CONSUMER GRIEVANCE REDRESSAL FORUM COMPANY LEVEL, NOIDA POWER COMPANY LIMITED, GREATER NOIDA

IN THE MATTER OF:

Old Complaint No. 77-C/2022 New Complaint No. CF/02/2023

BSNL Officers' Sehkari Awas Samiti Ltd.

...Complainant

Versus

Noida Power Company Ltd.

...Respondent

Quorum:

- 1. Shri Sanjiv Kumar Goel (Chairman)
- 2. Shri D.S. Pandey (Independent Member)
- 3. Shri DeviRam (First Nominated Member)
- 4. Shri A.D Pandey (Second Nominated Member)
- 5. Shri Omveer Singh (Prosumer)

Appearance:

- Mr. Sanjay Kumar, Secretary (Currently) President, on behalf of BSNLOSAS (Complainant)
- 2. Mr. Anupam, Advocate and Mr. Kapil Dev Sharma, Senior Manager (Legal) on behalf of Noida Power Company Limited

Order:

Date of Hearing: 08 - 11 - 2024

Date of Order: 13-11-2024

Order Pronounced By: Shri D.S. Pandey (Independent Member)

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- The instant complaint has been preferred by Mr. Sanjay Kumar, Secretary, B.S.N.L Officers Sahkari Awas Samiti Ltd., Plot No 73, Sigma- IV, Greater Noida (hereinafter referred as "the Complainant") under Regulation 6.2 of UPERC (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations, 2007. Subsequently, following the incorporation of new CGRFs, the matter was transferred to this forum (CGRF Company Level) under the new UPERC (Consumer Grievance Redressal Forum) Regulations, 2022 ("Regulations, 2022"). The Complainant has filed the present Complaint against Noida Power Company Limited (hereinafter referred to as the "Respondent")
- 2. The Complainant- BSNL Officers Sehkari Awas Samiti Limited (hereinafter also referred to as the "Society" or the "Complainant") has filed the present complaint against MD & CEO, Noida Power Company Limited (hereinafter also referred to as "NPCL") through its secretary/president Sh. Sanjay Kumar who is stated to be authorised by way of a resolution passed at a meeting dated 10.04.2022 of the Executive Committee of the Complainant Society.
- 3. The Complainant has prayed for the following relief(s)-

a. Direct the respondent to pay our society a sum of Rs. 2,79,97,650/(Rupees two crore seventy-nine lakhs ninety-seven thousand six hundred fifty) only as detailed in the preceding paragraphs.

b. I believe NPCL must be doing such wrongful activities in other societies also having Single Point Connection (SPC). Respondent may kindly be

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directed to write to all such societies having SPC to engage an expert to install CTs of appropriate configuration and a certified LT meter to verify the authenticity of consumption recorded in their HT meter citing example of our society.

(We are also planning to file a PIL in an appropriate hon'ble court also for the same after getting a judicious decision in our case by CGRF)."

COMPLAINANT'S AVERMENTS AND SUBMISSIONS

4. A Single Point Electricity Connection was installed in the Society in the month of December 2011 and received first bill in the month of January 2012. It has been alleged by the Complainant that on several occasions, its members informed NPCL about the excess bill, but up until March 2021 whenever such complaints were made, a team of NPCL officials would check the HT meter and issue an OK report on a "pre-printed form". Being dissatisfied, the Complainant escalated the matter with NPCL where after a team of NPCL officials checked the CT and PT chamber, and again issued an OK report. However, as the members of the Society were dissatisfied with all the reports issued by NPCL and were certain of the excess metering, the members of the Society carried out an 'energy audit by doing detailed load calculation' of the meters installed in the Society for which 8 sub-meters, one (1) Low Tension meter ("LT meter") and three (3) Current Transformer meters ("CT meters") in the LT panel were installed. The Complainant has averred that after installation of the said apparatus, it observed that there was major difference between energy consumption recorded in the LT and HT meter by multiplying the recorded readings with respective multiplying

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factor (MF) of LT/HT meter, and that the consumption recorded in the HT meter was noticed to be exactly double than the newly installed meter. The Complainant has submitted that NPCL was raising energy bills on the meter in which the consumption recorded was double than the actual, and that the Multiplying Factor of LT meter was 50 while the HT meter showcased the Multiplying Factor of 500.

