

**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. 58/2022**

**Date of Registration : 26.10.2022**

**Date of Hearing : 10.11.2022**

**Date of Order : 15.11.2022**

**Before:**

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

**In the Matter of:**

M/s. A.K.Concast Pvt. Ltd.,  
Kheri Nodh Singh Road,  
Village Majri, Fatehgarh Sahib Pin 140407.  
**Contract Account Number: K31LS0100008(LS)**  
...Appellant

Versus

Senior Executive Engineer,  
DS Division, PSPCL,  
Khanna.

...Respondent

**Present For:**

Appellant: Sh. Gurcharan Singh Mittal,  
Appellant's Representative.

Respondent : Er. Gurmanpreet Singh Somal,  
Senior Executive Engineer,  
DS Division, PSPCL,  
Khanna.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 14.09.2022 of the Corporate Consumer Grievances Redressal Forum, Ludhiana (Corporate Forum) in Case No. CF-102 of 2022, deciding that:

*“As the matter of variable service connection charges is pending before Hon’ble Punjab & Haryana High Court, in CWP no. 19701 of 2018 titled PSPCL V/s Sewa Kunj Alloys Pvt. Ltd., therefore, it would be inappropriate for this Forum at this point of time to adjudicate upon this petition, as the total amount deposited by the petitioner includes the variable service connection charges, out of which refund is claimed by him. The present petition is disposed of with this observation. Petitioner, if need be, may approach this Forum once the case is decided by the Hon’ble Punjab & Haryana High Court.”*

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

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 26.10.2022 i.e. within the stipulated period of thirty days of receipt of the decision dated 14.09.2022 of the CCGRF, Ludhiana in Case No. CF-102 of 2022, received by the Appellant on 26.09.2022. The Appellant was not required to deposit requisite 40% of the disputed amount because it was a refund case. Therefore, the Appeal was registered on 26.10.2022 and copy of the same was sent to the Sr. Xen/ DS Division, PSPCL, Khanna for sending written reply/ parawise comments with a copy to the office of

the CCGRF, Ludhiana under intimation to the Appellant vide letter nos. 1162-1164/OEP/A-58/2022 dated 26.10.2022.

### **3. Proceedings**

With a view to adjudicate the dispute, a hearing was fixed in this Court on 10.11.2022 at 12.00 Noon and intimation to this effect was sent to both the parties vide letter nos. 1205-06/OEP/A-58/2022 dated 02.11.2022. As scheduled, the hearing was held in this Court and arguments of both the parties were heard. The case was closed and the order was reserved. The proceedings dated 10.11.2022 were sent to both parties vide letter nos. 1250- 1251/ OEP/ A-58 /2022 dated 10.11.2022.

### **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 Large Supply Category connection with Sanctioned Load as 4000 kW/ CD 3350 kVA under DS Division, PSPCL, Khanna bearing Account No. K31-LS01-00008 in the name of Appellant.
- (ii) In order to resolve the pending issues and to get relief from the Hon'ble PSERC, the Appellant filed a petition under Section 142 of the Electricity Act, 2003 for taking action against the Respondent for disobedience and contraventions of the orders dated 20.10.2014 passed by the Hon'ble Commission in Petition No. 50 of 2014 under the Regulations of Electricity Supply Code and non-compliance of Regulations 9.1.1(b), 19.7 and 30.6 of the Electricity Supply Code.
- (iii) The relief was sought on the following issues:
- Issue no. (i): To pay interest on initial security.
- Issue no. (ii): Refund of excess security works with interest.
- Issue no. (iii): To revise the energy bill for April 2016.
- (iv) The Hon'ble PSERC vide its orders dated 12.07.2021 disposed of the petition with the following orders:-

“Petition No.09 of 2017 Alongwith the request of the Petitioner dated 22.2.2021 for Hearing on prayer clause 1(ii) and (iii) of the relief sought in the Petition.” Date of order 12.7.2021

Observations and Decision of the Commission:

“The Commission has examined the submissions made by the parties.

The prayer No. (ii) and (iii) of the relief sought in the petition pertain to the refund of excess security (works) deposited by the petitioner along with interest and revision of energy bill for April, 2016. As per Regulation 2.21 of the PSERC (Forum and Ombudsman) Regulations, 2016 read with clause 4.2 of the Consumer Complaint Handling Procedure(CCHP), the Dispute Settlement Committee and the Forum constituted under sub- section(5) of section 42 of the Electricity Act 2003, have the jurisdiction to settle all the monetary disputes arising due to wrong billing, application of wrong tariff or difference of service connection charges/Security (works), overhauling of account due to defective/inaccurate metering etc. Accordingly, the petitioner may approach the appropriate authority for adjudication of his monetary dispute with regard to prayer No. (ii) & (iii) of the petition.

The request of the petitioner to decide on prayer No. (ii) & (iii) of the petition stands disposed of accordingly.”

- (v) As per above directions of the Hon’ble PSERC, it was quite clear that issue No. (ii) regarding refund of Excess security works got deposited more than actual expenditure was solvable under the present Consumer Complaint Handling Procedure as per observation and directions of the Hon’ble PSERC issued on prayer application of the original petition and further as per observations of the Hon’ble PSERC, there appeared no need to keep the issue pending furthermore, (which was kept pending by Hon’ble PSERC for quite long span of 6-7 years on some legal flaws). The spirit of the Hon’ble PSERC orders now given was that these two issues out of the pending three could be

settled under the CCHP procedure by Dispute settlement Committee or Forum and relief sought on these 2 issues were available under the prevailing instructions/rules /regulations of the Supply Code without waiting for any further decision/clarification of Hon'ble Aptel/ High Court or any other Authority. Had it not been so, the PSERC would have kept it pending further like other pending issues, and our prayer application also would have been rejected, being not eligible for any relief under the present instructions in vague. But instead of understanding the clear observations, findings and observations of the Hon'ble PSERC, the CCGRF issued the same orders resulting in the pendency of issue on the same stage which was kept prior to our Pray application disposed by the Hon'ble PSERC giving specific orders which the CCGRF had erred while implementing the same.

- (vi) The orders of the Corporate Forum were highly objectionable, unjustified, unnatural, against the directions and observations of the Hon'ble PSERC and also against the prescribed Supply Code rules/ regulations and the Appellant wanted to challenge these orders on the following grounds of Appeal.
- (vii) The Corporate Forum erred in observing the true spirit of the orders of the Hon'ble PSERC given specifically after reviewing

all the circumstances of the case and the Hon'ble PSERC passed on TWO ISSUES I.E. ISSUE No. (ii) and Issue No. (iii) out of the total pending issues to be decided under the CCHP. In this way, the decision of the CCGRF to order to keep it pending on the wrong plea that matter of Variable service connection charges was pending before Hon'ble Punjab & Haryana High Court in CWP No. 19701 of 2018 titled PSPCL Vs Sewa Kunj Alloys Ltd. was unlawful and particularly, in total disregard of the orders and directions of the Hon'ble PSERC which deemed it fit to decide the issue without waiting for any clarification from any higher office. Otherwise the issue would have been already kept pending by the PSERC itself and there was no need of any directions which have been given by Hon'ble PSERC when the Appellant brought to the notice of Hon'ble PSERC re-explaining the real facts of the grievances and Hon'ble PSERC also very kindly observed that the present instructions were sufficient to decide the issues without keeping them further pending which was earlier kept pending by linking it with other decisions of Higher authorities and due to some legal flaws as observed by the Hon'ble PSERC. Therefore, the orders of the CCGRF were straightway quashable only on this

ground and the Appellant prayed for setting aside the same keeping in view the legal flaws as pointed out above.

