

**COURT OF THE LOK PAL (OMBUDSMAN),
ELECTRICITY, PUNJAB,
PLOT NO. A-2, INDUSTRIAL AREA, PHASE-1,
S.A.S. NAGAR (MOHALI).**

**(Constituted under Sub Section (6) of Section 42 of
Electricity Act, 2003)**

APPEAL No. 16/2022

Date of Registration : 10.03.2022

Date of Hearing : 22.03.2022

Date of Order : 22.03.2022

Before:

**Er. Gurinder Jit Singh,
Lokpal (Ombudsman), Electricity, Punjab.**

In the Matter of:

M/s Pragati Papers Industries Ltd.,
Handesra-Naraingarh Road,
Handesra, Distt.-Mohali.

Contract Account Number: Z22HD0100033 (LS)
...Appellant

Versus

Addl. Superintending Engineer,
DS Division,
PSPCL, Laru.

...Respondent

Present For:

Appellant: Sh. Surinder Singh,
Appellant's Representative.

Respondent : Er. Pardeep Kumar,
AE/ DS Sub Division,
PSPCL, Handesra.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 04.02.2022 of the Consumer Grievances Redressal Forum (Forum), Patiala in Case No. CGP-259 of 2021, deciding that:

“Interest, on amounts of ACD, to petitioner, is not considerable for decision now, being time barred in view of clause no. 2.27 of PSERC (Forum & Ombudsman) Regulation, 2016 for the purpose of any decision by the Forum. However, amount of Rs. 6,61,980/- be refunded to petitioner after deducting 10%, as per prevailing instructions, along with update interest (after requisite adjustments) as per supply code-2007 and supply code-2014 Reg.-17.1 as amended from time to time after pre-audit.”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 10.03.2022 i.e. within the period of thirty days of receipt of the decision dated 04.02.2022 of the CGRF, Patiala in Case No. CGP-259 of 2021, received by the Appellant on 11.02.2022 through email. The requisite 40% of the disputed amount was not required in this case because the Appellant claimed the interest on ACD/ Securities. Therefore, the Appeal was registered on 10.03.2022 and copy of the same was sent to the Addl. SE/ DS Division,

PSPCL, Lalru for sending written reply/ parawise comments with a copy to the office of the CGRF, Patiala under intimation to the Appellant vide letter nos. 230-32/OEP/A-16/2022 dated 10.03.2022.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 22.03.2022 at 12.00 Noon and an intimation to this effect was sent to both the parties vide letter nos. 259-260/OEP/A-16/2022 dated 15.03.2022. As scheduled, the hearing was held in this Court and arguments of both the parties were heard.

4. Submissions made by the Appellant and the Respondent

Before undertaking analysis of the case, it is necessary to go through written submissions made by the Appellant and reply of the Respondent as well as oral deliberations made by the Appellant's Representative and the Respondent alongwith material brought on record by both the parties.

(A) Submissions of the Appellant

(a) Submissions made in the Appeal

The Appellant made the following submissions in its Appeal for consideration of this Court:-

- (i) The Appellant was having a LS Category Connection, bearing Account No. Z22HD0100033 with sanctioned load of 3201 kW/ 1500 kVA in its name under AE/ DS Sub Division, Handesra under DS Division, Lalru.
- (ii) The Appellant filed Petition in the Forum at Patiala on 05.07.2021 bearing Case No. CGP-259 of 2021 for the claim of interest on Security deposited from time to time and submitted all documents/ receipts of the security amounts deposited.
- (iii) The amount of ₹ 45,57,870/- had been updated in the electricity bills of the Appellant and due interest on this amount was being given yearly.
- (iv) In addition to the amount of ₹ 45,57,870/-, the following amounts were deposited with Sub Division, Handesra under DS Division, PSPCL, Lalru:
- a) ₹ 1,23,900/- as EMD vide BA16 No. 589/5249 dated 07.06.2011 and ₹ 6,61,980/- as ACD vide BA16 No. 23/45674 dated 11.08.2011 totaling ₹ 7,85,880/-. This amount was deposited for extension of Contract Demand of 666 kVA. The Appellant could not comply with the demand notice due to financial problems. The Respondent had not refunded, adjusted or updated the amount in the bills till date.

