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

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

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

 **APPEAL NO. 02/2021**

**Date of Registration : 11.01.2021**

**Date of Hearing : 03.02.2021and 10.02.2021**

**Date of Order : 17.02.2021**

**Before:**

**Er. Gurinder Jit Singh,**

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

**In the Matter of:**

M/s. Garg Rice Mills,

Phul Road, Rampura Phul,

Distt. Bhatinda, Punjab.

**Contract Account Number 3002309358**  ...Appellant

 Versus

Senior Executive Engineer,

DS Division,

PSPCL, Rampura Phul.

 ...Respondent

**Present For:**

Appellant: 1. Sh. K. K. Goel, Advocate,

 Appellant’s Counsel.

 2. Ms. Ashmita Goel, Advocate,

 Appellant’s Counsel.

Respondent: Er. Sudhir Sharma,

Senior Executive Engineer,

 DS Division, PSPCL,

 Rampura Phul.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 09.12.2020 of the Consumer Grievances Redressal Forum (Forum), Patiala in Case No. CGP-186 of 2020, deciding that:

1. *“The rebate on account of consumption of electricity above threshold units by the petitioner during the years 2015-16 and 2016-17 is not considerable for decision being time barred in view of clause no. 2.25 of PSERC (Forum & Ombudsman) Regulation, 2016.*
2. *The interest on TOD rebate amount of Rs. 1,94,895/- for the period 10/2015 to 03/2016 already refunded to the petitioner on 27.03.2017 is not considerable being time barred. Further the TOD Rebate for the period prior to 10/2017 is also not considerable for decision now being time barred and the TOD Rebate for the period 10/2017 to 03/2018 amounting to Rs. 1,09,031/- is payable to the petitioner without any interest charges. This part of the decision shall be implemented subject to the outcome of CWP-23686 of 2019 pending before Hon’ble Punjab and Haryana High Court.*
3. *The pending ACD amount of Rs. 3,28,715/- be adjusted against the outstanding billing amount on the date of PDCO i.e. 06.06.19 and the account of the petitioner be overhauled accordingly after debiting the amount of interest (if given) on security after 06.06.2019.*
4. *The respondent is directed to check the account of the petitioner and reverse the wrong double entries (if any) appearing on the debit side.*
5. *The account of the petitioner be overhauled as per para (iii) and (iv) above for recovering the net amount from the petitioner after getting it pre-audited. After final adjustment of ACD along with interest as on 06.06.2019, the balance dues be recovered along with interest as per Supply Code Regulation.”*

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

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 11.01.2021 i.e. within thirty days of receipt of the decision dated 09.12.2020 of the CGRF, Patiala in Case No. CGP-186 of 2020 by the Appellant. Since the present dispute related to refund of ToD rebate, adjustment of Security, interest on delayed payment etc., the Appellant was not required to deposit the requisite 40% of the disputed amount for filing the Appeal. Accordingly, the Appeal was registered and copy of the same was sent to the Senior Executive Engineer/ DS Division, PSPCL, Rampura Phul for sending written reply/parawise comments with a copy to the office of the CGRF, Patiala under intimation to the Appellant vide letter nos. 42-44/OEP/A-02/2021 dated 11.01.2021.

**3.** **Proceedings**

(i) With a view to adjudicate the dispute, a hearing was fixed in this Court on 03.02.2021 at 11.30 AM for which, an intimation was sent to both the sides vide letter nos. 97-98/OEP/ A-02/2021 dated 25.01.2021. As scheduled, the hearing was held in this Court, on the said date and time. At the start of hearing, the Appellant’s Counsel requested the Court to give another date for hearing on the plea that the Senior Counsel for the Appellant, Sh. K.K. Goel had suddenly developed fever and was unable to attend the Court. The Senior Xen, DS Division, PSPCL, Rampura Phul (Respondent), on being asked, did not object to the adjournment of hearing. The representatives of both the sides were, then directed to attend this Court on 10.02.2021 at 11.30 AM for hearing of this case. Copies of the minutes of the proceedings were sent to the Appellant and the Respondent vide letter numbers 118-19/OEP/A-02/2021 dated 03.02.2021.

(ii) In the hearing held on 10.02.2021, the representatives of both the sides reiterated the submissions made in the Appeal/written reply. In addition, the Respondent, on being asked, clarified orally as well as in writing relating to adjustment of security, reversal of double entries and overhauling of the Appellant’s account. Arguments were closed and the order was reserved. Copies of minutes of the proceedings were sent to both the sides vide letter nos. 161-62/OEP/A-02/2021dated 10.02.2021.