- (viii) However, brief history alongwith grounds of appeal were submitted herewith for further observation and appropriate direction and doing justice to the issues. Already time taken in finalizing them was more than 8 years, specifically when there were no particular stay orders issued by any authority to withhold the legitimate claims of the consumers like the Appellant. Nor there was any special direction issued so far by the PSPCL to not to implement the Rules and Regulations till final decision of the High Court or any Hon'ble Court. The provisions of the Supply Code were itself very clear and rules were framed for applying it in all the offices of the PSPCL. No Rule, Regulations allowed the Respondent to not to implement the Supply Code rulings only on the grounds that some amendments were likely to be issued in near future, which would affect the present rule/regulations, unless there was any specific COURT STAY Orders issued on a particular rule/regulation or issue.
- (ix) The Appellant applied for a 2500 kVA electric connection on 06.01.2011 depositing the required earnest money ₹ 3,75,000/-.

- (x) After feasibility clearance, the Appellant submitted A&A forms alongwith ACD of ₹ 34,05,010/- with Bhari Sub Division of Op. Divn. PSPCL, Khanna.
- (xi) A Demand Notice dated 26.03.2012 requiring a deposit of ₹ 37,80,140/- was issued and the required deposit was made by the Appellant with the PSPCL on 10.09.2012.
- (xii) After completing all the formalities, the connection was released on 26.04.2016 and billing started under Account No. K31LS01-00008 and connection was running till date.
- (xiii) Thereafter, the Appellant requested for the refund of excess security works as per provision of the Supply Code, 2007 applicable in this case. Finding no response, the Appellant moved a Petition No. 9 of 2017 with PSERC which was decided on 12.07.2021 as per details in forgoing paras of the Appeal.
- (xiv) The deposit of amount in a Demand Notice was termed as security works as per Regulation 19.2 of the Supply Code, 2007, hence our deposit of ₹ 37,80,140/- deposited against Demand Notice was termed as security (works).
- (xv) The Supply Code laid down a procedure for release of electric supply and as per Regulation 19.4 of Supply Code, 2007, the licensee after deposit of security works was required to take up

the work and initiate other necessary steps for effecting supply of electricity.

(xvi) Regulation 19.6 of Supply Code, 2007 required that the licensee would maintain a record of expenditure incurred for providing an electric line for supply of electricity to the Applicant.

(xvii) Regulation 19.7 of Supply Code, 2007 stated that after execution of the electric line or electrical plant, as the case may be, the licensee would be entitled to demand from the Applicant the total amount actually incurred by the licensee (recoverable amount) for the purpose and adjust the security (works) against such recoverable amount. In the event of security (works) being in excess of the recoverable amount, the excess amount would be determined by the licensee within sixty days from the date of release of connection and refunded by adjustment against electricity bills of the immediately succeeding months.

(xviii) In case the licensee failed to refund the excess amount and to adjust it against electricity bills of the immediately succeeding months, the licensee would be liable to pay interest on the excess amount at twice the SBI's short term PLR prevalent on first of April of the relevant year for the period of delay beyond sixty days of the date of release of connection till the excess

amount was adjusted. The amount of such interest would be adjusted against the electricity bills thereafter.

- (xix) The PSPCL grossly erred in not settling the account of actual expenditure on providing the electric line after adjusting the security works of ₹ 37,80,140/- and refunding the excess deposit with interest as provided in regulation 19.7 of Supply Code, 2007.
- (xx) The Respondent (PSPCL) had admitted that an amount of ₹ 22,50,000/- as SCC and ₹ 15,26,400/- (total ₹ 37,76,400/-) had been got deposited against the estimate amount of ₹ 26,16,763/-. Therefore, it was clear that an amount of ₹ 11,59,637/- was excess deposited as compared to Estimated Amount.
- (xxi) The Appellant prayed before the Corporate Forum that the Respondent had not supplied the detail of actual expenditure as per Regulation 19.6 of Supply Code, 2007 which may now be provided to work out the actual difference. But, the Forum took no action and still the Appellant was kept in dark as what was the amount of actual expenditure incurred in releasing the above connection. Even, then, if it was presumed that estimate amount was the actual amount of expenditure and there was no difference between the “ESTIMATED AMOUNT AND

ACTUAL EXPENDITURE”, even then an amount of ₹ 11,59,637/- (₹ 37,76,400/- - ₹ 26,16,763/- = ₹ 11,59,637/-) was refundable to the Appellant.

(xxii) The Respondent had denied the claim and took a wrong plea quoting CC No. 68/2008, whereas CC No. 68/2008 spoke about the recovery of SCC/variable charges. These charges have already been deposited by us. **In fact our claim was that PSPCL cannot recover more than the actual expenditure as per Regulation 19.7 of Supply Code 2007. But the Respondent had not complied with the Regulation 19.7 which dealt with adjustment of SCC and variable charges with the actual expenditure after execution of work.** If we agree to the Respondent that Clause 9.1.1(i) was applicable, then there should be no need of framing the Regulation 19.7 of Supply Code, 2007 which dealt specifically with adjustment of account on the basis of actual expenditure.

For ready reference of this Hon’ble Court, the Regulation 19.7 of Supply Code, 2007 is reproduced as under:

*“After execution of work of the electric line or electrical plant as the case may be, the Licensee will be entitled to demand from the applicant the total amount actually incurred by the Licensee (recoverable amount) for this purpose and adjust Security (works) against such recoverable amount. In the event of Security (works) being in excess of the recoverable amount, the excess*

*amount will be determined by the Licensee within sixty days from the date of release of connection and refunded by adjustment against electricity bills of the immediately succeeding months.*

*In case the Licensee fails to refund the excess amount and adjust it against electricity bills of the immediately succeeding months, the Licensee will be liable to pay interest on the excess amount at twice the SBI's Short Term PLR prevalent on first of April of the relevant year for the period of delay beyond sixty days of the date of release of connection till the excess amount is adjusted. The amount of such interest will be adjusted against the electricity bills thereafter."*

From the above Regulations, it was very clear that the already deposited amount (termed as security (works)) was adjustable against the actual expenditure. This Regulation was very clear and the Respondent was misinterpreting it just to keep it pending on illogical grounds which had no force in the eyes of law.

(xxiii) Further, this action was required to be taken by the PSPCL, itself within 60 days of release of connection without expecting any claim/written request from the Consumer. The PSPCL failed to comply with its own instructions issued by PSPCL/PSERC even inspite of giving a written request by the applicant on 26.07.2016 duly received by the Respondent staff, but the legitimate dues of the Appellant were still not

released, which may now be got released with interest as admissible under rules.

(xxiv) In addition to above Regulations, the Appellant also wanted to explain that for load above 500 kW/ kVA, the Hon'ble PSERC had already made a consumer friendly policy under Regulation 9.1.1(b) explained as under :

“9.1.1 (b) Where load/demand required exceeds 500 kw/kva the applicant will be required to pay per KW/KVA charges as approved by the Commission or the actual expenditure for release of connection whichever is higher.”

As per above regulation, in case of load/demand above 500 kW/500 kVA, there was no provision for payment of additional variable charges if service line was more than 250 meter. The only provision was that recovery of actual expenditure in case it was higher than the approved per kW/kVA charges. Hence additional expenditure on the extra length of 250 meters was automatically covered in the actual expenditure. This regulation also cleared the set principle of recovery of service connection charges or actual expenditure whichever was higher.

