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

 **ELECTRICITY, PUNJAB,**

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

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

**APPEAL NO. 47/2020**

 **Date of Registration : 01.10.2020**

 **Date of Hearing : ­27.10.2020 and 04.11.2020**

 **Date of Order : 06.11.2020**

**Before:**

 **Er. Gurinder Jit Singh,**

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

**In the Matter of:**

 M/s. Shingora Textiles Ltd.,

 V& P O-Doraha,

 GT Road, Doraha,

 Distt. Ludhiana,

 **Contract Account Number: K11-CD01-00062**

...Appellant

Versus

 Addl. Superintending Engineer,

 DS Division, PSPCL, Doraha,

 Distt. Ludhiana.

 ...Respondent

**Present For:**

 Appellant : 1. Sh. Amit Jain,

 Appellant.

 2. Er. Sukhminder Singh,

 Appellant’s Representative (AR).

3. Sh. Inderjit Singh,

 Appellant’s Representative (AR).

Respondent : Er. Daljit Singh,

 Addl. Superintending Engineer,

 DS Division, PSPCL, Doraha.

Before me for consideration is an Appeal preferred by the Appellant against the order dated 04.09.2020 of the Consumer Grievances Redressal Forum (Forum), Patiala in Case No. CGP-180 of 2020, deciding that:

 *“The amount of Rs. 6,16,522/-charged to the petitioner vide memo no. 269 dated 27.5.2020 on account of revision of deposit estimate amount from Rs. 11,61,474/- to Rs. 17,77,996/- due to additional material already used and still to be used in the work of shifting of load of petitioner from 11KV BTC feeder to 11KV Oswal feeder is recoverable from the Petitioner. However after finalization of this estimate, closure of works account be completed as per Clause No. 11.4 of Supply Code, 2014 and further debit/ credit amount if any be refunded/recovered from the Petitioner”*

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

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 01.10.2020 i.e. within the stipulated period of one month of receipt of the decision dated 04.09.2020 of the CGRF, Patiala in Case No. CGP-180 of 2020 by the Appellant. Besides, the Appellant had already deposited the entire disputed amount of ₹ 6,16,522/- as also confirmed by AEE/ DS City S/D, Doraha vide his office letter no. 724 dated 15.09.2020. Accordingly, the Appeal was registered and copy of the same was sent to the Addl. Superintending Engineer/DS Division, PSPCL, Doraha for sending written reply/parawise comments with a copy to the office of the CGRF, Patiala under intimation to the Appellant vide this office letter bearing nos. 925-27/OEP/A-47/2020 dated 05.10.2020.

**3.** **Proceedings**

(i) With a view to adjudicate the dispute, a hearing was fixed in this Court on 27.10.2020 and intimation to this effect was sent to both the sides vide letter nos. 998-99/OEP/A-47/2020 dated 22.10.2020. Accordingly, the hearing was held on 27.10.2020 in this Court. Copies of the minutes of the proceedings were sent to the Appellant and the Respondent vide this office letter bearing nos. 1018-19/OEP/A-47/2020 dated 27.10.2020 wherein date of next hearing was mentioned as 04.11.2020.

(ii) As scheduled, another hearing was held in this Court on 04.11.2020 and was attended by the representatives of both the sides. After hearing arguments of both the parties, the order was reserved. Copies of proceedings of the hearing were sent to both the sides vide this office letter bearing nos. 1057-58/OEP/A-47/2020 dated 04.11.2020.

