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

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

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

**APPEAL NO. 74/2018**

**Date of Registration : 26.12.2018**

**Date of Hearing : 05.03.2019 and 02.04.2019**

**Date of Order : 11.04.2019**

**Before:**

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

**In the Matter of :**

Bhogals Pvt. Limited,

1104, Dhandari Kalan,

G.T.Road, Ludhiana.

...Petitioner

Versus

Senior Executive Engineer,

DS Estate Division (Special)

PSPCL , Ludhiana.

...Respondent

**Present For:**

Petitioner: 1. Sh. Surinder Kumar Kakkar, Advocate,

Petitioner’s Counsel (PC).

. 2. Sh.Ratinder Singh Bhogal,

Petitioner

Respondent : 1. Er.Amandeep Singh,

Senior Executive Engineer,

DS, Estate Division (Special),

PSPCL, Ludhiana.

2. Er. Shiv Kumar,

Assistant Engineer,

DS, Estate Division (Special),

PSPCL, Ludhiana.

3. Sh.Krishan Singh

Assistant Accounts Officer (AAO)

Before me for consideration is an Appeal preferred by the Petitioner against the order dated 26.11.2018 of the Consumer Grievances Redressal Forum (Forum) in Case No. CG-382 of 2018 deciding that:

*“****a****. Petitioner is liable to pay the excess credit amounting to Rs.9,90,429/- given in his account along with surcharge and interest thereon as stipulated under PSPCL Tariff Order(s) FY 2015-16, 2016-17, 2017-18 and 2018-19 as per Clause 21 of General Conditions of Tariff.*

***b****. Dy.CE/Operation Circle, City West, Ludhiana is directed to take disciplinary action against the delinquent official for wrong credit to Petitioner by misusing his official position and conniving with Petitioner in a fraudulent manner incurring financial loss to the Company.* ”

**2*.* Facts of the Case*:***

The relevant facts of the case are that:-

1. The Petitioner was having a Large Supply Category connection

with sanctioned load of 1356.930 kW and contract demand (CD) of 800 kVA.

1. The Energy bill for the month of 10/2015, for the period from

16.09.2015 to 16.10.2015 was not issued by the Respondent. However, the Petitioner was billed for Rs.17,40,256/- for the period from 16.09.2015 to 20.11.2015 vide bill dated 29.11.2015 for 65 days for consumption of 2,21,738 kVAh units. The due date for deposit of the bill was 09.12.2015.

1. Before issue of the said energy bill, the Petitioner deposited tentative

amount of Rs.7,49,827/- on 23.11.2015 as per verbal discussion with

Revenue Wing of the Respondent. But the Petitioner did not deposit the balance amount of Rs.9,90,429/- (Rs.17,40,256-Rs.7,49,827/-) pertaining to bill dated 29.11.2015 amounting to Rs.17,40,256/-

1. Subsequently, the Petitioner was issued another bill dated

28.12.2015 for the period from 20.11.2015 to 17.12.2015 amounting to Rs.24,56,760/- (with due date being 07.01.2016) comprising current bill of Rs.7,16,250/- and previous balance of Rs.17,40,510/- pertaining to current Financial Year. The Petitioner got the above bill, amounting to Rs.24,56,760/-, corrected from the Revenue Accountant, under its own signatures, to Rs. 7,16,250/- which was deposited by the Petitioner on 06.01.2016.

1. However, the Revenue Accountant, by the usuage of check lot,

credited the entire amount of Rs.17,40,256/- to the account of the Petitioner for the Energy bill issued to the Petitioner on 28.12.2015 against deposit of only Rs.7,49,827/- on 23.11.2015 and also of Rs.7,16,250/- deposited on 06.01.2016.. Thus, the Revenue Accountant had erroneously given excess credit/refund of Rs.9,90,429/- (Rs.17,40,256-Rs.7,49,827/-) to the Petitioner as per details of bills issued on 29.11.2015, 28.12.2015 and 31.03.2016.

