ombudsman order dated 30.04.2025, which is presently pending adjudication. In view of the doctrine of judicial propriety and avoidance of parallel proceedings the present appeal is liable to be dismissed as simultaneous consideration of the same cause of action by multiple fora would lead conflicting decisions.
- iv. The appellant has indulge in Forum shopping by sequentially and repeatedly invoking CGRF's jurisdiction and now again the Ombudsman through the present appeal despite prior adjudications. Such repeated reagitation of the same dispute amounts to a clear abuse of the process of law intended solely to delay lawful recovery and frustrate finality of proceedings.
- v. Appellant's allegation of violation of principles of natural justice is illusory and self contradictory as the appellant himself was the complainant before



Forum and was accorded full opportunity of hearing in the earlier proceedings. Forum's dismissal was founded on jurisdictional constraints not on merits and therefore no prejudice whatsoever has been caused to the appellant. The appeal, premised on an alleged denial of opportunity is thus misconceived and liable to be rejected at the threshold.

- vi. The appellant had already approached Ombudsman through representation 24/2024 challenging Forum's order dated 03.05.2024. The said representation was decided by Ombudsman by order dated 30.04.2025 where Forum order dated 03.05.2024 was set aside and the respondent was directed to refund the amount deposited by appellant in installments by way of adjustment in future electricity bills commencing from the 1<sup>st</sup> bills against the additional demand.
- vii. Notwithstanding the aforesaid adjudication the appellant again filed a fresh complaint on the very same subject matter before Forum ( case no. 121/2025). The Forum on due consideration rightly dismissed the complaint vide order dated 23.09.2025.
- viii. The appellant has preferred present appeal before Ombudsman against Forum's aforesaid order dated 23.09.2025.
- ix. The appellant has deliberately indulge in multiplicity of proceedings on the same cause of action.
- x. The appellant has sought to create a misleading narrative by selective averring that only 02 CTs were replaced due to break down in the metering equipment on 28.10.2020 purportedly under sealing certificate no. 2/1087 upon inspection and opening of CT/PT box on the said date the respondent found that 01 PT was damaged, the secondary wire of the B phase CT was broken and Y phase CT was found open rendering metering system defective and unreliable.
- xi. In view of aforesaid defects affecting metering integrity the entire CT was replaced with new CT of ratio 60/5 along with replacement of damaged PT so as to restore the metering system in accordance with technical standards and safety norms consequently the basic demand/ MF of the metering system stood revised to 12 which is consisted with the complete set of 60/5 ratio.
- xii. The contention that only 02 CTs were replaced is factually incorrect, misleading and unsupported by the court as none of the sealing certificates

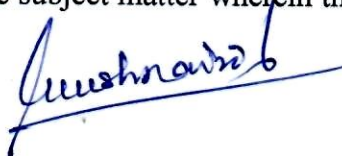


issued contemporaneously record that only 02 CTs were replaced. In the absence of any such specific mention that inevitable conclusion is that the entire CT assembly was replaced and therefore the application of MF is lawful, justified and inconsonance with the technical configuration of the metering system.

- xiii. MRI data and load survey reports conclusively established that the current is uniformly and evenly distributed across all 03 phases and there is no phase wise dissimilarity as alleged by the appellant such uniformity of current clearly demonstrates that all the CTs installed were of the same ratio. Had this not been the case the current recorded through CT ratio 40/5 would necessarily have been higher than the current recorded through other 02 CTs of 60/5 ratio even under a balanced load condition. The absence of any such variance conclusively negates the appellant's contention copies of MRI and survey report enclosed enclosed as annexure -1.
- xiv. It is further evident from checking report dated 21.09.2021 issued by YMPL agency and NABL accredited testing agency that upon inspection of metering system the CTs installed at the consumer premises were found to be of same ratio 60/5. The said independent and third party report conclusively corroborates the respondent's case that entire CT set was of uniform ratio 60/5 thereby affirming the correctness of MF applied and completely dislodging the appellants contention regarding partial replacement or mixed CTs ratio. A copy of test report is enclosed as annexure -2.

