

PUNJAB STATE ELECTRICITY REGULATORY COMMISSION

SCO NO. 220-221, SECTOR 34-A, CHANDIGARH

PETITION No. 44 of 2015

DATE OF ORDER:02.12.2015

Present: Smt. Romila Dubey, Chairperson
Shri Gurinder Jit Singh, Member

In the matter of: Petition under Regulations 49 and 50 of the Punjab State Electricity Regulatory Commission (Electricity Supply Code and Related Matters) Regulations, 2007 and Section 86(1)(e) and 86(1)(k) and 46 and other relevant sections of the Electricity Act, 2003 read with Regulation 9 of the Punjab State Electricity Regulatory Commission (Conduct of Business) Regulations, 2005, seeking directions for refund along with interest of the amount(s) illegally claimed from the petitioner by the respondent on multifarious counts and for other relief as prayed for.

AND

In the matter of: Indian Sucrose Limited, G.T.Road, Mukerian (ISL) having its registered office at 5A, 2nd Floor, 18 Poorvi Marg, Vasant Vihar, New Delhi-110057 through Shri Balwant Singh Grewal, Chief General Manager (W).

-----Petitioner

Versus

Punjab State Power Corporation Limited, The
Mall, Patiala through its Chairman cum Managing
Director.

-----Respondent

Order

The present petition has been filed by Indian Sucrose Ltd. (ISL), G.T. Road, Mukerian through Shri Balwant Singh Grewal, Chief General Manager (W) under regulations 49 and 50 of the PSERC (Electricity Supply Code and Related Matters) Regulations, 2007 and section 86(1)(e), 86(1)(k), 46 and other relevant sections of the Electricity Act, 2003 read with regulation 9 of the PSERC (Conduct of Business) Regulations, 2005 seeking directions for refund along with interest of the amount(s) illegally recovered by PSPCL on account of cost of 66 kV line/bay for grant of connectivity & thereafter service connection charges for release of load on the same line. Despite the fact that the petitioner has already paid the cost of line/bay & release of load is being made without any augmentation.

1.0 The petitioner made the following submissions:-

1.1 The petitioner i.e. India Sucrose Ltd. (ISL) was earlier known as Oswal Sugar Limited (OSL) and an electric connection was released at 11 kV for a contract demand of 750 kVA on 29.10.1993. The Oswal Group was also running a Paper Mill known as Mukerian Paper Ltd. (MPL) adjacent to Oswal Sugar Ltd. The paper mill was having a contract demand of 3500 kVA. An extension of 6500 kVA was sought by the Paper Mill and the same was released

on 66 kV line from Uchi Bassi grid to Mukerian Paper Ltd. and an amount of ₹78 lac towards cost of line and bay was deposited by the Paper Mill.

- 1.2 Since both Oswal Sugar Mill as well as Mukerian Paper Mill were adjacent to each other and were managed by the same group, so the electricity connection of both these entities were clubbed by PSEB on 26.02.1998 in the name of Mukerian Paper Ltd. (LS-3) with total contract demand of 10750 kVA.
- 1.3 The Oswal Sugar Mill was taken over by Yadu Group in the year 2000 and the name of Oswal Sugar Ltd. was changed to Indian Sucrose Ltd. The Oswal Sugar Ltd. (Indian Sucrose Ltd.) was drawing power from Mukerian Paper Ltd. connection and making payment to the Paper Mill through internal adjustment for the power used by the petitioner company.
- 1.4 The electricity connection of Mukerian Paper Ltd. (LS-3) was permanently disconnected by PSPCL due to default in making payment on 07.05.2005 and PSPCL filed a civil suit before the Civil Judge, Mukerian against Mukerian Paper Mill seeking recovery of ₹1,74,35,424 (up till 30.09.2006) along with interest @ 18% per annum till recovery of the entire amount.
- 1.5 The suit was decreed with cost in favour of PSPCL vide Order dated 17.01.2013 passed by the Additional Civil Judge (Senior Division), Mukerian whereby the Hon'ble court ordered for recovery of ₹1,48,10,091 along with

interest @ 12% per annum from the date of filing the suit till actual realisation of the decreed amount against Mukerian Paper Ltd.

- 1.6 During the period of disconnection, the sugar mill was being made operational by the petitioner with in house generation from TG/DG sets. The 66 kV line and bay feeding MPL was not dismantled by PSPCL & only circuit breaker was tripped. In order to increase the viability and utilise the additional sugarcane of the area, the petitioner decided to set up a new 12 MW back pressure TG set with boiler as per latest technology and sell the surplus power of 6 MW to PSEB for which a communication was made on 31.07.2007. Although the power plant of 12 MW was erected in 2007 but could not be connected due to pending feasibility clearance/connectivity with PSEB grid.
- 1.7 IFCI Ltd. took over the assets of Mukerian Paper Ltd. and put it to auction in order to recover the outstanding amount payable by the Mill to financial institutions and the same was purchased by the petitioner as successful bidder on 17.02.2010. The petitioner only purchased the assets of Mukerian Paper Ltd. and had not taken over the entity as a whole. The Mukerian Paper Ltd. is a separate entity which is still in existence.
- 1.8 The demand of the petitioner for feasibility clearance/connectivity was kept pending by PSPCL till crushing season of 2011-12. PSPCL insisted on payment of defaulting amount of Mukerian Paper Ltd. and other dues

before granting feasibility clearance and accepting sale of power.

- 1.9 The petitioner under duress submitted an undertaking dated 21.06.2011 stating that though the defaulting amount of Mukerian Paper Ltd. is not the liability of Indian Sucrose Ltd. (ISL) but keeping in view the heavy losses being incurred, the petitioner agreed that the defaulting amount may be deducted from the sale of power bills raised by the petitioner.
- 1.10 PSPCL through letter dated 20.03.2012 conveyed feasibility clearance subject to recovery of defaulting amount along with interest and cost of 66 kV line and bay. PSPCL claimed that since the disconnection is for more than 6 months, therefore, as per ESIM clause 31.4, the old agreement with PSPCL stands terminated and the firm will have to deposit charges as if a new connection is being released as per clause 9.1.1(c) of Annexure of ESIM. It is apparent that feasibility clearance rendered was for restoring the old connection under new name.
- 1.11 The feasibility clearance was granted by PSPCL to ISL for the first time as a generator for export/sale of surplus power to PSPCL but PSPCL wrongly construed the same to be the old connection in the name of Mukerian Paper Ltd. despite the fact that petitioner has sought connectivity for exporting power. The petitioner having agreed to pay only the defaulting amount, requested PSPCL through various letters to waive off interest on defaulting amount and also

the cost of line and bay since the cost of the line had already been deposited by Mukerian Paper Ltd., the assets of which has been taken over by Indian Sucrose Ltd.

