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

**ELECTRICITY, PUNJAB,**

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

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

**APPEAL NO. 35/2020**

**Date of Registration : 17.07.2020**

**Date of Hearing : 21.08.2020 and 02.09.2020**

**Date of Order : 07.09.2020**

**Before:**

**Er. Gurinder Jit Singh,**

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

**In the Matter of :**

M/s Ram Lal & Brothers,

V & PO Ramgarh,

Chandigarh Road, Ludhiana.

**Contract Account Number: 3002959230**

...Appellant

Versus

Addl. Superintending Engineer,

DS Estate Division (Special),

PSPCL, Ludhiana.

...Respondent

**Present For:**

Appellant : Sh. Parvesh Chadha

Appellant’s Representative (AR).

Respondent : 1. Er. Mandeep Kumar Garg,

Asstt. Executive Engineer,

DS Estate Division (Special),

PSPCL, Ludhiana.

2. Sh. Rishav Singla,

Revenue Accountant (RA)

Before me for consideration is an Appeal preferred by the Appellant against the order dated 20.03.2020 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-387 of 2019, deciding that:

1. *“No record of ACD of Rs. 2,68,896/- has been established, hence claim of the petitioner is denied. The auto adjusted amount of bill and six no. instalments on account of tariff revision after release of ACD are correct and recoverable. The amount of Rs. 7,717/- and Rs. 13,092/- are rightly recoverable but interest be recovered from the date of issue of notice i.e 03.01.2019. Rs. 1794/- charged by CBC is recoverable.*
2. *The ACD be updated in the system as agreed by both parties and interest under Reg. 17.1 to 17.3 of Supply Code-2007 w.e.f 01.01.2008 and under Reg. 17.1 and 17.2 of Supply Code-2014 w.e.f 01.01.2015 on updated ACD and Meter Security with amendments, if any, be given to petitioner after pre-audit. However, no penal interest is allowed as per Reg. 17.4 of Supply Code-2007 and 17.3 of Supply Code-2014.*
3. *Since no octroi has been charged in the bills, so nothing is refundable on account of that.*
4. *Respondent is further directed to update security of all consumers and give refund of interest asper relevant Regulation of Supply Code and after getting approval as per Reg. 93.5 of ESIM-2018 in line with the instructions issued by CE/ Comml. vide memo No. 1038/43/DD/SR103 dated 15.05.2019 in this regard.”*

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

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 17.07.2020 i.e. after more than one month of receipt of the decision dated 20.03.2020 of the CGRF, Ludhiana in Case No. CGL-387 of 2019. An application for condonation of delay giving reasons was also received with the Appeal. The dispute related mainly to non up-dation of Security (consumption) & Security (meter) and for allowing interest/additional interest. As such, the Appellant was not required to deposit 40% of the disputed amount. Accordingly, the Appeal was registered and a copy of the same was sent to the Addl. SE/ DS Estate Divn. (Special), PSPCL, Ludhiana for furnishing written reply/parawise comments and also to the Office of the CGRF, Ludhiana for sending the case file under intimation to the Appellant vide this office letter nos. 596-98/OEP/A-35/2020 dated 17.07.2020.

**3.** **Proceedings**

(i) With a view to adjudicate the dispute, a hearing was fixed in this Court on 21.08.2020 at 12.00 Noon and intimation to this effect was sent to both the sides vide letter nos. 742-43/OEP/A-35/2020 dated 19.08.2020. As scheduled, the hearing was held on 21.08.2020 in this Court. At the end of deliberations, another hearing was considered necessary and fixed for 02.09.2020 and copies of the proceedings were sent to both the sides vide this office letter nos. 762-63/A-35/2020 dated 21.08.2020.

(ii) As scheduled, next hearing was held on 02.09.2020. Copies of minutes of these proceedings were sent to both sides vide this office letter nos. 813-814/OEP/A-35/2020 dated 02.09.2020.

**4. Condonation of Delay**

At the start of hearing on 21.08.2020, the issue of condonation of delay was taken up. The Appellant’s Representative had submitted that the Unit of the Appellant was not operating due to Lockdown and the Appellant was busy in arranging labour and funds to restart the unit. The order dated 20.03.2020 was dispatched by the Forum vide Memo No.1144-45/CGL-387/2019 dated 07.05.2020 and received on 27.05.2020. As a result, there occurred a delay of about 20 days, beyond the stipulated period of one month of receipt of the said order. Due to spread of COVID-19 Pandemic, the said delay was beyond the control of the Appellant and was not intentional. As such, the Appellant’s Representative requested to entertain the appeal and to condone delay beyond the stipulated time limit. I find that the Respondent did not object to the condonation of the delay in filing the Appeal in this Court either in its written reply or during 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 one month from the date of receipt of the order of the Forum.*

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

I observe that non condonation of delay 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**:

With a view to adjudicate the dispute, it is necessary to go through written submissions made in the Appeal by the Appellant and reply of the Respondent as well as oral submissions made by their respective representatives along with material brought on record by both the sides.