**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 in this Court on 01.10.2020, for consideration:

1. The Appellant was having a Large Supply (LS) category connection, bearing Account No. K11CD0100062 with sanctioned load of 1496 kW/ CD 995 kVA under DS Division, PSPCL, Doraha. The connection of the Appellant was released in the year 2011.
2. The supply to the Consumer/Appellant was from 11kV BTC feeder. The length of this 11kV BTC feeder was long and connection/premise of the Appellant was almost at the end of the feeder, as such, there was some problem of proper voltage. In order to solve the voltage problem, the Appellant had requested for shifting of its load from 11kV BTC feeder to 11kV Oswal feeder. Accordingly, AEE/ DS City S/D, Doraha prepared proposal/estimate for shifting of load for necessary approval.
3. Dy. CE/DS Circle, Khanna approved the estimate for ₹ 11,61,474/- for shifting of 995 kVA load from 11kV BTC feeder to 11 kV Oswal feeder vide Memo No. 12458 dated 28.08.2018 addressed to the ASE/DS Division, Doraha after ascertaining the technical feasibility. Accordingly, AEE/DS City S/D, Doraha, vide its letter no. 940 dated 28.08.2018, asked the appellant to deposit the amount of ₹ 11,61,474/- as per approved estimate. In response, the Appellant deposited the amount on 28.08.2018. The load of the Appellant was shifted to 11kV Oswal feeder vide SJO No. 30/553 dated 29.08.2018.
4. After shifting of load vide SJO dated 29.08.2018, the Appellant did not lodge any complaint of voltage or any other technical problem. However, AEE/ DS City S/D, Doraha, vide letter no. 269 dated 27.05.2020, asked the Appellant to deposit additional amount of ₹ 6,16,522/- (₹ 17,76,996 - ₹ 11,61,474) as per revised estimate no. 91128/19-20 of ₹ 17,76,996/-. It was mentioned in the aforesaid letter no. 269 dated 27.05.2020 that load was shifted to 11kV Oswal feeder as per estimate no. 8200040/18-19 for ₹ 11,61,474/- but at that time, the work of shifting was done in short time and the cable which was laid/ erected was of lower height, spans were large in length, which was wrong as per instructions of PSPCL, As such, in order to reduce the length of span and to lift the cable at proper height, the revised estimate had been prepared. However, the demand raised as per revised estimate after about 2 years from the date of completion of deposit work was unjustified and illegal. Therefore, the Appellant approached CGRF, Patiala for adjudication of the disputed case. Accordingly, the case was registered as Case No. CGP-180/2020. However, the Forum, vide its order dated 04.09.2020, did not provide any relief as admissible on merit. The decision of the Forum was wrong and biased and the Appellant was not satisfied with the decision of the Forum. Therefore, the present appeal was being filed.
5. The estimate for deposit work was prepared and work was started only after the estimated amount was deposited by the Appellant. The Appellant never made any request for any deposit work after shifting of load to 11kV Oswal Feeder vide SJO dated 29.08.2018. Therefore, the Appellant did not make any payment as per revised estimate. However, AEE/DS City S/D, Doraha vide memo no. 342 dated 18.06.2020, asked the Appellant to deposit additional amount of ₹ 6,16,522/-. Thereafter, the amount of ₹ 6,16,522/-was transferred to regular energy bill issued on 25.06.2020. The Appellant had to deposit the amount of bill (including the amount of ₹ 6,16,522/-) to avoid disconnection of supply due to non-payment of bill. But this act of the Respondent was highly unjustified and illegal. There were no instructions to force the Appellant to deposit any amount against estimate for deposit work by transferring the amount to regular bill especially where the Consumer/ Appellant had not made any request for the work. It was reiterated that on the request of the Appellant, the deposit estimate no. 8200040/18-19 for ₹ 11,61,474/- was prepared, the amount was deposited and work was executed in 08/2018. Thereafter, the Appellant had never made any request for any change in the already executed work of shifting of connection to 11kV Oswal Feeder. Therefore, the demand raised as per revised estimate after about 2 years from the date of completion of deposit work was unjustified & was not covered under any rule/instruction of PSPCL and was illegal.
6. AEE/DS City S/D, Doraha had mentioned in the letter no. 269 dated 27.05.2020 that the work of shifting to 11kV Oswal Feeder was done in short time/ in haste and the cable, which was laid/erected, was of lower height, spans were large in length, which was wrong as per instructions of PSPCL, The Appellant had never asked the PSPCL office to do any work against the rules/ instructions of PSPCL and if this had been wrongly done, then, concerned officers/officials were responsible. At this stage (2 years after the execution of work against deposit estimate), if any improvement was required then the expenditure could be booked to any System Improvement Scheme. The expenditure can also be booked as per Regulation 9.2 of Supply Code for strengthening the distribution system to meet the existing demand but the Appellant was not liable to pay any amount as per revised estimate prepared after the execution of work against deposit work long ago. If the work was not executed as per instructions/rules of PSPCL, then, concerned officers/officials were responsible and PSPCL may recover the amount from the defaulting officers/officials but the amount as per revised deposit estimate cannot be recovered from the Appellant.
7. The Respondent, in its reply, submitted before the CGRF, Patiala informed that the work was completed by arranging additional material from other works and concerned officers had not prepared the previous estimate as per instructions of PSPCL. Further, it was also mentioned that action had been taken against them. It was submitted that arranging/utilizing material from other works was not permitted, as per rules of PSPCL. The Respondent was required to provide the evidence of action taken against officers who did not prepare the previous estimate as per instructions of PSPCL so that contents of charges framed against officers and reply submitted by the delinquents may bring to light some more things relating to execution of work against deposit work.
8. After considering the objections as per petition and reply of the Respondent, the Forum in its proceedings dated 31.07.2020, directed the Respondent to supply copy of IWRs duly pre-audited and confirm actual expenditure incurred against original estimate with a copy to the Appellant or its Representative. This fact had also been recorded at Page No. 3 of the decision of the Forum. It could be safely presumed that IWR of deposit work had been completed after a period of 2 years from the date of completion of deposit work. The Respondent did not supply the copy of audited IWR as directed by the Forum. The Respondent may be directed to submit copy of completed IWR alongwith documents of charges framed against officers and reply submitted by the delinquents so that actual facts of the case were confirmed for further submissions/ discussion on the disputed case.
9. It was evident that certain important aspects had been altogether ignored. The deposit work (as per estimate) was completed and load was shifted from 11kV BTC feeder to 11kV Oswal feeder by Sh. Ram Singh, JE in charge of the feeder vide PTW No. 89 dated 04.10.2018 (from 15.11 hrs to 16.11 hrs) and PTW No. 90 dated 04.10.2018 (from 16.25 hrs to 17.23 hrs). Thus, for all intents and purposes, the deposit work was completed and load was shifted to 11kV Oswal feeder by completing all the requisite formalities. Therefore, the deposit work was completed/closed and upto this, as per closed estimate, if there was any shortfall/excess expenditure, the estimate can be revised as per actual material used (upto shifting of load) and amount can be recovered/refunded to the Appellant accordingly. In the case of the Appellant, fresh estimate for another work (without any request from the consumer) had been prepared on the pretext that the work of shifting of 11kV Oswal Feeder was done in short time/in haste and the cable which was laid/erected was of lower height, spans are large in length, which was wrong as per instructions of PSPCL as mentioned by AEE/ DS City S/D, Doraha in letter no. 269 dated 27.05.2020. The Appellant never asked the Respondent to do any work against the rules/instructions of PSPCL. The Respondent should explain as to who authorized the concerned officials/officers to execute the work against the rules and who could be held responsible at this stage. Had the Appellant been informed initially about the expenditure of ₹ 17,76,996/- (₹ 11,61,474/- + ₹ 6,16,522/-), the Appellant might have refused for shifting of load from 11kV BTC feeder to 11kV Oswal feeder considering the huge amount involved. Further, there were no instructions to reopen deposit work/ estimate which was closed and load was shifted about 2 years ago. As far as benefit of the consumer was concerned, it was the duty of PSPCL to ensure proper voltage to industrial consumer as the Appellant had paid all the applicable charges (as in case of any other industrial consumers) to PSPCL. The billing of the consumer was not at concessional rate due to voltage problem. Even the Appellant had paid huge amount of ₹ 11,61,474/- for shifting of load to 11kV Oswal feeder. After shifting of load from 11kV BTC feeder, the PSPCL could release load at this feeder to any new consumer. This was not fair on the part of the Forum to conclude that “petitioner has certainly benefitted to a large extent and no other consumer of PSPCL is benefitted from this shifting and as such, petitioner is also morally bound to pay for the expenditure incurred by Corporation”. The Forum was required to consider that it was the duty of PSPCL to ensure proper voltage as the Appellant was being billed with applicable tariff as in case of other industrial consumers and the Appellant had already paid huge amount of ₹ 11,61,474/- for shifting of load which otherwise was required to be shifted at PSPCL cost to provide proper voltage to the industrial consumer. In the case of the Appellant, additional demand of ₹ 6,16,522/- had been imposed about 2 years after the completion of deposit work/shifting of load, which was unjustified, arbitrary and illegal.
10. It was prayed that charging of additional amount was not supported by any rule/ regulation of Supply Code or Electricity Act-2003 or any other instruction of PSPCL and was unwarranted and illegal. As such, it was prayed that the Appeal may be allowed and the impugned order of the Forum alongwith demand of ₹ 6,16,522/- raised by the Respondent be set aside.
11. **Submissions in the Rejoinder**