- 1.12 In anticipation of commissioning of the project to full capacity during crushing season of the sugar mill starting from November 2012, the petitioner on the advice of PSPCL signed a short term PPA on 26.07.2012 with PSPCL for sale of surplus power up to 6 MW during trial run and under duress also consented for deduction of outstanding dues from bills for sale of power. To utilize the available bagasse, the project was finally synchronized with the grid and sale of power @ ₹4.04 per unit was started on 05.12.2012. The plant was run on Captive cum Merchant basis & short term PPA was extended up to 30.04.2013.
- 1.13 PSPCL demonstrating its dominance adjusted the entire revenue of sale of power payable to the petitioner during the entire period of PPA i.e. December 2012 to April 2013 against the outstanding dues and interest thereupon along with cost of 66 kV line and bay. On the expiry of short term agreement, the export line to the petitioner was again disconnected from the PSPCL grid and the petitioner was forced to pay the balance amount through cheques to PSPCL as detailed below:

Defaulting amount + interest	₹2,89,57,333
Cost of 66 kV line	₹2,24,74,582
Cost of 66 kV bay	₹49,23,000
Total	₹5,63,54,915

Adjusted from sale of power	₹5,37,71,907
Deposited through cheque	₹25,83,008
Total	₹5,63,54,915

- 1.14 The petitioner through various letters took up the matter with PSPCL to waive off the cost of 66 kV line and bay but PSPCL paid no heed to the requests of the petitioner and did not issue even a single reply to various representations made by the petitioner. The petitioner preferred a petition No.48 of 2013 before the Commission for approving the sale of power, grant of generic tariff and refund of cost of 66 kV line and bay. As the crushing season of November 2013 was approaching & decision on the petition was getting delayed so the petitioner prayed before the Commission to withdraw the claim for 66 kV line and bay with liberty to approach the Commission at appropriate time. The Commission vide its Order dated 05.12.2013 while allowing prayer of the petitioner to withdraw the claim of line & bay, issued interim directions to PSPCL to give immediate connectivity to the petitioner and accept sale of surplus power subject to determination of tariff by the Commission. Consequently, the Mill was connected on 12.12.2013 for accepting power. Finally, as per Commission's order dated 24.03.2014, IA with PEDDA was signed on 24.04.2014 and long term PPA with PSPCL was signed on 27.06.2014.
- 1.15 In order to meet the load of the colony situated within the sugar mill premises to carryout day to day activities, the petitioner decided to avail the load of 1196 kW (contract

demand of 1328 kVA) from PSPCL. As advised by PSPCL's local office, the petitioner applied for this load through single window system on 29.05.2013 in the name of Indian Sucrose Ltd. through existing 66 kV line connecting the sugar mill with the grid assuming that since the cost of the line has already been paid so no service connection charges shall be payable for availing this load. Although contract demand of 1328 kVA was to be released on 11 kV but SE/Hoshiarpur Circle forwarded the case to the Planning Organization for concurrence of feasibility clearance for release of this load on existing 66 kV line under ESIM clause 4.6 (i).

- 1.16 Planning Organization of PSPCL granted feasibility clearance on 22.11.2013 and a demand notice dated 17.12.2013 was issued wherein as per condition no.2 (a), PSPCL demanded cost of 66 kV line and bay amounting to ₹ 2,73,97,582 and also desired that the said line be got inspected from concerned authorities. The petitioner requested PSPCL to drop the condition for payment of cost of line & bay since these costs have already been deposited, so that the rest of the paper formalities including payment of ACD can be completed. The petitioner also submitted its request to Chief Engineer/Commercial and Director/Commercial, PSPCL indicating that none of the similar biomass/bagasse Captive plants have been asked to deposit such charges for the same line thrice or charged separately for export & import of power. Ultimately the case of the petitioner was sent to Chief Engineer/Commercial

vide Dy.Chief Engineer/Hoshiarpur letter dated 05.03.2014 for clarifications regarding recovery of cost of line and bay.

- 1.17 Chief Engineer/Commercial vide its letter dated 02.04.2014 advised SE/Hoshiarpur Circle to recover cost of the line and bay as per clause 9.1.2 (c) of the Supply Code. The petitioner being aggrieved again represented to PSPCL and on the basis of these representations, the Board of Directors of PSPCL considered the case in its 34th meeting held on 30.07.2014 and decided that where a line and bay has been erected at the cost of NRSE generator for sale of power to PSPCL, no service connection charges/line charges will be recoverable for release of load on the same line. PSPCL decided to seek the concurrence of the Commission in this regard. The proposal was incorporated in Supply Code, 2014 but the same came into force w.e.f. 01.01.2015.
- 1.18 PSPCL released the load of the petitioner on 05.09.2014 without insisting on depositing of cost of 66 kV line and bay or service connection charges but later on claimed service connection charges of ₹29,21,600 (1328 kVA X 2200) through monthly bill for the month of December, 2014 issued to the petitioner which was deposited under protest.
- 1.19 PSPCL released the contract demand of 1328 kVA and instead of installing Trivector/DLMS meter, is using the data of ABT meter installed by the petitioner for preparing bills for export of power. On the basis of ABT meter data, PSPCL observed that the contract demand had exceeded on 09.12.2014 during the time block 12.15 to 12.30 hrs. and a load surcharge of ₹ 9,18,000 has been imposed in the bill

issued on 07.01.2015. The petitioner represented to Sr.Xen stating that the petitioner is exporting power during the period and it may be due to reverse load which is beyond their control. But no heed was paid to the request of the petitioner and the petitioner had to deposit total bill amount of ₹ 40,90,990 including the load surcharge under protest to avoid late payment surcharge/disconnection.

1.20 Aggrieved by illegal actions of PSPCL for raising illegal demands, the petitioner preferred a petition before the Commission on 09.02.2015 but the petition was dismissed as withdrawn by the Commission vide Order dated 04.06.2015 with a liberty to the petitioner to file fresh petition with better particulars. Thus invoking the liberty granted by the Commission, the petitioner has filed the present petition seeking relief from the Commission against illegal and forcefully charging of the following amount(s) from the Petitioner:

1.	66 kV line charges.	-	₹2,24,74,582
2.	Bay charges.	-	₹48,23,000
3.	Default amount with interest	-	₹2,89,57,333
	payable by Mukerian Paper Ltd.		
4.	Service Connection Charges	-	₹29,21,067
5.	Demand Surcharge.	-	<u>₹91,78,000</u>
	Total.	=	<u>₹6,83,53,982</u>

The action of PSPCL to recover various amounts from the petitioner has been challenged on the following grounds:

- Despite having the knowledge that Mukerian Paper Ltd. and the petitioner are separate legal entities, PSPCL

wrongly treated the petitioner as Mukerian Paper Ltd. and forced to pay various charges/dues which was actually payable by Mukerian Paper Ltd.

