



In the matter of:

Complaint No. 17/2025

M/s Satluj Jal Vidyut Nigam Limited (SJVN), SJVN, Rampur HPS
Electricity Supply & Security Division Bayal, P.O. Koyal, Tehsil Nirmand,
District, Kullu (H.P.)

-Complainant

Vs

1. Executive Director (Personal), HPSEB Ltd, Vidyut Bhawan, Shimla-171004.
2. The Superintending Engineer (HPSEBL), (OP) Circle, HPSEBL, Rampur Bushahar, District Shimla (H.P.)
3. The Sr. Executive Engineer, HPSEBL, Electrical Divn. Ani Distt. Kullu (H.P.)

-Respondents

1. Complaint No. 17/2025 (Registered on 28/04/2025)
2. (Orders reserved on 16/06/2025, Issued on 01/07/2025)

The Complainant: - Sh. Surinder Sharma, Advocate
-Er. Arjun Dass, Dy. Manager, SJVN, Rampur.
- Sh. Vabhw Sharma, Dy. Manager
The Respondents: -Sh. Kamlesh Saklani, Under Sectt. Law
- Er. Ashwani Sharma, AE, ESD Nirmand

QUORUM

Er. Deepak Uppal

HP Electricity Ombudsman



Order

1. M/s Satluj Jal Vidyut Nigam Limited (SJVN), SJVN, Rampur HPS Electricity Supply & Security Division Bayal have filed an Application under Section 42(6) of the Electricity Act. 2003 Himachal Pradesh

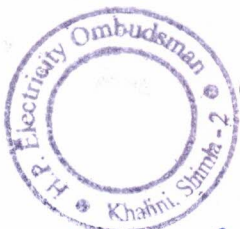
Deepak Uppal



HIMACHAL PRADESH ELECTRICITY OMBUDSMAN
SHARMA SADAN, BEHIND KEONTHAL COMPLEX, SHIMLA-171002
Phone: 0177-2624525, email: ombudsmanelectricity.2014@gmail.com

Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, received and registered on 28.04.2025, against the final Order dated 28/03/2025 passed by the Consumer Grievance Redressal Forum at Kasumpti in Complaint No. 1131/202407/21.

2. Case called, the matter was heard for admissions on 05/05/2025. The Id. Counsel for Complainant prayed for restraining, the Respondents from taking any coercive action such as disconnection of supply during the pendency of the complaint. After listening to both the parties, the prayer granted and the matter was admitted to the extent of initiation of proceedings subject to deposit of 50% amount, being mandatory in terms of Regulation 33 (1)(g) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 towards Limitation / pre-condition for entertaining the complaint.
3. The Complainant also made corrections in the name of first Respondent which was erroneously mentioned in the representation as 'Chief Managing Director Kumar house' in place of 'Executive Director (Personal), HPSEB Ltd, Vidyut Bhawan, Shimla-4'
4. The Respondent Board was directed to submit reply on or before 16/05/2025. However, the further proceedings had to be initiated only after the Complainant submits proof of mandatory requirement as directed above. Accordingly, the case was listed for hearing on dated 23/05/2025.
5. Case called, the matter was heard on 23/05/2025. At the very outset, the Id. Counsel for Complainant submitted the proof of having deposited 50% of the disputed amount with the Respondents in compliance to this court's order dt. 05.05.2025 and the same was confirmed by the Id. Counsel for Respondents in the court room which was taken on record.
6. The Respondent Board also submitted reply on dt. 23.05.2025 in the court room which was taken on record and subsequently the Complainant was



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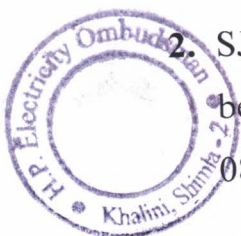
directed to submit Rejoinder if any, within weeks' time. Accordingly, the case was listed for final arguments on dated 16/06/2025 subject to submission of above documents.

7. Case called, the matter was heard. the Complainant submitted rejoinder in the court room on dt. 16.06.2025 which was taken on record. The counsel for Respondents and concerned Assistant Engineer appeared in the Court room along with the record and with the mutual Consensus of both the parties, the final arguments were conducted.
8. The deliberations made by the Assistant Engineer representing Respondent Board and participation in discussions were appreciable. The Id. Counsel for Complainant put his averments in very exhaustive manners to the best of his capacity. Both Id. Counsel for Respondent Board and the Id. Counsel for the Complainant advanced their arguments to the brim. After hearing both the parties at length, the arguments were concluded and order reserved. The order was also placed at site as well as conveyed telephonically for the convenience of concerned.

A-Brief Facts of the Case:

1. M/s Satluj Jal Vidyut Nigam Limited (SJVNL) Limited, is a joint venture of the Government of India and the Government of Himachal Pradesh, is a Public Sector Undertaking (PSU), a company incorporated under the Companies Act, 1956. The instant appeal on behalf of the appellant is being preferred through its DGM (HR)-Mrs. Isha Negi, who is competent to file and maintain the present appeal against the order passed by the Ld. Consumer Grievances Redressal Forum (CGRF) dated 28.03.2025.

2. SJVNL is a Bulk Supply (BS-Two Part) Consumer of Respondent HPSEBL bearing Consumer ID 100014001801, having connected load 1900 kW (since 08.12.2017), availing electricity supply connection at 22 kV is a Hydel Power



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Station (HPS) PSU company and receives power supply from Respondent for meeting its auxiliary power supply requirement of power house and associated facilities of the Plant.

3. The metering of the Complainant is being done on 22 kV (RHPS) Kotla- Bayal feeder at the 220/66/22 kV Kotla substation of the Respondent.
4. The instant matter pertains to defective metering of the Complainant for the period from the time of installation of Meter No HPP 00379 on 08.12.2017 to 08.02.2022 (4 years and 2 months);

B-The Complainant's Specific Submissions:

1. That the Energy Meter No.HPP00379 was installed by the respondents in the month of December, 2017, after replacing the old meter bearing No.11377391 and. regular billing etc. was done by the Respondent-Board of the electricity consumption by the appellant/complainant since the date of installation of the electricity meter, i.e. in the month of December, 2017.
2. That during the year 2022, more particularly somewhere in the month of January, 2022, the Respondent-Board observed defective metering and on the pretext of the defective metering, the respondents on 24.01.2022 replaced the electricity meter No.HPP00379 with new meter No.HPP00375.
3. That Pursuant to the change of the meter, the Metering & Testing (M&T) team of the Respondent-Board visited the sub-station, feeding/catering the Hydel Power Station of the Appellant-Company on 08.02.2022, and the said M&T team observed the defective metering due to several reasons:
 - a. such as connection of one phase of CT Reversed
 - b. Ampere Meter & Selector Switch existing in the Circuit of the installed meter
 - c. and CT being of lower class as against that of the required class etc.
4. That as per the respondents, the issues relating to defective metering were resolved and correct meter was installed on 08.02.2022 with the reasons that





defective metering had existed from the time of installation of Meter No.HPP00379 on 08.12.2017 to 08.02.2022.

5. That a demand notice dated 11.07.2022 based on the log-sheets available from Kotla Sub-Station for the period of alleged defective metering, amounting to ₹3,00,20,610/- was raised/issued by the respondents.
6. That the said demand notice was disputed through reply dt.02.08.2022 and after exchange of various communications between the appellant and Respondent-Board, the Respondent-Board on 16.01.2024 issued a revised demand notice amounting to ₹2,29,68,548/-. The aforesaid demand of ₹2,29,68,548/- was subsequently reiterated by the Respondent-Board vide its demand notices dated 08.04.2024 and 03.05.2024.
7. That on non-payment, the Respondent-Board raised a sundry bill dated 15.05.2024 and thereafter along-with sundry bill the arrears were also raised, vide bill dated 04.06.2024 to the tune of Rs.2,44,16,020/- including the late payment surcharges.
8. That there had not been any kind of complaint etc. with regard to payment of regular electricity bills based on the consumption of electricity at the site. It is respectfully submitted that, feeling aggrieved and dissatisfied by the issuance of different demand notices, raising therein a demand to the tune of ₹2,29,68,548/-, the appellant was constrained to approach the Ld. Consumer Grievances Redressal Forum (CGRF).
9. That it was the specific case of the appellant before the learned CGRF that the demand qua the arrears of electricity bill on account of defective metering was raised by the respondents after a period of about five years.
10. That so far as the installation of electricity meters etc. is concerned, the electricity meters, whether defective or non-defective, were installed by the Respondent-Board itself and the defective metering was in no way attributable to the appellant/complainant.



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11. That it was also the contention of the appellant/complainant before the learned Forum that the demand raised by the Respondent-Board at this belated juncture is hit by Limitation, as have been prescribed under Section 56(2) of the Electricity Act, 2003.
12. That it was also the contention of the appellant before the learned Forum that the electricity meter was changed by the respondents in the year 2022, without any prior intimation to the appellant.
13. That it was resisted and contested by the Respondent-Board that the demand raised by the Board is statutory one as the electricity dues are statutory in nature and the appellant/complainant cannot evade making payment of the electricity dues.
14. That it was further contended by the respondents that the mistake on part of the Respondent-Board with regard to defective metering was a bonafide mistake and the same was detected by it and the supplementary demand was raised based on the consumption pattern/actual demand.
15. That it was also contended by the respondents that new meter was installed on 24.01.2022 in the presence of complainant's employee and also submitted that there was malfunctioning in the old meter due to phase current failure caused by wrong meter connections/wiring defects, which was causing huge revenue loss to the Board. The defects were detected by the M&T Team on 08.02.2022 in the presence of the official of the appellant/complainant.
16. That learned Forum below has though tried to deal with different issues, but the findings returned by the learned Forum below are not in consonance with the legal and factual position.
17. That by way of the operative part of the order, learned Forum below has dismissed the complaint preferred by the appellant/complainant with the direction to the appellant/complainant to pay the sum within 10 days of the demand so raised, failing which, the respondents shall be at liberty to take



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action in accordance with the extant Statute/Regulations including that of disconnection for non-payment.

18. that after the passing of the orders as above by the learned CGRF, a demand notice dated 03.04.2025 of Rs.1,83,68,375/- has been served by respondent whereby the appellant has been requested to pay the outstanding amount to the Assistant Engineer, HPSEBL Nirmand within 10 days from the date of receipt of this notice. The copy of the demand notice dated 03.04.2025 is annexed herewith as **Annexure-A2**.
19. That in reference to the aforesaid demand notice, the appellant has submitted a formal reply, stating therein that the appellant is going to assail the orders passed by the learned CGRF below before this Hon'ble Court by way of the representation/appeal.
20. That the impugned Annexure-A1, order dated 28.03.2025, passed by the learned CGRF in Complaint No.1131/202407/ 2021 is contrary to the facts and law pleaded, thus, deserves to be set aside. Further, the demand notice dated 03.04.2025, as has been raised in pursuance to the order passed by the learned CGRF is also not sustainable in the eyes of law, thus, deserves to be quashed and set aside.
21. The order passed by the Ld. Forum is based on conjectures and surmises, thus deserves to be quashed and set aside.
22. That the action of the Respondent-Board of unilaterally changing the electricity meter on 24.01.2022, without any prior intimation to the consumer and by not assigning any reasons for change of the electricity meter is bad in law.
23. That while raising the aforesaid demand, the respondent-Board has taken into consideration the average consumption of electricity without appreciating the fact that the electricity consumption at the plant site was not always the same. The electricity consumption at the plant site during the peak hours was comparatively more and during rest of the time, the electricity consumption was



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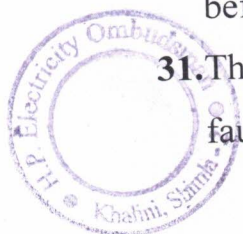
very less. All these aspects were also required to be taken into consideration while raising the demand. The appellant/complainant is not bound to pay any such demand, which has been raised by the respondent-Board on account of defective metering.

- 24.** That the demand raised by the respondent-Board was hit by limitation as the demand raised by the respondent-Board was beyond a period of two years. The demand raised by the respondent was not sustainable especially in view of Section 56(2) of the Electricity Act, 2003. It has been specifically provided in Section 56(2) of the Electricity Act that no sum due from any consumer under this Section shall be recoverable after the period of two years from the date when the sum became first due, unless such sum has been shown continuously as recoverable as arrears of charges for electricity supplied and the licensee shall not cut off the supply of electricity.
- 25.** That though the appellant/complainant is seriously disputing the demand raised by the respondent-Board with regard to arrears of electricity charges on account of defective metering, however, if the same is taken to be a genuine demand, the said amount/sum became first due in the year 2017/January, 2018 immediately after the installation of electricity meter. So, the period of limitation for all intents and purposes was required to be reckoned from the date when such sum became first due. It is respectfully submitted that the sum became due for the first time in the month of January, 2018 as the electricity meter was installed in the month of December, 2017.
- 26.** That while dealing with the issue of limitation, learned CGRF has not appreciated the law as settled by the Hon'ble Supreme Court of India as well as various High Courts and by in its right respective rather has misconstrued the provisions contained in Section 56(2), and has held that the demand raised by the respondent-Board was within limitation.





27. The facts of the case, which were before the Hon'ble Supreme Court as well as different Hon'ble High Courts, as were cited before the learned CGRF, were entirely different. The plain and simple understanding & interpretation of Section 56(2) is that the period of two years will commence from the date when the sum became first due. In the instant case, learned Forum has wrongly come to the conclusion that the sum became first time due in the year 2022, when the defective metering was detected by the respondent-Board. The said interpretation/findings returned by the learned Forum below are not in consonance with the provisions contained in Section 56(2) of the Electricity Act, 2003.
28. That learned Forum below has not appreciated the fact that the procedure as has been prescribed in Himachal Pradesh Electricity Supply Code, 2009 with regard to testing of meters and also with regard to defective meters etc. has not been followed by the respondent-Board.
29. That before arriving at the conclusion that the meter was defective, it was incumbent upon the Respondent-Board to send the meter to the Accredited Testing Laboratory strictly as per the standards prescribed by the National Accreditation Board for Testing and Calibration Laboratories (NABL).
30. That as per Clause 4.3.4 of the Electricity Supply Code, it was incumbent upon the Respondent-Board to conduct the periodical inspection/testing of the meters installed at the premises of the appellant/complainant/at Electrical Sub-Station Kotla. The detailed procedure as has been prescribed in the Himachal Pradesh Electricity Supply Code, 2009 as well as Electricity Act, 2003 has not been followed by the Respondent-Board before changing the electricity meter and before coming to the conclusion that there was defective metering.
31. That the learned Forum below has also not appreciated the fact that even if the fault was detected at a very later stage, the appellant-Company cannot be



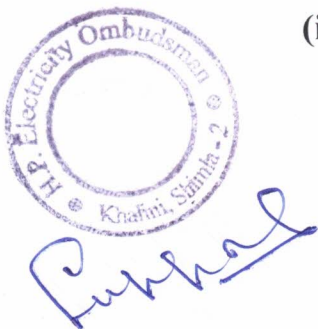
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penalized for the same by raising such a huge bill, that too, based on average bills. Learned Forum below has not appreciated the aforesaid fact.

