

**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. 65/2022**

**Date of Registration : 24.11.2022**  
**Date of Hearing : 05.12.2022, 09.12.2022,  
16.12.2022**  
**Date of Order : 21.12.2022**

**Before:**

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

**In the Matter of:**

M/s. Divisional Railway Manager (Elect.-TRD),  
Northern Western Railway,  
Gahri Bhagi Traction Sub Station,  
Near Gahri Bhagi Railway Station, Bhatinda.

**Contract Account Number: 3007508761(RT) (New)  
B55KS0200112 (Old)**

...Appellant

Versus

Senior Executive Engineer,  
DS Division, PSPCL,  
Maur.

...Respondent

**Present For:**

**Appellant:** Sh. Arjun Ram Chouhan,  
ADEE/TRD/N.W.Railway, Hanumangarh  
Appellant's Representative.

**Respondent :** Er. Himanshu Tanwar,  
AE/ DS Sub Division,  
PSPCL, Kotshamir.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 22.09.2022 of the Corporate Consumer Grievances Redressal Forum, Ludhiana (Corporate Forum) in Case No. CF-060/2022 deciding that:

*“Amount of Rs. 45212186/- billed to petitioner on account of fixed charges, including sundry charges amounting to Rs. 4661606/- charged in bill dated 13.01.2021 and actual consumption charges from date of release of connection i.e., 20.11.2020 upto 02/2022 is correct and recoverable.”*

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

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 24.11.2022 i.e. within the period of thirty days of receipt of the decision dated 22.09.2022 of the CCGRF, Ludhiana in Case No. CF-060/2022, received by the Appellant on 31.10.2022. The Appellant deposited 100% of the disputed amount. Therefore, the Appeal was registered on 24.11.2022 and copy of the same was sent to the Addl. SE/ DS Division, PSPCL, Maur for sending written reply/ parawise comments with a copy to the office of the CCGRF, Ludhiana under intimation to the Appellant vide letter nos. 1293-95/OEP/A-65/2022 dated 24.11.2022.

### 3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 05.12.2022 at 12.00 Noon and intimation to this effect was sent to both the parties vide letter nos. 1309-10/OEP/A-65/2022 dated 30.11.2022. Arguments of both the parties were heard on 05.12.2022. This Court directed both the parties to sit together in the office of the Respondent before the next date of hearing and reconcile the calculations of bills raised during the disputed period.

The Respondent admitted that amounts of ED & IDF charged earlier were refunded to the Appellant in the bill of 04/2021, but no refund of proportionate LPS & LPI was given on these amounts. So, he was directed by this Court to refund the proportionate LPS & LPI pertaining to the refund of ED & IDF given to the Appellant as above.

The Respondent was asked to explain the reasons for recording of huge import units in the meter and adding these import units to export units for the billing purpose for the bills of months from 12/2020 to 03/2021 in the bill of 04/2021. The Respondent could not explain the reasons in respect of these observations and requested for some time to explain the reasons for the same. The

Respondent was asked to provide the above reasons to this Court before the next date of hearing with a copy to the Appellant.

The Appellant's Representative (AR) requested for some time for filing the Rejoinder to the reply of the Respondent. The Court allowed the same and directed him to file the Rejoinder with a copy to the Respondent well before next date of hearing.

The next date of hearing in this case was fixed for 09.12.2022 at 12.00 Noon. Both the parties were directed to attend the Court on said date and time. Proceedings dated 05.12.2022 were sent to both the parties vide letter nos. 1321-22/OEP/A-65/2022 dated 05.12.2022.

On 09.12.2022, the Appellant's Representative (AR) submitted that the Rejoinder had already been sent both to this Court and the Respondent through email on 07.12.2022. This was taken on record.

The Respondent submitted the Memo No. 10829 dated 08.12.2022, reproduced as under:-

*“With reference of the subject the observations made by the Hon'ble Court on dated 05.12.2022 are replied as under:-*

- 1. Meeting with Railway Representative Sh. Arjun Ram Chauhan is held on dated 07.12.2022 at Division office P.S.P.C.L, Maur. Following issue are discussed in the meeting:-*

- (a) *The reasons for high kVAh consumptions during Grid side metering period discussed and deliberated from the P.S.P.C.L side with the railway representative and he got convinced. The reasons are low power factor of the line at no load.*
- (b) *The metering at TSS side started on dated 30.11.2021. This is non disputed period.*
- (c) *The LPS and LPI charged/refunded on ED/IDF up to month 04.2021 explained.*
2. *LPS on ED/IDF is not charged on bills in P.S.P.C.L. LPI on bills up to 04.2021 is not posted in the bills issued to the consumer. The same was posted through sundry by CBC Bathinda in bill month 05.2021 amount Rs 281898. This LPI is calculated by excluding ED/IDF amount. Calculation sheet is attached as Annexure 1A and bill of month 05.2021 Annexure-1B. ED/IDF amount refunded already in the bill 04.2021.*
  3. *The billing of account should be done on KVAH import but from dated 20.11.2020 billing of the account started with KVAH export by mistake. In the month 04.2021 onward the billing revised with KVAH export + KVAH import by mistake.”*

The Respondent admitted during hearing that bills during the disputed period from 20.11.2020 to 30.11.2021 were wrongly generated and requested for a week's time for the correction of these bills and overhauling of the account of the Appellant accordingly. The Court allowed the same and directed him to get the correct bills issued before the next date of hearing.