- b) Despite filing Civil Appeal against Mukerian Paper Ltd. for recovery of defaulting amount, the petitioner was forced to pay the amount despite a decree against Mukerian Paper Ltd. having been passed by Civil Court in favour of PSPCL.
- c) As per section 46 of the Electricity Act, 2003, PSPCL is only empowered to charge reasonable expenses incurred for laying any electric line or electrical plant for connecting the power plant of the petitioner as may be authorized by the Commission. However, in the instant case, PSPCL ignoring the reasonableness of the expenditure incurred, charged full amount whereas at the best it could have charged the book value of the line already in existence for exporting power from the project of the petitioner.
- d) ESIM nowhere provide that where a line is not dismantled, PSPCL will charge the cost of new line for releasing connection on the same old unused line.
- e) The assets created out of payment of Service Connection Charges or actual cost of the line as per regulation 9.1 of the Supply Code are treated separately as consumer contribution and not as PSPCL assets. PSPCL gets maintenance charges of these assets under R&M charges in the tariff order.
- f) Regarding payment of Service Connection Charges for release of load of 1328 kVA contract demand, it was

provided in feasibility clearance that the cost of the new line and bay will be deposited by the petitioner. On the representation of the petitioner, the charges were reduced to payment of service connection charges which was not deposited since the load was to be released on existing 66 kV line. The Board of Directors in line with the provisions of Electricity Act, 2003 decided to release load on the existing line being used for export of power without recovery of service connection charges subject to concurrence of the Commission. Although, the Commission notified Supply Code, 2014 incorporating the above provision but was made effective from 01.01.2015. Subsequently, PSPCL included the service connection charges in the monthly bill and the petitioner was forced to pay these charges to avoid disconnection of supply.

- g) The levy of demand surcharge of ₹ 9,18,000 has been challenged on the ground that as per General Conditions of Tariff (Annexure-1 of Tariff Order for FY 2014-15), contract demand means the maximum demand for any month measured in kilo Volt Ampere (kVA) during a block of 30 minutes period. However, PSPCL levied demand surcharge on the basis of ABT meter data which record parameter in 15 minutes block period. The average demand should have been calculated for 30 minutes block.

1.21 In view of the above, the petitioner made the following prayers:

- i) To direct PSPCL to charge the depreciated book value of line and bay and refund the excess cost of line and bay along with interest.
- ii) To refund the defaulting amount of ₹ 2,89,57,333 along with interest as the same were payable by Mukerian Paper Ltd.
- iii) To implement the Supply Code, 2014 from the date of passing of the resolution by Board of Directors of PSPCL and refund the service connection charges of ₹ 29,21,600.
- iv) To refund load surcharge of ₹ 9,18,000 paid under protest through bill of 01/2015.
- v) To pay interest on the aforesaid amount from the date of actual payment till date of actual realisation.

2.0 The petition was admitted vide Order dated 22.07.2015 and PSPCL was directed to file reply by 11.08.2015 with a copy to the petitioner. The petition was fixed for hearing on 18.08.2015.

3.0 PSPCL vide Chief Engineer/ARR & TR Memo No.5398/TR-5/710 dated 17.08.2015 requested for two weeks time for submission of reply. The Commission vide Order dated 19.08.2015 directed PSPCL to file the reply by 02.09.2015 and supply a copy directly to the petitioner. The petition was fixed for hearing on 08.09.2015.

4.0 PSPCL vide Chief Engineer/ARR & TR Memo No.5530/TR-5/710 dated 07.09.2015 filed the reply during hearing of the petition on 08.09.2015. The petitioner sought time to examine the same before arguing the case. The Commission vide Order dated 08.09.2015 directed the petitioner to file rejoinder, if any, by

15.09.2015 with a copy to PSPCL. The petition was fixed for hearing on 22.09.2015.

5.0 PSPCL in its reply submitted as under:

5.1 Section 50 of the Electricity Act, 2003 provides that the State Commission shall notify Electricity Supply Code and accordingly the Commission notified PSERC (Electricity Supply Code and Related Matters) Regulations, 2007. Condition No.50 of the Conditions of Supply further empowered the Commission to add or amend any of the provisions under the regulations of 2007. Electricity Supply Instructions Manual (ESIM) was prepared in exercise of powers vested in Conditions of Supply and is to be read with the provisions of Supply Code, 2007. The Electricity Supply Code as well as ESIM are statutory instructions and have been approved by the competent State Regulatory Commission.

5.2 Clause 15 of ESIM empowers PSPCL to recover the service connection charges/electricity line expenses incurred by PSPCL. Clause 15.4 of ESIM provides that notwithstanding that whole or a part service connection charges have been paid by the consumer, the whole of the service line together with any wires, meters and other apparatus belonging to PSPCL on the Consumer's premises, shall remain the property of PSPCL and shall be maintained by PSPCL.

5.3 Section 43 as well as section 46 of the Electricity Act, 2003 empowers the distribution licensee to charge the prices/cost that may have to be incurred by the distribution licensee in assuring supply of electricity including the expenses

incurred in providing any electric line or plant used for this purpose.

5.4 The electricity connection of Mukerian Paper Mill was disconnected on 07.05.2005 and recovery suit was filed against the aforesaid Paper Mill. Indian Sucrose Ltd. (ISL) applied for feasibility clearance to PSPCL for export of power in 2007 and gave its consent to pay outstanding dues of Mukerian Paper Mill under one time settlement scheme to PSPCL. In view of this undertaking, the feasibility clearance was issued vide Memo No.1726 dated 20.03.2012. Accordingly, Power Purchase Agreement was executed between PSPCL and the petitioner on 26.07.2012. Clause 4.0 of the PPA specifically records an undertaking given by the petitioner that it was liable to pay the following costs:-

“4.0 Firm has given undertaking that payment against their bill energy injected/sold to PSPCL may be made only after the total amount mentioned in following paras has been realized by PSPCL.