5. The Complainant has stated that on 26.09.2021, its members noticed that NPCL is charging double the units recorded in the meter whereafter they started to meticulously note the readings. The Complainant has placed on record several emails by which it informed NPCL that the HT meter is recording double than the actual consumption. It has also been submitted that the next bill received on 25.10.2021 was based on double consumption.

It is further the case of the Complainant that no attention was paid by the Respondent to the aforesaid emails. However, on 20.10.2021, two officials of the Respondent visited the Society whereas one of the officials who had visited on 20.10.2021 again made a visit to the Society on 21.10.2021. The Complainant has alleged during the visit on 21.10.2021, the said official of the Respondent did something toward the HT eco-system which resulted in the reading being shown as half of what it was showing previously and it started matching with the newly installed HT meters. The Complainant in this regard also sent various emails to NPCL which have been placed on the record.

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- 6. Thereafter, the authorised representative of the Complainant personally met senior official of the Respondent on 08.11.2021 and submitted the handwritten electricity consumptions in HT and LT meters. It is submitted by the Complainant that the said senior official of the Respondent took the matter very casually and thereafter responded to the Complainant's email dated 25.10.2021 on 08.11.2021 wherein the contentions raised by Complainant were refuted by the Respondent.
- 7. Being dissatisfied, the Complainant sent a letter dated 15.12.2021 to the MD & CEO, NPCL seeking refund of the entire excess amount paid by the society since installation due to double consumption. Response to the aforesaid letter was duly received by the Complainant through email dated 31.12.2021 whereby the MD & CEO of the Respondent company formed a committee consisting of three members to conduct an inquiry into the allegations made by the Complainant.
- 8. Thereafter, by way of an email dated 21.02.2022, the Respondent communicated to the Complainant the findings of the Committee formed by the MD & CEO. The following excerpt of the Committee's report has been reproduced in the instant complaint: -

"The Committee deliberated the issue and concludes that the HT meter of the Society was working within permissible limit and the consumption chart/pattern maintained by Mr. Sanjay Kumar cannot lead to inference of double billing as it is not corroborated with defect of any kind in the HT meter and its cubicles.

The Committee also puts forward its recommendation to get the complete metering system inspected by an accredited third party, if the consumer so desires."

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- 9. Dissatisfied with the findings of the Committee, the Complainant wrote a letter to the Respondent on 02.03.2022, in response to which the Respondent is stated to have reiterated the contents of its earlier email dated 21.02.2022.
- 10. Being aggrieved by the action taken by the Respondent, the Complainant has filed the present Complaint.

RESPONDENT'S AVERMENTS AND SUBMISSIONS

11. In its Reply dated 27.06.2022, the Respondent has firstly raised preliminary objections to the maintainability of the Complaint. The Respondent has averred and argued that the relief sought in prayer clause (b) is in the nature of Public Interest Litigation and thus, beyond the jurisdiction of this Forum. The Respondent has relied on the provisions of UPERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2007 (the "2007 Regulations") namely, Clause 2.1(d) which defines 'Complaint', Clause 2.1(f) which defines a 'consumer' and 2.1(h) and (i) defining 'defect' and 'deficiency' to buttress its submission that such relief is not maintainable and ultra vires. The Respondent has drawn parallel to the pari materia provisions contained in the Consumer Protection Act, 1986 and placed reliance on a judgment passed by Hon'ble National Consumer Disputes Redressal Commission ("NCDRC") in the case of OP Thakur v. Shimla Municipal Corporation through its Commissioner & Ors., 2019 SCC OnLine NCDRC 326 wherein the Hon'ble NCDRC has held that the complaint filed under the Consumer Protection Act, 1986 shall not be intended to be in the nature of a public interest litigation.

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12. The Respondent has submitted that the Complainant is not entitled to any reliefs in view of the non-compliance of clause 5.6 of the Uttar Pradesh Supply Code, 2005 (the "Supply Code") which envisages that any consumer who has doubts regarding the accuracy of a meter may get the same inspected by the Licensee by applying through prescribed format and depositing the prescribed fee. Further, under clause 5.6(c)(iii) of the Code, if the consumer disputes the test results, the meter shall be tested at the Licensee's lab, independent lab or by electrical inspector as agreed by the Consumer.