The Respondent informed that the dispute regarding refund of ED and IDF had been resolved. However, the Appellant was not

satisfied with the same. This issue was also to be settled before the next date of hearing.

The next date of hearing in this case was fixed for 16.12.2022 at 12.30 PM. Both the parties were directed to attend the Court on the said date and time. Proceedings dated 09.12.2022 were sent to both the parties vide letter nos. 1346-47/OEP/A-65/2022 dated 09.12.2022.

During the hearing on 16.12.2022, both the parties were heard. The Respondent submitted the Memo No. 11093 dated 15.12.2022, which was taken on record and reproduced as under:-

*“In respect to proceeding date 09.12.2022 as per directions of hon’ble Court it is humbly submitted that revised Bill for the period 20.11.2020 to 20.10.2022 has been overhauled by this office. The above said period has already been audited. As per ESIM clause 93.5 (copy attached) refund/charge pertains to audited period need prior approval of Refund Committee. So in compliance of orders of hon’ble Court and as per ESIM 93.5 this office send refund case amounting Rs 7781080/- vide this office memo no 11094 dated 15.12.2022 (copy attached) for approval of competent authority.”*

The Appellant’s Representative (AR) submitted the Memo No. EL/84/2/TRD/ Grievance (Appeal)/ GHB dated 15/16.12.2022, which was also taken on record and reproduced as under:-

*“In addition to rejoinder submitted vide this office letter of even no. dt. 07.12.2022 comments on items covered in Memo’s under reference above are as under:*

1. *Refund case amounting Rs. 7781080/- on account of levy of high energy charges & other charges wrongly in energy bills have been initiated by Respondent by overhauling of all energy bills upto 20.10.22, as informed to Hon'ble Court by Respondent vide memo under reference 3 above.*
2. *It is now established that wrong bills of heavy amount were generated and LPS/LPI was imposed despite payment of legitimate amount by consumer. Thus, there is no fault on part of consumer for late payment; hence LPS/LPI imposed on bills shall be quashed.*

*Above is submitted for taken on record and kind consideration of Hon'ble Court."*

After hearing both the parties, the case was closed and the order was reserved.

#### **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 Railway Traction (RT) Category Connection, bearing Account No. 3007508761 (New),

B55KS0200112 (Old)with sanctioned load of 4500.00 kW and CD as5000.00 kVA under DS Divn., Maur.

- (ii) The online application for 132 kV connection for Railway Traction Sub Station (TSS), Gahri Bhagi was filed by Railway's Executive Agency for Rail Electrification i.e. RE/ Ambala in August, 2017 on the Consumer mode as open access mode was not available in Punjab at that time. Thereafter, in September, 2020 it was intimated to RE/ Ambala that connection to this TSS shall be availed on Open Access only in accordance with Railway Board guidelines.
- (iii) In telephonic conversation on 19.11.2020 between representative of this office and SDO/ DS Sub Divn., Kotshamir, it was informed by that it was planned to release the subject connection on 20.11.2020 on Consumer mode which was refused by this office in light of Railway Board instructions to avail power on open access mode only. However, the connection was released on 20.11.2020 as informed by the Sr. Executive Engineer/ DS Divn., Maur vide Memo No. 12979 dated 23.11.2020. No representative of this office was present at GHB, TSS on 20.11.2020 as this office had already refused to accept connection on Consumer mode in view of Railway Board directives for TSS connection on Open Access mode only and hence no joint meter seals and reading report was signed by the representative of the Consumer. Further, the TSS also

was not charged on this date for want of power on open access mode.

- (iv) In context to Para 2 above , it was worth mentioning here that no metering equipments were installed at subjected TSS i.e. at the Consumer's premises on the above mentioned date for release of connection whereas installation of meters at consumer's premises was mandatory as per Para 21.2 of Chapter-V of Regulation on Electricity Supply Code & Related Matters issued by the PSERC Notification dated 05.11.2014 and Para 7 (2) of Central Electricity Authority (Installation and Operation of Meters) Amendment Regulations, 2010.
- (v) No further correspondence/ bills, after so release of connection by the PSPCL were delivered to this office thereafter and only in month of March, 2021, it was brought to the notice of this office by Sr.DEE/TRD/N.Rly./ Ambala (Representative of Nodal authority of Railway for open access in Punjab State) that on submission of application in SLDC for open access for this TSS it had been informed that outstanding dues of ₹ 74 lakhs approximately were pending on part of subjected connection.
- (vi) The concerned SDO/ DS S/D, Kotshamir was approached and asked vide this office letter dated 12.04.2021 to provide monthwise details of pending dues against subjected connection. 5 nos. energy

bills (12/2020, 1,2,3 & 04/2021) were provided to this office vide SDO/DS Sub Divn., Kotshamir Memo No. 668 dated 20.04.2021 reflecting total pending dues of ₹ 1,45,15,780/-.

