

**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. 51/2022

**Date of Registration : 30.09.2022
Date of Hearing : 11.10.2022
Date of Order : 11.10.2022**

Before:

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

In the Matter of:

**M/s. S.M.Industries,
Kahne Wala Road, Jalalabad.**

Contract Account Number: 3003316492(LS)

...Appellant

Versus

**Senior Executive Engineer,
DS Division,PSPCL,
Jalalabad.**

...Respondent

Present For:

**Appellant: Sh. Ashok Kumar Dhawan,
Appellant's Representative.**

**Respondent : (1)Er. Vipin Kumar,
Asstt. Executive Engineer,
O/o DS Division, PSPCL, Jalalabad.
(2) Sh. Gian Chand, UDC.**

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 15.09.2022 of the Corporate Consumer Grievances Redressal Forum, Ludhiana (Corporate Forum) in Case No. TP-143 of 2022, deciding that:

“Respondent submitted calculations of refundable amount which is taken on record. One copy thereof was handed over to the Petitioner.

Petitioner stated that he agrees to the calculations submitted by Respondent in today’s hearing.

Since both the parties have reached an agreement therefore, there is no need of interference of Forum.

The present petition is disposed of accordingly.”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 29.09.2022 within a stipulated period of thirty days of receipt of the decision dated 15.09.2022 of the CCGRF, Ludhiana in Case No. TP-143 of 2022. The Appellant had not submitted Vakalatnama signed by all the partners with the Appeal, so it was requested vide letter no. 1046/OEP/S.M. Industry dated 29.09.2022 to supply the same. The Appellant supplied the requisite Vakalatnama vide email dated 30.09.2022. The requisite 40% of the disputed amount was not required to be deposited as it was a refund case. Therefore, the Appeal was registered on 30.09.2022 and copy

of the same was sent to the Sr. Xen/DS Division, PSPCL, 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. 1062-64/OEP/A-51/2022 dated 30.09.2022.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 11.10.2022 at 12.30 PM and an intimation to this effect was sent to both the parties vide letter nos. 1078-79/OEP/A-51/2022 dated 06.10.2022. The hearing was held in this Court on 11.10.2022 and arguments of both the parties were heard.

4. Submissions made by the Appellant and the Respondent

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

(A) Submissions of the Appellant

(a) Submissions made in the Appeal

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

- (i) The Appellant was having a LS Category connection with Sanctioned Load of 500 kW and CD as 400 kVA under DS Division, Jalalabad. The Appellant was operating Rice Mill as Seasonal Industry during the period under dispute for the years 2017-18 and 2018-19. Afterwards, the Appellant was operating the connection as General Industry w.e.f. 01.10.2020.
- (ii) The bill for the month of 09/2018 was wrongly prepared. As per instructions issued by the CE/Commercial, Patiala vide its Commercial Circular No. 24/2018, fixed charges were chargeable only w.e.f. 01.10.2018 from the start of the season and during off-season, only consumption charges were recoverable. Therefore, a sum of ₹ 1,15,193/- was excessively recovered as per calculation sheet and was refundable to the Appellant.
- (iii) In violation of the instructions as laid down vide CC Nos. 23/2018 & 24/2018, excess fixed charges were charged/ recovered for the period from 10/2018 to 03/2019, as the same were recoverable only upto the month of 12/2018 whereas the

same were recovered upto 03/2019. Hence, a sum of ₹ 2,60,269/- plus ED for ₹ 52,053/- = ₹ 3,13,322/- was refundable.