32. That Id. Forum below has not returned even a single finding dealing with the issue with regard to sustainability of the demand raised by the Respondent-Board at such a belated stage. Ld. Forum below has raised a new issue while passing the order.
33. That the learned Forum below has itself pleaded the case of the respondent-Board and by travelling beyond the scope of the complaint in paras 92 & 93, has observed that interest shall now be payable by the complainant from the date original monthly consumption was billed against less meter consumption and has directed the respondent-Board to raise the demand accordingly.
34. That it is respectfully submitted that the appellant/complainant has already deposited a sum of Rs.81,30,522/-with the respondent-Board on 08.10.2024, pursuant to the interim order passed by the learned CGRF.
35. That the present appeal/representation is within the period of limitation from the date of passing of the orders by the learned Forum below.
36. That the appellant/complainant has not filed any other complaint/representation/writ petition on the same or similar grounds before any other Forum, Court or Authority including the Hon'ble High Court or Hon'ble Supreme Court of India.
37. That the following relief is sought: -

- (i) That the impugned Annexure-A1, order dated 28.03.2025, passed by the learned Consumer Grievances Redressal Forum, Kasumpti at Shimla, in Complaint No.1131/ 202407/2021, may kindly be set aside;
- (ii) That the impugned demand notice dated 03.04.2025, Annexure-A2, issued by respondent No.3 pursuant to the order passed by the learned Forum below, may kindly be quashed and set aside;





- (iii) That the entire record pertaining to the case of the appellant/complainant may also be called for;
- (iv) Any other order deemed just and proper, in the facts and circumstances of the case, may also kindly be passed in favour of the appellant/complainant and against the respondents in the interest of justice

C- The Respondent's Specific Submissions :

Preliminary Submission:-

1. that the representation as preferred by the complainant is not maintainable in the eyes of the Law, hence liable to be dismissed, as it is based on conjectures and surmises.
2. that the relief sought by the complainant is not tenable in law, as the Ld. Forum below has correctly passed the order dated 28.3.2025 after thoroughly examining the case records and there is no such infirmity or illegality in the order passed by the Id. Forum thus the representation is liable to be dismissed.
3. that HPSEBL is a deemed Distribution Licensee under Electricity Act, 2003 for supply of electricity supply to consumers in Himachal Pradesh. The requisite charges for supply of electricity to the consumers is being charges from the consumers based on Regulations notified by Himachal Pradesh Electricity Regulatory Commission pursuant to the powers conferred on it under the various Section of Electricity Act, 2003.
4. that the issue which lead to demand notice is defective metering of the Appellant/Complainants electricity consumption from the installation of Meter No.HPP 00379 on 08.12.2017 until its replacement on 08.02.2022, a period of approximately 4 years and 2 months.



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5. that the Meter No. HPP 00379 was installed in December 2017, replacing Meter No. 11377391. On 24.01.2022, HPSEBL replaced Meter No. HPP 00379 with Meter No. HPP 00375, in the presence of the Appellant/Complainant's personnel, following reports of potential metering issues. Subsequently, on 08.02.2022, HPSEBL's Metering & Testing (M&T) team conducted an inspection at the substation, with the Complainant's personnel present, and identified certain technical issues that may have contributed to the alleged defective metering.
- (i) one phase of the Current Transformer (CT) was reversed,
 - (ii) an ampere meter and selector switch were present in the circuit of the installed meter,
 - (iii) the CT was of a lower class than the required 0.5 class, and
 - (iv) the meter operated on a 3-phase, 3-wire setup instead of a 3-phase, 4-wire setup.
6. That these issues were resolved, and correct metering was established on 08.02.2022. The Non-Appellant /Respondents issued a Demand Notice on 11.07.2022 for past period arrears amounting to Rs. 3,00,20,610, arising from the defective metering, based on the overhaul of the Complainant's account using log sheets from the Kotla substation.
7. That the Demand Notice references a letter dated 09.03.2022, wherein the Non-Appellant /Respondents requested Low Tension (LT) side consumption data from the Complainant for the defective metering period. The demand was reiterated in a subsequent Demand Notice dated 19.11.2022.
8. That on 19.12.2022, representatives from both parties revisited the substation. Following the Complainant's letter dated 02.08.2022, subsequent correspondence, and the Complainant's failure to provide LT side consumption data.





9. That the Non-Appellant /Respondents revised the demand to Rs. 2,29,68,548 on 16.01.2024. This revision was based on the consumption recorded by Meter No. HPP 00375 over two years. The Forum below rightly concluded that the revised demand is legal and valid, supported by system data with minimal human interference. Accordingly, the Complainant is liable to honor the demand.
10. That the demand raised against SJVN Limited is statutory, and failure to pay will lead to disconnection of electricity supply. The supplementary demand was issued after detecting a bona fide error, based on actual consumption.
11. That the distribution licensee has the right to recover past dues, as upheld by the Hon'ble Supreme Court in *Assistant Engineer (D1) Ajmer Vidyut Nigam Limited vs. Rahamutullah (2020) 4 SCC 650* and *M/S Prem Cottex vs. Haryana Vijli Vitaran Nigam Ltd. (2021)*. The Court ruled that mistakes in billing, once detected, can be corrected, and the consumer is obligated to pay the dues. Section 56 does not protect a consumer from such legitimate claims. Therefore, the representation is without merit, as per the settled legal position.

Reply on Merits:-

12. That RHPS Bayal has applied for a load extension from 200 kW to 1900 kW under Account No. EOB-1BSNI (Consumer ID 100014001801). After load extension approval, meter change order MCO No. 0048261 (**Annex-A**) was issued on 08th December, 2017 and HT, CT/PT energy meter with Sr. No. HPP 00379 was installed on 22 kV Kotla Bayal feeder panel within the premises of 220/66/22 kV Substation HPSEBL Kotla for HT metering purpose.



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13.that since it is clearly established on record that on account of the phase reversal /defective metering, less energy consumption was recorded in the meter, resulted into short assessment and direct loss to the. When the metering defects was rectified, the energy consumption was abruptly shooted to many time as compared to early consumption of the energy meter. Being defective metering, clause 4.4.8(of the HP Electricity Supply Code is applicable which reads thus:

4.4.8 Overhauling of consumer accounts –

- (i) *If a meter on testing is found to be beyond the limits of accuracy as specified in the regulations framed by the Authority under Section 55 of the Act, the electricity charges for all categories of consumers will be computed in accordance with the said test results for a period of six months immediately preceding -*
- (a) *the date of test in case the meter has been tested at site to the satisfaction of the consumer ; or*
 - (b) *the date the defective meter is removed for testing in the laboratory of the licensee where such testing is undertaken at the instance of the licensee ; or*
 - (c) *the date of receipt of request from the consumer for testing a meter in the laboratory of the licensee.*

Any evidence provided by the consumer about conditions of working and/or occupancy of the concerned premises during the said period(s) which might have a bearing on computation of electricity consumption will, however, be taken into consideration by the licensee.

- (ii) *The accounts of a consumer will be overhauled for the period a burnt/defective meter remained at site, on the basis of energy consumption of the corresponding period of the previous year after calibrating for the changes in load, if any. In case the average consumption for the corresponding period of the previous year is not available then the consumer will be tentatively billed for the consumption to be assessed in the manner indicated in para 4 of Annexure-A and subsequently adjusted on the basis of actual consumption in the corresponding period of the succeeding year.*

Provided that in case of meters where error in recorded energy is due to wrong CT/PT connections or inputs there from, wrong multiplication factor, calculation mistakes etc. the accounts of consumer will also be overhauled in terms of sub-para 4.4.8 (ii) above.¹

- (iii) *If a consumer is liable to pay an additional amount or is entitled for a refund in consequence of an overhaul of his account in accordance with sub- paras 4.4.8 (i) and (ii), the licensee will effect recovery or adjust the excess amount in the electricity bills of the immediately succeeding months.*

¹ Proviso added vide 6th Amendment 2025.



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14. that bare perusal of the above provision of the HP Electricity supply code will leaves no manner of doubt that the account of the consumer is liable to be overhauled on the basis of the corresponding period of the previous years for the period of the burn/defective meter remained at site. Further if the previous years consumption is not available then the consumer will tentatively billed for the consumption to be assessed in the manner indicated in para 4 of Annexure A and **subsequently adjusted on the basis of actual consumption in the corresponding period of the succeeding year**. Hence the impugned demand notice, issued by respondents is strictly in terms of the mandate of the clause 4.4.8 (ii) of the Supply code, wherein the actual consumption for the succeeding years has been taken in to consideration for overhauling of the meter remained defective in the site.
15. that when the meter with Sr. No. HPP 00379 was found inoperative during May 2021; a Meter Change Order was issued by the Assistant Engineer, Elect. Sub Division HPSEBL Nirmand, on 16.08.2021 (Annex B), and a new meter was installed on the spot on 24.01.2022 **in the presence of the complainant's employee, Sh. Arjun Dass, Assistant Manager, RHPS Bayal**, who also put his signature on the meter change order.
16. that meter HPP00379 was earlier manually billed, but after April 2021, the Common Meter Reading Instrument (CMRI) was used for reading/billing of this meter. It is recorded in the CMRI monthly report on 24.01.2022, at the time of meter replacement, that since installation of meter no. HPP00379 (Dec 2017 to Jan 2022), due to a wiring system defect, huge current failure in all 3 phases of the meter was found (Annex C).
17. that current is an important parameter for an energy meter's correct energy consumption recording, and huge current failure caused under-billing in this case.



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- 18.that, after May 2021, Apparent Active Import, the reading on which the monthly energy bill is prepared, paused at 486810 kVAh (Annex D). After these malfunctions in the metering system were detected through CMRI reports, the Assistant Engineer issued a Meter Change Order on 16.08.2021.
- 19.that the wiring system defect was causing a huge loss to the Board's revenue; hence, with the availability of a meter and keeping in view the urgency of the matter, the earlier meter was replaced with a new meter, Sr. No. HPP 00375, on 24.01.2022, after telephonic discussion with Meter & Testing (M&T) Division Solan officials (MoM –I Annex E). The newly installed meter connections were done similar to the earlier connections.
20. that in the presence of complainant/SJVNL Officials and HPSEBL Division Anni officials, the Meter and Testing (M&T) HPSEBL Division Solan team inspected, the connections and wiring system of the newly installed energy meter having Sr. No.HPP00375, which was installed on the 22 kV Kotla Bayal feeder panel. The newly installed meter connections were made identical to the connections prior to 24.01.2022, and the team also observed several defects in the metering system as detailed below (MoM attached as Annex F).
21. that following are the findings of the above-said inspections reproduced below for the kind perusal of the Hon'ble ombudsman:

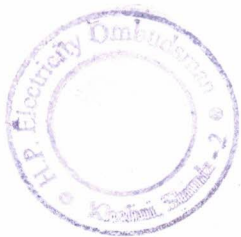
- A) On checking the CT's polarity through the Red phase instrument, the polarity of one phase was found reversed, due to which the meter device was showing malfunctioning readings and working on import mode. The polarity has been rectified.
- B) The existing wiring system of the energy meter was a 3-phase 3-wire system (i.e., with Red & Blue phase only), which has now been converted to a 3-phase 4-wire system. Also, the selector switch and ampere meter on the panel were found connected in the wiring of the meter, which was prone to malfunctioning of readings. So, the selector switch and ampere





meter have been bypassed. It is pertinent to mention here that due to the above-stated defects, both the old energy meter (Sr. No. HPP00379) (Dec 2017 to 24.01.2022) and the new energy meter (Sr. No. HPP00375) (from 24.01.2022 to 08.02.2022) failed to record actual energy consumption, resulting in significantly under-reported consumption. As the metering defects were rectified by the M&T team on 08.02.2022, after this day, a significant increase in energy consumption was observed. A comparison of consumption records/units billed before and after metering defect rectification on 08.02.2022 (comparison shown in Annex G) reveals a significant discrepancy, and also CMRI report analysis further reveals the facts as mentioned below.

- A1). In the old meter Sr. No. HPP00379, over a period of 4 years (Dec 2017 to 24.01.2022), energy consumption recorded ($487310 + 805000 = 1292310$) kVAh (Apparent Active Import + Apparent Active Export) (as per CMRI copy attached Annex-H). Due to the CT's polarity problem, the meter was recording energy readings on both import and export mode.
- B1). In the new meter Sr. No. HPP00375, after rectification of metering defects in 2 years (08.02.2022 to May 2024), energy consumption recorded ($3357380 + 66240 = 3423620$) kVAh (Apparent Active I + Apparent Active E) (CMRI copy attached Annex-I). As the CT's polarity also got rectified, now in 2 years up to May 2024, the meter has accurately recorded import of a huge 3357380 units as compared to only 66240 units as export units. It is important to mention here that a significant increase of (3423620) kVAh consumption in 2 years (up to May 2024) in the new energy meter after 08.02.2022 (date of defects rectification) was found as compared to only (1292310) kVAh in the old meter in 4 years of use before its replacement on 24.01.2022. The difference in energy consumption before and after the date 08.02.2022 (date of defects rectification) is massive. Oversight occurred during the initial meter (Sr. No. HPP00379) installation, as wiring system defects were not thoroughly checked. However, the under-billing has been detected, but complainant SJVNL is delaying the matter by questioning responsibility, seemingly intending to avoid settling the matter. However, it is a matter of fact that HPSEBL officials have acted with integrity in assessing and overhauling RHPS Bayal Acc. (Consumer ID 100014001801). As under-billing was detected, HPSEBL has taken immediate and



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HIMACHAL PRADESH ELECTRICITY OMBUDSMAN
SHARMA SADAN, BEHIND KEONTHAL COMPLEX, SHIMLA-171002

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transparent action to rectify the issue, ensuring a fair and accurate billing process. It is submitted here that as per the provision of HPSEBL Sales Manual Clause 9.3.5.4 of "Condition of Supply" – HPSEBL reserves the right to recover the outstanding amount of the bill after repairing the defect/problem of the meter, as follows:

CT/PT METERS

A2) In case of CT/PT meters where the accuracy of the meter is not involved and it is a case of incorrect connections, defective CTs/PTs, genuine calculations & mistakes, etc., charges would be adjusted in favor of the HPSEBL/consumer, as the case may be, for the period the mistake/defect continued.

B2) In case of replacement of either CT/PT or meter due to any reason, if the corresponding multiplication factor has not been changed and bills are issued on the wrong multiplication factor, the revised bill will be issued for the correct multiplication factor for the period from replacement of either meter or CT/PT to the date the mistake has been noticed, and the correct bill will be issued thereafter.

22. that after lack of positive response to the demand notice dated 16.01.2024 from the complainant, another demand notice was issued to the RHPS Bayal office on 08.04.2024, for recovery of the under-billing amount vide letter no. AED/DB-C-Billing/2024-25-115-19 dated 08.04.2024 (Annex-U). All relevant facts had been previously intimated to RHPS Bayal officials multiple times through various correspondences, but to no avail. Therefore, this final notice was issued, stating that failure to make payment would result in the demanded amount being posted as an arrear in the next energy bill, i.e., May 2024 energy bill. This action was taken in accordance with instruction no. 39 of HPSEBL Sales Manual 2017 (Annex-V). CMRI data available with HPSEBL for meter no. HPP00379 and HPP00375 has been shared with RHPS Bayal officials on 28.06.2024 via email at psm.rhep@sjvn.nic.in for scrutiny and analysis at their end. Thus, there is no such infirmity or illegality in the order passed by the Ld. Forum; thus, the representation is liable to be dismissed.



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23. that it is further denied that the impugned demand raised by the respondents is barred under section 56 (2) of the Electricity Act, 2003. As it is settled position of the law that '*sum became first due*' when the said amount is billed to the consumer and thereafter, regularly reflected as an arrear in the monthly electricity bill. [Assistant Engineer (D1) Ajmer Vidyut Vitran Nigam Limited versus Rahamautallah Khan (2020) 4 SCC 650], as such the contention is totally untenable in the law.
24. that the electricity charges in question are statutory dues, and the consumer cannot avoid the obligation to pay them. The licensee company may take recourse to any remedy available in law for recovery of the additional demand, but is barred from making recourse to disconnection of supply of electricity under sub section (2) of section 56 of the electricity Act, 2003.
25. that Id Forum has rightly held that when the accuracy of the meter is under challenge, then it makes a case for testing of meter or for check meter as HP Electricity Supply Code, 2008 or the CEA (Installation and Operation of Meters) Regulations, 2006.
26. that Id Forum has rightly held that in accordance with clause 5.7.3 of the HP Electricity Supply Code, 2009 and its amendment thereto, interest shall now be payable by the complainant from the date original monthly consumption was billed against less metered consumption during period of said defective metering months to the time the amount is fully paid by the complainant in accordance with the impugned order. Thus the instant representation is liable to be dismissed being devoid of any merits.