The Appellant’s Representative made the following submissions in its Rejoinder to the written reply of the Respondent, for consideration of this Court:

(i) The reply submitted by the Respondent was not convincing. As such, all the objections as per Appeal may be considered while arriving at any conclusion in the case. The Respondent had tried to mislead the Court by twisting the facts by referring to rules and instructions which were not applicable in this case. The Respondent, in its reply had mentioned that revised estimate had been prepared as per Regulation-9 of Supply Code-2014 and ESIM Instruction No. 39.3(b). The Respondent had not specifically mentioned the clause/provision of Regulation-9 of Supply Code, which was applicable in the present case of Appellant. Anyhow, the main clauses/provisions of Regulation 9 of Supply Code were as under:

a). **Reg.9.1:** For new connections.

 b). **Reg.9.2:** Distribution System Up gradation.

c). **Reg.9.3:** Security (Works) for Electric Lines or Electric Plant.

d). **Reg.9.4:** Execution of Works by consumers at his own cost.

e). **Reg.9.5:** Independent 11 KV Feeder.

f). **Reg.9.6:** Distribution Licensee’ Property.

From the above, it was clear that Reg.-9 of Supply Code (as referred to by the Respondent) was not relevant for revising estimate against deposit works. Rather, as per Reg. 9.2.1, the following provision had been made:

**“Distribution System Upgradation**

*9.2.1 The distribution licensee shall be responsible for ensuring that its distribution system is upgraded, extended and strengthened to meet the demand for electricity in its area of supply including future growth of such demand for its existing consumers.*

*The distribution licensee shall meet the cost of such strengthening/up gradation / extension of the distribution system to meet the existing demand and future expected growth of demand through its annual revenues and such cost shall be allowed to be recovered through tariff after prudence check by the Commission.”*

(ii) Thus, distribution licensee was required to meet the cost of strengthening/up gradation/extension of the distribution system to provide quality supply/proper voltage to the Appellant and amount of ₹ 11,61,474/- deposited against Deposit Work for shifting of 995 kVA load from 11 kV BTC feeder to 11 kV Oswal feeder was also not required, if the proper voltage had been provided to the Appellant. Further, Instruction No. 39.3 of ESIM (as referred by the Respondent) related to 16% Establishment Chargesleviable on the cost of estimate. This was also not applicable as the present dispute of the Appellant did not relate to Establishment Charges. Thus, the Court may consider that both the rules/instructions as referred to by the Respondent for revision of Deposit Estimate were not applicable in the case of the Appellant. The Respondent had failed to quote the relevant rule/instructions under which, estimate of already closed Deposit Work, could be revised for additional work without any request from the consumer.

(iii) The Appellant was not getting proper voltage, as such, requested for shifting of 995 kVA load from 11 kV, BTC feeder to 11 kV Oswal feeder. The Respondent wrongly stated that voltage on 11 kV, BTC feeder was within prescribed limit. Had the Appellant been getting proper voltage/supply, then, there was no question of making request for shifting of load. The facts of voltage problem were also evident from the History of Estimate as prepared/approved by the Respondent and from the request of the Appellant for shifting of load. Further, it was also the duty of the Licensee (Respondent) to ensure proper voltage/quality supply to the consumer, which was also prescribed in “Standard of Performance” (Para-2.1 of Annexure-1, Supply Code-2014) prescribed/approved by the PSERC as reproduced below:

**“QUALITY OF SUPPLY**

**2.1 Declared Voltage of Supply to Consumers**

*(a) The distribution licensee shall, with reference to the declared voltage, maintain voltage at the point of commencement of supply to a consumer within the limits stipulated hereunder:*

 *(i) In the case of LT supply: +6% and -6%.*

 *(ii) In the case of HT supply: +6% and -9%; and,*

*(iii) In the case of EHT supply: +10% and -12.5%.*

 *(b) On receipt of a voltage fluctuation complaint, the distribution licensee shall verify if the voltage fluctuation is exceeding the limits specified in sub-para (a) above and if confirmed, the distribution licensee shall:*

*(i) rectify the problem within four hours in the case of loose joints;*

*(ii) ensure that the voltages are brought within the said limits within two working days of original complaint if no expansion/ enhancement of network is involved ; and*

*(iii) Resolve the complaint within thirty days, if up-gradation of the distribution system is required.”*

From the above, it was clear that Licensee/Respondent was required to up-grade the distribution system at its cost for providing proper voltage/supply to the Appellant.

