

**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. 18/2023

Date of Registration : 24.07.2023

Date of Hearing : 03.08.2023

Date of Order : 03.08.2023

Before:

**Er. Anjuli Chandra,
Lokpal (Ombudsman), Electricity, Punjab.**

In the Matter of:

M/s. Venus Cotsyn (India) Ltd.,
G.T. Road Bypass (West Side),
Ludhiana-141001.

Contract Account Number: 3002812007 (LS)

...Appellant

Versus

Senior Executive Engineer,
DS City West Division (Spl.),
PSPCL, Ludhiana.

...Respondent

Present For:

Appellant: Sh. Rajesh Jain,
Appellant's Representative.

Respondent : Er. Rajesh Kumar,
Senior Executive Engineer,
DS City West Division (Spl.),
PSPCL, Ludhiana.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 28.03.2023 of the Corporate Consumer Grievances Redressal Forum, Ludhiana (Corporate Forum) in Case No. CF-004/2023, deciding that:

“The securities mentioned in the table at page 16 above read with the observations of the Forum at point no. (a) to (e) at page 17 above, be considered and security be updated as deposited from time to time, accordingly. Interest be given as per Reg. 17.1 of the Supply Code from the date of its admissibility on the updated security. Further interest under regulation 17.3/17.4 of respective Supply Code, is disallowed.”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 24.07.2023 i.e. beyond the period of thirty days of receipt of the decision dated 28.03.2023 of the CCGRF, Ludhiana in Case No. CF-004/2023. The Appellant was not required to deposit the requisite 40% of the disputed amount as it was a refund case. Therefore, the Appeal was registered on 24.07.2023 and copy of the same was sent to the Sr. XEN/ DS City West (Spl.) Divn., PSPCL, Ludhiana for sending written reply/ parawise comments with a copy to the office of the CCGRF, Ludhiana under intimation to

the Appellant vide letter nos. 539-541/OEP/A-18/2023 dated 24.07.2023.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 03.08.2023 at 01.00 PM and intimation to this effect was sent to both the parties vide letter nos. 543-44/OEP/A-18/2023 dated 27.07.2023. As scheduled, the hearing was held in this Court and arguments of both the parties were heard.

4. Condonation of Delay

At the start of hearing on 03.08.2023, the issue of condoning of delay in filing the Appeal in this Court was taken up. The Appellant's Representative stated that the Respondent's office had intimated the Appellant about the implementation of the decision of the Corporate Forum vide Memo No. 900 dated 27.06.2023. The decision of the Forum dated 28.03.2023 was implemented by the Division Office on 09.06.2023, but intimated to the Appellant on 27.06.2023. He further prayed that the delay in filing the present Appeal was neither intentional nor deliberate. As such, the delay may kindly be condoned and the Appeal be adjudicated on merits in the

interest of justice. The Respondent objected to the condoning of the delay in filing the Appeal in this Court in its written reply & prayed for the dismissal of the present Appeal on this ground.

In this connection, I have gone through Regulation 3.18 of PSERC (Forum and Ombudsman) Regulations, 2016 which reads as under:

“No representation to the Ombudsman shall lie unless:

(ii) The representation is made within 30 days from the date of receipt of the order of the Forum.

Provided that the Ombudsman may entertain a representation beyond 30 days on sufficient cause being shown by the complainant that he/she had reasons for not filing the representation within the aforesaid period of 30 days.”

It was observed that non-condoning of delay in filing the Appeal would deprive the Appellant of the opportunity required to be afforded to defend the case on merits. Therefore, with a view to meet the ends of ultimate justice, the delay in filing the Appeal in this Court beyond the stipulated period was condoned and the Appellant's Representative was allowed to present the case.