(xxv) The Appellant also wanted to draw kind attention of this Court of Hon'ble Lokpal to the Regulation 20.1 (b) of Supply Code, 2007 which dealt with the refund of security works in case

consumers withdrew the application, in order to make the spirit of above instructions more clear and justified:

“20.1 (b) In case, where works have been taken in hand and some expenditure has been incurred by the Licensee for supply of electricity, the expenditure so incurred will be deducted from Security (works) and the balance amount will be refunded to the applicant.”

The above Regulations stipulated that, in case of withdrawal of application, the PSPCL can recover only the actual expenditure and balance is refundable out of deposited security (works), means the PSPCL was only concerned with the amount of actual expenditure. This logic also cleared the doubt that if this relief was admissible to an applicant who withdrew it later on, then why this relief was not admissible to an applicant who complied with the demand notice and wanted to continue with the PSPCL by taking load/demand. The very objective of the recovery of SCC/variable charges was that it was an estimated amount which was recoverable to execute/ start a work and later on adjustable to the actual expenditure.

(xxiv) The Appellant also wanted to draw kind attention of the Hon'ble Court to “Conditions of Service” Condition No. 12 reproduced below:

## SERVICE CONNECTION CHARGES

**“An applicant/ consumer will be liable to pay service connection charges that the Board may incur in the release of a new connection or additional load/demand in accordance with the provisions of Regulation 9 of the Supply Code. The Commission will, on submission of the Standard Cost Data by the Board, approve such charges effective for the period 1st April to 31st March each year as per Regulation 10 of the Supply Code. The Board will Estimate Service Connection Charges in accordance with Regulation 10 and 19.2 of the Supply Code and inform the applicant through the Demand Notice.**

Sir, the above condition also mentioned that any amount recovered towards **service connection was only an Estimated amount recovered through Demand Notice** and word “estimate” was very clearly mentioned to arrive at a conclusion that amount of SCC was only for estimation of charges and not final charges, means adjustable later on to actual expenditure as per procedure laid down in Regulation 19.6 and 19.7 of Supply Code.

The above condition explained that recovery of Service connection charges was only an **“ESTIMATE”** FOR RECOVERY OF CHARGES THROUGH DEMAND NOTICE ON THE BASIS OF STANDARD COST DATA AS APPROVED BY COMMISSION.

(xxv) As per Section 46 of Electricity Act 2003, it was enacted as under:

**“The state Commission may, by regulations, authorise a distribution licensee to charge from a person requiring a supply of electricity in pursuance of section 43 any expenses reasonably incurred for providing any electric line or electrical plant used for the purpose of giving that supply”**

The above act explained that the reasonability of expenses incurred actually “reasonable” meant the PSPCL should fix the recovery charges which appeared to be **reasonable** to actual expenditure. In the present case, the PSPCL had got deposited ₹37,76,400/- as compared to estimated amount of ₹ 26,16,763/- and ₹ 11,59,637/- excess deposited (the amount calculated on the basis of estimate which was subject to further revision as per actual expenditure). This amount of ₹ 11,59,637/- was approximately 50% more than the actual expenditure which was not **“reasonable” in the eyes of law as laid down in section 43 of Electricity Act, 2003 and deserved for a special consideration by this Court of Hon’ble Lokpal on this provision of act as all the policies and circulars were to be framed by the PSPCL/PSERC as per spirit of this Act.**

(xxvi) The Hon’ble Court of Lokpal had also given a good decision in Appeal No.71/2017 dated 14.12.2017 of P.R. Alloys Vs Op. Divn. Khanna (the same office of the Respondent) and ordered not to recover additional variable charges and only allowed to

recover the amount of service connection charges or actual expenditure incurred for release of connection whichever was higher.

Operative part of the decision in Appeal No.71/2017 of Hon'ble Lokpal Mohali is reproduced hereunder:

*“As a sequel of above discussions, it is held that the additional variable charges amounting to Rs. 6,04,480/- raised by the Respondent, based on the Internal Audit Party's report, are not recoverable from the Petitioner.”*

The issuance of above orders very clearly observed as under:

“No doubt that Hon'ble PSERC revised this reasonability to limit the recovery of charges to the expenditure actually incurred in Supply code 2014 applicable w.e.f. 1.1.2015 vide its regulation 9.1.1.(a)(ii) but in case of the consumer is covered under the regulation laid in Supply Code 2007, applicable and in force at that time, wherein it is laid that where load/demand required exceeds 500 kw/500 kva the applicant will be required to pay per kw/kva charges as approved by the Commission or the actual expenditure for release of connection, whichever is higher.”

The Hon'ble Lokpal further observed as under:

“I observe that Hon'ble PSERC vide memo No. 3981/PSERC/DTJ 50 dt. 5.12.2008 approved the Standard cost data in compliance to provisions contained in regulation 10 of Supply code 2007 as per which such charges approved for Large Supply connection have load above 500 kva were as under :

Per kw charges (in rupees)= 900/- per kva

Variable charges (rupees ) per meter = 320/-

I observe that the respondent contended that the cost data approved by the Hon'ble PSERC included variable charges also as required for calculating the demand for service connection charges (SCC) as per CC No. 68/2008 and that such charges also included the cost of service line upto 250 meters. However, no reference to rules/regulation in support of its said contention of inclusion of cost service line upto 250 metres was placed on record of this Court.

I find the connection for load exceeding 500 kw/500 kva had been treated differently by the Hon'ble PSERC under regulation 9.1.1.(b) and there was no limit of length of service line and also there was no provision for payment of additional variable charges for service line. In the present category of connection, there is a provision for recovering the actual expenditure for release of connection, in case it is higher than the approved per Kw/ kva charges. Hence additional expenditure on the extra length of the service line is automatically covered in the actual expenditure in terms of regulation 9.1.1(b) of Supply code 2007. I am of the view that the provision ibid have not been interpreted correctly by the Licensee for the levy of variable charges.”

Hon'ble Lokpal had already took a very good decision after observing every pros and cons of the issue in minute, and there needed no further clarification and the Appellant also prayed for a natural justice on the same issue under the same circumstances.

The main point of consideration for this Hon'ble Lokpal was only that when the cost of additional expenditure on the extra

length of the line had been incorporated already in the actual expenditure, then only amount of service connection charges (without the amount of variable charges) is to be compared with the amount of actual expenditure, as the expenses of extra length must have been included in the actual expenditure and after deposit of actual expenditure the cost of variable charges deemed to have been deposited automatically and this principle was also in line with the Section 46 of Electricity Act 2003 as per which any expenses “ **reasonably incurred**” in providing any electric line was chargeable.

Keeping in view the above position, the Appellant prayed before this Hon’ble Court of Lokpal for the relief as sought along with any other relief as admissible under rules.

(xxvii)The Respondent be directed to submit the detail of actual expenditure as per Regulation 19.6 of Supply code which had not been intimated neither to applicant nor to the Forum till date.

(xxviii)The Respondent be directed to adjust the amount of ₹ 11,59,637/- as excess amount of Security (works) as compared to amount of estimate (further revisable as per actual expenditure) in the subsequent bills as per provision of

Regulation 19.7 of Supply Code, 2007 read with other relevant instructions.

(xxix) As the amount was refundable within 60 days of release of connection as per Supply Code 19.7. This date comes to 26.06.2016 (26.04.2016 doc + 60 days). But, the Respondent took no action even in spite of submission of written request dated 26.07.2016. Hence the refund be allowed with interest as admissible under rules.

