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

**ELECTRICITY, PUNJAB,**

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

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

 **APPEAL NO. 09/2020**

**Date of Registration : 05.02.2020**

**Date of Hearing :27.05.2020**

**Date of Order : 29.05.2020**

**Before:**

**Er. Gurinder Jit Singh,**

 **Lokpal (Ombudsman), Electricity, Punjab**.

**In the Matter of :**

SAECO Strips Pvt. Ltd.,

Rampur Road, Village Doraha,

Distt. Ludhiana.

**Contract Account Number: K 12-SD 01-00006**

 ...Appellant

 versus

Additional Superintending Engineer,

DS Division, PSPCL,

Doraha.

 ...Respondent

**Present For:**

Appellant : Sh. R.S. Dhiman

 Appellant’s Representative (AR). Respondent : 1. Er. Karamajit Singh

Assistant Engineer,

 DS Sub Urbun , Sub Division,

PSPCL, Doraha.

2. Sh.Balvinder Singh , ARA.

 Before me for consideration is an Appeal preferred by the Appellant against the order dated 13.01.2020 of the Consumer Grievances Redressal Forum (Forum), Patiala in Case No. CGP-314 of 2019, deciding that:

 *“Load of the petitioner as per A&A forms submitted on 06.06.2019 with PIU as 3000 kW/CD 3000 kVA and General as 3285.950 kW/CD 999 kVA be deemed to have been approved w.e.f. 21.06.2019 i.e. 15 days from the date of its submission of the revised A&A forms on 06.06.2019 as per Regulation 8.5 of Supply Code 2014 and bills of the petitioner be revised accordingly.”*

**2*.* Registration of the Appeal**

The Appeal was received in this Court on 05.02.2020 i.e. within one month of receipt of the decision dated 13.01.2020 of the CGRF, Patiala. As the present dispute related to refund of excess charges recovered, the Appellant was not required to deposit the requisite amount (40%) for filing the Appeal. Accordingly, the Appeal was registered and a copy of the same was forwarded to the Respondent to supply the written reply and parawise comments and also to the CGRF, Patiala to send the Case file under intimation to the Appellant vide Memo No. 98-100/OEP/A-09/2020 dated 05.02.2020.

**3.** **Proceedings**

With a view to adjudicate the dispute, a hearing was fixed for 25.03.2020 at 12.30 P.M. and intimation to this effect was sent to both the sides vide Memo No. 151-152/OEP/A-09/2020 dated 18.02.2020. However, the said hearing had to be adjourned till further orders, due to COVID-19 pandemic, and both the parties were informed accordingly vide Memo No. 270-271/OEP/A-09/2020 dated 18.03.2020.

 Subsequently, hearing was fixed for 27.05.2020 at 2 P.M. as per intimation sent vide Memo No.336-337/OEP/A-09/2020 dated 20.05.2020, and was attended by the representatives of the Appellant and the Respondent. A copy of proceedings was sent to both the parties vide Memo No. 349-350/OEP/A-09/2020 dated 27.05.2020.

**4.** **Submissions made by the Appellant and the Respondent**:

With a view to adjudicate the dispute, it is necessary to go through written submissions made in the Appeal by the Appellant and reply of the Respondent as well as oral submissions made by their respective representatives along with material brought on record by both the sides.

1. **Submissions of the Appellant**
2. **Submissions made in the Appeal**

The Appellant made the following submissions in the Appeal, received on 05.02.2020, for consideration of this Court:

1. The Appellant was running a steel furnace unit presently having

the sanctioned load of its electricity connection as 6285.950 kW and contract demand (CD) as 3999 kVA at 11 kV supply voltage.

1. All electricity bills were being paid regularly by the

Appellant. Previously, the sanctioned load and CD of the Appellant’s connection were 4785.950 kW and 2498 kVA respectively and the same were got extended to 6285.950 kW and 3999 kVA respectively on 26.11.2017. The load after extension was mixed, comprising PIU 3000 kW/CD 3000 kVA and General 3285.950 kW/CD 999 kVA.

1. As per Tariff Order, Fixed Charges were introduced by Hon,ble

PSERC w.e.f. 01.01.2018. Accordingly, it was incumbent upon the Respondent to levy respective Fixed charges applicable to PIU and General category load in the bills of the Appellant w.e.f. 01.01.2018. But, no action was taken in this regard despite verbal requests of the Appellant. Having failed to get any response, the Appellant filed a written request dated 15.05.2018 in the office of the AEE, Suburban Sub Division, PSPCL, Doraha pleading for application of Fixed and Energy Charges correctly as per the Tariff Order. The aforesaid request letter was duly got received in the said Office.

(iv) The Respondent did not take any action even on the written request of the Appellant. Thereafter, the Appellant submitted a fresh A& A Form along with processing fee on 06.06.2019 and acknowledgement was taken. The Respondent then, started billing the Appellant correctly as per the Tariff Order w.e.f. 21.09.2019 as may be seen from the bill dated 24.10.2019 wherein Tariff was applied correctly. Even, the processing of fresh A&A Form was not done as per prescribed norms and was unduly delayed .

