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

 **ELECTRICITY, PUNJAB,**

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

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

 **APPEAL NO. 15/2020**

**Date of Registration : 25.02.2020**

**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 :**

Kangaro Industries Limited,

Staple Unit- III,

Village Kanech, Sahnewal,

 Ludhiana.

**Contract Account Number: 3003018338**

...Appellant

 versus

Additional Superintending Engineer,

DS Estate Division (Special),

PSPCL, Ludhiana.

 ...Respondent

**Present For:**

Appellant : 1. Sh. Jaswant Singh

 Appellant’s Representative (AR).

 2. Sh. Sandeep Sachdeva

 Appellant’s Representative (AR).

Respondent : 1. Er. Kulwinder Singh

 Additional 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 27.01.2020 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-374 of 2019, deciding that:

 *“As per Regulation 27.1.13 of ESIM, the Load/CD of the Petitioner is deemed to be sanctioned/released from 11.04.2018, the date he complies with all the formalities, hence difference of fixed charges be charged from 11.04.2018 and not from 24.03.2018.”*

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

A scrutiny of the Appeal and related documents revealed that the same was received in this Court on 25.02.2020 i.e. within a month of receipt of decision dated 27.01.2020 of the Forum. The Appellant had also deposited the full disputed amount of ₹ 8,07,290/- under protest on 03.12.2019. Besides, the Appellant also submitted certification letter from the Registrar of Companies, Punjab, Memorandum of Association and Authority Letter in favour of its representative. Therefore, the Appeal was registered and copy of the same was forwarded to the Respondent for sending written reply/parawise comments and also to office of the CGRF, Ludhiana for sending the Case File under intimation to the Appellant vide Memo No.174-76/OEP/A-15/2020 dated 25.02.2020.

**3.** **Proceedings**

With a view to adjudicate the dispute, a hearing was fixed for 30.03.2020 at 12.30 PM and intimation to this effect was given vide letter No. 206-07/OEP/A-15/2020 dated 02.03.2020. But, due to COVID 19 pandemic, the hearing was adjourned till further orders and both the sides were informed accordingly vide letter No. 294-95/OEP/A-15/2020 dated 20.03.2020. The hearing was refixed for 10.06.2020 at 11.30 AM as per intimation sent vide Memo No.395/396/OEP/A-15/2020 dated 04.06.2020.

In the said hearing i.e 10.06.2020, the representatives of both the Appellant and the Respondent attended the Court. A copy of the proceedings was sent to both the sides vide letter No. 422-423/OEP/A-15/2020 dated 10.06.2020.

**4.** **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 along with material brought on record by both the sides.

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

The Appellant made the following submissions in the Appeal, received on 25.02.2020, for consideration of this Court:

1. The Appellant is having a Large Supply Category connection with sanctioned load of 8000 kW and CD as 4200 kVA and is getting supply at 66 kV from 220 kV Grid, Sub-Station, Sahnewal.
2. AEE, DS Sub Division, PSPCL, Sahnewal issued Supplementary Bill cum Notice bearing No. 1704 dated 18.11.2019 for ₹ 8,07,290/- showing SOP charges ₹ 6,73,600/- and ED+IDF+MT charges ₹ 1,33,690/- . In the details given in the notice, it was mentioned that the amount had been charged by the Audit Party.
3. A scrutiny of the Audit Party’s Half Margin No. 18 dated 26.09.2019 showed that the Audit had charged the above amount as fixed charges for the period 24.03.2018 to 20.06.2018 which was a part of monthly billing tariff on the extension in contract demand applied for 1200 kVA misinterpreting the Instruction No. 27.1.3 of ESIM.
4. The Audit had raised the audit observation without verifying the facts from the record and without applying provisions as applicable at relevant point of time.
5. As the amount charged was not as per instructions of PSERC and PSPCL, the Appellant requested the Respondent with detailed letter to reconsider and withdraw the demand raised by the Audit.

