

**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. 25/2023

Date of Registration : 25.09.2023

Date of Hearing : 13.10.2023

Date of Order : 13.10.2023

Before:

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

In the Matter of:

M/s. K C Solvent Extractions Pvt. Ltd.,
Village Peer Baksh Chohan Road,
Jalalabad, Fazilka.

Contract Account Number: 3000855861 (LS)

...Appellant

Versus

Senior Executive Engineer,
DS Divn., PSPCL, Jalalabad.

...Respondent

Present For:

Appellant: Sh. Ashok Dhawan
Appellant's Representative.

Respondent : 1. Er. Jaswant Singh,
Senior Executive Engineer,
DS Divn., PSPCL, Jalalabad.
2. Sh. Sandeep Kumar,
AAE.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 18.08.2023 of the Corporate Consumer Grievances Redressal Forum, Ludhiana (Corporate Forum) in Case No. CF-091/2023, deciding that:

“The overhauling the account, due to changing the pattern of Billing from Net-Metering to Net-Billing, for the period from 28.10.2021 to 20.04.2023 is correct. However, the amount of Rs. 1542335/- charged vide memo no. 1425 dated 30.05.2023 be examined in light of relevant instructions issued from time to time and corrections, if any be done accordingly. Further, regarding Feed-in-tariff for the period from 28.10.2021 to 31.03.2022, respondent is directed to get clarification from the o/o CE/Commercial, PSPCL, Patiala and its effect be given in the calculations. The amount so finalized be recovered/ refunded after adjusting the already deposited amount by 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 25.09.2023 i.e. within the stipulated period of thirty days of receipt of the decision dated 18.08.2023 of the CCGRF, Ludhiana in Case No. CF-091/2023, received by the Appellant's Representative on 31.08.2023. 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 25.09.2023 and copy of the same was sent to the Sr. Xen/ DS Divn., Jalalabad for

sending written reply/ parawise comments with a copy to the office of the CCGRF, Ludhiana under intimation to the Appellant vide letter nos. 691-693/OEP/A-25/2023 dated 25.09.2023.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 13.10.2023 and intimation to this effect was sent to both the parties vide letter nos. 707-708/OEP/A-25/2023 dated 03.10.2023. As scheduled, the hearing was held in this Court on 13.10.2023 at 01.00 PM 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 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. 3000855861 with Sanctioned Load of 2497.944 kW and CD 2315 kVA for Vanaspati Ghee and Oil Extraction under DS Suburban Division, Jalalabad.
- (ii) The Appellant had obtained permission for 490 kW Grid Interactive Rooftop Solar Photo Voltaic System from the PSPCL, which was made applicable on 23.04.2021 vide previous PEDDA/ PSPCL Registration No. 82785. The said permission for 490 kW was obtained under Net-Metering as per terms and conditions issued by the PSPCL vide CC 22/2015. After approval of 490 kW RTSPV the Appellant had applied further Extension for 510 kW under Net Metering on 08.09.2021 vide Registration No. 103383 dated 08.09.2021, which was approved by then Sr. Xen/ DS Divn., Jalalabad vide Memo No. 7439 dated 14.09.2021 on the same terms and conditions as applied by the Appellant. The agreement was signed as Net-Metering and after completion of formalities, the RTSPV for additional 510 kW was also made operational on 28.10.2021.
- (iii) The Appellant was surprised to see the Notice issued by AE/ DS City Sub Divn., Jalalabad vide Memo No. 1425 dated 30.05.2023 to deposit a sum of ₹ 15,42,335/- on account of

arrears within 7 days of the issue of the Notice and also threatened to disconnect the supply, in case of failure of payment. Therefore, the Appellant had got deposited the amount of ₹ 15,42,335/- under protest with a right to contest the Case in the CGRF/ Court of Law. The amount was deposited vide Receipt No. 194483375 dated 09.06.2023.

- (iv) The Appellant submitted that the Corporate Forum had decided the case No. CF-091/2023 in most unjustified manner going against the natural principal of justice without considering the Petition in a justified way. The petition was decided just only to favor the Respondent. As the Case was decided in a biased manner giving undue favor to the Respondent without making that office answerable for not informing the Appellant when the sanction of extension for 510 kW Solar Photo Voltaic System was in progress. The Respondent office was fully responsible on various grounds for creating hardships to the Appellant including not issuing Commercial Circular No. 36/2021 in time as the new rules in this regard was published in the Gazette notification of the Govt. of Punjab on 05.10.2021. Therefore, it was a fit Case for an Appeal as a great injustice was done by the Corporate Forum on various grounds.