1. The details of PIU and General load of the Appellant

were available with the Respondent in the Test Reports of the Appellant. As such, the Respondent was duty bound to apply correct Fixed and Energy Charges in the Appellant’s bills suo-motu w.e.f. 01.01.2018. But, they failed to do so despite written and verbal requests of the Appellant.

1. Having failed to get the legitimate refund despite repeated

requests, the Appellant approached the CGRF, Patiala for justice. In its decision, the Forum gave partial relief for delay in processing the A&A Form submitted by the Appellant on 06.06.2019. But the Forum remained silent on the refund accruable to the Appellant on account of wrong application of tariff by the Respondent from 01.01.2018 to 21.09.2019. The Appellant did not agree to this decision and was thus constrained to file the present Appeal.

1. The Appellant had given details of PIU and General load

separately in the test report submitted at the time of extension of load in 2017. It was, therefore, incumbent on the Respondent to levy relevant fixed charges notified by Hon’ble PSERC in Tariff Order with effect from 01.01.2018. The Appellant was not required to apply for application of correct tariff to it.

1. As per General Conditions of Tariff ( ESIM Page 111), the

duty of the Respondent was to determine the requisite tariff and apply it correctly on the basis of nature and quantum of load. As mentioned above, the load had been segregated already by the Appellant and had been sanctioned by the Competent Authority.

1. The Respondent compelled the Appellant to apply afresh for

segregation of load to cover their own failure in the matter of application of correct category of tariff. But, in any case, the Appellant’s right to benefit based on the nature and quantum of its load could be obliterated. The Appellant was entitled to refund of excess charges recovered from it due to application of wrong tariff.

1. It was relevant to mention that PSPCL charged huge amounts to

consumers who had installed induction heaters after Hon,ble PSERC decided to treat such heaters as PIU. The charges were raised on the basis of load mentioned in the test reports of these consumers. The Respondent could not be allowed to use a different yardstick when a case of refund came to fore.

1. The excess charges recovered from the Appellant by applying

wrong fixed charges on its PIU and General Category load w.e.f. 01.01.2018 may be ordered to be refunded with interest to meet the ends of justice.

1. **Submission during Hearing**

Before the start of hearing on 27.05.2020, the Appellant’s Representatives submitted a fresh Vakalatnama from the authorised Signatory (Sh. K.D. Parti) of the Appellant’s firm in his favour and Resolution signed by the Chairman (Sh. Davinder Singh) in favour of Sh. K.D. Parti to defend or authorise further for the same.

The Appellant reiterated mainly the submissions made in the Appeal and prayed to allow the Appeal.

1. **Submissions of the Respondent**
2. **Submissions made in the Written Reply**

The Respondent, in its reply sent vide Memo No. 1116 dated 02.03.2020, made the following submissions for consideration of the Court:

1. The Appellant was having an industrial connection under Large

Supply PIU category and was billed accordingly as per the schedule of Tariff the PSPCL issued from time to time with the approval of PSERC.

1. The Appellant made the payments of bills issued to it

under Large Supply Category (Power Intensive Unit) without any dispute.

1. Thereafter, on 30.05.2017, the Appellant applied for extension

of load vide Application No. 9866 dated 30.05.2017 from 4785.950 kW/2498 kVA to 6285.950 kW with 3999 kVA as contract demand (CD) under PIU category. CE/commercial, PSPCL, Patiala granted the feasibility clearance vide Memo No. 1087/SWS/RID No. 17630 dated 19.05.2017 addressed to M/S SAECO Strips, Village Rampur, Doraha. This letter was duly signed in token of acceptance by the authorized signatory of the Appellant and submitted along with A&A Form while applying for extension of load under PIU Category.

1. It was worth mentioning that even from the perusal of A&A

Form, it was very much clear that the Appellant applied under PIU Category and extension of load was sanctioned accordingly under PIU category by the Competent Authority.

1. On 06.06.2019, the Appellant applied for change of

category and bifurcation of load and sanctioned contract demand through A&A No. 10425 dated 06.06.2019. After getting approval from the Competent Authority, the change of category and bifurcation of load was effected through SJO dated 20.09.2019. Accordingly, bills of the Appellant were started generating on revised category. Now the Appellant wanted that refund from 01.01.2018 to 20.09.2019 should be given to it which, was not in order and no such refund could be given to it under any circumstances.

1. The Appellant requested the Forum for relief. After hearing, the

Forum decided the case on 13.01.2020 and gave the partial relief, which is in order.

1. For implementation of the decision of the Forum, a reference

was made to CBC, Ludhiana vide Memo No. 43 dated 27.01.2020, followed by a reminder vide Memo No 74 dated 20.02.2020.

1. The Appellant was not satisfied with the decision of the

 Forum and preferred the present Appeal for review.