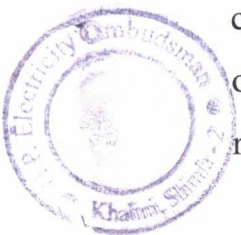
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D- The Complainant's Additional Specific Submissions through Rejoinder:

Rejoinder to Preliminary Submissions:-

1. That the order of Ld. Forum is based on conjectures and surmises and has travelled beyond the scope of the complaint, as such the present appeal is very much maintainable in view of the perversity of the impugned order.
2. That in rejoinder to this para of the preliminary submissions it is submitted that in the instant case the cause of action had originated from the wrongful claim of the Respondent-Board.
3. That the Meter No. HPP 00379 installed on 08.12.2017, in the premises of the Respondent-Board itself, had been giving incorrect readings, as alleged, and allegedly under-reported the electricity usage by the Appellant/complainant.
4. That the Meter No. HPP00379 was installed at Kotla Sub-station of the Respondent-Board itself on 08.12.2017, after ensuring due and erudite compliance of all procedures and tests conducted as per CEA (Installation and Operation of Meters) Regulations 2006. The Meter Change Order (MCO) was also signed by the representatives of the Appellant as well as Respondent-Board, respectively.
5. That thereafter the meter was sealed and made operational. It is further submitted that the regular metering and billing was raised by the Respondent-Board till the month of December, 2021 and no complaint whatsoever regarding the wrong or defective metering was ever conveyed/pointed out to Appellant/complainant till 08.02.2022 (in presence of the M&T Team, Solan of the Respondent) whereas the meter was replaced on 24.01.2022.



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6. That the execution of the earlier Meter Change Order (MCO) dated 08.12.2017 was under the jurisdiction of the Respondent-Board and it is believed that the established procedure, regulations, directions, code, procedure under the applicable Manual, etc. and concerned rules had been religiously adhered to. It is further submitted that Clause-23 of the HPSEB Sales Manual 2017, contains a detailed procedure with regard to the sealing of the meter, which reads as under:-

“Clause No. 23.1 - Meter Sealing: *After the meter has been tested in the M & T laboratory and found to be working within the limits of accuracy, the cover of the meter, which encloses the vital mechanism for the measurement and the recording of the energy consumed, lest it should be tampered with by any unauthorized person, will be sealed by the M & T Organization. The meter cover seals originally affixed by M & T unit should not be tampered with by other employees of HPSEBL. The meter terminal cover and M.C.B. seals will be affixed by the HPSEBL Officials in accordance with the following instructions: 1 Domestic, NDNCS & Commercial Connections. Sealing of Meter Terminal cover and Meter portion of M.C.B. 2 By Junior Engineer/ AAE Sealing of Meters in Respect of HPSEBL's Employees Meter Terminal and Meter portion of M.C.B By SDO (A.E./A.E.E) 3 Agriculture/IDWPS/ Small Power and Medium Supply Consumers/ Bulk Supply/Temporary Supply Consumers of connected Load up to 500 kW By SDO (A.E./A.E.E) 4 HT/EHT Metering, where CT/PT are involved 101 500 kW By SDO (A.E./A.E.E) 5 Above 500 kW (Also applies to all meters irrespective of the category of connection for which connected Load is more than 500 kW) Sr. Executive Engineer/ ASE.”*





7. That the Appellant/complainant is of the firm belief that all the actions of the Respondent-Board including the one required under Clause No. 23 bear technical expertise/prudence and flawless compliance. Hence, the sealing of the meter and the essential connections were to be made by the competent officers of the Respondent-Board itself, with no role of the Appellant therein. Thus, the liability, if any qua the disputed billing on account of the alleged wrong connections is solely attributable to the Respondent-Board.
8. that the basic contention of the Respondents that the meter initially installed had given any faulty reading, leading to its change and raising of the claims against the Appellant/complainant is factually and legally incorrect and not sustainable the eyes of law. In fact, the claim and contention of the respondent-Board is suspicious as the same meter (which was changed on 24.01.2022) was found to be accurate which questions the very need of the change of the meter at the first place. It also raises question mark on the Respondent's contention that the same meter was found to be inoperative in the month of May, 2021. Seemingly, the genesis of the billing dispute shifted to the wrong meter connections once the accuracy of the said meter was found to be undisputable.

It is apposite to submit that Clause(s)- 14 and 17 of the CEA (Installation and Operation of Meters) Regulations, 2006 deal with the issues of 'Energy Accounting and Audit Meters' and 'Quality Assurance of Meters', respectively. The relevant portion of the aforesaid provisions are being reproduced here-in-below for the kind perusal of this Forum:-

"Clause 14(3) - Energy Accounting and Audit meters - Energy accounting and audit meters It shall be the responsibility of the generating company or licensee to record the metered data, maintain database of all the information associated with the energy accounting



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and audit meters and verify the correctness of metered data. Each generating company or licensee shall prepare quarterly, half-yearly and yearly energy account for its system for taking appropriate action for efficient operation and system development.”

“Clause 17 - Quality assurance of meters. –

(1) The distribution licensee shall put in place a system of quality assurance and testing of meters with the approval of Appropriate Commission,

(2) The licensee shall set up appropriate number of accredited testing laboratories or utilize the services of other accredited testing laboratories. The licensee shall take immediate action to get the accreditations of their existing meter testing laboratories from NABL, if not already done.

(3) The generating company or licensee shall ensure that all type, routine and acceptance tests are carried out by the manufacturer complying with the requirement of the relevant IS or BS or IEC as the case may be.”

9. It is evident from the bare perusal of the above-stated provisions that the task of ensuring energy accounting, audit and quality assurance of meter etc. is the responsibility of the Licensee, i.e. the Respondent-Board. Thus, the contention of the Respondent-Board that alleged defect in the said meter remained unnoticed for such a long period of more than 4 years is not tenable in reality. Had the Respondent-Board followed the procedure as prescribed in the CEA (Installation and Operation of Meters) Regulations, 2006; the situation of the alleged defect in the meter would not have gone unnoticed for more than 4 years. Thus, the claims of the Respondent-Board qua the defective metering and faulty readings are wholly baseless and frivolous. The reading of the above provisions makes it amply clear that a



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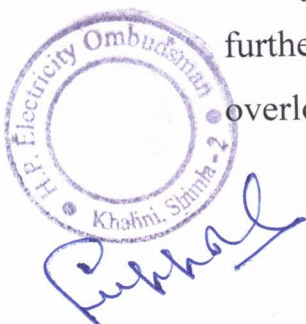


customer cannot be held responsible for lapses committed by the licensee, meaning thereby, that the Appellant/complainant can not be held responsible for the lapses/non-feasances on the part of the Respondent-Board. Thus, in view of the aforesaid factual as well as legal background, the entire liability qua the wrongful claims of the Respondent-Board rests with the Respondents themselves.

10. The Complainant submits that the Respondents in the Para 5 of the Preliminary Submissions of the Reply have placed reliance on the two rulings of Hon'ble Supreme Court of India namely, in the cases titled *Assistant Engineer(D1) Ajmer Vidyut Nigam Limited vs. Rahamutullah (2020) 4 SCC 650* and *M/s Prem Kotex vs. Haryana Vijli Vitaran Nigam Ltd. (2021)*. It is submitted that ratio of the law laid down in the case of *Assistant Engineer(D1) Ajmer Vidyut Nigam Limited vs. Rahamutullah (2020) 4 SCC 650* supra is not applicable to the present case. The issue involved in the aforesaid case was with regard to clerical mistake in terms of Billing under wrong tariff code 4400 instead of tariff code 9400. Similarly, the ratio of the law laid down in the case titled as *M/s Prem Kotex vs. Haryana Vijli Vitaran Nigam Ltd. (2021)* is also not applicable to the instant case. Thus, any legal credence claimed by the Respondent-Board, through the references of the two above-stated judgments of the Hon'ble Apex Court is wholly misplaced and the present matter requires it's adjudication on its own merits.

REJOINDER TO REPLY ON MERITS:-

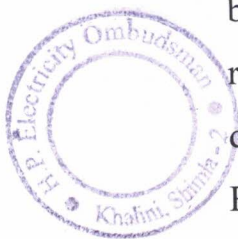
1. The Complainant submits that the contents of this para of the reply call for no rejoinder in view of the admission on the part of the respondents. It is further submitted that while passing the orders, the Ld. CGRF has overlooked the legal as well as factual aspects of the matter.





2. The Complainant submits that the contents of this para of the reply call for no rejoinder as the same pertain to the factual details only.
3. The Complainant submits that in rejoinder to this para of the reply it is respectfully submitted that the respondent-Board had in the 'Minutes of Meeting' held on 08.02.2022 admitted the fact that the connection of the previously installed meter bearing No. HPP 00379 were not working properly. The copy of the Minutes of Meeting dated 08.02.2022 are annexed herewith as **Annexure-A3** for the kind perusal of this Id. Forum. It is further submitted that strictly as per Clause No. 26.4 of HPSEB Sales Manual 2017, burden of proof qua the wrong connections lies solely on the Respondent-Board. It is further submitted that the Appellant/complainant, in compliance with Clause No. 17 of CEA (Installation and operation of meters) Regulations, 2006; had been requesting the Respondent-Board, to provide the authentic test report of meter installed on 24.01.2022, but the Respondents have miserably failed to submit the test report of meter till date. The copies of the Letters requesting for the submission of said report is/are annexed herewith as **Annexure-A4** for the kind perusal of this Id. Forum. It is further submitted that clause-17 of the CEA (Installation and Operation of Meters) Regulations, 2006, deals with the 'Quality assurance of meters', which has been reproduced in rejoinder to the preliminary submissions supra and is not being reproduced here for the sake of brevity.

It is further submitted that after the month of January 2022, when the meter was replaced, the Respondents were requested by the Appellant/complainant to furnish the test report of newly installed meter bearing No. HPP00375 and also to install check-meters to compare energy reading. The demand charge for installation of CT/PT and check meters was deposited by the Appellant/complainant on 31.01.2025. However, the Respondents failed to install the CT/PT and check meters in-spite of the



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deposition of demand charge and various reminders thereafter. The failures on part of the Respondents firstly, in the non-submission of the test report of meter installed more than three years ago and secondly, with regard to installation of check meters despite the repeated reminders by the Appellant/complainant are the sufficient proof/evidences with the Appellant to demonstrate the lapses on the part of the respondents, which casts serious doubts about the energy charge being billed since January 2022. The copies of the request letters preferred by the Appellant to furnish/supply the test report of the meter and various reminders sent to the Respondents to install check meter are annexed herewith as **Annexure-A5** and **Annexure-A6**, respectively. It is pertinent to submit that despite the fact that there has been serious irregularities and illegalities on the part of the respondents, the appellant/complainant, being a consumer is regularly paying all the bills raised till date within the prescribed time and there had not been any kind of complaint etc.

4. The Complainant submits that in rejoinder to this para of the reply, it is respectfully submitted that the Meter No. HPP00379, installed through MCO No.0048261 dated 08.12.2017 was functioning properly and regular billing with increasing meter readings till December 2021 which is also substantiated by the fitness certificate of the afore-mentioned meter. The copy of the Fitness Certificate of the said meter is annexed herewith as **Annexure-R7** for the kind perusal of this Id. Forum. It is further submitted that the claim and contention of the Respondents that meter reading of the said meter had paused at 486810KVAh is completely false and not supported by any documentary evidence. It is humbly submitted that Instruction No.28 of the HPSEB Sales Manual, 2017 deals with the issue of Compliance of Meter Change Orders, which is reproduced below:



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"Instruction No. 28 - Compliance of Meter Change Orders – (28.1) The
Junior Engineer should immediately return the meter change order after compliance to the Sub Divisional Office within time frame as specified under clause "F" of the schedule to HPERC (Distribution Performance Standards) Regulations 2010. In case the change of meter is not possible within the time stipulated period due to nonavailability of meter or any other reasons, the Junior Engineers should return the M.C.O. to the Subdivisional Office concerned on the expiry of time frame period as above, who would then record reasons for noncompliance of the M.C.O under his signatures. The SDO (A.E./A.E.E.) should also send a report of such uncompiled M.C.Os' to the Executive Engineer concerned after every month who would take suitable steps for making the Meters available to the SDO (A.E./A.E.E.) / consumer at the earliest. For ready reference, the time frame as specified under clause "F" of the schedule to HPERC (Distribution Performance Standards) Regulations 2010, for replacement of defective/stopped/burnt/damaged meters is reproduced in Instruction No. 25 above which may be referred.: The concerned AE/AEE should issue MCO expeditiously so that the timelines are complied.

(28.2) *A monthly review of the number of MCO carried out and pending MCOs shall be done by the Executive Engineers who should send a quarterly report about the number of cases where the change of defective/dead stop meters is delayed due to nonavailability of meters, to the Superintending Engineer and concerned Chief Engineer.*

HPERC (Distribution Performance Standards) Regulations 2010:-

(F) Consumers Defective/Stopped/Burnt Meter/Metering Equipment Replacement (*)-





(II) H.T. Consumers (for Urban, Rural and Remote Areas) (1) Replacement not attributable to consumer 7 days after receipt of complaint, provided meter is available with the licensee, otherwise within 1 month.”

That so far as the contention of the respondents with regard to the MCO for new meter HPP00375 and its replacement is concerned the same was done by the respondents without any prior intimation to the appellant/complainant. It is further submitted that there has been a huge delay on the part of the respondents in issuance of the MCO and installation of meter. The delay in issuance of the MCO and installation of meter is in gross and utter violation of the Instruction No.28 as contained in HPSEB Sales Manual 2017. Instruction No.28 deals with the compliance of meter change order, which should be solely attributable to the licensee.

5. The Complainant submits that the contents of this para of the reply call for no rejoinder.
6. The Complainant submits that in rejoinder to this para of the reply it is respectfully submitted that the Respondents in this para of the reply have placed reliance on the two judgments passed by the Hon'ble Supreme Court of India, in the cases tiled *Assistant Engineer(D1) Ajmer Vidyut Nigam Limited vs. Rahamutullah* (2020) 4 SCC 650 and *M/s Prem Kotex vs. Haryana Vijli Vitaran Nigam Ltd.* (2021). It is humbly submitted that the ratio of the law laid down in the case tiled *Assistant Engineer(D1) Ajmer Vidyut Nigam Limited vs. Rahamutullah* (2020) 4 SCC 650 is not applicable to the present matter as the same deals with the issue of clerical mistake in terms of Billing under wrong tariff code 4400 instead of tariff code 9400 which is not the case in the present matter. Similarly, the ratio of the law laid down in the case titled *M/s Prem Kotex vs. Haryana Vijli Vitaran Nigam Ltd.* (2021) is also not applicable to the present case. Thus, the law laid down by



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the Hon'ble Supreme Court of India in the aforesaid two judicial pronouncements is not applicable to the present case. By citing the aforesaid two judgments, facts of which are completely different, respondents are trying to mislead this Ld. Forum. It is pertinent to submit that Section-56 of The Electricity Act, 2003 deals with the issue of the recovery of the arrears. The said Section 56 is reproduced below for the kind perusal of this Ld. Forum:-

"Section 56(2) - *Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity."*

It is evident from section-56 of the Act that no sum due from the consumer can be recovered after a period of two years from which it first became recoverable. In the instant case, the claims raised by the Respondent had first become recoverable in the year 2017 when the said meter was installed, and the Respondents could have raised the demand within two years when it became first due. However, the claims in the present matter were raised by the Respondents for the first time in the year, 2022, which is highly belated and not sustainable in the eyes of law. Thus, all the claims raised by the Respondents which form the basis of this Representation before this Ld. Forum are time-barred as per the provisions of the Section 56 of the Electricity Act, 2003 and any action on the part of the Respondents to affect their recovery is also violative of the well-established law.