- b) Again, the amounts of ₹ 2,95,000/- vide BA-16 No. 208/6414 dated 27.09.2011 and ₹ 25,32,870/- vide BA-16 No. 03/46320 dated 15.10.2013 were deposited against ACD alongwith A&A Form No. 1784 dated 15.10.2013 for extension of demand from 1333 kVA to 3824 kVA, an increase of 2491 kVA. An amount of ₹ 1,23,900/- deposited as EMD vide BA-16 No. 589/5249 dated 07.06.2011 was adjusted as EMD of ₹ 1,11,510/- after deducting 10%. Thus, the total amount became ₹ 29,39,380/- as ACD for extension of CD by 2491 kVA. The Respondent did not issue demand notice against the application with the remarks that the ACD had been deposited after the expiry of 30 days period as indicated in the feasibility letter. The Appellant tried its best but the Respondent did not process the case. The Respondent neither cancelled the case of extension of CD nor refunded/ adjusted the ACD deposited from 15.10.2013. The amount remained deposited in Security Head 48.120 for the period from 15.10.2013 to 13.04.2016. The Respondent on 13.04.2016 adjusted the amount in Service Connection Charges of 66 kV Supply. So the interest of this ACD amount was due from 15.10.2013 to 13.04.2016 as demanded by the Appellant.
- c) In addition to this initially the ACD of ₹ 16,06,690/- was deposited at the time of release of connection on 10.03.2008.

The Respondent had given interest for the ACD from 01.04.2009 onwards but interest for the period 01.04.2008 to 31.03.2009 was not given.

- (v) After long discussions for seven months, CGRF, Patiala passed the order on 04.02.2022 for payment of interest only on ACD of ₹ 6,61,980/- from 11.08.2011 to till date, but the interest due on ACD deposited vide BA-16 No. 208/6414 dated 27.09.2011 and BA-16 No. 03/46320 dated 15.10.2013 had been decided as time barred.
- (vi) The Appellant requested to consider the appeal and allow the interest on the ACD deposited after 11.08.2011.

(b) Submissions in Rejoinder

In its Rejoinder to the written reply of the Respondent, the Appellant submitted the following for consideration of this Court.

- (i) The Respondent in its written reply had stated that ₹ 6,61,980/- deposited vide BA 16 No. 23/45674 dated 11.08.2011 was to be refunded without interest as per decision of the Forum. It was clear in the decision at page 10 that the amount of ₹ 6,61,980/- be refunded to the Appellant after deducting 10% as per prevailing instructions alongwith upto date interest (after requisite adjustment) as per Supply Code, 2007 and Supply

Code, 2014. The plea of the Respondent was denied in the light of the decision.

- (ii) A total of ₹ 29,39,380/- on account of ACD was deposited off line with the Respondent. The amount of ACD deposited had not been refunded/ adjusted/ updated from 15.10.2013 to 06.04.2016 and remained deposited in the security head 48.120. The amount of ACD amounting to ₹ 25,32,870/- deposited on 15.10.2013 alongwith A&A form was wrongly deposited after lapse of 30 days period mentioned in the feasibility letter. The A&A forms/ ACD was deposited under the signatures of the official of the Respondent. Lateron, the Respondent did not process the case for issue of demand notice with the remarks that A&A form/ ACD was deposited after the lapse of 30 days period as per condition of feasibility letter. In this case, Respondent was also at fault. The interest on ACD amounting to ₹ 29,39,380/- was due from 15.10.2013 to 16.04.2016 (date of adjustment as SCC).
- (iii) The Respondent had got deposited amount of ₹ 29,39,380/- on account of ACD but did not issue demand notice. As per Regulation 18, 18.1.2 of Supply Code, 2014, the ACD/ Security was to be refunded in full by the Respondent within 30 days alongwith interest at SBI's base rate of interest applicable at

that time + 2% for the period of security/ additional security remained deposited with the Respondent but the Respondent failed to do the needful as per instructions. The Appellant requested SDO/ DS S/D, Handesra on 14.01.2016, 01.02.2016 and 06.04.2016 for adjustment of this ACD alongwith due interest. Respondent had adjusted only ₹ 25,45,083/- out of total amount of ₹ 29,39,380/- in lieu of SCC against demand notice No. 2588/LS/Ext. dated 15.12.2015 without interest. The Forum had not considered this aspect of the case while deciding the Petition of the Appellant.

(c) Submission during hearing

During hearing on 22.03.2022, the Appellant's Representative (AR) reiterated the submissions made in the Appeal as well as in the Rejoinder and prayed to allow the Appeal.

(B) Submissions of the Respondent

(a) Submissions in written reply

The Respondent submitted the following written reply for consideration of this Court:-

- (i) The Appellant was having LS Category Connection bearing Account No. Z22HD0100033 with sanctioned load of 3201 kW and CD as 1500 kVA running under Handesra Sub Division

and under DS Division, PSPCL, Lalru in the name of M/s. Pragati Paper Industries Ltd.