(iv) It was reiterated here that the Appellant never asked the PSPCL office to do any work against the rules/instructions of PSPCL and if this had been wrongly done, then, concerned officers/officials were responsible. The Respondent, in its reply, had mentioned that costly M-towers/poles were shared for shifting of load. But the Respondent was required to intimate the total cost involved in the shifting of work after preparing the estimate. Had the Appellant been informed initially about the revised expenditure of ₹ 17,77,996/- (₹ 11,61,474/- + ₹ 6,16,522/-), the Appellant might have refused for shifting of load from 11 kV BTC feeder to 11 kV Oswal feeder considering the huge amount involved. The Appellant might have made complaint to the Respondent to provide proper voltage/quality supply as per Standard of Performance instead of requesting for shifting of load due to Voltage Problem. Thus, at this stage (2 years after the execution of work against deposit estimate), if any improvement was required, then, the expenditure could be booked to any System Improvement Scheme. The expenditure can also be booked as per Regulation 9.2 of Supply Code-2014 for strengthening the distribution system to meet the existing demand. But the Appellant was not liable to pay any amount as per revised estimate prepared after the execution of work against deposit work long ago.

(v) The Respondent had submitted incomplete reply against submission as per para 3 of the Appeal. It was reiterated that the Respondent, in its reply, submitted before the Forum that the work was completed by arranging additional material from other works and concerned officers had not prepared the previous estimate as per instructions of PSPCL. Further, it was also mentioned that action had been taken /initiated against them. It was submitted that arranging/utilizing material from other works was not permitted, as per rules of PSPCL. The Respondent was required to provide the evidence of action taken against officers who did not prepare the previous estimate as per instructions of PSPCL, so that contents of charges framed against officers and reply submitted by the delinquents may bring to light some more things relating to execution of work against deposit work.

(vi) The Respondent had also submitted incomplete reply against submission as per para 4 of the Appeal. Therefore, it was again brought to the notice of the Court that after considering the objections as per Appeal and reply of the Respondent, the Forum, in its proceedings dated 31.7.2020, directed the Respondent to supply copy of IWR duly pre-audited and confirm actual expenditure incurred against original estimate with a copy to the Appellant/AR. This Court may direct the Respondent to submit copy of completed IWR alongwith documents of charges framed against officers and reply submitted by the delinquents, so that actual facts of the case were confirmed for arriving at any conclusion on the disputed case.

(vii) The Respondent, ‘on the one hand’ had admitted about the duty of PSPCL to ensure proper voltage/supply. But, on the other hand, was justifying the additional demand of ₹ 6,16,522/- on the pretext that consumer had benefitted from voltage improvement and reduced no. of tripping. The consumer was virtually not liable to pay any charges for getting proper voltage/supply which was the duty of PSPCL as laid down in Standard of Performance.

(viii) The Respondent had wrongly stated that “deposit estimate had been revised on actual basis”. It was again submitted that the deposit work (as per estimate) was completed and load was shifted from 11 kV BTC feeder to 11 kV Oswal feeder by Sh. Ram Singh JE in-charge of the feeder vide PTW No. 89 dated 04.10.2018 (from 15.11hrs to 16.11hrs) and PTW No. 90 dated 04.10.2018 (from 16.25 hrs to 17.23 hrs). Thus, for all intents and purposes, the deposit work was complete and load was shifted to 11 kV Oswal feeder by completing all the requisite formalities and after shifting of load, the Appellant never lodged any complaint of voltage problem (as also admitted by the Respondent). Therefore, the deposit work was completed/closed and up to this, as per closed estimate if there was any shortfall/excess expenditure, the estimate can be revised as per actual material used (up to shifting of load) and amount can be recovered/refunded to the Appellant accordingly. There are no instructions to reopen deposit work/estimate which was closed and load was shifted about 2 years ago.

(ix) In view of the position stated above and in the Appeal, it was submitted that charging the huge amount of ₹ 6,16,522/- as per revised estimate for deposit work (without any request from the Appellant)was not supported by any rule/regulation of Supply Code-2014 or EA-2003 or any instruction of PSPCL and was unwarranted and illegal. It was therefore, humbly requested to allow the Appeal, set aside the decision of the Forum and demand of ₹ 6,16,522/- as raised by Respondent and order the refund of this amount as already deposited. Further, the Respondent may be directed to provide the completed & evaluated/audited IWR against deposit estimate No. 8200040/ 18-19 for ₹ 11,61,474/- so that expenditure actually incurred may be verified by the Appellant.