1. It was worth mentioning here that the Appellant deposited

the bills under dispute without any protest. It was an afterthought on the part of Appellant to get some undue benefit from the PSPCL by manipulating the facts and submitting wrong statements.

1. No benefit was due to the consumer for the period from

01.01.2018 to 20.06.2019. The bills of the consumer were rightly raised as per the instructions of the PSPCL. As per decision of the Forum, bills of the Appellant were revised. Thus, it was very much clear that grievance of Appellant had already been redressed as per Regulations of PSPCL. No further relief was due to the Appellant.

 The Appellant was rightly billed as its unit fell under PIU category until 20.06.2019. Thus, the claim of the Appellant needed to be set aside as it was not based on facts.

1. **Submission during Hearing**

During the course of hearing on 27.05.2020, the Appellant reiterated the submissions already made in the Appeal and prayed to allow the same.

**5.** **Analysis and Findings**

 The issues requiring adjudication is the legitimacy of the prayer of the Appellant for refund of excess charges recovered by applying wrong fixed charges on PIU and General Category load from 01.01.2018 to 20.06.2019 as per applicable regulations/tariff orders.

 *The points emerged, deliberated and analysed are as under:*

1. In the A & A form submitted on 30.05.2017 by the Appellant at the time of seeking extension in load/CD, it declared the nature of Industry as Power Intensive unit. As a result, the Respondent approved the whole load under PIU category.
2. The Appellant was paying all the monthly bills from 01.01.2018 which includes fixed charge and energy charges as approved by PSERC from time to time and the Respondent never objected to this.
3. The Appellant claimed that it requested on 15.05.2018 to the Respondent to apply Fixed and Energy Charges correctly as per Tariff Orders i.e. for PIU and General Load , but the Respondent denied the claims of the Appellant and produced copy of Diary Register from 04/2018 to 06/2018 to prove non-receipt of letter dated 15.05.2018.
4. There is merit in the observations of the Forum that mere submission of a request on plain paper for change in category of load/CD was not a valid document. It should be submitted on A & A form and requires approval of the Competent Authority.
5. The Appellant submitted fresh A & A forms on 06.06.2019 bifurcating the load as PIU 3000 kW/CD 3000 kVA and General Load as 3285.950 kW/CD 999 kVA alongwith the details of bifurcation. The same was approved by the Competent Authority. Change of category and bifurcation of load was effected vide Sundry Job Order No. 007/1001 dated 20.09.2019 and Respondent issued the bills on revised category w.e.f. 20.09.2019.
6. I find that the Forum had given the relief to the Appellant w.e.f. 21.06.2019 in view of provisions contained in Regulation 8.5 of Supply Code-2014 which is reproduced as under:

 **Reduction in sanctioned Load/Demand:**

**“**The request for reduction in sanctioned demand/load by a consumer shall be submitted on A&A form prescribed by the distribution licensee along with processing fee and electrical contractor’s test report only in case there is change in connected load and/or electrical installation.

Provided that in case reduction in load/demand results in reduction of supply voltage also, the supply may continue to be given at the existing higher supply voltage. However, in case the consumer opts for supply voltage corresponding to the reduced load/demand and it involves change in the licensee’s distribution system then such consumer shall be liable to pay actual expenditure incurred by the licensee to effect such changes in infrastructure.

The request shall be granted by the distribution licensee within a maximum period of fifteen (15) days from the date of its submission of revised A&A form and deposit of necessary charges, wherever applicable, failing which the demand/load shall be deemed to have been reduced as requested by the consumer.

Provided further that in case a consumer(except seasonal industrial category) requests for increase in his sanctioned contract demand/load upto the original sanctioned demand/load within a period of one year from the date of approval in reduction in demand/load, the same shall be allowed subject to technical feasibility, without recovery of any Service Connection Charges/Line Charges or proportionate cost of the common portion.

Provided also that such option shall be exercised by the consumer only once”.

1. In view of decision of the Forum, the Appellant was given the

relief by the Respondent as per tariff orders of PSERC. The Appellant itself declared the full load as PIU at the time of extending the load/CD, billing for the period 01.01.2018 to 20.06.2019 was correctly done by the Respondent as per Tariff Orders of PSERC and as such, no refund is admissible for this period.

1. With a view to implement the decision of the Forum, the

Respondent had already written to CBC, Ludhiana on 27.01.2020 followed by reminder dated 20.02.2020. During the hearing, the Respondent intimated that CBC had approved RBS.

**6. Decision**

 As a sequel of above discussions, the order dated 13.01.2020 of the CGRF, Patiala in Case No. CGP-314 of 2019 is upheld. The Appellant was rightly billed from 01.01.2018 to 20.06.2019 as its Unit fell under PIU Category upto 20.06.2019 (the day before 21.06.2019 with effect from which, bifurcation of load/CD, applied by the Appellant under PIU and General Category, was deemed to have been approved as per
Regulations).

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

**8.** In case, the Appellant 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.

 (GURINDER JIT SINGH)

May 29, 2020 Lokpal (Ombudsman)

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