- (v) The Appellant was running Solar Photo Voltaic System for 490 kW which was sanctioned by the Competent Authority and after completion of formalities; the same was made operative on 23.04.2021. The RSPV System was approved by Sr. Xen/ DS Divn., Jalalabad as per then prevalent instructions as allowed by the PSPCL vide CC 22/2015 under Net Metering.
- (vi) The Appellant had sought Additional Load for 510 kW and had applied for the same on 08.09.2021 as RSPV on the Net-Metering under CC 22/2015 and the application was accepted by the competent authority i.e. Sr. Xen/ DS Divn., Jalalabad. The same was approved and made operational on 28.10.2021.
- (vii) In the meanwhile Commercial Circular No. 36/2021 was issued vide CE/ Commercial, Patiala vide Memo No. 1352/56-S4-Net-Metering 19 dated 05.10.2021 regarding changes in Grid Interactive RSPV.

Hon'ble PSERC vide Notification No. PSERC/Secy./Regu.158 of 2021 dated 18.08.2021 had issued Punjab State Electricity Regulatory Commission (Grid Interactive Rooftop Solar Photo Voltaic Systems) Regulations, 2021. However, as per said Circular "This new notification shall be applicable from the date of its publication in the official Gazette of Punjab Govt. on 18.08.2021. These Regulations shall be applicable to all

Rooftop Solar Photo Voltaic Systems for which applications are received on or after notification of these Regulations except Regulation 19 which shall also be applicable to Rooftop Solar Photo Voltaic Systems commissioned under the PSERC (Grid interactive Rooftop Solar Photo Voltaic Systems based on Net Metering) Regulations, 2015. The Rooftop SPV Systems registered under PSERC (Grid interactive Rooftop Solar Photo Voltaic Systems based on Net Metering) Regulations, 2015 shall continue to be governed by the Net Metering Regulations and shall not be governed by these new Regulations.”

(viii) The application for 490 kW was registered vide Registration No. 82785 under Net-Metering Regulation, 2015 and made operative on 23.04.2021 and the Application for additional 510 kW was also registered vide Registration No. 103383 dated 08.09.2021 and was also sanctioned under Net-Metering Regulation, 2015. The additional load for 510 kW was allowed and made operative on 28.10.2021 after completion of the formalities.

(ix) The connection of the Appellant was checked by the ASE/ Enf.-cum-MMTS, Ferozpur dated 19.05.2023 as per ECR No. 10/2674. The said officer had pointed out that Capacity of the Solar Plant was 1000 kW and being more than 500 kW, it was

entitled for Net-Billing instead of Net-Metering, without verifying the factual position. Therefore, as per above Report, the office of AE/ DS City Sub Divn., Jalalabad overhauled the account since the date of installation of 510 kW additional Solar Plant i.e. 28.10.2021 to 20.04.2023 and had charged ₹ 15,42,335/- vide Memo No. 1425 dated 30.05.2023. The Respondent had violated a number of rules/ guide lines as issued by the PSERC in this regard vide CC 36/2021.

- (x) The Official Gazette Notification regarding new Rules was published on 18.08.2021 but the Respondent (PSPCL) took extraordinary time to implement the same and the same was made applicable vide Commercial Circular No. 36/2021 dated 05.10.2021 with retrospective effect from 18.08.2021 without mentioning of any reasons for such a delay. It was worth mentioning that the notification dated 18.08.2021 was implemented without any change and only memo was required to be attached. The Appellant had applied for additional 510 kW Load for RSPV System on 19.08.2021. As the same was applied under Net-Metering and the same was approved by the Sr. Xen/ DS Divn., Jalalabad vide his Memo No. 1758 dated 14.09.2021 as Net-Metering RSPV. No information was ever given to the Appellant by the Respondent that there was a

change of Rules w.e.f. 18.08.2021 and the Appellant was liable to be billed under Net-Billing instead of Net-Metering. The office had been billing the Appellant on Net-Metering instead of Net-Billing. No satisfactory reply was given by the Respondent before the Corporate Forum, even no public Notice was given regarding changes of Rules.

- (xi) Had the Respondent informed the Appellant in time, the Appellant could have changed its plan to install the Plant and could re-think before investing Crores of investment for the installation of RTSPV plant, because the feed-in-tariff was uneconomical for him. It was further added that as mentioned in the ECR the Respondent office was unable to arrange a software for the Net-Billing for such a long period from the date of installation i.e. 28.10.2021 to the date of checking i.e. 19.05.2023 and even till today. The Respondent cannot shelve from its responsibility, from doing correct billing.
- (xii) As per Rules framed by the Hon'ble PSERC and instructions conveyed by the PSPCL through its Circular No. 36/2021, it was specifically mentioned that the load of Solar Plant for 490 kW was to be billed under Net-Metering as it was sanctioned under PSERC (Grid Interactive Roof Top Solar Photo Voltaic System based on Net-Metering) Regulations, 2015 notified vide

