**COURT OF THE LOKPAL (OMBUDSMAN),**

**ELECTRICITY, PUNJAB,**

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

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

**APPEAL NO. 47/2019**

**Date of Registration : 13.08.2019**

**Date of Hearing : 03.10.2019**

**Date of Order : 10.10.2019**

**Before:**

 **Er. Virinder Singh, Lokpal (Ombudsman), Electricity.**

**In the Matter of**

Manmeet Singh,

 c/o M/S Vibrant Inc.,

V&P.O. Ramgarh,

Chandigarh Road,

Ludhiana.

 ...Petitioner

 Versus

 Senior Executive Engineer,

DS Estate Division(Special),

PSPCL, Ludhiana .

 ...Respondent

**Present For:**

Petitioner : 1. Sh. Parvesh Chadha,

 Petitioner’s Representative (PR).

 2. Sh.Kanwarjit Singh, Advocate,

 Petitioner’s Counsel (PC).

Respondent : 1. Er.Mandeep Kumar,

 AEE/DS, Tech Unit-3,

 PSPCL, Sahnewal

. 2. Sh.Krishan Singh, AAO,

 Estate Division (Special),

 PSPCL, Ludhiana.

 Before me for consideration is an Appeal preferred by the Petitioner against the decision dated 16.05.2019 in Case No. CGL-053 of 2019 of the Consumers Grievances Redressal Forum (Forum), Ludhiana stating as under:

***“(i)*** *Rs 3,86,055/- is recoverable from the Petitioner and Petitioner is liable to pay interest for the period as per Reg. 2.42 (ii) of Forum & Ombudsman Reg. 2016 and section VIII, Reg. 6(5)(ii) of ESIM 2018 as SBI base rate prevalent on 1st April of relevant year plus 2% for the period from the date of payment becomes payable/receivable.”*

**2. Facts of the Case:**

 The relevant facts of the case are that:

1. The Petitioner was having a Large Supply Category connection

with sanctioned load of 200 kW and contract demand (CD) of 200 kVA.

1. The account of the Petitioner was checked by Special Audit Party,

Sahnewal Camp which noticed that the payments were posted in excess therein by Rs 6,95,549/- on account of excess credit given through three No. Check Lots entered on dated 30.05.2016, 02.08.2016 and 08.10.2016, amounting to Rs 3,91,011/-, Rs 1,78,738/- and Rs 1,25,800/- respectively.

1. In view of the said observations of the Audit Party, the Respondent

issued Notice, bearing No. 130 dated 24.01.2019 for deposit of Rs 10,05,926/- (including Rs 3,10,377/- on account of interest ) to the Petitioner.

1. The Petitioner did not agree with the above Notice and filed a

Petition dated 26.02.2019 in the CGRF, Ludhiana who, after hearing, passed the order dated 13.06.2019. (Reference Page-2, Para-1).

1. Not satisfied with the decision of the Forum, the Petitioner preferred an Appeal in this Court and prayed to set aside th undue demand raised (including interest and late payment Surcharge) due to mistake on the part of the Revenue Accountant concerned.

