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

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

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

 **APPEAL NO. 07/2021**

**Date of Registration : 04.02.2021**

**Date of Hearing : 24.02.2021 and 12.03.2021**

**Date of Order : 17.03.2021**

**Before:**

**Er. Gurinder Jit Singh,**

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

**In the Matter of:**

M/s. S. S. Concast Pvt. Ltd.,

Village-Panjeta,

Machhiwara Road, Kohara,

Ludhiana.

**Contract Account Number: R74-KR0100125** ...Appellant

 Versus

Senior Executive Engineer,

DS Division, PSPCL,

Samrala.

 ...Respondent

**Present For:**

Appellant: Sh. Parvesh Chadha,

 Appellant’s Representative.

Respondent : 1. Er. Rajesh Kumar,

 Sr. Executive Engineer,

 DS Division, PSPCL, Samrala.

 2. Er. Gundeep Singh,

 Assistant Engineer,

 DS Division, PSPCL,

 Samrala.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 13.01.2021 of the Consumer Grievances Redressal Forum (Forum), Patiala in Case No. CGP-351 of 2020, deciding that:

*“The Late Payment Surcharge on account of late deposit of part balance Payment of Rs. 49,00,000/- against the bill issued in the month of September, 2020 is recoverable from the petitioner as per Supply Code Regulation 2014 clause no. 31.9.”*

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

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 04.02.2021 i.e. within thirty days of receipt of the decision dated 13.01.2021 of the CGRF, Patiala in Case No. CGP-351 of 2020 by the Appellant. The Appellant submitted copies of receipt No. 150349108 dated 28.10.2020 for ₹ 1,05,05,900/- which included the whole disputed amount of ₹ 3,77,686/- on account of Late Payment Surcharge/interest charged due to late payment of bill dated 19.09.2020 to the Appellant. Thus, the Appellant deposited the entire disputed amount with the Respondent. Therefore, the Appeal was registered and copy of the same was sent to the Senior Executive Engineer/ DS Division, PSPCL, Samrala for sending written reply/ parawise comments with a copy to the office of the CGRF, Patiala under intimation to the Appellant vide letter nos. 129-131/OEP/A-07/2021 dated 04.02.2021.

**3.** **Proceedings**

(i) With a view to adjudicate the dispute, a hearing was fixed in this Court on 24.02.2021 at 12.00 Noon and an intimation to this effect was sent to both the sides vide letter nos. 185-86/OEP/A-07/2021 dated 18.02.2021. As scheduled, the hearing was held in this Court, on the said date and time. Copies of the minutes of the proceedings were sent to the Appellant and the Respondent vide this office letter nos. 212-13/OEP/A-07/2021 dated 24.02.2021 whereby, it was conveyed that next hearing will be held on 12.03.2021 at 12.00 Noon to deliberate the matter further in the light of information, desired to be supplied to this Court.

(ii) In the herring held on 12.03.2021, the representatives of both the sides attended this Court. Deliberations were held and the order was reserved. Copies of the minutes of the proceedings were sent to both the sides vide letter nos. 304-305/OEP/ A-07/2021 dated 12.03.2021.