(vii) ED and IDF charges, MMC charges for period 25.07.2020 to 19.11.2020 and Late Payment Surcharge were imposed on these bills. However, as per Railway Board's letter no. 2002/Elect.(G)/109/5 dated 06.01.2003, Indian Railways were exempted from payment of Electricity Duty (ED)/ Energy Development Cess in terms of Article 287 of the Constitution of India. Same was mentioned in para 5 of the Punjab Electricity (Duty) Act, 2005. Hence, ED and IDF (Infrastructure Developmental Fund) charged in bills were not leviable to the Railways. All the above bills were received in month of April, 2021 only after being called by Railway, hence there was no fault of Railway for delay in payment. Thus, Railway shall not be liable to pay any Late Payment surcharge, interest etc.

(viii) Further, there was abrupt rise in the energy consumption of around 292680 kVAh which was shown in billing month 04/2021 contrary to kVAh readings of 14040, 6840 & 11160 shown in previous bills for month of 01/2021, 02/2021 & 03/2021 and despite the fact that the installation (TSS) had not been charged as was evident from Nil MDI mentioned in all bills itself. This trend of abnormally high

energy consumption without any load continued in all forthcoming bills and concerned PSPCL authorities were neither able to clarify nor corrected the bills despite regular representation from this office.

- (ix) In order to resolve the issue and as instructed by higher authorities of Railway, payment of ₹ 61,18,678/- was released “UNDER PROTEST” for actual kVAh for first 4 bills (12/2020, 1, 2 & 03/2021 and average kVAh for last bill 04/2021) due to abnormally high kVAh excluding ED, IDF, MMC charges for period 25.07.2020 to 19.11.2020 and LPS with interest.
- (x) Thereafter, this office released payment “UNDER PROTEST” against monthly bills raised for this connection and matter was raised to SDO/ Kotshamir, Senior Executive Engineer/ PSPCL/ Maur many times and was escalated to CE/DS (West), Bhatinda also to resolve the issue.
- (xi) On getting permission from Railway Board, the subjected TSS was charged and put on load on 23.09.2021.
- (xii) Metering equipments were also provided at TSS end i.e. Consumer’s premises in November, 2021. However, billing of subjected connection remained to be continued from GSS end till 02/2022 until we challenged the billing meter vide letter dated 23.02.2022.

- (xiii) Subsequently, the bill for the month of 03/2022 was prepared on consumer end meter from back period i.e. from 30.11.2021 to 21.03.2022. It was pertinent to mention here that this office was making regular payment on average kVAh basis and excluding LPS still the payment made for last 3 month bills i.e. 12/2021, 01/2022 & 02/2022 was not adjusted in bill month 03/2022 which covered the period of these previous bills also. This resulted in doubling of amount.
- (xiv) Since billing from TSS end (consumer premises) metering, this office released full payment against energy consumption for billing month on regular basis.
- (xv) As all efforts made by the Appellant to resolve the issue went in vain, the Appellant represented the case to the CGRF and sought:-
- (a) **To freeze previous pending dues (LPS, interest etc.) and provide stay on further accumulation of LPS & interest on these dues with immediate effect-** As this office had been making regular & full payment against energy consumption since metering from consumer end meter and willing to resolve the issue, stay was required on further accumulation of charges (LPS, interest etc.) which otherwise may hamper the efforts to resolve the issue.
- (b) **To drop the energy charges for period 20.11.2020 to 23.09.2021 and adjustment of payment made by this office in upcoming bills-** This office had already refused to accept the connection prior to its release; the connection was released and

billing started without providing meters at consumer's premises which was violation of Para 21.2 of Chapter-V of Regulations on Electricity Supply Code & Related Matters issued by the PSERC Notification dated 05.11.2014 and Para 7 (2) of Central Electricity Authority (Installation and Operation of Meters) Amendment Regulations, 2010; TSS was not charged as was evident from Nil MDI reading in bills for this period and still the energy consumption shown in bills was in lakhs kVAh per month. Thus, the extraordinarily high energy charges without any load for this period (20.11.2020 to 23.09.2021) were not justified and hence shall be dropped.

(c) **Waiver off LPS, interest etc. being charged in bills-** No efforts/correspondence was made by the PSPCL authorities to deliver the bills and resolve issues as mentioned above; once came into notice of this office, legitimate payment was being made as detailed above. Thus, this office was not at fault for delayed payment and hence LPS, interest etc. levied on subjected connection bill shall be dropped.

(d) **Pro-rata based billing for period 23.09.2021 to 30.11.2021-** The TSS was charged on 23.09.2021 after permission from Railway Board and meter at TSS end (Consumer premises) was provided in November, 2021. Thus, pro-rata based billing for period 23.09.2021 to 30.11.2021 based on bills framed on TSS end metering shall be done.

(xvi) The Case was registered with the CCGRF on 13.06.2022 and after subsequent hearings, decision was released by the CCGRF on 22.09.2022 (received on 31.10.2022) in favour of the Respondent

and concluded that the disputed amount of ₹ 4,52,12,186/- billed to the Appellant was correct and recoverable.

(xvii) All the pending dues including disputed amount had been paid by the Appellant. However, it was felt that cognizance of documental facts presented by the Appellant before the CCGRF had not been taken in the CCGRF decision and thus the Appellant was not satisfied with decision of the CCGRF, hence filing representation before this Court.

(xviii) During proceeding on 14.07.2022, the Appellant requested to impose stay with immediate effect on disputed dues as the Appellant had been making regular and full payment against monthly energy consumption since metering from consumer end meter i.e. since December, 2021.

