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

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

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

 **APPEAL NO. 04/2019**

**Date of Registration : 21.01.2019**

**Date of Hearing : 28.03.2019**

**Date of Order : 29.03.2019**

**Before:**

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

**In the Matter of :**

Bedi Knitwears,

Street No.6

Guru Nanak Dev Nagar,

Sunder Nagar, Ludhiana.

 ...Petitioner

 Versus

Senior Executive Engineer,

DS Sunder Nagar Division (Special) ,

 PSPCL , Ludhiana.

 ...Respondent

**Present For:**

Petitioner : Sh. Rajesh Jain,

 Petitioner’s Representative (PR).

Respondent : Er. Deepinder Singh,

 Senior Executive Engineer,

 DS Sunder Nagar Division (Special),

 PSPCL, Ludhiana.

.

 Before me for consideration is an Appeal preferred by the Petitioner against the order dated 13.12.2018 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No.CGL-006 of 2018 deciding that :

 *“ That the ACD deposited by the Petitioner be updated in the system and interest be paid to the Petitioner on updated ACD under Regulation 17.3 of Supply Code-2007 and Regulation No.17.2 of Supply Code-2014 for the period 01.01.2008 to 31.03.2018 applicable w.e.f.01.01.2008 and amended from time to time after getting it pre-audited from AO/Field”.*

**2**. **Condonation of Delay** :

 At the outset, the issue for condonation of delay in filing the Appeal in this Court was taken up. The Petitioner’s Representative (PR) submitted that the present Appeal could not be preferred in this Court within the stipulated period of one month due to the reason that the Petitioner omitted to attach the Annexures including copy of the decision of the Forum which was not intentional and inadvertent. The said fact of non-submission of the required Annexures/Exhibits was pointed out to the Petitioner at the time of submission of the Appeal in this Court on 18.01.2019 for which, the Petitioner was highly indebted and assured that such mistake would not be repeated in future. Thus, the Appeal required to be filed by 15.01.2019 (within one month of receipt of decision of the Forum on 15.12.2018) was filed on 21.01.2019 and delay of six days in filing the Appeal in this Court occurred and may be condoned in the interest of justice.

 The Respondent, in its reply to the Appeal, did not offer any comments on the submissions made by the Petitioner regarding condonation of delay and also did not raise any objection in this regard during the course of hearing.

In this connection, I have gone through Regulation 3.18(ii) of the PSERC (Forum and Ombudsman) Regulation-2016 which reads as under:

“*No representation to the Ombudsman shall lie unless the representation is made within one month of the date of receipt of order of the Forum.*

 *Provided that the Ombudsman may entertain a representation beyond one month on sufficient cause being shown by the complainant that he/she had reasons for not filing the representation within the aforesaid period of one month”.*

 *I observe that though the Petitioner has given reasons for not filing the Appeal within the stipulated period, it ought to be vigilant and should have ensured that Annexures/Exhibits were duly annexed to the Appeal. I also observe that non condonation of delay would deprive the Petitioner of the opportunity, required to be afforded, to seek remedy and would also not meet the ends of ultimate justice. Thus, with a view to deliver justice, the delay of six days in filing the Appeal in this Court is condoned and the Petitioner is afforded an opportunity to present the case.*

**3**.**Facts of the Case*:***

 The relevant facts of the case are that:-

1. The Petitioner was having a Medium Supply (MS) Category

connection with sanctioned load of 99.450 kW and contract demand (CD) of 99.999 kVA.

