**COURT OF THE LOKPAL (OMBUDSMAN),**

**ELECTRICITY, PUNJAB,**

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

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

**APPEAL NO. 41/2019**

**Date of Registration : 17.07.2019**

**Date of Hearing : 19.09.2019**

**Date of Order : 27.09.2019**

**Before:**

**Er. Virinder Singh, Lokpal (Ombudsman), Electricity.**

**In the Matter of:**

Avi Ansh Textiles Pvt. Ltd,

Village- Behra,

Barwala Road,

Dera Bassi

. ...Petitioner

Versus

Senior Executive Engineer,

DS Division,

PSPCL, Lalru

...Respondent

**Present For:**

Petitioner : Sh. R.S. Dhiman ,

Petitioner’s Representative (PR).

Respondent : Er. Inderpreet Singh,

Senior Executive Engineer ,

DS Division,

PSPCL, Lalru.

Before me for consideration is an Appeal preferred by the Petitioner against the decision dated 19.06.2019 in Case No. CGP-113 of 2019 of the Consumers Grievances Redressal Forum (Forum), Patiala stating as under:

*“Petitioner is entitled for application of reduced energy charges for the Financial Year 2018-19 under Two Part Tariff structure @ Rs.4.28 per kVAh for the consumption exceeding the threshold limit as per CC No.26/2018 and policy of PSERC as per Tariff Order for the year 2018-19”.*

**2. Facts of the Case:**

The relevant facts of the case are that:

1. Originally, a Large Supply Category connection was released in the

name of Rajneesh Spinners with sanctioned load of 999 kW and contract demand of 888 kVA on 26.12.2008. Thereafter, the consumer got extended the load and CD to 1499 kW and 1245 kVA respectively on 29.03.2014.

1. Subsequently, the change in the name/title of the consumer from

Rajneesh Spinners to Avi Ansh Textile was effected on 12.04.2016 with sanctioned load/CD as 1499 kW and 1245 kVA, already existing then. The load was got extended by the Petitioner to 4000 kW and contract demand to 3500 kVA on 10.05.2018. Thereafter, the Petitioner applied for reduction in CD from 3500 kVA to 2500 kVA on 16.01.2019 and the same was effected on 21.01.2019.

1. The Petitioner moved an application dated 28.02.2018

for charging reduced energy charges for the Financial Year 2018-19 under Two Part Tariff structure @ Rs. 4.28 per kVAh for the consumption exceeding the threshold limit as per Commercial Circular (CC) No. 26/2018 dated 24.04.2018 and policy of the PSERC as per Tariff Order for the year 2018-19. But, the Respondent did not give the benefit of threshold limit to the Petitioner as per Commercial Circular ibid.

1. The Petitioner felt aggrieved with non grant of benefit of threshold

limit as per CC No.26/2018 and filed a Petition dated 15.04.2019 in the CGRF, Patiala who, after hearing, passed the order dated 19.06.2019. (Reference Page-2, Para-1) giving the benefit of reduced Energy Charges for the Financial Year 2018-19 under Two Part Tariff structure @ Rs. 4.28 per kVAh for the consumption exceeding the threshold limit as per CC No.26/2018. However, interest on the amount to be refunded was not allowed, ***as the Petitioner had not raised any demand on this amount in its Petition there.***

1. The Petitioner preferred the present Appeal in this Court and prayed

thatinterest on the amount refunded as per decision of the Forum may be allowed by the Forum be given in terms of Regulation 2.42 of PSERC (Forum and Ombudsman) Regulations -2016 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 presently running a Spinning Mill under the name

and style of Avi Ansh Textiles Pvt. Ltd. with sanctioned load of 4000 kW and contract demand as 2500 kVA.

1. Originally, the electricity connection was applied and released in the

name of Rajneesh Spinners with sanctioned load of 1499 kW and CD as 1245 kVA under Large Supply (LS) Category.

1. The Respondent-PSPCL allowed rebate on the excess units for FY

2018-19 which consumed more electricity then during FY 2016-17 and 2017-18.