(xix) The CCGRF had issued oral instructions to the Respondent to freeze disputed dues. Accordingly, written request for same was also submitted to concerned authorities of the Respondent.

(xx) However, disputed amount was increased in next energy bill dated 22.07.2022. Same was represented in the Appellant's written arguments dated 27.07.2022 submitted to the CCGRF on hearing date 28.07.2022 as instructed by the CCGRF on 14.07.2022. This was again represented in the Appellant's rejoinder dated 24.08.2022 on hearing dated 25.08.2022.

- (xxi) The CCGRF had offered no comments in the matter in its decision.
- (xxii) The connection was released unilaterally by the Respondent despite refusal by the Appellant
- (xxiii) TSS was not charged (Accepted by the Respondent in its comments submitted vide Memo No. 7526 dated 12.08.2022) for this period and still the energy consumption shown in bills in lakhs kVAh per month.
- (xxiv) The CCGRF in hearing dated 14.07.2022 directed the Respondent to submit case study of similar nature of Railway connection at Maisarkhana in next hearing but same was not submitted by the Respondent till closure of case. The CCGRF in its hearing dated 28.07.2022 again directed the Respondent to comment on high kVAh.
- (xxv) The Respondent vide Memo No. 7526 dated 12.08.2022 submitted its comments on high kVAh without load of TSS. The comments were very casual & superficial in nature which were countered by the Appellant in hearing dated 06.09.2022 vide comments dated 30.08.2022 based on technical papers.
- (xxvi) No technical reason/clarification regarding high kVAh without charging of consumer utility (TSS) was apparent in the CCGRF decision.

- (xxvii) It was brought out in initial Petition itself that initially no bills were delivered to the Appellant by the Respondent after unilateral charging of TSS and no efforts were made by the Respondent to communicate the pending bills until called by the Appellant itself.
- (xxviii) The Respondent failed to submit any evidence before the CCGRF regarding delivery of bills to the Appellant.
- (xxix) It was evident in the CCGRF decision and papers submitted before the CCGRF that erroneous bills were repeatedly prepared by the PSPCL resulting in excess bill amounts to the tune of lakhs of Rupees.
- (xxx) No reply/ clarification regarding issues in energy bills raised repeatedly by the Appellant to the concerned authorities of the Respondent was provided by the PSPCL.
- (xxxi) Despite above, the Appellant made regular payment of legitimate charges reflected in energy bills to the PSPCL and repeatedly requested to resolve/ clarify the issues raised.
- (xxxii) In view of above circumstances, consumer cannot be held responsible for late payment of ambiguous charges imposed in energy bills. The CCGRF has not taken cognizance of above facts vindicating that all the accumulation of LPS/LPI in energy bills was due to non-delivery of bills to consumer, generating erroneous bills by the PSPCL and not responding to the issues raised by the

consumer repeatedly; thus consumer was not liable to pay these charges.

(xxxiii) In reference to above, it was felt that full cognizance of documental facts presented by the Appellant before the CCGRF had not been taken in the CCGRF decision and thus the Appellant was not satisfied with decision of the CCGRF, hence filing representation before this Court and sought:

(a) **LPS/LPI imposed in bill 07/2022 & thereafter shall be**

**quashed-** The Appeal was filed before the CCGRF on 13.06.2022 and first hearing was conducted on 14.07.2022. During first hearing itself, the CCGRF issued oral instructions to the Respondent to freeze disputed dues. Accordingly, written request for same was also submitted to the concerned authorities of the Respondent (Sr.Xen/ DS Divn. Maur & AE/ Ds S/D, Kotshamir). However, disputed amount was increased in next energy bill dated 22.07.2022. Same was represented in the Appellant's written arguments dated 27.07.2022 submitted to the CCGRF on hearing date 28.07.2022 as instructed by the CCGRF on 14.07.2022 and was again represented in the Appellant rejoinder dated 24.08.2022 on hearing dated 25.08.2022 but the CCGRF had offered no comments in the matter in its decision.

(b) **To drop the energy charges for period 20.11.2020 to 23.09.2021-** TSS was not charged as also accepted by the Respondent in its comments submitted vide Memo No. 7526 dated 12.08.2022, for this period and still the energy consumption shown in bills was in lakhs kVAh per month. The

Respondent failed to provide case study of similar nature despite instructions by the CCGRF and lateron submitted very casual & superficial comments which were countered by the Appellant based on technical papers. No technical reason/clarification regarding high kVAh without charging of consumer utility (TSS) was apparent in the CCGRF decision.

**(c) Waiver off LPS, interest etc. charged in bills-**The CCGRF had not taken cognizance of documental facts vindicating that all the accumulation of LPS/LPI in energy bills was due to non-delivery of bills to consumer, generating erroneous bills by the PSPCL and not responding to the issues raised by the consumer repeatedly; thus consumer was not liable to pay these charges.

**(b) Submissions in Rejoinder**

The Appellant submitted the following Rejoinder for consideration of this Court:-

- (i) In Railways letter referred in the Respondent reply, it was clearly mentioned that the load at TSS shall be taken only after approval of EIG (Railway's Principal Chief Electrical Engineer in this Case). Accordingly, the Appellant (Railway representative) informed SDO, PSPCL during telephonic conversation on 19.11.2020 itself to not to release the connection as Railway Board has instructed to avail power on open access mode only. Thus, no Railway Representative was nominated to attend GSS on 20.11.2020 as admitted in the Respondent reply. However, concerned PSPCL

authorities released the connection unilaterally in hurry despite refusal by the Appellant.