- (iv) A sum of ₹ 94,522/- was charged on account of difference of tariff vide Half Margin No. 52 dated 25.10.2018 which was recovered vide receipt no. 213100080776 dated 17.05.2018. Again, the same amount was recovered through the bill for the month of 12/2020 which was paid vide receipt no. 153255555 dated 01.01.2021. Hence, ₹ 94,522/- deposited during the month of 12/2020 were refundable.
- (v) As per PSERC Petition No. 47/2017, it was decided by the Hon'ble Commission that wrongly charged bills should be refunded. Therefore, a case for refund of ₹ 1,98,615/- was forwarded by the Respondent to the AO/ Field , Faridkot, who wrongly approved a less refund for ₹ 1,83,571/- only . Thus, balance amount of ₹ 15,044/- was refundable.
- (vi) 9 no. installments for ₹ 59,662/-each were recovered during the month from 01/2018 to 09/2018 as arrears for the revised tariff for the period from 04/2017 to 09/2017 which was wrong. The same amount was not recoverable as per CC No. 46/2017 due to less/ off-seasonal consumption. So, ₹ 7,34,928/- alongwith interest for ₹ 2,64,922/- were refundable. This issue had been

decided by the Corporate Forum, in favour of the Appellant as the Respondent had agreed to refund ₹ 6,12,821/- as per calculation sheet submitted before the Corporate Forum.

- (vii) The Corporate Forum had decided only issue no. 5 and the issue nos. 1 to 4 were left unheard on the plea that the amount involved was less than ₹ 5.00 lac each, ignoring rules and regulations of the PSPCL and the PSERC.
- (viii) The case was not decided on the merits of the case and only monetary limit i.e. ₹ 5.00 lac per issue was taken as base for disposal of the case and even the monetary limit taken was not correct as presumed by the Corporate Forum. As per CC No. 39/2021, the limit of ₹5.00 lac was fixed for the case as a whole and not for any particular issue.
- (ix) The issues from 1 to 4 as mentioned above, were dropped without giving an opportunity of being heard and only monetary limit was considered, which was against the instructions as laid down by the PSERC in this regard as per Regulation 2.31 of PSERC (Forum and Ombudsman)(2nd Amendment) Regulation, 2021 and also against the instructions of the CC No. 39/2021.
- (x) Although the Forum had exclusive right to reject any claim or accept it but the Corporate Forum had pre-decided the case

without giving any opportunity of being heard, which was against the true spirit of justice.

- (xi) The case was decided after a period of 9 months from the date of submission of grievances before the CGRF, Patiala during December, 2021. The case was registered as Case No. T-20/22 in CGRF, Patiala. It was not decided by the Forum within the prescribed time limit of 45 days as laid down vide Regulation 2.31 of the PSERC, 2021 reproduced as under:-

“2.31 On receipt of the comments from the licensee or otherwise and after conducting or having such inquiry or local inspection conducted as the Forum may consider necessary and after affording reasonable opportunity of hearing to the parties, the Forum shall pass appropriate orders for disposal of the grievance, as far as possible, within 45 days of filing the complaint. The complaint/grievance by senior citizens, physically challenged or person suffering from serious ailments shall be disposed of on priority. However the order in case of grievance relating to non-supply, connection or disconnection of supply shall be issued by the Forum within 15 days of the filing of the grievance.”

- (xii) It was further added that several cases registered after the month of December, 2021 were decided by the Forum. Meanwhile, the Court of the CGRF, Patiala was disbanded which led to further delay, for which the Appellant was not responsible.
- (xiii) The total amount of this case was not less than ₹ 5.00 lac as discussed above. Moreover, when the case was initially submitted before the Forum, the monetary limit was not

mandatory. So, the case was fully fit to be heard as an Appeal and it was humbly prayed that if this Appeal was not allowed, the Appellant was likely to suffer irreparable losses.