After waiting for the reply from the Respondent and finding no response, the Appellant deposited the full disputed amount under protest vide letter no. KIL/L/19-20/102 dated 03.12.2019 and receipt no. 137846896 dated 03.12.2019 was issued.

1. The Appellant filed Case No. CGL-374/2019 in office of the CGRF, Ludhiana for review of disputed amount. After hearing the Case, the Forum passed order dated 27.01.2020.
2. The Forum did not discuss, rather, ignored the facts stated in

the Petition and erred in interpreting the ESIM Instructions and Supply Code Regulations while deciding the dispute case. The said decision of the Forum was not acceptable to the Appellant.

1. The Appellant applied for increase in contract demand with

 increase in connected load as per details given below:

1. Contract demand from 3000 kVA to 4200 kVA
2. Connected load from 4799.78 kW to 8000 kW
3. Feasibility was cleared by the FCC as conveyed vide Memo No.

1309 dated 08.09.2017, whereafter, the Appellant submitted the A&A Form for registration along with the requisite documents on 21.09.2017.

1. The Demand Notice was issued by the Respondent vide Memo No. 756 dated 11.10.2017 vide which the Appellant was asked to deposit ₹ 4,50,000/- as Service Connection Charges as per Instruction 27.1.1 of ESIM and also asked to submit the test report along with detail’s of electrical equipment and machinery installed duly cleared by the Chief Electrical Inspector, Punjab.
2. Accordingly, the Appellant deposited SCC only vide transaction no. 147672 dated 24.03.2018 and submitted test report alongwith requisite documents on 11.04.2018 in compliance of demand notice.
3. The Respondent issued the Sundry Job Order (SJO) No. 188 dated 11.04.2018 as per intimation given to the Appellant on 17.05.2018 and at the same time, kWh/kVAh readings of Energy Meter at Appellant’s premise were recorded and the MDI on the Energy Meter was reset.
4. The official concerned of the PSPCL, after effecting compliance

of SJO on 17.05.2018, released the extension of load on 24.05.2018.

1. The provisions of Instruction No. 27.1.3 of ESIM were not applicable in the case of the Appellant as the same were applicable in cases, where there was Extension in connected load without increase in contract demand by HT/EHT Consumer. The relevant Instructions of ESIM were reproduced as under:

***27.1.1***  *“In case of HT/EHT consumers increase in contract demand with or without increase in connected load shall be treated an application for additional load and the same shall be governed by the provisions of Regulation 9.1.2 of the Supply Code for the purpose of recovery of Service Connection Charges. The conditions laid down in Instruction No. 3.3.7 in regard to UUE/theft of electricity or defaulting amount shall be applicable in such cases.*

***27.1.2***  *Consumers desirous of availing additional load without any change in contract demand may avail such additional load by informing PSPCL about increase in load which may be recorded in the A&A form. However, the provisions of Instruction no. 3.3.7 in regard to UUE/Theft of Electricity or defaulting amount shall be applicable in such cases. The consumer will submit new A&A Form and new Test Report along with details of extension in load applied.*

***27.1.3*** *After compliance of the above stipulations,* ***the extension in load*** *shall be deemed to have been sanctioned/released from the date, the consumer registers his application and complies with the formalities. Simultaneously, AE/AEE/XEN (DS) shall forward the new A&A Forms to the competent authority directly for sanction of load and acceptance of new /A&A Forms”.*

1. From the perusal of the above Instruction No. 27.1.3, it is evident that the same is applicable where there is only extension in load without increase in contract demand and does not apply in case of increase in contract demand with and without increase in connected load.

 However, in Appellant’s case, there was increase in contract demand from 3000 kVA to 4200 kVA with increase in connected load from 4799.78 kW to 8000 kW. Thus, the Appellant’s case is not covered under Instruction 27.1.3 of ESIM.