No. PSERC/SECY/ Regulation dated 07.05.2015, which was made operational by the Respondent on 23.04.2021, much before the issue of CC 36/2021 dated 05.10.2021. Hence without any doubt the chargeable amount though wrongly charged, should not have been more than as, ₹ 15,42,335/- /1000/- kW x 510 kW = ₹ 7,86,591/- only. The Appellant further reserve the right to be billed on the same pattern for future billing, as the already sanctioned Solar Plant for 490 kW was sanctioned under Net-Metering and was unchangeable as per own instructions of PSPCL and PSERC as mentioned above vide CC 36/2021 again hereby reproduced as under:-

“The Rooftop SPV systems registered under PSERC (Grid interactive Rooftop Solar Photo Voltaic Systems based on Net Metering) Regulations, 2015 shall continue to be governed by the Net Metering Regulations and shall not be governed by these new Regulations.”

- (xiii) It was specifically mentioned that as per CC 36/2021 Clause No. 13.2. **The Distribution Licensee shall raise bill on the prosumer in accordance with the following equation:**
- Energy Bill of consumer = Fixed Charges + other applicable charges and levies + (EDL x TRST) - (ERE x TRE) - Billing Credit (carried forward from last billing cycle).** Thus, a

casual look of calculation sheet as supplied by the Respondent office attached herewith reveals the fact that the formula as mentioned above was not followed and the ED chargeable was to be charged after Imported value @ retail tariff rate - exported value @ feed in tariff rate = SOP + Fixed Charges + TOD-TOD as applicable – subsidy allowed by the Govt. of Punjab = Net SOP + ED + IDF. Whereas, the Respondent after calculating ED + IFD have deducted $ERE \times \text{Feed-in-tariff}$. Thus, overcharged an amount of ₹ 1,18,736/- was required to be refunded. Although, the Forum had accepted it, yet the amount has not been refunded by the Respondent office, as the order lacked clarity in this regard.

- (xiv) It was very important to note that as per CC 36/2021, the concept of Net-Billing and Feed-in-tariff was introduced. But no feed-in-tariff was made available by the Hon'ble PSERC for the year 2021-22, as there was no rate approved by the Hon'ble PSERC. After issue of CC 36/2021, for the first time, feed-in-tariff was approved vide Commercial Circular No. 12/2022 which was applicable for the period w.e.f. 01.4.2022 to 31.03.2023. But surprisingly, the Respondent had calculated the chargeable amount w.e.f. 28.10.2021. This objection was raised before the Corporate Forum and in the discussion, it was

accepted by the Corporate Forum that as there was no feed in tariff for the period 28.10.2021 to 31.03.2021, therefore, account should have been overhauled w.e.f. 01.04.2022 to onwards, yet the Appellant was surprised to see the order that Respondent office was asked to seek clarification from the office of CE/ Commercial, Patiala and the Respondent office had done nothing in this regard. The Forum had done injustice with the Appellant by not deciding the issue nor were any reasons mentioned in the order for seeking clarification from the said office, when everything was crystal clear. In other words no order was given by the Hon'ble Corporate Forum in this regard nor any explanation for doing this, was mentioned.

- (xv) The observation of the Corporate Forum regarding agreements for 490 kW & 510 kW RSPV that these are not separate rather only one agreement for 1000 kW was neither correct nor as per the Regulations CC 22/2015 & 36/2021. The observation as mentioned on page no. 15 of the order was reproduced as under:-

“Forum observed that petitioner had installed SPV plant having capacity of 490 kW on dated 23.04.2021. He applied for additional SPV plant having capacity of 510 kW making total capacity as 1000 kW on 08.09.2021 under Net-Metering and same was approved by the Respondent. **It is observed that there are no separate agreements for 490 Kw and 510 Kw capacity SPV Plants rather while applying for 510 kW SPV,** the

total capacity was extended to 1000 kW. Therefore, the contention of the petitioner to treat application/agreement of 490 kW and 510 kW capacities as separate does not hold good. As per record, petitioner had applied for 1000 kW capacity SPV Plant on dated 08.09.2021.”

(xvi) It was totally wrong that both agreements were not separate.

The Respondent had clearly admitted in the reply vide his office Memo No. 4973 dated 31.07.2023 as presented before the Corporate Forum that 490 kW RSPV System was sanctioned and made operative dated 23.04.2021 and additional load for 510 kW was applied on 08.09.2021 and all relevant record was also submitted. Both agreements were signed separately and the relevant charges were also deposited with the Department separately, separate completion reports were submitted. It was added that at Column No. 13, it has been clearly mentioned that previous solar capacity installed for 490 kW. It was beyond imagination that how the Corporate Forum had presumed that both the agreements were not separate. The Forum had wrongly taken the meaning of Regulation 3.3 of the CC 36/2021 that new Rules are also applicable for extension Cases also, because nowhere it has been mentioned that the already approved RSPV System load i.e. 490 kW would also be liable for Net-Billing rather it was very clearly mentioned in the CC 36/2021 that already approved load shall be governed by the terms and conditions as laid down vide CC 22/2015, shall

be applicable. The same are reproduced here as-**“The Rooftop SPV Systems Registered under PSERC (Grid interactive Rooftop Solar Photo Voltaic Systems based on Net Metering) Regulations, 2015 shall continue to be governed by the Net-Metering Regulations and shall not be governed by these new Regulations.”** Therefore, as per CC 36/2021 there should not be any confusion that RSPV System for 490 kW which was already approved and operative on 23.04.2021 and which was sanctioned under CC 22/2015 should be continue to run as Net-Metering and account should have been overhauled accordingly and not as billing.