(xiv) It was specifically mentioned in the Commercial Circular No. 39/2021 that the criteria of amount was per case and not per issue. The instructions as mentioned above are reproduced as under:-

“2.9.1 Corporate Forum

- (i) *The Corporate Forum shall have the jurisdiction to dispose of all the monetary disputes of an amount exceeding Rs. Five lakh (Rs.5,00,000/-) in each case. Provided that the complaint/representation is made within two years from the date of cause of action.*
- (ii) *Any complainant aggrieved by non-redressal of his grievance within the time period specified by the Commission or is not satisfied with the redressal of the complaint by the Zonal or Circle or Divisional Forum may himself or through his authorized representative, approach the Corporate Forum in writing for the redressal of his grievance.*

Provided that the Corporate Forum shall entertain only those complaints against the orders of Zonal or Circle or Divisional Forum, as the case may be, where the representation is made within 2 months from the date of receipt of the orders of respective

Zonal/ Circle/ Divisional Forum, as the case may be. Provided further that the Corporate Forum may, for reasons to be recorded in writing, entertain a complaint which does not meet the aforesaid requirements”.

- (xv) The Case was decided on 15.09.2022 and the copy of order was received by the Appellant on 23.09.2022. Therefore, the Appeal was submitted within one month of the receipt of copy of Judgment.
- (xvi) The issue regarding monetary limit had been decided in Appeal No. A-46 of 2022 by this Court. On 15.09.2022, the Appellant had tried to submit rejoinder in this regard before the Corporate Forum. However, the Corporate Forum refused to accept or entertain the rejoinder in this regard.
- (xvii) The Appellant humbly prayed to accept this Appeal in the interest of justice.

(b) Submission during hearing

During hearing on 11.10.2022, the Appellant's Representative (AR) reiterated the submissions made in the Appeal and prayed to allow the same. He pleaded that the case may be remanded back to Corporate Forum for hearing/ decision on merits on the remaining issues not decided earlier by the Corporate Forum on merits.

(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 a LS Category Connection under Mixed Load Industry (Rice Mill), bearing Account No. 3003316492 with sanctioned load of 500 kW/ 400 kVA running under DS Division, PSPCL, Jalalabad in the name of M/s. S.M. Industries, Jalalabad.
- (ii) The Appellant filed a dispute Case No. T-143 of 2022 in the Corporate Forum, Ludhiana against the below detailed 5 nos. issues, out of these 4 nos. (at Sr. No. 2,3,4,5) issues were below ₹ 5 lac. Therefore, since the dispute less than ₹ 5 lac could not be considered in the Corporate Forum, Ludhiana as per CC No. 39/2021, the Corporate Forum advised the Appellant to approach the Appropriate Forum.
- (iii) Only the point no. 6 regarding the arrear of ₹ 5,36,958/- for the revision of tariff order as per CC No. 46/2017 for the period from 04/2017 to 10/2017 charged by the O/o Xen/CBC, Bathinda in 9 equal installments from 01/2018 as per CC No. 12/2018 was discussed in the Corporate Forum. The Appellant

had already deposited these installments, but now after three to four years, had filed its grievances in the Forum.

- (iv) The Corporate Forum directed both the parties during proceedings on 09.08.2022 to reconcile the calculation of arrears and submit the same in next date of hearing. During proceedings on 15.09.2022, the Corporate Forum rightly decided that “since both the parties have reached an agreement therefore, there is no need of interference of the Forum.”
- (v) The calculation for refund of ₹ 6,12,821/- was forwarded to the office of AO/ Field, Faridkot vide Memo No. 2983 dated 06.10.2022 by the office of AE, City Sub-division, PSPCL, Jalalabad. So, after the calculation was got pre-audited from the O/o the AO/ Field, Faridkot the same would be credited to the Appellant’s account.
- (vi) The Corporate Forum, Ludhiana observed in the proceedings dated 20.07.2022 that all disputes other than the dispute of arrears as per CC No. 12/2018 amounting to ₹ 5,36,958/- were of amount less than ₹ 5 lac each, therefore the same could not be heard in the Corporate Forum, Ludhiana as per Regulation issued by the PSERC. However, the Appellant can approach the Appropriate Forum for redressal of these grievances. The