The Respondent has submitted that the meter inspections were conducted in the presence of the Complainant's representatives and that in all the meter inspection reports, the meter was found to be functioning properly. The Respondent submits that the Complainant did not challenge any of the meter inspection reports/test results as per the provisions of the Supply Code.

13. The last preliminary objection of the Respondent is that the provisions of clause 5.6 of the Code make it evident that the decision based on meter inspection reports shall be final on the Licensee as well as the consumer. The Respondent supports the above contention by relying on the judgment of the Hon'ble Supreme Court in the case of Chandra Kishore Jha v. Mahavir Prasad and Ors. (1999) 8 SCC 266 wherein it was held that when a statute provides a particular thing to be done in a particular manner, then that thing ought to be done in that manner only.

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14. On merits, the Respondent has pleaded that the Complainant applied for a load of 150kW/167 kVA under domestic category in the year 2011 for the Society pursuant to which an SPC with consumer number 2000068997 was released by the Respondent under LMV-1 (Domestic) category with a contractual load of 167 KVA and voltage of 11 KV. In furtherance of the application, a meter bearing no. NOPL004624 was installed in the Society and the meter installation certificate dated 23.12.2011 issued to the Complainant mentions the multiplying factor as 500. The said certificate has been placed on the record by the Respondent.

The Respondent has also placed on record Complainant's letter dated 02.03.2021 and email dated 18.09.2021 by which the Complainant had informed the Respondent that it did not want to avail Multi Point Connection and that it would like to continue with Single Point Connection. The Respondent has contended that no complaint related to billing was raised by the Complainant in either of these communications.

15. The Respondent received an email dated 25.10.2021 wherein the Complainant alleged that after 21.10.2021 the meter started working properly. According to email, it was alleged that the officials of the Respondent during their visit on 20.10.2021/21.10.2021 did something towards the HT ecosystem because of which the HT meter started recording half energy consumption. The Respondent also stated that the Complainant raised this issue with a delay of 4-5 days after 20.10.2021/21.10.2021.

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- Ld. counsel for the Respondent has submitted that the Complainant had been admittedly upgrading/updating its electrical infrastructure i.e., change of wiring, meters, led lights, etc. therefore, any downfall in the meter reading may be attributable to the same.
- 16. Ld. counsel for the Respondent has argued that the responsibility of the Respondent ends at the point of commencement of supply and the Respondent cannot held responsible for any change in the consumption pattern adopted by the consumers beyond the point of commencement of supply. The Ld. counsel for the Respondent has drawn our attention to a chart showing consumption pattern of the Society and by referring to the variance in consumption pattern, it has been submitted that any reduction or increase in the consumption is attributable to the actual consumption beyond the point of commencement of supply.
- 17. Upon representations of the Complainant, the MD & CEO of the Respondent company formed a high-level committee consisting of three senior level officials who visited the Society on 05.01.2022 to meet the secretary/representative of the Complainant to understand the issue. After a detailed enquiry, the Committee, in its report dated 15.02.2022, concluded that the HT meter of the Society was working within permissible limits and the consumption chart/pattern maintained by Mr. Sanjay Kumar cannot lead to inference of double billing as it is not corroborated with defect of any kind in the HT meter and its cubicles. Ld. counsel for the Respondent also asserted that the data maintained by the

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Complainant Society which is *de hors* the mechanism provided under the Supply Code has no sanctity in law and cannot be looked into or relied upon.