**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 submissions made by the Appellant’s Counsel and the Respondent alongwith material brought on record by both the sides.

1. **Submissions of the Appellant**

**(a) Submissions made in the Appeal**

The Appellant made the following submissions in its Appeal for consideration of this Court:-

1. The Appellant was having a Large Supply Category Connection, bearing Account No. 3002309358, with sanctioned load of 267.459 kW and CD as 297 kVA.
2. The connection of the Appellant was permanently disconnected on 06.06.2019 due to non-payment of electricity bills.
3. The Appellant contested that it was not given refund of excess amount paid against the rebate for units consumed above the threshold limit and ToD rebate was not released. Besides, its Security was not adjusted after PDCO and wrong double entries in its account were not corrected. The Appellant had earlier filed Case No. T-403/2019 in the office of the CGRF, Patiala. The Forum, in its proceedings, on 17.01.2020, decided not to entertain the said case on the plea that a case filed by the Appellant bearing CWP No. 23686 of 2019 was pending in the Hon’ble High Court of Punjab and Haryana. This CWP was filed by the Appellant in the Hon’ble High Court challenging the order of this Court in Appeal Case No. A-20/2019 decided on 23.07.2019 relating to excess billing due to installation of MQP-95 specification meter. In fact, the said Appeal was filed against the order of the Forum in Case No. CGP-426/2018 decided on 07.12.2018. The Appellant had filed an Appeal challenging the order dated 17.01.2020 of the Forum in this Court which decided that issues raised in the dispute Case No. T-403/2019 before the Forum shall be heard and decided on merits by the Forum subject to the outcome of decision in the said CWP No. 23686 of 2019 pending before Hon’ble Punjab and Haryana High Court.
4. The Appellant, in its representation dated 06.08.2020, had agreed to ToD Rebate of ₹ 1,94,895/- given to it on 27.03.2017 but had demanded interest of ₹ 22,023/- on account of delay of about one year in giving the ToD rebate. The Appellant had further agreed to the amount of ₹ 2,76,291/- calculated as ToD Rebate for the period 10/2016 to 03/2018 but has demanded ED + Cess + Interest and has calculated the amount of ₹ 4,54,588/-.
5. The connection of the Appellant was permanently disconnected on 06.06.2019 and there are instructions for adjustment of Security/ ACD within one month’s time. The Respondent had charged interest plus surcharge @ 18% per annum compounded fortnightly on the outstanding amount but had allowed interest on Security @ 6.25% per annum. The Appellant had requested for adjustment of Security and withdrawal of interest levied @ 18% per annum from 06.06.2019 to 07/2020 on its outstanding amounts.
6. The Appellant had also contested and contended that in chronology list of its account, some double debit entries were appearing which were adjustable by reverse entries and had requested for adjustment of these entries plus interest amounting to ₹ 1,78,644/-.
7. After considering the written and verbal submissions made by the Appellant, the Forum had rejected the claim of the Appellant for refund of ToD rebate during the years 2015-16 and 2016-17 on the ground that the same was time barred. The finding was totally erroneous and illegal. A finding was given that ToD rebate for the period prior to 10/2017 was not considerable for decision now being time barred and the ToD Rebate for the period 10/2017 to 03/2018 amounting to ₹ 1,09,031/- was payable to the Appellant without any interest charges subject to the outcome of decision in CWP No. 23686 of 2019 pending in the Hon’ble High Court. The Forum had adjourned adjudication of the Petition sine die and shall give its decision after the decision of the Hon’ble High Court. The findings of the Forum were totally erroneous, illegal, arbitrary and against the facts of the case.
8. The Forum had not adhered to letter dated 03.08.2020 issued by the Respondent recommending that the Appellant would be refunded ToD Rebate from 04/2016 to 10/2016 qua which, the Appellant made a request vide letter dated 13.09.2014 and letter dated 15.09.2015 for opting ToD rebate. Once the Respondent had recommended that the Appellant was eligible for ToD Rebate amounting to ₹ 2,76,291/- for the month of 10/2016 to 03/2018, the question of rejecting the claim being time barred did not arise at all.
9. The cause of action was recurring one and the Appeal could not be rejected on the ground that its claim was time barred. The Appellant had not been granted interest on the amount of ₹ 3,28,715/- inspite of the fact that PDCO was effected on 06.06.2019. No clear cut finding was given as to whether the amount of interest had been given on that amount or not.
10. The decision of the Forum was based on surmises and conjectures and the Appellant was discriminated as in the similar cases, ToD Rebate had been granted for the period pertaining to the year 2015-16-17. Regulation 2.25 of PSERC (Forum and Ombudsman) Regulations, 2016 was not applicable in the present case.
11. In view of the submissions made above, it was prayed that impugned order dated 09.12.2020 passed by the Forum be set aside being illegal, arbitrary and against the provision of the Electricity Act-2003 and the claims of the Appellant as claimed in case No. CGP-186/2020 be accepted.