reply on issues not decided by the Corporate Forum was as under:-

- (vii) **Refund of ₹ 1,15,193/- for the month of 09/2018.** In this regard it was submitted that the refund for the month of 09/2018 became time barred under Regulation 2.25 under CCHP of ESIM. It was further added that the Appellant had not given any request during the stipulated period in the office of AE, City Sub division, PSPCL, Jalalabad.
- (viii) **Refund of excess fixed charges for the seasonal year 2018-19 for ₹ 3,13,222/-.** In this regard it was submitted that the claim was being more than two years old and became time barred under Regulation 2.25 & 2.27 of PSERC (Forum and Ombudsman) Regulations, 2016. It was further added that the Appellant had not given any request during the stipulated period.
- (ix) **The amount of ₹ 94,522/- for the month of 04/2018 and 12/2020.** In this regard it was submitted that the bill for the month of 04/2018 was issued for ₹ 17,52,300/- in which the current bill was of ₹ 2,47,710/- alongwith previous arrear of ₹ 15,04,590/- (i.e. ₹ 2,47,710/-+ ₹ 15,04,590/-= ₹ 17,52,300/-). The Appellant paid only current bill of ₹ 2,47,710/- on 17.05.2018. An amount of ₹ 94,522/- was charged in the bill for

the month of 12/2020 on account of Half Margin No. 52 dated 25.10.2018 vide SCA No. 104/138/R-127 including current bill of ₹ 5,87,400/-. The total bill for the month of 12/2020 (₹ 94,522/- + ₹ 5,87,400/- = ₹ 6,81,920/-) was issued to the Appellant & the same was deposited by the Appellant on 01.01.2021. Thus, only single time ₹ 94,522/- was charged in the month of 12/2022 & deposited by the Appellant on 01.01.2021.

(x) **To refund ₹ 15,044/- wrongly deducted by the Audit Party.**

In this regard it was submitted that the period of disputed month i.e. 05/2019 which was more than two years old became time barred under Regulation 2.25 & 2.27 of PSERC (Forum and Ombudsman) Regulations, 2016. However, it was stated that the period of dispute was from 09/2016 to 05/2017 which was implemented in 05/2019 as per Chief Engineer/ Commercial's Memo No. 979/85 dated 24.04.2019 on account of lag+lead meter. The account of the Appellant was overhauled by the office of AE/ DS City Sub Division, Jalalabad and the refund case of ₹ 1,98,615/- was forwarded to the AO/ Field, Faridkot. The calculations were checked by the office of AO/ Field, Faridkot and ₹ 1,83,571/- was verified/ approved instead of ₹ 1,98,615/-. Thus, the calculations of Sub

division briefly checked by audit officer were correct and approved rightly.

(b) Submission during hearing

During hearing on 11.10.2022, the Respondent reiterated the submissions made in the written reply to the Appeal. The Respondent stated that order relating to refund of ₹ 6,12,821/- has been implemented. The Respondent had no objection if the case relating to remaining four issues is remanded back to Corporate Forum.

5. Analysis and Findings

The issue requiring adjudication is whether the decision of the Corporate Forum, to direct the Appellant to approach the Appropriate Forum as the various issues raised by the Appellant amounting to ₹ 15,37,931/- collectively in one case, but individually 4 issues out of total 5 issues were of amount less than ₹ 5 Lac as the Corporate Forum can deal with monetary disputes above ₹ 5 Lac only, is tenable or not.