1. **Submissions of the Appellant**
2. **Submissions made in the Appeal**

The Appellant made the following submissions in the Appeal, received in this Court on 17.07.2020, for consideration:

1. The Appellant was having a LS category connection bearing Account No. 3002959230 with sanctioned load (SL) as 543 kW and CD543.900 kVA installed at its site office at V & PO Ramgarh, Chandigarh Road, Ludhiana.
2. The Appellant had not accepted part (i) of the decision of the Forum. The receipt for deposit of ₹ 2,68,896/- was available with the Appellant and was given to the Revenue Accountant Sh. Deepak Gupta who retained the same with him for updating the Security (consumption) on the bills. The said amount was included in the supplementary bill dated 01.10.2015.
3. The auto adjustment of amount of bill and 6 installments after the release of Security (consumption) was not correct although it was recoverable. There was clear deficiency in service on the part of the Licensee as per ESIM Instruction No. 93.1 as no supplementary bill/notice was issued as the connection was clubbed with another account of the Unit. This amount was to be transferred to new connection. The action to adjust was illegal and against the instructions of PSPCL. No instruction in this regard was placed before the Forum.
4. Security (consumption) was not updated and interest on full deposit was not paid as per provisions of Regulation 17.1 to 17.3 of Supply Code-2007 w.e.f 01.01.2008 and under Regulation 17.1 & 17.2 of Supply Code-2014 effective from 01.01.2015. As the PSPCL had not given interest on the due date, penal interest may also be given as per Regulation 17.4 of Supply Code-2007 and Regulation 17.3 of Supply Code-2014. This was the right of Appellant and provisions for penal interest were made in the Supply Code-2007 amended vide Supply Code-2014.
5. There was deficiency in service in clubbing of both the connections. Security (Consumption) and Security (Meter) were to be transferred to new running account but Respondent transferred ₹ 2,39,436.35 on 07.01.2020 after the Appellant filed the case in the Forum.
6. The octroi was charged in the bills but out of ₹ 39,359/-, ₹ 7,717/- were only recoverable as admitted by the Respondent in its reply. But the requisite relief was not given by the Forum in its order. The Forum observed at page No. 14, 2nd para last line that out of check lot amount of ₹ 39,359/-, ₹ 7,717/- were recoverable alongwith interest. The Appellant requested for refund of excess charged amount of ₹ 39,359/- minus ₹ 7,717/- = ₹ 31,678/-.
7. The Appellant had deposited ₹ 93,885/- as ACD renamed as Security (Consumption) vide receipt no. 10477280 dated 29.04.2013 as per supplementary bill dated 29.04.2013 issued against HM No. 45 dated 18.12.2012. But the same was not updated. The Respondent had not updated this amount in ACD column. As a result, interest on the same was not received till 31.03.2020.
8. Security (Consumption) amounting to ₹ 1,40,911/- deposited on 28.12.2016 was not updated. The Forum ignored it and did not pass any order. Further, the Respondent, in its reply dated 13.01.2020 (in para regarding ACD) had reflected ₹ 6,66,946/-.
9. The below noted amounts deposited on account of ACD/ Security (Consumption) and Security (Meter) were to be incorporated in the bill and interest due was to be given: -

|  |  |  |  |
| --- | --- | --- | --- |
|  | BA 16 No. | Date | Amount in ₹ |
| ACD | 99/34198 | 22.06.2011 | 12,750/- |
|  | 463/43509 | 06.01.1999 | 19,125/- |
|  | 484/906 | 22.06.2011 | 2,64,075/- |
|  | 540/906 | 04.07.2011 | 2,61,960/- |
| MS | 485/906 | 27.06.2011 | 72,950 |
|  | SAP | 14.08.2017 | 500/- |
|  | SAP | 01.02.2018 | 40,775/- |
| AACD | 10477280 | 29.04.2013 | 93,885/- |
|  | SAP | 28.12.2016 | 1,40,911/- |
|  | SAP Notice | 14.02.2019 | 2,13,877/- |
|  | SAP Notice | 13.09.2019 | 3,33,145/- |
|  | Total |  | 14,53,953/- |