5. 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 along with 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 his Appeal for consideration of this Court:-

- (i) The Appellant was having a LS Category Connection, bearing Account No. 3002812007 with sanctioned load of 2972.378 kW & CD 2050/1500 kVA under DS City West (Spl.) Division, PSPCL, Ludhiana from the year 1984.
- (ii) The Appellant had filed a case with the Corporate Forum vide Case No. CF-004/2023 for the updation of ACD/AACD and Meter Securities in the SAP System and refund/adjust the interest as per Regulation 17.1, 17.4 and 17.3 of Supply Code, 2007 and 2014 respectively on the belatedly updated Security amounts.

- (iii) The Appellant was in this business from the last many years and was using the Sanctioned Load as per the requirements of business. The load was enhanced many times by paying the adequate amount of ACD and Meter Security to the Respondent (PSEB/PSPCL) from time to time as per its Rules and Regulations.
- (iv) Till 2015, the Respondent used to maintain the record of ACD/AACD manually. But after 2015, each and every ACD/AACD and Meter Security paid by the Appellant, the Respondent used to update the same in the SAP System maintained in its office.
- (v) On 03.10.2022 and 01.11.2022, the Appellant requested the Respondent for the updation of each and every ACD/AACD deposited by the Appellant from time to time. To facilitate the Respondent, the Appellant attached the list of all the ACD/AACD and meter securities paid as per its Account Books. The letters stand received by the Respondent vide Diary No. 661 dated 04.10.2022 and Diary No. 3392 dated 04.11.2022.
- (vi) The Corporate Forum deliberated the Case of the Appellant and after due deliberation/ reconciliation of the amounts of

ACD/AACD, ordered the Respondent to update all the ACD/AACD amounts paid by the Appellant from time to time.

- (vii) The Corporate Forum in its order dated 28.03.2023 observed that the Appellant had deposited amounts on account of Security from time to time by supplying copy of the Calculation Sheet. The Respondent had given its comments against each entry and the same was tabulated on page 16 of the order, wherein the observations of the Corporate Forum were on page 17 and 18.
- (viii) The Corporate Forum had gone through the written submissions made by the Appellant and written reply of the Respondent, rejoinder, comments on the rejoinder as well as oral arguments made by the Appellant and the Respondent alongwith the material brought on the Forum file. From the discussion, the Corporate Forum was of the opinion that Securities mentioned in the table at page 16, read with observation of the Forum at page 17 were required to be considered and Security amounts deposited by the Consumer are required to be updated accordingly from time to time.
- (ix) The interest on the updated Securities was required to be given as per Regulation 17.1 of the Supply Code from the date of its deposit with which the Appellant was satisfied. However, the

part at point No. (i) of the decision which the Appellant was not satisfied and thus filed the present Appeal was that the interest due under Regulation 17.4/17.3 was disallowed by the Corporate Forum without citing any reason.

- (x) As per the order dated 28.03.2023 of the Corporate Forum in the present case, the Respondent was requested under Regulation 2.33 of the PSERC (Forum and Ombudsman) (2nd Amendment) Regulation 2021 for compliance of the decision shall be made within 21 days from the receipt of the order but it was implemented on 09.06.2023.
- (xi) The Respondent as well as the Appellant had reconciled the amounts of ACD/AACD deposited by the Appellant from time to time on a separate sheet.
- (xii) From 01.01.2008 to 31.08.2022, Penal Interest as per Regulations 17.4/17.3 of Supply Code, 2007 and 2014 was not allowed by the Corporate Forum on the belatedly updated amount of Security which should be allowed.
- (xiii) The Respondent updated the amounts of Securities deposited by the Appellant as ordered by the Corporate Forum on 09.06.2023 and conveyed to the Appellant on 27.06.2023 alongwith ACD interest Calculation Sheet.