- | | |
|-----------------------------------|------------------------|
| <i>i) Defaulting amount-</i> | <i>₹ 2,89,57,333/-</i> |
| <i>ii) Estimated cost of bay-</i> | <i>₹ 49.23 lac.</i> |
| <i>iii) Cost of 66 kV line-</i> | <i>₹ 2,24,74,582/-</i> |

Thus the petitioner had agreed for making the payment with respect to defaulting amount, cost of the line and bay and a commercial agreement for purchase of power was entered into between the parties. The petitioner cannot unilaterally withdraw from its liability to pay for the cost for which he had consciously entered into an agreement.

- 5.5 The right of the consumer for supply of electricity from the service line without payment of any dues survives for a period of six months. But in the instant case, the supply to MPL was disconnected on 07.05.2005 and the assets of the Paper Mill was taken over by the petitioner in the year 2010. Thus the connection remained disconnected for nearly 5 years and the erstwhile company cannot claim itself to be the proprietor of the said line and seek exemption from the payment of the charges that are otherwise statutory in character. The electric line after energisation becomes a property of the department & in the absence of proprietary rights over the line, the petitioner cannot run away from its liability to pay the costs incurred by PSPCL.
- 5.6 Clause 31 of ESIM provides that where the consumer fails to pay the dues within a period of six months from the date of disconnection, the agreement will be deemed to have been terminated without prejudice to the rights and obligations incurred prior to such termination as per provision of clause 33 of Conditions of Supply and regulation 39 of the Supply Code. Hence whether or not such electricity line has been dismantled or not, the subsequent incumbent is liable to pay the charges in the same manner as would be liable to be recovered in the event of new connection to be released as per regulation 9 of the Supply Code. Once the charges are demanded as per the rates and in accordance with the instructions, the charges cannot be labelled as illegal and unjustified.
- 5.7 As per para 3 & 4 of Chief Engineer/Planning letter dated 20.03.2012, the petitioner was asked to submit an

undertaking to pay the defaulting amount and cost of 66 kV line and bay. Thus all these cost were duly known to the petitioner and the petitioner had accepted the responsibility and liability to pay these costs.

5.8 The petitioner deposited the said dues without raising any dispute. During audit of PSPCL, it was noticed that terms and conditions of PPA inter alia contained that payment against the bill for energy sold to PSPCL may be made only after defaulting amount to the tune of ₹ 2.89 crore(principal amount of ₹ 1.48 crore and interest of ₹ 1.41 crore) alongwith ₹ 2.25 crore as cost of 66 kV line and ₹ 9.23 lac as cost of the bay are recovered. However as per decision of the Civil Court rendered in the recovery suit, PSPCL was entitled to recover the principal amount along with interest @ 12% from the date of filing the suit till its actual realisation. It was also pointed out that there is loss of interest on account of recovery of the cost of line & bay in instalments. The amount of the short recoveries as noticed by the audit party was duly conveyed to the petitioner. It was noticed that there is short recovery to the tune of ₹ 14.38 lac.

5.9 Regulation 39.3 of Supply Code 2007 provides that in case of continued default in payment of any amount due to the licensee by any consumer for a period of more than 6 months, the licensee may terminate agreement executed with consumer in accordance with the Conditions of Supply of the licensee as approved by the Commission and remove the line or works connected with the supply of the electricity to the consumer.

- 5.10 Electricity Supply Instructions Manuals Clause No.31.4 & 31.5 provides as under:

“31.4 Reconnections within Six Months:

If the consumer removes the default/clears the outstanding dues and seeks reconnection within a period of six months from the date of disconnection, reconnection shall be allowed provided the loading conditions permit and the consumers pays the minimum charges for the actual period of disconnection and the service line exists at site. In addition, the consumer shall pay reconnection charges, service charges and meter rentals, if applicable. Where any consumer whose supply is disconnected for non-payment of any amount due to the PSPCL fails to pay such dues within six months from the date of disconnection, the agreement will be deemed to have been terminated without prejudice to the rights and obligations incurred prior to such termination as per provisions of COS No. 33 and Supply Code Regulation No. 39.

31.5 *Ordinarily, no idle service line, shall be allowed to exist for more than six months from the date of disconnection. If theft of energy is apprehended, the service line shall be dismantled immediately. However, in such cases where SE/Dy.CE/DS is satisfied that there is a definite possibility of reconnection of supply, the service line may be allowed to remain intact up to a maximum period of six months. In such a case the SE/Dy.CE(DS) shall record his observations which shall be placed in consumer file”.*

Further Electricity Supply Code, 2014 (with effect from 01.01.2015) regulation 9.6 provides that 66 kV line was the

property of licensee, and he may use it for other needs as per requirement in public interest. Moreover, during disconnection period, maintenance and care regarding safety from theft has been borne by the PSPCL as it is not easy now-a-days to erect 66 kV lines in densely populated areas. Hence, PSPCL did not dismantle 66 kV line for future needs.

5.11 The connection to Mukerian Paper Mill was released in the year 1996 but was disconnected on 07.05.2005 due to default in making the payment. The Paper Mill was taken over by the petitioner in the year 2010 and Indian Sucrose Ltd. took over the Oswal Sugar Mill in the year 2003 without intimating the same to PSEB. As per record, both the firms have separate gates, boundary wall and both the units have been separated in the revenue record. The registration numbers in the record of Registrar of Companies are also separate. The 66 kV line coming from Uchi Bassi power house to MPL premises, the 66 kV power transformer and 11 kV panels are located in the premises of MPL which is feeding power to Indian Sucrose Ltd. till today. The Indian Sucrose Ltd. represented to CMD/PSPCL in November 2011 and the request regarding dues of bills against MPL was duly replied by Dy.Chief Engineer/Hoshiarpur to Chief Engineer/ Commercial.

5.12 PSPCL filed recovery suit against MPL which was decreed on 17.01.2013 in favour of PSPCL and the petitioner was liable to pay the decreed amount which has been paid by the petitioner. Thus the petitioner has no locus-standi to file this petition since he had already admitted liabilities on

behalf of MPL. This has been further crystallized from the fact that the petitioner did not raise any objection to the condition incorporated in PPA since execution of the same two years ago.

- 5.13 As per regulation 9.6 of Supply Code 2014 (effective from 01.01.2015) the 66 kV line was the property of the licensee which can be used to meet the requirements of other consumers and during disconnection period, the maintenance and safety was the responsibility of PSPCL. Since the disconnection had continued for a period of more than six months hence the petitioner has no vested right to seek reconnection. Under these circumstances whether the electric line is to be dismantled or not, is the prerogative of PSPCL. Merely because the electric line has not been dismantled does not mean that PSPCL is not entitled to recover the cost by treating release of connection as a new connection.
- 5.14 Regarding availing demand of 1328 kVA, it is denied that PSPCL had made any suggestion that the cost of the 66 kV line will not be recovered from the petitioner if the same is utilized for release of load.
- 5.15 The petitioner had earlier withdrawn its Petition No.9 of 2015 which shows that the petitioner is just harassing the respondent through litigations. The release of connection is to be considered a fresh connection and by virtue of regulation 9.1 of Supply Code, 2007 charges applicable in case of new connection, had to be paid by the petitioner. The petitioner himself applied for the same on Single Window online system of PSPCL.