1. The Respondent, vide memo no.9461 dated 31.08.2018,

issued notice/supplementary bill to the Petitioner to deposit Rs.16,80,329/- i.e. balance/unpaid amount of Rs.9,90,429/- plus surcharge and interest of Rs.6,89,900/- for the period from 12/2015 to 08/2018.

1. Aggrieved with the aforesaid notice, the Petitioner filed a Petition

dated 08.10.2018 in the CGRF, who, after hearing, passed the order dated 26.11.2018. (Reference: Page-2, Para-1).

1. Not satisfied with the decision of the Forum, the Petitioner

preferred an Appeal in this Court and prayed toaccept the present Appeal and to set aside the order ibid of the Forum with cost in the interest of justice and to save the Petitioner from financial hardship.

**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 Representative of the Petitioner and the Respondents along with 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 having a Large Supply Category connection

with sanctioned load of 1356.930 kW and contract demand (CD) of 800 kVA.

**(ii)** The reading of the Energy Meter was taken every month and the bills, as raised, on the basis of measured consumption, were paid.

**(iii)** The Petitioner did not receive any Energy Bill for the period from 16.09.2015 to 16.10.2015 from the Respondent in the month of October 2015, as such, the Petitioner visited the office of the Respondent where it was informed by the Revenue Accountant that there was problem in the issuance of bills under the new SAP billing System, therefore, the regular energy bills could not be issued to the consumers. However, after checking the record/system, the said Revenue Accountant guided the Petitioner to deposit a sum of Rs.7,49,827/- for the period from 16.09.2015 to 16.10.2015. Accordingly, the Petitioner deposited the said amount vide manual receipt no.40/48169 dated 23.11.2015.

**(iv)** After making payment of Rs.7,49,827/- on 23.11.2015, the Petitioner received an energy bill dated 28.12.2015 for the period from 20.11.2015 to 17.12.2015 for a sum of Rs.24,56,760/-, (with due date of payment as 07.01.2016) wherein Rs.17,40,510/- as arrear amount was shown.

**(v)** On receiving the said energy bill, the Petitioner immediately contacted the Revenue Wing of the Respondent and requested to rectify the energy bill after considering the actual consumption charges and amount already deposited through manual receipts.

**(vi)** The Revenue Accountant amended the energy bill as   
Rs.7,16,250/- under its signatures whereafter, the Petitioner deposited the said rectified/amended amount of Rs.7,16,250/- on 06.01.2016.

**(vii)** Thereafter, the Respondent, issued various energy bills for the period from 17.12.2015 to 31.08.2018, which were duly paid by the Petitioner in time. In all these subsequent bills received by the Petitioner, no amount was shown as arrear of any month in any of the bills.

**(viii)** The Respondent, vide memo no.9461 dated 31.08.2018, issued a provisional notice for payment of a sum of Rs.16,80,329/- along with calculation sheet showing balance energy charges of Rs,9,90,429/- for the period from 16.09.2015 to 20.11.2015 with due date for payment as 14.09.2018. It was also stated in the Memo issued that provisional notice was being issued after overhauling the account, if you had any record then the same may be presented and got checked from Respondent’s office before the due date of this notice.

**(ix)** On receipt of provisional notice dated 31.08.2018, the Petitioner again approached the Revenue Wing of the Respondent where the concerned Revenue Accountant informed the Petitioner about the non deposit of full amount of bill dated 29.11.2015 for a sum of Rs.17,40,256/- for the period from 16.09.2015 to 20.11.2015 . The Petitioner apprised the Respondent that it had not received any such bill in the past, therefore, the issuance of energy bill dated 29.11.2015 for the period from 16.09.2015 to 20.11.2015 for a sum of Rs.17,40,256/- was illegal and unjustified.

