IN THE COURT OF OMBUDSMAN, ELECTR4ICITY PUNJAB,

66KV GRID SUB-STATION, PLOT NO. A-2, INDUSTRIAL AREA PHASE-1,

S.A.S. NAGAR (MOHALI)

ORDER

AGAINST REPERSENTATION DATED 09.09.2016 RECEIVED ON 30.09.2016

REGARDING WRONG IMPLEMENTATION OF DECISION DATED 05.07.2016

IN APPEAL NO: A - 15 / 2016 OF M/S PEE KAY PAPER & BOARD PRIVATE LIMITED, VILLAGE, MEHATPUR, TEHSIL NAKODAR.

VERSUS

PUNJAB STATE POWER CORPORATION LIMITED.

The Petitioner vide his letter dated 11.08.2016 informed that the Respondents has wrongly implemented the decision dated 05.07.2016 of the Court of Ombudsman pronounced in Appeal no: 15 of 2016 and accordingly the Respondents vide letter dated 19.08.2016, were directed to get the penalty recalculated from MMTS by applying correct rates strictly as per provisions contained in ESIM and raise revised demand duly supported with detailed calculation-sheet within 15 days from the date of receipt of letter and till then the demand raised vide letter dated 09.08.2016 was held as not recoverable. In compliance, the Respondents recalculated the amount of penalty and raised a demand of Rs. 12,20,759/- (Rs. 11,30,082/- plus interest Rs. 90,677/-) vide letter no: 3548 dated 09.08.2016. Complete calculation sheet was sent to the Petitioner vide letter no: 3715 dated 06.09.2016 but the Petitioner, being dissatisfied with the revised calculation again agitated and prayed vide his letter dated 09.09.2016 (received on 30.09.2016) that the Respondents have wrongly implemented the order dated 05.07.2016 as the calculation for working out penalty is based on treating all the violation as second default by applying double rate and prayed to the Court to issue directions to the Respondents for implementing the orders correctly.

2. In view of the Petitioner’s prayer, the Respondents were provided an opportunity to justify the applied rates whether or not these were in accordance with the Regulations and directions were issued to Sr. XEN / OP Division, PSPCL, Nakodar and Sr. XEN / MMTS-I, Jalandhar to appear before the Court on 20.10.2016 at 11.00 AM. On the date fixed for hearing, Shri M.R. Singla authorized representative (Counsel) on behalf of the Petitioner; Er. Sukhwinder Singh, ASE / OP, PSPCL, Nakodar alongwith Er. Tajinder Pal Singh, ASE / MMTS-1, PSPCL, Jalandhar on behalf of the Respondents – PSPCL appeared in the Court.

3. Presenting the Petitioner’s grievance, his Counsel argued that no notice, either as per new schedule or as old schedule, was given for any violation of PLH Restrictions since 01.04.2015 till 18.08.2015, so the violations, if any, should not be treated as second default. Moreover, the Load Survey Data evidently proving that the violations at initial stage till 08.07.2015 are for running of minor & negligible auxiliary load when the main load remained switched off during Peak Load Hours. The major violations have been occurred from 08.07.2015 to 17.08.2015, when the motive load was put to use but that too due to confusion in restriction timings, during the last one hour i.e. 21.30 hrs to 22.30 hrs.. Thus the application of double rate is wrong and against the Rules. The penalty can be levied only at single rate from 08.07.2015, when the motive load mistakenly was put to use.

4. The Respondents (ASE / MMTS), argued that first DDL, after discontinuation of ToD tariff, was taken on 23.05.2015 for the period from 01.04.2015 to 23.05.2015 and second DDL was taken on 25.08.2015 for the period from 24.05.2015 to 25.08.2015. The PLV penalty, on account of first DDL, was intimated to the consumer on 18.08.2015 which was before the second DDL as per Instruction No. 132.3 (i) (d) of ESIM. Calculations of penalty for violation of Peak Load Hours have been made strictly as per court orders dated 05.07.2016, on the basis of old Schedule of Timings and rates**.** The First violation has been noted on 13.04.2015 and thus the first block of two months started from 13.04.2015 to 12.06.2015 during which the penalty is chargeable at single rate and the violations committed thereafter, within a period of next two months shall fall in second block which are chargeable at double rates as provided in instructions no: 132 of ESIM. Accordingly, the rates have been strictly applied in both blocks. Thus, the chargeable amount is correct and prayed to dismiss the arguments of the Petitioner.

5. I have gone through both DDLs dated 23.05.2015 and 25.08.2015 and noticed that first Peak Load Violation, as per First DDL (23.05.2015), took place on 13.04.2015 and last Violation was on 21.05.2015 wherein a negligible load was exceeded during Peak Load Hours from the allowed load of 50 KW, which shows that no motive load was put to use and the running load was altogether auxiliary load. In the second DDL dated 25.08.2015, running of considerable load is seen w.e.f. 08.07.2015 due to running of motive load during the last hours from 21.30 hrs to 22.30 hrs, which has been claimed by the Petitioner that it was due to confusion of changed timing. I find merit in the arguments of Respondents that the calculations have been made strictly in accordance with the old timing schedule and rates applicable as per Rules & commercial Instructions. The Petitioner did not denied any fact argued by the Respondents and admitted that penalty is payable by him but had argued that the violations cannot be charged at double rate treating as second default till the date of first intimation which in the present case is 18.08.2015 vide which notice to charge the penalty for Peak Load Violation was given to the Petitioner. After careful consideration of all evidences and facts brought on record, I find merit in the arguments of the Petitioner that the violations be charged at single rate treating first default till date of intimation. Furthermore, I also do not find merits in charging the double rates after lapse of First Block especially when there is negligible increase in the load beyond permitted limit of 50 KW as per first DDL dated 23.05.2015 which do not show running of any motive load.

As a sequel of above discussions, in my view, it will be more appropriate if the period of default is taken as First Block right upto 18.08.2015 and the Petitioner is charged penalty at applicable rates for first default. Accordingly, it is held that penalty on account of Peak Load Violation as per old timings on the basis of DDL dated 23.05.2015 and 25.08.2015 should be charged at single / half rates, as applicable. The Respondents are directed to recalculate the penalty as per above directions and raise revised demand duly supported with calculation sheet within a period of two weeks from the date of receipt of this order. The demand raised to the Petitioner vide notice dated 06.09.2016 is held as “not recoverable”.

Accordingly, the respondents are directed that the amount excess / short, if any, may be recovered / refunded from / to the petitioner with interest under the relevant provisions of ESIM-114.

6. The application of Petitioner dated 09.09.2016 is disposed off accordingly.

(MOHINDER SINGH)

Place: Mohali. Ombudsman

Dated: 20.10.2016 Electricity Punjab,

Mohali.