7. The Complainant submits that the contents of this para of the reply call for no rejoinder.





8. The Complainant submits that in rejoinder to this para of the reply it is submitted that the energy meter and its associated CT/PT wiring are/were installed in the restricted premises of the 220/66/22kV Substation Kotla of the Respondent-Board, and the Appellant had no physical access to the said premises. The Instruction No.26 of the HPSEB Sales Manual, 2017 deals with the 'Difference or dispute over the Accuracy of energy meter and Overhauling of Consumer accounts' which reads as under: -

"Instruction 26(4) – CT/PT Meters -

(26.4.1) In case of CT/PT meters where the accuracy of the meter is not involved and it is a case of incorrect connections, defective CTs/PTs, genuine calculations & mistakes etc., charges would be adjusted in favour of the HPSEBL/ consumer as the case may be for the period the mistake/ defect continued."

It is submitted that the CT/PT connection was done by Respondent-Board itself which is self-evident from the MCO and the meter was also installed within the restricted premise of the Respondent-Board. Hence, any mistake in wiring or connection of CT/PT (if any) was solely the fault of the Respondents and the Consumer i.e. Appellant/complainant cannot be held responsible or penalized for the same.

9. The Complainant submits that the contents of this para of the reply call for no rejoinder.
10. The Complainant submits that the contents of this para of the reply call for no rejoinder.
11. The Complainant submits that in rejoinder to this para of the reply, it is submitted that during the Meter Change Order on 08.12.2017, the old meter Sr. No. 11377391 was removed with meter reading at 361.36 KWh, 393.97 KVAH & amp; new Meter nearing Serial. No. HPP00379 with meter reading



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28.4MWH, 33.2MVAH was installed in the presence of the representatives of both the Appellant as well as Respondents. The MCO No. 0048261 clearly certified that the meters have been installed & removed. It also proclaims that the said meter has been tested and is/are in good conditions. It is thus, submitted that all the rules & regulations were followed during installation of energy meter bearing serial No. HPP00379 and wiring of the CT/PT connections with the installed meter HPP00379 were correct and there was no possibility of the phase of the Current Transformer being erroneously reversed. The only possibility of the changing of the CT/PT wiring connection in respect of the old meter bearing Sr. No. HPP00379 could have arisen on 24.01.2022. On the basis of above facts, it is vehemently denied that the CT/PT wiring connections put in place at the time of the installation of the meter in December, 2017 were wrong and the contention of the Respondent qua the wrongful wiring is also not maintainable in the eyes of Law. Hence, the reply of the Respondent is liable to be rejected in totality.

12 to 15. That the contents of these paras of the appeal/ representation are reiterated and contrary stated by the respondent, is denied. It is further submitted that the present matter involves undisputed installation and sealing of Meter No.HPP 00379 in December, 2017 after complying with the rules and regulations; and thorough adherence to the procedure specifically laid down in 'Instruction No.28 – Compliance of the Meter Change Orders' of the HPSEB Sales Manual, 2017 and the established rules and regulations. The said meter was situated in the very premises of the Respondent-Board and the Appellant/complainant had no access to the said location/premises. Thereafter, the regular metering and billing was done through the said meter till January, 2022 and all the bills & dues were duly paid by the appellant through the said metering without any fail. A new meter on 24.01.2022 was installed in place of Meter No. (HPP 00379), which was installed in December, 2017; the earlier meter being considered as inoperative on

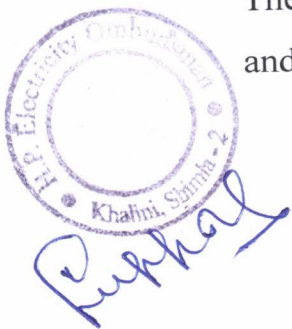
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record since May 2021. Subsequently, it was conveyed in the 'Minutes of Meeting' dated 08.02.2022 that the connections of the said meters were defective and consequently corrected during the checking dated 08.02.2022. The repeated requests were made by the Appellant to the Respondents to submit the Authentic Test Report of the new meter and also for installation of check meter thereto, but the same have been vehemently ignored by the Respondents. The meter No.HPP 000379, which was installed in December, 2017 and changed in January 2022, was later on found accurate, which casts a serious doubt on the rationale applied before the issuance of the Meter Change Order. Thereafter, the Respondent-Board relied upon the wrong meter connections to press upon the arrears of bills. It is further submitted that the Appellant is of the firm belief that the Respondent-Board abided by Clause No(s).14(3) and 17 of the CEA Regulations, 2006 concerning the Energy Accounting and Quality Assurance of the meters, respectively and hence, the incidence qua the defective reading on account of wrongful connections could not have arisen. It appears that Instruction No.26(4) of the HPSEB Sales Manual 2017 has been interpreted by the Respondent-Board for its very best interest. Additionally, Section 56(2) enumerated that no sum due from the consumer is recoverable after a period of two years from the date when such sum first became due, unless shown continuously as recoverable as arrear of charges. The onus to prove to the contrary lies on the Respondents. Ld. CGRF in its Order dated 28.03.2025 has overlooked all these facts and the prevailing legal provisions; and has erroneously upheld the arrears raised by the Respondent.

E- The Complainant's written Arguments:

The Complainant submitted Rejoinder, hence the same is considered as part and parcel of the written arguments for record purpose.





F- The Respondent's written Arguments:

The Respondent did not submit any written arguments instead preferred oral arguments.

G- The Arguments of both during proceedings :

1. The final arguments were conducted on 16/06/2025 and both the parties were given opportunity to argue their contentions to the brim.
2. The Id. Counsel for complainant-initiated arguments and placed before the court the following key points of grievances:
 - a) that the HT, CT/PT energy meter with Sr. No. HPP 00379 was installed on 22 kV Kotla Bayal feeder panel within the premises of 220/66/22 kV Substation HPSEBL Kotla for HT metering purpose in the month of December, 2017, after replacing the old meter bearing No.11377391 when applied for a load extension from 200 kW to 1900 kW and regular billing etc. was done by the Respondent-Board of the electricity consumption by the appellant/complainant, since the date of installation.
 - b) that during the year 2022, more particularly somewhere in the month of January, 2022, the Respondent-Board observed defective metering and on the pretext of the defective metering, the respondents on 24.01.2022 replaced the electricity meter No.HPP00379 with new meter No.HPP00375.
 - c) that Pursuant to the change of the meter, the Metering & Testing (M&T) team of the Respondent-Board visited the sub-station, feeding/catering the Hydel Power Station of the Appellant-Company on 08.02.2022, and the said M&T team observed the defective metering due to several reasons and reversal of one phase of CT was also found from Dec 2017 to Jan 2022 which was rectified and thereafter raised the demand notice dt. 17/02.2022 of Rs.30020610/- and further revised on the basis of average consumption of two years and raised demand notice dt. 16/01/2024.



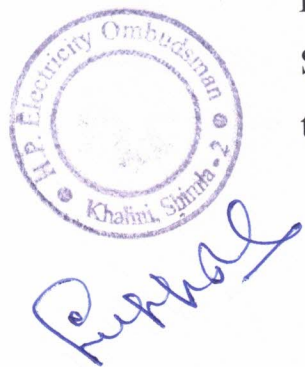
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d) that the demand raised by the Respondent-Board is hit by limitation as the demand raised was beyond a period of two years and also reiterated that the said demand was not sustainable especially in view of Section 56(2) of the Electricity Act, 2003 and exhaustively interpreted the said clause and tried to convince the court to the best of his capacity.

3. Both the Id. Counsel and Assistant Engineer appeared as Respondents put forth their arguments and asserted:

- a. that meter HPP00379 was earlier manually billed, but after April 2021, the Common Meter Reading Instrument (CMRI) was used for reading/billing of this meter. It was recorded in the CMRI monthly report on 24.01.2022, at the time of meter replacement, that since installation of meter no. HPP00379 (Dec 2017 to Jan 2022), due to a wiring system defect, huge current failure in all 3 phases of the meter was found (Annex C).
- b. that the meter with Sr. No. HPP 00379 was found inoperative during May 2021 when the Apparent Active Import, the reading on which the monthly energy bill is prepared, paused at 486810 kVAh; a Meter Change Order was issued by the Assistant Engineer, Elect. Sub Division HPSEBL Nirmand, on 16.08.2021, and as soon as the same was made available, the earlier meter was replaced with a new meter, Sr. No. HPP 00375, on 24.01.2022 after telephonic discussion with M&T Solan by doing similar type of connections as that of old one, in the presence of the complainant's employee, Sh. Arjun Dass, Assistant Manager, RHPS Bayal, who also put his signature on the meter change order.
- c. that **in the presence of complainant/SJVNL Officials** and HPSEBL Division Anni officials, the Meter and Testing (M&T) HPSEBL Division Solan team inspected on 08.02.2022, the connections and wiring system of the newly installed energy meter having Sr. No.HPP00375, which was





installed on the 22 kV Kotla Bayal feeder panel. The newly installed meter connections were made identical to the connections prior to 24.01.2022.

- d. that the team also observed several defects in the metering system as detailed below (MoM attached as Annex F) and the following are the specific findings of the above-said inspections which may attract legitimate conclusion:
- i. such as connection of one phase of CT Reversed Ampere Meter & Selector Switch existing in the Circuit of the installed meter
 - ii. and CT being of lower class as against that of the required class etc.
- e. that due to the above-stated defects, both the old energy meter (Sr. No. HPP00379) (Dec 2017 to 24.01.2022) and the new energy meter (Sr. No. HPP00375) (from 24.01.2022 to 08.02.2022) failed to record actual energy consumption, resulting in significantly under-reported consumption and further asserted during arguments that the reasons for defective metering had existed from the time of installation of Meter No.HPP00379 on 08.12.2017 to 08.02.2022 and subsequent to this the respective demand notices were issued as argued by the Complainant.
- f. The Assistant Engineer appeared in the court room read out the findings of M&T and asserted that the report was also duly signed by the **Complainant's Representative present** during the rectification/inspection by M&T team.
- g. The Id. Counsel for Complainant also argued by referring relevant judgements on the issue of limitations and confined arguments to the findings on the reference of Judgements of Hon'ble Supreme Court and other Hon'ble High Courts as referred by the Id. CGRF in instant order dt. 28.03.2025 and put forth his contentions on the interpretation of Section 56(2) by arguing that the period of two years will commence from the date when the sum became first due i.e January ,2018 as the meter was installed





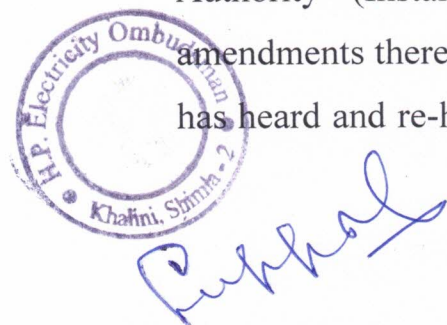
in December, 2017, whereas Id. Counsel for Respondent emphasized during arguments that in line with settled law by the Hon'ble Supreme Court in many similar type of cases such as *Assistant Engineer (D1) Ajmer Vidyut Nigam Limited vs. Rahamutullah (2020) 4 SCC 650* and *M/S Prem Cottex vs. Haryana Vijli Vitaran Nigam Ltd. (2021)*, the Hon'ble Apex Court ruled out that mistakes in billing, once detected, can be corrected and the consumer is obligated to pay the dues and the period of limitation will commence from the date, the mistake was detected. Section 56 does not protect a consumer from such legitimate claims and the distribution licensee has the right to recover past dues, as upheld by the Hon'ble Supreme Court in the said cases.

4. After listening to both the parties, this authority drew considered opinion that once, the instant issue for interpretation of Section 56(2) is an established and settled law in terms of various Judgements of Hon'ble Supreme Court as argued by the Id. Counsel for Respondent, then in due cognizance to judicial discipline, one must honour the 'Hierarchy of Adjudication System'. The arguments were concluded and order reserved.

H-Consumer Grievance Redressal Forum Order No.1431/202407/21

ORDER

(40) Forum observes that complaint was filed in the last week of July, 2024. Forum has examined the relevant provisions of the Electricity Act, 2003, various relevant Regulations framed by the HP Electricity Regulatory Commission (or the HPERC) including relevant provisions of HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, HP Electricity Supply Code, 2009 notified by the HPERC on 26.05.2009 and amendments thereto, the Central Electricity Authority (Installation and Operation of meters) Regulations, 2006 and amendments thereto and record as facts along with pleadings of the parties. Forum has heard and re-heard the parties. The considered opinion of the Forum has been



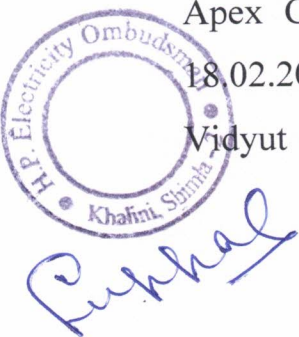


gathered after considering the fair facts, evidences and correspondence placed on record and arguments adduced by both the parties;

(41) Firstly on the quality of complaint filed, Forum observes that the complaint lacks in its proper filing. From examination of complaint it is observed that Complainant has stated on record that the energy bills and payment record is at **Annexure I**. However Forum did not find this at **Annexure-I** and instead found a letter dated 18.02.2022 by Assistant Engineer (M&T) addressed to the Assistant Engineer Nirmand. In fact from further examination of complaint, Forum observes that Complainant has wrongly referred to nearly all the Annexures while Forum also finds certain stated Annexures missing. Forum observes that the Complainant has raised the complaint in a shoddy manner leaving it for the Forum to seek out the facts from record on its own. Forum observes that it is for the Complainant to prove its case in a rightful and correct manner which is clearly lacking on the part of the Complainant;

(42) From perusal of complaint, Forum finds various correspondences that have been made by the Complainant with the Respondent. These are placed on record by the Complainant at – Annexures - C-III, C-IV, C-V, C-VI, C-VII, C-IX, C-X, C-XI. Forum has gone through these. Forum finds that these depict other correspondences that may have been exchanged between the parties but which have not been placed on record by the Complainant and thus Forum observes that these merely give an over view of what may have transpired between the parties;

(43) Now coming to the contention on limitation raised by the Complainant that the demand raised by the Respondent is time barred by 2 years and therefore illegal and against Section 56 of the Electricity Act, 2003, Forum holds that the Hon'ble Apex Court has already settled the law in this regard vide Judgment dated 18.02.2020 in Civil Appeal No 1672 of 2020 titled Assistant Engineer (D1) Ajmer Vidyut Vitaran Nigam Ltd and Anr Vs Rahamutullah alias Rahamujulla (2020)

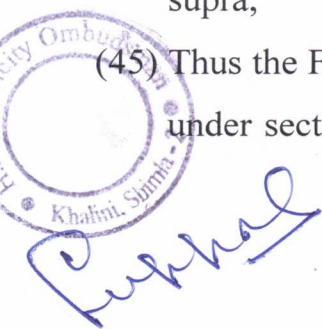




4SCC 650 and in M/s Prem Cottex Vs Uttar Haryana Vijli Vitran Ltd in Civil Appeal No7235 of 2009 decided on October 5, 2021. In the context of the instant matter, this Forum observes that in Hon'ble Apex Court Judgment dated 18.02.2020 in Civil Appeal No 1672 of 2020, which has further relied upon other Apex Court cases while interpreting section 56(2) of the Electricity Act, 2003, it has been held that section 56(2) does not put any limitation for raising the past dues or arrears, if not discovered earlier due to any mistake. Liability to pay arises on consumption of electricity and obligation to pay when bill is raised. Electricity charges would become first due only when bill is issued by the licensee to the consumer quantifying therein the charges to be paid. Accordingly, the Hon'ble Court has held in clear terms that limitation starts from the date the Bill/ monetary demand is raised which is when the sum becomes first due and it is from this date that the period of limitation of 2 years as provided in section 56(2) of the Electricity Act shall start;