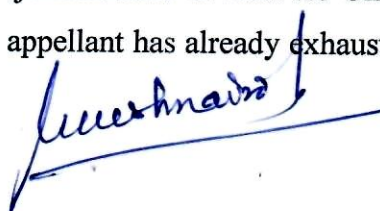
**Para wise replies**

- xv. Para no. 1 of appeal is matter of record.
- xvi. Para no. 2 (A) does not call for any reply and is therefore denied as unnecessary.
- xvii. Averments under para 2(B) of appeal are wrong, false, misleading and emphatically denied.
- xviii. Para 2(C) is admitted only to the extent that they constitute matters of record and nothing beyond the same is admitted.
- xix. Para 2(D), 2(E), 2(F) and 2(G) are matters of record. It is however pertinent to note that appellant has expressly admitted the existence of previous litigation initiated by him on the very same subject matter wherein the earlier complaint



stood dismissed therefore he approached the Ombudsman in a separate appeal which also culminated in an adjudication. The present appeal therefore is clearly barred by the principles of resjudicata and issue estoppel. It is further submitted that the appellant had already preferred a writ petition challenging Ombudsman order which is presently subjudice before Hon'ble High Court and thus parallel proceedings on the same cause of action are impermissible in law.

- xx. In reply to contents of para 2(H), I, J, K, L, M, N it is submitted that the said averments are barred by doctrine of constructive resjudicata without prejudice to the merits of the case it is submitted that the appellant ought to have raised all such pleas in the earlier ground (s) of litigation but having consciously failed to do so. The appellant cannot now to reopen settled issues or raised pleas which were available but deliberately omitted earlier. It is a settled principle of law that a litigant cannot be allowed to approbate and reprobate or to take inconsistent stands across successive proceedings and the present attempts amounts to a clear abuse of the process of law.
- xxi. Para no. 3 of appeal is wrong false and categorically denied.
- xxii. Para 4A of appeal is wrong, false and denied being wholly unsupported by any cogent material, substantiation or logical reasoning.
- xxiii. Paras 4B and 4C are wrong, false and denied and the appellant is put to strict proof thereof.
- xxiv. Para 4D of the appeal is barred, vague and unsubstantiated assertions and are accordingly wrong, false and denied.
- xxv. Para 4E, F and G are wrong, false and denied as the same are devoid of any legal for factual foundation.
- xxvi. Para 5 and 6 are wrong, false and vehemently denied. It is reiterated that the Forum rightly dismissed the complaint in accordance with law, applying the settled principle of rejudicata as reflected in the impugned order. it is therefore incorrect to alleged that the Forum acted in haste, overlooked the factual matrix or committed any illegality while passing the impugned order.
- xxvii. Para 7 is wrong, false and misleading. The appellant has no subsisting or alternative remedy to invoke the jurisdictions of Hon'ble Ombudsman in the present appeal in as much as the appellant has already exhausted the available

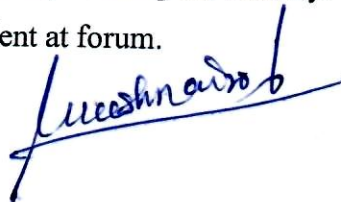


remedies by undergoing one complete round of litigation before Forum and thereafter before Ombudsman wherein the very same subject matter now sought to be reagitated stood conclusively adjudicated.

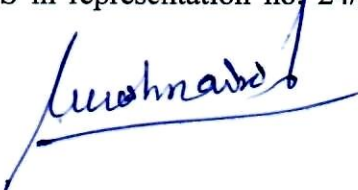
In view of forgoing facts and circumstances and settled principle of law it is submitted that the present appeal is wholly misconceived barred by resjudicata and constructive resjudicata and amounts to a clear abuse of the process of law. The impugned order dated 23.09.2025 passed by Forum being a reasoned order passed strictly on jurisdictional grounds and in consonance the applicable regulations calls for no interference.

The appellant having already exhausted the statutory remedies and subjected the same cause of action to multiple rounds of adjudication cannot be permitted to reagitate settled issues under the guise of the present appeal. The appeal therefore deserves to be dismissed in limine with cost in the interest of justice, equity and finality of proceedings.