1. **Submissions during Hearing**
2. During hearing on 27.10.2020, the Appellant’s Representative reiterated the submissions made in the Appeal and rejoinder to written reply of the Respondent.
3. In the hearing held on 04.11.2020, the Appellant attended the Court and submitted an application stating that:
4. The information provided by the Respondent included some photographs of route from where 11 kV line was passing. From these photographs, it looked like that the 11 kV line route was forest area and the Appellant did not face any voltage problem after erecting this line by the Respondent (PSPCL) about 2 years back. The Respondent should confirm whether position of line (as shown in the photographs) was the same 2 years back also. If it was so, then why the line was energized?. Now, at this stage (2 years after the execution of work against deposit estimate), if any improvement was required, then, the expenditure can be booked to any System Improvement Scheme.
5. The Licensee/Respondent was required to up-grade the distribution system at its cost for providing proper voltage/supply to the Appellant. If the proper voltage had been provided to the Appellant, then, shifting of load was not needed and even amount of ₹ 11,61,474/- deposited against Deposit Work for shifting of 995 kVA load from 11 kV BTC feeder to 11 kV Oswal feeder was also not required. As already submitted, Regulation 9 of Supply Code and instruction No. 39.3 of ESIM (as referred by the Respondent) was not relevant for revising estimate against deposit works.
6. **Submissions of the Respondent**
7. **Submissions made in the Written Reply**

The Respondent, in its written reply, made the following submissions for consideration of the Court:

1. The Appellant was having a LS category connection with sanctioned load of 1496.00 kW/CD as 995.00 kVA.
2. The objection raised by the Appellant was regarding demand notice for ₹ 6,16,522/-. It was admitted that the Appellant had requested PSPCL in the year 2018 to shift the load to Oswal feeder because the length of BTC feeder was long and number of consumers being fed were more than that of Oswal feeder and had led to more trippings of line. It affected the working of imported machines installed in the premises of the Appellant. However, voltage drop on BTC feeder was within the prescribed limit as per ESIM Instruction No. 10 (ii). So, with a view to improve reliability of supply and proper working of imported machines, the consumer requested for shifting of his load from 11 kV BTC feeder to 11kV Oswal feeder. On the basis of request of the Appellant, AEE, DS, City, Doraha prepared deposit estimate for shifting of load. After ascertaining the technical feasibility, the Dy. CE/DS, Circle, Khanna approved Deposit Estimate No. 8200040/2018 for ₹11,61,474/- for shifting of 1496.000 kW/995.000 kVA load from 11 kV BTC feeder to 11 kV Oswal feeder, vide Memo No. 12458 dated 28.08.2018, addressed to ASE/DS Divn., Doraha.
3. AEE/DS City Sub Division, Doraha, vide Memo No. 940 dated 28.08.2018, asked the Appellant to deposit the amount of ₹ 11,61,474/- as per approved estimate. In response, the Appellant deposited the amount vide BA 16 no. 71/24572 dated 09.08.2018 whereafter, the work was started. After shifting of load, vide SJO No. 30/553 dated 29.08.2018, the consumer did not lodge any complaint because new Oswal feeder had shorter length as compared to BTC feeder and reliability of power supply had improved. So, the Appellant did not complain to PSPCL. However, while executing the deposit work of shifting of load to 11 kV Oswal feeder, material became short and some of the material from other works and poles/M-Towers of existing feeders were used to avoid more shutdowns. Also, additional material was required to complete the deposit work that was kept pending but, the connection was run from new feeder i.e. Oswal feeder to give immediate relief to the consumer.
4. With a view to recover cost of additional material as per actual site conditions, the sanctioned estimate for ₹ 11,61,474/- was revised on actual basis as per Regulation 9 of Supply Code-2014 & ESIM Instruction No. 39.3 (b). The revised estimate was sanctioned by EIC/DS, Central Zone, Ludhiana vide Estimate No. 9100128 for ₹ 17,77,996/-. According to this revised deposit estimate amounting to ₹ 17,77,966/-, the Appellant had to pay balance amount of ₹ 6,16,522/- (₹ 17,77,996 - ₹ 11,61,474). Since the Appellant did not pay the difference of amount as per revised deposit estimate after being served with a Notice bearing no. 269 dated 27.05.2020, the recoverable amount was transferred to energy bill of the Appellant because PSPCL was left with no option but to transfer the amount to energy bill of the consumer, who, in turn, deposited the said amount on 31.07.2020.
5. Aggrieved with the amount charged, the Appellant represented to the Forum who, vide order dated 04.09.2020, upheld the amount of ₹ 6,16,522/- charged to the Appellant. AEE, DS City, Sub Division, Doraha had mentioned in its letter no. 269 dated 27.05.2020 that work of shifting of 11 kV Oswal feeder was done by using material of other works because for executing the work, shut down on 3 number more Industrial feeders was required to erect the cable. If, material from other works would have not been used while executing the disputed work, it would have caused financial losses to affected consumers as well as PSPCL. So, the work was executed by arranging additional material from other works as well as using additional poles/towers of Oswal feeder. Explanation of officers, who had shifted the load without recovering cost of additional material, had been called separately. Cost of revised estimate was correct and recoverable from the Appellant. It was mentioned that work of shifting of load of consumer on its request was deposit work and expenditure involved could not be booked to System Improvement Scheme. The consumer was liable to pay additional amount as per revised estimate because work was initiated on the request of the consumer who had agreed to pay cost of the same. It was also submitted that PSPCL makes sincere efforts to give good service and electricity supply to the consumer. Load of the consumer was shifted to ensure reliability of electricity supply to the consumer. Load shifting work of the consumer was completed by using poles/M-Towers of other feeders already installed along highway. To avoid sharing of costly M-Towers, new PCC poles had been proposed and cable will be supported on PCC poles after removal from M-Towers. If the consumer did not deposit additional amount of ₹ 6,16,522/- as per revised estimate, then, estimate may be revised again to recover the cost of M-Towers. The cost of each M-Towers was approximately ₹ 2.25 lac. It will further increase the cost of work. Explanation of officers who had shifted the load by using material of other works and without recovering cost of additional material had been called separately.
6. The deposit work was yet to be completed. The copy of IWR duly pre audited could be supplied only after completion of deposit work and measurements as per actual site condition as per revised estimate.
7. In the observation part of its decision, the Forum mentioned that Revision of estimate was technically necessary. However, after finalization of deposit estimate, closure of work account may be completed as per Regulation 11.4 of Supply Code-2014 and further debit/credit, if any, may be refunded/recovered from the consumer. In the case of the Appellant, only deposit estimate was revised and no new work was initiated. The deposit work was revised as per rules & regulation (Regulation 9 of Supply Code-2014 & ESIM Instruction No. 39.3 (b)) of PSPCL. Action had been initiated against officers/officials who had connected the supply of consumer on Oswal feeder without revising the deposit estimate.
8. As far as benefit to the Appellant was concerned, it was pointed out that the consumer had requested PSPCL to shift the load from 11 kV BTC feeder to 11 kV Oswal feeder to ensure proper working of imported machines installed in the premises of the consumer. The voltage regulation of 11 kV BTC feeder up to consumer’s premise was 3.90 %, which was within the prescribed limit of +6/-9% (as per Supply Code-2014 & ESIM Instruction No. 10).
9. After shifting of load from 11 kV BTC feeder to 11 kV Oswal feeder, the newly erected 11 kV XLPE Cable became service cable of the consumer and no new connection will be released by tapping from service cable of the Appellant. The Forum concluded that certainly, the Appellant was benefited to large extent and no other consumer of PSPCL was benefited from shifting work and as such, the Appellant was morally bound to pay for the expenditure incurred by the Corporation.
10. Admittedly, it was the duty of PSPCL to ensure proper voltage as per Supply Code-2014 & ESIM Instruction No. 10 to consumers. The voltage regulation of 11 kV BTC feeder up to the consumer’s premises was 3.90 %, which was within the prescribed limit +6/-9 %. Since machines installed in the premise of the consumer were imported, to ensure proper working of these imported machines, the consumer had requested PSPCL to shift his load from 11 kV BTC feeder to 11 kV Oswal feeder having lesser number of consumers and trippings. Being deposit work, the consumer had to pay expenditure incurred to complete the deposit work. The Consumer/Appellant had not earlier deposited balance amount ₹ 6,16,522/- as per revised deposit estimate on actual basis. As a result, consumer’s deposit work was incomplete.