1. The Petitioner stated that the following amounts of Advance

Consumption Deposit (ACD)and Meter Security were deposited by it with the Respondent:

|  |  |  |
| --- | --- | --- |
| Sr.No. | Amount deposited | Date on which deposited |
| 1 | Rs.300/- | 16.04.1983 |
| 2 | Rs.240/- | 11.09.1985 |
| 3 | Rs.240/- | 24.07.1986 |
| 4 | Rs.4400/- | 18.09.1989 |
| 5 | Rs.4800/- | 29.08.1991 |
| 6 | Rs.16,600/- | 04.05.1999 |
| 7 | Rs.810/- | 18.03.2002 |
| 8 | Rs.68,375/- | 24.10.2007 |
| 9 | Rs.68,375/- | 12.07.2010 |
| 10 | Rs.10,980/- | 12.02.2013 |
| **Total** | **Rs.1,75,120/-** |  |

On the other hand, the Respondent intimated that the Petitioner had actually deposited ACD/ Meter Security amounting to Rs.1,41,500/- as per details given below:

|  |  |  |
| --- | --- | --- |
| Sr.No. | Amount of ACD/Meter Security | Date of Deposit |
| 1 | 300/- | 04.16.1983 |
| 2 | 240/- | 09.11.1985 |
| 3 | 240/- | 07.24.1986 |
| 4 | 4400/- | 09.18.1989 |
| 5 | 4800/- | 08.29.1991 |
| 6 | 16600/- | 05.04.1999 |
| 7 | 810/- | 03.18.2002 |
| 8 | 57055/- | 10.24.2007 |
| 9 | 57055/- | 07.12.2010 |
|  | **Total 1,41,500/-** |  |

1. Ever since the release of the connection, the interest on ACD/ Meter

Security was not paid to the Petitioner by the Respondent in terms of provisions of the Electricity Act-2003 and Regulation 17.4 of the Supply Code-2007 amended vide Regulation 17.3 of the Supply Code-2014.

1. Aggrieved with the inaction on the part of the Respondent, the

Petitioner filed a Petition No.CGL-06 of 2018 dated 23.10.2018 in the CGRF, Ludhiana who, after hearing, passed the order dated 13.12.2018. (Reference: Page-2, Para-2).

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

an Appeal in this Court and prayed that the orders ibid of the Forum be set aside and the Petitioner be allowed interest on the ACD/Meter Security on the basis of Regulations 17.4 of Supply Code 2007 amended vide Regulation 17.3 of Supply Code-2014 (applicable from 01.01.2015)*.*

**4. 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 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 Medium Supply (MS) Category

connection, bearing account No.3002800807, with a sanctioned load of 99.450 kW and contract demand (CD) of 99.999 kVA.

1. The Petitioner was paying regularly the energy consumption bills

raised by the Respondent within the stipulated period as specified from time to time. No arrear was outstanding against the Petitioner till date.

1. The amounts of Advance Consumption Deposit (ACD)/ Meter

Security, deposited by the Petitioner with the Respondent from time to time, were tabulated below:

|  |  |  |
| --- | --- | --- |
| Sr.No. | Amount deposited | Date on which deposited |
| 1 | Rs.300/- | 16.04.1983 |
| 2 | Rs.240/- | 11.09.1985 |
| 3 | Rs.240/- | 24.07.1986 |
| 4 | Rs.4400/- | 18.09.1989 |
| 5 | Rs.4800/- | 29.08.1991 |
| 6 | Rs.16,600/- | 04.05.1999 |
| 7 | Rs.810/- | 18.03.2002 |
| 8 | Rs.68,375/- | 24.10.2007 |
| 9 | Rs.68,375/- | 12.07.2010 |
| 10 | Rs.10,980/- | 12.02.2013 |
| **Total** | **Rs.1,75,120/-** |  |

1. Ever since the release of the connection, the interest on ACD/ Meter

Security was not paid to the Petitioner by the Respondent as per provisions of the Electricity Act-2003 and Regulation 17.4 of the Supply Code-2007 amended vide Regulation 17.3 of the Supply Code-2014.

1. The Petitioner calculated the amount of interest which amounted to

Rs.3,14,548/- and the Respondent was liable to pay the same to the Petitioner as per Regulation 17.4 of Supply Code-2007 (effective from 01.01.2008) and 17.3 of Supply Code-2014 (applicable from 01.01.2015).