(xvii) It was not correct, as observed by the Corporate Forum that as per Reg. 4.3 of the CC 36/2021 that Maximum Capacity Exceeding 500 kW, was not liable for Net-Metering, as it was clearly mentioned in para no. 11 above, that it was only applicable for the new RSPV System which was registered after 18.08.2021 only and not for the already approved RSPV System under CC 22/2015.

(xviii) The Respondent had miscalculated the chargeable amount as the same was mentioned in the Rejoinder submitted before the Corporate Forum, which was reproduced as under:-

The chargeable amount was wrongly calculated by the Respondent office. As per Calculation Sheet submitted by

that office shows that No of units after adjustment as per Net-Billing as per sheet supplied attached herewith = 7349610 kVAh and as per tariff applicable ₹ 6.15/- - ₹ 1.15/- = ₹ 5/- kVAh unit was only chargeable. Thus, amount of Subsidy to be allowed was = 7349610 kVAh x ₹ 1.15/- = ₹ 84,52,052/-. The Rebate on account of ToD off peak load = 2782188 kVAh x 0.14 (5.00-4.86) upto threshold limit rate = ₹ 3,89,506/-.

a) Total subsidy plus ToD Rebate = ₹ 88,41,558/-

b) Subsidy allowed as per revised calculation sheet supplied by the Respondent = ₹ 48,88,615/- + 34,77,735/- = 83,66,350/-

c) Difference a-b = ₹ 4,75,208/- plus ED+ IFD @ 20% = 95042 = ₹ 5,70,250/-

Besides this, other excess charged amount such as on account of difference of ED for ₹ 1,18,736/- & amount charged for the period 28.10.2021 to 31.03.2022 when no feed-in-tariff was allowed, was also required to be refunded alongwith interest as admissible. The Corporate Forum had ordered for these corrections as mentioned, yet the Respondent had not refunded the said amount, although a period of more than 21 days had already been elapsed.

It was prayed that the Appeal be accepted in the interest of justice.

(b) Submissions in the Rejoinder

The Respondent made following submissions in the Rejoinder for consideration of this Court:-

- (i) The RBS as supplied by the Respondent office was not in the order, as it was related to the period from 28.10.2023 to 31.07.2023, whereas the Appeal was related to the period from 28.10.2023 to 20.04.2023. The Appeal lied against the decision of the Corporate Forum, Ludhiana in Case No. CF-91/2023, which was for the period 28.10.2023 to 20.04.2023. Therefore, it was humbly prayed that the Respondent office should be directed to submit the RBS as related to Case No. CF-91/2023. It was added that no dispute for the period in question for 21.04.2023 to 31.07.2023 was pending. No notice or supplementary bill had been supplied by the Respondent so far for overhauling of account for the period 21.04.2023 to 31.07.2023 was concerned.
- (ii) It was further added that after scrutiny of RBS, it was revealed that a sum of ₹ 9,01,709/- had been unnecessarily added which was related to the period 21.04.2023 to 31.07.2023 and after subtraction of the said amount, only a sum of ₹ 11,27,111/- was left.

- (iii) It was mentioned that the RBS had not been prepared as per the decision of the Corporate Forum, Ludhiana and the electricity duty had been wrongly calculated violating the procedure as mentioned in Clause 13.2 of CC No. 36/2021, reproduced as under for the kind perusal of this Court:-

***“The Distribution Licensee shall raise bill on the prosumer in accordance with the following equation:
Energy Bill of consumer = Fixed Charges + other applicable charges and levies + (EDL x TRST)- (ERE x TRE) – Billing Credit (carried forward from last billing cycle)”***

Therefore, it was clear that net chargeable SOP should be based upon the formula as mentioned above and ED was chargeable only after deduction of monetary value of the exported units from the SOP as calculated from the imported units. However, a scrutiny of the RBS revealed that ED had been charged on the monetary value of imported units only, which was not only wrong but also violated the procedure as laid down vide CC No. 36/2021. Hence, a sum of ₹ 1,19,073/- were further required to be deducted.