**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 Representative 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. R74KR0100125 with sanctioned load of 2485 kW.
2. The Forum had decided the case without going through the points raised in the petition, rejoinder and oral discussion as mentioned in the succeeding paras.
3. The Appellant was not at fault as the payment was deposited as per instructions of the PSPCL vide letter dated 28.09.2020 and 29.09.2020.
4. The bill was charged with full surcharge amounting to ₹ 3,77,686/- (₹ 3,72,105/- as LPS and ₹ 5,581/- as interest). The bill under dispute was issued for ₹ 80,30,469/- with LPS 2% upto 7 days ₹ 1,48,841/- and beyond 7 days @ 5% ₹ 3,72,105/- and after that, interest @ 1.5% was chargeable.
5. The Forum had not decided the case according to the instructions of General Conditions of Tariff in which, it was specified how to charge LPS and interest on delayed payment. The system was at fault which was authenticated from the Bank Statement that the amount was deducted from the account of the Appellant on 29.09.2020 and returned on 01.10.2020. The Respondent, on being asked by the Forum, submitted that on the particular date i.e 29.09.2020, 124 number consumers had deposited online and had no problem like the Appellant. The Respondent had provided the list with the reply. There might be difference of time of transaction made.
6. The Appellant had received bill for the period from 18.08.2020 to 18.09.2020 amounting to ₹ 89,30,460/- payable upto 29.09.2020 and the Appellant made part payment of ₹ 40,30,360/- online vide receipt No. 148845727 on 28.09.2020.
7. The Appellant had paid ₹ 49,00,000/- on 29.09.2020 but the receipt was not generated. The Appellant made a Call from its Cell Phone to Help Desk which replied to wait till morning. The payment was deducted from the account of the Appellant but no receipt was generated. The Appellant, on 30.09.2020, sent an e-mail for non generation of receipt in regard to its payment made online on 29.09.2020 but no reply was received from the Help Desk. The Appellant received reply from Help Desk on 01.10.2020 that payment of ₹ 49,00,000/- has been initiated for the refund on 30.09.2020 and it would take 5 to 7 days from the date of refund to credit the amount in the Appellant’s account. The Appellant received the amount on 01.10.2020 though there were sufficient funds amounting to ₹ 1,90,40,226.81 in the Bank account of the Appellant. 2nd of October was Gazetted holiday because of Mahatma Gandhi Jayanti and after confirming from the Respondent, the payment was again remitted on 03.10.2020. Thus, there was no fault on the part of the Appellant.
8. Owing to non generation of receipt because of fault in system,the Appellant cannot be penalized. In case, it was considered that the Appellant was at fault for depositing again payment on 03.10.2020, this date fell within 7 days and Late Payment Surcharge amount was chargeable @ 2% = ₹ 49,00,000/- x 2% = ₹ 98,000/- without interest as per Regulation 21.1.4 (as the repayment was made on 03.10.2020). But, the Respondent had charged LPS as ₹ 3,72,105/- and interest as ₹ 5,581/- by considering payment deposited after 7 days. The Respondent cannot go beyond the LPS mentioned on the bill i.e. ₹ 1,48,841/-. No interest was chargeable within 7 days.
9. The decision of the Forum was absolutely wrong and not acceptable and be reviewed in the interest of justice.
10. It was prayed to give reliefby not charging LPS as there was fault in PSPCL system and not on the part of the Appellant. In case, this Court thought that the Appellant was at fault, the LPS @ 2% be levied, as per Instruction No. 21.1 of ESIM-2018 as mentioned in General Condition of Tariff amounting to ₹ 98,000/- without interest as per Regulation 21.1.4 of Supply Code-2014. SDO/ DS Sub Division, Kohara had sent a letter, vide No. 867 dated 27.10.2020 to CBC, Ludhiana to charge LPS amounting to ₹ 98,000/- with interest ₹ 1,470/- but no such adjustment was made.
11. The LPS/ interest of ₹ 3,77,686 (LPS ₹ 3,72,103/- + interest ₹ 5,582/-) deposited in the next bill be refunded with interest.

**(b)** **Submissions made in the rejoinder**

The Appellant’s Representative, in its rejoinder sent vide e-mail dated 23.02.2021, submitted the following for consideration of this Court:

1. In reply to the Appeal, the Respondent furnished a list of 124 number consumers who had paid bills online and were of its office and not in the system as a whole. But in Appellant’s case, the receipt was not generated and the Appellant immediately contacted Help Desk of PSPCL. Every effort was made. The payment was deducted from the Bank account and statements were produced before the Forum.
2. The calculation made by the CBC was not correct and admitted. The reference quoted in the reply as Instruction No. 21 of ESIM-2018 had no relation to the Appeal as the same related to Measurement of Service Lines.
3. The actual/relevant instruction is under General Condition of Tariff.