1. The missing receipt no. 112/36177 dated 18.02.2004 for ₹ 2,68,896/- was not traceable as the same was given to the Revenue Accountant for correction of supplementary bill and the same shall be claimed as and when the same is available.
2. **Submissions in the Rejoinder**

The Appellant’s Representative made the following submissions in its Rejoinder to the written reply of the Respondent, vide e-mail dated 20.08.2020, for consideration of this Court:

1. The Respondent had admitted ACD/Security (Consumption) as ₹ 5,57,910/- in Account No. 3003018385 and as ₹ 1,14,265/- in Account No. 3002959230. But the ACD/Security (Consumption) in Account No. 3003018385, released in 02/2018 was not correct. The negative (minus) amount of ACD/Security (Consumption) was to be transferred to new Account No.3002959230. The ACD/Security (Consumption) was to be transferred to this account but the PSPCL retained it as negative and adjusted later as per amounts raised by CBC.
2. The Respondent did not provide any instruction mentioning that after clubbing of load, the ACD/Security (Consumption) was to be refunded to consumer. The Respondent (PSPCL) had not followed the Instruction No. 93.1 of ESIM. It had not issued supplementary bills of arrear amount raised by CBC. As such, the Appellant could not know that any amount was charged to it. If any notice cum bill was issued, the same alongwith acknowledgement be placed before the Court.
3. The procedure adopted was totally against the regulations & instructions and clubbing was done without transfer of Security (Consumption). It also resulted in loss of interest and nonpayment of additional interest as per Act. The balance amount of ₹ 2,39,436/- was transferred to new account No.3002959230 as this amount did not appear in ACD column. As per computer chronology, in Account No. 3003018385, this amount was transferred on 07.01.2020 and in Account No.3002959230, it appeared on 28.12.2019 as ₹ 2,39,436.35.
4. The ACD/Security (Consumption) was shown on the bill upto 21.01.2018. PSPCL officials had released the same wrongly, as per their will and not as per instructions of PSPCL. The Security (Consumption) was to be transferred to new Account Number of the Appellant. But the same was wrongly adjusted towards arrear amounts not originally billed. There was deficiency in service on the part of the Respondent due to non issue of supplementary bills.
5. No supplementary bills were issued for deposit by the Appellant. Accordingly, the Appellant did not know about any charges. Besides, an undertaking/declaration was given that any amount becoming due after clubbing of load will be paid in new account.
6. The balance amount was to be transferred to new Account on 28.12.2019, but it was done after the case was filed in the Forum. Had the said case not been filed, this amount of ₹ 2,39,436/- would have remained as negative. Security (Consumption)/ACD of ₹ 1,40,911/- as balance amount was depicted on the bill and was correct. Security (Consumption) of ₹ 12,750/- and ₹ 19,125/- totaling ₹ 31,875/- had not yet been updated and details of interest calculation were not provided to authenticate the same.
7. Security (Consumption)/ACD as ₹ 93885/- was deposited on 29.04.2013 but Respondent failed to update the same in the bills. Supplementary bill, HM and copies of receipts were attached with the reply. The Respondent could verify the same from its record. This ACD/Security (Consumption) was required to be depicted on the bill in 05/2013 but this was not done. ACD/Security (Consumption) in respect of Account No. 3002959230 was ₹ 14,53,953/- and not as ₹ 6,61,287/-.
8. No request was made for the adjustment from the balance transferred from Account No. 3003018385. PSPCL had adjusted only to reduce the ACD/Security (Consumption) of ₹ 2,39,436/- and to save the officials from the wrong lapse due to adjustment already made. The Respondent had not provided the calculation of interest required to be given.
9. The Octroi levied prior to issuance of CC No. 28/2017 was wrongly charged to the Appellant and that amount was to be refunded. The refund was to be adjusted from the current octroi becoming payable.
10. The ACD/Security (Consumption) calculated as ₹ 6,61,287/- was not correct, hence, not admitted. The correct amount was ₹ 14,53,953/- as per details submitted with the Appeal.
11. The original receipt was handed over to the then RA, Mr.Deepak who kept the receipt with him for updating the ACD/ Security (Consumption) but had not returned the same. As such, the Appellant left the claim.
12. The Respondent had wrongly/willfully not transferred the ACD/Security (Consumption) to new account after the clubbing of load. No such instruction was produced before the Forum as well as in the reply to this Court. The Respondent had failed to comply with its own instructions as per ESIM applicable regarding non-issue of supplementary bill.
13. The plea that consumer did not protest at the time of its adjustment from ACD/Security (Consumption) was baseless. The consumer could not know that CBC had raised the amount. No such bill/intimation was received from PSPCL. No such letter or bill was delivered to the Appellant after adjustment from ACD/Security (Consumption).
14. The Appellant had not been given interest on ACD/Security (Consumption) and penal interest due to this negligence. The clubbing of load was always done and Security (Consumption) was transferred to running account. If it was not done, why the PSPCL transferred the balance amount on 07.01.2020. It should explain as to why it was not refunded through cheque.
15. The Respondent had not refunded ₹ 31,678/- as per orders of the Forum for which, it had admitted in the reply that this amount was refundable. The PSPCL had raised the ACD/ Security (Consumption) pointed out by Audit Party and the same was deposited by the Appellant. It was the duty of the official/officer posted at that time to update the ACD/Security (Consumption) as per rules and instructions. The copies of the bill, HM and paid receipt already stood submitted.
16. The PSPCL had changed the ACD/ Security (Consumption) from ₹ 6,66,946/- to ₹ 1,40,911/- after 21.01.2018. The same was updated in the bills every month. The Appellant had not claimed as the same was reflected on bills. The ACD/Security (Consumption) was actually ₹ 14,53,953/- and not ₹ 6,61,287/- as shown by PSPCL.
17. The PSPCL had not issued any notice against the implementation of the order of the Forum and also not supplied the calculation sheet of interest given on ACD/Security (Consumption). The Forum had not decided the case correctly. As such, the present Appeal was filed for grant of justice.
18. **Submissions during Hearing**
19. During hearing on 21.08.2020, the Appellant’s Representative reiterated the submissions already made in the Appeal and Rejoinder to the written reply of the Respondent. At the end of deliberations, he was directed to reconcile the figures relating to non up-dation of Security (Consumption) and also of interest with the Respondent and apprise this Court accordingly on next date of hearing fixed for 02.09.2020.
20. On 02.09.2020, the Appellant’s Representative stated that he was satisfied with the reconciled/updated figures of Security (Consumption). He added that the Respondent had allowed interest only at normal rates and not allowed interest on interest (penal interest) as per Supply Code Regulations. Moreover, ACD/Security (Consumption) on clubbing of load had not been shifted in new account. He was then asked to provide any documentary evidence in regard to representation, if any, made to the Respondent for updation/correction of securities or for allowing interest thereon. In response, the Appellant’s Representative stated that he did not have copies of representations made to Respondent in this regard.
21. **Submissions of the Respondent**
22. **Submissions made in the Written Reply**

