

**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. 24/2022**

**Date of Registration : 20.05.2022**

**Date of Hearing : 09.06.2022**

**Date of Order : 09.06.2022**

**Before:**

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

**In the Matter of:**

M/s. Sanchit Enterprises,  
D-37, Focal Point,  
Phase-V, Ludhiana.

**Contract Account Number: 3002810333 (LS)**

...Appellant

Versus

Senior Executive Engineer,  
DS Focal Point (Spl.) Divn.,  
PSPCL, Ludhiana.

...Respondent

**Present For:**

Appellant: Sh. Parvesh Chadha,  
Appellant's Representative.

Respondent : Er. Jagdeep Singh,  
Senior Executive Engineer,  
DS Focal Point (Spl.) Divn.,  
PSPCL, Ludhiana.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 24.01.2022 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-298 of 2021, deciding that:

*“The notice no. 2449 dated 15.07.2020 amounting Rs. 1075454/- is quashed however, decision passed by CLDSC and ZLDSC are upheld. The principle amount so ascertained be adjusted with payments made time to time and accordingly interest be calculated from the date amount became due to till the date it is cleared as per applicable rates of interest as per PSPCL instructions. Fresh notice be served accordingly.”*

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

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 19.05.2022 i.e. beyond the period of thirty days of receipt of decision dated 24.01.2022 of the CGRF, Ludhiana in Case No. CGL-298 of 2021. The Respondent was asked vide letter no. 460/OEP/M/s. Sanchit Enterprises dated 19.05.2022 to confirm whether the Appellant has deposited the requisite 40% of the disputed amount. The Respondent confirmed vide email dated 20.05.2022 that the requisite 40% of the disputed amount has been deposited. Therefore, the Appeal was registered on

20.05.2022 and copy of the same was sent to the Sr. Xen/ DS Focal Point (Spl.) Division, Ludhiana for sending written reply/ parawise comments with a copy to the office of the CGRF, Ludhiana under intimation to the Appellant vide letter nos. 461-463/OEP/A-24/2022 dated 20.05.2022.

### **3. Proceedings**

With a view to adjudicate the dispute, a hearing was fixed in this Court on 09.06.2022 at 12.00 Noon and intimation to this effect was sent to both the parties vide letter nos. 544-45/OEP/A-24/2022 dated 02.06.2022. 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 09.06.2022, the issue of condoning of delay in filing the Appeal in this Court was taken up. The Appellant's Representative stated that the Respondent issued the fresh Notice No. 1003 to the Appellant on 22.04.2022 to deposit ₹ 8,65,308/- after implementing the decision dated 24.01.2022 of the Forum and the Appeal was filed within 30 days from the date of issue of said demand notice. The Appellant's Representative further prayed that the delay in filing the present Appeal may kindly be condoned and the Appeal be adjudicated on merits in the interest of justice. I find

that the Respondent did not object to the condoning of the delay in filing the Appeal in this Court either in its written reply or during the hearing in this Court.

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.”*

The Court observed that the Respondent issued the fresh Notice to the Appellant on 22.04.2022 i.e. beyond the period of 21 days from the date of receipt of decision dated 24.01.2022 of the Forum. The Appeal was received in this Court on 19.05.2022 i.e. after more than 30 days of receipt of the said order but within 30 days of receipt of fresh demand raised by the Respondent after implementing the decision of the Forum. It was also 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 its Appeal for consideration of this Court:-

- (i) The Appellant was having a LS category connection with Sanctioned Load as 295.911 kW/ 250 kVA under DS Focal Point (Spl.) Division, Ludhiana in its name.
- (ii) The dispute was related to the years 1995, 1996. There were two connections, Account No. 125/45 (FP 76-328) with

sanctioned load of 94.25 kW in the name of M/s. Sanchit Enterprises and another Account No. 48/45 with sanctioned load of 98.74 kW in the name of M/s. Randhir Enterprises. The Appellant applied for clubbing of both the connections alongwith extension of load to 295.911 kW/ 250 kVA vide A&A No. 27226 dated 06.09.1994, Demand Notice No. 1637 dated 09.03.1995 was issued for depositing the requisite amount but the same was not complied with within seven days period and due to late compliance by the Appellant, the clubbing and extension of load was effected vide SCO No. 99/37 dated 23.09.1996.