- (ii) No bills were received by the Railways. Further, it was to mention that the connection site (Gehri Bhagi TSS) was remotely SCADA operated which was manned occasionally as per requirement. The bills should be delivered to the Appellant address i.e. Divisional Railway Manager (Elect.), NW Railway, Bikaner (Rajasthan) as mentioned in connection application. Moreover, the Appellant and its Representatives were in continuous touch with concerned PSPCL authorities. However, the matter of pending dues was never brought to the notice of the Appellant (Railway Representatives).
- (iii) As the Respondent had offered no reply, the Respondent had admitted that the bills were provided to the Appellant vide SDO/PSPCL/ Kotshamir Memo dated 20.04.2021.
- (iv) It was admitted by the Respondent that erroneous bills were prepared and submitted to the Appellant. Further, no details were provided to the Appellant regarding refund. As per bill of April, 2021 provided to the Appellant, ED & IDF had been charged in this bill also and no refund had been given.
- (v) The Respondent had not clarified the reason behind high energy consumption to the tune of lakhs of kVAh without any load (TSS was not put on load).

- (vi) It was to indicate that the Appellant was willing to resolve the issue and hence released payment “UNDER PROTEST” despite erroneous bills.
- (vii) The Railway Representatives visited the office of Sub Division/ Kotshamir. However the PSPCL authorities were not able to clarify the issues raised by the Appellant. The matter was escalated to CE/ DS (West Zone)/ PSPCL also, but no reply was received from any PSPCL authority. Copies of representations given to the PSPCL authorities in the matter are attached. It was pertinent to mention here that no reply from any of the concerned offices of the PSPCL was received against these representations.
- (viii) It was for kind notice of Hon’ble Court that Gehri Bhagi TSS was put on load on 23.09.2021.
- (ix) It was admitted by the Respondent that again erroneous bills were prepared and submitted to the Appellant. Although the same was corrected by the Respondent, however impact of erroneous bills on LPS/LPI was also adjusted was not clear to the Appellant.
- (x) It is evident from above that:
- a. Connection was released by the Respondent despite refusal by the Appellant.
  - b. Initially no bills were delivered to the Appellant.
  - c. High energy charges were shown in bill despite the fact that TSS was not put on load.

- d. Erroneous bills were prepared repeatedly and submitted to the Appellant.
- e. Consumer's issues were not resolved and no reply to any of the representations of the Consumer was given by any of the concerned PSPCL offices.
- f. Heavy LPS & LPI was imposed on consumer without any fault on part of the Appellant.
- (xi) Further, it was to bring to the kind notice of Hon'ble Court that LPS/ LPI was continued to escalate on disputed amount despite filing petition in the CCGRF and oral instructions of the CCGRF to the Respondent to freeze the disputed dues on first hearing itself.
- (xii) In view of above, it was humbly requested to Hon'ble Court that Reliefs sought by the Appellant in its Appeal were legitimate and may be entertained favorably in light of facts & documents presented before this Hon'ble Court.
- (c) Submission during hearing**
- During hearing on 05.12.2022, 09.12.2022 and 16.12.2022, the Appellant's Representative (AR) reiterated the submissions made in the Appeal and prayed to allow the same. The Appellant's Representative (AR) confirmed during the hearing on 16.12.2022 that the Appellant was satisfied with the refund of ₹ 77,81,080/- but he argued that since the bills issued earlier were wrong, so the LPS& LPI should not be levied.

**(B) Submissions of the Respondent**

**(a) Submissions in written reply**

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

- (i) The Appellant had not applied for open access till the time of release of connection.
- (ii) The Railways had given its consent vide letter no. RE/ LE/BTI/ Gr.193A/TSS/GHB dated 11.09.2020 for release of connection from GSS end. It was mentioned in the Appeal that SDO, PSPCL, Kotshamir had informed the railway representatives on 19.11.2020 about the release of connection. But, no representative of Railways had appeared at GSS on 20.11.2020.
- (iii) It was submitted that as per letter no. RE/ LE/BTI/ Gr.193A/TSS/GHB dated 11.09.2020, Railways representative clearly stated that procurement process of CTs, PTs and ABT meters may take atleast 2 month's time and PSPCL may proceed for release of connection by considering metering from GSS end.
- (iv) The monthly bills were regularly delivered to the Railways staff deployed at TSS Gehri Bhagi.
- (v) It was submitted that ED and IDF was charged to Appellant due to system error which was corrected in the bill of April, 2021 and the

excess amount of ED and IDF charged in previous bills was refunded in the bill of April, 2021.