- 18. The Respondent has submitted that law creates remedy for a consumer who disputes the results of testing. In the present case, though the Complainant disputed the consumption, however, it has never disputed the accuracy of the meter and the inspection reports. The Respondent has stressed that (a) the meter was inspected in presence of the Complainant or his representatives, (b) reports were never disputed by the Complainant despite having ample opportunity and (c) without challenging the reports the Complainant has alleged that on 20.10.2021 and 21.10.2021 some 'rectification work' was done by the NPCL's team after which meter started giving correct reading.
- 19. The Respondent has submitted that it is not liable for any load/activity inside the Society i.e., beyond the point of commencement of supply. The Respondent has also placed on record consumption pattern of the meter installed by the Respondent which showcases the consumption pattern from January 2012 to June 2022. The Respondent has also averred that it cannot be held liable for consumption by the residents and pilferage of electricity in the Society and that no material has been placed on record by the Complainant to showcase that it has adequately controlled its load for common areas as well as individual residential units, and has prayed for the dismissal of the instant complaint. Greater

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REJOINDER AND ADDENDUM TO REJOINDER FILED BY THE COMPLAINANT

- 20. The Complainant filed a rejoinder dated 18.07.2022 along with an addendum of the same date to the Reply filed by the Respondent. The Complainant has refuted the submissions made by the Respondent as being imaginary and baseless.
- 21. Besides other averments and reiteration of the contents of the Complaint, the Complainant, in its rejoinder, has emphasised and called in question the nature of rectification work done on 20.10.2021 and 21.10.2021 which led to sudden reduction in the meter readings. The Complainant has further submitted that mere signing of the inspection reports cannot be deemed as acceptance of the report.
- 22. The Complainant has also filed an addendum to the rejoinder in which it has placed on the record the photos of CT PT chamber and submitted that the same is under the Respondent's control. The Complainant has averred that the ratio of line CT is 25/5 where 25 is shaded in red. It is stated that 25/5 ratio gives multiplication factor of 250 whereas the multiplication factor shown in bills received by the Complainant is 500.
- field and as per the opinions of such experts, the LT CT meter connected to 25/5 was changed to 50/5 on 20.10.2021/21.10.2021 by the officials of the Respondent. As per the Complainant, this has been done by the Respondent to

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justify the multiplication factor of 500 used in Complainant's billing since January 2012.

INSPECTION CONDUCTED BY NABL-ACCREDITED LABORATORY

- 24. After completion of the pleadings, arguments took place on various dates wherein both the sides made their submissions with respect to the dispute at hand. This Forum, vide its order dated 24.05.2024, directed that an inspection be conducted by an agency duly accredited by the National Accreditation Board for Testing and Calibration Laboratories ("NABL") to determine whether the installed HTCT includes provisions for both 50/5A and 25/5A ratios. Accordingly, as the Complainant had no objection as to the appointment of an NABL accredited agency by the Respondent, this Forum directed the Respondent to appoint an NABL accredited agency to conduct the inspection in terms of the order.
- which conducted the inspection in the presence of the Complainant, other members of the Society and officials of the Complainant. The inspection report has been placed on the record by the Respondent company and a copy of the same was supplied on the direction of the Forum to Mr. Sanjay Kumar, representative of the Complainant present before this Forum during the hearing dated 03.09.2024. The Complainant has submitted that the inspection by the said agency was conducted in their presence and that the Complainant does not dispute the findings of the said report.

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FINDINGS AND ANALYSIS

- 26. This Forum has heard at length Sh. Sanjay Kumar, the authorised representative of the BSNL officers Sahakari Awaas Samiti (Complainant) and Sh. Anupam Chaudhary, Ld. counsel for Noida Power Company Limited (Respondent).
- 27. The members of the forum have duly gone through the pleadings along with documents placed on record by both the parties and have also heard the representatives of the parties at length. The Meter installation certificate dated 23.12.2011 & Meter Inspection Reports dated 23.09.2013, 26.11.2014, 06.05.2016, 02.07.2018, 17.08.2021, 21.09.2021, 20.10.2021 & 13.06.2024 has been examined carefully.
- was recording double than the actual reading during the period between January 2012 and October 2021. Since the Complainant doubted the accuracy of the meter, it requested the Respondent for inspection of the meter which was conducted on several occasion and the said reports repeatedly showed the meter to be functioning properly. However, since the Complainant had installed its own apparatus for noticing the deviation in the installed meter, the Complainant escalated its concerns to the Respondent.
- 29. The Respondent has raised preliminary objection to the maintainability of the Noida complaint on the ground that the prayer (b) of the complaint is in the nature of an PIL and thus, the Complaint ought to be dismissed.

