

**COURT OF THE LOK PAL (OMBUDSMAN),
ELECTRICITY, PUNJAB,
PLOT NO. A-2, INDUSTRIAL AREA, PHASE-1,
S.A.S. NAGAR (MOHALI).**

**(Constituted under Sub Section (6) of Section 42 of
Electricity Act, 2003)**

APPEAL No. 06/2024

**Date of Registration : 28.02.2024
Date of Hearing : 21.03.2024, 27.03.2024
Date of Order : 10.04.2024**

Before:

**Er. Anjuli Chandra,
Lokpal (Ombudsman), Electricity, Punjab.**

In the Matter of:

M/s. Kaur Sain Spinners Limited,
Village Rohla, Chandigarh Road Samrala,
District Ludhiana.

Contract Account Number: 3007509746 (LS)
...Appellant

Versus

Addl. Superintending Engineer,
DS Division, PSPCL,
Samrala.

...Respondent

Present For:

Appellant:

1. Sh. Tejender Joshi,
Appellant's Counsel.
2. Sh. Pardeep Kumar Patra,
Appellant's Representative.

Respondent :

1. Er. Kanwal Preet Singh Sidhu,
Addl. Superintending Engineer,
DS Division, PSPCL,
Samrala.
2. Er. Gurtej Singh, AE, City Samrala.
3. Sh. Amritpal Singh, RA.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 18.12.2023 of the Corporate Consumer Grievances Redressal Forum, Ludhiana (Corporate Forum) in Case No. CF-140/2023, deciding that:

“Claim of the petitioner for refund of an amount of Rs. 3354827/- on account of difference in fixed charges (3600 KVA instead of 4500 KVA) for the period from 18.02.2022 to 19.02.2023 including interest, is not acceptable.”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 28.02.2024 i.e. beyond the period of thirty days of receipt of the decision dated 18.12.2023 in Case No. CF-140/2023 of the CCGRF, Ludhiana on 20.12.2023 by the Appellant. The Appellant was not required to deposit the requisite 40% of the disputed amount being a refund case. Therefore, the Appeal was registered on 28.02.2024 and copy of the same was sent to the Additional Superintending Engineer/ DS Divn., PSPCL, Samrala for sending written reply/ parawise comments with a copy to the office of the CCGRF, Ludhiana under intimation to the Appellant vide letter nos. 145-147/OEP/A-06/2024 dated 28.02.2024.

3. Proceedings & Condonation of Delay

With a view to adjudicate the dispute, a hearing was fixed in this Court on 21.03.2024 and intimation to this effect was sent to both the parties vide letter nos. 165-66/OEP/A-06/2024 dated 07.03.2024. As scheduled, the hearing was held in this Court on 21.03.2024.

At the start of hearing, the issue of condoning of delay in filing the Appeal in this Court was taken up. The Appellant's Counsel submitted that the CCGRF sent decision dated 18.12.2023 through post and the same was received by the Appellant on 20.12.2023. On 12.01.2024, the Appellant met with the Counsel and handed over the copy of the above said impugned order and after discussion engaged him for filing the accompanied Appeal. The Authorized Office of the Company handed over the requisite documents and whole record of the case to the Counsel on 16.01.2024. But, the Counsel for the Appellant was not available in Chandigarh as he was out of station due to some personal work. The Counsel came back to Chandigarh on 24.01.2024. Thereafter, the Counsel for the applicant prepared the Appeal on 02.02.2024. The Authorized Signatory of the applicant came and signed the Appeal on 03.02.2024. Therefore, the Counsel for the

Appellant prepared the complete file for filling the Appeal in this Court on 27.02.2024. Therefore, the Appellant's Counsel requested that the delay may kindly be condoned and the Appeal be adjudicated on merits in the interest of justice. The Respondent did not object to it.

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:

(ii) The representation is made within 30 days from the date of receipt of the order of the Forum.

Provided that the Ombudsman may entertain a representation beyond 30 days on sufficient cause being shown by the complainant that he/she had reasons for not filing the representation within the aforesaid period of 30 days.”

It is observed that refusal to condone the delay in filing the Appeal would deprive the Appellant of the opportunity required to be afforded to defend the case on merits. Therefore, with a view to meet the ends of ultimate justice, the delay in filing the Appeal in this Court beyond the stipulated

period was condoned and the Appellant's Counsel was allowed to present the case.

Both the parties were heard. This Court asked the Respondent to file a written reply to this Court alongwith a copy to the Appellant before the next date of hearing on the following issues:

- 1- Why the Demand notice was not issued to the Appellant by the Respondent within requisite 15 days of application by the Appellant Company for reduction of load?
- 2- When there was a delay in issuing the Demand notice, whether the Respondent informed the Appellant that Demand notice will be issued to them at a later date explaining the reasons of delay?
- 3- When the Appellant requested the Respondent to adjust the amount already deposited by them against this Demand notice, why the amount was not adjusted?
- 4- Whether the Appellant was informed by the Respondent in writing that the amount already deposited cannot be adjusted against the Demand notice with the reasons & the Appellant was asked to deposit the amount intimated in the Demand Notice?

The next date of hearing in this case was fixed for 27.03.2024. Copies of proceedings dated 21.03.2024 were sent to both the parties vide letter nos. 180-81/OEP/A-06/2024 dated 21.03.2024. As scheduled, the hearing was held in this Court on 27.03.2024. Arguments of both the parties were heard and the case was closed for final order.

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 deliberations made by the Appellant's Representative and the Respondent along with material brought on record by both the parties.

(A) Submissions of the Appellant

(a) Submissions made in the Appeal

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

- (i) The Appellant was having a LS Category Connection for his Factory in the area of Samrala bearing Account No. 3007509746 with Sanctioned Load/CD of 4500 kW/4500 kVA under DS Division, PSPCL, Samrala.

- (ii) The Respondent-PSPCL herein is the Distribution Licensee in the State of Punjab and the successor in interest of the PSEB after unbundling of the same alongwith Punjab State Transmission Corporation Ltd.
- (iii) The Appellant applied to the Respondent for 66 kV Electricity connection for which feasibility was cleared by Chief Engineer/ Commercial on 05.09.2011 for erecting 66 kV Line from 220 kV Sub-Station Ghulal to the premises of the Appellant.
- (iv) The Appellant deposited ₹ 98,06,255/- on 29.08.2012 and ₹ 41,00,000/- on 06.09.2013 and thus deposited a total amount of ₹ 1,39,06,255/- as estimated cost of the 66 kV line. It was stated that the land owner filed a case in the Hon'ble Punjab and Haryana High Court and got stay and due to this reason, the proposed 66 kV Line from 220 kV Sub-Station Ghulal to the premises of the Appellant could not be erected by the PSPCL. The Chief Engineer/ Commercial issued revised feasibility clearance on 18.03.2013 and the connection to the Appellant was released by Solid-Tapping of 66 kV Ghulal-Khamano line.
- (v) It was pertinent to mention here that in the feasibility clearance dated 18.03.2013, it was mentioned that an

Undertaking may also be taken from the Appellant and accordingly the Appellant gave an undertaking on 22.03.2013 mentioning as under:-

“We undertake that we will have no claim for failure of supply irrespective of duration of failure as the solid tapping shall result into longer time period for identification/ segregation of fault.

The principal of (LILO) shall be made applicable i.e. loop in-loop out arrangement shall be made at consumer’s substation for which the expenditure will be borne by us.

We undertake that as well as the stay vacated we are agree to do the work as per FCC on 66 kV line already given by the Chief Engineer (Commercial) vide Memo No. 5237 dated 05.09.2011 & will comply with the terms & conditions of this memo.”