**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 alongwith material brought on record by both the sides.

1. **Submissions of the Petitioner:**

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

1. The Petitioner was having a Large Supply Category connection, bearing Accoount No.3002959250 and deposited the consumption charges regularly as per the demand raised by the Respondent.
2. The Respondent issued a supplementary bill on 03.01.2019 to the Petitioner for a sum of Rs 31,76,809/-, on receipt of which, the Petitioner immediately contacted the Respondent. Since the Respondent did not entertain the Petitioner whereafter, the Petitioner contacted the Chief Engineer, Central Zone, PSPCL, Ludhiana, who directed the Respondent to hear the Petitioner. In compliance of said directions, the energy bill of the Petitioner was reviewed and after reducing the charges already collected incorrectly by the Respondent, raised a revised demand of Rs 10,05,926/- vide Memo No.130 dated 24.01.2019.
3. The amount charged through the said energy bill was not correct due to which the Petitioner filed a Petition in the CGRF, Ludhiana.
4. In response to the reply filed by the Respondent, the Petitioner filed rejoinder whereafter, the Respondent filed the reply to the rejoinder. Again the Petitioner submitted the calculation of the amount recoverable from it to the tune of Rs 2,70,429/-.
5. The amount which was found recoverable from the Petitioner was not raised at any time by the Respondent itself earlier to the raising of the energy bill dated 24.01.2019.
6. The Respondent also submitted the details of the amount claimed as recoverable (out of the energy bill for Rs.10.05,926/- from the Petitioner) which was to the tune of Rs 3,86,055/-,but there was an ambiguity in the calculation of the refundable amount. The amount required to be refunded was to the tune of Rs 11,55,426/ -but the Respondent showed refund of only a sum of Rs.10,50,660/- in the calculation. The details of the refundable amount was appended on the back side of the energy bill dated 15.04.2016 payable upto 25.04.2016.
7. The amount, which the Respondent refunded in less in the instant energy bill was to the tune of Rs 1,15,626/- i.e. (Rs.1,04,766 + Rs.10,860/- late payment surcharge= Rs.1,15,626/-) which was not payable by the Petitioner but the Forum treating the calculation submitted by the Respondent as correct, ordered that a sum of Rs 3,86,055/- were recoverable from the Petitioner when the detail brought on record by the Petitioner was based upon the calculations made by the Revenue Account at the relevant time, thus, in this way, the Petitioner was put to great injustice.
8. The Respondent claimed Rs.1,22,248/- as interest after the order passed by the Forum, though the same were not recoverable from the Petitioner since the Petitioner never withheld any payment of amount of the Respondent and made timely payments of each energy bill, which was raised/issued by the Respondent at the relevant time.
9. As per the provisions of Law, no interest was required to be recovered from the consumer who was not at fault.
10. The Respondent may be imparted directions not to recover amounting to Rs 1,15,626/- which in real sense was required to be refunded to the Petitioner. Similarly the directions may also be imparted to the Respondents not to charge the amount of the interest from the Petitioner since the applicant/Petitioner never remained at fault at any stage.

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

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

1. The Petitioner was having a Large Supply Category connection with sanctioned load of 200 kW and contract demand as 200 kVA.
2. The Account of the Petitioner’s connection was checked by the Special Audit Party which observed the payments found excess posting of Rs.6,95,549/- in the account of the Petitioner on account of excess credit given through 3 nos. Check Lots amounting to Rs 3,91,011/- (30.05.2016), Rs 1,78,738/- (02.08.2016) and Rs 1,25,800/- (08.10.2016).
3. In view of the above observations of the Audit Party, a Supplementary Notice, bearing No.130 dated 24.01.2019, for depositing of sum of Rs 10,05,926/- (including Rs.3,10,377/- on account of interest) was issued to the Petitioner.
4. The Petitioner did not agree with the said Notice and preferred to approach the CGRF, Ludhiana, instead of depositing the amount as per Notice ibid.
5. The Forum decided the Petition vide order dated 16.05.2019 and finalised the calculation for demand of Rs 3,86,055/- apart from the interest. Accordingly, a Notice, bearing MemoNo.857 dated 12.07.2019, was issued to the Petitioner for implementing the order of the Forum.
6. The Forum passed a speaking and reasoned order, as such, the Appeal be dismissed.

**4. Analysis**

 The issue requiring adjudication is the legitimacy of recovery of Rs 3,86,055/- on account of posting of credits in excess through Check Lots, Peak Load Exemption Charges (PLEC), Late Payment Surcharge etc. alongwith interest.