- (ii) The case was deliberated and decided by Forum. As per the petition before the Forum, the Appellant had sought the interest on ACD amount of ₹ 6,61,980/- deposited vide BA-16 No. 23/45674 dated 11.08.2011 to till date to which the Forum had decided that the amount of ₹ 6,61,980/- be refunded to the Appellant after deducting 10% as per prevailing instructions alongwith updated interest (after requisite adjustments) after pre-auditing and as such, the same had been sent to AO/Field, Ropar for pre-audit by AE/DS Sub Division, Handesra's office Memo No. 1222 dated 24.02.2022.
- (iii) As regards the interest on the amount of ₹ 2,95,000/- deposited on 27.09.2011 and ₹ 25,32,870/- deposited on 15.10.2013 for extension of load/ CD from 1199.59 kW/ 1333 kVA to 4400.590 kW/ 3874 kVA, the Appellant did not submit the A&A form within stipulated time i.e. within 30 days, the same amounts were adjusted after deducting 10% amount towards the SCC of load extension case (3201 kW/2501 kVA) applied again on 15.12.2015 making total of 4400.590 kW/ 3834 kVA. The Appellant had never approached to PSPCL office

regarding the refund of these amounts. So, the interest on these amounts were not admissible.

- (iv) The Respondent further submitted that the interest on security deposited of ₹ 2,95,000/- and ₹ 25,32,870/- during 10/2013 to 12/2015 was not admissible as the same exceeded the time limit as per the Clause No. 2.27 of PSERC (Forum and Ombudsman) Regulations ,2016.

(b) Submission during hearing

During hearing on 22.03.2022, the Respondent reiterated the submissions made in the written reply to the Appeal and prayed for the dismissal of the Appeal.

5. Analysis and Findings

The issue requiring adjudication is the legitimacy of claim of the Appellant regarding the less interest received on security amounts deposited by it from time to time.

My findings on the points emerged, deliberated and analysed are as under:

- (i) The Appellant's Representative (AR) reiterated the submissions made in the Appeal. He pleaded that the Appellant filed its Petition in CGRF, Patiala on 05.07.2021 bearing Case No. CGP-259 of 2021 for the claim of interest on Security

deposited from time to time and submitted all documents/ receipts of the security amounts deposited but even after long discussions for seven months; CGRF, Patiala passed the order on 04.02.2022 for payment of interest only on ACD of ₹ 6,61,980/- from 11.08.2011 to till date, but the interest due on ACD deposited vide BA16 No. 208/6414 dated 27.09.2011 and BA16 No. 03/46320 dated 15.10.2013 had been decided as time barred. The Appellant requested to consider the Appeal and allow the interest on the ACD deposited after 11.08.2011.

- (ii) On the other hand, the Respondent controverted the pleas raised by the Appellant and pleaded that the Forum had rightly decided the case as interest on the amount of ₹ 2,95,000/- deposited on 27.09.2011 and ₹ 25,32,870/- deposited on 15.10.2013 for extension of load/ CD from 1199.59 kW/ 1333 kVA to 4400.590 kW/ 3874 kVA was not payable during 10/2013 to 12/2015 as demanded as the Appellant had never approached the Respondent for refund of these amounts at that time and now it had become time barred as per the Clause No. 2.27 of PSERC (Forum and Ombudsman) Regulations, 2016. He had prayed for the dismissal of the Appeal.

- (iii) The Forum while deciding this case has observed as under: -

“Forum has observed that the Petitioner is a LS consumer receiving regular energy bills from the respondent corporation from time to time and in all the bills, the details of various amounts charged / rebates given were invariably

depicted. The petitioner did not point out or represent to the respondent the issue of non updation of ACD upto the year 2021. Thus the petitioner did not take appropriate remedy at appropriate time and has failed to exercise its obligation to approach respondent in time for attending this issue. The onus for not taking appropriate remedies rests on the petitioner, a LS consumer. He failed to point out to the respondent to take timely action for giving him interest on ACD. Regulation 2.27 of PSERC (Forum & Ombudsman) Regulations, 2016 provides that the Forum may reject the grievance at any stage, through a speaking order in cases where the grievance has been submitted two years after the date on which the cause of action has arisen or after two months from the date of receipt of the orders of DSC.