- (vi) The Appellant applied for reduction of his load/ CD from 4500 kW/ 4500 kVA to 3600 kW/ 3600 kVA alongwith change of supply voltage from 66 kV to 11 kV on 02.02.2022 by submitting A&A form by depositing processing fees of ₹ 2,950/- vide BA-16 no. 231/5346 dated 02.02.2022.
- (vii) The reduction of the load was approved by CE/ DS (South), PSPCL, Patiala on 25.02.2022 vide his office Memo no. 1517-1518/19 dated 25.02.2022. So it was clear that after approval, the load of the Appellant Company became 3600 kVA.
- (viii) The Assistant Engineer/ DS City Sub Divn., Samrala vide his office Memo No. 259 dated 20.06.2022 issued a Demand Notice to the Appellant to deposit cost of estimate for

providing supply at 11 kV voltage due to reduction of load/ CD, amounting to ₹ 49,82,898/-.

- (ix) It was pertinent to mention here that the office of ASE/ TLSC Division, Jalandhar vide letter dated 21.06.2022 had intimated the total expenditure of ₹ 52,47,639/- incurred on erection 66 kV line for release of connection to the consumer in 07/2017. From the above submissions, it was clear that there was an excess amount of ₹ 86,58,616/- (₹ 1,39,06,255/- - ₹ 52,47,639/-) lying with the PSPCL. As such, the Appellant instead of depositing the amount as per Demand Notice dated 20.06.2022, wrote to SDO/ DS Sub Divn., Samrala vide its letter no. 298/2022-23 dated 23.06.2022 that they had already deposited estimated cost of independent 66 kV line (₹ 98,06,255/- vide BA-16 no. 314/4786 dated 29.08.2012 and ₹ 41,00,000/- vide BA-16 no. 520/4787 dated 06.09.2013) but they were given supply through solid tapping from an existing 66 kV line as their 66 kV line could not be erected due to some dispute and court case and requested to adjust amount of this Demand Notice from the excess amount already lying deposited with the PSPCL for erection of 66 kV line which could not be erected.

- (x) The SDO/ DS City Sub Divn., Samrala vide Memo No. 263 dated 23.06.2022, sent the case of the Appellant to ASE/ DS Divn., Samrala for adjustment of estimated cost of ₹ 49,82,898/- from the amount already deposited by the Appellant against 66 kV Line. ASE/ DS Divn., Samrala forwarded the case to Dy. CE/ DS Circle, Ropar vide Memo No. 3435 dated 28.06.2022 requesting for guidelines to adjust the estimated cost of ₹ 49,82,898/- from the amount of ₹ 1,39,06,255/- already deposited by the Appellant. The Dy. CE/ DS Circle, Ropar vide Memo No. 7558 dated 15.07.2022 requested CE/ Commercial for necessary guidelines for adjustment of estimated cost of ₹ 49,82,898/- for erection of 11 kV line (independent feeder) from the amount of ₹ 1,39,06,255/- already deposited by the Appellant for erection of 66 kV line which could not be erected due to Court case by agriculture land owners. It was further informed that the connection was released by Solid-Tapping arrangement. The expenditure of ₹ 52,47,639/- was incurred on erection 66 kV line for release of connection to the consumer as intimated by ASE/ TLSC Divn., Jalandhar vide letter dated 21.06.2022.
- (xi) The office of Dy. CE/ DS Circle, Ropar vide Memo No. 10777/78 dated 10.10.2022 sent a reminder to CE/ Comml.

PSPCL, Patiala about the above said guidelines. The Appellant was not aware whether any such guidelines were issued by the O/o CE/ Commercial or not. It was pertinent to mention here that the Appellant vide its letter dated 28.09.2022 has again requested the PSPCL to adjust the amount of estimated cost of 11 kV independent feeder supply line from the amount already deposited by it vide receipt No. 314/4786 and 4787/520 for 66 kV line.

- (xii) It was pertinent to mention here that as per Tariff orders issued by the PSERC, two part tariff was charged from the LS consumers. As per this two part Tariff, Fixed Charges are charged on the basis of Contract Demand/ CD of the consumer and variable charges are recovered on the basis of actual consumption. The Appellant had requested for reduction of Load/ Contract Demand from 4500 kW/ 4500 kVA to 3600 kW/ 3600 kVA and the same was approved by CE/ DS (South), Patiala on 25.02.2022. So, thereafter the Fixed Charges were required to be calculated on the basis of reduced CD i.e. 3600 kV instead of 4500 kV. The bill for the period 18.02.2022 to 16.03.2022 (issued on 24.03.2022) was required to be issued with reduced Contract Demand of 3600 kVA as sanctioned by CE/ DS (South) on 25.02.2022. But this was not

done and the energy bills from 03/2022 to 06/2022 and afterwards up to 02/2023 were issued with 4500 kVA CD and Fixed Charges were levied accordingly. The Appellant vide letter dated 10.04.2023 (received by the PSPCL on 12.04.2023) requested SDO/ DS City Sub Divn., Samrala to do the needful to ensure billing with reduced CD of 3600 kVA and allow refund of excess Fixed Charged levied in the energy bills by considering sanctioned CD of 4500 kVA instead of 3600 kVA.

(xiii) That despite the above said representations no action was taken by the Respondent and the Appellant was billed Fixed Charges on the basis of CD of 4500 kVA instead of reduced CD of 3600 kVA. As such the Appellant submitted revised A&A form No. 32846 dated 09.05.2023 requesting for 3600 kW/ 3600 kVA load at 66 kV Supply Voltage Level and same was approved by CE/ DS (South), Patiala vide Memo No. 4857 dated 31.05.2023.

(xiv) As the PSPCL has failed to refund the Fixed Charges despite reduction in load from 4500 kVA to 3600 kVA so having no option, the Appellant filed a complaint bearing CF-140 of 2023 before the Corporate CGRF, PSPCL, Ludhiana. The PSPCL filed reply and took a stand that the Appellant applied

for reduction of CD from 4500 kVA to 3066 kVA and also change of supply voltage from 66 kV to 11 kV but it failed to deposit the amount of ₹ 49,82,898/- demanded by the PSPCL for change of supply voltage vide demand notice dated 20.06.2022 and so Fixed Charges were required to be calculated on the basis of earlier CD i.e. 4500 kVA.

- (xv) The parties filed pleadings and various documents before the Forum and addressed arguments. Thereafter, the Forum vide its order dated 18.12.2013 dismissed the complaint filed by the Appellant.
- (xvi) The impugned order dated 18.12.2023 passed by the Forum dismissing the complaint of the Appellant was totally wrong and illegal and was liable to be set aside by this Hon'ble Court inter alia on the following ground amongst others.
- (xvii) The Forum lost sight of the fact that the Appellant had applied for reduction of load from 4500 kVA to 3600 kVA on 02.02.2022 and it was approved on 25.02.2022 by the competent authority. It was admitted position that the Fixed Charges were to be recovered on the basis of CD and after 05.02.2022 the Fixed Charges were required to be recovered on the basis of 3600 kVA only and not on the basis of 4500 kVA.

(xviii) It was submitted here that the Appellant applied for reduction of its load/ CD from 4500 kW/ 4500 kVA to 3600 kW/ 3600 kVA alongwith change of Supply Voltage from 66 kV to 11 kV on 02.02.2022 by submitting A&A form and depositing processing fees of ₹ 2,950/- vide BA-16 no. 231/5346 dated 02.02.2022. The same was approved by CE/ DS (South), Patiala on 25.02.2022 vide his office probable Memo No. 1517/19 dated 25.02.2022.