1. The Petitioner requested the Revenue Accountant to waive off the

compound interest and surcharge amounting to Rs.6,89,990/- for the period from 12/2015 to 08/2018, so that the Petitioner may be able to deposit the remaining amount of Rs.9,90,429/- for the actual energy consumption after adjusting the amount of Rs.7,49,827/-, already deposited by the Petitioner vide manual receipt no.40/48169 dated 23.11.2015. The Petitioner stated that there was no fault on the part of the Petitioner as the Respondent never delivered any such energy bill to the Petitioner in the past nor had ever shown any arrear amount in the subsequent energy bills from 12/2015 till 08/2018. But, the Respondent did not accede to the request of the Petitioner.

1. Aggrieved with the demand raised, the Petitioner filed a Petition

dated 08.10.2018 in the Forum, who, after hearing, passed the order dated 26.11.2018, upheld the demand raised on account of surcharge and interest on the unpaid amount of bill dated 29.11.2015.

1. The onus was on the part of the Respondent for not delivering the

energy bill dated 29.11.2015, which was delivered in the year 2018 and could not be passed on to the innocent Petitioner.

1. In view of the submissions made above, the Appeal may be allowed

by setting aside, with costs, the order ibid of the Forum.

1. **Submissions of the Respondent:**

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

1. The Petitioner was having a Large Supply Category connection,

bearing Account No.3003018230, with sanctioned load of 1356.930 kW and contract demand (CD) of 800 kVA.

1. An energy bill was issued to the Petitioner for Rs.17,40,256/- on

29.11.2015 ( with due date 09.12.2015) for 2,21,738 kVAh units for the period from 16.09.2015 to 20.11.2015. In between, the Petitioner deposited Rs.7,49,827/- vide manual Receipt No.40/48169 dated 23.11.2015, but did not deposit the balance amount of the bill issued on 29.11.2015 for Rs.17,40,256/-.

1. The subsequent bill was issued on 28.12.2015 for Rs.24,56,760/-

(Current bill Rs.7,16,250/- + previous balance Rs.17,40,510/-). The above bill was corrected to Rs.7,16,250/- (current amount) by the then Revenue Accountant and was accordingly deposited by the Petitioner on 06.01.2016.

1. The balance/unpaid amount Rs.9,90,429/-(Rs.17,40,256 -7,49,827/-)

had wrongly been credited to the account of the Petitioner by usage of Check lot incorrectly by the Revenue Accountant.

1. The above omission was detected during scrutiny of account of the

Petitioner in 08/2018.

1. On detection of the said mistake, the Petitioner was served with a

supplementary bill dated 31.08.2018 for Rs.16,80,329/- along with calculation sheet and details of the bill with the direction to deposit the unpaid amount of Rs.9,90,429/- and also the surcharge and interest of Rs.6,89,900/- from 12/2015 to 08/2018 as per Clause No.21 of the General Conditions of Tariff in Tariff Order for the FY 2015-16.

1. On receiving the aforesaid notice, the Petitioner personally visited

the office of the AEE/Commercial and was apprised of the wrong Check lot posted by the Revenue Accountant and was fully satisfied by the Respondent.

1. But the Petitioner was aggrieved with the demand raised and filed a

Petition in the Forum, who, after hearing passed the Order dated 26.11.2018 upholding the demand raised.

1. Not satisfied with the order of the Forum, the Petitioner preferred an

Appeal in this Court and prayed to to set aside the order dated 26.11.2018, passed by the CGRF, with cost in the interest of justice.

1. The Petitioner had admitted in the present Appeal that it had

received the energy bill amounting to Rs.24,56,760/- issued on 28.12.2015 which included Rs.17,40,510/- as arrears of previous energy bill for which, the Petitioner pleaded that it had not received the same i.e. bill dated 29.11.2015.

1. The Petitioner deposited the tentative amount of Rs.7,49,827/- on

23.11.2015 just 6 days before the issue of next (subsequent) bill dated 29.11.2015 for a sum of Rs.17,40,256/- for the period from 16.09.2015 to 20.11.2015 (65 days). The said energy bill had been correctly issued on 29.11.2015 in SAP billing System for consumption of 2,21,738 kVAh units.( due date for payment was 09.12.2015).