- (iv) As no feed-in-tariff was approved by the Hon’ble PSERC for the period 28.10.2021 to 31.03.2022, as mentioned in the Petition and Appeal, hence as decided by the Corporate Forum, Ludhiana the matter had been referred to the CE/Commercial, PSPCL, Patiala for favour of the clarification and the same had

also been mentioned by the Respondent office in para no. 2 of the written reply. Therefore, the account of the Appellant for the period from 28.10.2021 to 31.03.2022 should not be overhauled till the clarification is received from the competent authority. But regardless of the directions issued by the Corporate Forum, Ludhiana while deciding the case, the above mentioned period had been added in the RBS, which should have been avoided. Thus, it is humbly prayed that the Respondent office should be directed to supply a fresh RBS keeping in view the above mentioned discrepancies. Hence, a sum of ₹ 5,34,297/- plus amount charged for the period 28.10.2021 to 31.03.2022, should be refunded alongwith interest allowed as per Regulation 35.1.3 of the Supply Code-2014, because the amount of ₹ 15,42,335/- was deposited under protest. It is further requested that the Appeal be decided as per relief prayed, in the favour of Appellant.

(c) Submission during hearing

During hearings on 13.10.2023, the Appellant's Representative (AR) reiterated the submissions made in the Appeal as well as in the Rejoinder 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) The Appellant was having LS Category connection bearing A/C No. 3000855861 & Legacy Account No LS-30 with sanctioned load of 2497.94 kW and CD as 2315 kVA was running under DS City Sub Divn., Jalalabad in the name of M/s. K.C.Solvent, Jalalabad.
- (ii) The Appellant had filed a dispute Case No. CF-91/2023 in the Corporate Forum, Ludhiana. The Corporate Forum, Ludhiana had decided that the overhauling of the account due to change in pattern of billing from net metering to net billing for the period 28.10.2021 to 20.04.2023 was correct but there was no feed in tariff available for the period 28.10.2021 to 31.03.2022 so the Corporate Forum, Ludhiana had directed vide its decision to get the clarification from the office of CE/ Commercial, Patiala. In this regard a letter had been forwarded to Sr. Xen/ DS Divn., Jalalabad vide Memo No. 2563 dated 12.09.2023 and the same was forwarded to SE/ DS Circle, Ferozpur by Sr. Xen/ DS Divn. Jalalabad vide Memo No. 6078 dated 13.09.2023 to get clarification from the office CE/ Commercial, Patiala for feed in tariff rate for the period

28.10.2021 to 31.03.2022 but till date no clarification in this regard was received from the said office. However, RBS for the period 20.10.2021 to 21.07.2023 was received from the office of Sr. Xen/ CBC, Bathinda for ₹ 24,06,577/- vide Memo No. 5324 dated 14.08.2023. Hence, the sum of ₹ 8,64,242/- was recoverable from the Appellant.

- (iii) It was correct that the new notification published on 18.08.2021 by Punjab Government Gazette and the same was adopted by PSPCL vide its Commercial Circular No. 36/21 dated 05.10.2021 (applicable from the date of publication i.e., 18.08.2021).
- (iv) It was correct that the Application No. 82785 was submitted and registered for 490 kVA RTSPV System based on net metering and the same was made operational on 23.04.2021. The Appellant had applied for extension of additional 510 kVA RTSPV System vide Application No. 103383 dated 08.09.2021 and the same was made operational on 28.10.2021.
- (v) It was correct that the connection of the Appellant was checked by Sr. Xen/ Enf. vide ECR No. 10/2674 dated 19.05.2023 so as per Commercial Circular No. 36/2021 dated 05.10.2021 (applicable from the date of publication 18.08.2021) the billing of consumer having Solar Capacity above 500 kVA should be

on net-billing instead of net-metering and the a/c of the Appellant was overhauled as per CC No. 36/2021 (applicable from the date of publication i.e., 18.08.2021) and amount of ₹ 15,42,335/- charged vide notice Memo No. 1425 dated 30.05.2023 and the same was deposited by the Appellant on 09.06.2023.

- (vi) The Appellant had applied for extension of additional 510 kVA RTSPV System vide Application No. 103383 dated 08.09.2021 but the new notification published on 18.08.2021 by Punjab Govt. Gazette and the same was adopted by PSPCL vide its Commercial Circular No. 36/2021 dated 05.10.2021 applicable from the date of publication i.e. 18.08.2021.
- (vii) It was correct that the Appellant's RTSPV System approved for 510 kVA in addition to 490 kVA already approved by Sr. Xen/ DS Divn., Jalalabad vide Memo No. 7439 dated 14.09.2021 and the same (490+510=1000 kVA) was made operational on 28.10.2021 so as per Commercial Circular No. 36/21 dated 05.10.2021 (applicable from the date of publication 18.08.2021) the billing of Appellant having solar capacity above 500 kVA should be on net-billing instead of net-metering.