- (vi) It was submitted that the consumption of the Appellant had been overhauled in the month of 04/2021.
- (vii) The Appellant had been clarified in details about the bills in the office of Sub-division, Kotshamir.
- (viii) The Appellant's connection was released on 20.11.2020.
- (ix) The metering equipments were installed at TSS end in the month of November, 2021 and the Meters were installed on 01.12.2021 jointly by Enforcement Wing and DS Office in the presence of Railway representatives. The next bills were generated mistakenly on GSS end readings which were corrected/ revised in the month of April, 2022.
- (x) It was submitted that the details regarding each and every bill were provided to the Appellant. All the issues of Appellant were duly addressed by the sub-division office. Electricity Duty and Infrastructure Development Fund were adjusted in the bill of month of April, 2021. The issue of reading was matter duly reflected in DDL report of meter installed. The delay was totally on the part of the Appellant.
- (xi) It was humbly submitted that from all the facts stated above, it was clear that all the bills were issued with compliance of instructions

of PSPCL. There was not any lapse of services and in following instructions. Thus, the Appeal of the Appellant may please be disposed off.

**(b) Submission during hearing**

During hearing on 05.12.2022, 09.12.2022 and 16.12.2022, 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 ₹ 4,52,12,186/- billed to Appellant on account of fixed charges, actual consumption charges from 20.11.2020 to 02/2022 and sundry charges of ₹ 46,61,606/- for MMC for the period from 25.07.2020 to 19.11.2020.

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

- (i) The Corporate Forum in its order dated 22.09.2022 observed as under:-

“Forum observed that Petitioner applied for 132 KV connection for Railway Traction Sub-station (TSS) in Aug, 2017 on consumer mode as Open Access mode was not available in Punjab. Thereafter, in Sept, 2020 it was decided by petitioner that connection to this TSS shall be availed on Open access only. On 19.11.2020, SDO/ Kotshamir telephonically informed the

petitioner about release of connection which petitioner refused in light of Railway Board instructions to avail power on open access mode only but connection was released on 20.11.2020. TSS was not charged at that time on want of power on open access mode and no metering equipment was installed at TSS and hence, no bills were delivered to petitioner. In 03/2021 it came to notice of the petitioner that an amount of Rs. 74 Lacs. (approx.) is pending and petitioner got the copy of bills from the concerned office. In the bill of 04/2021, there was an abrupt rise of 292680 units in the KVAH consumption contrary to KVAH reading of 14040, 6840 & 11161 in the bills for month of 01/21, 02/21 & 03/21 and bills were issued on zero MDI. This abnormality of bills continued in the forthcoming bills. Petitioner under protest paid the bills excluding ED, IDF. Petitioner raised following issues in his petition: -

Issue 1: - Connection was released unilaterally by PSPCL despite telephonic refusal by the petitioner and in absence of any representative of consumer and that too without provision of metering equipment in petitioner's premises.

Issue 2:- Billing was started from date of release of connection and LPS/LPI was charged without delivering the bill/any correspondence to petitioner.

Issue 3:- On getting permission from Railway Board, the TSS was charged and put on load on 23.09.2021. Metering equipment was provided at TSS end i.e., consumer's premises in November/2021. But billing of petitioner started from date of release of connection, as per the meter installed at Grid Sub-Station end even though no load was used.

Petitioner sought the following relief: -

1. To freeze previous pending dues (LPS, interest etc.) and provide stay on further accumulation of LPS & interest on these dues with immediate effect.
2. To drop the energy charges for period from 20.11.2020 to 23.09.2021 and adjustment of payment made by this office in upcoming bills.
3. Waiver off LPS, interest etc. being charged in bills.

4. Pro-rata based billing for period 23.09.2021 to 30.11.2021.

Petitioner, not satisfied by the bills issued from date of release of connection, filed his case in Corporate CGRF Office, Ludhiana.

Regarding the above issues raised by the petitioner, Forum observed that respondent vide his letter no. 7992 dated 27.07.2020 intimated the petitioner that the line has been successfully test charged and he is ready to release the connection. It was further asked to purchase CTs, PTs & ABT meter, so that connection can be released. However, Petitioner vide his letter no. RE/EL/BTI/Gr.193A/TSS/GHB dated 11.09.2020 addressed to Dy. CE/DS Circle, Bathinda intimated as under: -

*"It is apprised that provision of metering equipments at TSS end i.e. CT, PT and ABT meters will take at least two months. The construction work at TSS end has also been completed and is under the process of approval of Electrical Inspector to the Government (EIG) for charging the TSS on 132 KV.*

*However, due to delay in procurement of metering equipments at our end, the metering can be considered form GSS end. Hence, the process of releasing connection for GehriBhagi TSS may be initiated at your end but the load at TSS end shall be taken only after approval of EIG."*

As per the above letter, the connection was released vide SCO no. 60007 dated 20.11.2020 affected on 20.11.2020 and petitioner was informed by respondent vide his office memo no. 12979 dated 23.11.2020.

Accordingly, billing of the petitioner was started on the basis of reading of the meter installed at the Grid Sub/Station end. As petitioner had himself agreed vide above mentioned letter, for metering at Grid Sub/Station end and release of connection from Grid Sub/Station end due to delay on their part in providing necessary meter equipment at their end, hence, first and second issue raised by petitioner are not justified.

Regarding the LPS/LPI issue raised by the petitioner, LPS/LPI is applicable on the unpaid/current amount as per applicable instructions of PSPCL.