(xix) The PSPCL took a stand that after approval, the AE/ DS City Sub Divn., Samrala vide his office Memo No. 259 dated 20.06.2022 issued Demand Notice to the Appellant to deposit cost of estimate for providing supply at 11 kV Voltage due to reduction of load/ CD amounting to ₹ 49,82,898/-. However, the Appellant firm instead of depositing the amount, wrote to SDO/ DS Sub Davison, Samrala vide their letter no. 298/2022-23 dated 23.06.2022 that they had already deposited estimated cost of independent 66 kV line (₹ 98,06,255/- vide BA-16 no. 314/4786 dated 29.08.2012 and ₹ 41,00,000/- vide BA-16 no. 520/4787 dated 06.09.2013) but they were given supply through solid tapping from an existing 66 kV line as their 66 kV line could not be erected due to some dispute and Court case and requested to adjust amount of this Demand Notice

from their outstanding amount deposited by them for erection of 66 kV line which could not be erected.

- (xx) It was further submitted that as the PSPCL failed to adjust the amount of Demand Notice dated 20.06.2022 from the already deposited amount for 66 kV line, the Appellant again submitted revised A&A form no. 32486 dated 09.05.2023 requesting for changing his supply voltage from 11 kV to 66 kV for a load of 3600 kW/ 3600 kVA and same was approved by CE/ DS (South), PSPCL, Patiala vide his Memo No. 4857 dated 31.05.2023.
- (xxi) The Forum did not appreciate the submissions of the Appellant that as its load/ CD was reduced/ approved vide Memo No. 1518/19 dated 25.02.2022 so the Fixed Charges were required to be charged on the basis of reduced CD of 3600 kVA and not on 4500 kVA.
- (xxii) The Forum failed to appreciate the clause 8.5 of the Supply Code, 2014 which is reproduced here under for ready reference:-

8.5 Reduction in Sanctioned Load/Demand

The request for reduction in sanctioned demand/ load by a consumer shall be submitted on A&A form prescribed by the distribution licensee along with processing fee and electrical contractor's test report only in case there is change in connected load and/ or electrical installation.

Provided that in case reduction in load/ demand results in reduction of supply voltage also, the supply may continue to

be given at the existing higher supply voltage. However, in case the consumer opts for supply voltage corresponding to the reduced load/demand and it involves change in the licensee's distribution system then such consumer shall be liable to pay actual expenditure incurred by the licensee to effect such changes in infrastructure. The request shall be granted by the distribution licensee within a maximum period of fifteen (15) days from the date of its submission of revised A&A form and deposit of necessary charges, wherever applicable, failing which the demand/ load shall be deemed to have been reduced as requested by the consumer.

Provided further that in case a consumer (except seasonal industrial category) requests for increase in his sanctioned contract demand/load upto the original sanctioned demand/load within a period of one year from the date of approval in reduction in demand/ load, the same shall be allowed subject to technical feasibility, without recovery of any Service Connection Charges/Line Charges or proportionate cost of the common portion.

Provided also that such option shall be exercised by the consumer only once."

(xxiii) The Forum lost sight of the fact that as per the above said clause of Supply Code there was a period of 15 days provided for granting reduction of load/ CD and in case of failure after 15 days it would be presumed to be approved. The Forum discarded this submission by saying that 15 days time has to be counted only after deposit of amount by the Appellant pursuance to the Demand Notice dated 20.06.2022. The Forum lost sight of the fact that in the present case the approval for reduction of load was granted on 25.02.2022 and Demand Notice was issued about 5 months thereafter. This fact itself proves that there was fault on the part of the PSPCL.

(xxiv) The Forum further lost sight of the fact that Clause 6.8.4 of the Supply Code prescribes the time period for issuing Demand Notices and as per this regulation the Demand Notice was required to be issued within 15 days even for release of connection. Whereas in the present case the Appellant had applied for reduction of CD and change of supply voltage. The Clause 6.8.4 was reproduced here under for ready reference.

“6.8.4 Time line for Issue of Demand Notice

The Demand Notice under regulation 6.8.3 shall be issued by the distribution licensee within:

- a) *7 working days of receipt of application in case of LT supply.*
- b) *15 days of receipt of application in case of HT supply up to 11 kV.*
- c) *30 days of receipt of application in case of HT/EHT (33 kV and above) supply.*
- d) *10 working days of receipt of Commission's approval in a case covered under regulation 8.1(c).*

After compliance of Demand Notice, the seniority shall be determined on the basis of date of receipt of test report and deposit of Service Connection Charges/Security (works). Where compliance of Demand Notice is made on the same day by more than one applicant, their seniority shall be reckoned from the date of registration of application.

(xxv) It was further submitted here that the Clause 8.5 nowhere says that in case of failure of the PSPCL in raising the Demand

Notice a consumer would be liable to pay Fixed Charges on the basis of earlier CD only.

(xxvi) It was further submitted here that it was admitted position that Feasibility Clearance for release of new connection to the Appellant (in his earlier name M/s. Mittal Spinning Mills) was granted vide CE/ Commercial, Patiala probable Memo No. 5237 dated 05.09.2011 as per which its load was to be fed from 132 kV Grid Sub-Station Ghulal by erecting a Multi Ckt. Tower Line with 0.15 Sq.” conductor upto common point and single circuit on S/C Towers upto their premises and for the same the Appellant had deposited estimate cost of this line as ₹ 98,06,255/- vide BA-16 no. 314/4786 dated 29.08.2012 and ₹ 41,00,000/- vide BA-16 no. 520/4787 dated 06.09.2013. It was also admitted position that this line could not be erected due to court case and feasibility was revised in order to provide the Appellant 66 kV supply through solid tapping from and existing PSPCL 66 kV line as a stop gap arrangement, vide Memo No. 217/Ind./Ropar/FC dated 18.03.2013 treating it as a special case. It was also admitted position that the expenditure of ₹ 52,47,639/- was incurred on erection 66 kV line for release of connection to the consumer as intimated by ASE/ STLSC Division, Jalandhar vide letter

dated 21.6.2022 and remaining amount was lying with the PSPCL. Once the Appellant had applied for change of supply voltage from 66 kV to 11 kV then it was clear that the said line of 66 kV was no more required. The Forum held that the Appellant had given an undertaking and it was bound by the same and so the amount deposited by it for 66 kV line could not be adjusted for 11 kV line. The undertaking given by the Appellant was reproduced here under for ready reference.

“We undertake that We will have no claim for failure of supply irrespective of duration of failure as the solid tapping shall result into longer time period for identification/segregation of fault.

The principal of (LILO)-shall be made applicable i.e. loop in-loop out arrangement shall be made at consumer’s substation for which the expenditure will be borne by us.

We undertake that as well as the stay vacated we are agree to do the work as per FCC on 66 kV line already given by the Chief Engineer (Commercial) vide Memo No. 5237 dated 05.09.2011 & will comply with the terms & conditions of this memo.”

- (xxvii) The Forum held that as per the above undertaking, the Appellant was bound to follow the condition laid down in the original feasibility till the completion of work and the accounts of any work can be finalized only after completion of the work and so the Appellant cannot claim refund of any excess amount till completion of the concerned work or withdrawal of his claim

for getting supply on 66 kV as per original feasibility clearance granted vide Memo No. 5237 dated 05.09.2011.

(xxviii) The Forum lost sight of the fact that once the Appellant has opted for 11 kV supply voltage then there was no requirement of 66 kV supply Line and the PSPCL could not keep the remaining amount with it. The undertaking given by the Appellant has been misinterpreted by the Forum.

(xxix) The Appellant reserves its right to take any other point during arguments with the permission of this Hon'ble Tribunal.