(iv) It was added that the Appellant deposited amount in two spells one ₹ 40,30,360/- on 28.09.2020 and the other ₹ 49,00,000/- on 29.09.2020 but after refund on 01.10.2020, actually paid on 03.10.2020 (due to Gazetted holiday on 02.10.2020).

As per Clause 21.1 of General Conditions of Tariff, LPS @ 2% was chargeable up to 7 days and in the Appellant’s case, the balance payment was paid after 3 days. The Appellant was not at fault and delay was on the part of system. Besides, there were sufficient funds in Bank. The LPS and interest on balance as per Clause No. 21.2 and 21.4 becomes as recommended by SDO/DS, Kohara to CBC as ₹ 98,000/- and interest of ₹ 5,581/- was also not correct and admitted. The calculation of CBC was beyond instructions, hence, not admitted.

1. In the bill dated 19.09.2020 (relevant in the case) issued for ₹ 89,30,460/-, it was mentioned that Late Payment Surcharge @ 2% was ₹ 1,48,841/- while the CBC had calculated on whole billed amount which was beyond the Clause No. 21. The LPS was charged on energy bill (SOP) and other energy charges only. There was no provision to charge LPS on ED, Inf. Structure and Octori. If there was any such provision, PSPCL may submit the copy before the Court.

Actually, as per bill under dispute having SOP as ₹ 74,41,589/- + ED ₹ 11,16,239/- and rental ₹ 469/-, so, LPS chargeable to ₹ 11,16,239/-+ ₹ 469/- = ₹ 74,42,058/- less ₹ 40,30,460/- = ₹ 34,11,598/- @ 2% =₹ 68,232/- + 1.5% = ₹ 1,024/-. There was no fault of the Appellant even then, if Court considered the LPS and interestwas chargeable, the same may be charged as ₹ 68,232/- + ₹ 1,024/- = ₹ 69,256/-.

1. It was prayed that the Appellant was not at fault and the LPS and Interest of ₹ 3,77,686/- be refunded. If the Court considered that LPS and Interest was chargeable, then, genuine amount (as per details above) ₹ 69,256/- be charged.

**(c)** **Submission during hearing**

(i) During hearing on 24.02.2021, the Appellant’s Representative reiterated the submissions made in the Appeal. However, on being asked, he could not provide valid documentary evidence in support of its contention about non-charging of late payment surcharge on ED, Infra Structure and Octroi. He was given an opportunity to provide the requisite information by 03.03.2021 by e-mail to this Court as well as the Respondent and attend the hearing in this Court on 12.03.2021 for deliberating the matter further.

(ii) Before the start of hearing on 12.03.2021, a copy of memo no. 1452 dated 10.03.2021 signed by Sr. Xen/ DS Division, Samrala was given to the Appellant’s Representative for information and record. After deliberating the matter, the Appellant’s Representative was convinced on the basis of reply received from the Accounts Officer, Banking vide e-mail dated 08.03.2021 that “it was not real time success transaction at the Bank end and was auto refunded by post Bank reconciliation.” The Appellant’s Representative, then stated that late payment surcharge should be charged on the unpaid amount of bill in terms of provisions contained in General Condition of Tariff of Tariff order FY 2020-21. The Respondent, on being asked agreed to the view point of the Appellant’s Representative.

