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

 **ELECTRICITY, PUNJAB,**

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

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

 **APPEAL NO. 10/2020**

**Date of Registration : 07.02.2020**

**Date of Hearing : 10.06.2020**

**Date of Order : 12.06.2020**

**Before:**

**Er. Gurinder Jit Singh,**

 **Lokpal (Ombudsman), Electricity, Punjab**.

**In the Matter of :**

M/s Kiran Rice and

General Mills (P) Ltd.,

Ramgarh Road,

Sahnewal, Ludhiana.

**Contract Account Number: 3003018403**

...Appellant

 versus

Additional Superintending Engineer,

DS Estate Division (Special),

PSPCL, Ludhiana.

 ...Respondent

**Present For:**

Appellant : Sh. Kiranpal Singh

 Appellant’s Representative (AR).

Respondent : 1. Er. Kulwinder Singh

 Addl. Superintending Engineer,

 DS Estate Division (Special),

 PSPCL, Ludhiana.

 2. Sh. Rishav Singla

Revenue Accountant (RA).

 Before me for consideration is an Appeal preferred by the Appellant against the order dated 12.07.2019 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-157 of 2019, deciding that:

 *“The supplementary bill issued to the Petitioner vide memo no. 684 dated 16.05.2019 is not in order because it has been issued considering sanctioned load of 149.23 kW/170 kVA CD up to 18.05.2016 and 35 kW/35 kVA CD from 19.05.2016 to 31.01.2017 with consumption of 29440 kVAh. The bill of the Petitioner be revised by considering SL of 35 kW/35 kVA CD w.e.f. 31.01.2016 to 31.01.2017 with consumption 29440 kVAh. The reconnection of the consumer may be done immediately as per Rules & Regulations of the Corporation.”*

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

A scrutiny of the Appeal and related documents received in this Court on 07.02.2020 revealed that the Appellant had deposited the whole disputed amount of ₹ 4,35,469/-as per revised demand raised by the Respondent pursuant to the decision of the Forum. It deposited ₹ 1,58,682/- on 10.06.2019 and ₹ 2,76,787/- on 14.01.2020. The Appellant also submitted an application stating that it was served with the revised bill for ₹ 4,35,469/- on 10.01.2020 and had accordingly filed the Appeal within one month of receipt of the same.

Accordingly, the Appeal was registered in this Court on 07.02.2020 and a copy thereof was sent to the Addl. S.E, DS Estate Division (Special), PSPCL, Ludhiana for sending written reply/parawise comments with a copy to office of the CGRF, Ludhiana for sending the case file under intimation to the Appellant vide letter No. 111-13/OEP/A-10/2020 dated 07.02.2020.

**3.** **Proceedings**

A hearing to adjudicate the dispute was fixed for 30.03.2020 at 12.00 Noon as per intimation sent to both the Appellant and the Respondent vide Memo No. 153-54/OEP/A-10/2020 dated 18.02.2020. Subsequently, hearing was adjourned till further orders due to COVID-19 pandemic and both the sides were informed accordingly vide Memo No. 296-97/OEP/A-10/2020 dated 20.03.2020. Thereafter, the hearing was fixed for 10.06.2020 at 11.15 AM as per intimation sent to the Appellant and the Respondent vide Memo No.397/398/OEP/A-10/2020 dated 04.06.2020. Accordingly, the hearing was held on the said date and time and attended by the representatives of both the sides. A copy of the proceedings was sent to the Appellant and the Respondent vide Memo No. 420-21/OEP/A-10/2020 dated 10.06.2020.

**4. Condonation of Delay**

At the start of hearing on 10.06.2020, the issue of condonation of delay was taken up. The Appellant submitted that pursuant to the issuance of order dated 12.07.2019 by office of the CGRF, Ludhiana, vide Memo No. 096/CGL-157/2019 dated 16.07.2019, a Memo No. 79 dated 10.01.2020 alongwith the revised bill was served on the Appellant, In response, the Appellant deposited the bill and preferred an Appeal in this Court on 07.02.2020 i.e. within one month of receipt of the revised bill. The Appellant’s Representatives prayed to admit the Appeal in the interest of justice.

I find that the Respondent did not object to the request of the Appellant’s Representative for condonation of delay either in the written reply to the Appeal or during hearing.

In this connection, I have gone through Regulation 3.18 of PSERC (Forum and Ombudsman) Regulations, 2016 which reads as under:

*“No representation to the Ombudsman shall lie unless:*

*The representation is made within one month from the date of receipt of the order of the Forum.*

*Provided that the Ombudsman may entertain a representation beyond one month on sufficient cause being shown by the complainant that he/she had reasons for not filing the representation within the aforesaid period of one month.”*

I observe that though the Appellant has given reasons for the delay but the same are not convincing.

I also observe that non condonation of delay in filing the Appeal would deprive the Appellant of the opportunity required to be afforded to present its case. With a view, therefore, to meet the ends of ultimate justice, the delay in preferring the Appeal beyond stipulated period is condoned and the Appellant is afforded the opportunity to present its case.