**(b)** **Submission during hearing**

(i) During hearing on 03.02.2021, the Appellant’s Counsel requested the Court to give another date for hearing on the plea that the Senior Counsel for Appellant, Sh. K.K. Goel had suddenly developed fever and was unable to attend the Court. The Senior Xen, DS Division, PSPCL, Rampura Phul (Respondent), on being asked, did not object to the adjournment of hearing. Accordingly, next date of hearing was fixed for 10.02.2021 at 11.30 AM.

(ii) In the hearing held on 10.02.2021, the Appellant’s Counsel requested initially for adjournment of adjudication of the present case sine-die pending decision of Hon’ble Punjab and Haryana High Court in CWP No. 23686 of 2019 filed by the Appellant. Thereafter, he argued the case on merits and reiterated the submissions made in the Appeal.

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

The Respondent submitted the following written reply, vide its letter no. 772 dated 25.01.2021, for consideration of this Court:

1. The Appellant was a Large Supply Category Consumer, bearing Account No. 3002309358, having sanctioned load of 267.459 kW with contract demand (CD) of 297 kVA.
2. The connection of the Appellant was permanently disconnected on 06.06.2019 due to non-payment of electricity bills.
3. It was true that benefit of Time of Day (ToD) rebate of amount of ₹ 1,94,895/- for the period from 01.10.2015 to 31.03.2016 was given in SAP via document No. 8001416153 dated 27.03.2017 and amount of ₹ 2,76,291/- for the period from month 10/2016 to 03/2018 was also given to the Appellant. But, interest on account of delay was not payable now as no objection/representation had been received as per record at that time (when the rebate was due and given to the Appellant) and which was now time barred. Also, rebate on amount of ED and Cow cess was not applicable as per law.
4. ACD/Security of ₹ 5,35,972/- deposited on 01.04.2015 was adjusted on 22.07.2020 and of ₹ 60,729/- deposited on 30.07.2015 was adjusted on 28.07.2020 from outstanding dues as per order of CGRF, Patiala.
5. Double entries had been reversed from Appellant’s account in compliance to order of CGRF, Patiala as per following details:

|  |  |
| --- | --- |
| **Date of reversal of entry** |  **Amount** |
| 11.11.2020 | ₹8,325.00 |
| 11.11.2020 | ₹8,325.00 |
| 11.11.2020 | ₹8,325.00 |
| 11.11.2020 | ₹8,266.00 |
| 11.11.2020 | ₹8,109.00 |
| 11.11.2020 | ₹8,109.00 |
| 11.11.2020 | ₹4,256.00 |
| 11.11.2020 | ₹4,256.00 |
| 11.11.2020 | ₹4,256.00 |
| 11.11.2020 | ₹32,254.00 |
| 11.11.2020 | ₹1,868.00 |
| 11.11.2020 | ₹32,254.00 |
| 11.11.2020 | ₹1,868.00 |
| 12.11.2020 | ₹1,654.00 |
| 12.11.2020 | ₹2,696.00 |
| 12.11.2020 | ₹1,654.00 |
| 12.11.2020 | ₹2,696.00 |
| 12.11.2020 | ₹1,654.00 |
| 12.11.2020 | ₹2,696.00 |