(44) During the course of hearing in the matter, on ibid issue of limitation, Counsel for Complainant referred to Hon'ble Kerala State Consumer Disputes Redressal Commission Judgment dated 01.06.2018 in Appeal No 354 of 2013 titled Kerala State Electricity Board Vs M.M. Jose. Forum from perusal of this judgment finds that this cannot apply in the facts and circumstances of the instant matter for the reason that this Appeal before the Hon'ble Commission is in terms of section 126 of the Electricity Act, 2003 which is with regard to Assessment for unauthorized use of electricity covered under 'Part XII INVESTIGATION AND ENFORCEMENT' of the Act, whereas the instant matter is different and not with regard to unauthorized use of electricity but with regard to 'arrears of charges for electricity' covered under ibid Hon'ble Apex Court Judgments referred to in paras supra;

(45) Thus the Forum rejects the contention of the Complainant with regard to limitation under section 56 of the Electricity Act, 2003. Forum is inclined to agree with the

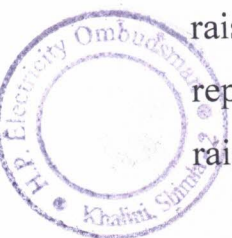




contention of Respondent that present demand is not hit by limitation. Forum holds that the action of the Respondent to raise the monetary demand dated 11.07.2022 (**Annexure R-N**) for Rs 3,00,20,610/- or demand dated 16.01.2024 (**Annexure R-Q**) for Rs 2,29,68,548/- further raised as sundry in Bill dated 15.05.2024 (**Annexure C-X**) and further impugned payment Notice dated 27.06.2024 (**Annexure C-X1**) are of continuous nature and thus the demand is certainly not hit by the limitation period of 2 years under section 56 of the Electricity Act, 2003;

(46) Complainant, apart from the ibid contention raised on limitation and among many other arguments made, has simply argued and stated on record that the actions of the Respondent are against the CEA and the HPERC Regulations on testing of meters and on overhauling of accounts for the period of defective metering, that there was no defective metering for the disputed period because the removed defective meter was not got tested as per provisions of the Regulations, that the past or future metering / consumption cannot be the basis of overhauling of Complainant's account, that the actions of the Respondent are without the consent of the Complainant and therefore against principle of natural justice;

(47) Before the Forum proceeds to delve on the contentions and arguments made by the Complainant, it observes that the Complainant has nowhere raised contention that the action of the Respondent is one of mala-fide nature. However, Forum observes that the complaint is indirectly directed at proving the same. The error by Respondent of not timely replacing the defective meter or action of correcting the defective metering on its discovery and consequently raising a monetary demand arising out of such, cannot be held by the Forum to be a mala-fide action. Whereas a mala-fide demand cannot be raised, however a bona-fide one can certainly be raised. On not finding any mala-fide action on the part of the Respondent to replace the defective meter or to correct the defective metering and consequently to raise the impugned demand, the Forum holds that the action of the Respondent to



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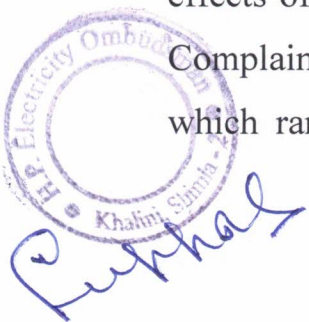


replace the defective meter or correct the defective metering and consequently raise the impugned demand, is clearly a bona-fide one and well within the right of only the Respondent distribution licensee to do so. Forum holds that when metering becomes defective, then in absence of metering data and record of consumption, such has to be estimated and monies payable against the same have to be recovered from the consumer and this is the right and responsibility of the distribution licensee;

(48) Before coming to the contention and arguments by Complainant on testing of meter, replacement of defective meter and correction of defective metering, Forum is inclined to dwell upon the arguments by the Complainant on comparison of consumption patterns and seasonal variation in consumption-

(49) Forum from perusal of complaint, observes that it is an admitted fact on record that the Complainant is a Hydel Power Station (HPS) PSU company and receives power supply from Respondent for meeting its auxiliary load supply requirement of power house and associated facilities of the Plant. The list of equipment and machinery signed by the personnel of Complainant and duly verified by the Respondent on record (**Annexure C-L**) proves that the supply is received by the Complainant for running its auxiliary equipment loads and further depicts the auxiliary equipment load as 1700 kW and other load as 200 kW, constituting total connected load of 1900 kW. From complaint, Forum cannot find that the Complainant may have ever reduced its load;

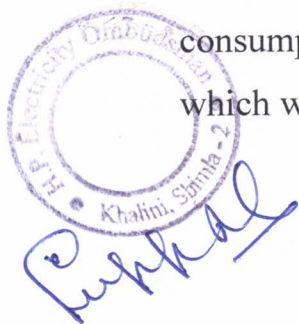
(50) Also, as has been discovered by the Respondent after the defective / faulty meter / metering was set right, the Complainant's yearly consumption ranged between 12 lac to 14 lac units. It is a known fact that annual conditions tend to neutralize the effects of seasonal variations. This is also an established statistical concept. Thus Complainant's contentions that there is variation in unit consumed / meter reading, which ranges from 23.9% to -163.49% for similar months or seasons and that





energy consumption pattern of current meter cannot be compared with long past 4 years, is out rightly rejected by the Forum;

- (51) Now the Forum proceeds to delve upon the aspect of metering or defective metering-
- (52) It is a known fact that metering equipment is in the nature of Instrument Transformers such as Current Transformer (or CT) and/or Potential Transformer (PT). Under practical conditions, when electrical parameter inputs in an electrical system, such as voltages and currents to the meter are within safe limits, metering of a consumer may simply be with a meter and without metering equipment. However, when these actually exist at excessively high and unsafe levels, then the said metering equipment is deployed along with the meter to give restricted or practically acceptable and safe electrical parameter inputs to the meter. This is done by stepping down these electrical parameters namely voltages and currents using metering equipment;
- (53) Meter in accordance with statute also implies metering equipment (CT / PT) and connections. Any defect in metering equipment and connections is liable to render the metering faulty or defective, thus causing the meter to incorrectly record the consumption of the Complainant. When the accuracy of metering is under challenge, then it makes a case for the testing of meter or for check meter and accordingly are the provisions enshrined in the HP Electricity Supply Code, 2009 or the CEA Regulations.
- (54) To determine the lost accuracy of meter / metering warrants testing of meter. This is not the case here. Here the case is of failure of meter / metering resulting in faulty / defective metering where the meter failed to correctly record the consumption of the Complainant due to several defects in the line of metering which were discovered by the Respondent at a belated stage;





- (55) Thus, in the event when metering is faulty /defective and it becomes impossible for the Respondent to discover the exact consumption, the Forum can safely conclude that the consumption of the Complainant over an year should be near its consumption in subsequent years, despite any seasonal variations, unless the Complainant had otherwise shown that its generating plant was either under shut down for the period in dispute or that its own metering depicts consumption in variation to that as may be discovered or estimated by the Respondent, which are conspicuously missing on the part of the Complainant;
- (56) On the Complainant's contention that the action of the Respondent is against the provisions of the CEA (Installation and Operation of Meters) Regulations notified by the CEA and the HP Electricity Supply Code notified by the HPERC, the Forum before it proceeds in the matter, is first inclined to delve into the Regulations notified by the competent authorities –
- (57) Forum for the sake of clarity, hereinafter reproduces the relevant extract of the CEA (Installation and Operation of Meters) Regulations, 2006 notified by the Central Electricity Authority on 17.03.2006 –

Quote:

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15. Meter failure or discrepancies. –

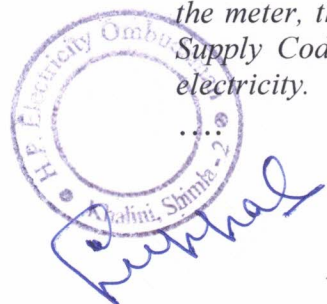
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(2) Consumer meters

In case the consumer reports to the licensee about consumer meter readings not commensurate with his consumption of electricity, stoppage of meter, damage to the seal, burning or damage of the meter, the licensee shall take necessary steps as per the procedures given in the Electricity Supply Code of the Appropriate Commission read with the notified conditions of supply of electricity.

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Un-Quote:

(58) Because the ibid CEA Regulations provide for condition of failure of meter / metering to be dealt in accordance with the provisions of the Supply Code herein notified by the HPERC and because Complainant has also raised contention on action of the Respondent as being against the provisions of the Supply Code, thus for the sake of clarity, Forum finds it expedient to also reproduce the relevant provisions of code 4.3 and 4.4 of the Supply Code, notified by the HPERC on 26.05.2009—

Quote

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4.3 Testing of Meters .—

- 4.3.1 *It will be the responsibility of the licensee to satisfy itself regarding the accuracy of a meter before it is installed at the consumer premises.*
- 4.3.2 *The licensee shall maintain such number of accredited testing laboratories as per the standards prescribed by the National Accreditation Board for Testing and Calibration Laboratories (NABL) as the Commission may require and all such laboratories will at least be equipped with testing equipment as provided in the regulations framed by the Authority under Section 55 of the Act.*
- 4.3.3 *After testing in the laboratory, the body of the meter will be duly sealed by an officer(s) authorized by the licensee.*
- 4.3.4 *The licensee may also conduct periodical inspection/testing of the meters installed at the consumer's premises as per Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 made under Section 55 of the Act.*
- 4.3.5 *The Commission may also require the licensee to undertake third party testing of meters/metering equipment installed at the consumers' premises.*

4.4 Defective Meters .—

- 4.4.1 *The licensee will check and have the right to test any meter and metering equipment installed at a consumer's premises if there is a reasonable doubt about its accuracy and the consumer will provide the licensee all necessary assistance in conducting the test. The consumer will have the right to be present during such testing.*
- 4.4.2 (a) *A consumer may request the licensee to test the meter/metering equipment installed in his premises, if he doubts its accuracy. The licensee will undertake such site testing within seven*



HIMACHAL PRADESH ELECTRICITY OMBUDSMAN
SHARMA SADAN, BEHIND KEONTAL COMPLEX, SHIMLA-171002

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days on payment of fee as specified in the Schedule of General Charges approved by the Commission.

(b) If, after testing, the meter is found to be defective then the fee deposited in accordance with sub-para (a) will be refunded by adjustment in the electricity bills for the immediately succeeding months. In case, the meter is found to be correct then the licensee will not refund such fee.

4.4.3 In case a consumer is not satisfied with the site testing of the meter installed in his premises or the meter cannot be tested by the licensee at site then the meter will be removed and packed for testing in the laboratory of the licensee and another duly tested meter will be installed at the premises of such a consumer. In the event the licensee or the consumer apprehends tampering of meter and/or its seals then the licensee and the consumer will jointly seal the packing containing the meter. The seals will be broken and testing undertaken in the laboratory of the licensee in the presence of the consumer, if he so desires.

4.4.4 In case of testing of a meter, removed from the consumer premises for the purpose of testing in the licensee's laboratory, the consumer would be informed of the date of

testing at least seven days in advance. The signature of the consumer, or his authorized representative, if present, would be obtained on the Test Result Sheet and a copy thereof shall be supplied to the consumer.

4.4.5 (a) Subject to the provisions in sub para (b), in case a meter installed at a consumer's premises gets burnt/ broken/ defective or stops functioning, a new tested meter will be installed within the time lines specified in the schedule to the Himachal Pradesh Electricity Regulatory Commission (Distribution Licensees' Standard of Performance) Regulations, 2005. If the meter gets burnt, broken or damaged due to reasons attributable to the consumer, the licensee will debit the cost of the meter (if provided by the licensee) to the consumer who will also be informed about his liability to bear the cost.

(b) in case of failure of supply due to the burnt, broken, damaged or defective meter, the licensee shall endeavour to restore the supply on the same day by way of installation of new tested meter.

4.4.6 In case where a meter installed at a consumer's premises is reported to have been stolen and the FIR to this effect has been lodged by the consumer, supply of electricity will be immediately restored by the licensee at consumer's request by installing another tested meter and the cost of the meter shall be recovered from the consumer through electricity bills for the immediate succeeding months.

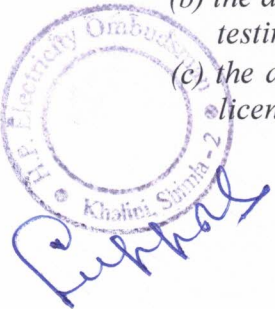
4.4.7 In respect of the consumer owned defective/burnt/broken meter, the replacement shall be made by way of a licensee owned meter till such time the consumer provides a new meter duly tested as per para 4.3 and the same is installed as per provisions of this Code.

4.4.8 4.4.8 Overhauling of consumer accounts -

(i) If a meter on testing is found to be beyond the limits of accuracy as specified in the regulations framed by the Authority under Section 55 of the Act, the electricity charges for all categories of consumers will be computed in accordance with the said test results for a period of six months immediately preceding -

(a) the date of test in case the meter has been tested at site to the satisfaction of the consumer ; or
(b) the date the defective meter is removed for testing in the laboratory of the licensee where such testing is undertaken at the instance of the licensee ; or

(c) the date of receipt of request from the consumer for testing a meter in the laboratory of the licensee.





Any evidence provided by the consumer about conditions of working and/or occupancy of the concerned premises during the said period(s) which might have a bearing on computation of electricity consumption will, however, be taken into consideration by the licensee.

(ii) The accounts of a consumer will be overhauled for the period a burnt/defective meter remained at site, on the basis of energy consumption of the corresponding period of the previous year after calibrating for the changes in load, if any. In case the average consumption for the corresponding period of the previous year is not available then the consumer will be tentatively billed for the consumption to be assessed in the manner indicated in para 4 of Annexure-A and subsequently adjusted on the basis of actual consumption in the corresponding period of the succeeding year.

(iii) If a consumer is liable to pay an additional amount or is entitled for a refund in consequence of an overhaul of his account in accordance with sub- paras 4.4.8 (i) and (ii), the licensee will effect recovery or adjust the excess amount in the electricity bills of the immediately succeeding months.