- (xiv) The Respondent updated the entire ACD/AACD and Meter Securities amounts deposited by the Appellants from time to time in the SAP System and released the excess Security received by the Respondent to the entire satisfaction of the Appellant by retaining the consumption based Security upto 2022-23 as per the instructions of the PSPCL and as per the order of the Corporate Forum.
- (xv) The issue of the payment of Penal Interest on the belatedly updated amount of Securities for the period from 01.01.2008 to 31.08.2022 remained unresolved for which the present Appeal was filed. The Corporate Forum failed to consider the demand of the Appellant for the grant of Penal Interest on the belatedly updated amount of Securities deposited by it from time to time in terms of Regulations of 17.4 and 17.3 of Supply Code, 2007 and 2014 respectively.
- (xvi) The Corporate Forum while deliberating the Case of the Appellant took every Notice of the requests made by the Appellant on 03.10.2022 and 01.11.2022 for updation of each and every ACD /AACD and Meter Securities deposited by the it, but disallowed the interest thereupon from 01.01.2008 to 31.08.2022 in terms of Regulations 17.4 and 17.3 of Supply Code, 2007 and 2014 on the belatedly updated Security amount

for which representation was made by the Appellant in 2011 to credit the interest, on the updated amount of Security, was the prerogative of the PSPCL and not the Appellant.

(xvii) The Appellant had worked out the admissible interest from 01.01.2008 to 31.08.2022 in terms of Regulations 17.4 of Supply Code, 2007 and 17.3 of Supply Code, 2014 which came to ₹ 35,54,055/- only. Out of this amount, the Respondent had already paid amount of ₹ 19,13,677/- as interest in terms of Regulation 17.1 of Supply Code, 2007 and 2014 leaving balance amount of ₹ 16,40,378/- which was still due to the Appellant.

(xviii) The decision of the Learned Corporate Forum in disallowing the interest as per 17.4 and 17.3 of Supply Code, 2007 and 2014 was contrary to the spirit of Regulation 17 which was enacted with sole motive to facilitate the payment of interest to the consumers by the various offices of the PSPCL in time and in Case of default/ delay, Penal Clause was introduced i.e. 17.4 and 17.3 of the Supply Code, 2007 and 2014 for making the payment of interest, if delayed as per provision of the Regulation 17 by the Respondent to the consumers. The Learned Corporate Forum had erred in disallowing the interest

on Security deposited even after delayed updation of Securities by the Respondent as per 17.4 and 17.3 of the Supply Code.

(xix) It was therefore, respectfully prayed that in view of the submissions made above, the Appeal filed by the Appellant may please be accepted and allow the interest due to the Appellant under Section 17.4 and 17.3 of the Supply Code, 2007 and 2014 with a direction to the Respondent to credit the amount of ₹ 16,40,378/- in the accounts of the Appellant without any further delay.

(b) Submission during hearing

During hearing on 03.08.2023, the Appellant's Representative (AR) reiterated the submissions made in the Appeal and prayed to allow the same.

(B) Submissions of the Respondent

(a) Submissions in written reply

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

(i) As per the decision of Corporate Forum, Ludhiana in Case No. CF-004/2023, the sum of ₹ 8,13,486/- as interest on the Security amount deposited by the Appellant had been adjusted in its account vide Sundry No. 66/44 R-705 dated 09.06.2023.

- (ii) The Appellant was having LS Category Connection with sanctioned load/contract demand as 2972 kW/1500 kVA.
- (iii) The bills depicting the amount of ACD/AACD were issued to the Appellant regularly and the Appellant was aware about it. The Appellant had informed the Respondent to update the ACD/AACD in its account and the same was updated.
- (iv) The record of the security amounts deposited by the Appellant was from the year 1984 and it was difficult to verify the same. So the decision dated 28.03.2023 of the Corporate Forum, Ludhiana was implemented on 09.06.2023. The Appellant was satisfied with the same.
- (v) As per the decision of the Corporate Forum, Ludhiana, the amounts of ACD/AACD deposited by the Appellant had been updated in the account of the Appellant and the sum of ₹ 8,13,486/- as interest on these security amounts had been adjusted in its account vide Sundry No. 66/44 R-705 dated 09.06.2023.
- (vi) As per Regulation 17.1, the Corporate Forum, Ludhiana had decided to provide the interest to the Appellant and the penal interest as per Regulation 17.3 & 17.4 was disallowed.
- (vii) The Corporate Forum, Ludhiana decided the case on 28.03.2023. As per Regulation 2.37 of the PSERC (Forum and

Ombudsman) (2nd Amendment) Regulations, 2021, the Appeal should have been filed by the Appellant by 27.04.2023. But the Appellant did not file the Appeal within time. The Appellant was well aware about this. So, the Appeal should be dismissed on this ground.