11. The petitioner has submitted a rejoinder dated 21.01.2026 along with a notarized affidavit wherein he has submitted as follows"-
- i. At the outset it is submitted that contents of WS filed by respondent are specifically and categorically denied being devoid of merits, baseless and no cogent explanation has been furnished with respect to contention of the appellant hence denied accept to the extent which are specifically and categorically admitted herein by the appellant in the forthcoming paragraphs.
  - ii. The ensuing dispute which has been raised in the appeal memo is based on Electricity Act, 2003 the Electricity Rules 1956, CACAA notification dated 17.03.2006 and UERC Regulations vide notification dated 29.10.2020 respectively and it is being brought on record that judicial disciplines entails that the powers of the distribution licensee that is UPCL are not unbridled but are circumscribed which mutandes are enshrined in the Indian Electricity Act, Rules and UERC Regulation and the Electricity Supply Code respectively.
  - iii. Contents of para 1 are not admitted . The Forum dismissed the complaint in an illegal manner with a preoccupied mind without pursuing the documents on records. That the period of billing under the instant dispute was never challenged and complainant rightfully seeking his remedy. Per contra no such ground was raised by the respondent at forum.



- iv. Contents of para 2 are not admitted. The Forum opined that the complainant has approached the Forum for implementation of order of Ombudsman in 24/2024 case dated 30.04.2025. However, that was never the case and the Forum themselves created this confusion to dismissed the complaint of the appellant.
- v. Contents of para 3 are not admitted. The cause of action is different. That the instant appeal is preferred for wrong application of MF from January 2021 onwards for which the respondent has already admitted that only 02 no. defective CTs of ratio 60/5 were replaced against 40/5 on 28.10.2020.
- vi. That contents of para 4 are denied in totality. The appellant has full entitlement for redressal of his grievances. At the cost of repetition the instant dispute has been raised for the period January 2021 onwards wherein the MF has been changed from 08 to 12 for the appellant. That no recovery from appellant is anticipated for the period under consideration as such the submission of respondent that appellant is trying to delay lawful recovery has no leg to stand.
- vii. Consents of para 5 are denied vehemently. The appellant did not appear in the hearing dated 11.09.2025 and had asked to reschedule the date of hearing whereas the Forum dismissed the complaint in haste that the file of the learned forum may be summoned by Ombudsman for validating the submission of appellant.
- viii. Contents of para 6 pertains to records hence neither requires admission nor denial.
- ix. Contents of para 7 are wrong, false and hence denied in totality and has been replied in the preceding paragraphs. Contents of the same has not been repeated herein for the sake of brevity.
- x. Contents of para 8 are admitted.
- xi. Consents of para 9 are wrong, false and hence denied in totality and has been replied in the preceding paragraphs. The contents of the same has not been repeated herein for the sake of brevity.
- xii. Contents of para 10 are denied vehemently that it is vehemently denied that the appellant has created any misleading narrative. The respondents themselves submitted in their WS in representation no. 24/2024 at Hon'ble

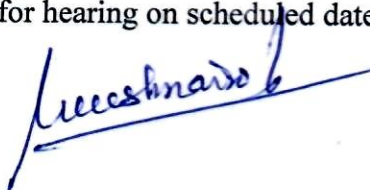


Ombudsman and also at admitted in the hearing that only 02 CTs were replaced. That the order dated 30.04.2025 of Hon'ble Ombudsman for representation no. 24/2024 categorically brought out all submissions and factual positions thus contention of respondent for misleading narrative has no leg to stand.

- xiii. Contents of para 11 and 12 are wrong, false and hence denied in totality and has been replied in the preceding paragraphs. The contents of the same has not been repeated herein for the sake of brevity.
- xiv. Contents of para 13 are not admitted it is admitted fact that only 02 nos. CTs were replaced. That the current drawn by the consumer depends on load and loading condition which inturn depends on the industry process. That the appellatant has mixed load installed in his premises thus there are many permutations and combinations under which current can be drawn as such contention of the respondent pertaining to MRI report and drawing calculation on their whims as no leg to stand.
- xv. Contents of para 14 are not admitted at the cost of repetition it is submitted that contention of appellants is based on the admission/ submission of respondent. Further the submitted report only verifies that some work has been carried out in the metering system. However no finding of the report can be relied upon that the report is not a valid report in terms of NABL as clause 5.1 of policy of NABL symbol states "Use of NABL symbol is mandatory on all test report certificate issued by the NABL accredited lab for the parameters / tests covered under NABL accredited scope". Copy of relevant documents enclosed as annexure R-A1.
- xvi. Contents of para 15 and 16 are not admitted and has been replied in the preceding paragraphs. Contents of the same has not been repeated herein for the sake of brevity.
- xvii. Contents of para 17 are not admitted. The electricity bills were paid as provided. It is wrong to state that the paid bills were not in commensuration with actual consumption. That any assessment having its foundation on UERC Regulation is only legal.