1. The subsequent bill for the period from 20.11.2015 to 17.12.2015

(27 days) for 91,201 kVAh units amounting to Rs. 24,56,760/- was correctly issued on 28.12.2015, which included current bill amount Rs.7,16,250/- + previous balance amount Rs.17,40,510/- and was payable by due date as 07.01.2016.

1. The Petitioner had accepted in its Petition that it had received the

said bill for total amount Rs.24,56,760/- issued on 28.12.2015 and appended its receipt stamp dated 06.01.2016 on the said energy bill. The Petitioner paid only current amount Rs.7,16,250/- on 06.01.2016 within due date after getting it corrected from the Revenue Accountant.

1. The Petitioner pleaded that it was innocent and had deposited

Rs.7,16,250/- since the bill dated 28.12.2015 amounting to Rs.24,56,760/- was corrected by the Revenue Accountant under its signatures on the bill. No doubt, the energy bill was corrected by the Revenue Accountant as Rs.7,16,250/-, but it was to be corrected for Rs.17,06,933/- ( Rs.24,56,760-7,49,827/-). But, the Petitioner was well acquainted with the fact that it had paid only Rs.7,49,827/- on 23.11.2015 as the tentative amount for the period from 16.09.2015 to 16.10.2015 which was not issued in SAP billing System in the month of 10/2015. The Petitioner may not have disclosed to the Revenue Accountant that the bill corrected/amended for Rs.7,16,250/- was incorrect. Therefore the Petitioner had not paid the full payment of the energy bill i.e. Rs.24,56,760/- and concealed this fact in its own interest.

1. If the Revenue Accountant had corrected the bill for less amount by

Rs.9,90,693/-, it was very much in the knowledge of the Petitioner that he had paid Rs.7,49,827/- instead of Rs.17,40,256/- and was taking undue benefit of Rs.9,90,429/- and kept mum for its own interest.

1. The Petitioner was well aware that a wrong credit/refund of

Rs.9,90,693/- had been given by the Revenue Accountant. The Respondent had suffered this loss of interest and late payment surcharge amounting to Rs.6,89,900/- for the period from 12/2015 to 08/ 2018 so raised.

1. The Petitioner had not deposited the energy charges in the month of

10/2015 which were carried forwarded in the month of 11/2015 and also 12/2015. However, the Revenue Accountant, by using Check lot facility, had incorrectly credited the entire amount which had become due from the Petitioner in the bill issued during 12/2015 and against which an amount of Rs.9,90,429/- was not deposited by the Petitioner and was also not carried forward due to the wrong credit given by the Revenue Accountant. The Petitioner being the ultimate beneficiary of the above entries was fully aware of the same and was liable to pay the excess credit given in the account along with interest and surcharge as per provisions of the Tariff Orders as demanded by the Respondent vide provisional notice bearing No.9461 dated 31.08.2018, issued to the Petitioner.

1. The Forum had rightly decided the case by passing speaking order.
2. The Revenue Accountant, who allowed wrong/ excess credit to the

account of the Petitioner by usage of incorrect Check lot, had been charge sheeted vide Charge Sheet dated 25.10.2018.

**(xx)** Keeping in view the submissions made, the Appeal may be dismissed.

4. **Analysis:**

The issue requiring adjudication is the legitimacy of the demand of unpaid amount of Rs.9,90,429/- relating to bill dated 29.11.2015 ( due to wrong/excess credit given to the account of the Petitioner) alongwith surcharge and interest thereon from 12/2015 to 08/2018.