(xxx) It was therefore, respectfully, prayed that the present Appeal may kindly be allowed and the order dated 18.12.2013 passed by the Forum whereby the complaint/ petition filed by the Appellant was dismissed and refund of Fixed Charges, due to reduction of CD from 4500 kVA to 3600 kVA, for the period from 18.02.2022 to 19.02.2023, was declined, may kindly be set aside in the interest of justice.

(xxxi) The Appellant prayed that necessary directions to the Respondent to refund the difference of 66 kV and 11 kV meter already charged by them for the period from October, 2014 to February, 2015 or any other period from the Appellant may kindly be issued.

(xxxii) Any other relief order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case may also be passed in favor of the Appellant in the interest of justice.

(b) Submission during hearing

During hearings on 21.03.2024 & 27.03.2024, the Appellant's Counsel (AC) reiterated the submissions made in the Appeal and prayed to allow the same.

(B) Submissions of the Respondent

(a) Submissions in written reply

The Respondent submitted the following written reply for consideration of this Court:-

- (i) The Appellant was having a LS Category Connection bearing Account No. 3007509746 with current sanctioned load/ CD as 3600 kW/3600 kVA at supply voltage of 66 kV under DS City Sub Division, PSPCL, Samrala.
- (ii) The Appellant had given the request for load/ CD reduction from 4500 kW/ 4500 kVA to 3600 kW/3600 kVA along with change of supply voltage from 66 kV to 11 kV on 02.02.2022 by submitting A&A form and deposited processing fees of ₹ 2,950/- vide BA 16 no. 231/5346 dated 02.02.2022. The A&A

form was registered vide A&A No. 32819 dated 02.02.2022. After giving the recommendation for reduction of load, the case was sent for the approval to competent authority i.e. CE/ DS (South), PSPCL, Patiala. The reduction in contract demand with 11 kV supply voltage was approved vide Memo No. 1518/19 dated 25.02.2022. The AE/ DS City Sub Division, PSPCL, Samrala office vide Memo No. 259 dated 20.06.2022 issued a demand notice to deposit cost of estimate of reduction of load/ CD amounting to ₹ 49,82,898/- as per Regulation No. 8.5 of Supply Code on account of actual expenditure to be incurred for providing supply at 11 kV voltage level but the Appellant had failed to deposit the same.

- (iii) It was submitted that as per request of the Appellant, the load/ CD of 3600 kW/ 3600 kVA at 66 kV supply voltage was approved by the CE/ DS (South), Patiala vide Memo No. 4857 dated 31.05.2023. It was brought to your kind notice that in the SAP System, it was mistakenly posted from 19.02.2023. Therefore, the recoverable fixed charges of ₹ 8,37,992/- on account from energy bills of the time period dated 19.02.2023 to 31.05.2023 was chargeable from the Appellant.
- (iv) It was submitted that FCC Memo No. was issued by CE/Commercial, PSPCL vide Memo No. 5237/44 dated

05.09.2011 to give 66 kV connection to the Appellant. The Appellant had deposited the amount of an estimate of ₹ 98,06,255/- and ₹ 41,00,000/- vide BA 16 No. 314/4786 dated 29.08.2012 and BA 16 No. 520/4787 dated 06.09.2013 respectively. But due to Court Case, the feasibility was revised by CE/Commercial, PSPCL, Patiala vide Memo No. 217/20 dated 18.03.2013 in which 66 kV new connection was released to the Appellant after solid tapping of PSPCL's existing 66 kV Ghulal-Khamano line (feeding 66 kV Khamano S/S and 66 kV Ghungrali S/S).

(v) It was further clarified that as per FCC Memo No. 5237 dated 05.09.2011, the point no. (iii), reproduced as under:-

“If any problem arises regarding right of way in the construction of 11 KV/66 KV lines, the PSPCL will not be responsible for any financial or other loss/damages to the applicant due to any delay in the construction of line.”

and also as per point (d) of FCC Memo No. 217 dated 18.03.2013, reproduced as under:-

“ਬਿਨੈਕਾਰ ਪਾਸੋਂ ਇਹ undertaking ਲੈ ਲਈ ਜਾਵੇ ਕਿ ਉਸਾਰੀ ਅਧੀਨ 66 ਕੇਵ ਲਾਈਨ ਤੇ ਸਟੇਅ ਖਤਮ ਹੋਣ ਉਪਰੰਤ ਉਹ ਪਹਿਲਾਂ allow ਕੀਤੀ ਤਜਵੀਜ਼, ਇਸ ਦਫਤਰ ਦੇ ਮੀਮੋ ਨੰ.5237 ਮਿਤੀ 5.9.11 ਦੀਆਂ terms & conditions ਮੁਤਾਬਿਕ ਪਾਲਣਾ ਕਰੇਗਾ”

in compliance to the above memos the Appellant had given the undertaking. The relevant part is reproduced as below:

“We undertake that as well as the stay vacated we are agree to do the work as per FCC on 66KV line already given by The

Chief Engineer (Commercial) vide memo no. 5237 dt 05.09.11 & will comply with the terms & conditions of this memo.”

and now the Appellant's contention of adjustment of that amount was totally irrelevant to the case of reduction of load as the 66 kV line work was at the re-tendering stage by the TL organisation.

- (vi) As the Appellant had not made the compliance of demand notice issued by AE/City Sub Division, PSPCL, Samrala to deposit cost of estimate of reduction of load/CD of ₹ 49,82,898/- as per Clause No. 8.5 of Supply Code on account of actual expenditure to be incurred for providing supply at 11 kV voltage level. So, the contract demand of the Appellant cannot be treated as 3600 kW/3600 kVA.
- (vii) The reduction in contract demand with 11 kV supply voltage was approved on 25.02.2022 vide Memo No. 1518/19 dated 25.02.2022. The AE/City Sub Division, PSPCL, Samrala office vide Memo No. 259 dated 20.06.2022 issued a demand notice to deposit cost of estimate of reduction of load/CD of ₹ 49,82,898/- as per Regulation No. 8.5 of Supply Code on account of actual expenditure to be incurred for providing supply at 11 kV voltage level but the Appellant had failed to deposit the same.

(viii) As per instructions of the PSPCL/Regulation No. 8.5 of Supply Code, the AE/City Sub Division, PSPCL, Samrala had issued a demand notice to deposit cost of estimate of reduction of load/CD (from 4500 kVA to 3600 kVA to provide supply at 11 kV voltage) of ₹ 49,82,898/-, but the Appellant had not done the compliance of the demand notice issued by the PSPCL. It was submitted that as per request of the Appellant the load/CD of 3600 kW/3600 kVA at 66 kV supply voltage was approved by the CE/DS South Zone, PSPCL, Patiala vide Memo No. 4857 dated 31.05.2023. It was brought to your kind notice that in the SAP system it was mistakenly posted from 19.02.2023. Therefore, the recoverable fixed charges of ₹ 8,37,992/- on account of energy bills of the time period dated 19.02.2023 to 31.05.2023 was chargeable from the Appellant. In view of the above, the instructions may be imparted to the Appellant to deposit the same.

(ix) So, the claim of the Appellant to refund of ₹ 33,54,823/- may be rejected. In view of the above contentions, the Respondent requested that the Appeal may be dismissed accordingly.