1. **Submissions of the Respondent**
2. **Submissions in written reply**

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

1. The Appellant was having a LS category connection having load of power intensive as 2495 kW/CD as 2495 kVA bearing account no. R74-KR0100125.
2. For the month of 08/2020, the PSPCL had issued the electricity consumption bill to the Appellant for ₹ 89,30,460/- and the due date was 29.09.2020. The Appellant deposited this bill in two parts i.e. ₹ 40,30,460/- vide receipt no. 148845727 dated 28.09.2020 and the remaining balance of ₹ 49,00,000/- was deposited on 03.10.2020 vide receipt no. 149213955.
3. In the bill issued for the month of 09/2020, the Appellant was charged surcharge of ₹ 3,72,103/- and ₹ 5,582/- as interest.
4. AE, Kohara had written to CBC, Ludhiana about late payment surcharge vide memo no. 267 dated 27.10.2020 and out of which surcharge adjustment of ₹ 1,59,672/- was made in the same bill. The Appellant had deposited the bill for the month 09/2020 alongwith surcharge.
5. The Appellant had also given its representation on 06.10.2020 regarding the receipt not generated for the payment made on 29.09.2020. The Appellant demanded the refund for the amount of surcharge charged in the bill for the month of 09/2020. The surcharge so charged was correct.
6. The Appellant approached the Forum who decided that the late payment surcharge on account of late deposit of part balance payment of ₹ 49,00,000/- was recoverable. Hence, balance of ₹ 30,662/- was charged in the bill (02/2021) as per CBC Ludhiana calculations. The data of consumer’s billing for the last 2 years was attached.
7. On 29.09.2020, 124 numbers of consumers had successfully made the payment and no other consumer reported any problem. Instead, the Appellant was having sufficient amount in Bank account but had not paid full amount in single time. Bill were issued as per the Instructions No. 21.1 of ESIM-2018 and calculations of surcharge and interest in the bill by CBC, Ludhiana were attached for reference. The said Instruction No. 21 was not ignored.
8. It was relevant to mention that CBC, Ludhiana issued amended bill for the month 09/2020 after adjusting ₹ 1,59,672/- (surcharge). The calculations made by CBC, Ludhiana are attached. Hence, the Appellant was not charged any extra surcharge or interest.
9. The surcharge and interest was not levied on the full amount of the bill and was only levied on the pending amount. Hence, the Forum had gone through the whole case and decided the case as per instructions of General Conditions of Tariff.
10. The Appellant had only paid balance amount on 03.10.2020 and ignored the surcharge amount. It was added that if the Appellant had paid balance amount with surcharge within stipulated period, the Appellant would have been charged only with 2 percent surcharge. The calculations of CBC, Ludhiana were attached.
11. The Forum decided the case keeping in view all the facts of General Conditions of Tariff. So, the decision was correct.
12. The calculations provided by the CBC, Ludhiana explained that the levy of surcharge and interest in the bill was correct. The calculations were attached herewith.
13. From the above said facts, late payment surcharge and interest was correct and not refundable.
14. The Appeal be dismissed accordingly.
15. **Submissions during hearing**
16. During the hearing on 24.02.2021, the Respondent reiterated the submissions made in its written reply. The Respondent, on being asked, did not have any information about the reasons due to which, the part payment of the bill deposited by Appellant on 29.09.2020 was returned to the Bank account of the Appellant. The Respondent explained to the Court that this information can be supplied by IT Wing of PSPCL and he requested for more time to submit the exact reason for the non-acceptance of the billed/deposited amount in the account of the Appellant. He also could not provide the reference to the instructions of PSPCL on the basis of which, late payment surcharge on ED, Infra Structure and Octroi was charged to the Appellant. Accordingly, the Respondent was asked to send the requisite information /documents by e-mail up to 03.03.2021 and attend this Court on 12.03.2021 for further deliberations.
17. Before the start of hearing, the representative of the Respondent submitted memo no. 1452 dated 10.03.2021 signed by Sr. Xen, DS Division, PSPCL, Samrala and the same was taken on record. A copy of the aforesaid letter was given to the Appellant’s Representative. The Appellant’s Representative, then stated that late payment surcharge should be charged on the unpaid amount of bill in terms of provisions contained in General Conditions of Tariff of Tariff order FY 2020-21. The Respondent, on being asked agreed to the view point of the Appellant’s Representative.

