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

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

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

 **APPEAL NO. 59/2019**

**Date of Registration : 14.10.2019**

**Date of Hearing : 28.11.2019**

**Date of Order : 29 .11.2019**

**Before:**

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

**In the Matter of :**

Aay Kay Steels,

Village Saidpura,

Tehsil Dera Bassi

 ...Petitioner

 Versus

Senior Executive Engineer,

DS Division ,

 PSPCL, Lalru

 ...Respondent

**Present For:**

Petitioner : 1. Er.R.S.Dhiman

 Petitioner’s Representative (PR).

 2. Sh.Akshay Garg.

 Petitioner.

Respondent : Er.Inderpreet Singh,

 Senior Executive Engineer,

 DS Division ,

 PSPCL, Lalru

 Before me for consideration is an Appeal preferred by the Petitioner against the order dated 19.08.2019 of the Consumer Grievances Redressal Forum (Forum), Patiala in Case No. CGP-160 of 2019, deciding that :

“*Correct bills be issued to the Petitioner from 01.05.2018 onwards till date after making revised calculations as per the actual consumption of the Petitioner as per Tariff Order 2018-19”.*

**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 of date of receipt of order of the Forum due to the reason that copy of the decision of the Forum, sent by the Secretary, CGRF, Patiala, vide Memo No. 1823-24 dated 19.08.2019 by Registered Post, was returned by the Postal Department to the CGRF, Patiala undelivered since the factory of the Petitioner was lying locked as he was getting treatment for Cancer in the bladder. The Petitioner’s Representative (PR) added that copy of decision of the Forum was received by it from the office of the CGRF on 13.09.2019 which could be verified from the office record of the CGRF, Patiala. That is why, delay beyond the stipulated period of one month from the date of receipt of the Order ibid of the Forum had occurred which 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 have been vigilant and should have kept a watch on the uploading of the decision of the Forum on its website or pursued the matter with the office of the Forum/ Respondent after the case was closed on 14.08.2019 by the Forum. 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. With this in view, the delay 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 Category connection

with sanctioned load of 97.740 kW and contract demand (CD) of 100 kVA for which, the metering was being done by providing LT CT operated Static Energy Meter. The connection was used for wire drawing unit and running since 14.10.2002.

1. The Petitioner suffered from serious ailments and due to which,

there was less work in its factory. As a result, it was not regular in making its payments of monthly bills and an amount of Rs.1,50,414/- was outstanding against the Petitioner as in 06/2019.

1. The Petitioner had made only five payments against the monthly

bills during the last two years.

1. The Petitioner was aggrieved with incorrect bills issued from

04/2017 to 06/2019 and filed a Petition in the CGRF, Patiala on 13.06.2019 for computation of correct bills for refund of excess amount already deposited by it. The CGRF, Patiala heard the case and decided that correct bills be issued to the Petitioner from 01.05.2018 onwards till date after making revised calculations as per the actual consumption of the Petitioner as per Tariff Order FY 2018-19*.*

1. In view of the said decision of the CGRF, Patiala, the Respondent

overhauled the account of the Petitioner whereafter, a sum of refunded Rs.1,63,432/- due to miscalculation and Rs.17,058/- due to excess energy units of 2898 kVAh for the bill of June-July 2018, ( thus, total refund of Rs.1,80,490/-) was given by adjustment in the bill for the month of 09/2019.

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

Appeal in this Court and prayed that the Petitioner’s account may be got overhauled from 01/2016 onwards and undue charges recovered from the Petitioner wrongly be refunded with interest*.*

**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 Category connection with sanctioned load of 97.740 kW and contract demand (CD) of 100 kVA
2. The Petitioner was suffering from Bladder Tumour and had to undergo Surgeries on 15.06.2018,11.7.2018 and 20.11.2018 at Fortis Hospital where follow up treatment was still going on.
3. Being sole Proprietor of the Firm, the work at Factory suffered badly as was evident from the consumption pattern. There was hardly any uniform consumption, especially from the time, the Petitioner under went surgeries.
4. Due to these circumstances, the Petitioner could not make regular payment of the electricity bills of its factory.
5. The Respondent, instead of sympathizing with the Petitioner, inflated the bills with wrong calculations and by adding surcharges and interest far in excess of what was applicable as per rules and regulations.
6. Still, the Petitioner made payments of energy dues on 20.04.2017, 02.05.2017 and 20.08.2017 totalling Rs.2,72,758/-.
7. An electricity bill amounting to Rs.5,03,023/- was again raised on 29.01.2018. The Petitioner, being unwell and unable to run its factory, cleared the billed amount by paying Rs.2,75,746/- on 03.02.2018 and Rs.2,71,023/- on 03.03.2018
8. The Petitioner was not satisfied with the correctness of the demands raised, but had to make the payments to keep the connection running.
9. In addition to above, a sum of Rs.2,00,000/- was paid by the Petitioner on 24.12.2018 through two cheques for Rs. 1,00,000/- each of even date. All these payments were admitted by the Respondent. Despite of these payments to the tune of Rs. 10,00,000 , a sum of Rs.1,49,909/- for 903 kVAh units consumed was being shown outstanding against the Petitioner.
10. The Petitioner felt that its energy bills were being inflated wrongly and undue interest and surcharge was being added. As such, the Petitioner was aggrieved with the above billed amount and filed a Petition in the Forum.
11. The Forum decided to direct the Respondent to correct its energy bills from 01.05.2018 onwards as per actual consumption and Tariff Order Financial Year (FY) 2018-19.
12. In compliance of the order ibid, a sum of Rs.1,53,432/- was shown refundable to the Petitioner. The Petitioner was not satisfied with the decision of the Forum as well as calculations made by the Respondent.
13. The Forum had ordered rectification of the Petitioner’s energy bills from 01.05.2018 onwards whereas the Petitioner had prayed for overhauling of its account from 2016 onwards as there was very little work/production in its factory due to its ill health. Actually the position was so bad that there was no work in the factory which was lying locked.
14. The account of the Petitioner for the period prior to 01.05.2018 was not rectified and the rectification done for post 01.05.2018 period was not in order.
15. Approximately 9000 kVAh units extra had been charged over and above the actual consumption from 01/2016. This was clear from the total units charged and units worked out from the Energy Meter readings starting from 01/2016.
16. In view of the submissions made above, the account of the Petitioner be overhauled from 01/2016 onwards duly pre-audited and undue charges recovered be refunded with interest.
17. **Submissions of the Respondent:**