1. The rebate was given at specified rates on the consumption in excess

of this limit.

1. The Petitioner’s Unit fulfilled the conditions laid down in

Commercial Circular (CC) No.26/2018 dated 22.04.2018 and was, therefore, entitled to the rebate admissible as per this Circular.

1. Accordingly, the Petitioner submitted a representation dated

28.02.2018 to the AEE, DS, PSPCL, Dera Bassi to allow the above said rebate in its next Energy Bill but nothing was done despite regular follow up at personal level.

1. Rebate was given to all other eligible consumers, but no action was

taken in the case of the Petitioner.

1. Aggrieved with the inaction of the Respondent, the Petitioner filed a

Petition in the CGRF, Patiala who, after hearing, allowed the said rebate to the Petitioner, but remained silent about the interest thereon in its Order.

1. Aggrieved, the Petitioner preferred an Appeal in this Court for grant

of interest on refund in terms of Regulation 2.42 of PSERC (Forum and Ombudsman) Regulation 2016 and prayed to allow the same.

(**b) Submissions of the Respondent:**

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

1. The electricity connection of the Petitioner was originally in the

name of Rajneesh Spinners with sanctioned load of 1499 kW and contract demand (CD) as 1245 kVA and change in the name was effected in favour of Avi Ansh Textiles Pvt. Ltd on 12.04.2016.

1. Details of Extension/Reduction of load of the Petitioner was as

under:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Year | Existing Load | Extended Load | Reduced Load | Remarks |
| 2016-17 | kW=1499  CD=1245 | Nil | Nil | Change of name done on 12.04.2016 from Rajneesh Spinners to Avi Ansh Textile |
| 2017-18 | kW=4000  CD= 3500 | - | - |  |
| 2018-19 | kW=4000  kVA=2500 | (1499+2501)= 4000 kW  (1245+2255)=3500 kVA | (3500-1000)= 2500 kVA | Extension of load done on 10.05.2018 and Reduction of CD done on 21.01.2019 |

1. The Petitioner had misled the Forum by stating that it had submitted

the representation to the AEE, DS Sub division, Derabassi on 28.02.2018 for getting rebate as per CC No.26/2018. The said Circular No.26/2018 was issued on 24.04.2018. Therefore, it was not possible to submit any representation by the Petitioner for availing the rebate prior to the issuance of the said Circular.

1. The Petitioner was not even eligible for getting the rebate as per

Commercial Circular (CC )No.26/2018 because the Petitioner had

extended its load from 1499 kW to 4000 kW during FY 2018-19 and subsequently reduced the CD from 3500 kVA to 2500 kVA in FY 2018-19 .

**(v)** The Appeal may be decided in view of the submissions made above.

**4. Analysis**

The issues requiring adjudication are the legitimacy of :

1. Entitlement for application of reduced Energy Charges for the Financial Year 2018-19, under Two Part Tariff Structure @ Rs.4.28 per kVAh for the energy consumption exceeding the threshold limit.
2. Allowing interest on the amount refunded as decided by the Forum on the said account.

*The issues emerging in the present dispute are deliberated and analysed as under:*

**Issue No. (i)**

1. A hearing was held on 19.09.2019 when the Representatives of both

the Petitioner and the Respondent reiterated the submissions made in the Appeal and Written Reply thereto respectively.

At the end of deliberations, the Senior Executive Engineer, DS Division, Lalru was directed to submit the following information/documents latest by 24.09.2019 by e-mail ([oep.mohali@gmail.com](mailto:oep.mohali@gmail.com)) to enable this Court to ascertain the factual position and adjudicate the dispute:-

1. Chronology of events from the date of release of the

connection in the name of Rajneesh Spinners.

1. Calculation Sheet for the refund given as per decision

dated 19.06.2019 of CGRF, Patiala in Case No. CGP-113 of 2019.