1. As is evident from the Instruction No. 27.1.3 of ESIM, there is no procedure/provision for issue of SJO and recording of reading and verification of test report and release of connection. This fact, was ignored by the Forum while deciding the case.
2. Regulation 6 of Supply Code – 2014 laid down the procedure

 under the heading procedure for release of connection/additional Load/Demand.

1. Regulation 6.8.6 of Supply Code - 2014 is for compliance of demand notice by the Appellant and receipt of test report by the Respondent and is reproduced as under:

*“In addition to payment of the specified charges, the applicant shall also have to submit the Test Report within the time period specified in the Demand Notice unless the Demand Notice period is got extended from the competent authority or deemed extension allowed as per regulation 6.8.8(b). After the applicant submits Electrical Contractor’s Test Report of the installation, distribution licensee shall release the connection after acceptance of test report as per seniority within the stipulated period as per regulation 8 of the Supply Code.”*

1. Regulation 6.9.1of Supply Code-2014 under heading Testing of Consumer’s Installation is as below:
2. *“Upon receipt of an application for new or additional supply of electricity and before connecting the supply or reconnecting the same to the licensee’s supply line after a period of six months, the licensee shall either test the installation himself or accept the test results submitted by the consumer when the same has been duly signed by the Licensed Electrical Contractor.*
3. *It shall be the duty of the licensee to satisfy before connecting or reconnecting the supply to any premises that the applicant has complied with all the provisions of Central Electricity Authority (Measures Relating to Safety and Electric Supply) Regulations, 2010 as amended from time to time.”*
4. In compliance to above Regulation 6.8.6 of Supply Code-2014, test report was submitted by the Appellant and as per Regulation 6.9.1 of Supply Code-2014, SJO was issued by the Respondent for testing of the installation done on 17.05.2018 and connection was released on 24.05.2018.
5. In the Appellant’s case, SJO was issued by the Respondent PSPCL on 11.04.2018. The Appellant’s premise was visited on 17.05.2018 for effecting the SJO and at the same time, kWh/kVAh reading of Energy Meter were recorded and the MDI of Energy Meter was reset by the PSPCL after verification of test report. The official concerned of the PSPCL also got signatures of the Appellant’s representative on the SJO. The extension of load and contract demand was released by the Respondent on 24.5.18.

 The Respondent, in its written reply to the Forum admitted all the facts mentioned above on the issue of SJO and observed that the load and contract demand was extended vide SJO No. 188/0006 dated 11.04.2018 effected on 17.05.2018 and released on 24.05.2018. The Forum did not also take into account the above categorical admissions on behalf of the Respondent.

1. The Appellant started using the additional load and demand

released by the Respondent in the month of June, 2018. This was proved from the fact that maximum demand during May, 2018 was 2076 kVA and in June, 2018, was 2277 kVA. Consumption Data of the Appellant from the year 2016 to 2019 was called for by the Forum from the Respondent but the same was completely ignored.

1. It was only in case of extension of load only to which Instruction 27.1.3 of ESIM was applicable once the consumer got registered its Application and complied with the formalities, the connection was deemed to have been sanctioned/released and no further report like, issue of SJO, verification of test report and connection release were required.
2. The Appellant was covered under Instruction No. 27.1.1 of ESIM i.e. increase in contract demand with increase in connected load and the provisions of Regulation 9.1.2 of Supply Code-2014 were applicable. The Appellant had deposited Service Connection Charge as mentioned above.
3. As per Regulation 8 of Supply Code-2014, Time Limits for

release of new connection/additional load /demand were specified and reproduced below:

*“The distribution licensee shall provide supply of electricity to the premises pursuant to the application submitted under regulation 6 within time limits mentioned hereunder:*

*a) Within thirty (30) days from the date of compliance of the Demand Notice where no augmentation, erection and extension of distribution main, erection/augmentation of distribution transformer or power transformer is required for effecting such supply.”*

1. In the event of inconsistency in the instructions contained in

ESIM, provisions of Supply Code-2014 (as amended from time to time) and Electricity Act- 2003 will prevail.