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

The issue requiring adjudication is the legitimacy of Late Payment Surcharge/interest amounting to ₹ 3,77,686/- charged to the Appellant on account of part payment (by due date i.e. 29.09.2020) of bill dated 19.09.2020 amounting to ₹ 89,30,460/-.

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

1. The Appellant’s Representative stated that the Appellant had received bill for the period from 18.08.2020 to 18.09.2020 amounting to ₹ 89,30,460/- payable upto 29.09.2020. The Appellant made part payment of ₹ 40,30,360/- online vide receipt No. 148845727 on 28.09.2020. The Appellant paid ₹ 49,00,000/- on 29.09.2020 but the receipt was not generated. The Appellant made a Call from its Cell Phone to Help Desk which advised to wait till morning. The payment was deducted from the account of the Appellant but no receipt was generated. The Appellant, on 30.09.2020, sent an e-mail for non generation of receipt in regard to its payment made online on 29.09.2020 but no reply was received from the Help Desk. The Appellant received reply from Help Desk on 01.10.2020 that payment of ₹ 49,00,000/- had been initiated for the refund on 30.09.2020 and it would take 5 to 7 days from the date of refund to credit the amount in the Appellant’s account. The Appellant received the amount on 01.10.2020 though there were sufficient funds amounting to ₹ 1,90,40,226.81/- in the Bank account of the Appellant. 2nd of October was Gazetted holiday because of Mahatma Gandhi Jayanti and after confirming from the Respondent, the payment was again remitted on 03.10.2020. In case, it was considered that the Appellant was at fault for depositing again the balance payment on 03.10.2020, this date fell within 7 days and Late Payment Surcharge amount was chargeable @ 2% = ₹ 49,00,000/- x 2% = ₹ 98,000/- without interest as per Instructions of PSPCL (as the repayment was made on 03.10.2020). But, the Respondent had charged LPS as ₹ 3,72,105/- and interest as ₹ 5,581/- by considering payment deposited after 7 days. The Respondent cannot go beyond the LPS mentioned on the bill i.e.₹ 1,48,841/-. No interest was chargeable within 7 days. The Forum had not decided the case according to the instructions of General Conditions of Tariff in which, it was specified how to charge LPS and interest on delayed payment. The system was at fault which was authenticated from the Bank Statement that the amount was deducted from the account of the Appellant on 29.09.2020 and returned on 01.10.2020. The Respondent, on being asked by the Forum, submitted that on the particular date i.e. 29.09.2020, 124 number consumers had deposited on-line and had no problem like the Appellant. The Respondent had provided the list with the reply. There might be difference of time of transaction made. It was prayed to give relief and refund LPS and interest of ₹ 3,77,686/- deposited through next bill. In case, this Court thought that the Appellant was at fault, the LPS @ 2% be levied, amounting to ₹ 98,000/- without interest as per instructions of PSPCL. SDO/ DS Sub Division, Kohara had sent a letter, vide No. 867 dated 27.10.2020 to CBC, Ludhiana to charge LPS amounting to ₹ 98,000/- with interest of ₹ 14,70/- but no such adjustment was made.