*The points emerged in the case are deliberated and analysed as under:-*

1. The dispute relates to non-payment of full amount of energy bill

dated 29.11.2015 for Rs.17,40,256/- by the Petitioner for the period from 16.09.2015 to 20.11.2015 and resultant surcharge and interest from 12/2015 to 08/2018. The Petitioner visited the office of the AEE/Commercial, PSPCL, on 23.11.2015 as the bill for 10/2015 was not issued. The Petitioner, then, deposited tentative amount of Rs.7,49,827/- on 23.11.2015 i.e. six days prior to issuance of bill dated 29.11.2015. Subsequently, the Petitioner was issued another bill dated 28.12.2015, for the period from 20.11.2015 to 17.12.2015, amounting to Rs.24,56,760/- with due date 07.01.2016. This bill included arrear of Rs.17,40,510/- for upaid amount for the period from 16.09.2015 to 20.11. 2015. The above bill was got corrected by the Petitioner from the Revenue Accountant on 29.12.2015 from Rs.24,56,760/- to Rs. 7,16,250/-. The Revenue Accountant, by the incorrect usuage of Check lot credited wrongly the entire amount of Rs.24,56,760/- to the Petitioner’s account for the Energy Bill issued to the Petitioner on 28.12.2015 against deposit of only Rs.7,49,827/- on 23.11.2015 and also Rs.7,16,250/- deposited on 06.01.2016. Thus, a sum of Rs.9,90,429/- (Rs.17,40,256 relating to bill dated 29.11.2015 minus the amount of Rs.7,49,827/-) remained unpaid against bill dated 29.11.2015 for which, the Petitioner was directed by the Respondent to deposit the same along with surcharge and interest thereon from 12/2015 to 08/2018 vide notice dated 31.08.2018.

1. During the course of hearing dated 05.03.2019, the representative

of the Petitioner as well as the Respondent reiterated the submissions already made in the Appeal and written reply respectively. At the end of hearing, the Petitioner’s Counsel (PC) requested for fixing another date to enable him to submit written arguments supported with Judgments of various Courts on the subject. The request of the Petitioner’s Counsel (PC) was allowed and directions were issued to the Petitioner’s Counsel (PC) to submit the written arguments, Citations etc. to this Court with a copy to the Respondent on or before 22.03.2019. The Respondent was also directed to send para-wise comments on the above submissions of the Petitioner to this Court with a copy to the Petitioner on or before 29.03.2019. Both the sides were informed that next hearing will be held on 02.04.2019.

1. In compliance to the directions issued on 05.03.2019, the Petitioner’s

Counsel sent the written arguments reiterating the submissions made in the Appeal and cited following judgments in support of its case to this Court under intimation to the Respondent as under:

1. ***RSA No.587 of 2016 (O&M): titled******Uttar Haryana Bijli Vitran Nigam Ltd & Anr Vs. Daulat Ram & Anr****, decided on 21.04.2016 by the Hon’ble Punjab and Haryana High Court.*
2. ***CWP No.10764/2001: titled Maharasthra State Electricity Distribution Company Ltd. Vs. The Electricity Ombudsman, Mumbai,*** *decided on 12.03.2019.*
3. ***2017 AIR (Calcutta High Court) 284-Abdul Hamid & Anr Vs. Bengal State Electricity Distribution Company Ltd & Ors****.*
4. ***2015(23) RCR (Civil) 123 Managing Director, Dakshini Haryana Bijli Vitran Nigam Ltd. Hisar Vs. Inder Pal***
5. ***2014(47) RCR (Civil) 248- Shushila Purushottam Modak Vs. Executive Engineer, Maharashtra State Electricity Distribution Company Ltd & Ors****.*

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1. ***RSA No.4286 of 2011****, decided on 07.08.2018* ***by the Punjab and Haryana High Court in case titled******M/S Guru Nanak Plastic Industries Vs. PSEB ( now PSPCL) & Ors****:.*

In the next hearing held on 02.04.2019, the Petitioner’s Counsel argued at length and submitted that the Petitioner was willing to pay actual energy consumption charges due but was not liable for making payment of surcharge and interest on such amount as the onus for not raising the demand/arrears of unpaid energy consumption charges amounting to Rs.9,90,429/- against bill dated 29.11.2015, through subsequent energy bills issued during January 2016 to July 2018, rested with the Respondent-PSPCL.