(b) Additional submissions

The Respondent vide its office Memo No. 1353 dated 26.03.2024 made following additional submissions for consideration of this Court: -

- (i) The A&A form regarding the reduction of load was approved by CE/ DS (South), Patiala vide Memo No. 1517 dated 25.02.2022. As per point no. 6 of above said memo, the Respondent had issued letter to Addl.SE/ TLSC Divn., Jalandhar vide Memo No. 1131/32 dated 07.03.2022 and Dy. CE/ DS Circle, Ropar also issued letter to Dy. CE/ TLSC, Jalandhar as per above vide Memo No. 2595 dated 11.03.2022. Again, the Respondent issued Memo No. 1624 dated 30.03.2022 to Addl.SE/ TLSC Divn., Jalandhar and Dy. CE/ Circle, Ropar also issued a Memo to Dy. CE/ TLSC, Jalandhar vide Memo No. 3740 dated 07.04.2022. In the meantime, AE/ DS City Sub Divn., Samrala had prepared the estimate for giving supply on 11 kV to subject cited consumer and sent the same to the Respondent vide Memo No. 127 dated 11.04.2022 and the same was sent to Dy. CE/ DS Circle, Ropar vide Memo No. 1932 dated 13.04.2022 for deposit estimate as per regulation no. 8.5 of Supply Code for change of supply voltage from 66 kV to 11kV. Dy. CE/ DS Circle,

Ropar had issued Memo No. 4595 dated 29.04.2022 for some clarification, which were provided by the Respondent vide Memo No. 2498 dated 12.05.2022 after getting the same from AE/DS City Sub Divn., Samrala vide Memo No.185 dated 11.05.2022 and the same was sent to CE/ DS (South), Patiala by Dy. CE/ Circle, Ropar vide Memo No. 5298 dated 17.05.2022. Thereafter, CE/ DS (South), Patiala office vide Memo No. 4066 dated 25.05.2022 referred back the estimate with the observation that Administrative approval and Technical approval can be granted at its own level. Subsequently, estimate no. 300357/2022-23 dated 31.05.2022 for ₹ 49,82,898/- was approved by the Respondent and notice no. 259 dated 20.06.2022 was sent to the Appellant by the AE/ DS City Sub Divn., Samrala to deposit the above said amount. Instead of depositing the amount, the Appellant applied for adjustment of amount, which was already deposited at the time of getting new 66 kV connection. The above sequence explains the issue of the notice to the Appellant as per approval of the Competent Authority.

- (ii) The reply already given in point no. 1 be considered and in continuation to it, it was submitted that the Appellant vide letter no. 298/2022-23 dated 23.06.2022 addressed to AE/ DS

City Sub Divn., Samana requested for adjustment of the already deposited amount at the time of 66 kV connection as per Regulation 9.3.6 of Supply Code. The above mentioned request of the Appellant alongwith AE/ DS City Sub Divn., Samrala Memo No. 263 dated 23.06.2022 was forwarded to the office of Dy. CE/ DS Circle, Ropar vide Memo No. 3435 dated 28.06.2022 and further it was sent to CE/ Commercial, Patiala vide Memo No. 7558 dated 15.07.2022. Again, this office issued Memo No. 5775 dated 04.10.2022 for further necessary action and Dy. CE/ DS Circle, Ropar vide Memo No. 10776 dated 10.10.2022 to CE/ Commercial, Patiala and CE/ Commercial, Patiala vide Memo No. 982 dated 01.11.2022 addressed to Dy. CE/ DS Circle, Ropar demanded further report regarding the above and the same was provided by the Respondent vide memo No. 6494 dated 16.11.2022 to Dy. CE/ DS Circle, Ropar and was further sent to CE/ Commercial, Patiala vide Memo No. 12277 dated 21.11.2022 by Dy. CE/ DS Circle, Ropar. Again, CE/ Commercial, Patiala vide its Memo No. 1001/1002 dated 30.11.2022 sought further clarification & the same was provided by the Respondent vide Memo No. 5 dated 02.01.2023, which was further processed by Dy. CE/ DS Circle, Ropar and sent to CE/ Commercial,

Patiala vide Memo No. 145 dated 04.01.2023. Again CE/ Commercial, Patiala vide its Memo No. 16 dated 23.01.2023 referred back the case for comments of CE/ DS (South), Patiala and the office of CE/ DS (South), Patiala referred back the case vide Memo No. 2176 dated 06.03.2023 to Dy. CE/ DS Circle, Ropar. Subsequently, the detailed case was sent by AE/DS City Sub Divn., Samrala vide its Memo No. 178 dated 21.03.2023 to the Respondent and same was further sent to Dy. CE/ DS Circle, Ropar vide Memo No. 1655 dated 13.03.2023 which was further sent vide Memo No. 4122 dated 13.04.2023 to CE/ DS (South), Patiala and it was referred back vide Memo No. 3527 dated 20.04.2023. In the meantime, The Appellant had applied for reduction of its load directly to CE/ DS (South), Patiala vide reference no. KSSL/89/20-23 dated 21.04.2023 with subject mentioning “request for withdrawing shifting 66 kV supply to 11 kV supply” and the above mentioned representation was forwarded vide Memo No. 3733 dated 26.04.2023 to Dy. CE/ DS Circle, Ropar for further necessary action and the same was compiled by AE/ DS City Sub Divn., Samrala vide Memo No. 276 dated 09.05.2023 which was further sent vide Memo No. 5999 dated 26.05.2023

to CE/ DS (South), Patiala and the same was sanctioned vide Memo No. 4854 dated 31.05.2023 of CE/ DS (South), Patiala.

- (iii) On dated 23.06.2022 the Appellant had applied for adjustment of amount already deposited by the Appellant but as per Regulation 9.3.6 of Supply Code, the adjustment of the amount cannot be made till the completion of the work. Till now, the work of 66 kV line is under process vide ASE's/ TL Division, Ludhiana Memo No. 4585 dated 04.12.2023 and Memo No. 1196 dated 19.03.2024 and also Corporate Forum decision dated 18.12.2023 at page no. 19 first para which is reproduced as under

“Petitioner has also made reference of Reg. 9.3.6 of Supply Code that the expenditure incurred for release of connection to the consumer was required to be intimated and excess amount of Rs. 8658616/- (Rs. 13906255 - Rs. 5247639) was required to be refunded/ adjusted within 60 days from the date of release connection and interest @ SBI base rate plus 2% is payable for the period of delay. However, the excess amount of Rs. 8658616/- has not been refunded till date. In this regard, Forum observed that as the work has not yet completed and is still in progress, as such the regulation is not applicable here.”

- (iv) As already mentioned in the reply to point no. 1 and 2 above, the Appellant was very much aware about the status

of the case and this fact was further corroborated by the representation dated 21.04.2024 submitted directly to the Chief Engineer/ DS (South), Patiala regarding maintaining existing 66 kV supply voltage with reduced Load/ CD.

In view of the above facts, it was requested that the Appeal of the Appellant may be dismissed accordingly.

(c) Submission during hearing

During hearings on 21.03.2024 & 27.03.2024, the Respondent reiterated the submissions made in the written reply to the Appeal as well as in the additional submissions and prayed for the dismissal of the Appeal.

6. Analysis and Findings

The issue requiring adjudication is the legitimacy of claim of the Appellant for refund of ₹ 33,54,827/- charged to it on account of difference of Fixed Charges levied on 4500 kVA instead of 3600 kVA for the period from 18.02.2022 to 19.02.2023 alongwith interest.