1. In response, Sr. Xen, DS Division, PSPCL, Lalru e-mailed Memo

No.6268 dated 23.09.2019 furnishing the Chronology of Events relating to the disputed connection as under:

|  |  |
| --- | --- |
| **CHRONOLOGY OF EVENTS** | |
| **DATE OF EVENT** | **PARTICULARS OF EVENTS** |
| 23.04.2008 | **Case applied in the name of M/s Rajneesh Spinners (999kW/888kVA)** |
| 24.12.2008 | **Compliance of New Connection (SJO)** |
| 26.09.2013 | **Case applied for extension of Load (999+500 kW=1499kW & 888+357kVA= 1245 kVA)** |
| 26.09.2013 | **Demand Notice issued for Extension of Load** |
| 29.03.2014 | **Compliance of Extension of Load (SJO)** |
| 22.01.2015 | **Case applied for change of name in favour of M/s Avi Ansh Textile Ltd** |
| 07.10.15, 06.11.15 and 08.12.15 | **ACD depositied in three instalments (Rs 5,58,516/- vide CCR NO. 236/48565 dt.07.10.15, Rs 5,58,516/- vide CCR No. 254/48567 dt. 06.11.15, Rs 5,58,516/- vide CCR No. 245/48568 dt. 08.12.15)** |
| **DATE OF EVENT** | **PARTICULARS OF EVENTS** |
| 03.03.2016 | **APPROVAL FOR CHANGE OF NAME FROM SE OFFICE** |
| 26.03.2016 | **Demand Notice issued for Change of Name** |
| 12.04.2016 | **Compliance of Change of Name (SCO)** |
| 15.02.2018 | **CASE APPLIED FOR EXTN OF LOAD (1499+2501 kw=4000 kw & 1245+2255kva= 3500kva)** |
| 12.04.2018 | **Compliance of Extention of Load (SJO)** |
| 16.01.2019 | **CASE APPLIED FOR REDUCTION OF CD (3500-1000KVA= 2500KVA)** |

1. Sr.Xen DS Division, PSPCL, Lalru also sent, vide e-mail ibid (dated 23.09.2019), the detailed calculations in support of the amount of Rs 34,61,967/- refunded to the Petitioner as per decision of the CGRF, Patiala in this Case.

I have perused Clause(i) of CC No.26/2018 dated 24.04.2018 which reads as under:

**“*The maximum annual consumption in any of the last two financial years shall be taken as threshold. In case the period is less than two financial years i.e. if connection has been released after 31.03.2016, reduced energy charges shall not be permissible”.***

I have noted the contention of the Respondent stating that the Petitioner submitted the representation to the DS Sub division, Derabassi, on 28.02.2018 for getting the rebate whereas, the CC No.26/2018 (allowing the benefit claimed)was issued only on 24.04.2018.Moverover, the Respondent did not allow the rebate of threshold limits as per CC No.26/2018 because the change in title of the consumer’s connection was effected in the name of Avi Ansh Textile Pvt. Ltd. on 12.04.2016 ( after 31.03.2016) i.e after the commencement of the FY 2016-17.

I have perused the decision of the Forum who observed that the Petitioner had applied for change in name, vide Application and Agreement (A&A) No.11140 dated 22.01.2015 with load/CD remaining the same at 1499 kW/1245 kVA , which has also been confirmed by the Sr. Xen , DS Division, Lalru vide e-mail dated 23.09.2019, wherein it was mentioned that the Security(Consumption) was deposited in three instalments by the Petitioner and last instalment was paid by it on 08.12.2015. The change in the name was approved by the Dy.Chief Engineer/DS Circle, S.A.S Nagar vide its office Memo No.2809 dated 03.03.3016**.** Thereafter, Demand Notice was issued vide Memo No.982 dated 26.03.2016 and change in name was effected vide Service Connection Order (SCO) No.74/89883 dated 12.04.2016.

I find that the Forum also observed that the change of name was effected on 12.04.2016 i.e. after a period of almost 15 months from the date of Application and Agreement i.e. 22.01.2015. As per provisions contained in Regulation 11.3 of Supply Code-2014, the distribution licensee is to give effect to transfer of title within prescribed period of 7 working days in case of LT connection and 14 days in case of HT/EHT consumers. The Forum further observed that there was a deficiency in service on the part of the Respondent, as a period of 15 months had been taken to effect the change in name.