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While we find merit in the contention of the Ld. counsel for the Respondent that this Forum does not exercise the jurisdiction conferred upon a Writ Court and ought to be guided by the provisions of the Electricity Act, 2003 and the 2007 Regulations, we find that it is only prayer (b) which is in the nature of public interest whereas the first prayer seeks refund in respect of alleged excess billing. The second prayer being in the nature of public interest does not prevent this Forum from exercising its jurisdiction insofar as prayer (a) is concerned. Thus, the Complaint is maintainable and ought to be decided on merits.

- 30. Ld. counsel for the Respondent submitted that the entire complaint is based on conjectures and surmises, and no documentary proof has been adduced by the Complainant to prove the cursory averments in the complaint, rejoinder or addendum to the rejoinder. He further submitted that the inspection of the meter in question and preparation of the meter inspection reports were carried out on various occasions and admittedly in the presence of the representatives of the Complainant. It has been further submitted that none of the said meter inspection reports has ever been challenged by the Complainant in terms of the provisions of the Supply Code and therefore, the said meter inspection reports cannot be called in question. By placing reliance on the decision of the Hon'ble Supreme Court in Chandra Kishore Jha (supra), Ld. counsel for the Respondent has submitted that when the law provides for thing to be done in a particular manner, it has to be done in that manner alone.
- 31. The Complainant has submitted that the reports of all the inspections done by the Respondent were given on a pre-printed format and all the reports were "OK"

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and that mere signing of the reports by the representatives of the Complainant cannot lead to the inference that the Complainant acquiesced to the reports. The authorised representative of the Complainant in his arguments admitted that he has never doubted the accuracy of the meter. It was, however, repeatedly argued by the authorised representative of the Complainant that the officials of the Respondent had done something on 20.10.2021/21.10. 2021 which led to tallying of the reading recorded in the meter with the data which the Complainant was independently maintaining in the Society.

Consumer/Complainant or under the routine testing wherein the accuracy of the meter was found within limits. However, none of the several meter inspection reports were challenged in terms of the provisions of the Supply Code. We have noticed that all the meter inspection reports on the record bear signatures of the representatives of the Complainant Society meaning thereby that the representatives of the Complainant were present during the said meter inspections. The meter tested on 20.10.2021 bears the signatures of the Mr. Sanjay Kumar who is the authorised representative of the Complainant in the present matter and has presented Complainant's case before this Forum. This Forum has noticed that all the inspection reports since energization of electricity connection clearly mention the multiplying factor of 500 and CT Ratio is 50/5Å¹⁰⁰. The Complainant in the pleadings or during the course of arguments has not incit the did submitted that the signatures were obtained by the Respondent under duress nor is it stated that any of the reports was signed under protest. It is also not the

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case of the Complainant that the Respondent had ever denied conducting inspection in terms of the Supply Code. Thus, the veracity of the meter inspection reports issued by the Respondent and conducted in terms of the Supply Code cannot be doubted.

- 33. The Complainant's repeated assertions that the Respondent's officials took certain actions on October 20/21, 2021 lacks merit as no evidence has been produced to substantiate these claims. It is a well-settled principle that even if the energy recorded by the meter does not match with the consumer's usage, the licensee is not responsible for wastage or faults in the consumer's installation, as long as the data recorded by the meter is accurate. It is the consumer's duty to ensure the safety of the meter and other electrical infrastructure on their premises such as poles, streetlights, and water pumps, and to install suitable protective devices to prevent wastage due to earth leakage or other causes. The Complainant has mentioned in its complaint and submitted that several steps (like replacement of entire aluminium cables/wire with copper cables/wire etc. to stop the pilferage) were taken in this regard.
- 34. Similarly, we find that the Respondent did form a high-level committee to enquire into and submit a detailed report on the issues raised by the Complainant. The committee so formed visited the Society and recorded detailed statements of Mr. Sanjay Kumar, representative of the Complainant, and the officials of the Respondent company. The committee in its report dated 15.02.2022 concluded that the HT meter of the Society was working within permissible limits and the consumption chart/pattern maintained by Mr. Sanjay Kumar, representative of

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the Complainant, cannot lead to inference of double billing as the same does not corroborate with defect of any kind in the HT meter and its cubicles.