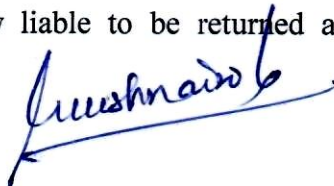


- xviii. Contents of para 18 and 19 requires no reply. Rest part of the paragraph has been replied at preceding paragraphs. Contents of the same has not been repeated herein for sake of brevity.
- xix. Contents of para 20 are not admitted. The respondent had not comprehended the case in the correct perspective. It is admitted and settled position that only 02 no. CTs had been replaced. Further it is submitted that the period under dispute is different and MF had been changed on January 2021 by the respondent.
- xx. Contents of para 21, 22, 23, 24 and 25 are not admitted.
- xxi. Contents of para 26 are not admitted. The forum dismissed the complaint on the notion that the appellant had approached for compliance of Ombudsman order dated 30.04.2025 in case no. 24/2024. However this was never his case.
- xxii. Contents of para 27 are not admitted and vehemently denied.
- xxiii. It is therefore most humbly prayed that the Hon'ble Ombudsman would be pleased to take on record the rejoinder and allow to argue the matter both on the averments made in the appeal memo as well as countered to the WS of the answering respondent in his rejoinder. Application as well as the appellant would crave leave of the Hon'ble Court to allow furnishing of any evidence/ documents/ judgments to substantiate his pleadings for which act of kindness the appellant shall as in duty bound ever pray.
12. Hearing in the case was fixed for 11.02.2026. While petitioner was absent and sent an email submitting his written arguments, copies of which was handed over to the respondent. Petitioner also shown his inability to be present before the undersigned due to health issues. However, respondent submitted application seeking adjournment so 25.02.2026 fixed as the next date of hearing. Petitioner absent as he had already submitted his written argument and requested to pass an order on the basis of documents already submitted. Respondent's counsel sent an application for adjournment which was allowed and 16.03.2026 was fixed as the next date of hearing. Petitioner absent as he had already submitted written argument and requested leave from personal appearance on health grounds and as requested again to pass order on the basis of already submitted documents. Respondent's counsel sent an application seeking adjournment, the same was allowed and 27.03.2026 was fixed as the next date of hearing. Respondent is present for hearing on scheduled date 27.03.2026, petitioner



did not come as he has already requested leave from personal appearance and to decide the case on the basis of documents submitted by him including written argument. The respondent's counsel argued his case only that the present petition is not maintainable before the Hon'ble Ombudsman. Arguments concluded order reserved.

13. The petitioner in his written argument dated 11.02.2026 averred as follows that :-
- i. Requested that his written arguments may be accepted and be taken on records and decide the case on merits.
  - ii. It is an admitted fact that while attending breakdown on 28.10.2020 only 02 CTs of ratio 60/5 were installed in place of defective 40/5 ratio CTs. The respondent in their WS submitted in case no. 24/2024 before Ombudsman at para 04 had submitted and admitted that after inspection 02 no. CTs were installed. The respondent had also confirmed this orally in the hearing dated 22.01.2025 which has been categorically observed by Hon'ble Ombudsman at para 11 of his order dated 30.04.2025 in representation no. 24/2024.
  - iii. Serial no. of the CTs installed in the metering system has not been entered anywhere in the sealing certificate or in any document provided by the respondent. Hence, it cannot be established that which CT existed in the metering panel and at what point of time.
  - iv. The licensee never followed the procedure as established in law and has devised their own procedure for which they are not having any jurisdiction which lie solely with Hon'ble UERC. Further the entire exercise carried out by the respondent was never transparent and was against fair business practices and also principle of natural justices.
  - v. The licensee had submitted MRI report however it is now an established law that the MRI report is indicative only and has to be corroborated by testing the meter in accordance with law. Further in representation no. 39/2024 dated 29.01.2025 before Hon'ble Ombudsman in the matter among M/s Chanda Rawat vs Executive Engineer, Electricity Distribution Division, Uttarakhand Power Corporation Ltd., Mohanpur, the MRI was held defective on account of various anomalies.
  - vi. In view of the admitted facts, it is established that the appellant was charged higher amount which is now liable to be returned along with applicable