1. The Forum, in its order dated 13.12.2018, held that the Petitioner

was entitled to get the interest applicable under Regulation 17.3 of Supply Code 2007 amended Regulation 17.2 of Supply Code-2014 as the Petitioner neither approached the Respondent to get its ACD updated in the System/monthly bills nor demanded any interest on ACD for a long period of 10 years. The Petitioner was equally responsible for not bringing the fact of non-updation of ACD/Meter Security and non-credit of interest in its account. Therefore, the Forum held that the claim of the Petitioner to allow interest under Regulation 17.4 of Supply Code 2007 and Regulation 17.3 of Supply Code 2014 was not maintainable. The above order of the Forum was arbitrary and without any cogent reasons as it was the duty of the Respondent to up-date ACD/Meter Security in its System and pay interest without any demand from the Petitioner.

1. Keeping in view the submissions made, the Appeal may be

allowed in the interest of justice.

1. **Submissions of the Respondent:**

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

1. The Petitioner had incorrectly claimed that the following amounts shown in its bills pertained to ACD/ Meter Security :

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Sr.No | Reference to Sr. No. of Annexure to the Appeal | Amount of ACD shown by the Petitioner ( in INR) | Date of deposit mentioned | Remarks |
| i. | 8 | 68,375/- | 24.10.2007 | Amount actually charged was Rs.57,055/- mentioned in Notice issued vide letter no.5531 dated 17.10.2007 |
| ii. | 9 | 68,375/- | 12.07.2010 |
| iii. | 10 | 10,980/- | 12.02.2013 | Related to SOP and not ACD as it was total of Rs.9716/- plus 13% ED (Rs.1263/-) as per Ledger |

1. Credit of interest of Rs.193/- and Rs.517/- was given to the Petitioner during the year 2016-17 and 2017-18 respectively.
2. The Petitioner was equally responsible for late credit of interest as it had never made any representation earlier to the Respondent pointing out any grievance about non-updation of Meter Security/ACD and non credit of interest though the energy bills issued were regularly paid by it.
3. The amount of refund claimed by the Petitioner was not correct. The refund, as after TDS, was actually worked out to Rs.1,29,680/- as per calculation sheet verified by the Revenue Audit Party, DS Sunder Nagar Division (Special), Ludhiana.
4. In view of the submissions made, the Appeal may be dismissed.

5. **Analysis:**

The issue requiring adjudication is the legitimacy of the claim of the Petitioner for allowing interest on Advance Consumption Deposit (ACD) and Meter Security (deposited during the period from 16.04.1983 to 12.07.2010) from 01.01.2008 to 31.03.2018 in terms of provisions contained in Regulation 17.4 of the Supply Code-2007 amended vide Regulation 17.3 of the Supply Code-2014 instead of interest allowed as per Regulation 17.3 of the Supply Code-2007 amended vide Regulation 17.2 of the Supply Code-2014 respectively.

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

In the present dispute, the Petitioner has contested the order dated 13.12.2018 of the CGRF, Ludhiana allowing interest on Advance Consumption Deposit and Meter Security in terms of provisions contained in Regulation 17.3 of the Supply Code-2007 amended vide Regulation 17.2 of the Supply Code-2014 instead of under Regulation 17.4 of the Supply Code-2007 amended vide Regulation 17.3 of the Supply Code-2014. Petitioner’s Representative (PR) argued that it had deposited Advance Consumption Deposit (ACD) and Meter Security with the PSPCL amounting to Rs.1,75,120/- during the period from 16.04.1983 to 12.02.2013 but was not paid interest from 1.1.2008 to 31.03.2018 except Rs.193 and Rs.517/- paid as interest during the year 2016-17 and 2017-18 respectively. Petitioner’s Representative (PR) added that the Respondent was responsible for not updating the Advance Consumption Deposit (ACD) and Meter Security in its System due to which, interest on the amount deposited by the Petitioner was not allowed in time by the Respondent who was liable to pay interest as per provisions of the Electricity Act-2003, Regulation 17.4 of the Supply code-2007 and Regulation 17.3 of the Supply Code-2014.