### **Issue No.2**

Regarding first billing on MMC basis for the month of April, 2016 at the time of release of connection: As the issue had already been settled on our statement in the Forum and billing policies were now clear to the Appellant and nothing was pending for consideration now, hence the Appellant did not want to file any Appeal on this issue.

### **Issue No.3**

Regarding Interest on ACD from date of deposit:

It was submitted before this Hon'ble Court of Lokpal that the Forum had not given any speaking orders on this issue, whereas as per prescribed procedure each and every issue was required to be rejected by issuing speaking orders. Even the Forum had

not given clear orders on the written reply of the Respondent submitted before the Forum as per already issued directions of the Hon'ble Forum. If the Forum had already observed in preliminary stage that this issue would not be heard in absence of any specific orders of the Hon'ble PSERC, THEN THERE SHOULD NO NEED OF GETTING OF COMMENTS OF RESPONDENT which would definitely crop up a new legal flaw on this pending issue as the Respondent would later on claim that not to release the interest from date of deposit was in its favour for want of non issuance of any specific orders from the Forum, means although the issue had not been heard by the Forum but so far as the Respondent side was concerned it was like a win case giving confirmation of the arguments submitted by the Respondent in his written statement. The Forum should either close the issue on pre-hearing stage or if directed to submit written arguments from both sides, it should consider the each and every facts of the reply of both sides brought to the notice of the Forum and must have given findings on the facts submitted before the Forum but the Forum erred in deciding the issue which was against the prescribed set principles of the CCHP.

It was also submitted for kind consideration of this Hon'ble Lokpal that the only fact that, no such directions were issued by Hon'ble PSERC did not give blank powers to the Forum to not to hear the Consumer on any other issue which was not referred by the PSERC. Even otherwise, there were no specific orders issued by the PSERC to the effect that on this particular issue we should not be heard, neither there was any such clause existing in the Rule/Regulations framed on the subject that the Forum was not to hear unless and until it was specifically ordered by the PSERC to hear. Every Consumer is free to file any grievances before the Forum directly and there is no need to get any specific orders of higher office. It appeared that the Forum misinterpreted that it had been directed by the Hon'ble PSERC to hear only issue No. (ii) and (iii) but it was specifically submitted that there were no such orders of the PSERC ever issued that a particular issue was not to be heard. Even, if any Consumer had filed any case before any competent Court of law, and after filing his case, there are some changed instructions under which the relief can be solved as applicable to other Consumers who have not filed a case. If any relief which is admissible to other Consumers the same can also be given to a Consumer who is claiming it through the Competent

Court of law. However, there were no such instruction ever issued by the PSPCL which stated that the Consumers who have filed complaints were not eligible for relief which have been given to all Consumers as a policy matter. Rather the policy had been issued with the following wording “in order to avoid litigation and resentment of consumers” means the Consumers which were knocking the door of court were also eligible to settle the long pending issues which can now be settled as a Policy instructions. It is general practice in all the working of the PSPCL that consequent upon issuance of any fresh instructions as a policy matter, the consumers who filed complaints earlier are also benefitted. The Forum had erred in observing the issue and even did not give a single word on what grounds our claim was not fit to be settled under the new instructions issued as a Policy. In order to resolve the issue, the Appellant prayed that matter be solved and relief sought was resubmitted as under for justice:-

- (i) The Respondent had submitted that interest from date of deposit was not payable due to setting aside some similar appeals by Hon’ble Aptel. The Respondent has also admitted in his written reply dated 18.07.2022 that “PSPCL did not choose to challenge the ibid order dated

20.10.2014 passed by the Hon'ble Commission". From this statement of the Respondent, it was very clear that Respondent had no stay orders of any Competent Authority and interest from date of deposit was being delayed on the basis of self-made policy in the Respondent office which was a clear violation of prevailing rules/regulations presently in force.

- (ii) Since the issue involved also delayed period interest and the Respondent had failed to submit any documentary evidence vide which the claim of the Appellant can be denied, this Hon'ble Lokpal was prayed to direct the Respondent to submit documentary evidence, if it had in his office, regarding orders of any competent authority/ higher office regarding not to release the **legitimate dues of interest from date of deposit for which the Appellant was otherwise eligible as a Policy matter** even without submission of any written request as per latest instructions issued by the Chief Engineer/ Commercial, PSPCL, Patiala vide its Memo No.121/26/DD/SR103 dated 26.06.2022 vide which security updation as well as **crediting of interest** had been ordered to be finalised as a **POLICY MATTER TO AVOID**

HARASSEMENT OF CONSUMERS AND ALSO ORDERED TO SUBMIT A CERTIFICATE TO AVOID FURTHER LITIGATION AS ENUMERATED BELOW:

(extract) ....Chief Engineer/ Commercial, PSPCL, Patiala Memo No.121/26/DR/SR-103 dated 26.06.2022:-

- a) “A certificate on up-dation of Security (consumption) & Security (Meter) and credit of Interest to consumers' accounts may be got furnished from all Sr.XENs/Addl. SEs (DS), PSPCL.

Further, as per PSERC guidelines it may also be ensured to credit the interest on security (consumption) & security (meter) as applicable to the Consumers' accounts immediately without any further delay to avoid harassment of consumers.”

- (iii) It was also brought to the kind notice that Hon'ble Lokpal had already given a good decision as per Appeal No.38/2022 dated 12.07.2022 of M/s Kay Jain Processors vs. Sunder Nagar Divn., Ludhiana and **allowed interest from date of deposit** for the same relevant period of the Appellant' claim as per following orders :

Decision (Appeal No. 38/2022 dated 12.07.2022) of Hon'ble Ombudsman, (Electricity) Punjab, Mohali:

“As a sequel of above discussion, the order dated 09.05.2022 of the CGRF Ludhiana in Case No. CGL-56 of 2022 (T18/2022) is amended to the extent to allow the interest on Security amount from the date of deposit i.e. 04.05.2010 instead of date of connection.”

The above order issued by the Hon'ble Lokpal had already been given keeping in view the prevailing instructions and the Appellant also prayed for the same relief on being natural justice being the similar issue.

Moreover, certificate from the Sr. Xens/ Xens offices had already been ordered to be submitted for avoiding further litigation. Hence, there was no ground with the Respondent office to keep our claim pending which was fully allowable as per recent orders of the Chief Engineer/Commercial issued as per instructions of the Hon'ble PSERC as well as decision of the Hon'ble Ombudsman Electricity Punjab and our claims can be settled also on the basis of above decisions as well as latest policy guide lines issued by the Chief Engineer/

Commercial, PSPCL, Patiala, specifically, in a case when the Respondent had no written orders of any authority to stop our claim and can be allowed **just like a normal consumer, even without getting any written request from consumer** as the above policy was itself framed to avoid litigation of innocent consumers who had to knock the door of Court to get their legitimate dues of interest and the PSPCL/PSERC has shown a rigid stand to solve these issues by issuing many Consumer friendly policies. Moreover, there was not any rule which debarred our claim as per present policy and if the Respondent had any such rule/instructions/authority/stay orders the same be got produced before this Hon'ble Lokpal.

(iv) The Appellant also prayed before this Hon'ble Lokpal to get it clarified from the Respondent office as to whether our claim was kept pending for a particular period or it had been kept pending for an indefinite period and also to certify designated authority/office on whose order this claim was not allowable.

(xxx) The Appellant also had a fear that long pendency will also lead to involvement of time barred claim later on, as per PSPCL time bar Regulations therefore, this Hon'ble Lokpal was prayed

to also issue specific orders in its verdict as to what would be the fate of case in so far as time barred claim was concerned as in the present case, the Respondent appeared to want to keep the pendency of claim for an indefinite period even when it had no legal force to keep it pending.