interest. Hon'ble Appellate Tribunal of Electricity New Delhi in order dated 14.07.2021 in appeal no. 329/2019 in the matter of M/s Alps Industries vs UERC at para 100 of the said judgment held "*The subject matter before the Commission was claim of refund of additional surcharge which was unauthorizedly recovered by the UPCL. In terms of Section 62 (6) of the Act, it is very clear that irrespective of other liability incurred by the licensee, If the licensee has recovered unauthorizedly any amount, the manner of utilization of such unauthorized amount recovered by UPCL has nothing to do with the entitlement of the appellant. Once the Appellant is entitled for refund of such amount, how UPCL has used the said amount to lower its annual requirement and how it treated the said amount or how process of retail supply tariff determination was done, should not come in the way of right, interest, and privilege of the appellant who seeks refund of the amounts unauthorizedly and illegally recovered from it. "?*

- vii. The period under dispute was never covered in the earlier representation no. 24/2024 against which appeal is pending before the Hon'ble High Court Uttarakhand. Hence, appellant is having right to file this appeal and get the amount refunded along with interest.
- viii. It is therefore requested that Hon'ble Ombudsman would be pleased to take on record this written argument for which act and kindness the appellant shall be duty bound.
14. All documents available on file including petitioners' written argument have been perused carefully. The APTEL's judgment dated 14.07.2021 passed in appeal no. 329/2019 of UPCL has also been perused subject matter in which appeal is also similar to that in the instant petition i.e. regarding refund of amount charged by UPCL unauthorizedly for which they are not entitled in terms of section 62(6) of the Act. Relevant para 100 to 110 of the said judgment have been placed in the file as a relevant record. Abstract of the judgment is reproduced hereunder:-

**In light of the above discussion and reasoning, we are of the opinion that the impugned order dated 05.08.2019 of the respondent Commission is liable to be set aside. The appellant is entitled to refund of the additional surcharge which was wrongfully collected from it between 17.06.2013 to 31.03.2017 along with**

*Lushna*

**bank interest applicable in terms of Section 62(6) of the Electricity Act. Accordingly, the appeal is allowed.**

Case file of petition no. 24/2024 of the same petitioner which was decided vide order dated 30.04.2025 has also been perused. The Forum's file in complaint no. 121/2025-26 decided by the Forum vide order dated 23.09.2025 against which the present petition has been preferred was also summoned and gone through.

15. Arguments from counsel for the respondents were heard. As the petitioner had already requested leave from personal appearance on health grounds and had submitted his written arguments dated 11.02.2026, contents of which have been mentioned in para no. 13 written above.
16. In view of the documents available on file, as well as on Forum's file in complaint no. 121/2025-26 and on case file of petition no. 24/2024 before Ombudsman decided by order dated 30.04.2025 as also the Hon'ble APTEL's above referred judgment and Section 62 (6) of Electricity Act, 2003 the facts of the case as borne out are as follows:-
  - i. Respondent's counsel objections that the instant appeal is not maintainable before Ombudsman are not sustainable as the subject matter and period of the present appeal and that of the earlier appeal in case no. 24/2024 are all together different. So, respondent's objections are turned down, the instant appeal is very much maintainable before the undersigned in the interest of justice.
  - ii. The Forum in its order dated 23.09.2025 in complaint no. 121/2025 in last para of its order has mentioned that "प्रस्तुत प्रकरण में उभय पक्षों को सुनने एवं तथ्यों का अवलोकन करने पर" this phrase of the order does not prove to be factually correct as it is in contravention to the mentions in Forum's date sheets dated 29.08.2025, 11.09.2025 and 22.09.2025 in which it is clearly mentioned that on 29.08.2025 both parties were present however no hearing was held and adjournment was allowed on the request of opposite party but on 11.09.2025 and 22.09.2025 as per date sheet the complainant was not present. Hearing was held on 22.09.2025.