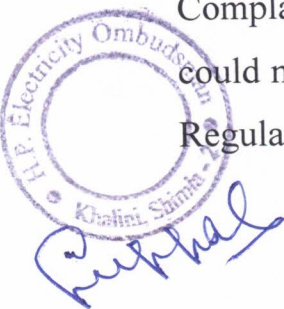
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(59) Forum after perusal of the ibid reproduced CEA Regulations observes that the contentions raised by the Complainant with regard to check meter, laboratories testing of meters or monthly or seasonal variations or of periodical testing are simply arguments not with regard to meter failure but are with regard to testing of meters as specified in the CEA Regulations whereas the instant matter is not one concerning meter accuracy requiring meter testing but one where there is meter / metering failure or defective metering as a result of which Complainant could not be billed correctly against the consumption which may have been done by it in the past;

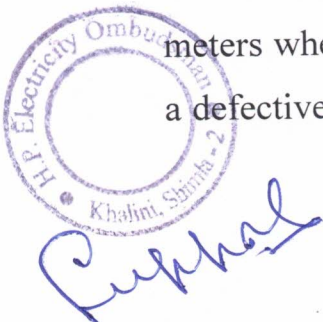
(60) On the anvil of the arguments made by the Complainant for testing of meter, Forum observes that the arguments made by Complainant are clearly faulty, far-fetched and untenable in the circumstances of the matter and thus rejects the same. The instant dispute has not arisen for accuracy of meter / metering equipment but has arisen due to monetary demand having been raised by the Respondent upon the Complainant due to failure of meter / metering as a result of which Respondent could not record the exact consumption of Complainant. The ibid reproduced CEA Regulations clearly provide for the condition of failure of meter / metering to be





dealt in accordance with the provisions of the Supply Code notified by the appropriate Commission;

- (61) Forum holds that the instant case is not one of determination of accuracy of metering but of faulty / defective metering where there is non-recording by meter of exact consumption made by the Complainant in the past which was discovered and corrected by the Respondent at a belated stage and consequently monetary demand was raised upon the Complainant by the Respondent;
- (62) Further, from bare perusal of the provisions of code 4.3.1 and 4.4.1 of the Supply Code reproduced supra, it becomes clear to the Forum that in absence of any request from the consumer, it is within the licensee's rights to test or get tested the meter including metering equipment installed at the consumer premises. In the instant matter testing done by the Respondent which was not required in the first place itself. It is the right of the distribution licensee to remove, replace a defective meter with another meter and correct any fault preventing it from correctly recording the consumption of the Complainant which has rightly been done by the Respondent. Forum holds that the Respondent licensee has rightly exercised its right of not sending the meter and metering equipment for testing. Further, on having noticed the metering failure, it is the Respondent licensee right to prevent further default / defective metering and take appropriate action and the Complainant cannot raise alarm or dispute to such action of the Respondent;
- (63) Thus Complainant's reliance on National Consumer Disputes Redressal Commission (NCDRC), New Delhi citation in matter of UPPCL Vs Krishan Gopal Rastogi (2007) CPJ 55 (NC) decided on 09.01.2007 is not applicable in the facts and circumstances of the instant matter. This citation is in terms of defective check meters whereas the instant matter is of correcting defective metering and replacing a defective meter with a new one. Thus Forum rejects the reliance of Complainant





on the said citation which the Forum holds as not being applicable in the instant matter;

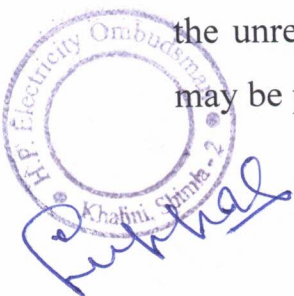
- (64) With regard to the contention of the Complainant that meter replacement was done without putting it to Notice or associating it, Forum is of the considered opinion that obviously the management of the Complainant could not be expected to be present during the replacement of meter. However, record clearly shows that some representative of the Complainant was present who signed the Meter Change Order (or MCO). It cannot rationally and remotely be assumed by the Forum that the representative of the Complainant was coerced by the Respondent into signing the MCO as is being attempted to be portrayed by the Complainant in the instant case;
- (65) Thus, from the foregoing discussion and for the simple reason that the metering was proved defective and corrected by the M&T on 08.02.2022, the Forum rejects the contentions with regard to testing of meters as raised by the Complainant, as being far-fetched and untenable in the circumstances of the matter. Forum holds and concludes that it was not necessary for the Respondent to send the metering equipment for testing or for testing it at site under provisions of Supply Code, 2009. The procedure for testing of meters prescribed in Supply Code or in the CEA Regulations is not applicable in the present matter for the simple reason that accuracy of meter is not under challenge here;
- (66) Forum further observes that the Complainant in its Rejoinder and in the written arguments, while reiterating its original stand and while denying the Reply by the Respondent, has also simply argued that because it cannot be proved that the alleged meter was ever defective therefore there was no defective metering at all in the past and thus alleged arrears are not recoverable;

- (67) It is clearly evident from record that defective / faulty metering has been established by the M&T visit on 08.02.2022 where the personnel of the Complainant were also present. There is nothing on record that may show or



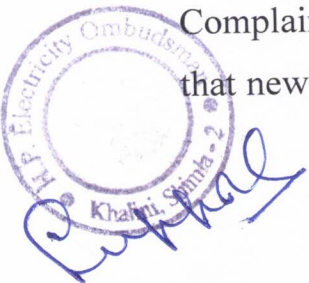
suggest that the faulty metering may have previously been corrected between the periods from 08.12.2017 to 08.02.2022. Forum again rejects the arguments of the Complainant as being far-fetched and untenable in the circumstances of the case and safely concludes that metering of the Complainant was faulty or defective for the past period ever since the replacement of meter on 08.12.2017 up till 08.02.2022;

(68) Once it is established that there indeed was faulty or defective metering from 08.12.2017 to 08.02.2022, the Forum now proceeds to determine the overhauling of Complainant's consumption as a result. The Forum is of the considered opinion that for the purpose of over hauling of account of Complainant in case of defective metering, the actual energy consumption and its metering is two distinct aspects. These two aspects may not at all times be in consonance and there may be disparity between the two at any time, owing to several reasons such as in-accuracy of meter, meter failure, defective meter/ metering equipment or inputs there-from, defective connections, human error intentional or unintentional etc. Therefore, in the instant complaint when it is established by M&T that there is meter failure / defective metering and for the simple reason that electricity / energy in excess of that recorded during the period of defective metering may have been consumed in the past, which could not be billed owing to such remaining unnoticed, it can safely be held that consumer Complainant, on reasonable estimates, is liable to make good any monetary loss that may have resulted to the Respondent distribution licensee in the past. Non-recording or less recording by a meter cannot be a reason to allow free ride to the Complainant towards the consumption of electricity that was actually made by it in the past. Therefore, in the case of faulty / defective metering, the consumer Complainant is liable to make payments towards the unrecorded part of consumption to be estimated on reasonable grounds or as may be provided in the statute;





- (69) In the considered opinion of the Forum, no one is entitled to adversely use the deficiencies in a system to their advantage, such as to cause loss in any way to the system. The monies in question here is not that of the Complainant or that of the managers of the Respondent but are that of the Respondent Company and thus no one is entitled to cause loss to the Company. Not allowing such loss to be recovered likely results in malpractices and connivances which are detrimental to the system;
- (70) In the matter, Complainant has nowhere shown that its generating plant was either under shut down for the period in dispute or that its own metering may have depicted consumption in less to that as may be discovered or estimated by the Respondent;
- (71) In the instant case, the Respondent had initially on 11.07.2022 (**Annexure R-N**) raised the monetary demand of Rs 3,00,20,610/- on account of defective metering based on the log record of the Kotla Substation which was not acceptable to the Complainant. Record shows that the Respondent was willing to placate the Complainant to the extent that fresh monetary demand be determined and raised in future when consumption for almost 2 years became available after establishing corrected metering. Accordingly, the Respondent once again raised the monetary demand for the past period based on this metered consumption of a later period. This monetary demand for the past period was raised by the Respondent on 16.01.2024 (**Annexure R-Q**) by revising the ibid demand of Rs 3,00,20,610/- to Rs 2,29,68,548/-. Record shows that this was also not acceptable to the Complainant on various grounds despite the Complainant failing to provide to the Respondent its LT side metered consumption and also failing to prove that it had not used auxiliary and other load to carry out its electricity generation. The Complainant has simply disputed this revised monetary demand on the grounds that newly discovered consumption is not a true reflection of the past consumption





without appreciating the fact that defective metering in the past cannot give a true reflection of its consumption which will eventually have to be determined based on reasonable estimates or as may be provided in the statute;

(72) Considering the facts in the instant complaint, when it is established by M&T that there was faulty / defective metering in the past and after the Forum having safely concluded that there indeed was defective metering in the past, therefore, the Complainant on reasonable estimates or as may be provided in the statute, is liable to pay for the shortfall with regard to billed consumption in the past vis-à-vis consumption that may have taken place. Regulations cannot be read in isolation. In fact, further perusal of the relevant part of the ibid reproduced Supply Code reveals that sub-code 4.4.8(ii) and 4.4.8(iii) do provide for overhauling of consumer account for the period the defective metering remained at site and further that the consumer is liable to pay an additional amount on this ground;

(73) In accordance with code 4.4.8 (i) the period of 6 months of overhauling of consumer account is applicable only under the condition where accuracy of meter is involved for the simple reason that it cannot be established since when did the accuracy of meter distort. As has already been held by the Forum in paras supra, that the instant dispute is not one where testing of meter becomes a question but where it is a question of validity of monetary demand being in accordance with statute which was raised at the behest of meter/ metering failure or faulty / defective metering;

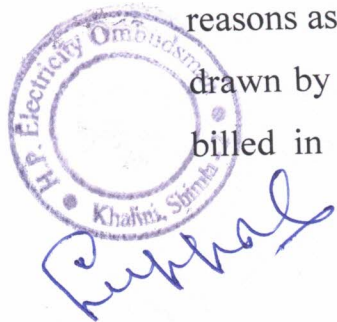
(74) Forum from averments on record made by the Complainant observes that the Complainant uses the instant electrical connection for meeting its auxiliary supply requirements for its electricity generation. However, in all the averment and arguments made by the Complainant Forum does not find anything that may prove that the Complainant for the period of disputed arrears from December 2017 onwards had ever shut down its operations or reduced its load so as to cause less consumption for its auxiliary equipment or other loads such grossly being in





variation to its consumption discovered after the metering was set right and neither can the Forum find anything on record that may suggest that the Complainant's electricity generation during the period of dispute may have ever been shut down so as not to cause any consumption on account of auxiliaries. This has clearly not been established by the Complainant. The Complainant has merely argued that the overhauling of the consumption of the Complainant by the Respondent is hit by estimation which is prone to error due to factors like seasonal variation etc. Forum is of the considered opinion that unless Complainant's plant is shut down, its annual consumption on account of auxiliaries and other load shall by and large tend to remain the same or similar over an year or over long periods as was discovered later by the Respondent ie after correct metering was established;

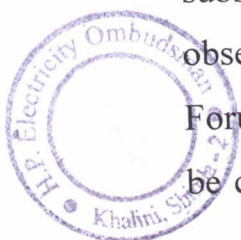
- (75) The fact that the Complainant has nowhere shown that its generating station /power plant was ever shut down or that it was not in use of its auxiliary equipment, it can safely be concluded that the Complainant has used electricity received from the Respondent which is in excess of that recorded during the period of defective metering;
- (76) The fact that for the period of dispute there was defective metering, Forum holds that for this period it will be wrong and unreasonable to expect the Respondent to establish with proof the exact consumption of the Complainant. To expect this of the Respondent by the Complainant especially when the Complainant itself failed to provide to the Respondent the LT metering / consumption data for whatever reason best known to the Complainant, shall be unreasonable;
- (77) Thus in absence of proof by the Complainant that it has not generated or has not used electricity supply for its auxiliaries during the disputed period and for other reasons as discussed in foregoing part of this Order, the only conclusion that can be drawn by the Forum is that the Complainant has used electricity in excess of that billed in the past, which the Complainant is now liable to pay, such being a





statutory charge determined in accordance with the Tariff Orders passed by the Ld HPERC;

- (78) Further, Forum is of the considered opinion that the Respondent purchases or incurs cost for the electricity to be supplied to consumers and Complainant being one amongst them, then the Complainant is liable to return to the Respondent the said cost incurred for the consumption done by it which in this case is in excess of that previously billed;
- (79) Once it is established by the Forum that the Complainant has used electricity in excess of that billed during the period of defective metering, Forum now proceeds to determine the overhauling of Complainant account for the said period of defective metering -
- (80) From perusal of the ibid reproduced provisions of code 4.4.8 (ii) of the Supply Code, Forum finds that the Regulations do provide for and allow for overhauling of consumer accounts for the period a burnt or defective meter remained at site and that there is no bar on the period for which such overhauling is to be done;
- (81) Forum finds in the instant case that the Respondent had made necessary efforts to ascertain or estimate the consumption of the Complainant for the period of defective metering from 08.12.2017 to 08.02.2022. However, as observed from letter dated 02.08.2022 (**Annexure C-III**), the Complainant while suggesting study of load pattern along with observing the meter reading for 5 to 6 months, first refused the demand dated 11.07.2022 (**Annexure R-N**) for Rs 3,00,20,610/- under the pretext that consumption based on log sheets available from the Kotla substation are unsigned, are not legible, are with white fluid. Thereafter, as is observed from Complainant's letter dated 01.06.2023 (**Annexure C-V**) by the Forum, under the pretext that energy consumption pattern of current period cannot be compared with long past and that there is no provision in Supply Code and in





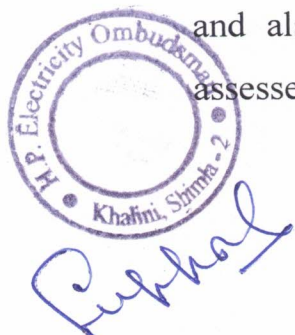
Agreement between parties for such and that there exists no case of under billing against it, the Complainant once again refused the said Demand Notice. Forum observes that this demand was in terms of estimation based upon past period consumption;

(82) Further, vide its letter dated 31.01.2024 (**Annexure-VI**), the Complainant again refused the subsequent demand raised by the Respondent vide Notice dated 16.01.2024 (**Annexure R-Q**), for Rs 2,29,68,548/- which was based on recorded consumption of Complainant for period of almost 2 years after the defective metering was set right;

(83) Forum also finds from perusal of the ibid reproduced provisions of sub-code 4.4.8 (ii) of the Supply Code, that this code does cover and provide for the condition when average consumption of corresponding past period is not available, then the consumption shall be assessed in the manner indicated in para 4 of Annexure A;

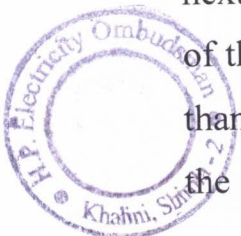
(84) Complainant in its complaint has stated that the action of the Respondent is against the Supply Code. Thus it leaves no doubt in the mind of the Forum that the Complainant is well aware of the provisions of the Supply Code. Forum observes that clearly the Complainant on one pretext or the other has been refusing to pay the monetary demand raised by the Respondent for the short assessment in consumption during the period of defective metering in the past;

(85) Forum holds that dispute raised by the Complainant is simply intended to deprive the Respondent of its legitimate statutory dues by unnecessarily seeking justification for the accuracy of units assessed for the period of defective metering and also for the calculation of the raised monetary demand against the said assessed units for the period of defective metering;





- (86) As has been held in paras supra that the Complainant has used electricity in excess of that billed during the period of defective metering for which the monetary demand has been raised by the Respondent, Forum further holds that the action of the Respondent is already in line with the statute namely the HP Electricity Supply Code, 2009 notified by the HPERC and accordingly upholds the monetary demands raised for the past period defective metering for the short assessment of consumption, vide Notice dated 16.01.2024 (**Annexure R-Q**) further raised as sundry in electricity bill dated 15.05.2024 (**Annexure C-X**) and then as arrears along with late payment surcharge in bill dated 04.06.2024 (**Annexure C-XI**);
- (87) In view of foregoing, the Complainant is directed to pay the said demand raised in in bill dated 04.06.2024 (**Annexure C-XI**) within 10 days of this Order, failing which the Respondent is directed to take action in accordance with the extant statute / Regulations including that of disconnection for non-payment;
- (88) Further, the ibid monetary demand is upheld to the extent the same is in line with para 4 of the Annexure A as provided in ibid sub-code 4.4.8(ii) of the Supply Code which the Respondent is directed to re-determine month-wise. After adjusting for the monies paid by the Complainant as directed in paras supra, the monetary demand so re-determined in accordance with this said para 4 of the Annexure A as provided in sub-code 4.4.8 (ii) of the Supply Code which shall be raised upon the Complainant within 10 days from this Order;
- (89) In the event the demand so determined is less than that already paid by the Complainant, then the Respondent shall refund the excess amount received in the next bill. In the event the demand so re-determined in accordance with said para 4 of the Annexure A as provided in sub-code 4.4.8 (ii) of the Supply Code, is more than that already raised by the Respondent, then the Complainant is directed to pay the same within 10 days of the date of demand so raised, failing which the



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Respondent is directed to take action in accordance with the extant statute / Regulations including that of disconnection for non-payment;

- (90) Accordingly, the ibid demands raised on 16.01.2024 (**Annexure R-Q**) further raised as sundry in electricity bill dated 15.05.2024 (**Annexure C-X**) and then as arrears along with late payment surcharge in bill dated 04.06.2024 (**Annexure C-XI**) and the ibid demand re-determined and raised pursuant to para 4 of the Annexure A as provided in code 4.4.8 (ii) of the Supply Code, shall deem to have been raised from the date original monthly consumption was billed against less metered consumption during period of said defective metering;
- (91) Further the Forum has found the above actions of the Complainant to delay the dues of the Respondent, to clearly amount to re-dressal of its own dispute especially when it is not an adjudicating authority. This has resulted in Respondent being deprived of its legitimate dues for a long period. This Forum has existed even before the date the dispute originally arose to the Complainant and accordingly the Complainant was at liberty at all times to approach this Forum for resolution of its dispute which it eventually did by filing this complaint. However, the Complainant in the process failed to appreciate the fact that the delay entails a cost;
- (92) Thus, in accordance with code 5.7.3 of the HP Electricity Supply Code, 2009 and amendments thereto, Interest shall now be payable by the Complainant from the date original monthly consumption was

billed against less metered consumption during period of said defective metering months to the time the amount is fully paid by the Complainant in accordance with this Order;



- (93) The Respondent is directed to raise the demand on account of this Interest within 10 days from this Order and the Complainant is directed to pay the same within 10 days of the demand so raised, failing which the Respondent shall be at liberty to take action in accordance with the extant statute / Regulations including that of disconnection for non-payment;
- (94) It is made clear that no Interest shall be chargeable from the Complainant for the period the complaint was before this Forum;
- (95) It is also made clear that in case any amount becomes refundable to the Complainant as a result of payment by the Complainant in pursuance to this Order, then the Respondent is directed to refund the same along with Interest in accordance with ibid code 5.7.3 of the HP Electricity Supply Code, 2009 and amendments thereto, in the next electricity bill to be raised to the Complainant

I-Analysis of the Complaint:

1. The case file bearing Complaint No. 1131/202407/21 and orders passed on dated 28/03/2025 by the Consumer Grievance Redressal Forum Kasumpti, Shimla-171009 have been requisitioned and gone through.
2. In the interest of justice, the relevant extract of said order of Id.CGRF has been reproduced from para (40) to (95) under the heading “H” of this order to arrive at legitimate conclusion.
3. The submissions made by the Complainant, reply submitted by the Respondents and Rejoinders submitted by the Complainant have been incorporated on specific averments for the sake of brevity to have composite view of the entire case.
4. The appropriate Acts, Supply Codes, Tarif Orders and judgements of Hon’ble Supreme Court and Hon’ble High Court have been referred to for clarity. The relevant extracts of Tariff Orders have not been recapped for the sake of brevity as the same stand placed in hierarchy in the said order of Id. CGRF in para-57&58 under the heading “H” above.