(xxxii) Keeping in view the circumstances as explained above, the Appellant prayed to allow the interest from date of deposit as already issued orders in similar case as per Appeal No. 38/2022 dated 12.07.2022 alongwith any other relief as admissible under any rule submitted for kind consideration with prayer for justice.

**(b) Submissions in Rejoinder**

The Appellant submitted the following additional submissions on 10.11.2022 by e-mail for consideration of this Court:

- (i) The Respondent had admitted the facts of the case as per para (a) to (e) which meant it had nothing to say more. As already explained in para (e) of the Appeal, the directions were given by the Hon'ble PSERC to the CCGRF to decide the case on issue No. (i) as per present Complaint Handling procedure/provision of Supply code. Since, the issue of recovery of SCC or actual expenditure was solvable under the present Consumer Complaint Handling procedure as observed

and ordered by the Hon'ble PSERC in its orders dated 12.07.2021, but the CCGRF did not decide the case on merits basis and the orders of the CCGRF to keep it pending till decision of High Court was total disregard to the directions of the PSERC dated 12.07.2021 and was also against the provisions of existing Rules and Regulations of Supply Code.

- (ii) It was also submitted that it was nowhere mentioned in Supply Code, that when the case can be decided on the basis of present Supply Code provisions, under what rules it can be kept pending for any further expected orders of High Court or any other higher authority, until and unless there was specific stay to the effect that relief as admissible under Supply Code such clause be not given to any consumer till framing a final policy as per orders of High Court.
- (iii) It was also submitted before this Hon'ble Lokpal, that when provisions of Supply Code were applicable to other consumers, why the same provision/rule/regulation was not being applied in our case, specifically when there were no Stay orders of any Court issued to PSPCL against us. Hon'ble Sir, filing of case by other consumer against the PSPCL cannot be applied in our case. However, there was no specific stay orders issued by PSERC/PSPCL not to implement the particular rule/regulation

of Supply code till further orders that can be applied in our case. No, such stay orders were on the records which have forbidden the operation of Supply Code Regulations. Therefore, the observation of the CCGRF to order to keep the issue pending was also unlawful in the eyes of law.

- (iv) The Respondent had also admitted the facts of the case as per reply of para (i) to (viii) of Appeal which spoke about maintaining the record of actual expenditure after release of connection as per provision of Supply Code Regulations 19.6 and 19.7 (as explained in para vii & viii of Appeal). But, it was very much surprising, that on the one side the Respondent had admitted the above provisions of maintaining the record of actual expenditure, but still not supplied the detail of ACTUAL EXPENDITURE even after a lapse of 6 years, and only submitted the “estimate copies”. However, even, if we presume that the actual expenditure was same as per estimate, still an amount of ₹ 11,59,637/- was refundable as per details given in para (xiii) of Appeal and also as per details now submitted by the Respondent in para (A) of its reply.
- (v) So far as merits of the case were concerned, the matter had already been well observed by this Hon’ble Ombudsman in a similar case already decided in Appeal No. 71/2017 dated

14.12.2017 of M/s. PR Alloys vs Op. Divn. Khanna and the Appellant also deserved the same relief on being natural justice also.

(vi) Therefore, the Appellant prayed to issue appropriate orders as deemed fit as the Appellant had full faith in the verdict of the Hon'ble Ombudsman.

(vii) **ISSUE NO. 3 Interest from date of deposit:** The Respondent had explained that the issue was pending before Hon'ble Supreme Court of India, but till date Hon'ble Supreme Court/PSERC/PSPCL had not issued any orders regarding STAY ORDERS to the effect that the provision of Supply Code be not implemented. This Hon'ble Lokpal had already decided a case in Appeal No. 38/2022 dated 12.07.2022 titled as M/s. Kay Jain and ordered as under:-

“As a sequel of above discussion, the order dated 09.05.2022 of the CGRF Ludhiana in case No.CGL 56 of 2022 (T18/2022) is amended to the extent to allow the interest on security amount from the date of deposit i.e. 04.05.2010 instead of date of connection.”

(viii) The issuance of above orders confirmed that there was no stay of any Court regarding denying benefit as per provision of existing Supply Code rules and every consumer had a legal right to get benefit which was available to other consumers as per existing rules of the PSPCL as well as Supply Code

Regulations issued by the PSERC from time to time as already explained in our Appeal.

- (ix) Therefore, the Lokpal was prayed to allow suitable relief alongwith any other relief as it deemed fit and admissible under rules.

**(c) Submission during hearing**

During hearing on 10.11.2022, the Appellant's Representative (AR) reiterated the submissions made in the Appeal and prayed to allow the same.

**(B) Submissions of the Respondent**

**(a) Submissions in written reply**

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

- (i) The Appellant was having a Large Supply Category connection with Sanctioned Load as 4000 kW/ CD 3350 kVA under DS Division, Khanna bearing Account No. K31LS0100008 in the name of M/s. A.K. Concast Pvt. Ltd.
- (ii) Demand Notice was issued on 26.03.2012 with Memo No. 243. The details of total amount of ₹ 37,80,140/- was as below:-

Per kW/kVA charges	₹ 22,50,000/-
ACD difference	₹ 3,740/-
Variable charges	₹ 15,26,400/-
Total	₹ 37,80,140/-

- (iii) The above amount of ₹ 37,80,140/- was deposited by the Appellant vide BA16 No. 238/9739 dated 10.07.2012. The estimate no. 13898 was prepared to execute the work on 14.03.2012. Initial amount of estimate was ₹ 24,88,291/-. Due to dispute of Right of way of line, the revised estimate no. KH53509/2015-16 dated 27.01.2016 was passed for ₹ 26,16,763/-.
- (iv) It was mentioned here that there was specific note below the Regulation 19.7 of Supply Code which stated that Regulation 19.7 would be applicable in cases where actual cost for release of connection was to be recovered from the applicant. The amount of ₹ 37,76,400/- was made as per CC No. 68/2008 and as per clause no. 9.1.1 (i) (b) of Supply Code, 2007 in which it was clearly mentioned that if load/ demand required exceeded 500 kW/500 kVA, the applicant would be required to pay per kW/kVA charges as approved by the Commission or the actual expenditure for release of connection, whichever was higher. So, clause 19.7 was not applicable on the Appellant as the amount deposited by the Appellant was not actual cost of

estimate but it was on the basis of standard cost data prescribed by the PSERC.

- (v) The Appellant was misinterpreting the Regulation 9.1.1 (b) in which it was clearly mentioned that in case load/demand required exceeded 500 kW/500 kVA, the applicant would have to pay per kW/kVA charges approved by the Commission or the actual expenditure for releases of connection, whichever was higher. The Commercial Circular No. 68/2008 which dealt with the recovery of Service connection charges (per kW charges and variable charges) had been issued to notify the service connection charges approved by the PSERC.
- (vi) It was also submitted that variable cost component of Service Connection Charges was dispensed only for LS connection with load above 500 kVA as per Standard Cost Data approved by the Hon'ble Commission vide CC No. 31/2012, which was applicable for those cases in which demand Notice were issued after 30.09.2012. But Demand Notice in this case was issued on 26.03.2012. The consumer was misinterpreting Regulation 9.1.1 (b).
- (vii) Regulation 20 (b) of Supply Code, 2007 only dealt with the refund of Security works in case consumer withdrew his

application. The Appellant was wrong in quoting the irrelevant clause.