My findings on the points that emerged and my analysis is as under:

- (i) The Corporate Forum in its order dated 18.12.2023 observed as under:-

“Forum observed that petitioner applied for reduction of his load/CD from 4500 KW/4500 KVA to 3600 KW/3600 KVA along with change of supply voltage from 66 KV to 11 KV on 02.02.2022 by submitting A&A form and depositing processing fees of Rs. 2950/- vide BA-16 no. 231/5346 dated 02.02.2022. The same was approved by CE/DS, South Zone, PSPCL, Patiala on 25.02.2022 vide his office probable memo no. 1517/19 dated 25.02.2022. AE/City Samrala vide his office memo no. 259 dated 20.06.2022 issued demand notice to the petitioner to deposit cost of Estimate for providing supply at 11 KV voltage due to reduction of load/CD, amounting to Rs. 4982898/-. However, the petitioner firm instead of depositing the amount, wrote to SDO/DS Sub Division Samrala vide their letter no. 298/2022-23 dated 23.06.2022 that they had already deposited estimated cost of independent 66 KV line (Rs. 9806255/- vide BA-16 no. 314/4786 dated 29.08.2012 and Rs. 4100000/- vide BA-16 no. 520/4787 dated 06.09.2013) but they were given supply through solid tapping from an existing 66 KV line as their 66 KV line could not be erected due to some dispute and court case and requested to adjust amount of this demand notice from their outstanding amount deposited by them for erection of 66 KV line which could not be erected. In the meanwhile, petitioner again submitted revised A&A form no. 32486 dated 09.05.2023 requesting for changing his supply voltage from 11 KV to 66 KV for a load of 3600 KW/3600 KVA and same was approved by CE/DS, South Zone, PSPCL, Patiala vide his memo no. 4857 dated 31.05.2023. Petitioner pleaded that his load/CD

was reduced/approved vide memo no. 1518/19 dated 25.02.2022 but PSPCL kept on charging the fixed charges on his previous load/CD and requested for refund of difference of fixed charges on the basis of CD 3600 KVA instead of 4500 KVA for the period from billing cycle of 03/2022 i.e. 18.02.2022 to 19.02.2023 (reduction effected in SAP) alongwith interest on it and filed his case in Corporate CGRF, Ludhiana for the same. Forum observed that Clause 8.5 'Reduction in Sanctioned Load' of PSERC Supply Code-2014 (read with 5th Amendment circulated vide CC no. 9/2019 dated 18.02.2019, effective from 28.01.2019) reads as under: -

"8.5 Reduction in Sanctioned Load/Demand

The request for reduction in sanctioned demand/ load by a consumer shall be submitted on A & A form prescribed by the distribution licensee along with processing fee and electrical contractor's test report only in case there is change in connected load and/or electrical installation.

Provided that in case reduction in load/ demand results in reduction of supply voltage also, the supply may continue to be given at the existing higher supply voltage. However, in case the consumer opts for supply voltage corresponding to the reduced load/demand and it involves change in the licensee's distribution system then such consumer shall be liable to pay actual expenditure incurred by the licensee to effect such changes in infrastructure.

The request shall be granted by the distribution licensee within a maximum period of fifteen (15) days from the date of its submission of revised A&A form and deposit of necessary charges, wherever applicable, failing which the demand/ load shall be deemed to have been reduced as requested by the consumer.

Provided further that in case a consumer (except seasonal industrial category) requests for increase in his sanctioned contract demand/load upto the original sanctioned demand/load within a period of one year from the date of approval in reduction in demand/ load, the same shall be allowed subject to technical feasibility, without recovery of any Service Connection Charges/Line Charges or proportionate cost of the common portion.

Provided also that such option shall be exercised by the consumer only once."

It is obvious from the above that the 15 days period for granting the request of reduction in load/CD is to be counted from the date of its submission of revised A&A form and deposit of necessary charges for shifting the supply voltage from 66KV to 11 KV as demanded by the respondent vide memo no. 259 dated 20.06.2022. However, petitioner did not deposit the said amount and later on opted for shifting back to 66KV supply.

Forum observed that Feasibility Clearance for release of new connection to the petitioner (in his earlier name M/s Mittal Spinning Mills) was granted vide CE/Commercial, Patiala probable memo no. 5237 dated 05.09.2011 as per which his load was to be fed from 132 KV Grid Sub Station Ghulal by erecting a Multi Ckt. Tower Line with 0.15 Sq." conductor upto common point (approximately 4 km) and single circuit on S/C Towers upto their premises. Petitioner deposited estimate cost of this line as Rs. 9806255/- vide BA-16 no. 314/4786 dated 29.08.2012 and Rs. 4100000/- vide BA-16 no. 520/4787 dated 06.09.2013. However, this line could not be erected due to court case and his feasibility was revised in order to provide him 66 KV supply through solid tapping from an existing PSPCL 66 KV line as a stop gap arrangement, vide memo no. 217/Ind./Ropar/FC dated 18.03.2013 treating it as a special case. Along with other terms and conditions, following condition was imposed on the petitioner in this revised feasibility clearance: -

“ਬਿਨੈਕਾਰ ਪਾਸੋਂ ਇਹ undertaking ਲੈ ਲਈ ਜਾਵੇ ਕਿ ਉਸਾਰੀ ਅਧੀਨ 66 ਕੇਵੀ ਲਾਈਨ ਤੇ ਸਟੋਪ ਖਤਮ ਹੋਣ ਉਪਰੰਤ ਉਹ ਪਹਿਲਾਂ allow ਕੀਤੀ ਤਜਵੀਜ਼, ਇਸ ਦਫਤਰ ਦੇ ਮੀਮੋ ਨੰ: 5237 ਮਿਤੀ 5.9.11 ਦੀਆਂ terms & conditions ਮੁਤਾਬਿਕ ਪਾਲਣਾ ਕਰੇਗਾ।”

As per above condition, petitioner submitted undertaking on 22.03.2013 as under: -

“We undertake that We will have no claim for failure of supply irrespective of duration of failure as the solid tapping shall result into longer time period for identification /segregation of fault.

The principal of (LILO)-shall be made applicable i.e. loop in-loop out arrangement shall be made at consumer's substation for which the expenditure will be borne by us.

We undertake that as well as the stay vacated we are agree to do the work as per FCC on 66 KV line already given by The Chief Engineer (Commercial) vide Memo No. 5237 Dt. 5-9-11 & will comply with the terms & conditions of this memo."

As per the above undertaking, he was bound to follow the conditions laid down in the original feasibility till the completion of work. The accounts of any work can be finalized only after completion of the work and petitioner cannot claim refund of any excess amount till completion of the concerned work or withdrawal of his claim for getting supply on 66 KV as per original feasibility clearance granted vide Memo no. 5237 dated 05.09.2011. In the present case the work has not yet been completed and now stay has been vacated by the Hon'ble Court and as per submission of respondent vide memo no. 7027 dated 08.12.2023, the 66KV line work is at retendering stage by the TL organization. As the work is still in progress, therefore, request of petitioner that amount of estimate of shifting the supply voltage at 11KV, be adjusted against already deposited amount for erection of 66 KV line, does not seem to be justified.

Forum further observed that the petitioner is relying upon instruction no. 27.5.2 of ESIM reproduced as under:

27.5 Reduction in Contract Demand by HT / EHT Consumers:

27.5.1 An industrial consumer who desires to get his connected load / contract demand reduced must apply for the same on the prescribed A & A form as applicable alongwith processing fee and electrical contractor's test report.

27.5.2 The AE/AEE/XEN (DS) will ensure that the reduced contract demand is got sanctioned from the competent authority (authority which sanctioned the original contract demand) within a period of 15 days from the date of receipt of application complete in all respects. The reduced contract demand will be effective for the purpose of billing from the date it is sanctioned

and intimated to the consumer or from the billing month falling after the expiry of 15 days from the date of receipt of application for reduced contract demand whichever is earlier. Even if the reduced demand is not sanctioned within 15 days, it will be deemed to have been sanctioned for the purpose of billing after 15 days from the date of receipt of application complete in all respects. It should be ensured that MDI is recorded and reset at the time of reduction in contract demand.