- 5.16 The petitioner was issued two notices to deposit the Service Connection Charges failing which the same would be deducted from his account bearing No.LS-10.
- 5.17 As per clause 3.1.7 of the Power Purchase Agreement, it is the responsibility of the petitioner to install proper approved metering arrangements at his cost at both ends of interconnected grid and it is the responsibility of the petitioner to restrict the contract demand within the sanctioned limits. The petitioner violated the contract demand and draw power of 2551.9 kVA against sanctioned contract demand of 1328 kVA. Thus as per prevailing ESIM instructions, load surcharge of ₹ 9,18,000 was imposed since the petitioner had exceeded the contract demand on 09.12.2014. PSPCL had charged the entire amount as per the terms and conditions of PPA executed between the petitioner and respondent under the rules/regulations of PSEB (now PSPCL) and under the guidelines of the Commission. At this belated stage, the petitioner cannot withdraw itself from the same. PSPCL has charged demand surcharge of ₹ 9,18,000 and not ₹ 91,78,000 as claimed by the petitioner.
- 6.0 During hearing on 08.09.2015, the counsel for the petitioner seeks time to examine the reply submitted by PSPCL before arguing the case. The Commission vide order dated 08.09.2015 allowed the petitioner to file rejoinder, if any, by 15.09.2015 with a copy to PSPCL. The petition was fixed for hearing on 22.09.2015.

7.0 The petitioner filed replication dated 15.09.2015 to the reply of PSPCL. While reiterating its submissions already made in the petition, the petitioner submitted the following additional points:-

7.1 PSPCL has failed to quote any rules and regulations and provisions of the Act under which the petitioner has been asked to pay huge amount for seeking connectivity with the grid including cost of line/bay and the defaulting amount of MPL.

7.2 The averment of PSPCL that Condition No.50 of Conditions of Supply empowered the Commission to amend the Supply Code is not correct since the Supply Code Regulations have been notified as per the powers vested in the Commission by Electricity Act, 2003. PSPCL has failed to quote any provisions of ESIM/Supply Code providing for redeposit of estimated cost of a new line and bay for reconnection of a defaulting consumer through an already erected and depreciated line/bay erected at the cost of consumer and which has not been dismantled for a period of more than seven years. Clause 15 of ESIM is for a new connection and not for reconnection of a defaulting consumer seeking reconnection for the same premises.

7.3 PSPCL's claim that the line and the bay is the property of the licensee is wrong since the amount deposited by the consumer for erection of such line is treated as consumer's contribution and not as a part of the assets of PSPCL.

7.4 Section 46 of the Electricity Act, 2003 provides for recovery of expenses reasonably incurred by the distribution licensee for providing any electric line for the purpose of giving supply

but in this case PSPCL has not incurred any expenditure on erecting the line and bay as these were already in position and were paid by MPL. So the demand is not reasonable as the expenses claimed are neither incurred nor reasonable.

- 7.5 Once the connection of MPL (LS-1) and Oswal Sugar Mill (LS-2) were clubbed by PSEB in the name of MPL, the Oswal Sugar Mill ceased to be a consumer of PSEB. OSL continued to get electric supply through MPL as an internal arrangement. After disconnection of MPL on 07.05.2005, Oswal Sugar Ltd. started meeting the power requirement from its own generating plant. The Court Order for recovery of arrears was against MPL and not against OSL. During this period, OSL changed its name to Indian Sucrose Ltd. with same corporate identity number with Registrar of Companies (ROC).
- 7.6 The petitioner signed PPA under duress as huge investment of about ₹60 crore remained unutilised for a long period. PSPCL is justifying recovery of defaulting amount as per clause 4 of the Power Purchase Agreement which is claimed to be binding on the parties (i.e. petitioner and the PSPCL) but PSPCL is itself violating PPA by raising the demand of ₹44,22,234 as additional interest worked out by the Audit Party from the petitioner.
- 7.7 The name of Oswal Sugar Ltd. was changed to Indian Sucrose Ltd. (ISL) without any change in corporate identity number through change of share holding in the year of 2003. The ISL and MPL are two separate juristic persons although assets of MPL, which was put up for sale by Financial Institutions, was purchased by ISL through auction in the

year 2010. The works of the Paper Mill remained and is still distinctly located with separate boundary wall and separate gate. PSEB/PSPCL's actions to treat these as separate entities for release of load but one unit for recovery of outstanding dues are not tenable under any law. The ESIM and the Supply Code cast a duty on PSPCL to dismantle the line within six months but are silent on treatment of the service line cost not dismantled even thereafter. Under these circumstances, Section 46 of the Electricity Act, 2003 may be followed. PSPCL has failed to quote any provisions of the regulations or the Electricity Act, 2003 to charge the cost of a new line/bay and connect the premises through old depreciated line. Moreover the request of the petitioner was for connectivity with the grid for exporting/sale of power but it was treated as new application for connection of a consumer.

- 7.8 The petitioner was advised by PSPCL to apply for a load of 1328 kVA on existing 66 kV line and charging of ₹ 2,73,97,582 for a new 66 kV line to release load of 1328 kVA is against the regulations and the Act. On the repeated representations of the petitioner, the load was released with the assurance to the petitioner that in view of the decision of Board of Directors, no charges are payable by the petitioner and as such PSPCL did not charge any amount from the petitioner while releasing this load. The implementation of Board of Directors decision was delayed as Supply Code was being re-drafted. Had the petitioner been advised by the PSPCL that the decision will be enforceable after

amendment of the Supply Code, the petitioner would have waited for the same before release of load.