The Respondent, in its written reply dated 18.08.200, made the following submissions for consideration of the Court:

1. The Appellant (M/s. Ram Lal & Bros.) was having LS category connection bearing Account No. 3002959230 (W13MS21/0255) under DS Sub Division, Sahnewal with sanctioned load of 543 kW and CD as 543.900 kVA. Earlier this connection of the Appellant had been running under MS category with sanctioned load of 89.914 kW with contract demand as 99.900 kVA. Another account bearing CA No. 3003018385 (W13SL03/00140) was in the name of M/s. Angrish Alloys & Steel Pvt. Ltd. with sanctioned load of 400 kW and CD as 444 kVA and was got clubbed in the aforesaid account i.e. CA 3002959230 on the request of the Appellant vide A&A 100005332926 dated 01.02.2018. Therefore, the connection of M/s. Angrish Alloys & Steel Pvt. Ltd. was permanently disconnected on 05.04.2018. As per record, Security (Consumption) and Security (Meter) were lying in Account No. CA 3003018385 (W13SL03/00140) as per following details:-

|  |  |  |
| --- | --- | --- |
| **BA16 No.** | **Date** | **Amount in** ₹ |
| 484/906 | 22.06.2011 | 264075 |
| 540/906 | 04.07.2011 | 261960 |
| **Total** | **(264075+261960)** | **526035** |
| 99/34198 | 01.12.1997 | 12750 |
| 463/43509 | 06.01.1999 | 19125 |
| **Total** | **(526035+12750+19125)** | **557910** |

As per record, ACD and Meter Security was lying in account No.CA 3002959230 (W13MS21/0255) as below:-

|  |  |  |
| --- | --- | --- |
| **BA16 No.** | **Date** | **Amount** |
| 485/906 | 27.06.2011 | 72990 |
| SAP | 14.08.2017 | 500 |
| SAP | 01.02.2018 | 40775 |
|  | **Total** | **114265** |