1. The rebate of units consumed above threshold units for FY 2015-16 was not applicable to the Appellant because there were no instructions of PSPCL regarding threshold rebate for FY 2015-16. Further, the Appellant neither raised any objection nor gave any representation as per law for the rebate of amount of ₹ 33,804/- for the units consumed above threshold units for FY 2016-17 at that time. So, this rebate was not payable now because of being time barred.
2. As per Commercial Circular No. 46/2014 and Commercial Circular No. 16/2015, LS and MS category consumers opting for ToD tariff had to arrange their own meters capable of recording ToD readings/data. The ToD readings of consumer’s meter was not available as meter was Non DLMS. So, the interest on this amount of ToD rebate was not applicable for this period. According to Commercial Circular No. 28/2016 dated 29.07.2016, no ToD tariff was applicable from 04/2016 to 09/2016 period. As the interest from 04.10.2016 to 08.02.2019 was already refunded in compliance of CGRF, Patiala’s order passed in Case No. CGP-426/2018 dated 07.02.2019, so, demand of the Appellant was inappropriate.
3. ACD/Security of consumer was adjusted from the date of default. The account of consumer was overhauled and got pre-audited as per order of the Forum.
4. **Additional Submission of the Respondent**

Sr. Xen, DS Division, Rampura Phul, vide Memo No. 1247 dated 09.02.2021, made the following additional submissions for consideration of this Court:

1. In compliance to para-ii of the decision of CGRF, Patiala in Petition No. CGP-186 of 2020, the ToD rebate would be refunded subject to the outcome of CWP No.-23686 of 2019.
2. ACD amount of ₹ 3,28,715/- adjusted and account of consumer overhauled after 06.06.2019. Net amount of ₹ 3,21,675/- was chargeable to petitioner after pre audit of account.

**(c) Submission during hearing**

(i) During hearing on 03.02.2021, the Respondent was directed to submit compliance to the issue concerning refund of rebate after pre audit from the Audit Party.

(ii) During hearing on 10.02.2021, the Respondent reiterated the submissions made in the written reply filed by it. He, on being asked, clarified orally as well as in writing as under:

“It is hereby submitted that:

1. ACD amount of Rs. 2,67,986/- has been adjusted on 22.07.2020 and due credit of this amount has been given to consumer from 01.04.2015 to 06.06.2019. Further ACD amount of Rs. 60,729/- has been adjusted on 28.07.2020 and due credit of this amount has been given from 30.07.2015 to 06.06.2019. Thus, total amount of ACD Rs. 3,28,715/- has been already adjusted.
2. As per decision of the CGRF 19 double entries amounting to Rs. 1,43,521/**-** have been reversed from the consumers account.
3. Account of the consumer has been overhauled from dated 06.06.2019 and after pre audit, amount of Rs. 3,21,675/- has been charged to consumer on 25.01.2021.”

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

The issues requiring adjudication are the legitimacy of the

1. Adjournment of this case sine-die pending decision of CWP No. 23686 of 2019 filed by the Appellant in related matter in Hon’ble Punjab and Haryana High Court.
2. Refund of rebate on account of consumption of electricity above threshold units during 2015-16 and 2016-17.
3. ToD rebate from 04/2016 to 01.10.2017.
4. ToD rebate for the period from 10/2017 to 03/2018 amounting to ₹ 1,09,031/-.
5. Interest on ToD Rebate amount of ₹ 1,09,031/- relating to period from 10/2017 to 03/2018.
6. Interest on ToD amount of ₹ 1,94,895/- for the period 10/2015 to 03/2016 already refunded on 27.03.2017.
7. Reversal of double entries appearing in contract account.
8. Overhauling of account after adjustment of security consequent upon permanent disconnection of the connection on 06.06.2019.

*My findings on the above issues deliberated and analysed are as under:*

**Issue (i)**

a) During hearing of this case on 10.02.2021, the Appellant’s Counsel requested initially for adjournment of the case sine-die pending decision of CWP No. 23686 of 2019 filed by the Appellant in Hon’ble Punjab and Haryana High Court.

b) In this connection, it is observed that the aforesaid CWP was filed by the Appellant challenging the order dated 23.07.2019 in Appeal Case No. A-20/2019 decided by this Court in matter relating to excess billing due to installation of MQP-95 specification Meter adjudicated on 07.12.2018 by the CGRF, Patiala in Case No. CGP-426 of 2018. Subsequent to filing of CWP No. 23686 of 2019 in Hon’ble High Court, the Appellant filed a Case No. T-403 of 2019 on 17.12.2019 (for relief on issues raised in the present Appeal) before the CGRF, Patiala. The Forum, vide proceedings dated 17.01.2020, decided not to entertain the case as the said CWP filed by the Appellant was pending before the Hon’ble High Court. Aggrieved, the Appellant approached this Court and filed an Appeal No. A-13 of 2020 on 24.02.2020 in this Court. During hearing on 24.06.2020, the Appellant’s Representative submitted an application stating as under:

“With reference to the discussions related 24.06.2020. It is submitted that CWP-23686/2019 filed by the Appellant in the Hon’ble High Court of Punjab and Haryana is pending decision. It is clarified that CWP-30614/2019 mentioned in the decision dated 17.01.2020 of the CGRF, Patiala in Case No. T-403/2019 pertains to M/s Krishna Agro, Nabha.