- 7.9 PSPCL is entitled to recover only the reasonably incurred expenditure for release of connection as per Electricity Act, 2003 but in this case PSPCL has not incurred any expenditure either for providing connectivity of the power plant for export/sale of power as well as for release of load.
- 7.10 The ABT meter record data on 15 minutes average basis whereas the Trivector/DLMs meter record average on 30 minutes basis. Instead of implementing the General Conditions of Tariff notified by the Commission which required recording of the contract demand on 30 minutes block, imposed demand surcharge on 15 minutes average of ABT meter.
- 8.0 The petition was taken up for hearing on 23.09.2015 and PSPCL sought time for arguments of the case since replication of the petitioner was received on 22.09.2015. The Commission vide Order dated 24.09.2015 directed PSPCL to file its response to the replication by 14.10.2015 with a copy to the petitioner and fixed the petition for arguments on behalf of parties on 20.10.2015.
- 9.0 PSPCL vide Chief Engineer/ARR&TR Memo No.5765/TR-5/710 dated 19.10.2015 submitted that the contents of the original petition have been repeated by the petitioner in the rejoinder, so the reply of PSPCL to the petition may also be treated as reply to the rejoinder filed by the petitioner.

10.0 During hearing of the petition on 20.10.2015 the Commission observed that PSPCL has justified recovery of the cost of existing 66 kV line and bay from Indian Sucrose Ltd. by quoting clause 33 of the Conditions of Supply and regulation 40 of the Supply Code, 2007 which provides that in case the supply of a consumer remained disconnected for non-payment of any dues for more than six months, the agreement will be deemed to have been terminated and in case the electric line of plant is/are to be removed, the restoration of supply to such consumer shall be treated as a case of new connection.

Accordingly, the Commission vide Order dated 23.10.2015 directed PSPCL to explain whether Indian Sucrose Ltd. applied for reconnection in 2007 and whether PSPCL used the existing 66 kV line for restoration of supply as per regulation 40 of the Supply Code 2007 or PSPCL has provided connectivity to Indian Sucrose Ltd. for evacuation of power generated by the petitioner through 66 kV existing line.

In case the connection of Mukerian Paper Mill was restored then the relevant A&A form and other documents may be submitted. However, if connectivity for evacuation of power was provided to the petitioner then the letter of approval issued by PSPCL to the petitioner for such connectivity may be provided. PSPCL should quote the rules/regulations/policy under which such connectivity was allowed along with the instructions governing conditions of such connectivity including recovery of cost of line/bay.

PSPCL was directed to file reply to the observations of Commission by 28.10.2015 with a copy to the petitioner who may

file its response by 02.11.2015. The petition was fixed for hearing on 03.11.2015.

11.0 PSPCL vide Chief Engineer/ARR&TR Memo No.5814/PR-5/710 dated 30.10.2015 filed the following submissions:

11.1 As per clause 33 of Conditions of Supply, if any consumer whose supply is disconnected for non-payment of any amount fails to pay such dues within six months from the date of disconnection, the agreement will be deemed to have been terminated without prejudice to the rights and obligations entered prior to such termination. Thus due to non-payment of current energy bill the connection of Mukerian Paper Ltd. was permanently disconnected and a recovery suit for outstanding amount of ₹1,74,35,424 was filed in the Court of Additional Civil Judge, Mukerian, which was decided in favour of PSPCL on 17.01.2013.

11.2 PSPCL provided connectivity to Indian Sucrose Limited for evacuation of power generated by the petitioner through existing 66 kV line as per Power Purchase Agreement dated 26.07.2012. As per the feasibility clearance Clause 1 to 5 and Clause 4 of PPA, the petitioner had given an undertaking for payment of all outstanding amounts including cost of line and bay against the amount due for energy injected/sold to PSPCL.

11.3 The 66 kV line was not dismantled because the matter was subjudice and also keeping in view the future load growth of the area. The petitioner got the fully installed commissioned line at the standard cost applicable for new connection.

- 11.4 During the period of disconnection from 2005 to 2012, PSPCL injected power supply to this idle 66 kV line to protect it from theft etc. and in the process injected power to the tune of lacs of rupees without any return through sale of power.
- 11.5 Had PSPCL dismantled the line, ISL have to erect a new 66 kV line at the prevalent market prices. Moreover, it is very difficult to erect a new 66 kV line in densely populated area as the premises of the petitioner comes under Municipal Committee area. Thus the petitioner got undue benefit of already erected 66 kV line at the cost of PSPCL and enjoyed the facilities without giving any compensation charges etc.
- 12.0 Subsequently, PSPCL vide Chief Engineer/ARR&TR Memo No.5838/TR-5/710 dated 02.11.2015 made the following additional submissions in continuation to reply already submitted vide Memo dated 30.10.2015:
- 12.1 Indian Sucrose Ltd. has not applied for reconnection in 2007 as recovery suit was running against the defaulting firm i.e. Mukerian Paper Ltd.
- 12.2 The connection to Mukerian Paper Ltd. was never restored after 2005 due to pending recovery suit and also Mukerian Paper Ltd. has never approached PSPCL for restoration of its connection.
- 12.3 The 66 kV line was not dismantled by PSPCL because the matter was subjudice and recovery suit was pending against the firm which was decided in favour of PSPCL on 17.01.2013.

13.0 The petitioner filed replication dated 04.11.2015 to the reply/queries put up to PSPCL by the Commission and submitted as under:

13.1 PSPCL has acknowledged that the defaulting amount was against Mukerian Paper Ltd. and recovery suit was decreed against MPL which means that the outstanding amount, if any, was due towards Mukerian Paper Ltd. and not against the petitioner. Thus PSPCL illegally recovered the said amount from the petitioner which is liable to be refunded.

13.2 PSPCL admitted that the connectivity was provided to the petitioner for evacuation of power as per short term agreement dated 26.07.2012. The project of the petitioner was ready for generation since the year 2007 but PSPCL delayed grant of connectivity and forced the petitioner to abide its illegal demands knowing fully well that as per CERC (Terms & Conditions for Determination of Tariff for Renewable Energy Projects) Regulations, 2009 and 2012 duly adopted by the Commission that evacuation lines and bay for NRSE Plants was to be provided by PSPCL.

13.3 PSPCL has indicated that the petitioner gave the required undertaking to pay all dues of previous company and treating it as a new consumer. The petitioner was forced to sign on the dotted lines and terming the petitioner as a new consumer, is illegal since the petitioner only requested for connectivity for evacuation of power.

13.4 There is no rule/regulation/instruction which allows PSPCL not to dismantle the line when the case is subjudice and

neither there was any stay granted by the Hon'ble Court on dismantlement of the line in question.

13.5 PSPCL has provided an old and depreciated line and bay at the cost of brand new line which is against the provisions of Electricity Act, 2003.

13.6 To keep the line charged to prevent theft of material was a necessity for PSPCL and the power consumed as well as cost of maintaining the assets had already been recovered in the ARR and allowed by the Commission in the Tariff Orders for respective years.

