**COURT OF THE LOK PAL (OMBUDSMAN),**

**ELECTRICITY, PUNJAB,**

**PLOT NO.A-2, INDUSTRIAL AREA, PHASE-1,**

**S.A.S.NAGAR (MOHALI).**

**APPEAL NO. 04/2018**

**Date of Registration :11.01.2018**

**Date of Hearing : 20.06.2018**

**Date of Order : 27.06.2018**

**Before:**

 **Er. Virinder Singh, Lok Pal (Ombudsman) Electricity**

**In the Matter of :**

 Satia Synthetics Ltd.,

 Village - Lubaniwali,

 Ferozepur Road,

 Sri Muktsar Sahib.

 ...Petitioner

 Versus

 Additional Superintending Engineer,

DS Division, PSPCL,

Sri Muktsar Sahib.

 ...Respondent

**Present For:**

Petitioner : Sh.M.R.Singla,

 Petitioner’s Representative (PR)

Respondent : 1. Er.Sukhdev Singh,

Addl. Superintending Engineer

 2. Er.Mandeep Singh,

 Assistant Engineer.

 Before me for consideration is an Appeal preferred by the Petitioner against the order dated 15.12.2017 of the CGRF in Case No. CG-300 of 2017 deciding that:

*“ Interest on meter security & ACD is payable to the Petitioner as per regulations of PSPCL and updation of meter security & ACD in the bill of Petitioner ”*

2. **Facts of the Case:**

 The relevant facts of the case are that:-

**(i)** The Petitioner was having a Large Supply Category connection with Sanctioned Load of 8000 kW and Contract Demand (CD) of 6500 kVA at 66 kV.

**(ii)** The Petitionerdeposited Advance Consumption Deposit (ACD) and Meter Security to the tune of Rs. 2,21,51,778/- and Rs. 77,200/- respectively till date.

**(iii)** Due to non-updation of Advance Consumption Deposit (ACD) and Meter Security in the Energy Bills from time to time, the Petitioner received less interest on it, as per provisions contained in Regulation 17.3 of the Supply Code-2007 (applicable w.e.f. 01.01.2008) since 04/2009 onwards.

**(iv)** The Petitioner was not satisfied with the amount of interest allowed and filed a Petition in the Forum, who, after hearing, passed order dated 15.12.2017 (Reference: Page 2, Para-1).

**(v)** Subsequently, the ACD and Meter Security was updated by the Respondent in the billing month for 08/2017 during the pendency of the case in the Forum and interest of Rs.9,91,307/-, after deducting TDS of Rs.1,10,145/- , was adjusted in the Energy Bill for 11/2017.

**(vi)** Not satisfied with the decision of the Forum, the Petitioner preferred an Appeal in this Court and prayed that as per Regulation 17.4 of the Supply Code-2007, directions may be issued to the Respondent for paying penal interest on the difference of amount of Advance Consumption Deposit (ACD) for which interest was not paid at the first stage since the FY 2008-09 to FY 2016-17. The Petitioner also prayed that any other compensation, deemed fit by this Court, may be awarded to the Petitioner, in the interest of justice.

**3**. **Submissions made by the Petitioner and the Respondent:**

Before undertaking analysis of the case, it is necessary to go through written submissions made by the Petitioner and reply of the Respondent as well as oral submissions made by the Representatives of the Petitioner and the Respondent alongwith material brought on record by both the sides.

1. **Submissions of the Petitioner**:

The Petitioner made the following submissions for consideration of this Court:

1. The Petitioner was running an Industrial Unit for which an electricity connection, bearing Account No.Y67-LB01-00001, with Sanctioned Load of 8000 kW and Contract Demand of 6500 kVA at 66 kV was released.
2. The Petitioner deposited Advance Consumption Deposit (ACD) amounting Rs. 2,21,51,778/- and Meter Security of Rs. 77,200/- upto 31.03.2017.
3. The Respondent did not update the amount of Security deposited from time to time in the record/energy bills and was paying interest on lesser amount of Security from April 2009 onwards. The amount of Interest lesser paid, till April 2017, was to the tune of Rs. 12,56,290/- approx. at single rate of interest. However, as per Regulation 17.4 of the Supply Code-2007, the amount of interest worked out to Rs. 28,63,144/- approx.
4. Several requests were made, verbally as well as in writing, to the notified office of the Respondent for updating Advance Consumption Deposit (ACD) and for allowing difference in amount of interest lesser paid, but no action was taken.
5. The Petitioner was then constrained to file a Petition in the Forum for the redressal of its grievance as per Consumer Complaint Handling Procedure (CCHP) requesting to pass orders and issue directions to the Respondent for updating Advanced Consumption Deposit (ACD) and for paying difference of the amount of interest, as per Regulations.
6. During the pendency of the case in the Forum, Advanced Consumption Deposit (ACD) and Meter Security amount were updated by the Respondent in the electricity bills of the Petitioner. Subsequently, Interest of Rs. 9,91,307/-, after deducting TDS of Rs.1,10,145/- (total amount Rs.11,01,452/-) was adjusted in the energy bill for the month of 11/2017.
7. The decision in the case was conveyed to the Petitioner, vide Memo no.3829/30/CG-300/2017 dated 18.12.2017. No speaking order was passed by the Forum regarding the amount of interest to be paid and no reference to any Regulation was given in its order. The Forum simply mentioned in its order that interest as per Regulation was to be paid. The Forum also ignored the directions issued by the Hon’ble PSERC, on the issue of payment of interest from time to time.
8. Having failed to get justice from the Forum, the Petitioner was left with no option but to seek the indulgence of this Court for justice.
9. The Petitioner had claimed interest on Advanced Consumption Deposit (ACD) and Meter Security, as per Regulation 17.4 of Supply Code 2007 which provides as under:-