1. From the above, it is very clear that in the case of the Appellant, when there is extension of load and demand, decision of the Forum is wrong.
2. Even otherwise, the fixed charges are charged on the basis of contract demand and not on the basis of load. Thus, Instruction No. 27.1.3 of ESIM is not applicable to the Appellant.
3. Thus, it is very clear that extension of load and demand was released by the Respondent PSPCL on 24.05.2018 and assumption of the Forum to apply Instruction No. 27.1.3 of ESIM and to fix the date as 11.04.2018 in Appellant’s case is wrong.
4. In view of the submissions made, the decision of the Forum is unjustified and against the instructions of the PSPCL/PSERC and is liable to be set aside. Besides, supplementary bill/demand dated 18.11.2019 for ₹ 8,07,290/- as fixed charges from 24.03.2018 raised by the Audit team may also be quashed. It is also prayed that the amount deposited under protest be refunded along with interest as per instructions of the PSPCL.
5. **Submissions of the Appellant in Rejoinder**

The Appellant, in its rejoinder (received on 04.06.2020) to the written reply of the Respondent submitted the following for consideration of the Court.

1. It is an admitted case from facts and documents that the connection was released on 24.05.2018 as is evident from the fact that SJO issued on 11.04.2018 on the same very date of submission of Test Report and completion of other formalities by the consumer. Readings were recorded and MDI was reset on 17.05.2018 as per SJO No. 188/0006 dated 11.04.2018.
2. The Respondent had not denied the fact that the connection was released on 24.05.2018 and had not offered any explanation to categorical assertion regarding the same .The Appellant’s contention was that extension of load and contract demand was admittedly effected on 17.05.2018 and the same was released on 24.05.2018 .The fixed charges on extended contract demand of 1200 kVA should have been charged w.e.f. 24.05.2018.
3. The Forum had not considered the categorical admission by

Respondent that the connection was released on 24.05.2018 in pursuance of SJO dated 11.04.2018 effected on 17.05.2018.

1. The decision of the Forum was contrary to its own view. The Forum had itself observed that the Instruction No. 27.1.3 of ESIM was very much connected to Instruction No 27.1.2. It was admitted fact that the Appellant’s case was covered under Instruction 27.2.2.of ESIM. The relevant paras from the order of the Forum were reproduced for ready reference as under:

“Forum observed that audit party has considered the date when Petitioner deposited the amount of Demand Notice, whereas he submitted the Test Report and other documents on 11.04.2018 which were part of the formalities to be complied by the consumer. Therefore, Forum is of view that Regulation 27.1.3 is very much connected to Regulation 27.1.2, therefore the date of 11.04.2018 is required to be considered as the date when he made compliance of the formalities as per regulations and load/CD is considered to be deemed sanctioned/released from this date.

As per Regulation 27.1.3 of ESIM, the Load/CD of the Petitioner is deemed to be sanctioned/released from 11.04.2018, the date he complies with all the formalities, hence difference of fixed charges be charged from 11.04.2018 and not from 24.03.2018.”

1. It is reiterated that Instruction No. 27.1.3 of ESIM had been misinterpreted and the said instructions are not applicable to the Appellant. The Respondent had made general denial. Audit had not verified facts from the record and had not taken into account the facts even admitted by the Respondent in their reply “The load and contract demand was extended vide
SJO No. 188/0006 dated 11.04.2018 effected on 17.05.2018.” Audit also had not taken into consideration that the connection was released on 24.05.2018.
2. The Respondent had confirmed the fact that the Appellant deposited the full amount under protest and had filed Petition before the Forum. Since the decision of the Forum is contrary to facts and law, as such the Appeal had been filed in this Court. Instruction No. 27.1.1 of ESIM related to increase in contract demand with or without increase in connected load.
3. Instruction No. 27.1.2 is regarding Extension in connected load without increase in contract demand by HT/EHT consumers:

Instruction 27.1.3 dealt with only extension in load and does not deal with increase in contract demand and is not applicable where there is increase in contract demand. It is an admitted fact that contract demand had been increased from 3000 kVA to 4200 kVA.