13.7 Had PSPCL dismantled the line in 2005, the petitioner would have got the connectivity in 2007 itself. PSPCL by its actions has harmed the petitioner for non-performing assets of power plant for 5 long years and the loss is much more than new 66 kV line and bay.

14.0 During hearing on 05.11.2015, the Commission heard the arguments of the counsels on behalf of the petitioner and the respondent at length and close the further hearing of the petition. The Commission vide Order dated 09.11.2015 directed the parties to file written submissions by 17.11.2015. The Order was reserved.

15.0 In compliance to Orders of the Commission dated 05.11.2015, PSPCL vide Chief Engineer/ARR & TR Memo No.5914 /TR-5/710 dated 16.11.2015 filed the written submission reiterating its admissions made in the reply to the petition and subsequent replies to the queries of the Commission. The petitioner also filed the written submissions dated 16.11.2015 wherein all the

submissions made in the petition and subsequent reply to the rejoinder have been reiterated.

16.0 Findings and Decision of the Commission:

16.1 After hearing the arguments made by the parties and the written submissions, the Commission observed that the main prayers of the petitioner are as under:

- i) To charge the depreciated/book value of the line and bay and refund the excess cost recovered along with interest.
- ii) To refund an amount of ₹ 2,89,57,333 recovered from the petitioner as outstanding dues of Mukerian Paper Ltd. along with interest.
- iii) To refund the Service Connection Charges of ₹ 29,21,600 recovered from the petitioner against release of a load of 1196 kW with contract demand 1328 kVA through energy bill of December, 2014.
- iv) To refund the demand surcharge of ₹ 9,18,000 paid by the petitioner through bill of January 2015.

16.2 It is an admitted fact that before 26.02.1998, two number electricity connections, one in the name of Oswal Sugar Mill (LS-2) with a sanctioned contract demand of 750 kVA and second in the name of Mukerian Paper Ltd., (LS-3) with a sanctioned contract demand of 10,000 kVA were running in the adjacent premises. Both these connections were managed by the same group and being adjacent to each other, these connections were clubbed by PSEB on

26.02.1998 in the name of Mukerian Paper Ltd. with a total contract demand of 10,750 kVA. Thus for all intents and purposes Oswal Sugar Ltd. ceased to be a consumer of PSEB (now PSPCL) w.e.f 26.02.1998 and the total load installed in this premises was fed from one electricity connection in the name of Mukerian Paper Ltd. Indian Sucrose Ltd. (ISL) might have taken over the business of Oswal Sugar Ltd. in year 2000 but had never entered into any agreement with PSEB, so cannot be treated as a consumer of PSEB for any purpose. Oswal Sugar Ltd. (or ISL) might be using electricity connection of Mukerian Paper Ltd. as an internal arrangement but from the record made available in the petition there is no evidence to establish that such an arrangement had the permission of PSEB.

16.3 The connection of Mukerian Paper Ltd. was permanently disconnected on 07.05.2005 due to non-payment of dues and necessary recovery suit was filed by PSEB against the defaulting consumer. The petitioner has admitted that in order to increase the viability and utilise the additional sugarcane of the area, the petitioner decided to set up a new 12 MW back pressure TG set with boiler as per latest technology to sell the surplus power upto 6 MW to PSEB. This was the commercial decision of the petitioner. The petitioner sought the approval of PSEB for installation and operation of 12 MW power turbine vide its letter dated 31.07.2007. So till that date, ISL had no relationship with PSEB. Meanwhile assets of Mukerian Paper Ltd. was also taken over by the petitioner on 17.02.2010 as a successful

bidder during the auction initiated by IFCI Ltd. under the provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Act, 2002. To get connectivity with PSEB grid to sell surplus power, the petitioner wilfully gave an undertaking to PSPCL vide its letter dated 21.06.2011 to deduct the dues as mentioned in PSEB's letter dated 15.09.2008 from the running bills of export of electricity.

- 16.4 The issues relating to recovery of defaulting amount along with interest, cost of 66 kV line and bay from the petitioner at the time of allowing connectivity are being taken up concurrently. Regarding recovery of cost of 66 kV line and bay, the petitioner has prayed for recovery of depreciated/book value of the line and the bay instead of cost for new line/bay, which is an admission by the petitioner that cost of evacuation line is to be borne by the developer. So we will not comment on the merits of the issue and the arguments put forth by both the parties as to whether cost of evacuation line & bay is recoverable from the private developer in this case or not. Whereas recovery of depreciated/book value of the line and the bay is concerned, we may refer to PSPCL's letter dated 20.03.2012 vide which feasibility clearance for installation of 12 MW TG set was conveyed to the petitioner. In the feasibility letter dated 20.03.2012, the following conditions relating to outstanding dues were imposed:

- a) The total defaulting amount recoverable shall be as per recovery suit along with simple interest as applicable from time to time on the principal amount.
- b) The cost of 66 kV line **at present rates** is recoverable from the firm.
- c) The cost of 66 kV bay at the injection of 66 kV sub-station, is to be borne by the firm.
- d) The cost of 66 kV bay at the firm's premises will be borne by the firm.

In response to this feasibility clearance, the petitioner vide its representation dated 21.04.2012, while accepting the liability to pay defaulting amount requested PSPCL to waive of interest on defaulting amount and also cost of line/bay on the ground that ISL as an old consumer of PSPCL had already been deposited the cost of the line & was using the line from 1995 to 2005. In subsequent representation dated 10.05.2012, the petitioner reiterated its request for waiver of interest on the defaulting amount and cost of line and bay on the plea that since all the assets pertaining to MPL have been taken over by ISL and as MPL had deposited the cost of 66 kV line in 1994, so the line is also an asset of ISL.

The petitioner has admitted that in order to make the plant operational set up with an investment of ₹60 crore and to utilise the crushing season starting from Nov. 2012, short term PPA was signed with PSPCL on 26.07 2012 for sale of surplus power of 6 MW. As per clause 4 of the PPA, the petitioner undertake that payment against the bill for energy

injected/sold to PSPCL may be made only after the total amounts mentioned as under have been realized by PSPCL:

- i) Defaulting amount of ₹ 2,89,57,333
- ii) Estimated cost of bay i.e. ₹ 49.23 lac.
- iii) Cost of 66 kV line i.e. ₹ 2,24,74,582

Thus it is fair to assume that after holding discussions/negotiations with PSPCL on all these issues and keeping in view its commercial interests, the petitioner has wilfully entered into a legally enforceable bilateral agreement on mutually agreed terms and conditions. The feasibility was granted with conditions on 20.03.2012 and the short term PPA was signed on 26.07.2012 so there was sufficient time with the petitioner to avail any legal remedy that was available at that point of time. So to claim that agreement was signed under duress carries no weight. On the contrary, the petitioner vide its letter dated 05.12.2012 addressed to Chief Engineer/PP&R, PSPCL, Patiala thanked PSPCL for approval to synchronization of plant with PSPCL for sale of 6 MW power as per PPA dated 26.07.2012 and further informed that the petitioner had started power export to PSPCL on 05.12.2012 as per PPA after completing the necessary formalities. The claim of the petitioner that as per RE regulations, the line and bay for evacuation of power from the co-generation plant was to be provided by PSPCL has no merit since the short term PPA, which was a commercial arrangement entered between the parties, was neither approved by any competent authority under NRSE policy nor under RE regulations applicable at that time.