(b) Submission during hearing

During hearing on 03.08.2023, the Respondent reiterated the submissions made in the written reply to the Appeal and prayed for the dismissal of the Appeal.

6. Analysis and Findings

The issue requiring adjudication is the legitimacy of the claim of the Appellant regarding Penal interest as per Regulation 17.4 & 17.3 of the Supply Code-2007 & Supply Code-2014 respectively due to delayed payment of interest on the security amounts deposited by the Appellant from time to time.

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

- (i) The Corporate Forum in its order dated 28.03.2023 observed as under:-

“Forum observed that Petitioner contended in his petition that Petitioner is in this business from the last many years and was using the sanctioned load as per the requirements of business after getting the same enhanced from the respondent by paying the adequate amount of ACD/AACD and meter security to the respondent PSEB/PSPCL from time to time as per the rules and regulations of PSPCL. On dated 03.10.2022 and on 01.11.2022 Petitioner requested the respondent for the updation of each and every ACD/AACD deposited by the consumer from time to time & allow interest thereupon but Respondent failed to update the security and allow the interest to the Petitioner from 01.01.2008 to 31.03.2022.

Aggrieved with this Petitioner filed his petition to update the entire amount of ACD/AACD and interest due to the Petitioner till 31.03.2022 claimed in terms of Regulations 17.1 of Supply Code and also penal interest as per Regulation 17.4 of Supply Code 2007 and 17.3 of the supply code 2014.

Forum observed as per Petitioner he had deposited amounts on account of security from time to time. Respondent has given his comments against each entry and the same is tabulated as under: -

Sr. No.	Receipt no	Date	Amount deposited as security as per Petitioner	Amount deposited as security as per Respondent	Respondents' comments
1	307/1203	03.06.1984	11870	11870	Agreed
2	262/37115	29.07.1986	14605	14605	Agreed
3			22910	-	Dis-Agreed
4	357/70708	30.01.1989	18000	18000	Agreed
5	461/10958	23.05.1991	26131	26131	Agreed
6	237/6216	14.08.1995	105048	105048	Agreed
7	319/37970	10.10.1997	225000	225000	Agreed
8	227/78874	01.03.2005	97630	97630	Agreed
9	34/68791	06.10.2005	390520	390520	Agreed
10	36/68791	06.10.2005	-	350	
11	63/68791	14.10.2005	488500	488500	Agreed
12	414/88544	29.01.2007	100000	100000	Agreed
13	46/3898	03.03.2008	900000	608000	Out of Rs. 9 lacs, Rs. 292800/- stands adjusted in account of Petitioner as per BA 16 receipt, however in hearing dated 16.03.2023, It was confirmed that no refund of Rs. 292800 was allowed in energy bills after scrutinizing record.
14	418/38819	13.06.2008	310980	310980	Agreed
15	499/3384	21.03.2011	30700		Disagreed, these installments were paid by the Petitioner total amounting to Rs. 92100/- and this amount was not related to the ACD. Moreover, Petitioner does not submit any receipts/supplementary bill which shows that this amount relates to ACD. However, in final comments submitted that the receipts cannot be verified being record older than 10 years.
16	7619007	28.04.2011	30700		
17	7988515	25.07.2011	30700		
18	8393110	31.10.2011	500000	500000	Agreed
19	293/91310	09.11.2011	500000	500000	Agreed
20	335/91310	17.11.2011	92084	92084	Agreed
21	355/91310	21.11.2011	500000	500000	Agreed
22	398/91310	29.11.2011	500000	500000	Agreed
23	576/91310	27.12.2011	500000	500000	Agreed
24	167/1587	27.01.2012	506848	506848	Agreed
25	77/7951	21.01.2015	651799	651799	Agreed
26	95/7951	30.01.2015	651799	651799	Agreed
27	19/48265	19.12.2015	82011	82011	Agreed
28	219400002671	15.05.2017	717411	-	Disagreed, Petitioner was issued a bill of amounting to Rs. 2833920/- in the month of 04/2017 in which Rs. 1154582/- was allowed as interest. Petitioner deposited this amount on dated 17.04.2017. In the month of 05/2017, Petitioner was issued bill amounting to Rs. 5867490/- in which the interest allowed in the month of 04/2017 was again charged and due to this, interest of Rs. 716624/- was given to the petitioner and amount of Rs. 5150870/- was deposited from the Petitioner and 716624/- out of 5867490/- was adjusted as interest vide sundry in the month of 07/2017. The amount of Rs. 717411/- was mentioned as hand written to explain the calculation to the Petitioner. This amount never relates to any ACD.