**5.** **Submissions made by the Appellant and the Respondent**

With a view to adjudicate the dispute, it is necessary to go through written submissions made in the Appeal by the Appellant and reply of the Respondent as well as oral submissions made by their respective representatives alongwith material brought on record by both the sides.

1. **Submissions of the Appellant**
2. **Submissions made in the Appeal**

The Appellant submitted the following, in its Appeal, for consideration of this Court:

1. The Appellant was having a Medium Supply Category connection, bearing No. 3003018403 with sanctioned load of 35 kW.
2. The connection of the Appellant was disconnected on 31.03.2018 due to non-payment of energy bill. However, the Appellant deposited the unpaid bill after 31.03.2018. Thereafter, the Appellant requested the Respondent to restore the connection of the Appellant. But, the Respondent issued the Supplementary bill vide Memo No. 648 dated 16.05.2019 for ₹ 7,83,487/-.
3. Aggrieved with the said supplementary bill, a case was filed in

office of the CGRF, Ludhiana, who decided the case vide order dated 12.07.2019.

1. Subsequently, the Respondent issued Memo No. 79 dated

10.01.2020 raising a demand of ₹ 4,35,469/-. The Appellant paid the said amount.

(v) The demand raised by the Respondent - PSPCL was unfair,

unlawful and unacceptable. The above demand may be waived off in the interest of justice.

1. **Submissions during Hearing**

The Appellant’s Representative reiterated the submissions made in the Appeal and prayed to allow the same.

1. **Submissions of the Respondent**
2. **Submissions made in the Written Reply**

The Respondent, in its reply made the following submission for consideration of the Court:

1. The account of the Appellant was running in LS category under

Sahnewal Sub Division with 149.23 kW sanctioned load and 170 kVA contract demand upto 18.05.2016.

1. Subsequently, the load and contract demand of the Appellant was reduced to 35 kW and 35 kVA respectively on the request of the Appellant as per A & A No. 100001825938 dated 08.04.2016 effected on 18.05.2016.
2. The account of the consumer was checked by the Special Audit

Party, Sahnewal Camp. A check lot amounting to ₹ 19,34,440/- was checked by the Special Audit and it was reported that:

“As per SCA No. 11/64/R-258 no supporting documents were found in sundry register and as per CD reduction case, it seems that CD has been reduced as per norms of PSPCL in SAP. Narration given is not satisfactory. Bill from 31.01.2016 to 31.01.2017 generated all together whereas monthly bills to be generated. This bill generated reflecting units 29,440 kVAh and energy charges ₹ 13,04,075/- seems abnormal. So, Sahnewal is required to make correct bill as per monthly reading and take corrective measures. Account is already PDCO.”

1. Earlier, a bill for ₹ 19,34,436/- for consumption of 29440 kVAh was generated and was adjusted with check lot amounting to ₹ 19,34,440/- on 05.07.2017. Subsequently, a supplementary notice, bearing No. 648 dated 16.05.2019, amounting to ₹ 7,83,487/- (including ₹ 1,98,140/- on account of interest) was issued alongwith calculation sheet.
2. Thereafter, on the basis of finalized report of Special Audit, the

calculation sheet had been prepared considering CC No. 40/2012 related to Rice Shellers and a notice was issued to the Appellant on account of billing for the period 31.01.2016 to 31.01.2017 against consumption of 29440 kVAh. The consumer did not agree with the above said notice, hence, approached the CGRF, Ludhiana and deposited a sum of ₹ 1,58,682/- (i.e 20% of the disputed amount) on 10.06.2019.

1. The Appellant had applied for reduction of load from 149.23

kW/170 kVA CD to 35 kW load/35 kVA CD on 28.12.2015. The application of the Appellant was received in the office of AEE Sahnewal on 28.12.2015. But, the load was reduced on 18.05.2016 against A & A Form dated 08.04.2016. The Forum decided the Appeal in the light of Instruction No. 27.4 of ESIM according to which, reduced contract demand of the Appellant was deemed to have been sanctioned for the purpose of billing after 30 days of the receipt of application dated 28.12.2015. The case was decided by the Forum on 12.07.2019.

1. In compliance to the decision of the Forum, the Appellant was

issued final notice and was charged ₹ 4,35,469/- (including

 ₹ 1,52,554/- on account of interest) instead of earlier demand of ₹ 7,83,487/- (including ₹ 1,98,140/- on account of interest). Not satisfied with the decision of the Forum, the consumer had now filed Appeal in this Court. The Appellant has deposited balance recoverable amount of ₹ 2,76,787/- (4,35,469-1,58,682) on 14.01.2020.

1. The Appellant had not submitted the Appeal properly and had

not mentioned the grounds for filing the Appeal. The office of the Respondent also tried to convey the message to the Appellant to deliver the copy of the Appeal particularly mentioning the grounds of Appeal.

1. The Forum had correctly decided the case.
2. In view of the submissions made, the Appeal may dismissed.
3. **Submission during Hearing**

During the hearing on 10.06.2020, the Respondent reiterated the submissions already made in the written reply and prayed to dismiss the Appeal.