It is reiterated that Instruction No. 27.1.3 of ESIM is not applicable to the Appellant since the procedure of issue of SJO, recording of reading and release of connection etc. had been followed as mentioned hereinabove which is not envisaged under Instruction No. 27.1.3 of ESIM.

If, in case both Instruction No. 27.1.1 and 27.1.2 of ESIM are to be deemed from the date of compliance of Demand Notice, then, there was no necessity of issuing SJO no 188 dated 11.04.2018 which was effected on 17.05.2018 and at the same time, kWh/kVAh readings of Energy Meter at Appellant’s premise were recorded and the MDI on the Energy Meter was reset. The Appellant started using the extension of load after 24.05.2018 i.e. the date of release of connection.

1. As already submitted, Regulation 8.1 (a) of Supply Code-2014 had been misinterpreted. It is very clear that as per this regulation, the extension of load and Contract Demand had to be released after execution of SJO dated 11.04.2018 within the stipulated period. The Appellant’s premise was visited by the Respondent on 17.05.2018 for effecting the SJO and at the same time kWh/KVAh reading of Energy Meter were recorded and the MDI of the Energy Meter was reset by the PSPCL official after verification of test report. The official of the PSPCL also got signatures of Appellant on the SJO. The extension of load and Contract Demand was released by the Respondent on 24.05.2018. The delay in release by more than 30 days was attributable to the Respondent. The Appellant started using the extended load after 24.05.2018.

The Forum had decided the matter contrary to admitted facts and documents.

In view of the facts given above, the decision of the Forum is not justified and is against its own view. It is against the instructions of the PSPCL/PSERC and is liable to be set aside. Besides, supplementary bill/demand dated 18.11.2019 for ₹ 8,07,290/- as fixed charges from 24.03.2018 raised by audit team may also be quashed.

It is therefore, prayed that the amount deposited under protest be refunded alongwith interest as per Instructions of the PSPCL.

1. **Submissions during Hearing**

During the hearing on 10.06.2020, the Appellant’s Representative reiterated the submissions already made in the Appeal and rejoinder to the written reply of the Respondent. He also prayed to allow the Appeal.

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

The Respondent, in its reply sent vide Memo No. 302-03 dated 12.05.2020, made the following submissions for consideration of the Court:

1. The Account of the Appellant is currently running in LS category with sanctioned Load of 8000 kW and contract demand as 4200 kVA. Earlier the Appellant had 4800 kW sanctioned load and 3000 kVA contract demand. The load and contract demand was extended vide SJO No. 188/0006 dated 11.04.2018.
2. The Appellant had deposited a sum of ₹ 15,12,000/- on 24.03.2018 comprising balance of 80% ACD of ₹ 10,62,000/- and demand of ₹ 4,50,000/- towards Demand Notice bearing No. 756 dated 11.10.2017 against A & A No. 100004690246/LS dated 03.10.2017 for above said extension. Further, the consumer had intimated about the compliance of demand notice alongwith test report, challan etc. on 11.04.2018.
3. The load/CD was extended without any physical change /augmentation. The load and CD was extended on 20.06.2018 in SAP system and the Appellant is being billed accordingly thereafter.
4. The account of the Appellant was overhauled in the light of

Instruction No. 27.1.3 of ESIM on the basis of Half Margin No. 18 dated 26.09.2019 of Revenue Audit Party, DS Estate Division (Special), Ludhiana. The consumer was issued supplementary notice bearing No. 1704 dated 18.11.2019 charging a sum of ₹ 8,07,290/- on account of differential fixed charges for extended contract demand of 1200 kVA for the period 24.03.2018 to 20.06.2018 in accordance with the Instruction No. 27.1.3 of ESIM.