- (viii) The account of the Appellant was overhauled as per rules and regulation of PSPCL. In this regard RBS for the period 20.10.2021 to 21.07.2023 was received from the office of Sr. Xen/ CBC, Bathinda for ₹ 24,06,577/- vide Memo No. 5324 dated 14.08.2023. Hence, the sum of ₹ 8,64,242/- was more recoverable from the Appellant for the period 20.04.2023 to 21.07.2023.
- (ix) The Corporate Forum had directed in its decision to get the clarification from the Office of CE/ Commercial, Patiala. In this regard letter has been forwarded to Sr. Xen/ DS Divn., Jalalabad vide Memo No. 2563 dated 12.09.2023 and the same was forwarded to SE/ DS Circle, Ferozepur by Sr. Xen, DS Divn., Jalalabad vide Memo No. 6078 dated 13.09.2023 to get clarification from the said office for feed in tariff rate for the period 28.10.2021 to 31.03.2022 but till date no clarification in this regard was received from the said office.
- (x) The agreement was signed between PSPCL and the Appellant for net-metering but with the introduction of new notification published on 18.08.2021 by Punjab Govt. Gazette and the same was adopted by PSPCL vide its Commercial Circular No. 36/21 dated 05.10.2021 (w.e.f 18.08.2021) the billing should be on net billing.

- (xi) The Appellant had applied for extension of additional 510 kVA RTSPV System vide Application No. 103383 dated 08.09.2021 but the new notification published on 18.08.2021 by Punjab Govt. Gazette and the same was adopted by PSPCL vide its Commercial Circular No. 36/2021 dated 05.10.2021 applicable from the date of publication i.e. 18.08.2021.
- (xii) The calculations were made as per CC No. 36/2021 (applicable from the date of publication i.e. 18.08.2021) from the date of regularization of RTSPV System having capacity of 1000 kVA i.e., 28.10.2021. The account of the Appellant was overhauled as per rules and regulation of PSPCL. In this regard RBS for the period 20.10.2021 to 21.07.2023 was received from the office of Sr. Xen/ CBC, PSPCL, Bathinda for ₹ 24,06,577/- vide Memo No. 5324 dated 14.08.2023. Hence, a sum of ₹ 8,64,242/- was more recoverable from the Appellant for the period 20.04.2023 to 21.07.2023.

(b) Submission during hearing

During hearings on 13.10.2023, 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 amount of ₹ 15,42,335/- charged to the Appellant vide Notice No. 1425 dated 30.05.2023 on account of changing the basis of its billing from Net-Metering to Net-Billing for the period from 28.10.2021 to 20.04.2023.

My findings on the points that emerged and my analysis is as under:

- (i) The Corporate Forum in its order dated 18.08.2023 observed as under:-

“Forum observed that the Petitioner had obtained permission for 490 kw Grid interactive Solar Photo Voltaic Systems from the PSPCL on dated 23.04.2021 against PSPCL Registration no. 82785. The said permission for 490 kw was granted under Net-Metering as per terms and conditions issued by the PSPCL vide CC No. 22/2015. Thereafter, the petitioner had applied for extension of 510 kw under Net Metering vide registration no. 103383 dated 08.09.2021. The connection of the Petitioner was checked by ASE/Enf., Ferozpur vide ECR no. 10/2674 dated 19.05.2023 in which it was reported that Petitioner had installed Rooftop Solar Photo Voltaic System having capacity of 1000 kw. But billing of the petitioner was being done on Net–Metering basis, whereas the billing as per CC No. 36/2021 was required to be done on Net-Billing basis. On the basis of this checking, respondent overhauled the account of the Petitioner with effect from 28.10.2021 to 20.04.2023 and an amount of 1542335/- has been charged

vide notice no. 1425 dated 30.05.2023. Petitioner did not agree to it and filed his case in the Corporate Forum.

Forum observed that the petitioner in his petition/rejoinder has submitted that as per guidelines issued vide CC No. 36/2021, the applications which had been received before issue of the new notification i.e. 18.08.2021 will continue to be billed as per terms and conditions fixed/agreed vide CC No. 22/2015, but the office of AE/City Sub Division, Jalalabad while overhauling the accounts had erred by treating total 1000 kw capacity Solar Plant for Net-Billing including 490 kw solar plant which is already running since 23.04.2021 under Net-Metering. Therefore, it is wrong to overhaul the account treating total capacity of 1000Kw under net billing.

Respondent in this regard submitted that it is correct that the petitioner RTSPV System approved for 510 kva in addition to 490 kva already approved by vide memo no. 7439 dated 14.09.2021 and the same (490+510=1000kva) was made operational on dated 28.10.2021. So as per commercial circular no. 36/2021 dated 05.10.2021 (applicable from the date of publication i.e., 18.08.2021) the billing of consumer having solar capacity above 500kva should be done on net-billing instead of net-metering.