(viii) The Commercial Circular 68/2008 was applicable on consumers in which recoverable service connection charges had been approved by the PSERC keeping in view of all the Regulations.

(ix) The Appellant had submitted the incomplete details of Appeal No. 71/17 of M/s. P.R. Alloys. In case of M/s. P.R. Alloys, Demand Notice of amount of ₹ 22,50,000/- was issued. After completing the formalities and payment of the SCC, the connection was released on 03.05.2011. The notice was again issued to the consumer on 15.12.2011 for payment of additional demand of ₹ 6,04,480/- comprising of variable charges. This notice was issued in pursuance of audit para and in view of CC No. 68/2008. The above case was decided against the PSPCL by the Court of Ombudsman/ Electricity, Punjab vide order dated 14.12.2017 in Appeal No. 71/17. But the Legal Advisor of the PSPCL had advised to file Writ Petition in High Court against above mentioned decision of Ombudsman vide his Memo No. 12620 dated 08.03.2018. The PSPCL was about to file a Writ Petition against the above order in High Court but M/s. P.R. Alloys showed his

willingness to deposit the variable charges under OTS. In the order passed in OTS, consumer had surrendered the claim of ₹ 6,04,480/- on account of variable charges. So, as the variable charges had been deposited by the consumer M/s P.R. Alloys, there was no need to pursue the case against order of Ombudsman in High Court.

- (x) It was also mentioned here that similar matter of variable service connection charges was pending before Hon'ble Punjab & Haryana Court in CWP No. 19701 of 2018 titled PSPCL V/s the Lokpal (Ombudsman) Electricity & Ors. and next date of hearing is 12.04.2023.
- (xi) PSERC had adjourned the issue of interest on ACD sine-die till the order is pronounced by Hon'ble APTEL in its order dated 12.07.2021 of petition no. 09/2017 of M/s. A.K. Concast. Similar interest on ACD issue in the petition was pending in Appeals filed before the Hon'ble APTEL by the PSPCL against the orders passed by the Commission in similar other petition Nos. 75 of 2015 and 65 of 2015. The other similar cases Appeals (Appeal no. 298 of 2014, Appeal no. 86 of 2016 & IA No. 204 of 2016, Appeal no. 105 of 2016 & IA No. 253 of 2016) filed by the PSPCL were disposed of by the Hon'ble APTEL vide order dated 19.05.2020, setting aside the orders

passed by the PSERC. It was also mentioned here that the decision in petition no. 45 of 2014 (on which behalf decision in petition no. 50 of 2014 of M/s. A. K. Concast was given by the PSERC) is repealed by Hon'ble APTEL in Appeal no. 298 of 2014. Presently the decision made by Hon'ble APTEL was challenged by other firm namely Madhav Alloys Pvt. Ltd, Mandi Gobindgarh and others before Hon'ble Supreme Court of India bearing Civil Appeal No. 4226/2020 and decision in this Appeal was pending till date and the next date of hearing in this case was fixed for 07.11.2022. The APTEL has ordered on 05.08.2022 in review petition no. 04/2022, 05/2022, 06/2022, 07/2022 and 08/2022 that:-

“we are informed by the contesting respondent (affected consumers) that the judgment of which review is sought has already been challenged by some of the parties by separate appeals including Civil Appeal no. 4226/2020 before Hon'ble Supreme Court wherein notice has already been issued on 19.03.2021 issue raised by the review petitions being also one of the issues expected to be addressed by the Supreme Court. In the facts and circumstances when Hon'ble Supreme Court is in seisin of the same issue, it would be inappropriate for this Tribunal to parallelly entertain separate petitions for same purpose.”

(xii) So, the Hon'ble Supreme Court of India was hearing the same issue in separate petitions and the order on which basis PSERC had decided petition no. 50 of 2014 (i.e. 45 of 2014) in favour of M/s. A.K. Concast is also a part of that petitions. Till now final order of APTEL dated 19.05.2020 in Appeal no. 298/2014 stands:-

“For the foregoing reasons stated supra, we are of the considered opinion that the issues raised in the instant Appeal No. 298 of 2014 and batch have merits and hence the Appeals are allowed. The impugned orders dated 17.09.2014 (in P. No. 45 of 2014), 20.01.2016 (in P.No. 67 of 2015), 03.02.2016 (in P. No. 80 of 2015), 13.01.2016 (in P. No. 65 of 2015) and 18.01.2016 (in P. No. 75 of 2015) respectively passed by the PSERC are hereby set aside to the extent challenged in the Appeals and our findings indicated above under para 11.

In view of the disposal of the Batch of Appeals, the reliefs sought in the IA Nos. 204 of 2016, 205 of 2016, 217 of 2016 and 253 of 2016 do not survive for consideration and accordingly stand disposed of.”

(xiii) So, the similar issue was already decided in favour of the PSPCL and now matter was pending before the Hon'ble Supreme Court of India.

**(b) Submission during hearing**

During hearing on 10.11.2022, the Respondent reiterated the submissions made in the written reply to the Appeal and prayed for the dismissal of the Appeal.

**5. Analysis and Findings**

The issue requiring adjudication is the legitimacy of the amount of ₹ 15,26,400/- charged as Variable Service Connection Charges at time of applying new LS connection for Sanctioned Load/ Contract demand above 500 kW/ 500 kVA by the Appellant in the year 2012 and claim for interest on ACD of ₹3,75,000/- and ₹ 34,05,010/- deposited in year 2011 from the date of deposit to the date of release of connection.

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

- (i) The Corporate Forum in its order dated 14.09.2022 observed as under:-

“Forum observed that the Petitioner applied for 2500 KVA electric connection on 06.01.2011. Demand Notice no. 243 dated 26.03.2012 was issued to petitioner to deposit an amount of Rs. 3780140/- and the same was deposited by the petitioner on 10.07.2012 vide BA 16 no. 238/9739. Estimate no. 13898 was prepared to execute the work on 14.03.2012 for the amount of Rs. 2488291/-. Due to dispute of right of way, a revised

estimate was passed dated 27.01.2016 amounting to Rs. 2616763/-. Petitioner requested for the refund of excess security (works) deposited as above.

Forum observed that the demand notice includes the following items:

Per Kva/Kw charges	:	Rs. 2250000/-
ACD difference	:	Rs. 3740/-
Variable SCC	:	Rs. 1526400/-
Total	:	Rs. 3780140/-

Petitioner pleaded that an amount of Rs. 22,50,000/- as SCC and Rs. 15,26,400/- as variable charges (total Rs. 37,76,400/-) has been got deposited against the estimated amount of Rs. 26,16,763/-. Therefore, an amount of Rs. 11,59,637/- deposited in excess as compared to estimated amount, is required to be refunded as per Reg. 19.7 of Supply Code-2007.

Forum observed that the petitioner has demanded refund out of amount deposited by him which includes per Kw/kva charges and variable charges. However, the issue of the variable charges is pending before the Hon'ble Punjab & Haryana High Court in the case no. CWP No. 19701 of 2018, against the decision of Ombudsman dated 14.12.2017 titled PSPCL (through Sr. Xen Samrala Divn.) V/s Sewa Kunj Alloys Pvt. Ltd. Therefore, Forum is of the opinion that as the matter of similar nature is pending before Hon'ble Punjab & Haryana High Court, in CWP no. 19701 of 2018 titled PSPCL V/s Sewa Kunj Alloys Pvt. Ltd., therefore, it would be inappropriate for this Forum at this point of time to adjudicate upon this petition, which is on the similar issue.