*The points emerging in the present dispute are deliberated and analysed as under:*

1. The present dispute arose after the account of the Petitioner’s connection was checked by the Special Audit Party which noticed excess posting of Rs 6,95,549/- in the account of the Petitioner on account of excess credit given through three Check Lots amounting to Rs 3,91,011/- (30.05.2016), Rs. 1,78,738/- (02.08.2016) and Rs 1,25,800/- (08.10.2016). In view of the above observations of the Audit Party, a Supplementary Notice, bearing No.130 dated 24.01.2019, for depositing a sum of Rs 10,05,926/- (including Rs 3,10,377/- on account of interest) was issued to the Petitioner. The Petitioner did not agree with the amount charged to it by the Respondent and approached CGRF, Ludhiana, who, vide order dated 16.05.2019, decided that a sum of Rs 3,86,055/- (as per calculations finalised) and also the interest thereon were recoverable from the Petitioner.

 I find that the present dispute relates to non payment of full amount of Energy Bill, Peak Load Exemption Charges (PLEC), and Late Payment Surcharge apart from the interest charged to it by the Respondent, vide Memo No.857 dated 12.07.2019 in compliance to order dated 16.05.2019 of the Forum. I also find that the Revenue Accountant corrected the bill dated 15.04.2016 (for the period from 01.07.2015 to 31.03.2016= 373 days) for Rs 16,20,120/- in its own hand and accepted the cheque for Rs.10,00,000/- for credit to the account of the Petitioner in the SAP Billing System by reversing the entries of disputed unpaid bills by incorrect usage of Check lots on its own without approval of the Competent Authority i.e. AEE/Commercial.

1. During the course of hearing on 03.10.2019, the Petitioner’s Representatives contended that a copy of the written reply of the Respondent was received by it through e-mail dated 02.10.2019 (a day before hearing) and they were not convinced with the accuracy of the calculations in support of the amount of Rs 3,86,055/- charged to the Petitioner. Petitioner’s Representatives (PRs) argued that the order of the Forum for charging interest to the Petitioner was not just and fair as the Petitioner was not at fault in the matter.

 I observe that Sr. Executive Engineer, DS Estate Division (Special), PSPCL, Ludhiana is responsible for not ensuring timely submission of reply to the Petitioner in this Court and also not furnishing a copy of reply to the Petitioner within stipulated period to enable it to file rejoinder, if any. This has been viewed seriously by the Court. Accordingly, the said Sr. Executive Engineer is directed to invariably ensure in future that replies to the Appeals preferred by the Petitioner in this Court are submitted to this Court within stipulated period and copies of the same be sent to the Petitioner simultaneously within the prescribed period.

1. Petitioner’s Representatives(PRs) also expressed disagreement with the calculations of charged amount of Rs 3,86,055/- and also objected to the charging of interest on the plea that the Petitioner was not at fault and was not liable to pay interest due to the omissions on the part of the PSPCL.

 With a view to resolve the differences over the calculations of the charged amount of Rs 3,86,055/-, the Representatives of the Petitioner and the Respondent were directed to sit together in the office of the Technical Advisor and thereafter come to the Court Room with a joint report after sorting out discrepancy, if any, in the calculation. Both the sides complied with the directions given and submitted a Joint Report, duly signed by Sh. Kanwarjit Singh(PC), Sh. Parvesh Chadha (PR), Sh. Mandeep Kumar, AEE/Commercial and Sh. Krishan Singh, AAO, DS Estate Division (Special), PSPCL, Ludhiana, stating as under:

“As per the discussion held on 03.10.2019 at the premises of the office of Ombudsman between AEE, Sahnewal and Krishan Singh, AAO and Kanwarjit Singh Advocate and Sh.Parvesh Chadha PR, both the parties agreed with the contention as submitted in the reply to the Petition filed by the PSPCL.