Petitioner contended that the agreement signed between PSPCL and the Petitioner was for Net-Metering and not for Net-Billing, however, if there was any change in the rules after introduction of CC 36/2021 dated 05.10.2021, then the same was not amended and the billing was being done on the Net – Metering instead of Net billing, by the PSPCL even after passing of time of more than 1.5 years. The defendants had failed to change the agreement, regarding Solar Plant extension for 510 kw, even today which stands for Net-Metering and not for Net-Billing. During oral discussion, he stated that the SPV plant of capacity 490Kwp installed earlier, should be treated under Net-metering and 510Kwp i.e., extension in installed capacity of SPV should be considered under Net Billing.

Forum observed that petitioner had installed SPV plant having capacity of 490Kwp on dated 23.04.2021. He applied for additional SPV plant having capacity of 510Kwp making total capacity as 1000Kwp on dated 08.09.2021 under Net-Metering and same was approved by the Respondent. It is observed that there are no separate agreements for 490Kw and 510Kw capacity SPV Plants rather while applying for 510Kw SPV, the total capacity was extended to 1000Kw. Therefore, the contention of the petitioner to treat application/agreement of 490Kw and 510Kw capacities as separate does not hold good. As per record, petitioner had applied for 1000Kw capacity SPV Plant on dated 08.09.2021. Forum further observed that Petitioner while applying Form-A (application form for approval to install Grid Interactive Roof Top SPV Net-Metering power plant for 1000 KW) had undertaken to abide by the provisions contained in the PSERC Regulation for Net-Metering for Grid Interactive Roof Top Solar Photo Voltaic Power Plants issued vide notification no. PSERC/Secy./Regu. 101 dated 7th May,2015 and **as amended from time to time in addition** to the conditions already existing in the A&A form submitted earlier for release of connection. Further Form-D (Supplementary agreement form for Solar Roof Top Net-Metering) submitted by the petitioner contains that all the commercial settlement under this agreement shall follow the Punjab State Electricity Regulatory Commission (Rooftop Solar Grid Interactive System based on Net-Metering Regulations, 2015 notification no. PSERC/Secy./Regu. 101 dated 7th May, 2015 **amended from time to time.**

Forum observed relevant instructions/guidelines issued vide CC No. 36/2021 reproduced under –

3.3 These regulations shall be applicable to all Rooftop Solar Photo Voltaic Systems for which applications are received on or after notification of these regulations as except Regulation 19 which shall also be applicable to Rooftop Solar Photo Voltaic Systems commissioned under the PSERC

(Grid Interactive Rooftop Solar Photo Voltaic Systems based on Net Metering) Regulations, 2015.

Provided that these Regulations shall also be applicable for applications received on or after notification of these Regulations for enhancing the capacity of the already installed Rooftop SPV systems by an existing consumer.

4.3 The maximum capacity of Rooftop SPV systems under Net metering shall not exceed 500 KWP.

On the perusal of the above regulations Forum is of the view that as the capacity of the Rooftop SPV systems of the petitioner is 1000 KWP which is more than 500 KWP. Therefore, as per regulation 4.3 of Punjab State Electricity Regulatory Commission (Grid Interactive Rooftop Solar Photo Voltaic Systems based on Net Metering) Regulation 2021, Net Metering shall not be applicable. Also, the petitioner has enhanced the capacity of already installed Rooftop SPV system, therefore as per proviso to the Regulation 3.3 of Punjab State Electricity Regulatory Commission (Grid Interactive Rooftop Solar Photo Voltaic Systems based on Net Metering) Regulation 2021, these Regulations shall also be applicable for application received on or after notification of these Regulations for enhancing the capacity of the already installed Rooftop SPV systems by an existing consumer. Therefore, the billing of petitioner is required to be done for entire capacity of 1000 KW Solar Photo Voltaic Systems on Net-Billing basis.

Petitioner also raised issue regarding the calculations of amount of Rs. 1542335/- charged vide memo no. 1425 dated 30.05.2023 stating that these are not correct and are required to be rechecked. Further he also contended that the rates of Feed in tariff for FY 2022-23 were circulated vide CC no. 12/2022 and there were no rates for FY 2021-2022. Forum observed that the calculation contested by the petitioner are required to be re-examined and corrected as per instructions/tariff order of the relevant year. Further, regarding feed-in-tariff for the FY 2021-2022, respondent is

required to get clarification from the o/o CE/Commercial, PSPCL, Patiala and act accordingly while re-examining/correcting the amount charged to the petitioner.