- (iii) In the meantime, connection of Account No. 48/45 was checked by Sr. XEN/Enf., Hoshiarpur on 11.01.1996 wherein it was found that 2 nos. MS connections bearing Account Nos. 48/45 and 125/45 were running in the same premises. Further, it was also found that meter of Account No. 48/45 was running slow by 32.19%, connected load was found 103.35 kW and meter of Account No. 125/45 was running slow by 48.02%, connected load was 54.586 kW. The Respondent raised Notice No. 691 dated 17.01.1996 for ₹ 64,849/- (including ₹ 26,349/- for slowness of meter and ₹ 38,500/- for load surcharge) to Account No. 48/45 and Notice No. 692 dated 17.01.1996 to

Account No. 125/45 amounting to ₹ 50,282/- for slowness of meter.

- (iv) The Appellant challenged the amount charged for both the connections in CLDSC as the Appellant was not agreed/accepted the slowness of meters. The CLDSC decided that load surcharge charged to Account No. 48/45 should not be levied as detected load was within their sanctioned load, however the billing should be revised on Large Supply tariff from date of application of clubbing, further the slowness amounts charged be revised as per LS tariff.
- (v) The Appellant approached ZLDSC against this decision where the decision of CLDSC was up held by the ZLDSC. Thereafter, the Appellant approached the Hon'ble Punjab & Haryana High Court. The Court remanded back the case to review the matter as per present instructions. The Forum decided that the case could not be dealt with being Court case, so the Appellant again approached Hon'ble Punjab & Haryana High Court. The Court directed to go to appropriate authority.
- (vi) The Appellant again filed Appeal in the Hon'ble Court of Ombudsman, Electricity, Punjab and as per orders dated 19.05.2021 passed by Hon'ble Court of LOKPAL (Ombudsman) Electricity, Punjab, in Appeal No. A-43 of 2021

received by the Appellant on 25.05.2021, the case was remanded back to the Forum.

- (vii) Then the Appellant filed an Appeal in the Forum against the decision of the ZLDSC which was registered as CGL-298/2021 and the same was decided by the Forum on 24.01.2022. The Appellant was waiting for the final amount of notice to be issued by the Respondent after implementing the decision of the Forum. The Respondent issued Notice No. 1003 dated 22.04.2022 to deposit ₹ 8,65,308/- within 15 days whereas 30 days were allowed to file any Appeal if not satisfied with the decision. The Appellant did not agree with the decision/calculations, as such this Appeal was filed.
- (viii) The Appeal of the Appellant was never considered by any authority i.e. CLDSC, ZLDSC, and CGRF as the meters were neither tested nor seal packed in the presence of the Appellant. No consent was obtained before testing. It was also requested to get the meters retested from CEI Punjab Govt. Patiala but no such order was passed.
- (ix) The LS Tariff was only chargeable when a clubbing was done on the checking by PSEB now PSPCL but in this case the clubbing was applied by the Appellant itself as per instructions contained in ESIM.

- (x) The Respondent failed to provide the detail of amount raised on behalf of audit party. No such detail ever had been provided so far.
- (xi) The 40% payment was deposited by the Appellant while filing Appeal in the Court of Ombudsman, Mohali vide Appeal No. A-43 of 2021. It was requested to the office of the Respondent to amend the notice amount but nobody was ready to listen the request and was told to deposit the amount otherwise action would be taken after 15 days. Due to this error, the interest was also charged on 40% of the disputed amount i.e. ₹ 4,29,682/- already deposited with PSPCL, which was injustice to the Appellant. The amount of ₹ 2,51,490/- was deposited vide receipt no. 157653555 dated 05.04.2021 & ₹ 1,78,192/- vide receipt no. 157857567 dated 09.04.2021.
- (xii) The calculation should be as below:-
- As per calculation sheet Principal amount was ₹ 2,27,856/-.
  - As per calculation sheet Interest amount was ₹ 6,37,452/- till 24.01.2022.
  - Amount deposited in 04/2021 (40%) was ₹ 4,29,682/-.
  - Amount due Interest+ Principal Amount as on 31.03.2021 was ₹ 8,47,652/-.  
Less paid in 04/2021 (-) = ₹ 4,29,682/-  
Balance on 10.04.2021 = ₹ 4,17,918/-.

e) As per ESIM-2018 Instruction No. 75, the first due amount was adjusted from the payment received i.e. ₹ 2,27,856/- and after that interest ₹ 2,01,726/-.

f) Therefore, out of Interest up to 31.03.2021 was outstanding ₹ 6,19,806/- less ₹ 2,01,726/- = ₹ 4,18,080/- which was payable instead of ₹ 8,65,308/-.