1. The calculation sheet of case No.47/2019. amounting to Rs 3,86,055/- is accepted being principal amount only recoverable.
2. Break up of Rs.3,86,055/-

Check Lot Rs. 2,28,062/-

PLE Charges Rs. 1,47,331/-

Late Payment Rs 10,662/-(Rs 979/-+9683/-)

Surcharge

 I have perused the statement ibid duly signed by the Representatives of both the sides and am of the view that the Petitioner’s Representatives (PRs) have agreed/admitted the liability to make payment of unpaid amount of Rs 2,28,062/- relating to energy bill wrongly corrected by the Revenue Accountant and reversed by incorrect usage of Check Lots in the SAP Billing System. Besides, PRs admitted that Peak Load Exemption Charges of Rs 1,47,331/-, not charged earlier to the Petitioner in the relevant Energy bills are chargeable to the Petitioner. At the same, similarly, Late payment Surcharge of Rs.979/- and Rs 9683/-, as decided by the Forum, are recoverable because the Petitioner had deposited the relevant energy bills after due date of the payment.

 However, I am of the view that the Petitioner is required to be charged interest on the Check Lot amount of Rs 2,28,062/- as the Petitioner being a Large Supply Category consumer defaulted in exercising necessary prudence and vigilance over the accuracy of the amount of the energy bill corrected erroneously by the Revenue Accountant on its own without approval of Competent Authority i.e AEE/Commercial.

I observe that interest on Peak Load Exemption Charges (PLEC) is not required to be charged because the Respondent itself was responsible for not charging/claiming the PLEC in the relevant energy bills.

I also observe that the interest on Late Payment Surcharge is not leviable because the Petitioner has already made the payment, after due date, with applicable surcharge approved by the Hon’ble PSERC in the Tariff Order of the relevant Financial Year.

My observations and findings are based on the reasoning that the Revenue Accountant acted beyond its jurisdiction by correcting the bill ibid in its hand and in the SAP billing system by reversing the entries and crediting the amount of disputed unpaid amount to the account of the Petitioner by usage of check lots, on its own without the approval of Competent Authority i.e AEE/Commercial.

 I observe from the perusal of the calculation sheet that part payments were made by the Petitioner, who being a Large Supply Category consumer cannot escape responsibilities by not examining the matter in proper perspective and not maintaining proper records of bills received and paid and not ensuring to make the payments accordingly. At the same time, the Respondent defaulted in performing its duty efficiently and intelligently by not discharging the function/responsibilities as per its own instructions for timely realization of its legitimate dues from the consumer.

**5. Conclusion:**

From the above analysis, it is concluded that :

1. Petitioner is liable to make payment of Rs 2,28,062/- relating to energy bills wrongly corrected by the Revenue Accountant and reversed by incorrect usage of Check Lots in the SAP Billing System.
2. Peak Load Exemption Charges of Rs 1,47,331/-, not charged earlier to the Petitioner in the relevant energy bill, are chargeable to the Petitioner.
3. Late payment Surcharge of Rs 979/- and Rs 9683/- are recoverable because the Petitioner had deposited the relevant energy bills after due late of their payment.
4. Petitioner is required to be charged interest on the Check Lot amount of Rs.2,28,062/- as the Petitioner being a Large Supply Category consumer defaulted in exercising necessary prudence and vigilance over the accuracy of the amount of the energy bill corrected erroneously by the Revenue Accountant on its own.
5. Interest on PLE Charges is not required to be charged because the Respondent itself was responsible for not charging the PLEC in the relevant energy bill.
6. Interest on Late Payment Surcharge is not leviable because the Petitioner has already made the payment, after due date, with applicable surcharge approved by the Hon’ble PSERC in the Tariff Order of the relevant Financial Year.

**6.** **Decision:**

**As a sequel of above discussions, the order dated 16.05.2019 of the CGRF, Ludhiana in Case No. CGL-053 of 2019 is modified in terms of conclusion arrived at in Para-5 above. Accordingly, the Respondent is directed to recalculate the demand and refund/recover the amount found excess/short after adjustment, if any.**

**7.** The Appeal is disposed of accordingly.

**8**. In case, the Petitioner 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.

 (VIRINDER SINGH)

 October 10, 2019 Lokpal (Ombudsman)

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