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

1. The Petitioner was having a Medium Supply Category connection with sanctioned load of 97.740 kW and contract demand (CD) of 100 kVA
2. As per the decision dated 14.08.2019 of the CGRF, Patiala, a refund of Rs.1,63,432/- was given to the Petitioner, after pre-audit of the energy bills for the period from 04/2017 to 06/2019 by the AO(Field) Ropar, vide SCANo.52/36/116. Due to excess consumption of 2898 kVAh units in the energy bill for the month of June-July 2018, refund of Rs.17,058/- was given to the Petitioner vide SCA No.38/32/116. Thus. total refund of Rs.1,80,490/- was given by adjustment in the energy bill for 09/2019.
3. In view of the submissions made above, the Appeal may be

 dismissed.

**5.** **Analysis:**

The issue requiring adjudication is the legitimacy of the prayer of the Petitioner for overhauling its account from 01/2016 to 06/2019 and refund of undue charges wrongly recovered with interest.

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

1. The details of the monthly readings, consumption, bills issued and payments made by the Petitioner from 01/2016 to 06/2019 placedon record of this Court revealthat the Petitioner had not been regular in making its payments of monthly bills and an amount of Rs.1,50,414/- was outstanding against the Petitioner as in 06/2019. The Petitioner made only five payments of electricity dues against monthly bills during the last two years.

I find that the concept of Monthly Minimum Charges (MMC) was withdrawn and fixed charges were introduced in 02/2018. Accordingly, the energy consumption by the Petitioner was delinked from Monthly Minimum Charges (MMC) and the Petitioner was to be charged for actual consumption and fixed charges.

I also find that Petitioner was billed for assumed consumption of 1,976 kVAh units and 484 kVAh units during 04/2019 and 05/2019 respectively on ‘D’ Code basis although the Energy Meter of the Petitioner’s connection was OK as was evident from the perusal of the energy bill issued to the Petitioner during 06/2019, despite the fact that its actual consumption from 03/2019 to 06/2019 was 446 kVAh units only. As such, the Petitioner was not billed correctly during this period. Previously too, the Petitioner was billed for assumed consumption of 2347 kVAh units during 06/2018 on ‘S’ Code basis, though the Energy Meter of the Petitioner’s connection was OK. Prior to 06/2018, the energy bills issued were as per actual consumption/ MMC and there was no dispute regarding the same as observed by the Forum in its order.

1. During the course of hearing in this Court, the Petitioner pleaded

that its account from 01/2016 onwards be overhauled and discrepancies in the calculations of the amount charged be rectified and refund of excess deposit with interest be given.

I observe that the Petitioner had, in its Petition in the Forum, not raised any grievance about rectification of bills from 01/2016 to 03/2017 and had requested for correction of bills from 04/2017 to 06/2019 only whereas, in the present dispute, it has requested for overhauling its account from 01/2016 to 06/2019.

I observe that there is merit in the contention of the Petitioner for review/overhauling of its account from 04/2017 to 06/2019 to find any incorrection in computation of energy consumption or rectification of the amounts billed, if any, as such, the account of the Petitioner for the period from 04/2017 to 06/2019 be reviewed/overhauled accordingly.

**6. Conclusion**:

From the above analysis, it is concluded that the account of the Petitioner for the period from 04/2017 to 06/2019 is required to be reviewed/overhauled and discrepancies, if any, in computation of energy consumption and resultant billing be rectified as per rules/instructions of the PSPCL. At the same time, the Respondent-PSPCL is at liberty to take similar action for review/overhauling of the Petitioner’s account from 01/2016 to 03/2017 keeping in view the medical condition of the Petitioner.

**7.** **Decision:**

**As a sequel of above discussions, the order dated 19.08.2019 of the CGRF, Patiala in Case No. CGP-160 of 2019 is modified in terms of conclusion arrived at in Para-6 above. Accordingly, the Respondent is directed to refund/recover the amount due, if any, without interest after adjustment without interest.**

**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)

November 29, 2019 Lokpal (Ombudsman),

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