**6.** **Analysis and Findings**

The issue requiring adjudication is the legitimacy of the revised demand raised by the Respondent, vide Memo No. 79 dated 10.01.2020, for ₹ 4,35,469/- (including interest of ₹ 1,52,554/-) for the period 31.01.2016 to 31.01.2017.

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

1. As per material on record, the Appellant gave an application on 28.12.2015 on a plain/simple paper in the office of the Respondent (Diary No. 914 dated 28.12.2015) for reduction in load/CD whereas, the request for reduction in load/CD was required to be made on A&A Form as per Regulation 8.5 of Supply Code-2014 which reads as under:

**“8.5 Reduction in Sanctioned Load/Demand**

The request for reduction in connected load/demand by a consumer shall be submitted on A& A form prescribed by the distribution licensee alongwith processing fee and electrical contractor’s test report. The request shall be granted by the distribution licensee within a maximum period of fifteen (15) days from the date of its submission failing which the load/demand shall be deemed to have been reduced as requested by the consumer.”

I find that though the Appellant requested the Respondent in writing for reduction in load/CD on 28.12.2015, no action was taken by the Respondent. I observe that A & A Form and other documents were submitted by the Appellant to the Respondent on 08.04.2016.

1. A perusal of the Application dated 28.12.2015 and A & A Form, (submitted on 08.04.2016) revealed that there was cutting/overwriting in respect of load mentioning reduction from 20 kW to 35 kW, whereas self declaration form submitted by the Appellant showed the reduction in load from 149.200 kW to 35 kW. I find that Job Order for Device Replacement was issued on 08.04.2016 and was finalised on 18.04.2016.
2. The Appellant was issued bill dated 03.02.2017 for the period 31.01.2016 to 31.01.2017 for 366 days for the consumption of 29440 kVAh units. The Energy Charges were ₹ 13,04,075/- and amount of bill was ₹ 24,90,020/-.This bill was corrected manually by the Respondent for ₹ 1,92,950/- which was deposited on 08.03.2017. However, in SAP billing system, a check lot of ₹ 19,34,440/- was posted on 05.07.2017 as per chronology of payment. The account of the Appellant was checked by Special Audit Party and it was reported that:

*“As per Sundry Charges adjustment No 11/64/R-258, no supporting documents were found in Sundry Register and as per CD reduction case, it seems that CD has been reduced as per rules of PSPCL in SAP. Narration given is not satisfactory. Bill from 31.01.2016 to 31.01.2017 generated all together whereas monthly bills were to be generated. This bill generated reflecting units 29,440 kVAh and energy charges of ₹13,04,075/- seems abnormal. So, Sahnewal is required to make correct bill as per monthly reading and take correct measures. Account is already PDCO”.*

1. It is observed that the Forum erred in deciding the matter as per

provisions of ESIM-2011. Based on the above provision of ESIM, the Forum decided to take deemed date of reduction in load/CD from 27.01.2016 i.e. 30 days from the date of submission of application dated 28.12.2015. This is not consistent with Regulations in Supply Code-2014.

I observe that provisions contained in Regulation 8.5 of Supply-Code -2014 are relevant in this case.

I am of the view that the deem date for reduction in load/CD is required to be taken as 18.04.2016 as per Job Order dated 08.04.2016 for device replacement.

As a result, the supplementary bill issued to the Appellant, vide Memo No. 79 dated 10.01.2020, is not in accordance with provisions of Regulation 8.5 of Supply Code-2014. The bill of the Appellant is required to be revised by considering sanctioned load of 35 kW/35kVA CD w.e.f. 18.04.2016.

1. The plea of the Appellant for not levying surcharge/interest on

the amount of disputed bill issued to it after 366 days is without merit. The Appellant was not served with regular bills for a year enabling it to utilise the payable amount for energy consumed at its own end. Moreover, the Appellant did not bring any evidence on record to the effect that it had ever pointed out the fact of non issuance of the monthly energy bills to the Respondent. There is no prayer in the Appeal for waiving of surcharge/interest. As such, surcharge/interest is recoverable from the Appellant as per instructions of PSPCL.

**7.** **Decision**

 As a sequel of above discussions, the order dated 12.07.2019 of the CGRF, Ludhiana in Case No. CGL-157 of 2019 is set-aside. The bill for the period 31.01.2016 to 31.01.2017 should be revised considering sanctioned load of 149.23 kW/170 kVA CD upto 17.04.2016 and 35 kW/35 kVA CD from 18.04.2016 to 31.01.2017 with consumption of 29,440 kVAh. Surcharge /interest on the revised billed amount shall be recoverable from the Appellant. Accordingly, the Respondent is directed to recalculate the demand and refund/recover the amount found excess/short after adjustment, if any.

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

**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.

 June, 12 2020 (GURINDER JIT SINGH)

 SAS Nagar (Mohali) Lokpal (Ombudsman)

 Electricity, Punjab.