I also observe that the deemed date for change of name is to be taken 14 days after deposit of last instalment of Security (Consumption) i.e. by 22.12.2015. Hence, the consumption availed after 22.12.2015 is the consumption recorded by the Petitioner itself. As such, energy consumption for 2016-17 and 2017-18 is eligible for calculating threshold consumption limit for 2018-19. Therefore, there is no violation of Clause (i) of CC No.26/2018. As such, the Forum has rightly given benefit of threshold limit for 2018-19 as a result of which a sum of Rs 34,61,967/- has been refunded to the Petitioner as per information provided by the Sr.Xen, DS Division, PSPCL, Lalru vide e-mail dated 23.09.2019.

**Issue No.(ii)**

The Petitioner has, in the present Appeal, raised the issue of not allowing interest by the Forum on the refundable amount due to its entitlement for application of the reduced energy charges for the Financial Year 2018-19 under Two Part Tariff Structure. Petitioner’s Representative stated during hearing that incentive/relief provided by the Hon’ble PSERC should have been provided by the Respondent-PSPCL without asking by the Petitioner who was denied interest on the refundable amount which was a grave injustice to it. PR added that the Forum kept silent on allowing interest in its decision despite the fact that provisions existed in Regulation 2.42 of the PSERC (Forum and Ombudsman) Regulations -2016.

I have gone through the provisions contained in Regulation 2.42 of PSERC (Forum and Ombudsman) Regulations-2016 which reads as under:

***“The Forum may, subject to the Electricity Supply Code and Related Matters Regulations made by the Commission in this regard, award such compensation to the complainants as it considers just and appropriate in the circumstances of the case”.***

I observe that the Petitioner, in its Petition filed before the Forum, did not raise the issue of allowing interest on the refund claimed. That is why, the Forum did not pass any order in regard to payment of interest claimed by the Petitioner now in the present Appeal.

I also observe that Threshold Limit allowed by the Hon’ble PSERC in Tariff Order FY 2018-19 was different from the one allowed in Tariff Orders of previous years. The Petitioner, being a Large Supply Category consumer, ought to have visited the website of the PSPCL on regular basis to keep itself updated about the incentives offered. Accordingly, it should have applied for Threshold Rebate immediately after issuance of CC No.26/2018 dated 24.04.2018. On the other hand, the Petitioner represented to the Respondent on 28.02.2018 (as stated by it in the present Appeal) when there was no cause of action by the Respondents, the Tariff Order for FY 2018-19 was then not notified by the Hon’ble PSERC. Hence, reference to the representation ibid is not relevant/without merit.

I also observe that being a Large Supply Category consumer, the Petitioner did not pursue its case for change in name with the Respondent after deposit of last instalment of Security (Consumption) i.e. 08.12.2015 while the change in name got effected on 15.04.2016. Though, the Respondent is responsible for the delay in giving approval to the change in title, the Petitioner is equally responsible for not being vigilant. Had the Petitioner followed up the matter promptly and actively with the Respondent, the change in name would have been effected much earlier and it could have got the incentive of threshold limit in time and the present dispute would not have arisen. The contention of the Petitioner that a number of eligible Large Supply Category consumers were granted the above incentive in time and it was denied the same for a long time does not sustain due to its failure to pursue the matter with the Respondent to its logical conclusion with due expedition.

**5. Conclusion:**

From the above analysis, it is concluded that :

1. The order dated 19.06.2019 of the CGRF, Patiala in Case No.CGP-113 of 2019 is correct and does not warrant any interference by this Court.
2. The plea of the Petitioner for allowing interest on the amount refunded as per decision of CGRF, Patiala is not sustainable as discussed in Para-5 {Issue No.(ii) }.

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

**As a sequel of above discussions, the order dated 19.06.2019 of the CGRF, Patiala in Case No. CGP- 113 of 2019 is upheld.**

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

**8**. 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)

September 27, 2019 Lokpal (Ombudsman)

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