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 decision of the

Corporate Forum as regards to directing the Appellant to approach Appropriate Forum for 4 out of total 5 issues raised in its petition filed before the Forum was wrong as the total disputed amount involved was ₹ 15,37,931/- which was more than ₹ 5.00 lac. He pleaded that the case was filed with the CGRF, Patiala in the month of December, 2021 as Case No. T-20 of 2022 and as per Regulation 2.31 of PSERC (Forum and Ombudsman) Regulations, 2021, the case was to be decided within 45 days of the registration which was not done by the Forum. Then the CGRF, Patiala was disbanded which led to further delay. The case was transferred to the Corporate CGRF, Ludhiana as per regulations as the amount of case was more than ₹ 5.00 lac. But out of five issues raised by the Appellant in its case, the Corporate Forum decided only one issue relating to arrears. The Corporate Forum dropped the other issues without giving an opportunity of being heard, on the ground that all these issues were individually less than ₹ 5.00 lac each. Later on, the Corporate Forum decided the case on 15.09.2022 on only one issue on the basis of both the parties reached an agreement on the dispute. This decision was agreeable to both the parties. But, the Corporate Forum did not decide the rest of 4 issues raised by the Appellant on the merits, which was

against the Regulations of the Hon'ble PSERC and CC No. 39/2021. He pleaded that the total amount of this case was not less than ₹ 5.00 lac and moreover, when the case was initially submitted before the CGRF, Patiala, the monetary limit was not mandatory. He pleaded that monetary criteria mentioned in the Regulation 2.9.1 of PSERC (Forum and Ombudsman) Regulations, 2021 was per case basis and not per issue basis. He prayed that the Appeal be accepted in the interest of justice otherwise the Appellant would suffer irreparable loss.

- (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 Appellant filed a dispute Case No. T-143/2022 in the CCGRF, Ludhiana for 5 issues. Out of these 4 issues (at Sr. no. 2,3,4,5) were less than ₹ 5 lac each. As such, since the dispute less than ₹ 5 lac cannot be considered in the Corporate Consumer Grievances Redressal Forum, Ludhiana as per CC No. 39/2021, the Corporate Forum advised the Appellant to approach Appropriate Forum. Only Issue at Sr. No. 6 regarding the arrear of ₹ 5,36,958/- for the revision of tariff order as per CC No. 46/2017 for the period from 04/2017 to 10/2017 charged by the O/o Xen/ CBC, Bathinda in 9 equal installments

from 01/2018 as per CC No. 12/2018 was discussed in the Corporate Forum. The Corporate Forum directed both the parties during proceedings on 09.08.2022 to reconcile the calculation of arrears and submit the same in next date of hearing. During proceedings on 15.09.2022, the Corporate Forum rightly decided that “since both the parties have reached an agreement therefore, there is no need of interference of Forum.” So the calculation for refund of ₹ 6,12,821/- was forwarded to the office of AO/ Field, Faridkot vide Memo No. 2983 dated 06.10.2022 by the office of AE, City Sub-division, PSPCL, Jalalabad. So, after the calculation was pre-audited by the O/o AO/ Field, Faridkot, the same would be credited to the Appellant’s account.

- (iii) The Corporate Forum in its order dated 15.09.2022 observed as under:-

“Respondent submitted calculations of refundable amount which is taken on record. One copy thereof was handed over to the Petitioner.

Petitioner stated that he agrees to the calculations submitted by Respondent in today’s hearing.

Since both the parties have reached an agreement therefore, there is no need of interference of Forum. The present petition is disposed of 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 11.10.2022. It is observed that the Appellant had raised five issues in its Petition and the total disputed amount was ₹ 15,37,931/- which was more than ₹ 5.00 lac. But the Corporate Forum had decided only one issue out of these five issues. The Corporate Forum did not decide other 4 issues of the Appellant and directed the Appellant to approach the Appropriate Forum as all these 4 issues raised by the Appellant in its case were less than ₹ 5 Lac each. Regulation 2.9 of Punjab State Electricity Regulatory Commission (Forum and Ombudsman) (2nd Amendment) Regulations-2021 prescribes the limits of Monetary Complaints to be dealt by the different Forums. The Corporate Forum can directly deal with monetary disputes above ₹ 5 Lac as per Regulation 2.9.1 (i), reproduced as under:-

“The Corporate Forum shall have the jurisdiction to dispose of all the monetary disputes of an amount exceeding Rs. Five lakh (Rs. 5,00,000/-) in each case. Provided that the complaint/representation is made within two years from the date of cause of action.”