(xiii) The Appellant prayed that relief be provided by way of

(a) Retesting of Meters

(b) Charging of LS Tariff from the date of actual change effected.

(c) By adjusting the 40% payment deposited during the Appeal No. A-43/2021 as per ESIM instruction No. 75.

**(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 had not clarified whether both meters were tested in the presence of Petitioner; whether both meters were packed sealed in our presence; whether any consent was obtained before testing. It was also requested to get the meters retested from CEI/ Punjab Govt. but no reason for rejection of this request has been given.

- (ii) The Respondent had not replied under which instructions of ESIM the LS Tariff was charged. As per ESIM-2018 instruction 35, the LS Tariff was only chargeable when clubbing was done on the checking by PSEB (now PSPCL) but in the case of Appellant the clubbing was applied by itself. As per instruction contained in ESIM.-2011 instruction 35 (as below) and ESIM-2018 Instruction no. 35.7, the tariff can be charged on actual effect of clubbing which was done in October, 1996 .

### 35. CLUBBING OF MORE THAN ONE CONNECTION IN THE SAME PREMISIES

35.5 Whenever an existing consumer on his own, applies for clubbing of two or more connections running at the same premises, clubbing of all such connections may be allowed by the officers competent to sanction the total load after clubbing. The clubbing of such connections may be allowed at the cost of the PSPCL only if on the clubbing of different connections, the voltage level for the total clubbed load remains the same. Where after clubbing of loads the consumer is required to get supply at the next higher voltage, he shall bear the expenditure required for laying higher voltage lines and setting up his own sub-station etc. These provisions shall be applicable for all categories of connections.

- (iii) The Respondent had supplied copies of HM in which the difference had been charged due to omission in MF. It was submitted that the Appellant has no record/ bills to verify the omission because the old files were with previous counsel, Mr.N.K. Jain, who has expired and not traceable from his

office.

(iv) The Respondent had calculated the interest on delayed payment as per circulars mentioned in the interest calculation sheet. These circulars pertained to ACD or excess payments deposited by the consumer only at rates fixed by SBI+2% but the case of the Appellant was delayed payment case and had not submitted any instruction to outstanding amount which was pending either in DSC/ZLDSC/COURT.

(v) The following instruction (at the time of checking) was available for testing of meters where meters were not accurate:-

a) Sales Manual-31.05.1980 inst.-113 for meter to be tested in ME Lab.

b) Sales Regulation-31.03.1999 inst. 71.3 for meter to be tested in ME Lab.

The Respondent failed to comply with the instructions. Meters were neither tested in the ME Lab nor got tested from CEI. No testing report had been submitted with reply.

(vi) The following instruction at the time of clubbing and checking were added for reference:-

a) Sales Manual-31.05.1980 inst.-268 for clubbing opted by the consumer.

b) Sales Regulation-31.03.1999 inst. 167 for clubbing opted by the consumer.

The Tariff was chargeable from the date of actual effect of change of supply from LT to HT i.e.Oct-1996 and not as charged from 01.01.1996.

- (vii) The disputed metering equipment was always kept in the same position as it was found till the finalization of dispute with the JE who maintains the ME-II and ME lab was accepting only after a certificate on Challan that there was no dispute or Court Case pending of ibid meter. The reply was not genuine and not acceptable. The basic point of the Appellant is that meters were never checked in the Appellant's presence nor tested in ME Lab in the presence of the Appellant. The PSEB (now PSPCL) had never produced the ME Lab. testing results in any Dispute Committee as well as in Punjab & Haryana High Court.
- (viii) The Committees have not decided the matter as per Sales Manual as well as ESIM as explained. The LS Tariff was applicable when Department checked the connections and clubbing was made. When consumer itself applied for clubbing then it will be from the date of actual effect.
- (ix) The circulars were mentioned but were for paying interest on excess deposit/ ACD. These meters were neither tested in our presence nor in our absence. In reality, these were not tested at

all and evidence has been destroyed as the Appellant demanded to test the meters from CEI.

(x) The Application was submitted to CLDSC and on the application, the then SE marked on it. The copy was also submitted and was attached to the Petition filed in Punjab & Haryana Court. The PSPCL had replied and record must be available in Court Case file. The Respondent had not traced it and simply replied that the request was not traceable in the record.