Later on, the petitioner approached the Commission through petition No.48 of 2013 for determination of tariff for FY 2013-14 and on the Commission's Order dated 24.03.2014 the petitioner signed an IA with PEDDA on 24.04.2014 and entered into a long term PPA with PSPCL on 27.06.2014. During proceedings of this petition, the petitioner withdrew its prayer to direct PSPCL to bear the cost of the evacuation system and refund the amount already deposited on this account with liberty to approach the Commission at appropriate stage. There is no provision in the RE regulations to refund the cost of evacuation system deposited by the petitioner. **Thus the prayer of the petitioner to recover the depreciated/book value of the line and bay cannot be considered at this belated stage since the petitioner has wilfully agreed to bear the cost of the line amounting to ₹ 2,24,74,582 and cost of bay amounting to ₹ 49.23 lac at the time of seeking connectivity by signing a bilateral short term PPA with PSPCL on 26.07.2012.**

Regarding recovery of defaulting amount with interest, it is reiterated that the petitioner agreed to pay the amount in the short term PPA signed with PSPCL on 26.07.2012 and there is no justification to review this issue at this stage. However, in view of the decision of Hon'ble Court of Additional Civil Judge (Sr.Divn.), Mukerian whereby the Court has ordered for recovery of ₹ 1,48,10,091 along with interest @ 12% per annum from the date of suit till the actual realization of the decreed amount from Mukerian Paper Ltd. , the petitioner is

at liberty to seek judicial intervention by approaching the competent court.

- 16.5 Regarding recovery of Service Connection Charges amounting to ₹ 29,21,600 for release of load of 1196 kW with a contract demand of 1328 kVA from the existing 66 kV evacuation line, the Commission has already interpreted the law governing such cases in its Order dated 08.01.2014 in petition No.55 & 56 of 2013 which has also been held by the Hon'ble Appellate Tribunal for Electricity in its Order dated 10.04.2015 in Appeal No.75,76 and 64 of 2014.

The PSERC (Electricity Supply Code & Related matters) Regulations, 2007 was silent on the issue of recovery of charges from the owners of CPPs/Co-generation Plants/IPPs who have already deposited the cost of evacuation line and subsequently request for release of load to meet its requirements from the same line. The Commission in its Order dated 08.01.2014 in petition No.55 & 56 of 2013 has made following observations regarding payment of Service Connection Charges which are relevant to the case in hand

“The various provisions of the Act and Supply Code has to be read in tandem to settle this issue. The Act clearly provides that Distribution Licensee can recover only those expenses which have been reasonably incurred in providing electric line or plant for release of such connection. The Distribution Licensee must demonstrate that some expenditure has been incurred which will qualify for recovery as per the Regulations framed by the Commission. Secondly

the sub-regulations 9.1.1 (c) of the Supply Code permit recovery of expenditure incurred for providing the service line and proportionate cost of back up/common line up to the feeding sub station including bay if any. In this case, no service line has been provided by the respondent and also there is no backup/common line for which proportionate cost is to be recovered. The proviso to sub-regulation 9.1.1 (c) shall come in to force only in case some expenditure has been incurred by the licensee which will then be subject to minimum of charges calculated on kW/kVA basis.”

Thus in case the evacuation line erected at the cost of the generator is used to feed the load and where no expenditure has been incurred by the distribution licensee to feed such load, no Service Connection Charges shall be recoverable from the applicant. The above position has been held by the Hon'ble Appellate Tribunal for Electricity in its Order dated 10.04.2015 in Appeal No.75, 76 and 164 of 2014 wherein in para 10.12 & 10.13 it has been held that

“10.12 Further, Clause 9 of the Supply Code has to be read along with Section 46 of the Electricity Act, 2003 and the same is reproduced hereunder:

46. Power to recover Expenditure

The State Commission may, by regulations, authorise a distribution licensee to charge a person requiring a supply of electricity in pursuance of section 43 any expenses reasonably incurred in providing any electric

line or electric plant used for the purpose of giving that supply.

*10.13 The bare perusal of this Section would show that the distribution licensee is competent to charge from a person requiring a supply of electricity any reasonable expenses incurred in providing any electric line or electrical plant used for the purpose of giving that supply. **So, there are two things which are necessary for recovering expenses. First is that, there has to be some electric line or electrical plant provided by the distribution licensee and second that some amount has to be incurred upon that.**[Emphasis Supplied]*

Since the cost of the 66 kV line used to cater to the demand of the petitioner in the present case has already been deposited by the petitioner and no expenditure has been incurred by PSPCL for release of load of 1196 kW with a contract demand of 1328 kVA through the same 66 kV line, so as per Clause 9 of the Supply Code 2007 read with section 46 of Electricity Act, 2003, no Service Connection Charges are recoverable from the petitioner. **PSPCL is directed to refund ₹29,21,600 recovered from the petitioner as Service Connection Charges immediately.**

16.6 On the issue of recovery of Demand Surcharge amounting to ₹9,18,000 in the bill for the month of Jan. 2015 for exceeding the contract demand during the time block of 12.15 to 12.30 hours on 09.12.2014, we may refer to clause 10.3 of General Conditions of Tariff which provides that maximum demand

for any month shall be considered as highest average load measured in kVA during a block of 30 minutes period. Since, PSPCL is using ABT meter data which records parameters in 15 minutes block period, so **PSPCL is directed to revise the bill by taking average of two 15 minutes time blocks in a period of 30 minutes starting from 00:00 hours in accordance with para 4 of the Commercial Circular No.29 of 2015 dated 22.07.2015. The excess amount recovered from the petitioner, if any, shall be refunded immediately.**

The petition is disposed of accordingly.

Sd/-

(Gurinder Jit Singh)

Member

Sd/-

(Romila Dubey)

Chairperson

Chandigarh

Dated: 02.12.2015