From the above, Forum observed as under: -

- a. At sr. no. 3 above, Petitioner has not submitted any record regarding deposit of Rs. 22910/-, as such the same cannot be considered towards security.
- b. At sr. no. 10, Petitioner has not mentioned but respondent has admitted the deposit of Rs. 350/- as security.
- c. At sr. no. 13, Forum observed that Respondent in this regard submitted that at the time of extension of load petitioner deposited amounting to Rs. 9 lacs as security out of which Rs. 2,92000/- was adjusted vide sundry no. 35/81 R-394. But due to non-availability of relevant old record, Respondent was unable to explain that in which bill this amount was adjusted, however during final hearing he admitted that the amount of Rs. 292000/- had not been refunded as verified from CBC record. Forum observed that the total amount of Rs. 9 lacs, is required to be considered, if not already adjusted, while updating security/calculating interest on security.
- d. At sr. no. 15, 16 & 17, as per respondent, these installments were paid by the Petitioner total amounting to Rs. 92100/- and this amount was not related to the ACD. Moreover, Petitioner did not submit any receipts/supplementary bill which shows that this amount relates to ACD. Therefore, Forum observed that these amounts cannot be considered as ACD.
- e. At. Sr. no. 28, a bill amounting to Rs. 2833920/- was issued in the month of 04/2017 in which Rs. 1154582/- was allowed as interest. Petitioner deposited this amount on dated 17.04.2017. In the month of 05/2017, Petitioner was issued bill amounting to Rs. 5867490/- in which the interest allowed in the month of 04/2017 was again charged and due to this, interest of Rs. 716624/- was given to

the petitioner and amount of Rs. 5150870/- was deposited from the Petitioner and Rs. 716624/- out of Rs. 5867490/- was adjusted as interest vide sundry in the month of 07/2017. The amount of Rs. 717411/-, as mentioned in hand written on the bill was to explain the calculation to the Petitioner. As such this amount does not relates to any ACD. Therefore, Forum observed that this amount cannot be considered as ACD.

Regarding penal interest Forum observed that the Petitioner had deposited the ACD/Security from time to time. Forum observed that the Petitioner, being a LS Category Consumer, ought to be vigilant and prompt in bringing to the notice of the Respondent the fact of non-updation/ non-credit of interest on Securities as per applicable regulations. The Petitioner is an LS Category Consumer and received regularly the energy bills issued by PSPCL from time to time. In all these bills issued by the Respondent, amount of Security (Consumption) and Security (Meter) was invariably depicted. The Petitioner paid these bills regularly on receipt thereof but did not point out or file a claim/representation to the Respondent about not crediting/adjusting the interest amount on the Security (Consumption) and the Security (Meter) for the disputed period. Delay on the part of the Petitioner to file the representation for correction/updation of securities should not result in additional income to him at the cost of the Respondent (PSPCL). In view of the above, Penal interest is disallowed.