The Respondent contested the avements of the Petitioner’s Counsel and stated that:

1. The acknowledgment by the Petitioner, in token of receipt of bill issued on 29.11.2015 amounting to Rs.17,40,256/- for the period from 16.09.2015 to 20.11.2015 issued by the office of the AEE(Commercial) could not be traced despite best efforts. However, the receipt of the amount bill issued on 28.12.2015 for Rs.24,56,760/- was available as also admitted by the Petitioner. In this bill, the arrear amount of the previous bill issued on 29.11.2015 amounting to Rs.17,40,256/- was included.
2. The contention of the Petitioner that it had not received the bill dated 29.11.2015 for Rs.17,40,260/- due to which it was not liable to pay this amount, at present was not maintainable as it had admitted that it had received the next bill issued on 28.12.2015, wherein the arrears of bill previously issued on 29.11.2015 was included.
3. The arrear amount shown in the bill dated 28.12.2015 for Rs.17,40,260/- for the previous period of 16.09.2015 to 20.11.2015 (65 days) and the current amount of this bill was Rs.7,16,247/- and the total amount of this bill was Rs.24,56,760/- and the arrear amount shown in the bill was an indication and intimation to the consumer by the PSPCL that it had not paid the previous bill dated 29.11.2015 in full.
4. The said bill issued on 28.12.2015 was wrongly corrected by the Revenue Accountant (RA) by deducting total arrear amount shown in the bill as Rs.17,40,510/- instead of Rs.7,49,827/- and posting wrong Check lot for the total arrear amount of Rs.17,40,510/- instead of only Rs.7,49,827/- paid on 23.11.2015. In this way, the bill dated 28.12.2015 was wrongly corrected by affording excess credit of Rs.9,90,683/- (Rs.17,40,510 - 7,49,827/-) by the Revenue Accountant who corrected this bill restricting the payable amount as Rs.7,16,250/-. The Petitioner was well acquainted with the fact that it had not paid the bill for the month of 11/2015 also and was, thus, taking undue benefit to the extent of Rs.9,90,683/- and kept silent about this fact and the mistake/excess credit/wrong Check lot posted by the Revenue Accountant which was detected on the scrutiny of the accounts as per the directions of the higher authorities whereafter, notice bearing No.9461 dated 31.08.2018, for Rs.9,90,429/- asking the Petitioner to deposit the excess refund (Rs.17,40,256-7,49,827/-) + 49,521/- surcharge plus interest Rs.6,40,379/- making total demand as Rs.16,80,329/- was issued.
5. The contention of the Petitioner that the amount raised was time barred was not maintainable in the light of the instructions contained in Commercial Circular No.05/2012 dated 14.03.2012 issued by the PSPCL as per which, the limitation started from the date of detection of the mistake/under assessment i.e. in present case ,31.08.2018 is the date of issue of Notice No.9461. Hence, this demand was not time barred. Besides, it was a case of non payment of regular legitimate dues and not of short or under assessment of such dues.
6. The averment by the Petitioner’s Counsel about the applicability of decision of the Hon’ble Supreme Court in Civil Appeal No.13164 of 2007 in the case of Sisodia Marble and Granites Pvt. Ltd V/s. Ajmer Vidyut Vitran Nigam Ltd, in the present Appeal was not sustainable as the aforesaid Appeal filed by Sisodia Marble and Granites Pvt. Ltd was dismissed by the Apex Court vide order dated 17.05.2007 as under:

*“ We do not find any ground to interfere with the impugned order. The Civil Appeal is accordingly dismissed*”.

The aforesaid Civil Appeal was preferred in the Apex Court against the order dated 14.11.2016 of Hon’ble Appellate Tribunal for Electricity (APTEL) in Appeal Nos. 202 and 203 of 2006 decided on 14.11.2006. Accordingly, the disputed amount involved in this Appeal case was not time barred, as contented by the Petitioner’s Counsel (PC).