1. Security (Consumption) lying in the account CA 3003018385 amounting to ₹ 5,26,035/- was released in the same account in the month of 02/2018 and the same amount was reflected in negative in the account of the Appellant upto 05/2018. Subsequent demands/ debits standing in the account of the Appellant were adjusted against the Security (Consumption)released, the details of which are as under: -

|  |  |  |
| --- | --- | --- |
| **Debits** | **Date** | **Amount in** ₹ |
| Six Nos. Installments of Arrear Revision from 04/2017 to 12/2017 amounting to Rs. 29879/- each (Charged by CBC) | 28.05.2018 | 179281 |
| Difference of Arrear Revision 2017 (Charged by CBC) | 11.01.2019 | 24444 |
| Check Lot dt. 02.05.2016 amounting to Rs. 39359 and dt. 30.09.2016 amounting to Rs. 13092 along with interest of Rs. 23507 as per Supplementary Notice No. 23 dt. 03.01.2019 | 21.01.2019 | 75958 |
| Fixed Charges Refund (Charged by CBC) | 13.08.2019 | 1794 |
| Difference Interest of check lots | 09.12.2019 | 1297 |
|  | **Total** | **282774** |

The remaining surplus balance of ₹ 2,39,436/- was transferred to the Account No. CA 3002959230 of the Appellant.

1. The ACD/ Security (Consumption) of ₹ 6,66,946/- was updated in the account of the Appellant upto 21.01.2018. Further, an amount of ₹ 5,26,035/- was released in the same account i.e. CA 3003018385 in the month of 02/2018 at the time of clubbing of load. After releasing ₹ 5,26,035/- out of ₹ 6,66,946/-, remaining amount of ₹ 1,40,911/- was being depicted on bill dated 23.02.2018. It was added here that the amount of ₹ 1,40,911/- was updated towards ACD/Security (Consumption) through check lot entry dated 28.12.2016. The receipt for the same was neither available in record nor it was claimed by the Appellant in his Appeal as well earlier at any point of time.
2. It was also correct that ACD/Security (Consumption) of ₹ 12,750 dated 01.12.1997, ₹ 19,125 dated 06.01.1999 totaling ₹ 31,875/- was not updated and difference of interest on ACD/ Security (Consumption) has been computed considering the same as ACD/ Security (Consumption).
3. An amount of ₹ 93,885/- towards AACD/Security (Consumption) through Half Margin was subject to verification of necessary record of Sub Division as this AACD/Security (Consumption) was not earlier claimed by the Appellant in the Forum. This amount will be taken into consideration for computing difference of interest on ACD/Security (Consumption) after verification of record as the relevant ledger was not currently traceable. As per record, Security (Consumption) were lying in Account No. CA 300301838 (W13SL03/00140) as below:-

|  |  |  |
| --- | --- | --- |
| **BA16 No.** | **Date** | **Amount in** ₹ |
| 484/906 | 22.06.2011 | 264075 |
| 540/906 | 04.07.2011 | 261960 |
| **Total** | **(264075+261960)** | **526035** |
| 99/34198 | 01.12.1997 | 12750 |
| 463/43509 | 06.01.1999 | 19125 |
| **Total** | **(526035+12750+19125)** | **557910** |