In view of above Forum is of considered view that as the contention of petitioner regarding issue of interest on ACD amounts relates to period before 31.3.2017, so issue of allowing of any interest, on amounts of ACD to petitioner, is not considerable for decision now being time barred in view of clause no. 2.27 of PSERC (Forum& Ombudsman) Regulation, 2016 for the purpose of any decision by the Forum. However, amount of Rs. 6,61,980/- is refundable to petitioner after deducting 10%, as per prevailing instructions, along with admissible update interest (after requisite adjustments) as per supply code-2007 and supply code-2014 Reg.-17.1 as amended from time to time, after pre-audit. After considering all written & verbal submissions by the petitioner and the respondent & scrutiny of record produced, Forum is of the opinion that issue of allowing of any interest, on amounts of ACD to petitioner, is not considerable for decision now being time barred in view of clause no. 2.27 of PSERC (Forum& Ombudsman) Regulation, 2016 for the purpose of any decision by the Forum. However, amount of Rs. 6,61,980/- is refundable to petitioner after deducting 10%, as per prevailing instructions, along with admissible update interest (after requisite adjustments) as per supply code-2007 and supply code-2014 Reg.-17.1 as amended from time to time, after pre-audit.

Keeping in view the above, Forum came to the unanimous conclusion that that issue of allowing of any interest, on amounts of ACD, to petitioner, is not considerable for decision now being time barred in view of clause no. 2.27 of PSERC (Forum& Ombudsman) Regulation, 2016 for the purpose of any decision by the Forum. However, amount of Rs. 6,61,980/- be refunded to petitioner after deducting 10%, as per prevailing instructions, along with update interest (after requisite adjustments) as per supply code-2007 and supply code-2014 Reg.-17.1 as amended from time to time, after pre-audit.

- (iv) I have gone through the Appeal and Rejoinder of the Appellant and written submissions of the Respondent as well as oral arguments of both the parties during the hearing on 22.03.2022.

This court is of the opinion that although the Appellant did not

raise the issue of refund of security amounts deposited by it for many years but the Respondent also did nothing in this regard. The Distribution Licensee is required to pay interest on Security Amounts as per sub-section 4 of Section 47 of 'The Electricity Act, 2003'. As such, the PSERC has provided for payment of interest on Security Amounts to the consumer as per Regulation 17 of Supply Code, 2007 and Supply Code, 2014. But in this case, the Distribution Licensee had failed to pay full interest on the Security amount to the Appellant as per the Act and regulations of the PSERC. The Appellant cannot be penalized for the faults of the Respondent. The office of Chief Engineer/ Commercial, PSPCL vide their Memo No. 1038-43/DD/SR-103 dated 15.05.2019 gave instructions to all DS offices of PSPCL to update the Security (Consumption) & Security (Meter) of all the consumers within 3 months and to credit Interest on these Securities at the rate applicable from time to time w.e.f. 01.01.2008 to the consumer's accounts with the approval of the Refund Committees as per ESIM Instruction No. 93.5. These instructions were later reiterated by the office of the Chief Engineer/ Commercial, PSPCL vide its Memo No. 49-54/DD/SR-103 dated 08.01.2020, Memo No. 575-581/DD/SR-103 dated 21.09.2020 and Memo No.

297-302/DD/SR-103 dated 26.03.2021. The Forum also erred in disallowing the interest on the Security to the Appellant as the security amount remained with the Licensee. It would be unfair if interest is not allowed to the Appellant as per law.

- (v) The Appellant had prayed for payment of interest on ACD deposited vide BA-16 No. 208/6414 dated 27.09.2011 and BA-16 No. 03/46320 dated 15.10.2013 for the period 15.10.2013 to 13.04.2016. The interest on the Security amount adjusted on 13.04.2016 against SCC should be paid as per Regulation 17.1 of Supply Code, 2007 & Supply Code, 2014 as applicable from time to time.
- (vi) As such, I am not inclined to agree with the decision dated 04.02.2022 of the Forum.

6. Decision

As a sequel of above discussions, the order dated 04.02.2022 of the CGRF, Patiala in Case No. CGP-259 of 2021 is hereby quashed. The Respondent is required to allow the interest on delayed adjustment as per Regulation 17.1 of Supply Code, 2007 & Supply Code, 2014 as applicable from time to time as under:

- (i) Amount of ₹ 6,61,980/- be refunded to the Appellant after deducting 10% alongwith interest from the date of deposit till date of actual refund.
- (ii) ₹ 2,95,000/- deposited on 27.09.2011 and ₹ 25,32,870/- deposited on 15.10.2013 were adjusted by the Respondent against SCC on 13.04.2016. The interest on the amount adjusted on 13.04.2016 against SCC shall be payable for the period 15.10.2013 upto the date of adjustment of Security Amount in SCC.

7. The Appeal is disposed of accordingly.
8. As per provisions contained in Regulation 3.26 of Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations-2016, the Licensee will comply with the award/order within 21 days of the date of its receipt.
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.

March 22, 2022
S.A.S. Nagar (Mohali)

(GURINDER JIT SINGH)
Lokpal (Ombudsman)
Electricity, Punjab.