Since deposit estimate was prepared at the request of the consumer, the deposit estimate was revised on actual basis to recover the cost of additional material, poles used/shared at site and new material, poles to complete the deposit work. These additional poles were necessary to meet, maintain clearance and span length of cable as per Standard Instruction 6 c of PSPCL and to maintain life of cable otherwise cable will get damaged with its own load or due to low ground clearance with the passage of time. So, this additional material was necessary for the life of the cable erected and equipment installed at grid sub-station.

**(b) Additional Submissions**

In response to directions given during hearing on 27.10.2020, the Respondent submitted the pictures (photographs) of the cable strung and the following standard instructions regarding laying of Cables overhead were submitted :

 Laying of Cables Overhead:

 XLPE cable was ideally suited for such places where the conventional overhead lines cannot be laid due to the Electrical clearance constraints and non- availability of space. The following methods shall be adopted for laying of the cables overhead:

 a) No provisions had been made in the Indian Electricity Act regarding vertical and horizontal clearance for the power cables. However, in order to avoid any electrical accident, the cable shall be laid preferably at a height of 6 Meter from ground and at such a distance from the side of the wall of the house that it shall be inaccessible to human approach.

 b) PCC poles 8 Meter height shall be grouted 25 Meter apart for running only 11 kV lines and pole of 9 Meter height shall be used 25 Meter apart for running composite line of 11 kV and LV.

1. MS Channel of size 870x100x50 mm shall be used as X-Arm duly tilted in such a way that two single core cables are accommodated on one side and one single core cable is placed on the other side of the pole in horizontal formation for balancing in order to avoid stays. It shall rest on LV shackles.

**(c) Submissions during Hearing**

(i) During hearing on 27.10.2020, the Respondent reiterated the submissions already made in the written reply/parawise comments to Appeal thereto given by the Appellant. On being asked, the Respondent confirmed that approval of the Chief Electrical Inspector, Punjab before energizing/shifting of load of the Appellant’s connection from 11 kV BTC Feeder to 11 kV Oswal Feeder was not obtained as required. He also stated that in the event of approaching the Chief Electrical Inspector by the licensee before the said shifting/energizing of load, the deficiencies necessitating the execution of additional work (resulting into revision of the estimate sanctioned on 28.08.2018) could have been noticed at the appropriate time. The Respondent was directed to send the pictures and details in support of requirement of execution of left over works and also a comparative statement of items of deposit work as per estimate sanctioned originally vis-à-vis revised estimate sanctioned by the competent authority. The Respondent submitted the requisite information alongwith photographs of the existing feeder on 04.11.2020.

(ii) In the hearing held on 04.11.2020, the Respondent submitted coloured photographs showing the site condition of the 11 kV Oswal feeder, information/documents relating to additional items of work done/to be done, statement showing the comparative position of items of work provided in original and revised sanctioned estimate etc. These were taken on record and copies of the same were also given to the Appellant.

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

The issue requiring adjudication is the legitimacy of the recovery of the amount of ₹ 6,16,522/- charged to the Appellant, vide Memo No. 269 dated 27.05.2020, on account of revision of deposit work estimate from ₹ 11,61,474/- to ₹ 17,77,996/- due to additional material used / still to be used in the deposit work of shifting of load of Appellant’s connection from 11 kV BTC feeder to 11 kV Oswal feeder.

