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

**ELECTRICITY, PUNJAB,**

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

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

**APPEAL NO. 71/2018**

**Date of Registration : 13.12.2018**

**Date of Hearing : 08.02.2019 and 14.03.2019**

**Date of Order : 20.03.2019**

**Before:**

 **Er. Virinder Singh, Lok Pal (Ombudsman) Electricity**

**In the Matter of :**

 Jain Solvex & Exports Industries,

Village Sheikhpur,

Sultanpur Road, Kapurthala.

 ...Petitioner

 Versus

 Addl. Superintending Engineer,

DS City Division,

PSPCL, Kapurthala.

 ...Respondent

**Present For:**

Petitioner : 1. Sh.R.S. Dhiman,

 Petitioner Representative (PR).

 2. Shri M.R. Singla,

 Petitioner Representative (PR).

Respondent : 1. Er. Ashwani Kumar,

 Additional Superintending Engineer,

 2. Er. Ramesh Chander,

 Asstt. Executive Engineer,

3. Ms. Kanica Aggarwal,

 Revenue Accountant (RA).

 Before me for consideration is an Appeal preferred by the Petitioner against the order dated 14.11.2018 in Case No. CG-343 of 2018 of the Consumers Grievances Redressal Forum (Forum) deciding as under:

“ (*a*) *Amount of Rs. 18,83,942/- charged to the Petitioner as per supplementary notice vide letter no. 1670 dated 31.07.2018 is justified and recoverable as per tariff applicable to mixed seasonal rice sheller.*

*(b) Amount charged Rs. 2,53,255/- by issuing supplementary notice vide letter no. 1562 dated 19.07.2018 is not justified hence refundable to the Petitioner.*

**2. Facts of the Case:**

The relevant facts of the case are that:

**(i)** The Petitioner was having a Large Supply (LS) Category connection (Mixed Load) with sanctioned load of 980 kW (General Load = 770.921 kW + Seasonal Load = 209.079 kW) and contract demand (CD) of 980 kVA. The Seasonal Load was of Rice Sheller.

**(ii)** The Petitioner was served a supplementary notice, vide Memo No. 1670 dated 31.07.2018, to deposit Rs.18,83,942/- on account of wrong billing done for the period from January 2018 to May 2018 as Single Part Tariff instead of Two Part Tariff was applicable to Mixed Seasonal Industry. Two Part Tariff became applicable w.e.f. 01.08.2018.

**(iii)** Aggrieved with the demand raised, the Petitioner filed a Petition dated 11.09.2018 in the Forum, who, after hearing, passed the order dated 14.11.2018 (Reference: Page 2, Para 1) and upheld the said demand raised by the Respondent.

1. Not satisfied with the decision of the Forum, the Petitioner filed

an Appeal in this Court and requested to quash the demand raised by the Respondent as the same was in violation of Tariff Orders.

**3. Submissions made by the Petitioner and the Respondent:**

Before undertaking analysis of the case, it is necessary to go through written submissions made by the Petitioner and reply of the Respondent as well as oral submissions made by the Representatives

of the Petitioner and the Respondent along with material brought on record by both the sides.

**(a) Submissions of the Petitioner**:

The Petitioner made the following submissions for the consideration of this Court:

1. The Petitioner was having a mixed Large Supply (LS) industrial connection for Rice Sheller and General Industry with Sanctioned Load of 980 kW (General Load 770.921 kW + Seasonal Load 209.079 kW) at 11kV supply.
2. The energy bills for the month of 06/2018 was issued by applying wrong tariff.
3. The Petitioner was served with a notice bearing No. 1670 dated 31.07.2018, to deposit an amount of Rs.18,83,942/- intimating that the bill issued in 06/2018 was correct as per clarification received from the PSPCL Head Office (IT Wing). It was also mentioned in the letter ibid that the Petitioner’s Unit was a Mixed Seasonal Rice Sheller, as such, billing from January 2018 to July 2018 was done as per Single Part Tariff.
4. In fact, the billing was required to be done as per General Conditions of Tariff in the Tariff Order for the Financial Year 2017-18 notified by the Hon’ble PSERC.
5. The provisions of General Conditions of Tariff were also the same for mixed load industry in the Tariff Order issued by the Hon’ble PSERC for the Financial Year 2018-19.
6. Not satisfied with the decision of the Forum, an Appeal was preferred in this Court with the request to quash the demand raised by the Respondent in violation of the Tariff Order.

**(b) Submissions of the Respondent:**

The Respondent, in its defence, submitted the following for consideration of this Court:

1. In the SAP Billing System, the Petitioner was wrongly placed in the Rate Category. The Petitioner had a mixed seasonal industry, but it was charged the rate applicable to General industry in the SAP System. The omission was rectified and billing for the month of 06/2018 was done @ 6.55/- unit, after getting the matter clarified from the PSPCL Head Office which informed the Respondent that Two Part Tariff was applicable to mixed industry with effect from 01.08.2018.
2. The Petitioner, having Rice Sheller connection was billed @ Rs. 6.55 per unit with effect from 01.01.2018 to 31.07.2018.
3. Actually, the bills for the period from 01.01.018 to 31.05.2018 were charged and issued to the Petitioner @ Rs. 5/- per unit plus fixed charges, which was wrong. The bills for the months of June 2018 and July 2018 were issued and deposited by the Petitioner @ Rs. 6.55 per unit.
4. As per Clause 18.5 of General Conditions of Tariff in the Tariff Order for the Financial Year 2018-19, Two Part Tariff was applicable to the Petitioner with effect from 01.08.2018.
5. Accordingly, the Petitioner was charged for the amount of Rs. 18,83,942/- on account of difference of Single and Two Part Tariff. The Petitioner did not agree with the amount charged to it and filed a Petition in the Forum who dismissed the same and upheld the amount charged to the Petitioner.
6. In view of the above submissions made, the Appeal may be dismissed.
7. **Analysis:**

The issue requiring adjudication is the legitimacy of the amount of Rs. 18,83,942/- charged to the Petitioner on account of difference of tariff applicable to Mixed Seasonal Rice Sheller for the period from 01/2018 to 05/2018.