In our present Appeal, we have requested to remit the matter to CGRF, Patiala for consideration and decision on issues raised in Case No. T-403/2019 filed on 16.12.2019. It is therefore requested that order may kindly be passed directing the CGRF, Patiala to hear the case on merits subject to outcome of the decision of the Hon’ble High Court in CWP-23686/2019.”

In view of the above submissions of the Appellant’s Representative in this Court, it was decided that:

 “As a sequel of above discussions, the order dated 17.01.2020 of CGRF, Patiala in Case No. T- 403 of 2019 is set aside. It is held that the issues raised in dispute Case No. T-403/2019 before CGRF, Patiala by the Appellant shall be heard and decided on merits by the CGRF, Patiala subject to the outcome of CWP 23686 of 2019 pending before the Hon’ble Punjab and Haryana High Court.”

As a result, the Appellant filed Case No. CGP-186 of 2020 on 21.07.2020 before the CGRF, Patiala whose order dated 09.12.2020 has been challenged by filing the present Appeal.

c) A perusal of the events leading to filing of the present Appeal in this Court reveals that the Appellant has preferred this Appeal seeking remedy against the decision dated 07.12.2020 of the Forum on matters concerning threshold/ToD Rebate and interest thereon, reversal of double entries, adjustment of security etc. Accordingly, the contention of the Appellant’s Counsel to adjourn adjudication of this dispute, pending decision of Hon’ble High Court in its CWP No. 23686 of 2019 is an afterthought and also without merit particularly keeping in view the fact that the Appellant’s Representative had, on 24.06.2020, himself requested in writing to remit the matter to the Forum for hearing and adjudication on merits. Moreover, the case was heard by CGRF, Patiala on the basis of written request of the Appellant to decide its pending issues without prejudice to the outcome of CWP No. 23686 of 2019 pending in the Hon’ble Punjab and Haryana High Court.

d) The prayer of the Appellant’s Counsel for adjournment of the present Appeal sine-die is thus not sustainable in the eyes of law, hence, rejected.

e) This issue is disposed off accordingly.

**Issue (ii)**

1. The Appellant’s Counsel contested the decision of the Forum not to consider refund of rebate on account of consumption of electricity above threshold units during the years 2015-16 and 2016-17 on the ground of being time barred in terms of provisions contained in Regulation 2.25 of PSERC (Forum and Ombudsman) Regulation, 2016.

b) In this regard, it is worthwhile to peruse the observations of the Forum in its order dated 09.12.2020 (page 5), stating as under:

“Forum considered the contention of the Petitioner and Respondent brought out in written and verbal submissions during the course of proceeding. Forum has observed that the Petitioner was a LS consumer receiving regular energy bills from the respondent corporation from time to time and in all the bills, the details of various amounts charged/rebates given were invariably depicted. The petitioner did not point out or represent to the respondent the issue of non receipt of Threshold Units Rebate during the year 2015-16 & 2016-17 and even after that upto the year 2019. Thus the petitioner did not take appropriate remedy at appropriate time and has failed to exercise its obligation to approach respondent in time for attending this issue. The onus for not taking appropriate remedies rests on the petitioner, a LS consumer. He failed to point out to the respondent to take timely action for giving him Threshold units Rebate. As such, any rebate on account of consumption of electricity above Threshold Units by the Petitioner during the years 2015-16 & 2016-17 is not considerable for decision now being time barred.”

c) Regulation 2.25 of PSERC (Forum and Ombudsman) Regulation 2016 reads as under:

*“****2.25*** *The Forum shall entertain only those complaints where the representation is made within 2 years from the date of cause of action in case the complainant approaches the Forum directly or within 2 months from the date of receipt of the orders of respective Dispute Settlement Committee constituted under CCHP.*

*Provided that the Forum may, for reasons to be recorded in writing, entertain a complaint which does not meet the aforesaid requirements.”*

1. Since the rebate claimed by the Appellant pertains to the years 2015-16 and 2016-17 and was not claimed by the Appellant by making a representation to the competent authority/ appropriate body within 2 years of its becoming due, the order of the Forum not to consider the issue for decision in terms of the said regulation is just and fair.
2. This issue is disposed off accordingly.