(ii) The Respondent, in its defence, stated that the PSPCL issued the electricity consumption bill dated 19.09.2020 to the Appellant for ₹ 89,30,460/- and the due date was 29.09.2020. The Appellant deposited this bill in two parts i.e. ₹ 40,30,460/- vide receipt no. 148845727 dated 28.09.2020 and the remaining balance of ₹ 49,00,000/- was deposited on 03.10.2020 vide receipt no. 149213955. In the subsequent bill issued for the month of 09/2020, the Appellant was charged surcharge of ₹ 3,72,103/- and ₹ 5,582/- as interest. AE, Kohara had written to CBC, Ludhiana about late payment surcharge vide memo no. 267 dated 27.10.2020 and out of which, surcharge adjustment of ₹ 1,59,672/- was made in the same bill. The Appellant had deposited the bill for the month 09/2020 alongwith surcharge. The Appellant had also given its representation on 06.10.2020 regarding the receipt not generated for the payment made on 29.09.2020. The Appellant demanded the refund for the amount of surcharge charged in the bill for the month of 09/2020. Aggrieved, the Appellanthad filed its case before CGRF, Patiala who decided that the late payment surcharge on account of late deposit of part balance payment amounting to ₹ 49,00,000/- was recoverable. Hence, balance of ₹ 30,662/- was charged in the bill (02/2021) as per CBC Ludhiana calculations. On 29.09.2020, 124 no. of consumers had successfully made the payment and no other consumer reported any problem. Instead, the Appellant was having sufficient amount in bank account but had not paid the full amount in single time. The disputed bill was issued as per the instructions of PSPCL as per calculations of surcharge and interest in the said bill by CBC, Ludhiana. Besides, CBC, Ludhiana issued amended bill for the month 09/2020 after adjusting ₹ 1,59,672/- (surcharge). Hence, the Appellant was not charged any extra surcharge or interest. The surcharge and interest was not levied on the full amount of the bill and was only levied on the pending amount. Hence, the Forum had gone through the whole case and decided the same as per instructions of General Conditions of Tariff. The Appellant had only paid balance amount on 03.10.2020 and ignored the surcharge amount. Had the Appellant paid balance amount with surcharge within stipulated period, the Appellant would have been charged only with 2 percent surcharge. Accordingly, late payment surcharge and interest was correct and not refundable.

(iii) During hearing on 24.02.2021, the Respondent, on being asked, told that it did not have any information about the reasons due to which, the part payment of the bill deposited by the Appellant on 29.09.2020 was returned to the bank account of the Appellant. The Respondent explained to the Court that this information could be supplied by IT wing of PSPCL and he requested for more time to submit the exact reason for the non-acceptance of the billed amount deposited in the account of the Appellant. He also could not provide the reference to the instructions of PSPCL on the basis of which, late payment surcharge on ED, Infra Structure and Octroi was charged to the Appellant. The Appellant’s Representative also could not provide valid documentary evidence in support of its contention about non-charging of late payment surcharge on ED, Infra Structure and Octroi. The Representatives of both the Appellant and the Respondent were directed to provide the requisite information/ documentsto this Court as well as to the other side (Respondent/Appellant) by 03.03.2021 positively. They were also asked to attend this Court on 12.03.2021 for deliberating the matter further in the light of evidence provided by them.

(iv) In response to above directions given in the proceedings dated 24.02.2021, the Appellant’s Representative sent an e-mail dated 03.03.2021 stating as under:

“In response to your letter no. 213/OEP/A-07/2021 dt. 24-02-2021.

In this regards kindly find attachment copy of the “COMMERCIAL ACCOUNTING SYSTEMS VOL-II” issued by PSEB now PSPCL of SALE of POWER page 94 vice int. No. 3.4.4 vide which ED is calculated on consumption slab and type of industry.

As per int.3.4.7.Surcharge should be levied on unpaid dues of the board (viz. Supply Charges/monthly minimum charges, meter and service rentals, sundry charges etc.).

 The surcharge is not charged on ED, IFD & OC,. All bills are charged LPS on Due monthly SOP only.”

 As copy of the said e-mail with attachment was forwarded to the Sr. Xen, DS Division, Samrala vide e-mail dated 08.03.2021.

1. Before the start of hearing on 12.03.2021 in this Court, Assistant Engineer/ DS Division, PSPCL, Samrala (deputed by Sr. Xen to attend the Court) submitted a copy of memo no. 1452 dated 10.03.2021 signed by Sr. Xen/ DS Division, PSPCL, Samrala. The same was taken on record anda copy thereof was given to the Appellant’s Representative. The contents of the aforesaid memo are reproduced as under:

“A letter was written to the Accounts Officer/ Banking Reconciliation regarding payment failure of the M/s. S.S. Concast Pvt. Ltd. dated 29.09.2020 vide this office memo no. 1207 (A-1) dated 01.03.2021 and in reply via email (A-2) dated March 08, 2021 transaction status was stated that it was not real time success transaction at the bank end and was auto refunded by post Bank reconciliation.