1. After clubbing of load, total ACD/Security (Consumption) of CA 3002959230 had already been updated with ₹ 6,61,287/-.
2. The demand of AACD/Security (Consumption) of ₹ 3,33,145/- computed by CBC, Ludhiana was rightly debited in 09/2019 to the account of the Appellant after issuing supplementary notice. However, the same was not deposited by the Appellant. Subsequently, the excess balance of CA No. 3003018385 was adjusted in CA 3002959230 with sundry allowance of ₹ 2,39,436/- on 07.01.2020. The above said AACD/Security (Consumption) had already been updated in SAP system.
3. The AACD/Security (Consumption) of ₹ 2,13,877/- earlier deposited by the Appellant was rightly updated in time and SAP system had given interest after considering the same. The difference of interest will be given from the date of deposit of each amount.
4. No octroi was being levied in bills as levy of octroi had already been abolished vide CC No. 28/2017. Moreover, the octroi levied in past had already been deposited and settled with Punjab Govt.
5. In new Account No. CA 3002959230, the ACD/Security (Consumption) of ₹ 6,61,287/- stood entered and the difference of ₹ 31,875/- and ₹ 93,885/- will be adjusted in next bill after verification of record. Further, the difference of interest for the year will also be given as per the decision.
6. The clarification was sought from CMC (Spl.) Divn., Ludhiana relating to BA16- 112/36177 dated 18.02.2004 of ₹ 2,68,896/- but no receipt with the above said description was found in the record of the said Division. The said office had intimated that “As per the subject cited above, it is submitted after detailed scrutiny of record i.e. Cash Book and BA-16 Book of both the Sub Divisions under CMC Division, there is no record found of security deposited on 18.02.2004 of this consumer. In this context it is also submitted that the said book of BA 16 was not existing in any of the Sub Division during the said month/period (February). It is worth mentioning that no entry on 18.02.2004 is found on 18.02.2004 in any of the Sub Divisions of CMC division.”
7. It is further clarified here that a connection running in CMC Division bearing account No. LS -123 with sanctioned load of 220.817 kW having CD as 200 kVA was shifted from CMC Division to Sahnewal Sub Division after deposit of shifting fee on 01.06.2004. The same was entered in Sahnewal office vide A & A 27242/LS dated 26.10.2004 and it was allotted A/c No. LS-87. As per case of LS-87 of the Appellant, whole of the ACD lying in the said account had already been adjusted vide SCA 22/45/R-195. No receipt bearing BA16-112/36177 dated 18.02.2004 amounting to ₹ 2,68,896/- was found in the original consumer case as well. The Appellant, if provides the copy of above said receipt, the same shall be re-checked.
8. The amounts were correctly charged by CBC as installments of tariff hike which were charged in chronology and bills, the same had been correctly adjusted in ACD released. The Appellant never resented at the time of charging the amount and its adjustment of ACD at that time. At present, the objection was not maintainable.
9. The check lot of ₹ 39,359/- was posted to adjust late payment surcharges of ₹ 7,717, ₹ 11,575, ₹ 7,829, ₹ 11,744 and RCO fee of ₹ 500/-. As per chronology, it was clear that ₹ 7,717 was recoverable on account of late payment surcharge of bill dated19.03.2016 for which due date was 29.03.2016. The Appellant had deposited ₹ 4,55,210/- vide cheque no. 953094 on 29.03.2016 which was subsequently dishonoured and the consumer deposited instrument no. 0539 amounting to ₹ 4,55,689 on 31.03.2016 along with cheque dishonour charges and RCO fee. The consumer was liable for surcharge of ₹ 7,717/- but not for ₹ 11,575/- which were also debited in chronology. The Appellant was also debited with ₹ 7,829/- and ₹ 11,744/- on 20.05.2016 due to outstanding balance of previous LPS of ₹ 7,717/- and ₹ 11,575/-. Hence out of check lot amount of ₹ 39,359/-, ₹ 7,717 were recoverable along with interest. It was thus clear that ₹ 13,092/- was recoverable on account of late payment surcharge of bill dated 01.09.2016 for which due date was 13.09.2016. The Appellant had deposited ₹ 7,94,970/- on 14.09.2016 i.e. after the due date of the bill. The Appellant was liable for surcharge of ₹ 13,092/- which was also debited in chronology. Hence ₹ 13,092/- was recoverable along with interest.
10. An amount of ₹ 93,885/-towards AACD through Half Margin was subject to verification of necessary record of Sub Division as this AACD was not earlier claimed by the Appellant in the Forum. This amount will also be taken into consideration for computing difference of interest on ACD/Security (Consumption) after verification of record as currently the relevant ledger was not traceable.
11. ACD/Security (Consumption) of ₹ 6,66,946/- was updated in the account of the consumer upto 21.01.2018 out of which the amount of ₹ 1,40,911/- was updated towards ACD/Security (Consumption) through check lot entry dated 28.12.2016, the receipt for the same was not available in record nor it was being claimed by the Appellant in his Appeal as well earlier at any point of time. If the Appellant was in possession of receipt, the same may be provided.
12. The total ACD/ Security (Consumption) of CA 3002959230 had already been updated with ₹ 6,61,287/- for which, the details were as under:-

|  |  |  |
| --- | --- | --- |
| **BA16 No.** | **Date** | **Amount in** ₹ |
| 485/906 | 27.06.2011 | 72990 |
| SAP | 14.08.2017 | 500 |
| SAP | 01.02.2018 | 40775 |
| SAP AACD | 01.12.1997 | 213877 |
| SAP AACD | 06.01.1999 | 333145 |
| **Total** |  | **661287** |