**(c) Submission during hearing**

During hearing on 09.06.2022, the Appellant's Representative (AR) reiterated the submissions made in the Appeal as well as in the Rejoinder and prayed to allow the same. The Appellant Representative failed to explain why the LS tariff should not be levied from the date of application for clubbing when he failed to comply with the demand notice for a very long period.

**(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 had two electricity connections running in his factory premises bearing Account No. (old) 48/45 in the name

of M/s. Randhir Industries having sanctioned load of 94.250 kW and Account No. 125/45 having sanctioned load of 98.947 kW in the name of M/s. Sanchit Enterprises.

- (ii) The connection of the Appellant was checked by Sr. Xen/ Flying Squad, Hoshiarpur on 11.01.1996 and found that 2 nos. MS Category connections bearing A/c nos. 48/45 and 125/45 with connected load of 103.352 kW and 54.586 kW were running against the sanctioned load of 94.250 kW and 98.947 kW respectively. The meter of A/c No. 48/45 was found running slow by 32.19% and meter of A/c No. 125/45 was also found running slow by 48.02% and both the connections were found running in the same premises.
- (iii) The A/c No. 48/45 was overhauled as per CC No. 45/94 for six months against meter slowness (32.19%) amounting to ₹ 26,349/- and the amount charged on account of excess load running ( $103.352 \text{ kW} - 94.250 \text{ kW} = 9.102 \text{ kW}$ ) amounted to ₹ 38,500/-. The total amount charged for the A/c No. 48/45 was ₹ 64,849/- and a notice was sent to the Appellant vide Notice No. 691 dated 17.01.1996 for depositing the said amount. The Account No. 125/45 was also overhauled on account of 32.19% slowness, amounting to ₹ 50,282/-. A notice to this effect was issued vide this office Memo No. 692 dated 17.01.1996.

(iv) The Appellant had applied for clubbing of both the connected loads vide Application No. 27226 dated 06.09.1994 with connected load of 295.911 kW and CD as 250 kVA. A Demand Notice bearing No. 1637 was issued to the Appellant for compliance. However, the Appellant did not deposit the amount mentioned in the demand notice.

(v) The Appellant was not satisfied with the amount charged to him on both of his electricity connections on account of meter slowness and excess load found running at his factory premises. He then, put up his case in CLDSC on 22.08.1996 and accordingly, CLDSC decided as follows:-

*'Both the cases belong to one consumer and as such CLDSC had discussed it as one case. In the meeting, the consumer intimated that he had already applied for clubbing of both the connections i.e. a/c no. 48/45 and 125/45. It was decided that load surcharge in case of a/c no. 48/45 should not be levied as detected load on both these connections is within their sanctioned load and secondly, the bill should be revised on LS Tariff from the date of application for clubbing. The consumer has also been charged Rs.26,340/- against a/c 48/45 and Rs.50,282/- against a/c-125/45. These charges were found to be in order but are subject to revision of LS Tariff.'*

(vi) As per the above CLDSC decision, the Appellant was charged ₹ 26,349/- against a/c no. 48/45 and ₹ 50,282/- against A/c no.

125/45. The charges were found to be in order but were subject to revision of LS Tariff. So, the Appellant was charged ₹ 1,55,024/- on account of 20% LT Surcharge and difference of tariff of MS and LS for the period 01/1996 to 09/1996 vide SCA No. 64/86.

(vii) Both the connections were clubbed vide SCO No. 99/37 dated 23.09.1996 on 27.09.1996. But the Appellant filed a suit against the CLDSC decision. As per the order of the Court, the Appellant deposited ₹ 85,263/- vide receipt no. 501 dated 06.01.1997 and the case was sent to the Zonal DSC Committee as on 28.02.2000 for discussion. The Committee discussed the case on 31.05.2000 and decided with the following remarks for M/s Randhir Industries:-

- 1. Amount of Rs. 1,24,300/- charged as per HM no. 770,780,785 dt 16.01.1995 is correct and payable.*
- 2. From the amount charged of Rs. 1,15,131/- and Rs. 1,70,526/-, only amount of load detected more than Sanctioned Load for a/c no.48/45 is not recoverable as detected load of both these connections is within their sanctioned load. However, bills should be revised on Large Supply Tariff from the date of application of clubbing i.e. 09/1994.'*