1. Instead of depositing the amount, the Appellant filed a case in

the Forum after depositing a sum of Rs. 8,07,290/- (i.e. 100% of disputed amount and also the current bill). The case was decided by the Forum on 27.01.2020 and it was held that the deemed date of sanction/release of extension was from 11.04.2018 instead of 24.03.2018.

1. The Appellant is not satisfied with the decision of the Forum and had now preferred Appeal in this Court.
2. The amount charged to the Appellant by Audit is correct as per instructions contained in Instruction No. 27 of ESIM sections 27.1.1, 27.1.2 and 27.1.3. Besides, the Forum correctly reviewed the charges as pointed out by Audit and had correctly decided the case by giving detailed speaking order in its decision.
3. It is correct that the Appellant had applied for extension in load from 4800 kW to 8000 kW and CD 3000 kVA to 4200 kVA vide A & A No. 100004690246/LS dated 03.10.2017.
4. It is also correct that the Demand Notice bearing No. 756 dated 11.10.2017 was issued to the Appellant.
5. The service connection charges including balance ACD totaling

₹ 15,12,000/- were deposited by the Appellant on 24.03.2018 and online compliance of submission of pending documents was made on 06.04.2018. Further, the compliance was intimated by the Appellant vide its letter No. KIL/R/18-19/10 dated 11.04.2018 by submitting original test report and inspection report dated 09.04.2018 of Chief Electrical Inspector, Patiala.

1. It is correct that readings (kWh/kVAh) were recorded and MDI was reset on 17.05.018 as per SJO No. 188/0006 dated 11.04.2018. SJO was issued on 11.04.2018 on the same very date of submission of test report and complying of other formalities by the consumer.
2. It is worth mentioning that supply to this consumer was already going on and no physical work in extending the load/demand was done by PSPCL in reference to SJO No. 188/0006 dated 11.04.2018.
3. Instruction No. 27.1.3 of ESIM is in addition to the Instruction 27.1.1 and 27.1.2. Hence, Instruction 27.1.3 of ESIM was applicable in the present case. As per Instruction No. 27.1.1 of ESIM, increase in contract demand with or without increase in connected load, shall be treated an application for additional load and as per Instruction No. 27.1.3, the extension in load shall be deemed to have been sanctioned/released from the date, the consumer registered its application and complied with the formalities.
4. It is relevant to mention that Instruction No. 27 of ESIM contained the instructions related to extension in load/demand of HT/EHT consumers and it had 3 sub sections i.e. 27.1.1, 27.1.2 and 27.1.3.

(xv) In the instructions contained in Instruction No. 27.1.3 of ESIM, it is clearly mentioned that after compliance of the stipulations, the extension in load shall be deemed to have been sanctioned /released from the date, the consumer registered its application and complied with the formalities.

The consumer submitted test report on 11.04.2018 and as per Instruction No. 27.1.3 of ESIM, it had complied with the stipulations on 11.04.2018. Hence the Forum correctly decided the case by considering the deemed date of extension in load/CD from the compliance of requisite stipulations.

(xvi) Instruction No. 27.1.3 is applicable in extension cases falling under Instruction No. 27.1.1 and 27.1.2.

Regulation 6.8.6 of Supply Code-2014 related to compliance of demand notice and submission of test report. It is correct that the consumer had complied with the stipulations as mentioned in ESIM Instruction No. 27.1.3 by submitting its test report along with other necessary documents on 11.04.2018 which had been correctly considered as date of release of extension as per Instruction No. 27.1.3 of ESIM.

Instruction 6.9.1 of ESIM is related to testing of consumer‘s installation. In LS category, connected load is not verified as per PSPCL’s instructions. The test report had been issued by the licensed electrical contractor and he had signed the test report. The electric installations of the consumer’s transformers under Measures Relating to Safety and Electricity Supply regulations 2010 was checked and tested by CEI, Patiala as intimated vide letter dated 09.04.2018. This letter was submitted by the consumer with the test report submitted to PSPCL on 11.04.2018. Hence, the contention of the Appellant that the installations were not checked by PSPCL after 11.4.2018 was not maintainable.

