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

 **ELECTRICITY, PUNJAB,**

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

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

 **APPEAL NO. 14/2020**

**Date of Registration : 24.02.2020**

**Date of Hearing : 03.06.2020**

**Date of Order : 08.06.2020**

**Before:**

**Er. Gurinder Jit Singh,**

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

**In the Matter of:**

 D.K. Industries,

Village Gehri-Butter,

Bhatinda Dabwali Road,

Tehsil Sangat

Bhatinda

**Contract Account No. B 15-SG 01-00007**

 ...Appellant

 versus

Additional Superintending Engineer,

DS Division, PSPCL,

Bhatinda.

 ...Respondent

**Present For:**

Appellant : 1. Sh. S.R. Jindal

 Appellant’s Representative (AR).

 2. Sh. Mukesh Kumar

 Appellant’s Representative (AR).

Respondent : Er. Hardeep Singh

 Additional Superintending Engineer,

 DS Division, PSPCL,

 Bhatinda.

 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-343 of 2019, deciding that:

*“Threshold rebate for the year 2015-16 be given to the petitioner as per the provision of Tariff Order and the calculation be got pre-audited.*

*Further ToD rebate has been already in the monthly energy bills and nothing more is due on account of ToD Rebate.”*

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

The Appeal preferred by the Appellant against the order dated 13.01.2020 of the Forum was received in this Court by post on 24.02.2020 (with 22.02.2020 and 23.02.2020 being holidays) i.e. within a period of one month of receipt of decision of the Forum. (i.e. 27.01.2020 as stated by the Appellant). The dispute raised by the Appellant related to interest on threshold unit. As such, the requisite 40% amount was not required to be deposited by the Appellant. Accordingly, the Appeal was registered in this Court on 24.02.2020 and a copy of the same

was sent to Addl. S.E., DS Division, PSPCL, Bhatinda for filing written reply and furnishing parawise comments with a copy to the office of the CGRF, Patiala for sending the case file under intimation to the Appellant vide Memo No. 171-173/OEP/A-14/2020 dated 25.02.2020.

**3.** **Proceedings**

A hearing to adjudicate the present dispute was fixed for 27.03.2020 at 12.45 PM and intimation to this effect was sent to both the sides vide Memo No. 204-205/OEP/A-14/2020 dated 02.03.2020. However, owing to COVID-19 pandemic, the said hearing was postponed till further orders. Subsequently, the hearing was fixed for 03.06.2020 at 11.15 AM as per intimation sent to both sides vide Memo No. 366-67/OEP/A-14/2020 dated 28.05.2020.

Accordingly, the hearing held on the said date and time was attended by the representatives of the Appellant and Respondent. A copy of the proceedings was sent to both the sides vide Memo No. 384-85/OEP/A-14/2020 dated 03.06.2020.

**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 24.02.2020, for consideration of this Court:

1. A case was filed directly on 04.12.2019 before the Forum

stating that threshold unit rebate amounting to ₹ 3,56,713/- (2,41,022/- + 1,15,691) as per CC No. 49/2014 had not been allowed in the bills for the year 2015-16.

1. The said case was heard by the Forum on 24.12.2019 and

closed for passing speaking order on the same day. In the order dated 13.01.2020 of the Forum received on 27.01.2020, a sum of ₹ 2,67,824/- was allowed as threshold units rebate as calculated by the Respondent, but interest on the amount was not allowed in view of Instruction No. 115 of ESIM/Regulation 35 of Supply Code-2014.

1. Accordingly, the Respondent allowed refund of ₹ 2,67,824/-

without interest in view of above orders since the order of the Forum was not clear about the payment of interest though the Appellant had claimed the same in the case filed in the Forum . This was despite the fact that the Forum was required to pass speaking order clearly, in terms of provisions of Regulation 2.41 and 2.42 of PSERC (Forum and Ombudsman) Regulations, 2016. But, compliance of the above Regulations was not done by the Forum in this case.

1. The Appellant was having an LS Category connection with

 sanctioned load of 261.680 kW and CD as 290 kVA.

(v) As per instructions contained in CC No. 49/2014 dated 06.10.2014 issued in compliance to order dated 22.08.2014 of Hon’ble PSERC in Petition No. 63 of 2013, rebate @ ₹ 1/- per kWh or kVAh was approved for all categories of consumers w.e.f. 01.04.2014.

(vi) It was noticed that rebate of this account had not been allowed for the year 2015 and 2016 and this grievance was raised before the Forum directly with the prayer for refund of ₹ 3,56,713/- (2,41,022/- + 1,15,691/-) and it was also requested that month wise details of ToD units rebate allowed in the bills with units and amount allowed be supplied from 2015 to 2019 alongwith the reply in view of CC No. 16/2015 dated 07.05.2015 as the Appellant had given the requisite option on 15.09.2015 effective from 01.10.2015.

(vii) The actual amount of rebate allowed on account of threshold units/ToD was not known as the same was not separately calculated in the bills issued. However, the Respondent explained that rebate on account of threshold units for the years 2016 to 2019 had already been allowed, if due.

(viii) In the case filed before the Forum on 04.12.2019, the Respondent submitted reply alongwith calculation sheet of refund of ₹ 2,67,824/- received on 24.12.2019. In response, the Appellant requested the Forum on 24.12.2019 itself to allow interest on the refundable amount of threshold units as PSPCL had charged 18% interest, in the event of failure to make

payment in time, But, the request of the Appellant was not allowed. However, details of ToD units/threshold units rebate from 2015 to 2019 were not supplied alongwith units and amount allowed.