- 35. The Complainant, in its rejoinder, has submitted that the provisions of the Supply Code are not applicable in the present case. The said submission of the Complainant is incorrect because Clause 5.6 of the Supply Code lays down the procedure in which the testing of the meter has to be conducted in case a consumer challenges its accuracy. Thus, the provisions of the Supply Code are duly applicable in the instant case.
- 36. A meter is installed for recording accurate consumption. There could be various reasons for variation in consumption which are wholly controllable by the consumer. There is no scientific reason or tendency of a meter to run fast for a specific period and to work normally and accurately for other periods.
- To determine the issue raised by the Complainant, especially in its addendum to the rejoinder, as to whether the HTCT (incorrectly mentioned in the addendum to the rejoinder as LTCT) consisted of provisions for both ratios i.e., 25/5 A and 50/5 A, this Forum deemed it fit to direct appointment of an independent agency duly accredited by NABL to conduct an inspection at the premises of the Complainant.

 Both the parties were *ad idem* on appointment of an independent NABL accredited lab for such inspection. Accordingly, M/s Yadav Measurements Private Limited, NABL accredited lab conducted an inspection of the HTCT in Noidal question in the presence of representatives of the respective parties on

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13.06.2024. The report prepared by Yadav Measurements Private Limited was signed by the representatives of the parties on the same date i.e., 13.06.2024.

The said report reveals that the meter installed at the premises was working within the permissible limits and installed HTCT was found to consist only of single ratio of 50/5 A and no provision for double ratio was found in the HTCT. The veracity of the report dated 13.06.2024 has not been challenged by the Complainant before this Forum. Thus, the report dated 13.06.2024 is accepted by the Forum.

38. The meter at the Complainant's premises was installed under the lock and key of the Society. Apart from the claims made in the complaint, no evidence has been provided by the Complainant to suggest any defect in the HTCT installed in the Society. It is important to note that if the meter and related equipment are functioning properly, there is no need to analyse the consumption pattern. Nonetheless, this Forum has reviewed the consumption pattern before and after October 20/21, 2021, and found that it is inconsistent.

Below is the consumption data for June over the years:

June 2016	June 2017	June 2018	June 2019	June 2020	June 2021	June 2022
25640	24995	27470	24400	35750	32980	23595 _{reate} Noid

While it is assumed that June 2022 would reflect high consumption due to peak summer heat, the data does not fully support the Complainant's claim, that

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consumption became half after October 20/21, 2021. The chart shows lower consumption in June 2022 compared to previous years (June 2016, June 2017, June 2019 & June 2022), but there is no significant drop as claimed by the Complainant. Additionally, it should be noted that the Complainant had also upgraded the Society's electrical infrastructure. The other facts mentioned in the addendum has no merit. Therefore, this Forum holds the view that the Licensee is not responsible beyond the point of commencement of supply and cannot be held accountable for any issues beyond that point which are not in the control of the Licensee.

DECISION

Upon careful consideration of the arguments and evidence presented, this Forum concludes that the meter, along with the entire HT Eco System, was functioning properly. No evidence has been presented to support that the multiplying factor of the HTCT was incorrect. Multiple meter inspection reports confirmed that the meter was functioning properly and the CT ratio was 50/5A. Furthermore, the Complainant's apprehensions were dispelled by the report from the NABLaccredited laboratory, which confirmed that there was no provision for a double ratio in the CT.

In view of the above, the Complainant is not entitled to any reliefs (prayer Nos. 14) & 2) as prayed in its Complaints. The present complaint stands dismissed. The file is to be consigned to the record room. There is no order as to costs.

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If the Complainants are aggrieved by this order, they can approach the Hon'ble Electricity Ombudsman, Lucknow as provided in the CGRF Regulations, 2022 r/w CGRF & Electricity Ombudsman Regulations, 2007.

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(Chairman)

Sanjiv Kumar Goel कम्पनी स्तर, ब्रेटर नोएडा

D.S. Pandey

(Independent Member)

Shri DeviRam (First Nominated Member)

A.D Pandey

(Second Nominated Member)

Date: 13/11/2024 Place: Greater Noida



Omveer Singh (Prosumer)