(viii) It was also submitted that for M/s Sanchit Enterprises, the Committee decided to uphold the decision of CLDSC Committee. As per the above Zonal Level DSC Committee

decision, a notice no. 5892 dated 07.08.2000 was issued to the Appellant from the office of Xen, Focal Point to deposit the balance amount of ₹ 3,39,324/-. Instead of depositing the amount, the Appellant approached the Hon'ble High Court of Punjab and Haryana and got stay orders against the disconnection of connection. The matter was finally decided by the Punjab and Haryana High Court on 15.07.2019. The final decision quoted as below:-

*'Accordingly, the petition is allowed and the impugned orders are set aside with liberty to the competent authority to pass fresh order in accordance with the law.'*

- (x) So, in compliance to the High Court decision as above, the undersigned after giving an opportunity of hearing to the Petitioner in the above case, had come to the following conclusion:-

In view of the decision given by the Dispute Settlement Committee at Circle and Zonal Level, and as per the checking report of Xen/ Flying Squad, Hoshiarpur, the undersigned came to the conclusion that the amount charged to the Appellant against meter slowness was found to be appropriate and the Appellant was asked to deposit the net amount of ₹ 10,75,454/- which included the interest taken from 07.08.2000 upto

31.03.2020 on the principal amount of ₹ 3,39,324/- as well. The Appellant then approached CGRF, Ludhiana against the said notice and vide decision dated 24.01.2022 of Case No. CGL-298/2021, the notice was revised vide Memo No. 1003 dated 22.04.2022 and net amount recoverable was ₹ 8,65,308/-.

- (xi) The Respondent submitted that the test results declared by the Checking Authority, Xen/ Flying Squad, Hoshiarpur could not be ignored or said wrong. Therefore, the amount charged against meter slowness was correct & recoverable.
- (xii) The Appellant had applied for clubbing of both the connected loads vide Application No. 27226 dated 06.09.1994 with connected load of 295.911 kW and CD as 250 kVA. A Demand Notice bearing No. 1637 was issued to the Appellant for compliance within 7 days. However, the Appellant did not deposit the amount mentioned in the Demand Notice. The CLDSC and ZDSC Committee on this matter as on dated 22.08.1996 and 31.05.2000 decided as follows:-

*'Both the cases belong to one consumer and as such CLDSC had discussed it as one case. In the meeting, the consumer intimated that he had already applied for clubbing of both the connections i.e. a/c no. 48/45 and 125/45. It was decided that load surcharge in case of a/c no. 48/45 should not be levied as detected load on both these connections is within their sanctioned load and*

*secondly, the bill should be revised on LS Tariff from the date of application for clubbing. The consumer has also been charged Rs.26,340/- against a/c 48/45 and Rs.50,282/- against a/c-125/45. These charges were found to be in order but are subject to revision of LS Tariff.'*

- (xiii) The Appellant challenged the decision of CLDSC and ZDSC Committees wherein additional matter of Account No. 48/45 amounting to ₹1,24,300/- charged vide Half Margin No. 780 dated 06.01.1995 on account of wrong multiplying factor was raised. The ZDSC Committee decided in its decision that the amount charged vide Half Margin was correct and payable.
- (xiv) The amount payable after adjusting the amount paid by the Appellant of ₹ 4,29,682/- came to ₹ 4,73,504/-.

**(b) Submission during hearing**

During hearing on 09.06.2022, the Respondent reiterated the submissions made in the written reply to the Appeal and prayed for the dismissal of the Appeal. The Respondent admitted that the meters in dispute are not available now and cannot be retested. He also admitted that 40% of disputed amount shall be adjusted in the final notice to be served on the basis of decision of this Appeal.

## 6. Analysis and Findings

The issue requiring adjudication is the legitimacy of the Notice No. 1003 dated 22.04.2022 issued to the Appellant for ₹ 8,65,308/- after implementation of the decision of the Forum.