Forum observed that the above instruction does not deal with the cases where HT/EHT consumer has opted for change in supply voltage from higher level to lower level. For such cases Reg. 8.5 of Supply Code is applicable which clearly conveys that such request shall be granted by the distribution licensee within a maximum period of fifteen (15) days from the date of its submission of revised A&A form and deposit of necessary charges, wherever applicable. Therefore instruction no. 27.5.2 of ESIM, is not applicable here.

Petitioner has also made reference to clause nos. 27.6.3 & 27.6.5 of Supply Code (whereas actually these are instructions of ESIM) regarding billing to be started on reduced load after fifteen days. Forum observed these instructions are applicable to the consumers applying for reduction in load other than HT/EHT consumers, so the same is also not applicable here.

Petitioner has also made reference of Reg. 9.3.6 of Supply Code that the expenditure incurred for release of connection to the consumer was required to be intimated and excess amount of Rs. 8658616/- (Rs. 13906255- Rs. 5247639) was required to be refunded/adjusted within 60 days from the date of release connection and interest @SBI base rate plus 2 % is payable for the period of delay. However, the excess amount of Rs. 8658616/- has not been refunded till date. In this regard, Forum observed that as the work has not yet completed and is still in progress, as such the above regulation is not applicable here.

Further, Respondent in his reply stated that reduction in load was approved by CE/DS, South Zone, PSPCL, Patiala on 31.05.2023 but in SAP system it was mistakenly posted from 19.02.2023 due to which the fixed charges on reduced load/CD started on 19.02.2023, which actually are to be charged from 31.05.2023. He further stated that an amount of Rs. 837992/- is chargeable to the petitioner on account of fixed charges for 4500 KVA instead of 3600 KVA from 19.02.2023 to 31.05.2023. Forum observed that as the petitioner failed to deposit necessary charges for change in supply voltage to 11 KV against earlier sanction of reduction in CD on 25.02.2022 and he again applied for supply voltage at 66 KV which was sanctioned on 31.05.2023. Hence fixed charges are required to be charged on 4500 KVA till 31.05.2023.

Petitioner in his final submission on 12.12.2023 stated as under: -

- i. Whether claim of refund for Fixed Charges excess levied from 18.02.2022 is not justified as per instruction No. 27.5.2 of ESIM and as per approval of CE/Op South Zone on 25.02.2022 especially when no notice was given for deposit of estimated cost of 11 KV line till 20.6.2022 i.e. before the approval of reduction in load/demand on 25.2.2022?
- ii. Whether the claim of refund of the petitioner can be denied on the ground that estimated cost as intimated on 20.6.2022 was not deposited, considering the fact that request dated 23.6.2022 of petitioner for adjustment was not refused by the respondent' office and higher offices?

Forum observed that sanction of the Reduction in Load/CD by CE/DS South Zone, PSPCL, Patiala was conditional and had to take effect on deposit of necessary charges and completion of all necessary formalities by the petitioner. The petitioner failed to deposit the estimated cost of shifting of

supply voltage from 66KV to 11KV, amounting to Rs. 4982898/- as per probable Memo no. 1517 dated 25.02.2022 and intimated to him vide SDO/DS Sub Division Samrala vide notice no. 259 dated 20.06.2022. As such the above contentions of the petitioner are not acceptable.

Forum has gone through the written submissions made by the Petitioner in the petition, written reply of the Respondent as well as rejoinder/oral arguments and other material brought on record. Keeping in view the above facts/discussion, Forum is of the opinion that claim of the petitioner for billing with fixed charges on reduced load/CD of 3600KW/3600KVA w.e.f. 22.03.2022 is not justified as he failed to deposit the cost of the 11 KV system as per demand notice no. 259 dated 20.06.2022. Therefore, claim of the petitioner for refund of an amount of Rs. 3354827/- on account of difference in fixed charges (3600 KVA instead of 4500 KVA)including interest for the period from 22.03.2022 to 23.02.2023, is not acceptable.”

- (ii) I have gone through the written submissions made by the Appellant in the Appeal, written reply & additional submissions of the Respondent as well as oral arguments of both the parties during the hearings on 21.03.2024 & 27.03.2024. It is observed that the Appellant had applied for reduction of its sanctioned load/CD from 4500 kW/4500 kVA to 3600 kW/3600 kVA along with change of supply voltage from 66 kV to 11 kV on 02.02.2022 by submitting A&A form and depositing processing fees of ₹ 2950/- vide BA-16 No. 231/5346 dated 02.02.2022. The same was approved by Chief Engineer/DS, South Zone, PSPCL, Patiala on 25.02.2022 vide

Memo No. 1517/19 dated 25.02.2022. AE/City Sub Division, PSPCL, Samrala issued demand notice vide Memo No. 259 dated 20.06.2022 to the Appellant to deposit Estimated cost of ₹ 49,82,898/- for providing supply at 11 kV voltage due to reduction of load/CD. However, the Appellant, instead of depositing the amount, wrote to AE/DS City Sub Division, PSPCL, Samrala vide letter no. 298/2022-23 dated 23.06.2022 that they had already deposited estimated cost of independent 66 kV line (₹ 98,06,255/- vide BA-16 No. 314/4786 dated 29.08.2012 and ₹ 41,00,000/- vide BA-16 No. 520/4787 dated 06.09.2013). They were given supply through solid tapping from the existing 66 kV Ghulal-Khamano line as their 66 kV line could not be erected from 132 kV Grid Sub-Station Ghulal due to some dispute and court case. So, the Appellant requested the Respondent to adjust amount of this demand notice from the outstanding amount deposited by them for erection of 66 kV line from 132 kV Grid Sub-Station Ghulal, which could not be erected. Later, the Appellant again submitted revised A&A Form No. 32486 dated 09.05.2023 & requested to change its supply voltage from 11 kV to 66 kV for a load of 3600 kW/3600 kVA and same was approved by

CE/DS, South Zone, PSPCL, Patiala vide Memo No. 4857 dated 31.05.2023.

- (iii) The Appellant's Counsel pleaded that the Appellant's sanctioned load/CD was reduced/approved vide Memo No. 1518/19 dated 25.02.2022, but PSPCL kept on charging the fixed charges on its previous load/CD and requested for refund of difference of fixed charges on the basis of reduced CD of 3600 kVA instead of 4500 kVA for the period from 18.02.2022 to 19.02.2023 alongwith interest on it. He pleaded that the Corporate Forum had failed to give relief to the Appellant as per Regulation 8.5 of Supply Code-2014, wherein it has been mentioned that the time period of 15 days is provided for granting reduction of load/CD & in case of failure, it would be presumed to be approved after 15 days.
- (iv) The Respondent controverted the pleadings of the Appellant's Counsel & argued that the reduction in contract demand with 11 kV supply voltage was approved on 25.02.2022 vide Memo No. 1518/19 dated 25.02.2022. The AE/City Sub Division, PSPCL, Samrala, vide Memo No. 259 dated 20.06.2022, had issued a demand notice to deposit cost of estimate of reduction of load/CD of ₹ 49,82,898/- as per Regulation No. 8.5 of Supply Code on account of actual expenditure to be incurred

for providing supply at 11 kV voltage level but the Appellant had failed to deposit the same. He further argued that the pleading of the Appellant that the Estimated cost deposited by it for the erection of 66 kV independent line could have been adjusted against this demand notice is not correct as the Appellant had given the undertaking, the relevant part of which is reproduced as under:

“We undertake that as well as the stay vacated we are agree to do the work as per FCC on 66KV line already given by The Chief Engineer (Commercial) vide memo no. 5237 dt 05.09.11 & will comply with the terms & conditions of this memo.”