(xvii) There is no inconsistency of instructions. The ESIM Instruction No. 27.1.1 is very much clear regarding the consideration of deemed date of release of extension in load/demand cases falling under HT/EHT consumers.

(xviii) The Appeal is without merit and may be dismissed.

1. **Submissions of the Respondent in Rejoinder**

The Respondent sent an e-mail dated 08.06.2020 and contested the averments made by the Appellant in its rejoinder by reiterating the submissions already made in the written reply/parawise comments to Appeal.

1. **Submissions during hearing of the Respondent**

The Respondent reiterated the submissions made in the written reply and rejoinder to the submissions made by the Appellant in its rejoinder.

**5.** **Analysis and Findings**

The issue requiring adjudication is the legitimacy of the prayer of the Appellant for refund of ₹ 8,07,290/- alongwith interest on account of difference of fixed charges for extension in load and CD which were deposited under protest on being pointed out by Audit.

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

1. The present dispute arose after the Audit Party charged the Appellant with a sum of ₹ 8,07,290/-, vide Half Margin No. 18 dated 26.09.2019, on account of difference of fixed charges for the extended contract demand (CD) of 1200 kVA for the period from 24.03.2018 (the date of deposit of the amount as per Demand Notice) to 20.06.2018 (the date on which, compliance of SJO dated 11.04.2018 was uploaded on SAP system). Accordingly, the Respondent issued supplementary. Bill, vide Memo No. 1704 dated 18.11.2019, to deposit the amount of ₹ 8,07,290/- charged by the Audit Party. The Appellant deposited the aforesaid full amount on 03.12.2019 under protest by writing to the Respondent that the said amount was not chargeable. Aggrieved, the Appellant filed a case in the office of the CGRF, Ludhiana on 18.12.2019. After hearing both the sides, the Forum provided some relief to the Appellant by deciding to charge fixed charges from 11.04.2018 i.e. the date from which, requirements/formalities mentioned in the Demand Notice for extension in contract demand were complied with/completed.
2. The Appellant, in its rejoinder to written reply of the Respondent stated as under:-

 *“Forum observed that audit party has considered the date when Petitioner deposited the amount of Demand Notice, whereas he submitted the Test Report and other documents on 11.04.2018 which were part of the formalities to be complied by the consumer. Therefore, Forum is of view that Regulation 27.1.3 is very much connected to Regulation 27.1.2, therefore the date of 11.04.2018 is required to be considered as the date when he made compliance of the formalities as per regulations and load/CD is considered to be deemed sanctioned/released from this date.*

*As per Regulation 27.1.3 of ESIM, the Load/CD of the Petitioner is deemed to be sanctioned/released from 11.04.2018, the date he complies with all the formalities, hence difference of fixed charges be charged from 11.04.2018 and not from 24.03.2018.”*

The Appellant contended that Instruction No. 27.1.3 of ESIM had been misinterpreted and was not applicable in the instant case as it related to extension in load and not to the increase in contract demand (CD). The Appellant also submitted as under:-

*“As already submitted, Regulation 8.1 (a) of Supply Code-2014 had been misinterpreted. It was very clear that as per this regulation, the extension of load and Demand had to be released after execution of SJO dated 11.04.2018 within stipulated period. The Appellant’s premises was visited by the Respondent on 17.05.2018 for effecting the SJO and at the same time kWh/KVAh reading of meter were recorded and the MDI meter was reset by the PSPCL official after verification of test report. The official of the PSPCL also got signatures of Appellant on the SJO. The extension of load and Demand was released by the Respondent on 24.05.2018. The delay in release by more than 30 days was attributable to the Respondent. The Appellant started using the extended load after 24.05.2018.”*

The Appellant prayed to set aside the decision of the Forum and allow refund of the amount deposited under protest with interest as per instructions of the PSPCL.