*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 Appeal of the Appellant was never considered by any authority i.e. CLDSC, ZLDSC, and CGRF as the meters were neither tested nor seal packed in the presence of the Appellant. No consent was obtained before testing. The Appellant requested to get the meters retested from CEI, Punjab Govt. Patiala but no such order was passed. He further pleaded that the LS Tariff was only chargeable when a clubbing was done on the checking by PSEB (now PSPCL) but in this case the clubbing of the electricity connections was applied by the Appellant itself as per instructions contained in ESIM. He also pleaded that the Respondent failed to provide the detail of amount raised on the behalf of audit party. No such detail ever had been provided so far. He further pleaded that the interest was also charged on

40% of the disputed amount i.e. ₹ 4,29,682/- already deposited with PSPCL, which was injustice to the Appellant. He prayed that a relief be provided to the Appellant by retesting the meters, charging the LS Tariff from the date of actual change affected and by adjusting the 40% payment already deposited in April, 2021 as per Instruction No. 75 of ESIM.

- (ii) On the other hand, the Respondent controverted the pleas raised by the Appellant in its Appeal and reiterated the submissions made by the Respondent in the written reply. The Respondent argued that the test results declared by the Checking Authority, Xen/ Flying Squad, Hoshiarpur could not be ignored or considered wrong. Therefore, the amount charged against meter slowness was correct & recoverable. The Appellant had applied for clubbing of both the connected loads vide Application No. 27226 dated 06.09.1994 with connected load of 295.911 kW and CD as 250 kVA. A Demand Notice bearing No. 1637 dated 09.03.1995 was issued to the Appellant for compliance. However, the Appellant did not deposit the amount mentioned in the Demand Notice. The Appellant challenged the decision of CLDSC and ZDSC Committee wherein additional matter of Account No. 48/45 amounting to ₹ 1,24,300/- charged vide Half Margin No. 780 dated 06.01.1995 on account of wrong

multiplying factor was raised. The ZDSC Committee decided in its decision that the amount charged vide Half Margin was correct and payable. He further submitted that the amount payable after adjusting the amount paid by the Appellant of ₹ 4,29,682/- came to ₹ 4,73,504/-.

(iii) The Forum in its order dated 24.01.2022 observed as under:

“Forum observed that the dispute is 25 years older and the documents placed by Respondent are not complete in all aspects. The point of contention made out by the petitioner regarding non-testing of meter in presence of petitioner at site, in ME Lab and from Chief Electrical Inspector are not contended/opposed by Respondent in his reply either nor did the Respondent submit any such document in his favor justifying that the meter was checked in presence of petitioner at site or in ME Lab and by CEI. But Forum observed that even though the documents were not placed on record but the amount charged and the period overhauled by Respondent is for six months only, prior to date of testing. Further, In appeal no. 43/2021 filed in Ombudsman Mohali, Petitioner admitted that he is ready to pay slowness charges in point no. 5(A)(a)(xxiv) of decision. Forum further observed that the amount of slowness charged was to be revised as per LS tariff as per CLDSC decision but no comments had been submitted in this regard by Respondent about whether the difference was included in notice dated 02.08.2000 or not which needs to be taken care off now. Also, the Judgement passed by Hon. High Court Punjab & Haryana, in CWP 10894 of 2000 has no mention that the dispute of 1995, 1996 be dealt with sections of new Electricity Act, 2003. Therefore, the contention of Petitioner that the dispute be dealt up with new instruction of ESIM 2018, Supply code 2014 are invalid.

Forum observed that as the case is of period older than 25 years therefore due to non-submission of proper record it cannot be ascertained about what actually happened during the checking done in 1996, however, the test results declared by checking authority cannot be ignored or said wrong. Further, it is observed that the petitioner's account no. 48/45 was charged with Rs. 124300/- for wrong multiplying factor which was decided against

the petitioner in ZLDSC and was not challenged by him in CWP-10894 of 2000. Also, it is observed that the petitioner delayed the compliance of demand notice raised for clubbing and extension of load due to which the tariff charged of LS category from the date of application is justified as indefinite time period cannot be allowed in complying with the demand notice of clubbing. Respondent in his notice no. 5892 dated 07.08.2000 included interest at the rate of 12% amounting to Rs. 102468/- which was reduced in revised calculations and interest on principal amount of Rs. 236856/- was calculated. Forum observed that the interest calculations were till 31.03.2020 and not upto date.

In view of the above, Forum is of the opinion that the notice no. 2449 dated 15.07.2020 amounting Rs. 1075454/- is quashed however, decision passed by CLDSC and ZLDSC are upheld. The principle amount so ascertained be adjusted with payments made time to time and accordingly interest be calculated from the date amount became due to till the date it is cleared as per applicable rates of interest as per PSPCL instructions. Fresh notice be served accordingly.”