Also, now the Appellant’s contention of adjustment of that amount was totally irrelevant to the case of reduction of load as the 66 kV line work was at the re-tendering stage by the TL organization of PSPCL after the fresh application by the Appellant for getting the supply at 66 kV voltage level by withdrawing the earlier request of getting supply at 11 kV voltage level.

- (v) This Court has gone through Regulation 8.5 of Supply Code, 2014, reproduced as under:-

“8.5 Reduction in Sanctioned Load/Demand

The request for reduction in sanctioned demand/ load by a consumer shall be submitted on A & A form prescribed by the distribution licensee along with processing fee and electrical contractor’s test report only in case there is change in connected load and/or electrical installation.

Provided that in case reduction in load/ demand results in reduction of supply voltage also, the supply may continue to be given at the existing higher supply voltage. However, in case the consumer opts for supply voltage corresponding to the reduced load/demand and it involves change in the licensee's distribution system then such consumer shall be liable to pay actual expenditure incurred by the licensee to effect such changes in infrastructure.

The request shall be granted by the distribution licensee within a maximum period of fifteen (15) days from the date of its submission of revised A&A form and deposit of necessary charges, wherever applicable, failing which the demand/ load shall be deemed to have been reduced as requested by the consumer.

Provided further that in case a consumer (except seasonal industrial category) requests for increase in his sanctioned contract demand/load upto the original sanctioned demand/load within a period of one year from the date of approval in reduction in demand/ load, the same shall be allowed subject to technical feasibility, without recovery of any Service Connection Charges/Line Charges or proportionate cost of the common portion.

Provided also that such option shall be exercised by the consumer only once."

- (vi) On perusal of above Regulation, it is observed that, in case the consumer opts for supply voltage corresponding to the reduced load/demand & it involves change in the licensee's distribution system then the same shall be allowed subject to technical feasibility & such consumer shall be liable to pay actual expenditure incurred by the licensee to effect such changes in infrastructure. The request shall be granted by the distribution licensee within a maximum period of fifteen (15) days from the date of its submission of revised A & A form and deposit of necessary charges, **wherever applicable.**

(vii) The Respondent issued the demand notice for erecting 11 kV line for giving supply to the Appellant on 20.06.2022 i.e. after a period of more than 4 months from the date of submission of A & A Form on 02.02.2022. As per Regulations 6.8.4 (b) of Supply Code, 2014, the licensee has to issue demand notice within 15 days in case of HT Supply upto 11 kV. Moreover as per Regulation 8.5 of Supply Code, 2014, the request for reduction of load/demand of the consumer shall be granted by the distribution licensee within a maximum period of fifteen (15) days from the date of submission of revised A & A Form and deposit of necessary charges, wherever applicable. But the Respondent failed to issue the demand notice within the time period laid down in the Regulations. This Court observed that the Respondent even failed to intimate the Appellant that the distribution system required changes/ modifications/ erection of 11 kV line & the demand notice would be issued in due course. The Respondent took inordinate time citing procedural issues while framing the estimate & issuing the demand notice. Therefore, the Respondent cannot claim Fixed charges on 4500 kVA instead of the applied reduced demand of 3600 kVA for the period starting from 15 days from submission of revised A&A Form, i.e, 18.02.2022 till issuance of Demand

notice on 20.06.2022 due to inordinate delay on the part of the Respondent in issuing Demand notice to the Appellant.

- (viii) The Appellant was getting supply at 66 kV & opted for supply voltage of 11 kV in the A & A form submitted on 02.02.2022 for reduction of load/demand. So AE City, Sub division, PSPCL, Samrala had issued a demand notice vide Memo No. 259 dated 20.06.2022 to deposit cost of estimate of reduction of load/CD of ₹ 49,82,898/- as per Regulation 8.5 of Supply Code-2014 on account of actual expenditure to be incurred for providing supply at 11 kV voltage level. Instead of depositing this amount, the Appellant requested the Respondent to adjust amount of this demand notice from the outstanding amount deposited by them for erecting 66 kV line from 132 kV Grid Sub-Station Ghulal, which could not be erected due to some dispute & Court case. The Respondent forwarded this request of the Appellant to the higher authorities. The Respondent neither rejected nor confirmed this request of the Appellant till the Appellant again submitted revised A&A Form No. 32486 dated 09.05.2023 & requested to change its supply voltage from 11 kV to 66 kV for a load of 3600 kW/3600 kVA.
- (ix) It is observed by this Court that the Appellant did not comply with the demand notice. It is seen that the work of 66 kV line

had not been completed at the time of request of the Appellant & the Appellant had also given the undertaking to the Respondent that whenever the stay in respect of 66 kV line from 132 kV Grid Sub-Station Ghulal is vacated, it will comply with the terms & conditions given in the Feasibility clearance for 66 kV line given by the Chief Engineer (Commercial) vide Memo No. 5237 dated 05.09.2011. It is felt that it was not possible for the Respondent to prepare the final settlement of accounts in respect of 66 kV system as the Respondent would also have been required to carry out the dismantlement work etc. of the work already done for giving supply through solid tapping from the existing 66 kV Ghulal-Khamano line as well as the part work done on construction of 66 kV line from 132 kV Grid Sub-Station Ghulal. According to Regulation 9.3.6 of Supply Code-2014, the refund could have been given to the Appellant only after completion of the entire work. Therefore it was not possible to assess the amount which would have been due to the Appellant for adjustment. The Appellant should have complied with the demand notice & applied for the refund of the amount deposited for 66 kV system later.

However, this Court observes that it was a serious lapse on the part of the Respondent that he made an inordinate delay in issuing the demand notice & then never responding to the Appellant's request for adjustment of amount in the demand notice against amount deposited by them for erecting 66 kV line from 132 kV Grid Sub-Station Ghulal & erection of 66 kV solid tapping from existing 66 kV Ghulal-Khamano line.

- (x) In view of above, it is decided that the Appellant be charged Fixed Charges on reduced load/ CD of 3600 kW/ 3600 kVA for the period from 15 days of submission of revised A&A Form, i.e, 18.02.2022 till issuance of Demand notice on 20.06.2022 due to inordinate delay on the part of the Respondent in issuing Demand notice to the Appellant. Further as per Regulation 8.5, the Appellant opted for supply voltage corresponding to the reduced load/demand and it involved change in the licensee's distribution system for which the Respondent issued Demand notice on 20.06.2022. Since the Appellant did not comply with the Demand notice, therefore no further relief can be given for the balance period after issuance of the Demand notice as prayed for by the Appellant.

7. Decision

As a sequel of above discussions, the order dated 18.12.2023 of the CCGRF, Ludhiana in Case No. CF-140/2023 is amended to the extent that refund on account of difference of Fixed Charges levied on 4500 kVA instead of 3600 kVA for the period from 18.02.2022 to 20.06.2022 is allowed to the Appellant without any interest.

This Court observed that it was a serious lapse on the part of the Respondent that he made an inordinate delay in issuing the demand notice & then never responded to the Appellant's request to adjust amount of this demand notice from the amount deposited by them for erecting 66 kV line from 132 kV Grid Sub-Station Ghulal & erection of 66 kV solid tapping from existing 66 kV Ghulal-Khamano line.

- 8.** The Appeal is disposed of accordingly.
- 9.** 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.

10. 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.

April 10, 2024
S.A.S. Nagar (Mohali).

(ANJULI CHANDRA)
Lokpal (Ombudsman)
Electricity, Punjab.