 I observe that time limits for release of new connections and Additional Load/Demand are given in Regulation 8.1 (a) of Supply Code -2014 which reads as under:

**“***Within thirty (30) days from the date of compliance of Demand Notice where no augmentation, erection and extension of distribution main, erection/augmentation of distribution transformer or Power transformer is**required for effecting such supply.”*

1. As per evidence brought on record of the Court, the Appellant complied with the requirements of Demand Notice issued vide Memo No.756 dated 11.10.2017 by completing the requisite formalities on 11.04.2018 after clearance of the proposal for installation by the Chief Electrical Inspector, Government of Punjab on 09.04.2018. In response, the Sundry Job Order was issued by the Respondent on 11.04.2018 but the same was complied with/effected on 17.05.2018 and entered in the SAP system on 20.06.2018. In the said SJO, remarks to the effect that the connection was already running on 66 kV Supply were given by the Respondent. This extension was given on the same 66 kV line and there was no physical change required and only Load/CD were enhanced.

 I agree with the Appellant that the Respondent defaulted in ensuring timely compliance of its own instructions by delaying the release of extension in load/CD and their uploading/entry on SAP System.

Besides, the Contract Demand (CD) of the Appellant’s connection during the period from 11.04.2018 to 17.05.2018 remained within the limit of Contract Demand sanctioned prior to extension of the same. The instructions of the ESIM relied upon by the Respondent for raising the demand of ₹ 8,07,290/- had not been approved by PSERC. There is no provision of deem date of release of extension in load/CD in the Supply Code-2014. Extension in load/CD was to be done within 30 days of compliance of Demand Notice in this case as per Supply Code. There was no recording of kWh/kVAh reading and resetting of MDI to zero in this case on the so called deem date of release of extension i.e. 11.04.2018. This was done on 17.05.2018 as recorded on SJO No.118810006 dated 11.04.2018. Extension of load/CD was effected on 17.05.2018 and Appellant representative had signed SJO on 17.05.2018 as a witness to release of extension in load/CD. Further, the Respondent had not informed the Appellant about deem date of release of load/CD in the Demand Notice. The Respondent had not informed the Appellant about deem date of release of extension in load/CD even after compliance of Demand Notice. SJO was issued to give effect to release of extension in load/CD which was effected on 17.05.2018. Release of this extension prior to 17.05.2018 cannot be considered. Deem date of release of extension in load/CD is not just & fair. Accordingly, the fixed charges to be charged to the Appellant for the extended load/CD shall be charged from 17.05.2018 instead of 11.04.2018. At the same time, the aspect of effecting the Threshold units rebate may also be looked into by the Respondent in view of change in date of extension to 17.05.2018 although this is not a part of this dispute/appeal case.

1. The Appellant has been given due relief as per this decision. The request of the Appellant to allow refund of interest/surcharge on the disputed amount deposited in excess of justified demand is allowed which may be given as per Supply Code-2014.
2. The compliance of SJO No. 18810006 dated 11.04.2018 was done on 17.05.2018 i.e. after 36 days although no augmentation, erection/extension of works, change of meter/CT/PT units etc. was involved in this case. This un-necessary delay in compliance of Sundry Job Order resulted in harassment to the Appellant and loss to the licensee. Maximum limit fixed by PSERC to complete this work is thirty days.

**6. Decision**

As a sequel of above discussions, the order dated 27.01.2020 of CGRF, Ludhiana in Case No. CGL-374 of 2019 is set aside. It is held that fixed charges for extension in Contract Demand will be charged w.e.f. 17.05.2018 instead of 11.04.2018. Accordingly, the Respondent is directed to recalculate the demand and recover/refund the amount found excess/short after adjustment, if any, with surcharge/interest as per Supply Code-2014.

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

**8.** 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.

 (GURINDER JIT SINGH)

June, 12 2020 Lokpal (Ombudsman)

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