This Court had observed that the Monetary Limit mentioned in the Regulation 2.9.1 (i) above is on “each case” basis and not on “each issue” basis.

- (v) This Court observed that the Appellant had filed the petition before the CGRF, Patiala mentioning the disputed amount as ₹ 15,37,931/-. After the CGRF, Patiala was disbanded; this case was transferred to the Corporate Forum as per the Monetary Limits mentioned in Regulation 2.9.1 of Punjab State Electricity Regulatory Commission (Forum and Ombudsman) (2nd Amendment) Regulations-2021. So, the decision of the Forum regarding first four issues is not correct and tenable.
- (vi) The Appellant approached the CGRF, Patiala in December, 2021 for the redressal of its grievances and the Corporate Forum, after nearly 9 months decided only one issue of refund leaving aside other four issues raised by the Appellant in its Petition filed before the Forum. The Forum is bound to decide the Petition within a period of 45 days from the date of receipt of complaint/ grievance as per Regulation 2.31 of PSERC (Forum and Ombudsman) (2nd Amendment) Regulations, 2021 which is reproduced below :

“2.31 On receipt of the comments from the concerned officer of the licensee or otherwise and after conducting or having such inquiry or local inspection conducted as the Forum may consider necessary, and after affording reasonable opportunity of hearing to the parties, the Forum shall pass appropriate orders for disposal of the grievance, within a period not exceeding forty five (45) days from the date of receipt of the complaint/ grievance. The complaint/grievance by senior citizens physically challenged or person suffering from serious ailments shall be disposed of on priority. However the order in case of grievance relating to non-supply, connection or disconnection of supply shall be issued by the Forum within 15 days of the filing of the grievance.”

- (vii) The Forum should have passed a speaking/ detailed order on the issues involved in this case after giving an opportunity of hearing to both parties. Detailed deliberations were not held and due process of law was not followed in the Corporate Forum in respect of issues raised by the Appellant in the dispute case filed before the Corporate Forum. With a view to meet the ends of ultimate justice, this Court is inclined to remand back this Appeal case to the Corporate CGRF, Ludhiana for hearing, adjudicating and passing of speaking orders in respect of first four issues of the original petition raised before the Corporate Forum as per PSERC (Forum & Ombudsman) Regulations, 2016 as amended from time to time. This dispute case is already delayed by more than 9 months and as such, the Corporate Forum should decide the case on priority basis.
- (viii) In view of above, this Court is of the opinion that the Corporate Forum should also decide the other issues raised by the Appellant in its Petition as proper adjudication of the case had not been done at the Corporate Forum level.
- (ix) As regards the fifth issue, both the parties have agreed before the Forum. So, no intervention of this Court is needed on this

issue. The decision of the Corporate Forum in this regard had been implemented.

6. Decision

As a sequel of above discussions, the order dated 15.09.2022 of the CCGRF, Ludhiana in Case No. TP-143 of 2022 is hereby partially quashed to the extent that the first four issues which were raised by the Appellant in its original Petition before the Forum have not been adjudicated upon by the Corporate Forum. The Appeal case is remanded back to the Corporate Forum, Ludhiana with a direction to hear and decide these four issues on merits expeditiously as per PSERC (Forum & Ombudsman) Regulations, 2016 as amended from time to time.

7. The Appeal is disposed of accordingly.
8. As per provisions contained in Regulation 3.26 of Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations-2016, the Licensee will comply with the award/order within 21 days of the date of its receipt.
9. In case, the Appellant or the Respondent is not satisfied with the above decision, it is at liberty to seek appropriate remedy against this order from the Appropriate Bodies in accordance

with Regulation 3.28 of the Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations, 2016.

October 11, 2022
S.A.S. Nagar (Mohali)

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