**Issue (iii)**

1. The Appellant’s Counsel submitted that the decision of the Forum not to consider the ToD rebate from 04/2016 to 01.10.2017 on the ground of being time barred was not in order. He also stated that the Forum had not adhered to letter dated 03.08.2020 issued by the Respondent recommending that the Appellant would be refunded ToD Rebate from 04/2016 to 10/2016 qua which, the Appellant made a request vide letter dated 13.09.2014 and letter dated 15.09.2015 for opting ToD rebate. Once the Respondent had recommended that the Appellant was eligible for ToD Rebate amounting to ₹ 2,76,291/- for the month of 10/2016 to 03/2018, the question of rejecting the claim being time barred did not arise at all. He added that cause of action was recurring one and the issue could not be decided against the Appellant on the plea of claim being time barred.
2. The Respondent stated that as per Commercial Circular No. 28/2016 dated 29.07.2016, no ToD tariff was applicable from 04/2016 to 09/2016 period rather it is chargeable to the Appellant. As such, no ToD rebate for the said period was required to be refunded to the Appellant.
3. As per material on record, the Appellant did not represent to the Respondent in writing or approach the appropriate body for ToD rebate from 01.10.2016 to 01.10.2017 within the time limit stipulated in CCHP/PSERC (Forum and Ombudsman) Regulations 2016.Accordingly, ToD rebate for aforesaid period is not considerable now being time barred. The Appellant had also not prayed for condoning of delay in filing its claim before the CGRF.
4. The contention of the Appellant’s Counsel for ToD rebate from 10/2017 to 03/2018 is being discussed under issue (iv).
5. This issue is decided against the Appellant.

**Issue (iv)**

1. The Forum, in its order, decided that “the ToD Rebate for the period 10/2017 to 03/2018 amounting to Rs. 1,09,031/- is payable to the petitioner without any interest charges. This part of the decision shall be implemented subject to the outcome of CWP-23686 of 2019 pending before Hon’ble Punjab and Haryana High Court.”
2. The Respondent, in its reply sent vide Memo No. 1247 dated 09.02.2021 and also during hearing on 10.02.2021, intimated that “In compliance to para-ii of the decision of CGRF, Patiala in Petition No. CGP-186 of 2020, the ToD rebate would be refunded subject to the outcome of CWP No.-23686 of 2019.”
3. It is observed that contents of the decision of the Forum on this issue have not been understood by the Respondent in proper prospective. While passing its order on this issue, the Forum decided that ToD rebate from 10/2017 to 03/2018 amounting to ₹ 1,09,031/- was to be paid to the Appellant which will, of course, be subject to outcome of decision in CWP No. 23686 of 2019 pending before the Hon’ble High Court.
4. This issue is decided in favour of the Appellant after due consideration.

**Issue (v)**

1. In regard to the claim of the Appellant for grant of interest on ToD Rebate for the period 10/2017 to 03/2018 amounting to ₹ 1,09,031/-, Forum observed that the Appellant was “a LS consumer receiving regular energy bills from the respondent corporation from time to time and in all the bills, the details of all Charges/Rebates were invariably depicted. The petitioner did not point out or represent to the respondent about the TOD Rebate at that time. Thus the petitioner did not take appropriate remedy at appropriate time. The petitioner has failed to exercise its obligation to approach respondent in time for attending this issue. The onus for not taking appropriate remedies rests on the petitioner, a LS consumer. He failed to point out to the respondent to take timely action for giving him TOD Rebate in the respective bills, as such no interest on the amount of TOD Rebate is payable to the petitioner.”
2. The decision of the Forum on this issue is in order and does not warrant interference by this Court.
3. This issue is decided against the Appellant after due consideration.

**Issue (vi)**

1. The Appellant’s Counsel contested the decision of the Forum not to allow interest on ToD amount of ₹ 1,94,895/- for the period 10/2015 to 03/2016 already refunded on 27.03.2017. He added that cause of action was recurring one and interest could not be denied to the Appellant on the plea of being time barred or the issue not having been raised at the appropriate time.
2. It is observed that the Appellant was a LS category consumer and was expected to be conversant with the instructions issued by the licensee regarding tariff, ToD rebate etc. and also uploaded on its website but the Appellant failed to pin point the issue of not allowing ToD rebate for the period 10/2015 to 03/2016. Still, a refund of ₹ 1,94,895/- was given to the Appellant on 27.03.2017. Thus, the plea of the Appellant’s Counsel for allowing interest on the said amount is without merit.
3. This issue is decided against the Appellant after due consideration.