*The points emerged are deliberated and analysed as under:*

1. During the course of hearing on 08.02.2019, Petitioner’s Representatives emphasized that the Forum erred in deciding that the Tariff as applicable to Mixed Seasonal Rice Sheller during the period from 01/2018 to 05/2018 was recoverable from the Petitioner. Petitioner’s Representative added that billing of the Petitioner for the period from 01/2018 to 05/2018 was required to be done as per Clause 18.5.3 of General Conditions of Tariff in the Tariff Order for the FY 2017-18. The Representatives of the Respondent (AEE, and RA, City No. 1 DS Sub Division, PSPCL, Kapurthala) did not agree to the submissions of the Petitioner’s Representative and contended that the decision of the Forum was correct as per Clause No. 18.5.4 of General Conditions of Tariff in the Tariff Order for the Financial Year 2017-18. With a view to arrive at factual position regarding the applicability of Tariff in the present case, the Respondent was directed to seek a clarification from the Hon’ble PSERC through Chief Engineer/ARR & TR, PSPCL, Patiala and submit the same to this Court by 01.03.2019 through email (oep.mohali@gmail.com).
2. In compliance to above directions of this Court, the Addl. S.E, DS City Division, PSPCL, Kapurthala, vide e-mail dated 08.03.2019, forwarded a copy of Memo No. PSERC/Tariff/3098 dated 06.03.2019 from Secretary, PSERC, Chandigarh to the Chief Engineer, ARR & TR, PSPCL, Patiala clarifying as under:

*“Condition 18.5.3 of General Conditions of Tariff (GCoT) annexed with Tariff Order FY 2018-19, specifies the amended procedure for billing of mixed industries comprising of seasonal industry and general industry and condition 18.5.4 of GCoT specifies the applicability of the same.*

 *Further, para 18.5.4 which specifies that the amended procedure for billing of seasonal industry shall be applicable for the season commencing during FY 2018-19, is to be read with para 18.2 wherein seasonal period of various seasonal industries has been specified.”*

 I would like to reproduce Clause 18.5.3 and 18.5.4 of General Conditions of Tariff annexed with Tariff Order for the Financial Years 2017-18 and 2018-19 as under:

*“18.5.3: For Mixed Industries, comprising of seasonal industry and general industry, billing shall be done monthly as under:*

1. *Energy Charges shall be levied on actual consumption recorded during the month, as applicable in respective Schedule of Tariff for General Industries throughout the year.*
2. *Fixed Charges in accordance with condition 9 above shall be levied on sanctioned general load/demand, as applicable in respective Schedule of Tariff for General Industry throughout the year and on sanctioned seasonal load/demand for six months at seasonal rates, as applicable in respective Schedule of Tariff, from the beginning of seasonal period irrespective of the actual period of running of seasonal load.”*

 *18.5.4: The amended procedure for billing of seasonal industry shall be applicable for the season commencing during FY 2018-19.”*

I have also gone through Commercial Circular (CC) No. 42/2018 dated 19.06.2018 issued by the PSPCL on the directions of the PSERC vide its Memo. No. PSERC/Tariff/ T-215/546 dated 08.06.2018 giving interpretation of Tariff Order for the Year 2018-19 as under:

***“a)*** *Single Part Tariff structure as applicable for Seasonal Industries during FY 2017-18 is to be continued for the remaining seasonal period i.e. upto 30.06.2018 for Rice Shellers and upto 31.05.2018 for other Seasonal Industrial consumers.”*

I observe that Clause 18.5.4 of the General Conditions of Tariff (GCoT) annexed to Tariff Order for the Financial Year 2017-18 and 2018-19 is a part of Clause 18 titled Seasonal Industry. A perusal, of Clause 18.5.4 shows that it gives the amended procedure for the billing of Seasonal Industries which includes exclusive Seasonal as well as Mixed Seasonal Industries as also clarified by the PSERC vide Memo. No. PSERC /Tariff / 3098 dated 06.03.2019 addressed to the Chief Engineer/ARR & TR, PSPCL, Patiala. Hence, the billing of seasonal industry for the seasonal period of the Year 2017-18 (upto 31.07.2018) for the period from January 2018 to July 2018 is to be done as per Commercial Circular (CC) No. 42/2018 i.e. as per Single Part Tariff.

1. **Conclusion:**

From the above analysis, it is concluded that the Petitioner has been correctly charged on account of difference of Tariff for the period from 01/2018 to 05/2018, vide supplementary notice, bearing No. 1670 dated 31.07.2018 for Rs. 18,83,942/- as also decided by the Forum.

1. **Decision:**

**As a sequel of above discussions, the order dated 14.11.2018 of the Forum in Case No. CG- 343 of 2018 is upheld.**

1. The Appeal is disposed of accordingly.
2. In case, the Petitioner or the Respondent (Distribution Licensee) 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 the Regulation 3.28 of the Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations – 2016.

 (VIRINDER SINGH)

March 20, 2019 LokPal (Ombudsman)

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