*The findings on the points emerged, deliberated and analyzed are as under: -*

1. As per material on record, the Appellant was having a LS category connection with sanctioned load of 1496.00kW/CD as 995.00 kVA. The Appellant had requested PSPCL in the year 2018 to shift the load of its connection from 11 kV BTC feeder to 11 kV Oswal feeder because the length of BTC feeder was long and number of consumers being fed were more than that of Oswal feeder leading to more trippings of the feeder. It affected the working of imported machines installed in the premises of the Appellant. However, voltage drop on BTC feeder was within the prescribed limit. So, with a view to improve the reliability of supply and proper/smooth working of imported machines, the Appellant requested for shifting of its load from 11 kV BTC feeder to 11 kV Oswal feeder. On the basis of the said request of the Appellant, AEE, DS, City S/D, Doraha prepared deposit estimate for shifting of load. After ascertaining the technical feasibility, the Dy. CE/DS, Circle, Khanna approved Deposit Estimate No. 8200040/2018 for ₹ 11,61,474/- for shifting of 1496.000 kW/995.000 kVA load from 11 kV BTC feeder to 11 kV Oswal feeder, vide Memo No. 12458 dated 28.08.2018. Accordingly, AEE/DS City Sub Division, Doraha, vide Memo No. 940 dated 28.08.2018, asked the Appellant to deposit the amount of ₹ 11,61,474/- as per approved estimate. In response, the Appellant deposited the amount vide BA 16 no. 71/24572 dated 09.08.2018 whereafter, the work was started. After shifting of load, vide SJO No. 30/553 dated 29.08.2018, the consumer did not lodge any complaint because new Oswal feeder had shorter length as compared to BTC feeder and reliability of power supply had improved. Subsequently, the Respondent noticed that while executing the deposit work of shifting of load to 11 kV Oswal feeder, material became short and some of the material from, other works and poles /M-Towers of existing feeders were used to avoid more shutdowns. The Respondent also noticed that additional material was required to complete the deposit work which was kept pending. However, the connection was connected to new feeder i.e. Oswal feeder to give immediate relief to the Appellant. With a view to recover cost of additional material as per actual site conditions, the already sanctioned estimate for ₹ 11,61,474/- was revised . This revised estimate was sanctioned by EIC/ DS Central Zone, Ludhiana vide Estimate No. 9100128 for ₹ 17,77,996/-. As per the revised sanctioned estimate, the Appellant had to pay balance amount of ₹ 6,16,522/- (₹ 17,77,996-₹ 11,61,474). The Appellant did not pay the difference of amount as per revised deposit estimate after being served with a Notice bearing no. 269 dated 27.05.2020. Therefore, the recoverable amount was transferred to energy bill of the Appellant. The Appellant deposited the said amount of ₹ 6,16,522/- with PSPCL on 31.07.2020. Aggrieved, the Appellant represented to the Forum who, vide order dated 04.09.2020, upheld the amount of ₹ 6,16,522/- charged to the Appellant.
2. In their oral and written submissions, the Appellant and its Representative emphasized that:
3. The original estimate for ₹ 11,61,474/- sanctioned on 28.08.2018 was revised and sanctioned by the Respondent on its own for ₹ 17,77,996/- in May, 2020 without any request from the Appellant and without reference to any regulation of Supply Code or instruction of PSPCL.
4. The information provided by the Respondent included some photographs of route from where 11 kV line was passing. From these photographs, it looked like that the 11 kV line route was forest area and the Appellant did not face any voltage problem after erecting this line by the Respondent (PSPCL) about 2 years ago. The Respondent should confirm whether position of line (as shown in the photographs) was the same 2 years back also. If it was so, then why the line was energized? Now, at this stage (2 years after the execution of work against deposit estimate), if any improvement was required, then, the expenditure can be booked to any System Improvement Scheme.
5. The Licensee/Respondent was required to up-grade the distribution system at its cost for providing proper voltage/supply to the Appellant. If the proper voltage had been provided to the Appellant, then, shifting of load was not required and even amount of ₹ 11,61,474/- deposited against Deposit Work for shifting of 995 kVA load from 11 kV BTC feeder to 11 kV Oswal feeder was also not required. Regulation 9 of Supply Code and instruction No. 39.3 of ESIM (as referred by the Respondent) were not relevant for revising estimate against deposit works.
6. The Respondent had wrongly stated that “deposit estimate had been revised on actual basis”. The deposit work (as per estimate) was completed and load was shifted from 11 kV BTC feeder to 11 kV Oswal feeder by Sh. Ram Singh JE in-charge of the feeder vide PTW No. 89 dated 04.10.2018 (from 15.11hrs to 16.11hrs) and PTW No. 90 dated 04.10.2018 (from 16.25 hrs to 17.23 hrs). Thus, for all intents and purposes, the deposit work was complete and load was shifted to 11 kV Oswal feeder by completing all the requisite formalities and after shifting of load, the Appellant never lodged any complaint of voltage problem (as also admitted by the Respondent). Therefore, the deposit work was completed/closed and up to this, as per closed estimate if there was any shortfall/excess expenditure, the estimate can be revised as per actual material used (up to shifting of load) and amount can be recovered/refunded to the Appellant accordingly. There are no instructions to reopen deposit work/estimate which was closed and load was shifted about 2 years ago.