(ix) The Appellant had calculated the amount of interest on ₹ 2,67,824/- as under:

1. Interest from 01.01.2016 to 31.03.2016 @ 12% = ₹ 8,035
2. Interest from 01.04.2016 to 31.03.2017 @ 11.3% = ₹ 30,264
3. Interest from 01.04.2017 to 31.03.2018 @ 11.1% = ₹ 9,728
4. Interest from 01.04.2018 to 31.03.2019 @ 10.5% = ₹ 28,122
5. Interest from 01.04.2019 to 28.02.2020@ 11.05% = ₹ 27,128

**TOTAL** ₹ **1,23,277**

In view of the above facts, interest be allowed with a view to meet the ends of justice as per the instructions of the PSPCL .

1. **Submissions during Hearing**

During the hearing on 03.06.2020, the Appellant reiterated the submissions already made in the Appeal and prayed to allow the same.

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

The Addl. S.E., DS Division, PSPCL, Bhatinda, vide Memo No. 4287 dated 13.03.2020, submitted the following in its defense for consideration of this Court:

1. The Appellant was having a Large Supply Category connection

with sanctioned load of 261.680 kW and contract demand (CD) of 290 kVA since 08.11.2008.

1. The order dated 13.01.2020 of the Forum was implemented and

a refund of ₹ 2,67,824/- on account of rebate of threshold units was given in the bill for the month of 02/2020.

1. Since the claim of the Appellant related to interest on refund of

threshold units, the Appellant was not required to deposit the requisite 40% amount, for filing Appeal in this court.

1. **Submissions during Hearing**

During the course of hearing on 03.06.2020 in this Court, the Respondent reiterated the submissions made in the written reply and prayed to dismiss the Appeal.

5. **Analysis and Findings**

The issue requiring adjudication is the legitimacy of the interest for the period from 01.01.2016 to 28.02.2020 claimed due to delay in refund of threshold units Rebate (given in the bill for February, 2020).

1. The Appellant was having Large Supply Category

connection with sanctioned load of 261.680 kW and contract demand (CD) of 290.750 kVA. The Appellant filed a case in office the CGRF, Patiala on 11.12.2019 for adjudication of the dispute regarding ToD rebate and adjustment on account of consumption being more than threshold limit as per CC No. 49/2014 issued by the PSPCL for the FY 2015-16.The Appellant had also requested the Forum for allowing interest on the amount so refundable from 01.01.2016. The Forum, after hearing the case, gave the relief to the Appellant and decided that threshold rebate for the year 2015-16 be given to the Appellant as per provision of Tariff Order and the calculation be got pre-audited.

The Forum also decided that ToD rebate had been given already in the monthly energy bills and nothing more was due on account of ToD rebate.

1. In its written reply to the Appeal, it has been informed by

the Respondent, vide Memo No. 4287 dated 13.03.2020, that the compliance of decision of the Forum had been made and refund of ₹ 2,67,824/- was given in the bill for the month of February, 2020. In the present Appeal, the Appellant has demanded the interest on the refunded amount from 01.01.2016 to 28.02.2020 due to delay in the payment. The decision of the Forum is silent about the interest.

1. During hearing, the Appellant’s Representatives, on being

asked, did not refer to any Regulation of Supply Code – 2014 for grant of interest. However, the Respondent stated that the Appellant had never given any request in writing about allowing Threshold Units Rebate w.e.f. 01.01.2016 and had raised its grievance in writing by filing Case No. 343 of 2019 on 11.12.2019 in CGRF. The Appellant also stated that he had never requested in writing to PSPCL for allowing threshold limit rebate for the year 2015-16 before filing the Petition in CGRF on 11.12.2019.

1. Though, the Respondent was responsible for not allowing the

threshold limit rebate as per Tariiff Order issued by the Hon’ble PSERC but the Appellant was also responsible for not bringing the matter in the knowledge of Respondent, as the Commercial Circular No. 49/2014 was uploaded on the website of the PSPCL. I observe that the Appellant, being a large supply category was supposed to visit consumer website on daily basis as per instructions of the PSPCL.

I also observe that the Appellant did not bring any evidence on record to prove that it had, after issue of CC No 49/2014 till filling of petition in CGRF Patiala on 11.12.2019 given any application in writing to the Respondent for allowing the Thresh hold units Rebate during the FY- 2015-16. Besides, the Appellant approached the CGRF Patiala in December 2019 i.e. after more than two years of cause of action. Still, the Forum condoned the delay on this account and gave relief by directing the Respondent to allow threshold units rebate.

1. The Appellant defaulted by not claiming the requisite rebate

well in time but had been compensated suitably, by way of allowing this rebate of ₹ 2,67,284 in its energy bill for the month of 02/2020.

The Appellant being a Large Supply Category consumer did not exercise due vigilance/prudence in bringing the fact of not allowing Threshold Units Rebate during the year 2015-2016 in the notice of PSPCL well in time. Had the Appellant pointed out in writing the admissibility of the above rebate after seeing the contents of CC No. 49/2014 on the PSPCL website, the present litigation could have been avoided.

I am of the view that ends of justice would be met if interest on the refunded amount of threshold units rebate is granted to the Appellant in terms of Regulation 35.1.3 of Supply Code – 2014 from the date of filing its Case before CGRF, Patiala on 11.12.2019 till the date of refund in the energy bill for the month of February, 2020.

**6**. **Decision**

As a sequel of above discussions, It is held that the Appellant shall be allowed interest in respect of already refunded amount in terms of provisions of regulation 35.1.3 of Supply Code – 2014 from the date (11.12.2019) of institution of Case in CGRF, Patiala to the date of refund of amount in the energy bill for the month of February, 2020.

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

June 08, 2020 (GURINDER JIT SINGH)

SAS Nagar Mohali Lokpal (Ombudsman)

 Electricity, Punjab.