Keeping in view the above, Forum came to unanimous conclusion that as the matter of variable service connection charges is pending before Hon'ble Punjab & Haryana High Court, in CWP no. 19701 of 2018 titled PSPCL V/s Sewa Kunj Alloys Pvt. Ltd., therefore, it would be inappropriate for this Forum at this point of time to

adjudicate upon this petition, as the total amount deposited by the petitioner includes the variable service connection charges, out of which refund is claimed by him. The present petition is disposed of with this observation. Petitioner, if need be, may approach this Forum once the case is decided by the Hon'ble Punjab & Haryana High Court."

- (ii) I have gone through the written submissions made by the Appellant in the Appeal and Rejoinder, written reply of the Respondent as well as oral arguments of both the parties during the hearing on 10.11.2022. It is observed that the Appellant had applied for new Large Supply (LS) industrial connection for Contract Demand of 2500 kVA on 06.01.2011. Demand Notice No. 243 dated 26.03.2012 of ₹ 37,80,140/- was issued to the Appellant which included difference of ACD of ₹ 3,740/-, Fixed Service Connection Charges of ₹ 22,50,000/- and Variable Service Connection Charges of ₹ 15,26,400/-. The same were deposited by the Appellant in compliance to the demand notice vide BA16 No.238/9739 dated 10.07.2012. The connection was released on 26.04.2016.
- (iii) Thereafter, the Appellant filed a Petition No. 09 of 2017 before the PSERC, which was disposed of by the Commission on 12.07.2021 deciding that the prayer No. (ii) and (iii) of the relief sought in the petition pertain to the refund of excess security (works) deposited by the petitioner along with interest

and revision of energy bill for April 2016. As per Regulation 2.21 of the PSERC (Forum and Ombudsman) Regulations 2016 read with clause 4.2 of the Consumer Complaint Handling Procedure (CCHP), the Dispute Settlement Committee and the Forum constituted under sub- section (5) of section 42 of the Electricity Act 2003, have the jurisdiction to settle all the monetary disputes arising due to wrong billing, application of wrong tariff or difference of service connection charges/ Security (works), overhauling of account due to defective/ inaccurate metering etc. Accordingly, the petitioner may approach the appropriate authority for adjudication of his monetary dispute with regard to prayer No. (ii) & (iii) of the petition.

- (iv) Accordingly, the Appellant approached the Corporate Forum vide Case No. CF-102 of 2022. The Corporate Forum disposed of the case on 14.09.2022 deciding that the matter of similar nature was pending before Hon'ble Punjab & Haryana High Court, in CWP No. 19701 of 2018 titled PSPCL V/s Sewa Kunj Alloys Pvt. Ltd., therefore, it would be inappropriate for it at this point of time to adjudicate upon this petition, which was on the similar issue. Petitioner, if need be, may approach this

Forum once the case was decided by the Hon'ble Punjab & Haryana High Court.

- (v) The Appellant filed the present Appeal against the order dated 14.09.2022 of the Corporate Forum pleading that there was no stay by the Hon'ble Punjab & Haryana High Court, in CWP No. 19701 of 2018, so the case should have been decided on merits by the Corporate Forum. The Appellant's Representative (AR) pleaded that the demand of ₹ 15,26,400/- as variable charges was wrong/illegal and was in violation of Regulation 9.1.1 (i) (b) of Supply Code, 2007. However, the Respondent controverted the pleas raised by the Appellant in its Appeal and argued that the said charges were correct as per the instructions of Commercial Circular No. 68/2008 prevalent at that time.
- (vi) To arrive at a decision, a perusal of Regulation 9.1.1 (i) is needed, which is reproduced as under:

"9.1.1 For new connections

(i) Domestic, Non-Residential, Industrial and Bulk Supply categories:

(a) The applicant requesting the Licensee for a new connection under Domestic, Non-Residential, Industrial and Bulk Supply categories will be required to pay per KW/KVA charges as approved by the Commission. Such charges will be payable by an applicant where the load/demand required is upto and including 500 KW/500 KVA and the length of the service line is upto one hundred metres for Domestic & Non-Residential Supply category and two hundred fifty metres for Industrial and Bulk Supply categories.

Where the length of the service line exceeds the above prescription for the applied category, the applicant will also pay for the additional expenditure for the extra length on actual basis at the rates approved by the Commission.

(b) Where load/demand required exceeds 500 KW/500 KVA, the applicant will be required to pay per KW/KVA charges as approved by the Commission or the actual expenditure for release of connection, whichever is higher.

(c) The applicant seeking supply at voltage of 33000 volts and above, will be liable to pay the expenditure incurred for providing the service line and proportionate cost of back-up/common line (33000 volts or above) upto the feeding substation including bay, if any.”

On perusal of above Regulation, it is noticed that this Regulation has clearly drawn a line of distinction between the new connections upto 500 kW/ 500 kVA and above 500 kW/ 500 kVA.

- (vii) The consumer had applied for new LS Connection with CD (Contract Demand) as 2500 kVA on 06.01.2011. The applicable regulation in this case for release of new connections is 9.1.1 (i) (b) of Supply Code, 2007. As per Regulation 9.1.1 (i) (b) of Supply Code, 2007; where load/ demand required exceeds 500 kW/ 500 kVA, the applicant will be required to pay per kW / kVA charges as approved by the Commission or the actual expenditure for release of connection, whichever is higher. It is apparent that connections for load exceeding 500 kW / 500 kVA, have been treated differently and there was no limit of length of the service line and also there was no provision for payment of additional variable charges for the service line. For the connections falling under Regulation 9.1.1 (i) (b), there is provision for recovering actual expenditure for release of connection, in case it is higher than the approved per

kW / kVA charges. Thus, any additional expenditure on the extra length of the service line is automatically covered in the actual expenditure, which will be higher, if length of the service line is quite high.

- (viii) Standard Cost Data was approved by the Commission, as required under Regulation-10 of the Supply Code, 2007. The Commission approved the Standard Cost Data which was made applicable with the issue of Commercial Circular No. 68/2008. The only contention put forth by the Respondent was that in column-5 of the Standard Cost Data, both per kVA charges and variable charges have been mentioned and hence are recoverable. In my view, the provisions of the Supply Code, 2007 and the approved Standard Cost Data are not being correctly interpreted by the Respondent. The charging Regulation of Supply Code, 2007 for recovery of charges for new connections is 9.1.1. Approval of the Standard Cost Data is subordinate to Regulation 9.1.1 of Supply Code, 2007. Charges are to be levied on approved rates according to the Regulations of Supply Code, 2007. Regulation 9.1.1 (i) (b) is very categorical that the applicants falling in this category will be required to pay per kW / kVA charges as approved by the Commission or the actual expenditure for release of

connection, whichever is higher. No other expenditure is mentioned in this provision. Therefore, in my view, even if variable charges are mentioned in the Standard Cost Data that does not make its charging mandatory when the same is not provided in the charging Regulation. Mention of any rates in the approved cost data only gives rates to be adopted wherever applicable according to Charging Regulation. During the course of proceedings on 10.11.2022, it was enquired from the Respondent whether the actual expenditure as per estimate, in the case of the Appellant included charges for the length of the required service line etc. He conceded that while preparing the estimate, all expenses of service lines were taken into account and were also included in the case of the Appellant. Thus, there does not appear to be any justification in recovering variable charges again when these had already been included while preparing the estimate of expenditure. It needs to mention here that this anomaly of mentioning variable charges in the column for loads above 500 kVA CD has itself been removed by the PSERC while approving Standard Cost Data applicable from 01.10.2012 as is apparent from CC No. 31/2012. This supports the view that variable charges were not mandatory for loads

above 500 kVA even for connections released before the said date for the reasons discussed above.