1. The Forum (CGRF) correctly decided the case in favour of the PSPCL that the amount charged was correct and recoverable. It was worth mentioning that the interest/surcharge had been charged as per rules and regulations of PSPCL on wrong/ excess refund of unpaid amount and not on the subsequent bills issued during 03/2016 to 08/2018. Besides, the Revenue Accountant (RA) concerned who put wrong excess refund/Check lot, had been charge sheeted vide Charge Sheet No.169 dated 29.10.2018, issued vide Memo No.9712 dated 01.11.2018, received by it on 02.11.2018.
2. As the PSPCL was providing essential services and spending huge amounts on Production, Transmission and Distribution, costs of electricity supplied to the consumers and also depended on borrowings by paying interest. If the revenue for sale of electricity was not paid by the consumers in time, then it put more economic burden on the PSPCL for sustaining the loss due to delay/late receipt of the revenue from the consumers. This consumer was benefited financially for about three years by not making timely payment of regular bills for energy consumed by it and the PSPCL had sustained a great financial loss. The consumer was thus liable to pay the surcharge and interest to the Respondent with outstanding energy consumption amount which remained unpaid till date. Hence the Appeal may be dismissed.

I have perused the oral and written arguments of the Petitioner and its Counsel vis-à-vis defence put forward by the Respondent. As per material on record, the acknowledgement in token of delivery of energy bill dated 29.11.2015 ( 16.09.2015 to 20.11.2015) amounting to Rs.17,40,260/- is not available with the Respondent. There is, however, no denying the fact that the subsequent bill dated 28.12.2015 amounting to Rs.24,56,760/- (including the arrears of previous bill of Rs.17,40,260/-) was duly received by the Petitioner who got it corrected from the Revenue Accountant (RA) as for Rs.7,16,250/- ( amount of current bill only) and deposited the same on 06.01.2016. It is also clear that the Revenue Accountant (RA), by using Check lot facility, wrongly credited the entire amount of bill dated 28.12.2015 for Rs.24,56,760/- to the account of the Petitioner instead of crediting Rs.7,49,827/- (deposited manually on 23.11.2015) and Rs.7,16,250/- (deposited on 06.01.2016). Thus, a sum of Rs.9,90,683/- was not deposited by the Petitioner and was also not carried forward in subsequent bills due to the wrong credit given by the Revenue Accountant and also due to the reason that the said payments were made vide manual receipt and not in SAP billing System. The Petitioner, being the ultimate beneficiary of the above entries, was fully aware of the same and also of the fact that details of energy consumption from January to November 2015 were duly mentioned in the bill dated 28.12.2015 admitted by the Petitioner as having been received. Likewise, the bills issued subsequently to and paid by the Petitioner contained the details of months to enable it to make comparisons and draw conclusions accordingly. But the Petitioner did not point out any discrepancy knowing well that it had not paid fully for the energy consumed, which was not expected from a Large Supply category consumer who must be maintaining proper records of all bills received and paid. If a Petitioner has the right to get the bill showing higher charges by the Respondent to be corrected and reduced, it has a moral duty to get the bill showing lower charges by the Respondent to be corrected and enhanced.

I find that the Forum has, vide its order ibid, directed the Dy. Chief Engineer, DS Circle, City West, PSPCL, Ludhiana to take disciplinary action against the delinquent official for wrong credit given to the Petitioner’s account by misusing his official position and in conniving with the Petitioner in a fraudulent manner incurring financial loss to the Company.