 The Respondent, in its defence, submitted that the Petitioner had actually deposited Advance Consumption Deposit (ACD) and Meter Security amounting to Rs.1,41,500/- only during the period from 16.04.1983 to 12.07.2010 instead of Rs.1,75,120/- claimed by the Petitioner as per details given in Para-4(b)(i)**.** The Respondent added that the Petitioner neither represented to the Respondent for updation of Advance Consumption Deposit (ACD) and Meter Security in PSPCL System nor asked for interest on the amount deposited during a long period of 10 years. As such, the order dated 13.12.2018 of the Forum to allow interest as per Regulation 17.3 of the Supply Code-2007 amended vide Regulation 17.2 of the Supply Code-2014 was correct and justified.

 In this connection, I have perused Section 47(4) of the Electricity Act which provides as under:

“ *That the distribution licensee shall pay interest equivalent to the Bank rate or more, as may be specified by the concerned State Commission on the securities referred to in sub section (i) and refund of securities on the request of the person who gave such securities”.*

 I find that the Petitioner has also placed reliance on Regulation 17.4 of the Supply code-2007(effective from 01.01.2008), which reads as under:

*“ In the event of delay in effecting adjustment due to consumer as per the regulation 17.3, the distribution licensee will for the period of delay pay interest at twice the SBI’s short term PLR prevalent on 1st  April of the relevant year”.*

The above provisions were substituted as Regulation 17.2 of the Supply Code-2014 (amended and made applicable from 01.01.2015) which provides that:

*“ In the event of delay in effecting adjustment due to the consumer as per regulation 17.2, the distribution licensee shall for the actual period of delay pay interest at twice of the SBI’s Base Rate prevalent* on the first of April of relevant year plus 2% ”.

 I observe that though the Respondent was responsible for not updating ACD/Meter Security in the accounts of the Petitioner and its System/records, the Petitioner also remained silent for a long spell of 10 years and did not raise any grievance by making any written reference to the office of the Respondent. The Petitioner had also been negligent in 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 Medium Supply category consumer, was expected to go through and study the energy bills carefully and intelligently and bring the discrepancy, if any, to the notice of the Respondent immediately on noticing it on receipt of the energy bills. It is, therefore, held that the claim of the Petitioner for allowing the interest in terms of provisions of Regulation 17.4 of the Supply Code-2007 amended vide Regulation 17.3 of the Supply Code-2014, devoid of merit and is not sustainable.

**6. CONCLUSION:**

From the above analysis, it is concluded that the claim of the Petitioner for allowing interest on Advance Consumption Deposit (ACD) and Meter Security, in terms of provisions contained in Regulation 17.4 of the Supply Code-2007 amended vide Regulation 17.3 of the Supply Code-2014, is without merit and not sustainable as also decided by the CGRF, Ludhiana in its order dated 13.12.2018. However, the Respondent is required to ensure the correctness of the amount of Advance Consumption Deposit (ACD) and Meter Security (deposited by the Petitioner) updated in its System and allow interest accordingly from 01.01.2008 to 31.03.2018 in terms of provisions of Regulation 17.3 of the Supply Code-2007 amended vide Regulation 17.2 of the Supply Code-2014 after pre-audit from the Accounts Officer(Field), PSPCL.

7. **Decision:**

**As a sequel of above discussions, the order dated 13.12.2018 of the CGRF Ludhiana in case No. CG-006 of 2018 is upheld. Accordingly, the Respondent is directed to make refund due correctly after pre-audit as per conclusion arrived at in Para-6 above.**

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

**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)

March 29, 2019 Lok Pal (Ombudsman)

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