- (iv) 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 09.06.2022. The Appellant had pleaded in the Appeal that the meters were neither tested nor seal packed in the presence of the Appellant. No consent was obtained before testing. The Appellant requested to get the meters retested from CEI Punjab Govt. Patiala, but these were not got checked from the Chief Electrical Inspector. In this connection, it is worthwhile to peruse the decision dated 15.07.2019 in CWP No. 10894 of 2000 of the Hon’ble Punjab and Haryana High Court which reads as under:

*“1. The petitioner-Company had two commercial electric connections on its factory premises. On its request, they were clubbed subjecting it to revised billing of large supply tariff cases from the date of application for clubbing. As far as tariff for large supply is concerned that is governed by the tariff rate. However, on January 11, 1996 the Flying Squad made a spot inspection of the factory premises of the petitioner and found that both the meters were running slow. The petitioner was not associated with the spot inspection. So it is not known what sort of equipment was used to gauge the meter speed. On May 23, 1996 the petitioner made a representation to the Superintendent Engineer DS, City Circle PSEB, Ludhiana for checking/testing of the meters account No.48/45 and account No.125/45 by the Chief Electrical Inspector, the dispute being pending before him, which relates to slow functioning of the meter. He requested that meter be got checked and tested under supervision of the Chief Electrical Inspector to arrive at the truth of the dispute. The fact remains that meter was never got checked by the Metering Equipment Lab (ME Lab). The erstwhile Board (now PSPCL) does not dispute this position. In the absence of a reliable ME Lab test result implicit faith cannot be placed on the work of the Flying Squad at the time of spot inspection and that too done behind the back of the petitioner without explaining to them the process used for measuring the speed. The bill raised by the respondents is based on slow running. This, the petitioner disputes is highly inflated bill and*

*highly exaggerated and which is not based on reliable evidence of slow running. Till this stage it was the Circle Level Dispute Settlement Committee that decided against the petitioner in its meeting held on August 22, 1996. The appeal to the Zonal Level Dispute Settlement Committee heard the petitioner on May 31, 2000 through counsel and passed the following order impugned in the petition:-*

*“Sh Swatantar Kalra and Sh. Kuldip Singh attended and were properly heard. The consumer connection was checked by Sr. Xen., Hoshiarpur on 11.01.1996 and reported that 2 no. connections under A/C No. 48/45 and 125/45 with Medium supply are running in the same premises. Both these meters need to be clubbed. Further both these meters were running slow 32.19% and 48.02%. The Circle Level dispute settlement committee in this meeting dated 22.08.1996 decided as below:-*

- i) Lord surcharge in case of A/c no. 48/45 should not be levied on detected load on both these connections is within their sanctioned load.*
- ii) Bill should be revised on LS tariff from the date of application for clubbing. The committee discussed the case in detail and came to the conclusion to uphold the circle level DSC decision dated 22.08.1996.”*

*2 The checking of meter done by the Senior Executive Engineer, Hoshiarpur on January 11, 1996 and its results has been approved and the appeal has been turned down. The ground taken by the petitioner before the authorities regarding slow running of meter*

*have not been considered or dealt with by recording reasons to hold against the petitioner when the two meters in dispute were sent to the ME Lab for testing without associating the petitioner with the process when it should have been. Since the orders are non-speaking and cryptic and do not disclose the reasons which have weighed in the mind of the Court except by blindly accepting the work of the authorities warrants interference to the extent that it is deemed fit that the matter should be remanded to the authorities under the new Act after following due procedure and affording an opportunity of hearing to the petitioner.*

3 *Accordingly, the petition is allowed and the impugned orders are set aside with liberty to the competent authority to pass a fresh order in accordance with law.”*

The Hon'ble Punjab and Haryana High Court in its above decision observed that the meters were neither checked in the ME Lab nor these were got checked from the Chief Electrical Inspector on the request of the Appellant. In the absence of a reliable ME Lab test result implicit faith could not be placed on the work of the Flying Squad at the time of spot inspection and that too done behind the back of the Appellant without explaining to them the process used for measuring the speed of the meters. The Court allowed the petition and the impugned orders were set aside.