Forum have gone through the written submissions made by the Petitioner in the petition, written reply of the Respondent, rejoinders, comments on rejoinders as well as oral arguments made by the Petitioner and the Respondent along with the material brought on the record. From the above discussion, Forum is of the opinion that securities mentioned in the table at page 16 above read with the observations of the Forum at point no. (a) to (e) at page 17,

are required to be considered and security is required to be updated accordingly from time to time. Further, interest is required to be given as per reg. 17.1 of the Supply Code, from the date of its admissibility. Further interest under regulation 17.3/17.4, is disallowed.

Keeping in view of the above, Forum came to the unanimous conclusion the securities mentioned in the table at page 16 above read with the observations of the Forum at point no. (a) to (e) at page 17 above, be considered and security be updated as deposited from time to time accordingly. Interest be given as per Reg. 17.1 of the Supply Code, from the date of its admissibility on the updated security. Further interest under regulation 17.3/17.4 of respective Supply Code, is disallowed.”

- (ii) I have gone through the written submissions made by the Appellant in the Appeal, written reply of the Respondent as well as oral arguments of both the parties during the hearing on 03.08.2023. It is observed that the Appellant had deposited Security (Consumption) from time to time, but the same were not updated timely by the Respondent. Since these security amounts were not updated timely, the interest on these were not given to the Appellant. Aggrieved by this, the Appellant requested the Respondent vide letters dated 03.10.2022 & 01.11.2022 for the updation of all the security amounts deposited till date & interest thereon. However, the Respondent did not take action on the request of the Appellant. Then the Appellant approached the Corporate Forum vide Case No. CF-

004/2023. The Corporate Forum, in its decision dated 28.03.2023, ordered the Respondent to update the Security (Consumption) amounts & allow interest thereon as per Regulation 17.1 of Supply Code-2007 & Supply Code-2014. But disallowed the additional interest as per Regulation 17.4 & 17.3 of the Supply Code-2007 & Supply Code-2014 respectively.

- (iii) The Security (Consumption) was updated by the Respondent in the account of the Appellant. Also, the interest on these updated Securities was given as per Regulation 17.1 of the Supply Code as per the decision of the Corporate Forum, with which the Appellant was satisfied. However, the Appellant was not satisfied that the interest due under Regulation 17.4/17.3 was disallowed by the Corporate Forum without citing any reason & thus filed the present Appeal.
- (iv) It is observed by this Court that the Appellant is a Large Supply Category Consumer and is expected to be vigilant and prompt in presenting his claims. It did not file any claim/ representation to the Respondent before 03.10.2022, about not giving the interest on the amount of Security (Consumption) deposited by it. The Appellant did not take appropriate remedy at the

appropriate time. The Appellant cannot take benefit of its own wrongs, delays and latches.

- (v) The Regulations framed by PSERC are in public domain of PSERC as well as on the Website of PSPCL. The Appellant should have promptly taken up the matter with PSPCL and any delay on the part of the Appellant cannot be rewarded.
- (vi) The Appellant has already been awarded normal interest as per Regulations by the Corporate CGRF, Ludhiana. The delay of so many years on the part of the Appellant in filing a claim/representation should not result in undue benefit of additional interest to it. I am, therefore, not inclined to grant the additional interest asked for by the Appellant. So, the claim of the Appellant in this regard is rejected after due consideration.
- (vii) In view of above, this Court is not inclined to interfere with the decision dated 28.03.2023 of the Corporate Forum in Case No. CF-0004/2023.

7. Decision

As a sequel of above discussions, the order dated 28.03.2023 of the Corporate Forum in Case No. CF-0004/2023 is hereby upheld.

8. The Appeal is disposed of accordingly.

9. 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.
10. 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.

August 03, 2023
S.A.S. Nagar (Mohali).

(ANJULI CHANDRA)
Lokpal (Ombudsman)
Electricity, Punjab.