1. ACD/Security (Consumption) of ₹ 12,750 dated 01.12.1997, ₹ 19,125 dated 06.01.1999 totaling to ₹ 31,875/- were not earlier updated but interest on the same had been computed.
2. ACD/Security (Consumption) of ₹ 2,64,075 dated 22.06.2011, ₹ 2,61,960/- dated 04.07.2011 totaling ₹ 5,26,035/- had already been released in old CA No. 3003018385. The remaining surplus balance of ₹ 2,39,436/- was transferred to the new account of the Appellant bearing Account No. CA 3002959230 after adjusting the outstanding demands. Interest on the above deposits had been computed in calculations.
3. The amount of ₹ 1,40,911/- was updated towards ACD/ Security (Consumption) through check lot entry dated 28.12.2016, the receipt for the same was not available in record nor it was being claimed by the Appellant in its Appeal as well earlier at any point of time. If the Appellant had the receipt, the same may be provided.
4. An amount of ₹ 93,885/- towards ACD/Security (Consumption) through Half Margin was subject to verification of necessary record of Sub Division as its ACD/Security (Consumption) was not earlier claimed by the Appellant in the case filed in the Forum. This amount will also be taken into consideration for computing difference of interest on ACD/Security (Consumption) after verification of record as currently the relevant ledger was not traceable. Further, the Appellant had been given adjustment of ₹ 1,60,450/- vide SCA No. 208/155/R-270 which will be reflected in next bill.
5. It was prayed that the Appeal of the Appellant, be dismissed.
6. **Submission during Hearing**
7. During hearing on 21.08.2020, Asstt. Executive Engineer, PSPCL (appearing on behalf of Addl. S.E./DS Estate Division (Spl.), Ludhiana) reiterated the submissions already made in its written reply. At the end of the deliberations, he was directed to reconcile and update the figures of Security (Consumption) and also of interest (at normal rates) thereon and then apprise this Court on next date of hearing on 02.09.2020.
8. On 02.09.2020, Addl.S.E, DS Estate Division(Special), PSPCL, Ludhiana submitted a report signed by himself (Respondent) and the Appellant’s Representative stating as under:

“Sh. Parvesh Chadha POA M/s. Ram Lal & Bros Appeal Case No. A-35/2020 was present in the sub division office Sahnewal for reconciliation of the four number issues raised in the Reliefs required against Grounds of Appeal. The same are reconciled as under:

1. The interest upto date has been given as per calculation sheet annexed which amounts to Rs. 201328/- (gross) and TDS of Rs. 20134/- has been deducted. The net amount of interest is Rs. 181194/- is agreed by PR.

2. The amounts debited in old account No. CA 3003018385 on account of tariff revision, FC Arrear, Check lot, FC\_Refund etc. are rightly debited and recoverable and agreed by PR.

1. The refund of Rs. 31,678/- has been given in Sundry Allowance of Rs. 1,60,450/- in compliance to implementation of decision of honourable CGRF, Ludhiana in CGL-387/2019 which is agreed by PR.
2. ACD and Meter Security has been updated as Rs. 787047/- and interest on the same has been given as per Para 1 above which is agreed by the PR.”

On being inquired, the Respondent intimated that the Appellant had not submitted any representation about updation of disputed securities or for allowing interest thereon.

**6.** **Analysis and Findings**

The issues requiring adjudication are the legitimacy of the plea

taken by the Appellant regarding

(i) non issuance of the Supplementary Bill/non-shifting of Security(Consumption) on clubbing of load in new Contract Account.

(ii) allowing penal/additional interest on Security (Consumption) for the disputed period as per applicable Regulations.

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

In compliance to the directions given to the Representative of the Appellant and the Respondent orally during proceedings dated 21.08.2020 and also sent vide this office letter nos. 762-63/OEP/A-35/2020 dated 21.08.2020, the Addl.S.E.,DS Estate Division (Special), PSPCL, Ludhiana submitted a Report duly signed during hearing on 02.09.2020 stating as under:

“Sh. Parvesh Chadha POA M/s. Ram Lal & Bros Appeal Case No. A-35/2020 was present in the sub division office Sahnewal for reconciliation of the four number issues raised in the Reliefs required against Grounds of Appeal. The same are reconciled as under:

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2. ACD and Meter Security has been updated as Rs. 787047/- and interest on the same has been given as per Para 1 above which is agreed by the PR.