- (v) When the Respondent was asked by this Court whether the meters in dispute alongwith the CTs were preserved duly sealed as evidence, the Respondent replied that these are not available in his office. It is a fact that the most important evidence to prove the case of the slowness of the meters is not preserved by the Respondent. The Respondent raised a demand on account of slowness of the meters on the basis of the spot checking of the meters by the Flying Squad of the Respondent. The slowness of the disputed meters at site was not determined in the presence of the Appellant or its representative. The accuracy of the meters was not checked in the ME Lab of the Respondent. Also, when the Appellant requested to get the disputed meters retested from the Chief Electrical Inspector, the Respondent did not act wisely and failed to get these meters retested so as to ensure satisfaction of the consumer. The Appellant was denied its right to get the meters retested from the Chief Electrical Inspector to his satisfaction. The meters in dispute cannot be got retested now as per prayer of the Appellant because these meters are not available now. The Respondent charged the Appellant for the slowness of the meters, so the onus to prove the slowness of the meters is on the Respondent, but the Respondent not only failed to get the

meters retested from the CEI, but also did not preserve the key evidence in this case i.e. the meters. The Respondent could not prove that the meters in dispute were tested in the presence of the Appellant. This was also observed by the Hon'ble Punjab and Haryana High Court in its judgment reproduced above. So, this Court is of the view that the amount charged to the Appellant on account of slowness of meters as per checking of Flying Squad is not recoverable from the Appellant.

- (vi) As regards the second issue raised by the Appellant in the Appeal relating to the charging of LS Tariff to the Appellant from the date of actual change affected, it is observed that the Appellant had applied for clubbing of both the MS connections vide Application No. 27226 dated 06.09.1994 with connected load of 295.911 kW and CD as 250 kVA. Demand Notice No. 1637 dated 09.03.1995 was issued to the Appellant for compliance. However, the Appellant did not deposit the amount mentioned in the Demand Notice. So, the Clubbing of the MS connections was effected later on 27.09.1996 vide SCO No. 99/37 dated 23.09.1996. I had observed that the Appellant cannot be given the benefit for his failure to comply with the Demand Notice raised by the Respondent for clubbing of connections. So, his request cannot be acceded to. The

Appellant's Representative failed to submit any instructions/regulations during hearing on 09.06.2022 which may establish that LS tariff cannot be levied from the date of application for clubbing of connections. I am of the view that LS tariff should be levied from the date of application of clubbing submitted vide A&A No. 27226 dated 06.09.1994.

(vii) The third issue raised by the Appellant in the Appeal is for adjusting the already paid 40% of the disputed amount in the final notice. The Respondent had admitted in written reply that adjustment of ₹ 4,29,682/-, already deposited by the Appellant, needed to be given to the Appellant. It is observed by this Court that the amount paid by the Appellant in April, 2021 as 40% of the disputed amount was not adjusted in the notice served on the basis of decision of the Forum. The Respondent had admitted this mistake and had promised to correct the mistake.

(viii) The amount of ₹ 1,24,300/- charged as per Half Margin Nos. 770, 780 and 785 due to wrong application of Multiplying Factor of 1.5 instead of 2 is correct and recoverable from the Appellant as per decision of ZDSC. This issue was not raised in the Appeal. However, the Appellant's Representative (AR) submitted during hearing on 09.06.2022 that he does not want

to pursue this issue and is ready to pay as per decision of ZDSC.

- (ix) In view of the above, this Court is not inclined to agree with the decision dated 24.01.2022 of the Forum in Case No. CGL-298 of 2021. The Notice No. 1003 dated 22.04.2022 is hereby quashed. The amount charged to the Appellant on account of slowness of meters is not recoverable from the Appellant.

The LS Tariff should be charged to the Appellant from the date of application for clubbing i.e 06.09.1994.

Further, the amount paid by the Appellant in April, 2021 as 40% of the disputed amount should be adjusted in the notice to be served as per decision of this Appeal.

## **7. Decision**

As a sequel of above discussions:-

- (i) The order dated 24.01.2022 of the CGRF, Ludhiana in Case No. CGL-298 of 2021 is hereby quashed.
- (ii) The amount charged to the Appellant on account of slowness of meters is not recoverable from the Appellant.
- (iii) LS Tariff should be charged to the Appellant from the date of application for clubbing i.e. 06.09.1994.

(iv) The amount paid by the Appellant in April, 2021 as 40% of the disputed amount should be adjusted in the final notice as agreed to by the Respondent during hearing on 09.06.2022.

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.

June 09, 2022  
S.A.S. Nagar (Mohali)

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