- iii. The appellant's case is that in the earlier appeal 24/2024 before Hon'ble Ombudsman the respondent has admitted that while attending breakdown on 28.10.2020 only 02 defective CTs were replaced by CTs of ratio 60/5 hence revision of MF to 12 from January 2021 was wrong as one CT of ratio 40/5 still remained in the metering system and requested to revise the MF to actual value and returned excess amount collected with interest.
- iv. Whereas respondent's case is that while attending the breakdown all the 03 CTs were replaced and the claim of appellant is incorrect, misleading and unsupported by the records. The respondent has further submitted that WPMS 2764 of 2025 is pending at Hon'ble High Court against Ombudsman's order dated 30.04.2025 which is under adjudication. Hence, the present appeal is liable to be dismissed.
- v. The appellant approached the CGRF (complaint no. 121/2025-26) which was dismissed vide order dated 23.09.2025 aggrieved with which the instant petition has been preferred.
- vi. Documents available on files as well as submitted case laws has been perused. It is borne out that period of assessment in case no. 24/2024 was for the period May 2019 to December 2020 whereas the period of dispute in this appeal was from January 2021 onwards till September 2021 when the MF was changed to 12 which is admitted.
- vii. It will not be out of place to mention here that respondent in case no. 24/2024 have categorically admitted under affidavit that only 02 no. CTs were replaced which was also confirmed at the time of hearing in that case. this finding was also recorded by the Forum so, now the respondents cannot be allowed to change their stand to the prejudice of the appellant.
- viii. Now it is left to be seen that when the 03<sup>rd</sup> CT got replaced by the respondent. The respondents have submitted test report of CT/PT and meters dated 21.09.2021, this report claims that 03 CTs of ratio 60/5 installed in the premises of the appellant which report was also signed by the consumer. However, no record has been submitted by the respondent for replacement of 3<sup>rd</sup> CT. In such a scenario and respondents categorical admission repeatedly in the earlier case no. 24/2024 there were 02 CTs of 60/5 ratio and 01 of 40/5 ratio with effect from the date 28.10.2020 when admitted while attending the

*Mushnadi*

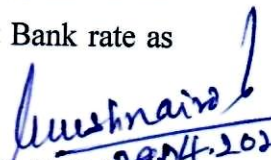
breakdown only 02 damaged CTs were replaced by new CTs of ratio 60/5. And one CT of ratio 40/5 remained in the metering system as such the MF during the period referred above cannot be 12. It cannot also be 08 and there is no way to technically decide the correct MF during the period when different ratio CTs were existing in the metering system. However, as opined earlier in case no. 24/2024 to decide the dispute it would be logical that MF during the period be taken as  $12+12+8 = 32 / 3 = 10.66$ .

- ix. In view of above calculations, findings and deliberations, it will be appropriate to revise the bills from January 2021 to September 2021 (up to 21.09.2021) taking MF as 10.66 instead of 12 on which bills for the aforesaid period have been issued. The respondents are therefore directed to revise the bills for the aforesaid period taking MF as 10.66 instead of 12 from January 2021 to September 2021 and refund the excess amount charged in the monthly bills for the above period keeping in view Section 62(6) of Electricity Act, 2003 as well as APTEL's Judgment dated 14.07.2021 passed in appeal no. 329/2019 referred above.

### Order

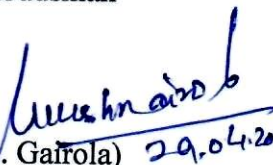
The petition is allowed. Forum order is set aside the Respondents are directed to issue revised bill for the period January 2021 to September 2021 taking MF 10.66 instead of 12 and refund the excess amount by way of adjustment in future bill(s) due to the consumer as a result of bill revisions along with payment of interest at Bank rate as applicable in terms of Section 62(6) of Electricity Act, 2003.

Dated: 29.04.2026

  
(D. P. Gairola) 29.04.2026  
Ombudsman

Order signed dated and pronounced today.

Dated: 29.04.2026

  
(D. P. Gairola) 29.04.2026  
Ombudsman