“*In the event of delay in effecting adjustments due to the consumer as per Regulation 17.3, the licensee will, for the actual period of delay pay interest at twice the SBI Base Rate of relevant year plus 2%.”*

 As the Petitioner was being paid interest on lesser amount of Advance Consumption Deposit (ACD) and Meter Security since the FY 2008-09 due to non-adjustment by the Respondent, hence, it was entitled for interest as per Regulation 17.4 of the Supply Code-2007.

1. Industrial consumers run their business by taking loans from Banks for which, they have to pay hefty interest. They could not afford to keep huge amounts of their finances dumped in the coffers of the Government Departments.
2. The Petitioner had been suffering huge financial loss, due to non-payment of interest by the Respondent on the full amount of Advance Consumption Deposit (ACD) and Meter Security from the day one as per Regulation 17.1 of the Supply Code-2007. The Petitioner suffered financial loss on the interest amount lesser paid to it since the FY 2008-09.
3. As per Regulation 17.4 of Supply Code-2007, orders may be passed and directions be issued to the Respondent for paying penal interest on the difference of the amount of Advance Consumption Deposit and Meter Security for which interest was not paid at the first stage since the FY 2008-09 to 2016-17. Any other compensation, as deemed fit by this Court, may also be awarded to the Petitioner, in the interest of equity, fairness and justice.
4. **Submissions of the Respondent**:

The Respondent, in its defence, submitted the following for consideration of this Court:

**(i)** The Petitioner was having a Large Supply Category connection with Sanctioned Load of 8000 kW and Contract Demand (CD) of 6500kVA.

**(ii)** The Petitioner filed a Petition in the Forum for the payment of interest on Advance Consumption Deposit (ACD) and Meter Security. The case was decided by the Forum vide order dated 15.12.2017 that interest was payable as per regulations of the PSPCL.

**(iii)** The Petitioner intimated on 24.04.2017 that Advance Consumption Deposit (ACD) and Meter Security were not updated in the Energy bills. The Petitioner submitted, in its request by giving the requisite details, that it had deposited Advance Consumption Deposit (ACD) and Meter Security to the tune of Rs.2,25,58,328/-.

**(iv)** The claim for allowing simple interest from 04/2009 to 03/2017 was also raised by the Petitioner for Rs.18,48,528/-.

**(v)** The Assistant Engineer, DS Sub Division, Lubanianwali updated the Advance Consumption Deposit and Meter Security for Rs.2,21,51,778 + Rs. 77,200/-, in the bill for 04/2017. A reference was also made to the Petitioner’s firm, vide No. 532 dated 31.08.2017, to confirm the difference of Advance Consumption Deposit (ACD) and Meter Security alongwith the request to get it checked with the original receipts (BA-16) of Security deposited, from the concerned office, so that correct Advance Consumption Deposit (ACD) and Meter Security could be updated in the bills, but the Petitioner did not submit the original receipts to the Respondent. Again, the Assistant Engineer, DS Sub Division, Lubanianwali, vide letter No. 550 dated 08.09.2017, reminded the Petitioner for sending the details of the said amount, but the Petitioner’s firm did not reply.

**(vi)** During the course of pendency of the case, filed by the Petitioner in the Forum, the correct Advance Consumption Deposit (ACD) of Rs. 2,21,51,778/- and Meter Security of Rs.77,200/- had been updated in the month of 09/2017 by the Assistant Engineer, DS Sub Division, Lubanianwali. The calculation sheet of interest to the tune of Rs. 18,48,528/- submitted by the Petitioner’s firm, was incorrect as per the record of the Respondent. The calculation sheet of interest on Security deposited was prepared by the Respondent which was duly pre-audited by the AAO / Revenue for Rs.11,01,452/- (Rs.9,91,307/- plus TDS as Rs. 1,10,145/-), during 11/2017.

**(vii)** While referring to Regulation 17.4 of the Supply Code-2007, the Petitioner submitted to the Forum a new calculation sheet of interest at double the rate by showing that the previously submitted calculation sheet for Rs.18,48,528/- was incorrect. The revised calculation sheet was not accepted by the Forum, which observed that all the pending dues had been given/released to the Petitioner.

**(viii)** As per the record of the Respondent, due interest on Advance Consumption Deposit (ACD) & Meter Security had already been paid to the Petitioner as per decision of the Forum and no further interest was required to be paid to the Petitioner, so, the Appeal deserved dismissal.