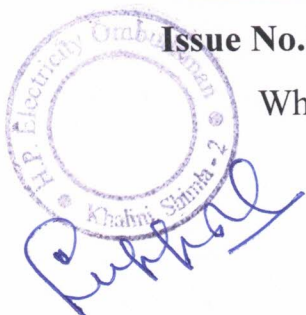


5. M/s Satluj Jal Vidyut Nigam Limited (SJVNL) bearing Consumer ID 100014001801 is a Bulk Supply (BS-Two Part) Consumer of Respondent HPSEBL and aggrieved of Demand Notice dated 08/04/2024 amounting to Rs 2,29,68,548/- raised for the period 08/12/2017 to 08/02/2022 due to less recorded consumption on account of defective metering which had previously not been charged in the bills of respective months.
6. The relief sought by the Complainant has not been reiterated for the sake of brevity and same may be referred in para-37 under the heading “B”, the Complainant’s Specific Submission.
7. The Respondents on the other hand have confined reply to the extent of CGRF order dt. 12.03.2025 and asserted that the relief sought by the complainant is not tenable in law, as the Ld. Forum below has correctly passed the order dated 28.3.2025 after thoroughly examining the case records and the decision is based on a thorough arguments presented by both the parties, on the pleadings of the parties by appreciating the applicable provisions of the H.P Electricity Supply Code, 2009 in the impugned order thus, there is no such infirmity or illegality in the order passed by the Id. Forum, thus the representation is liable to be dismissed.
8. The contentions of the Complainant detailed under the heading -B, response of the Respondent Board detailed under the heading -C and final arguments conducted at length by both & placed under the heading -G, gathers considered opinion to originate the following issues and for the sake of brevity, the detailed analysis has been done along with findings of the issues as each case is having its own merit and statute except in exclusive cases.

J-Issues in Hand:

Issue No.1:

Whether the instant Representation is non-maintainable?





Issue No-2:

Whether the alleged demand raised is beyond the period of limitation?

Issue No.3:

Whether the demand Notice dated 17.02.2022 raised for an arrear amount of Rs 3,00,20,610/- for the period 08/12/2017 to 08/02/2022 from the date of defective metering and thereafter revising the same to the tune of RS.2,29,68,548/- vide demand notice dt.16.01.2024 on the basis of average consumption are viable proposition under the present circumstances.

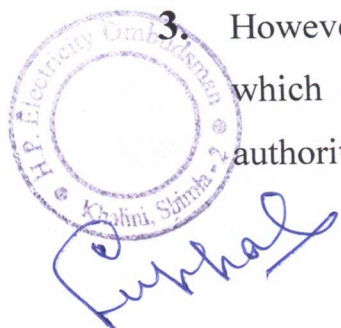
Issue No.4:

Whether such un-billed consumption is liable to be recovered by the Respondent along with Interest in accordance with the code 5.7.3 from the date/month such un-metered and unbilled consumption was not originally billed to the date the same is recovered?

K-Findings of the Issues:

Issue No-1:

1. While going through the reply submitted by the Respondents, it has been observed that in a very vague manner it has been mentioned that the representation as preferred by the complainant is not maintainable in the eyes of the Law, hence liable to be dismissed, as it is based on conjectures and surmises.
2. This authority asserts in the interest of justice that unless the Representation filed, falls beyond the jurisdiction of this authority which could be pronounced at the very outset as non-maintainable or unless adjudicated, this authority feels judicious to honor the 'Hierarchy of Adjudication System' and proceeds.
3. However, no such averments were cited even during arguments by the Respondents which could have substantiated their contentions and drawn attention of this authority towards non-maintainability.





4. In view of above and exercising the provisions in terms of regulation 33(2,3) read with 36(2) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 where the Ombudsman is guided by the principle of natural law of justice, this authority feels judicious to give an opportunity in terms of Regulation 33(3), the relevant extract of which is read as “ *Provided further that no representation shall be rejected in respect of sub-clauses (a),(b),(c) unless the Complainant has been given an opportunity of being heard*”, warrants contentions to be heard which cannot be judged unless an opportunity of being heard is given in terms of said provisions and might carry reasonable arguments in the interest of justice. So, in due cognizance to the above provisions and subject to the outcome of the proceedings, the Complaint is held maintainable only for initiation of proceedings /adjudications of grievances in the public interest.
5. After resorting to above findings under Issue-1 the Representation is held maintainable for initiation of proceedings and this authority proceeds to delve **the contentions on merit** through the following issues for legitimate analysis of the contentions.

This closes the findings on issue-1

Issue No-2:

1. It has been observed that Complainant in para-11(F) of the submissions contends as under:
- a. that the demand raised by the Respondent-Board is hit by limitation as the demand raised was beyond a period of two years.
 - b. that the demand raised by the Respondent is not sustainable especially in view of Section 56(2) of the Electricity Act, 2003. Which categorically provides that no sum due from any consumer under this



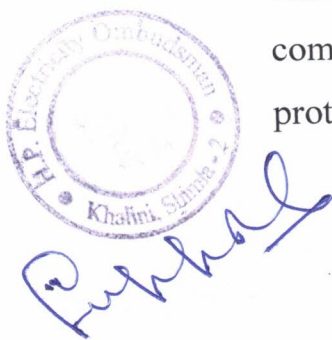
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Section shall be recoverable after the period of two years from the date when the sum became first due, unless such sum has been shown continuously as recoverable as arrears of charges for electricity supplied and the licensee shall not cut off the supply of electricity.

- c. that the sum became due for the first time in the month of January, 2018 as the electricity meter was installed in the month of December, 2017. So, the period of limitation for all intents and purposes was required to be reckoned from the date when such sum became first due.
- d. that while dealing with the issue of limitation, learned CGRF has not appreciated the law as settled by the Hon'ble Supreme Court of India as well as various High Courts, rather has misconstrued the provisions contained in Section 56(2), and has held that the demand raised by the Respondent-Board was within limitation which became first time due in the year 2022, when the defective metering was detected by the Respondent-Board.

2. Referring to the reply submitted by the Respondent Board, it has been conceived that the Respondents showed their reliance on the Apex Court judgments whereas Id. Counsel for Respondents emphasized during arguments that in line with settled law by the Hon'ble Supreme Court in many similar type of cases such as *Assistant Engineer (D1) Ajmer Vidyut Nigam Limited vs. Rahamutullah (2020) 4 SCC 650* and *M/S Prem Cottex vs. Haryana Vijli Vitaran Nigam Ltd. (2021)*, the Hon'ble Apex Court ruled out that mistakes in billing, once detected, can be corrected and the consumer is obligated to pay the dues and the period of limitation will commence from the date, the mistake was detected. Section 56 does not protect a consumer from such legitimate claims and the distribution licensee





has the right to recover past dues, as upheld by the Hon'ble Supreme Court in the said cases.

3. After referring to the submissions and reply along with documents and judgements placed on record in details as well as arguments advanced, read with specific provisions, it is observed that there is a misconception on the part of Complainant on interpretation of prevalent provisions of Section 56(2) or clause 5.6.2 of the Supply Code on the issue of limitations, the relevant part of which reads as, ***"no sum due from any consumer, shall be recoverable after the period of two years from the date when such sum become first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the license shall not cut off the supply of the electricity:"***

4. In line with above averments this authority asserts that the **first due** is the day when the issue was pointed out irrespective of how old the issue might be. Here the issue is not that when normal bill was raised first time in year 2017, 2018 becomes first due as misconceived by the Complainant and exhaustively stressed by the Id. Counsel for Complainant during arguments, rather when the demand note/bill was raised first time after the anomaly was observed, is considered as first due or otherwise if the first due date is considered as a normal date as contented by the Complainant which cannot talk about arrears/differentials after the mistake occurs, the very purpose of this clause of supply code/Act shall be defeated.

5. Let us elaborate more on the terms "due" and "first due" in terms of said Judgements/findings of Hon'ble Apex Court. The word "due" has been used under Section 56(1) as well as under section 56(2) of the Act 2003. The term "due" refers to the amount for which the demand is raised by way of a bill. The term "first due" would therefore imply when the demand is



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raised for the first time after the discovery of anomaly. The bill raised by the licensee company (Respondent Board) after deduction of mistake would be the starting point for the exercise of power under sub-section (2) of Section 56 and the starting point of limitation would be from the date when the bill is raised by the licensee company (Respondent Board).

6. The facts are further supported by the above referred Hon'ble Supreme Court of India Judgement dt.18.02.2020 in Civil Appellate Jurisdiction in **"Civil Appeal No. 1672 of 2020" under para-2** wherein the licensee company raised an additional demand on 18.03.2014 for the period July,2009 to September,2011. The period of limitation would commence from the date of discovery of the mistake i.e. 18.03.2014. The licensee company may take recourse to any remedy available in law for recovery of the additional demand, but is barred from taking recourse to disconnection of supply of electricity under sub- section (2) of Section 56 of the Act.
7. After analyzing the averments in depth, this authority is convinced with the diligent findings made by the Ld. CGRF in due cognizance to all judgements of Hon'ble Apex Court and other Hon'ble courts under para-(43) to (45) of its order dt.28/03/2025 (*may be referred under heading "H"*) which may also be considered as part and parcel of the present findings and inclines to the fact that the said demand raised by the Respondent Board is just and legal and makes Complainant responsive for making payments as raised. The very relevant extract of para-43 of the findings of Ld. CGRF needs to be reiterated in the interest of justice for reference and clarity as under:

Para (43) "Forum holds that the Hon'ble Apex Court has already settled the law in this regard vide Judgment dated 18.02.2020 in Civil Appeal No 1672 of 2020 titled Assistant Engineer (DI) Ajmer Vidyut Vitaran Nigam Ltd and Anr Vs Rahamutullah alias Rahamujulla (2020) 4SCC 650 and in M/s Prem Cottex Vs Uttar Haryana Vijli Vitran Ltd in Civil Appeal No7235 of 2009 decided on



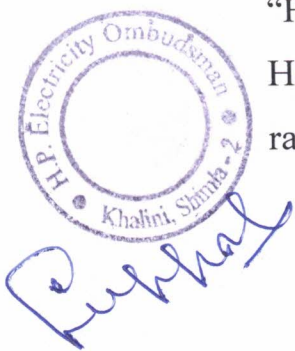
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HIMACHAL PRADESH ELECTRICITY OMBUDSMAN
SHARMA SADAN, BEHIND KEONTHAL COMPLEX, SHIMLA-171002
Phone: 0177-2624525, email: ombudsmanelectricity.2014@gmail.com

October 5, 2021. In the context of the instant matter, this Forum observes that in Hon'ble Apex Court Judgment dated 18.02.2020 in Civil Appeal No 1672 of 2020, which has further relied upon other Apex Court cases while interpreting section 56(2) of the Electricity Act, 2003, it has been held that section 56(2) does not put any limitation for raising the past dues or arrears, if not discovered earlier due to any mistake. Liability to pay arises on consumption of electricity and obligation to pay when bill is raised. Electricity charges would become first due only when bill is issued by the licensee to the consumer quantifying therein the charges to be paid".

8. Akin to above findings of Id. CGRF and the averments made, this Authority is convinced that the interpretation in the instant case is also of similar nature as held by Hon'ble Supreme Court in the above stated Civil Appeal as cited under para-6 above and in the instant case also the Respondent Board had initially raised demand Notice on dated 17.02.2022 for an arrear amount of Rs 3,00,20,610/- from the date of defective metering observed and thereafter revising the same to the tune of RS.2,29,68,548/- vide demand notice dt.16.01.2024 after effecting revised computation on the basis of actual average consumption which had previously not been charged in the bills of respective months.
9. The period of limitation in the instant case, in line with above judgement of Hon'ble Supreme Court under para-6 above, would commence from the date, the demand was raised i.e. 17.02.2022 or 16.01.2024, not on January, 2018 as contended by the Complainant, hence not time barred and in terms of above judgement of Hon'ble Supreme Court, the Respondent Board is also within its legal jurisdiction to raise past arrears if not discovered earlier due to any mistake which construes as bona-fide mistake.
10. This authority in due cognizance to the judicial discipline & honoring the "Hierarchy of Adjudication System" agrees with the said Judgement of Hon'ble Supreme Court and holds Complainant liable to pay the amount as raised by the Respondent Board who may take recourse to any remedy





available in law for recovery of the additional demand, but is barred from taking recourse to disconnection of supply of electricity under sub-section (2) of Section 56 of the Act. Hence, in terms of foregoing findings, the contention of the Complainant is not tenable in the instant case.

This closes the findings on issue No-2

Issue No.3:

1. After referring to the submissions of the Complainant placed under the heading “B” and reply of the Respondent placed under the heading “C”, Rejoinder placed under the heading “D” along with documents placed on record in details as well as arguments advanced, read with specific provisions, this authority draws inferences that right from the day, the Complainant started drawing power for meeting auxiliary consumption against consumer ID 100014001801, even if the load requirement was confining to the extent of 200KW and thereafter enhanced to additional requirement of 1700 KW, **the Complainant never raised any objection as to why the metering was done in the premises of Respondent HPSEBL nor tried to make any arrangement of metering at their ends in the premises of plant.**
2. In view of above arrangement of billing which is still continued at 220/66/22 kV Substation HPSEBL Kotla for HT metering, the resentful averments made by the Id. Counsel for Complainant does not carry any substance which says that since the metering system is at the premises of the Respondent, the above onus of defecting metering also attributes to the Respondent.
3. This authority is of the considered opinion that since, Complainant (SJVNL) is a Bulk Supply (BS-Two Part) Consumer of Respondent HPSEBL bearing Consumer ID 100014001801, and getting supply from





the **dedicated feeder** as informed during arguments, the Complainant being consumer of Respondent Board, is under contractual obligation to adhere to the abridged conditions/ Agreement executed at the time of taking connection which is as usual mandatory requirements furnished prior to taking connection.