*I observe that the Large Supply consumers were getting energy bills every month and with the operationalization of SAP billing System, energy bills were available online and could be generated from the website of the PSPCL. I also observe that the Petitioner, being a Large Supply Category consumer, should have approached the Addl.SE / Sr.Xen/AEE (Commercial) and brought the matter of non issuance/non delivery of disputed bills, if any, to their notice in writing instead of contacting the Revenue Accountant etc. for the purpose. Had the Petitioner taken that care, the present dispute would not have arisen.*

*I* find *that the Revenue Accountant acted beyond its jurisdiction by correcting the bill in its hand and in the SAP Billing System by reversing the entries and crediting the amount of disputed unpaid bill dated 28.12.2015 to the account of the Petitioner by usuage of check lots, on its own* ***without approval of the competent authority i.e. AEE/Commercial, DS Estate Division (Special), Ludhiana******who is the authority competent to sign the original bill and any amendment thereto.***

I have also gone through the submissions of the Respondent, in its defence, that this was a case of non payment of regular energy bills and not of under assessment of dues. Besides, the demand raised 0n 31.08.2018 was within time and not time barred in terms of provision of Commercial Circular (CC) No.05/2012 dated 14.03.2012. I find merit in the contention of the Respondent that the amount charged to the Petitioner by way of Surcharge and interest on the disputed unpaid bill was correct and recoverable as also decided by the Forum.

I observe that instructions contained in the PSPCL Commercial Circular No.05/2012 dated 14.03.2012, issued in pursuance of decision of Hon’ble Punjab and Haryana High Court in LPA No. 605of 2009, have not been set aside by any Court of Law. I also observe that the citations referred to by the Petitioner’s Counsel have been quoted out of context and are not relevant to the facts and circumstances of this case.

*I find that part amount of the bill dated 28.12.2015 for the period from 20.11.2015 to 17.12.2015 amounting to Rs.24,56,760/- has remained unpaid till date. The Petitioner, being a Large Supply Category consumer cannot escape responsibility by not examining the matter in proper perspective, not maintaining proper records of bills received and paid as per energy consumed and not ensuring to make payment accordingly as per details given in bill dated 28.12.2015 received by it. At the same time, the Respondent defaulted in performing its duty efficiently and intelligently by not ensuring discharge of its functions/responsibilities as per its own rules and instructions for timely realization of its legitimate dues from the consumers and keeping a watch on correction/amendments in the bills correctly.*

*(ii)* Petitioner’s Counsel strongly objected to the observations of the

Forum, in its order dated 26.11.2018 in Case No.382 of 2018, made as under:

*“Dy.CE/Operation Circle, City West, Ludhiana is directed to take disciplinary action against the delinquent official for wrong credit to Petitioner by misusing his official position and conniving with Petitioner in a fraudulent manner incurring financial loss to the Company”.*

I have perused the observations ibid of the Forum and am of the considered view that in the absence of valid evidence and regular/ timely payment for electricity bills by the Petitioner of this unit and other units, the connivance between the Revenue Accountant and the Petitioner can not be established. Accordingly, the observation of the Forum in this regard is not sustainable and is thus expunged.

**5. CONCLUSION***:*

From the above analysis, the legitimacy of the demand of unpaid amount of Rs.9,90,429/-, relating to the energy bill dated 29.11.2015 amounting to Rs.17,40,256/-, along with surcharge and interest thereon, proves beyond doubt.

**6**. **Decision:**

**As a sequel of above discussions, the order dated 26.11.2018 of the CGRF in case No. CG-382 of 2018 is upheld except for the observations regarding connivance between the Petitioner and the Revenue Accountant.**

**7.** The Appeal is disposed of accordingly.

**8.** Chief Engineer/Commercial, PSPCL, Patiala shall issue instructions to all Engineers-in-Chief and Chief Engineers/DS Zones to direct the Additional Superintending Engineers/ Senior Executive Engineers/DS within their respective jurisdiction to ensure that any correction/amendment in the energy bills issued to the consumers is made with the approval of the Designated Officer/Competent Authority. It shall also be ensured that entries of payments of bills, after correction, made through manual receipts are invariably made in the SAP billing System.

**9.** In case, the Petitioner or the Respondent 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)

April 11th, 2019 Lok Pal (Ombudsman)

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