Another issue was raised by the petitioner in his petition that bill of month 04/2021 was issued on an abrupt consumption of 292680 KVAH which is much more than the consumption on

which bills for the months of 12/2020, 01/2021, 02/2021 & 03/2021 were issued. Respondent during hearings stated that bills before the month 04/2021 were issued only on export reading taken from bidirectional meter installed at the Grid Sub/Station end, whereas, the billing was to required be done on "Import + Export" reading as being done in other such types of connections, due to the fact that meter installed at Grid Sub-station end is 3-phase 4-wire but the 132 KV supply to the petitioner is through 2-phase system only. The petitioner did not contest this reasoning from technical point of view. Consumption of 292680 KVAH in bill of month 04/2021 was due to the fact that Import component of the consumption recorded in the bills of 12/2020, 01/2021, 02/2021 and 03/2021 which was omitted earlier inadvertently was included in this bill. Forum observed that although the 132 KV line meant for the petitioner may have remained on no-load initially as claimed by the petitioner, but it still consumed apparent energy due to inherent capacitive reactance of the line and other technical reasons and this consumption was duly recorded by the meter installed at Grid Sub/Station end upto 31.11.2021 and billing of the petitioner was done on this actual consumption recorded by the meter. Further, the readings in DDL match with the readings on which bills were issued to the petitioner which confirms that bills issued to the petitioner were based upon the actual readings of the meter. Petitioner further contended that bills for the period 11/2020 to 09/2021 were issued on consumption in range from 6840 to 292680 KVAH whereas MDI recorded in these bills is zero. Respondent submitted comments on this issue during hearings as reproduced below: -

*"It is submitted that MDI of meter was not ZERO but was 216 Kva. The Multiplying factor of meter installed was 360000. At the time of record of reading the meter shows MDI upto 3 Decimal 000.000. while doing analyze of DDL, the MDI (0.0005+0.0001=0.0006) after applying the M.F is 0.0006\*360000=216Kva."*

As per the above the actual MDI has been recorded as 216Kva, although it was shown as zero in the bills, thus the plea of the petitioner cannot be accepted.

Petitioner had asked Respondent vide their letter no. EL/84/2/TRD/Open Access/GHB dated 12.04.2021 about basis on account of which amount of Rs. 7425860/- was charged in bill dated 13.01.2021. Respondent vide letter no. 668 dated 20.04.2021 replied that amount of Rs. 7425860/- includes the sundry charges of Rs. 4661606/- charged as MMC for the period from 25.07.2020 to 19.11.2020 as 132 KV line and Bay meant for them had been charged on 25.07.2020, hence, MMC were chargeable to them thenceforward as also inter alia directed by the WTD's of PSPCL in their decision dated 10.07.2020 against CE/DS (West) Agenda No. 2 dated 13.02.2020, which reads as under: -

*“RESOLVED THAT Petitioner filed before PSERC regarding extension in time period for release of connection of Kotshamir Railway Traction up to 28.02.2020 be and is hereby noted subject to that MMC recovery has started and CE/DS(West) shall expedite the completion of work.”*

Regarding the grievance of the petitioner that ED & IDF were charged in bills despite the fact that Indian Railways are exempted from payment of Electricity Duty/Electricity Development Cess, Respondent stated that ED & IDF has been set right and necessary refund has been given in bill of month 04/2021 and all the bills issued after 04/2021 were issued on zero ED & IDF.

Keeping in view the above discussion, Forum is of the opinion that amount of Rs. 45212186/- billed to petitioner on account of fixed charges, including sundry charges amounting to Rs. 4661606/- charged in bill dated 13.01.2021 and actual consumption from date of release of connection i.e., 20.11.2020 upto 02/2022 is justified.”

- (ii) I have gone through the written submissions made by the Appellant in the Appeal and in the Rejoinder, written reply of the Respondent as well as oral arguments of both the parties during the hearings on 05.12.2022, 09.12.2022 & 16.12.2022. It is observed that the

Appellant had applied for 132 KV connection for Railway Traction Sub-station (TSS) in Aug, 2017 on consumer mode as Open Access mode was not available in Punjab. The Respondent vide his Memo No. 7992 dated 27.07.2020 intimated the Appellant that the line had been successfully test charged and the connection was ready to be released. The Appellant was asked to purchase CTs, PTs & ABT meter, so that connection can be released. However, Petitioner vide his letter no. RE/EL/BTI/Gr.193A/TSS/GHB dated 11.09.2020 addressed to Dy. CE/DS Circle, Bathinda intimated as under: -

*"It is apprised that provision of metering equipments at TSS end i.e. CT, PT and ABT meters will take at least two months. The construction work at TSS end has also been completed and is under the process of approval of Electrical Inspector to the Government (EIG) for charging the TSS on 132 KV.*

*However, due to delay in procurement of metering equipments at our end, the metering can be considered from GSS end. Hence, the process of releasing connection for Gehri Bhagi TSS may be initiated at your end but the load at TSS end shall be taken only after approval of EIG."*

As per the consent of the Appellant in above letter, when SDO/ Kotshamir telephonically informed the Appellant on 19.11.2020 about release of connection on 20.11.2020, the Appellant refused to get connection released in light of Railway Board instructions to avail power on open access mode only. However, as the line was successfully test charged and the consent by the Appellant vide its Letter No. RE/EL/BTI/Gr.193A/TSS/GHB dated 11.09.2020 for

the metering from GSS end due to delay for procuring metering equipment on their part, the connection was released vide SCO no. 60007 dated 20.11.2020 effected on 20.11.2020 and the Appellant was informed by the Respondent vide his office Memo No. 12979 dated 23.11.2020. On 20.11.2020, TSS was not charged at that time for want of power on open access mode and no metering equipment was installed at TSS as the same was not provided by the Appellant. The billing of the Appellant was started on the basis of reading of the meter installed at the Grid Sub/Station end. The Appellant had himself agreed to this arrangement vide above mentioned letter, for metering at Grid Sub/ Station end and release of connection from Grid Sub/Station end due to delay on their part in providing necessary metering equipment at their end.