4. It has been observed that the above arrangement of supply also falls within the ambit of clause 2.1.5 (**Point of Commencement of Supply**) of Supply Code which reads as:

“Unless otherwise agreed to, the point of commencement of supply shall be:

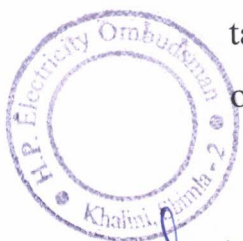
(b) in case of HT or EHT consumers, -

(ii) at the outgoing terminal of the switchgear installed at the sub-station of the licensee, feeding the dedicated line, irrespective of the point of metering”.

In terms of above provisions, it cannot be considered as an obligatory offence by the Respondent Board to carry the metering within the premises of 220/66/22 kV Substation HPSEBL Kotla for HT metering purpose and cannot be apprehended that the defective metering attributes to Respondent's end which is however, further subject to the findings.

5. It has been observed from the documents placed on record that the findings of the M&T report stand duly signed by the respective representatives of both the parties and was also confirmed during arguments by one of the officers Sh. Arjun Dass, Assistant Manager, RHPS Bayal, appeared in the court room who agreed that during testing of the new energy meter Sr. No. HPP00375, he was present along with M&T team and appended signature on the findings of M&T report which is placed at page-21 with the representation.
6. After scrutiny of M&T report with view point of purpose of visit/ action taken, it was observed that it was categorically mentioned at the very outset of report which is important in the interest of justice and reiterated as under:

“-----In response to Assistant Engineer, HPSEBL, Sub-Division Nirmand letter No. HPSEBL/NESD/W-8/2020-21-1332-35 dt. 24.01.2022, M&T Division team visited Sub-Station Kotla on dt. 08.02.2022 to check, calibrate and sealing





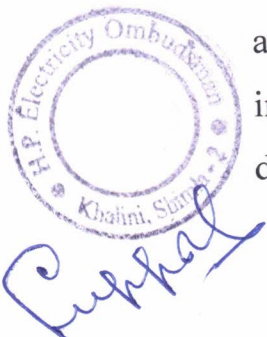
of installed HT, CT/PT meter in presence of HPSEBL, Division Anni and SJVN Bayal project officers. -----”

7. This authority after referring to the above curriculum of M&T team, is convinced that all those contentions regarding installation, testing, calibration, sealing etc. raised by the Complainant stand attended in legitimate manners by the Respondent Board. Hence are not considered tenable in the instant case.
8. After further referring to the documents, it has been conceded that Assistant Engineer, M&T Solan vide letter No.1247-51 dt. 18.02.2022 addressed to Assistant Engineer, Nirmand regarding CT's mentioned herein said letter which in the interest of justice is also reproduced as under:

“1) Although the test results of CT's according to their class 1.0 are within permissible limits. But for healthy metering the accuracy class of CT's required 0.5 on 22kv.

This information was quite informative with view point that the already installed CT of class 0.5 were enough for metering.

9. After listening to these arguments, it was observed that the required actions for installation/Testing of the meter were done in the presence of one of the representatives of the Complainant and hence, this authority draws inferences that the averments made by the Complainant on this issue were based on apprehensions only, just to distract the attention of this court from justice, when once, it was established by the M&T team on dt. 08.02.2022 that there remained reversal of one phase of CT right from the date of installation i.e December,2017 onwards and witnessed by the representative of the Complainant. **Sh. Arjun Dass, Assistant Manager, RHPS Bayal** as per record.
10. Once, it is established as per documents placed on record and arguments advanced that there remained reversal of connections right from the date of installation i.e December,2017 onwards till replacement/testing on dt.08.02.2022 in the presence of Complainant's representative, this authority





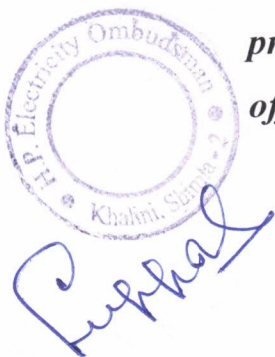
feels compatible to proceed further to ascertain the legitimacy of action taken by the Respondent Board thereafter as there is no doubt that the Complainant enjoyed full consumption during the period of less metered by paying less against actual .

11. In view of above findings under para-6&7, this authority also draws same opinion and agrees with the diligent analysis done by Id. CGRF on averments of the Complainant on testing in para (46) to (62) in its order dt.28.03.2025. The relevant extract of conclusive para (61) is replicated for reference as under:

“(61) Forum holds that the instant case is not one of determination of accuracy of metering but of faulty / defective metering where there is non-recording by meter of exact consumption made by the Complainant in the past which was discovered and corrected by the Respondent at a belated stage and consequently monetary demand was raised upon the Complainant by the Respondent;”

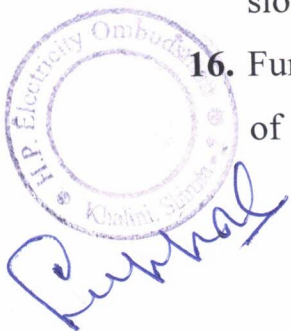
12. This authority felt alarming when on one side the Complainant raised objection on the revised present methodology of issuance of demand note of ₹2,29,68,548/- on the basis of average consumption of two years after the rectification of the connections by M&T whereas on the other side , could not supply LT data which was vigorously asked by this authority during arguments from the SJVNL officers present in the court room which was required for comparative purpose and for further prudent settlement of the differences. However, the SJVNL officers sent two letters dt.09.03.2022 & dt.22.03.2022 through e-mail which were also taken on record and clarified the position, the very relevant extract of letter dt.22.03.2022 (from SJVNL to Sr. Executive Engineer Anni in compliance to above letter dt. 09.03.2022) is reproduced as under:

“It was also witnessed by your good- self & your team that there is no provision to measure & record LT side consumption of energy. Hence, the office is unable to produce the same as requested by your office”.





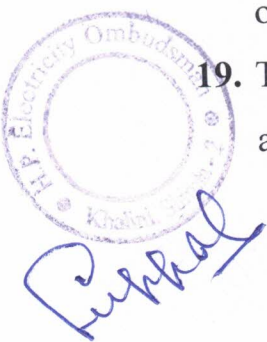
13. After updating the above course of pulsating state of averments, this authority feels affirm that definitely the auxiliary demand was met by consuming full power to the requirements which was less metered owing to the persistent reversal of one phase of CT since December,2017, the date of installation of (Sr. No. HPP00379) (Dec 2017 to 24.01.2022) and the new energy meter (Sr. No. HPP00375) (from 24.01.2022 to 08.02.2022) till it was rectified by the M&T team on 08.02.2022.
14. During arguments the officers of SJVNL asserted that not much difference in consumption was noticed even after replacement of meter. However, this authority extracts affirmative views on this contention of the Complainant that till the connections were rectified, the new meter (Sr. No. HPP00375) also remained under the flux of reversed connection and thereafter, correction of connections by M& T, as placed on record, the consumption showed appreciable hike which in the interest of justice cannot be digested and overlooked. This authority after having this convinced analysis, conceives without any doubt that under such circumstances of analysis, even earlier meter (Sr. No. HPP00379) does not appear to be defective. It was only defective metering attributing to less consumption which was suspected after the Common Meter Reading Instrument (CMRI) report and thereafter authenticated as reversal of CT connections by M&T team in the presence of Complainant' representative.
15. Apparent to the record and arguments advanced, it was observed that the earlier demand note dt.11.07.2022 of Rs.3,00,20,610/- was not accepted by the Complainant as it was based on log sheet data available in the Substation which was also objected to certain extent being not legible in some of the slots of disputed period.
16. Further delving of record reveals that thereafter two years, based on average of actual consumption, the demand note dt. 16.01.2024 amounting to





₹2,29,68,548/- was issued with an intention for more prudent settlement of ambiguity and the comparative analysis of the two demand notes shows that definitely with the sincere efforts of the Respondent Board, the differential amount so raised, reduced by Rs.70,52,062/- which is appreciable.

17. After visualizing this drastic reduction in differential amount placed on record, this authority in the interest of justice draws consensus that in the absence of LT data which could not be provided by the Complainant (SJVNL) even on asking numerous times, the only reliance left was to compute on actual average consumption basis which was meticulously exercised by the Respondent Board and resulted in raising of revised demand dt. 16.01.2024 amounting to ₹2,29,68,548/- in place of earlier demand dt.11.07.2022 of ₹3,00,20,610/-. Even during arguments, the officers representing Complainant could not propose any other alternative for computation for legitimate settlement.
18. As a sequel of above discussions and after referring to para (40) to (91) of Id. CGRF order dt. 28/03/2025 (*may be referred under the heading "H"*) wherein all the averments have been dealt diligently inclusive of bona-fide mistake with due reference to judgements of respective Hon'ble Courts & contentions related to testing of meter, this authority is convinced and does not want to extend findings further and draws considered opinion that the demand note dt. 16.01.2024 amounting to ₹2,29,68,548/- raised by the Respondent Board is legitimate and qualifies the mandate of clause 4.4.8 (ii) &(iii) of the supply code and Complainant (SJVNL) being the consumer of Respondent Board is under contractual obligation to pay such legitimate liability of demand which has been raised after exercising all available options.
19. This authority feels it pertinent to mention that since Respondents relied upon average of two years actual consumption, this permutation accounts for all





ups and downs of power consumptions & squares out all apprehensions of the Complainant on working hours of plant. This authority appreciates the ld. CGRF concern on austerity of methodology of computation and agrees with the opinion in para (55) which is recapped for the sake of clarity as under:

“para(55) Thus, in the event when metering is faulty /defective and it becomes impossible for the Respondent to discover the exact consumption, the Forum can safely conclude that the consumption of the Complainant over an year should be near its consumption in subsequent years, despite any seasonal variations, unless the Complainant had otherwise shown that its generating plant was either under shut down for the period in dispute or that its own metering depicts consumption in variation to that as may be discovered or estimated by the Respondent, which are conspicuously missing on the part of the Complainant;”

20. In view of foregoing conclusive findings, this authority lands to the judicious platform and in the interest of justice asserts that once it is legitimately established ‘non-recording by meter of exact consumption made by the Complainant in the past’, the demand dt.16.01.2024 amounting to ₹2,29,68,548/- raised by the Respondent Board on the basis of two years average on actual basis is held prudent proposition and is sustained in the present circumstances.

This closes the findings on Issue-3

Issue No.4:

1. The Complainant contends that in the instant case the ld. Forum under **para-92&93** of its said order dt.28.03.2025 has directed the Respondents to recover interest as per Clause 5.7.3 of the Supply Code from the Complainant. Thus, the order passed by the learned Forum below is non-est in the eyes of law and deserves to be quashed and set aside.
2. Scrutiny of para-92 & 93 of the order dt. 28.03.2025 of the Forum reveals that the ld. CGRF has directed Respondents as contended, the relevant extract is reproduced for clarity to arrive at legitimate conclusion:

“(92) Thus, in accordance with code 5.7.3 of the HP Electricity Supply Code, 2009 and amendments thereto, Interest shall now be payable by the Complainant from the date original monthly consumption was billed against less metered



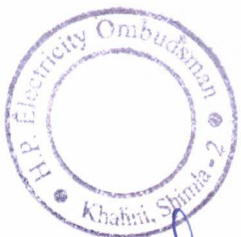
consumption during period of said defective metering months to the time the amount is fully paid by the Complainant in accordance with this Order;

(93) The Respondent is directed to raise the demand on account of this Interest within 10 days from this Order and the Complainant is directed to pay the same within 10 days of the demand so raised, failing which the Respondent shall be at liberty to take action in accordance with the extant statute / Regulations including that of disconnection for non-payment;"

3. Further analysis of the documents placed on record reveal that the demand notice dt. 17/02/2022 was issued not on account of unauthorised use of electricity and concealment or tampering which could otherwise, in terms of clause 6.1.11.1 had made the Complainant liable to pay interest in addition to differential amount of non-billed quantum. But this is not the case here.
4. The above findings put this authority on the edge to first delve the inherent characteristics of clause 5.7.3 to assess whether the said clause allows imposition of interest to Complainant in the instant case. To arrive at judicious platform in the interest of justice, the very specific part of the relevant extract of clause 5.7.3 of supply code 2009 is reproduced as under:

*"-----if the amount paid by the consumer is in excess of the revised bill, such excess amount will **be refunded through** adjustment first against any outstanding amount due to the licensee and then against the amount becoming due to the licensee immediately thereafter. The licensee will pay to such consumer interest on the excess amount-----"*

5. After digging the intricacy in the said clause, a considered opinion is drawn that the said clause mandates licensee to pay interest to the consumer towards the amount which remains as an excess amount with the licensee and nowhere it provides provisions for recovering interest from the consumer. It is also observed that the said clause has only unidirectional mandate i.e to pay interest to consumer on account of excess amount





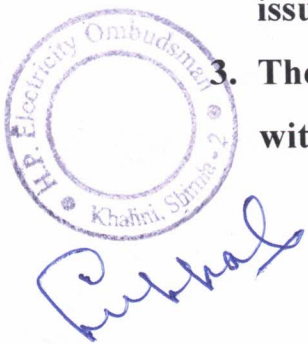
assessed as paid to licensee, not bidirectional mandate i.e to recover interest from consumer, otherwise.

6. This authority draws conclusion after referring to the submissions of the Complainant, reply of the Respondent, arguments advanced that in the interest of justice, the Respondent is liable to recover the amount noticed due to defective metering in later stage which could not be billed earlier due to bona-fide mistake of the Respondent Board but the Complainant is not liable to pay interest on the amount raised through demand note dt.17/02/2025 or thereafter whatsoever applicable. Hence, the para-92&93 of the order dt.28.03.2025 are quashed and the contention of Complainant on this issue is sustained in the instant case.

This closes the findings on Issue-4

L-Order:

1. The order passed by the Consumer Grievance Redressal Forum at Kasumpti on dated 28/03/2025 in Complaint No. 1131/202407/21 is upheld except for para-(92) & (93) which are quashed in terms of findings under Issue-4 of this order.
2. The Demand note dt.16.01.2024 amounting to ₹2,29,68,548/- for the period of defective metering w.e.f. December,2017 to 08.02.2022 raised by the Respondent Board is upheld in terms of findings under Issue-3, however, any variation in amount if observed be rectified by the Respondent Board at its own end after accounting for the amount earlier paid by the Complainant and accordingly raise the differential demand immediately within 15 days excluding holidays from the date of issue of this order.
3. The Complainant is directed to pay the requisite outstanding amount within 15 days excluding holidays from the date of issue of differential





demand to avoid any further initiation of remedial action by the Respondents.

4. The Respondent board is further directed not to take any remedial action till the expiry of above period, however, such action if required must confine to the findings under Issue-2 in terms of extant provisions.
5. The Respondent Board is directed not to charge any interest on the above demand raised, in terms of findings under issue-4.
6. The Respondent Board is at liberty to adjust in the ensuing bills in terms of prevalent provisions.
7. All stays imposed by this Authority are hereby vacated.
8. Under the powers drawn in terms of Regulation 37 (3)(d) (e) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, both Complainant and Respondent Board respectively are directed to keep awareness of prevalent provisions to avert litigations.
9. The Complaint filed by M/s Satluj Jal Vidyut Nigam Limited (SJVN), SJVN, Rampur HPS Electricity Supply & Security Division Bayal, P.O. Koyal, Tehsil Nirmand, District, Kullu (H.P.) is hereby disposed off.
10. No cost to litigation.
11. The case file is consigned to record room and order is also placed at site as well as conveyed telephonically for the convenience of reference.

Given under my hand and seal of this office.

Dated: 01/07/2025

Shimla



[Signature]
01/07/2025
Electricity Ombudsman