(ix) Commercial Circulars and instructions issued by the Licensee (PSPCL) cannot override/ modify the Supply Code, 2007 Regulations which had been framed by the Commission as empowered under Section 181 of 'The Electricity Act, 2003'. These regulations had been notified in the State Gazette after following the process laid down in the Act.

(x) I have gone through Section 46 of Electricity Act-2003 which states as under:

"The State Commission may, by regulations, authorise a distribution licensee to charge from a person requiring a supply of electricity in pursuance of section 43 any expenses **reasonably incurred** in providing any electric line or electrical plant used for the purpose of giving that supply."

Thus, as per this Section 46 of the Electricity Act-2003, the reasonability of expenses incurred was to be determined by the Hon'ble PSERC which had notified the Supply Code-2007 vide Notification dated 29.06.2007 and laid down the expenses to be recovered in Regulation 9.1.1 (i) (b) reproduced *ibid*.

(xi) Both parties agreed during hearing on 10.11.2022 that there is no stay of the Hon'ble Punjab & Haryana High Court relating to the case under dispute and the case can be decided by this court.

- (xii) Appeal Case Nos. 71/2017 & 72/2017 were decided by the Ombudsman after the cases were remanded back for decision by the Hon'ble Punjab & Haryana High Court. The cases were remanded to the Ombudsman because two previous Ombudsman gave different awards in respect of the same issue/matter (recovery of variable charges). The Ombudsman decided in these Appeal Cases that Variable Service Connection Charges are not recoverable.
- (xiii) The Corporate 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. The Corporate Forum did not decide the case on merits rather disposed it of stating the pendency of CWP No. 19701 of 2018 before the Hon'ble Punjab and Haryana High Court as the reason. This was not correct on the part of the Corporate Forum because this case is lingering on for the last many years.
- (xiv) The Respondent had informed that the estimated expenditure in this case is ₹ 23,44,583/- as per Estimate No. KH7300137/ 2017-18 and actual expenditure is yet to be determined. Per

kVA service connection charges deposited by the Appellant in this case were ₹ 22,50,000/-. It appears that actual expenditure incurred for release of connection may be more than per kW/kVA charges in this case although actual expenditure is yet to be finalized by the Respondent.

- (xv) The Supply Code, 2007 was applicable up to 31.12.2014 and now stands repealed w.e.f. 01.01.2015. Supply Code, 2014 is applicable with effect from 01.01.2015. The connection was released on 26.04.2016. The new provisions applicable to deal with such cases are contained in Regulation 9.1.1 (a) (iii) of Supply Code, 2014 which are reproduced below:-

**“9.1.1 For New Connection**

[(a) Domestic, Non-Residential, Industrial, Bulk Supply, AP High Tech/High Density Farming and Compost plants/ solid waste management plants for municipalities/urban local bodies categories

(iii) Supply For Demand Exceeding 100 kVA

Where demand required for above mentioned categories exceeds 100 kVA, the recoverable expenditure from the applicant shall comprise of full cost of 'service line' and proportionate cost of common portion of the main line including bay/breaker, as the case may be, up to feeding substation.

The expenditure shall be calculated as under:-

(u) the applicant with specified Supply Voltage of 11kV (except consumers catered through 11kV independent feeder under regulation 9.5) shall be required to pay the expenditure incurred by the distribution licensee for providing the individual 11kV service line to the premises of the consumer and proportionate cost of the common portion of the distribution main including breaker from the nearest feeding grid substation having power transformer of 33-66/11kV or 132/11kV or 220/11kV, as the case may be, which is feeding the 11kV line connected to the consumer premises, as per the standard cost data approved by the Commission. In case the existing 11kV distribution main is required to be augmented/extended or a new 11kV line/plant is to be erected to release the demand of an applicant then such work

shall be carried out by the distribution licensee at its own cost provided the applicant pay the full cost of service line and proportionate cost of the common portion of the augmented/extended/new distribution main including breaker as per the standard cost data approved by the Commission.”

According to above Regulations also, the actual expenditure incurred on providing service line and proportionate cost of common portion of main line including bay/breaker was to be charged and no variable service connection charges were to be recovered.

(xvi) In view of above, this Court is not inclined to agree with the decision dated 14.09.2022 of the Corporate Forum in Case No. CF-102 of 2022. Amount of ₹ 15,26,400/- charged to the Appellant as Variable Service Connection Charges for the release of load of new connection during the year 2016 is not justified as per Regulation 9.1.1 (i) (b) of Supply Code, 2007 and Regulation 9.1.1 (a) (iii) of Supply Code, 2014 and hence not recoverable. The actual expenditure for release of connection should be worked out by the Respondent immediately. The Respondent is also directed to work out the amount to be refunded/ recovered, if any, and pay/recover interest as per Regulation 9.3.6/9.3.7 of Supply Code, 2014 as amended from time to time.

(xvii) As for as the issue of revising the energy bill for the month of April, 2016 is concerned, AR confirmed that this issue stands

resolved. So, this needs no intervention of this Court. Further, the Appellant did not file any Appeal on this issue.

(xviii) Third issue raised by the Appellant is regarding refund of interest on Security (Consumption) & Security (Meters) deposited in the year 2011 from the date of deposit to the date of release of connection. The issue of payment of interest on Securities deposited before release of this connection on 26.04.2016 was decided by the Hon'ble Commission in its order dated 20.10.2014 in Petition No. 50 of 2014. PSPCL was directed to pay interest on the initial Security deposited by the consumer from the date of deposit in accordance with Regulation 17 of the Supply Code in the energy bills of the petitioner. The Appellant had filed Petition No. 09 of 2017 before PSERC due to disobedience and contravention of the orders dated 20.10.2014 of PSERC in Petition No. 50 of 2014. The prayer no. (i) in Petition No. 09/2017 is to immediately pay the balance interest on Initial Security. It has been observed after going through order dated 12.07.2021 of PSERC in Petition No. 09 of 2017 that decision on prayer (i) is still pending. In view of this, no intervention of this Court is needed on this issue raised in the Appeal under consideration. The Appellant had already filed the application for the non-

implementation of the order dated 20.10.2014 of the PSERC with the Commission. Further, it is difficult to decide this issue in view of Regulation No. 3.18 (iv) of PSERC (Forum & Ombudsman) Regulations, 2016. The Appellant agreed during hearing on 10.11.2022 that this Court can not decide the issue which is pending before the Commission.

**6. Decision**

As a sequel of above discussions, the order dated 14.09.2022 of the CCGRF, Ludhiana in Case No. CF-102 of 2022 is hereby quashed. Amount of ₹ 15,26,400/- charged as Variable Service Connection Charges for release of load of new connection to the Appellant during the year 2016 is not justified as per Regulation 9.1.1 (i) (b) of Supply Code, 2007 and Regulation 9.1.1 (a) (iii) of Supply Code, 2014. The Respondent is directed to work out actual expenditure incurred for release of this connection immediately and then refund/ recover the amount, if any, calculated as per Regulation 9.1.1 (i) (b) of Supply Code, 2007 and Regulation 9.1.1 (a) (iii) of Supply Code, 2014 alongwith interest as per Regulation 9.3.6/ 9.3.7 of Supply Code, 2014 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.

November 15, 2022  
S.A.S. Nagar (Mohali)

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