(iii) The Respondent contested the oral and written submissions made by the Appellant and its Representatives by stating as under:

1. The deposit work was yet to completed. The copy of IWR duly pre audited could be supplied only after completion of deposit work and measurements as per actual site conditions as per revised estimate.
2. In the observation part of its decision, the Forum mentioned that revision of estimate was technically necessary. However, after finalization of deposit estimate, closure of work account may be completed as per Regulation 11.4 of Supply Code-2014 and further debit/credit, if any, may be refunded/recovered from the consumer. In the case of the Appellant, only deposit estimate was revised and no new work was initiated. The deposit work was revised as per rules & regulation (Regulation 9 of Supply Code-2014 & ESIM Instruction No. 39.3 (b)) of PSPCL. Action had been initiated against officers/officials who had connected the supply of consumer on Oswal feeder without revising the deposit estimate.
3. As far as benefit to the Appellant was concerned, the consumer had requested PSPCL to shift the load from 11 kV BTC feeder to 11 kV Oswal feeder to ensure proper working of imported machines installed in the premises of the consumer. The voltage regulation of 11 kV BTC feeder up to consumer’s premise was 3.90 %, which was within the prescribed limit of +6/- 9% (as per Supply Code-2014 & ESIM Instructions)
4. After shifting of load from 11 kV BTC feeder to 11 kV Oswal feeder, the newly erected 11 kV XLPE Cable became service cable of the consumer and no new connection will be released by tapping from service cable of the Appellant. The Forum concluded that certainly, the Appellant was benefitted to large extent and no other consumer of PSPCL was benefited from this shifting work and as such, the Appellant was morally bound to pay for the expenditure incurred by the Corporation.

(iv) It is observed that the proposal for shifting of load of the Appellant’s connection was processed, on the request of the Appellant in 08/2018 by the Respondent and deposit work estimate was prepared in haste and approved by the competent authority on 28.08.2018. Accordingly, the Appellant deposited a sum of ₹ 11,61,474/- (amount of sanctioned estimate) on 28.08.2018. Thereafter, Sundry Job Order No.30/53 was issued on 29.08.2018 and load was practically shifted / energized without seeking approval of the Chief Electrical Inspector as required. Besides, the guidelines contained in Central Electricity Authority (Measures Relating to Safety and Electric Supply) Regulations 2010 were also not followed. The standard instructions of PSPCL for laying of overhead cables were not kept in view while sanctioning the original estimate and during execution of work. The deficiencies in the execution of deposit work were noticed by the licensee itself. Accordingly, the estimate already sanctioned for ₹ 11,61,474/- was revised to take care of standard instructions of laying overhead cables and was sanctioned by the competent authority in May, 2020 for ₹ 17,77,996/-. But, the Appellant was not informed in writing about the deficiencies noticed or the necessity of preparation of revised estimate after shifting of load on 29.08.2018 till the sanction of revised estimate in May, 2020.The Respondent had brought on record of this Court evidence (by way of submission of documents/photographs of the site conditions, material used after shifting of load , material still to be used etc.) to justify its contention that the Appellant was liable/bound to deposit the amount of difference of ₹ 6,16,522/- challenged by the Appellant. The very fact that the Appellant did not lodge any complaint in writing from 29.08.2018 till date with the Licensee showed that it had benefitted by improved quality/reliability of power supply after 29.08.2018. The Court noted the submission of the Respondent that explanations of the officers/officials responsible for the lapses in the faulty/incomplete execution of the work of the Appellant had been called for. Strict disciplinary action should be taken by the Licensee against the erring officials/officers who had executed the deposit work by violating the instructions/regulations and energized the feeder without obtaining approval of Chief Electrical Inspector ( Punjab). The violations in this case are very serious.

1. A perusal of the photographs of the feeder and other information submitted by both parties reveals that the feeder was laid in haste with vested interests by violating the instructions of the PSPCL and other relevant regulations framed under the Electricity Act, 2003. The safety of the Public and its property, Animal etc. should be top priority of the Licensee. The existing feeder meant for the Appellant is danger to the life and property of the Public. As such, the balance works of the feeder should be executed within two to three weeks as the Appellant had already deposited the estimated cost intimated by the Respondent. The clearance from the Chief Electrical Inspector should also be obtained which is mandatory. After ensuring completion of the deposit work in all respects as per approved specifications, a copy of Initial Works Register (IWR) duly pre-audited be supplied to the Appellant within three weeks. The accounts of this work should be closed as per provisions contained in Regulation 11.4 of Supply Code-2014 and the amount found short/excess if any, be recovered/refunded from/to the Appellant as per instructions of PSPCL.
2. Further, the feeder should have been constructed strictly as per instructions/ regulations at the first instance during 2018. The additional works now required for enhancing the life of the cable and to ensure safety of all human beings/ property, cannot be charged to System Improvement Schemes as suggested by the Appellant. Accordingly, it is not just and fair to pass on the cost/burden/liability of the works executed/being executed for the benefit of an individual consumer to all other consumers through Annual Revenue Requirement by inclusion of such expenditure under System Improvement Schemes.
3. From the above analysis, it is concluded that the Forum rightly decided to uphold the amount of ₹ 6,16,522/- charged and recovered from the Appellant on account of difference in the amount of original sanctioned estimate (₹ 11,61,474/-) and revised sanctioned estimate (₹ 17,77,996/-) for shifting of load of Appellant’s connection from 11 kV BTC feeder to 11 kV Oswal feeder.

**7.** **Decision**

As a sequel of above discussions, the order dated 04.09.2020 of the CGRF, Patiala in Case No. CGP-180 of 2020 is upheld.

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

**9**. 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)

 November 06, 2020 Lokpal (Ombudsman)

 SAS Nagar (Mohali) Electricity, Punjab.