Forum has gone through the written submissions made by the Petitioner in the petition, written reply of the Respondent, oral discussions made by Petitioner along with material brought on record. Forum is of the opinion that overhauling the account due to changing the pattern of Billing from Net-Metering to Net-Billing, for the period from 28.10.2021 to 20.04.2023 is justified. However, on the observation of the petitioner, the amount of Rs. 1542335/- charged vide memo no. 1425 dated 30.05.2023 is required to be examined in light of relevant instructions issued from time to time and corrections, if any is required to be done accordingly. Further, regarding Feed-in-tariff, respondent is to get clarification from the o/o CE/Commercial, PSPCL, Patiala and its effect be given in the calculations. The amount so finalized is required to be recovered/ refunded after adjusting the already amount recovered from the petitioner.”

- (ii) I have gone through the written submissions made by the Appellant in the Appeal as well as in the Rejoinder, written reply of the Respondent as well as oral arguments of both the parties during the hearing on 13.10.2023. It is observed that the Appellant had obtained permission for 490 kW Grid Interactive Solar Photo Voltaic Systems from the PSPCL on 23.04.2021 under Net-Metering as per terms and conditions issued by the PSPCL vide CC No. 22/2015. Thereafter, the Appellant had applied for extension of capacity of Solar Plant from 490 kW to 1000 kW under Net Metering on 08.09.2021. The Appellant’s

Representative (AR) argued that the Appellant entered into two separate agreements for 490 kW & 510 kW SPV plants as both the agreements were signed separately and the relevant charges were also deposited with the Respondent separately. So the demand of ₹ 15,42,335/- should be proportionately reduced as the system of Net-billing was applicable only on the second agreement of SPV of capacity of 510 kW.

- (iii) The relevant Regulation of Punjab State Electricity Regulatory Commission (Grid Interactive Rooftop Solar Photo Voltaic System) Regulations, 2021 issued vide notification No. PSERC/Secy./Regu.158 dated 18.08.2021 are reproduced as under:-

3 Scope and Application

3.1 These Regulations shall apply to:

- (a) Net Metering arrangements:**
- (b) Net Billing arrangements:**
- (c) Gross Metering arrangements.**

Provided that the eligible consumer can opt for only one arrangement i.e either net metering or net billing or gross metering, as specified in these Regulations.

3.3 These regulations shall be applicable to all Rooftop Solar Photo Voltaic Systems for which applications are received on or after notification of these regulations as except Regulation 19 which shall also be applicable to Rooftop Solar Photo Voltaic Systems commissioned under the PSERC (Grid Interactive Rooftop Solar Photo Voltaic Systems based on Net Metering) Regulations, 2015.

Provided that these Regulations shall also be applicable for applications received on or after notification of these

Regulations for enhancing the capacity of the already installed Rooftop SPV systems by an existing consumer.

4.3 The maximum capacity of Rooftop SPV systems under Net metering shall not exceed 500 KWP.

- (iv) It is observed by this Court that the Appellant applied for the connection vide application dated 08.09.2021 for the SPV plant of capacity of 1000 kW & not 510 kW as claimed by the AR. Form-A (Application Form For Approval To Install Grid Interactive Roof Top SPV Net Metering Power Plant) submitted by the Appellant to the Respondent on 08.09.2021, which was also a part of the fresh agreement signed by its representative, wherein it was clearly mentioned in column no. 7 (iii) of the Form that the capacity of the SPV Plant was 1000 kW. As per Regulation 3.1 the Appellant can only opt for one arrangement either net metering or net billing and the maximum capacity of the Rooftop SPV system under net metering cannot exceed 500 kW. In fact, the agreement signed on 08.09.2021 for the SPV plant of 1000 kW superseded the earlier agreement signed between the Appellant & the Respondent for the SPV of 490 kW. The contention of the Appellant in this regard is therefore rejected after due consideration.
- (v) The other issue raised by the Appellant was that since no Feed-in-tariff was approved by the PSERC for the year 2021-22, so

its account should be overhauled w.e.f. 01.04.2022 onwards only as against the overhauling of its account w.e.f. 28.10.2021 by the Respondent. In this regard, when the Respondent was asked to provide the Feed-in-tariff for FY 2021-22 approved by the PSERC, he could not provide any documentary evidence. During the hearing on 13.10.2023, the Respondent submitted that the PSPCL is in the process of filing Petition with the PSERC in this regard. In absence of any approved Feed-in-tariff for the FY 2021-22, I agree with this contention of the Appellant. The account of the Appellant should be overhauled from 01.04.2022 & not from 28.10.2021 till feed in tariff for the period of FY 2021-22 is notified by PSERC.

7. Decision

As a sequel of above discussions, the order dated 18.08.2023 of the CCGRF, Ludhiana in Case No. CF-091/2023 is amended to the extent that the account of the Appellant be overhauled w.e.f. 01.04.2022 instead of 28.10.2021 till feed in tariff for the period of FY 2021-22 is notified by PSERC.

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.

October 13, 2023
S.A.S. Nagar (Mohali).

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