**Issue (vii)**

1. The Appellant’s Counsel contended that in chronology list of its account, some double debit entries were appearing which were adjustable by reverse entries and had requested for adjustment of these entries plus interest amounting to ₹ 1,78,644/-.
2. The Respondent, in its written reply, submitted that nineteen number double entries amounting to ₹ 1,43,521/- had been revered from the Appellant’s account on 11.11.2020/ 12.11.2020 in compliance to the directions given by the Forum in its order dated 09.12.2020.
3. A perusal of the details of reversal of double entries appearing in Appellant’s account reveals that the same pertain to charging of interest on the defaulting amount for the period from 12/2018 to 06/2020. Since these double entries had been corrected by charging the Appellant for a single time for each entry and account of the Appellant is to be overhauled by taking into consideration only the single affected entry of interest (erroneously charged as double earlier ), no interest as prayed for by the Appellant accrued to it.
4. This issue is disposed off accordingly.

**Issue (viii)**

1. The Appellant’s Counsel contented that the connection of the Appellant was permanently disconnected on 06.06.2019 and there are instructions for adjustment of Security/ACD within one month’s time. He requested for adjustment of security and overhauling its account after allowing rebate for threshold units, ToD rebate & interest, reversal of double entries and adjustment of security with interest.
2. The Forum, in its order, observed that “since the ACD/AACD is being taken from Consumers to cover the energy billing amount, and in this case after the execution of PDCO on 06.06.19, the security amount of Rs. 3,28,715/- should have been adjusted against the outstanding billing amount on the date of PDCO i.e. 06.06.19 and the account of the petitioner is required to be overhauled accordingly after debiting the amount of interest (if given) on security after 06.06.2019.”
3. The Respondent, in its defence, intimated vide Memo No. 1247 dated 09.02.2021 that ACD amount of ₹ 3,28,715/- had been adjusted and account of consumer overhauled after disconnection on 06.06.2019. Net amount of ₹ 3,21,675/- was chargeable to Appellant as per pre audit of account.
4. The Court is of the view that account of the Appellant is now required to be overhauled in the light of issues decided in favour of the Appellant and the same should be overhauled as per instructions of PSPCL.

**6.** **Decision**

As a sequel of above discussions, it is held that:

1. The plea of the Appellant for adjournment of case sine-die pending decision of Hon’ble High Court in CWP No. 23686 of 2019 is not maintainable/sustainable, hence, rejected.
2. Rebate on account of electricity consumption beyond threshold units for the years 2015-16 and 2016-17 is not payable, being time barred.
3. ToD rebate from 04/2016 to 09/2016 is not payable in view of CC No. 28/2016 dated 29.07.2016. ToD rebate from 10/2016 to 9/2017 is not allowed, being time barred.
4. ToD rebate for the period from 10/2017 to 03/2018 amounting to ₹ 1,09,031/- is payable to the Appellant (without interest) subject to outcome of decision in CWP No. 23686 of 2019 pending in Hon’ble Punjab & Haryana High Court.
5. Interest on ToD rebate amounting to ₹ 1,09,031/- for the period from 10/2017 to 03/2018 is not allowed.
6. Interest on ToD rebate amounting to ₹ 1,94,895/- for the period 10/2015 to 03/2016 already refunded on 27.03.2017 is not allowed.
7. Nineteen Double entries amounting to ₹ 1,43,521/- pertaining to charging of interest already stand corrected (after reversal of erroneous entries) and have been adjusted in the account of the Appellant in the month of 11/2020. No interest on this account accrues to the Appellant.
8. The account of the Appellant shall be overhauled after giving ToD rebate for ₹ 1,09,031/- (without interest), adjustment of security with interest consequent upon permanent disconnection on 06.06.2019, correction of double entries etc.
9. The Respondent is directed to recalculate the demand and refund/recover the amount found excess/short, after adjustment, with surcharge/interest as per instructions of PSPCL.

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

**8**. 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.

**9.** 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.

(GURINDER JIT SINGH)

February 17, 2021 Lokpal (Ombudsman)

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