- (iii) During hearing on 16.12.2022, the Respondent stated that the bills of the Appellant for the period from 20.11.2020 to 20.10.2022 had been overhauled/ revised, but since the said period had already been audited, so the refund case amounting to ₹ 77,81,080/- had been forwarded to the competent authority for the approval. He further stated that the LPI and LPS had also been adjusted as per the instructions of PSPCL. The Appellant argued that the LPI & LPS should not be levied at all for this period as the billing was overhauled. When the AR (Appellant Representative) was asked by

this Court whether the Appellant had earlier challenged any of these bills by depositing the requisite fee, the AR could not produce any documentary proof. So, in my opinion, the contention of the Appellant that the LPI & LPS should not be levied at all is not tenable as the Appellant did not avail the facility of bill challenge at an appropriate time.

- (iv) I observe that although the 132 kV line meant for the Appellant may have remained on no-load initially as claimed by the Appellant, but it still consumed apparent energy due to inherent impedance of the line and other technical reasons and this consumption was duly recorded by the meter installed at Grid Sub Station (GSS) end. The Respondent has now corrected the billing of the Appellant on the basis of actual consumption recorded by the meter. So, in my opinion, the Appellant is not entitled to any further relief on this issue as the Appellant was billed for the actual consumption of the electricity.
- (v) As regards the issue of the sundry charges of ₹ 46,61,606/- charged as MMC/ Fix Charges for the period from 25.07.2020 to 19.11.2020 is concerned, I am of the opinion that this amount was correctly charged to the Appellant and hence recoverable as 132 kV Line and Bay meant for the RT Connection of the Appellant had been charged on 25.07.2020, hence MMC/ Fixed Charges were

chargeable to them from 25.07.2020. Also the WTD of PSPCL in their decision dated 10.07.2020 against CE/ DS (West) Agenda No. 2 dated 13.02.2020, decided as under: -

*“RESOLVED THAT Petitioner filed before PSERC regarding extension in time period for release of connection of Kotshamir Railway Traction up to 28.02.2020 be and is hereby noted subject to that MMC recovery has started and CE/DS(West) shall expedite the completion of work.”*

- (vi) The Appellant sought relief of waiver of LPS, interest etc. charged in bills as the AR contended that the accumulation of the LPS/ LPI in energy bills was due to non-delivery of bills to the Appellant, generation of erroneous bills by the PSPCL and no response of the Respondent to the issues raised by the Appellant repeatedly. In response, the Respondent argued that the monthly bills were regularly delivered to the Appellant’s staff deployed at TSS, Gehri Bhagi. The Sub-division office provided each and every detail of all the bills to the Appellant and all the other issues like refund of ED and IDF were adjusted in the bill of 04/2021. In this regard, it is observed by this Court that the Appellant was informed by the Respondent vide his Memo No. 12979 dated 23.11.2020 that the connection to the Appellant was released on 20.11.2020 vide SCO no. 60007 dated 20.11.2020. So, if the Appellant did not receive any bill from the Respondent, it was the responsibility of the Appellant also to get its bills from the Respondent, if not received by it. Now, the Respondent had admitted that the LPI & LPS had

also been adjusted as per the instructions of PSPCL, so the Appellant is not eligible for any further relief in this regard.

- (vii) In view of the above, I am not inclined to agree with the decision dated 22.09.2022 of the Corporate Forum in case of CF-060/2022. The billing of the Appellant for the period from 20.11.2020 to 20.10.2022 had already been overhauled by the Respondent to which the Appellant is satisfied. LPI and LPS be revised for this period as per the General Conditions of Tariff issued by PSERC from time to time, if not already done. Further, the amount of ₹ 46,61,606/- charged as MMC/ Fixed Charges for the period from 25.07.2020 to 19.11.2020 is correct and recoverable.

#### **6. Decision**

As a sequel of above discussions, the decision dated 22.09.2022 of the CCGRF in case of CF-060/2022 is hereby quashed. The billing of the Appellant for the period from 20.11.2020 to 20.10.2022 had already been revised by the Respondent as per Memo No. 11093 dated 15.12.2022 and the Appellant is satisfied with the same. LPS/ LPI shall be revised for the disputed period as per the General Conditions of Tariff issued by PSERC from time to time, if not already done. Further, the amount of ₹ 46,61,606/- charged as MMC/ Fixed Charges for the period from 25.07.2020 to 19.11.2020 is correct and recoverable.

8. The Appeal is disposed of accordingly.
9. As per provisions contained in Regulation 3.26 of Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations-2016, the Licensee will comply with the award/ order within 21 days of the date of its receipt.
10. In case, the Appellant or the Respondent is not satisfied with the above decision, it is at liberty to seek appropriate remedy against this order from the Appropriate Bodies in accordance with Regulation 3.28 of the Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations, 2016.

December 21, 2022  
S.A.S. Nagar (Mohali)

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