**4. Analysis:**

The issue requiring adjudication is the legitimacy of the interest payable to the Petitioner, on account of Advance Consumption Deposit (ACD) and Meter Security, as per applicable regulations.

 *The Points emerged are deliberated and analysed as under:*

1. PR contended that the Petitioner had deposited ACD amounting to Rs. 2,21,51,778/- and the Meter Security of Rs. 77,200/- upto 31.03.2017. But the Respondent did not update the ACD/Meter Security in its record/Energy Bills and thus allowed lesser amount of interest on its actual ACD/Security from April 2009 onwards. The amount of interest lesser paid till April 2017 was to the tune of Rs. 12,56,290/- approximately whereas, as per Regulation 17.4 of Supply Code-2007, the amount worked out to Rs. 28,63,144/- approximately. The Petitioner made several requests to the Respondent for allowing difference in the amount of interest lesser paid but no action was taken with the result that the Petitioner approached the Forum for the redressal of its grievances. But the decision of the Forum was not a speaking one as it simply ordered that the interest be paid as per regulations of the PSPCL without mentioning the amount of interest and also the regulation under which, the interest was to be paid.

The Respondent in its defence, stated that the Petitioner intimated on 24.04.2017 that Advance Consumption Deposit (ACD) and Meter Security, of bills of its firm, updated in the records of the Respondent were on lower side. The Petitioner submitted, in its request by giving the requisite details, that it had deposited Advance Consumption Deposit (ACD) to the tune of Rs. 2,25,58,328/-. The claim for allowing simple interest from 04/2009 to 03/2017 was also raised by the Petitioner. The Assistant Engineer, DS Sub Division, Lubanianwali inquired from the Petitioner about the updation, of the Advance Consumption Deposit and Meter Security for Rs. 2,21,51,778 + Rs.72,000/-, in the bill for 04/2017. A reference was also made to the Petitioner’s firm, vide No. 532 dated 31.08.2017, to confirm the difference of Advance Consumption Deposit (ACD) and Meter Security alongwith the request to get it checked with the original receipts (BA-16) of Security deposited, so that correct Advance Consumption Deposit (ACD) and Meter Security could be updated in the bills, but the Petitioner did not submit the original receipts to the Respondent. Again, the Assistant Engineer, DS Sub Division, Lubanianwali, vide letter No. 550 dated 08.09.2017, reminded the Petitioner by sending the details of the said amount, but the Petitioner’s firm did not respond. During the course of pendency of the case, filed by the Petitioner in the Forum, the correct Advance Consumption Deposit (ACD) of Rs. 2,21,51,778/- and Meter Security of Rs. 77,200/- had been updated in the month of 09/2017 by the Assistant Engineer, Operation Sub Division, Lubanianwali. The calculation sheet of interest to the tune of Rs.18,48,528/- submitted by the Petitioner’s firm, was incorrect as per the record of the Respondent. The calculation sheet of interest on Security deposited was prepared by the Respondent which was duly pre-audited by the AAO/Revenue for Rs. 11,01,452/- (Rs. 9,91,307/- plus TDS Rs. 1,10,145/-), during 11/2017.

I observe that the Respondent had already given the interest on ACD/Meter Security as per Regulation 17.3 of the Supply Code-2007 and Regulation 17.1 of the Supply Code-2014. But due to delay in adjustment of interest on ACD/Meter Security, the Petitioner prayed for allowing interest as per Regulation 17.4 of the Supply Code-2007 from 2008-09 to 2016-17 i.e. at twice the SBI Base Rate or RBI Base Rate of relevant year plus 2%.

*I also observe that the Respondent defaulted in ensuring timely up-dation of ACD/Meter Security in the Energy Bill which led to avoidable litigation. At the same time, the Petitioner has not been vigilant and shown laxity, in not bringing the fact of non-updation of the same in the Energy Bills for a long period, to the notice of the Respondent. The Petitioner, being a Large Supply consumer was expected to go through and study the Energy Bill carefully and intelligently and bring the discrepancy, if any, to the notice of the Respondent immediately on noticing it. Hence, the claim of the Respondent for allowing interest in terms of provisions of Regulation 17.4 of the Supply Code-2007 and Regulation 17.3 of the Supply Code-2014 is not sustainable. I further observe that after up-dation of the ACD/Meter Security, the Respondent has already allowed the interest in the bill for 11/2017, as intimated by the Respondent vide Memo. No. 14963 dated 08.12.2017.*

From the above analysis, it is concluded that the interest, on the ACD and Meter Security, allowed is correct and no penal interest is payable to the Petitioner as explained above.

**5. Decision:**

 **As a sequel of above discussions, the order dated 15.12.2017 of the Forum in Case No. CG-300 of 2017 is upheld.**

**6**. The Appeal is dismissed.

**7.** In case, the Petitioner or the Respondent (Licensee) is not satisfied with the above decision, it is at liberty to seek appropriate remedy against this order from the appropriate Bodies in accordance with Regulation 3.28 of the Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations – 2016.

 (VIRINDER SINGH)

June 27, 2018 LokPal (Ombudsman)

S.A.S. Nagar (Mohali) Electricity, Punjab.