Sd/- Sd/-

Sh. Parvesh Chadha Addl.SE

POA M/s. Ram Lal & Bros. Estate Spl. Division

There are some of the objections which are raised by the PR are as follows:

* 1. ACD on clubbing of load had not been shifted in new account.
  2. Penal Interest as per 17.4 of Supply Code-2014 has not been given.

Sd/-

Sh. Parvesh Chadha

POA M/s. Ram Lal & Bros.”

All the issues, except 1 & 2 above, raised in the present Appeal by the Appellant have been settled by both the parties mutually during the pendency of this Appeal Case in this court. As such, the issues settled by them are not being discussed here. However, the remaining two issues which could not be settled/resolved by the parties are discussed as under:

**Issue (i)**

The Appellant’s Representative objected to the act of the Respondent in not shifting the ACD/Security (Consumption) while clubbing the old Contract Account of the Appellant with its new (present) Contract Account. He stated that the Respondent had failed to comply with its own instructions as contained in Instruction No.93.1 of ESIM 2018 and did not issue Supplementary Bill as required. He, however, added that the Appellant had not suffered any financial loss in this regard.

I find that instructions regarding clubbing of more than one connection in the same premise are given in Instruction No. 35 of ESIM 2018.I agree with the plea of the Appellant’s Representative that there was a procedural lapse on the part of the officials of the Respondent. The Appellant had not suffered any financial loss due to this lapse on the part of the Respondent. Therefore, this issue is disposed off with the direction to the Respondent to follow the regulations of Supply Code/instructions of ESIM strictly while dealing such type of cases in future.

**Issue (ii)**

1. The Appellant’s Representative submitted that the Appellant be allowed interest on interest/additional (penal) interest on Security (Consumption) for the disputed period as per provisions contained in Regulation 17.4 of Supply Code-2007/Regulation 17.3 of Supply Code-2014.He added that the Respondent defaulted in not allowing interest on Security (Consumption) as admissible to the Appellant from time to time. Therefore, the Appellant was entitled to penal interest due to delay on the part of the Respondent.

I find that the Appellant was a Large Supply 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) was invariably depicted. The Appellant 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 amount of Security (Consumption) during the disputed period. Thus, the Appellant did not take appropriate remedy at appropriate time despite the fact that provisions for allowing interest on Security (Consumption) were made in the Supply Code-2007 (applicable from 01.01.2008 to 31.12.2014) amended vide Supply Code-2014 (effective from 01.01.2015). Instead of finding lacunae in the working of the Respondent, the Appellant was expected to be vigilant, update and prompt in discharging its obligation. Had the Appellant exercised necessary prudence/vigilance, the present litigation could have been avoided.

I also find that the Respondent defaulted in not allowing the interest on Security (Consumption) for the disputed period.

b) It is observed that the Appellant willfully avoided to represent/file a claim to the Respondent for a considerably long time in the hope that it would, in the event of delay, get interest at comparatively higher rates from PSPCL than that admissible for deposits in the banking institutions. Delay on the part of the Appellant to file the representation for correction/updation of securities should not result in additional income to him at the cost of the Respondent (PSPCL). The Appellant may have expected that in the event of success of its Petition/Appeal in the CGRF/Court of Ombudsman (Electricity), it would get interest at higher rates as per provisions of Regulation 17.4 of Supply Code-2007/Regulation 17.3 of Supply Code-2014.

c) In view of the above, this issue of allowing interest on interest/additional interest/penal interest on the Security (Consumption) for the disputed period is decided against the Appellant after due consideration.

**7.** **Decision**

As a sequel of above discussions, it is held that

1. The Appellant did not suffer any financial loss due to omission on the part of PSPCL in not following the prescribed procedure for issuance of Supplementary Bills and adjusting of Security (Consumption) after clubbing of loads. No relief has been claimed in this regard by the Appellant. However, the Respondent should strictly follow the regulations/instructions in this regard available in the Supply Code/ESIM.
2. The claim of the Appellant for grant of interest on interest/additional interest on Security (Consumption) is devoid of merit, hence, not sustainable.
3. Nomenclature “Security (Consumption)” as specified in Supply Code should be used in place of “ACD/AACD” in the energy bills and other correspondence to avoid any legal complications.
4. The Appeal is disposed of accordingly.
5. In case, the Appellant or the Respondent is not satisfied with the above decision, it is at liberty to seek appropriate remedy against this order from the Appropriate Bodies in accordance with Regulation 3.28 of the Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations-2016.

(GURINDER JIT SINGH)

September 07, 2020 Lokpal (Ombudsman)

S.A.S Nagar (Mohali) Electricity, Punjab.