In context of the surcharge case, letter was written to Deputy Chief Engineer/ Operation Circle Roopnagar (A-3) vide memo no. 1244 dated 02.03.2021 & was requested to provide this office necessary advice from competent authority regarding how much surcharge is chargeable as per supply code instructions and late payment surcharge General conditions and tariff order instructions and acting upon that a letter was written by Deputy Chief Engineer/ Operation Circle, Roopnagar (A-4) vide their office memo no. 2427 dated 02.03.2021 to Chief Engineer/ IT, PSPCL, Patiala. A letter was received addressing Dy. CE/ Billing PSPCL, Patiala (A-5) that the consumer have not paid the full bill within due date, the LPSC is to be charged to the consumer as per General Conditions ofTariff clause no. 21.1 on the unpaid amount @ 2 percent. Further as the consumer failed to pay the remaining amount of the bill within 7 days including 2% surcharge, the consumer have been charged the LPSC @ 5 percent on the unpaid amount. Resulting this the payment made by the consumer within one week is paid without 2% surcharge, the surcharge @ 5% on unpaid amount i.e Rs. 2,45,000/- as per regulation 21.4 of general tariff interest @ 1.5 ongross unpaid amount including surcharge is also levied to consumer i.e @ 1.5% on Rs. 2,45,000/-.

From the above facts, the amount so charged/ recovered is correct.”

After detailed deliberations during the hearing, the Appellant’s Representative was convinced that on the basis of reply received from the Accounts Officer, Banking vide e-mail dated 08.03.2021 that it was not real time success transaction at the Bank end and was auto refunded by post Bank Reconciliation.” The Appellant’s Representative, then stated that late payment surcharge should be charged on the unpaid amount of bill in terms of provisions contained in General Condition of Tariff of Tariff order FY 2020-21. The Respondent, on being asked agreed to the view point of the Appellant’s Representative.

1. In this connection, it is worthwhile to peruse provisions contained in Regulation 31.9 of Supply Code-2014 which reads as under:

“*31.9. Late Payment Surcharge*

*31.9.1 In case a consumer does not pay the bill or an arrear bill by the due date, late payment surcharge shall be payable as per General Conditions of Tariff approved by the Commission from time to time.*

*31.9.2 The unpaid amount of the arrears/current bill etc. shall be treated as part of next bill and shown as arrears in the bill.”*

Accordingly, as a part of its annual exercise, the State Commission (PSERC) approved Tariff order FY 2020-21, circulated and implemented by the Licensee (PSPCL) wherein Regulation 21.1 and 21.4 of General Condition of Tariff provided as under:

## *“21 Late Payment Surcharge*

*In the event of the energy bill or other charges relating to electricity not being paid in full within the time specified in the bill, the consumers shall be levied late payment surcharge as under:*

* 1. *For all categories of consumers catered at HT/EHT supply voltage, if the full amount of the bill is not paid within the due date, late payment surcharge shall be levied @ 2% on the unpaid amount of the bill up to 7 days after the due date. After 7 days, the surcharge shall be levied @ 5% on the unpaid amount of bill up to 15 days from the duedate.*

*21.4 Interest @ 1.5% per month on gross unpaid amount including surcharge payable as per clause 21.1, 21.2 & 21.3 above shall be levied after expiry of 15 days from the due date of the bill till the deposit of outstanding amount. Part of the month shall be treated as full month for thispurpose”*

1. From the above analysis, it is concluded that charging the Appellant with Late Payment Surcharge/interest on account of late deposit of part balance payment of ₹ 49 lac in the bill dated 19.09.2020 (due date 29.09.2020) was not in accordance with the instructions of PSPCL/PSERC. In fact, Late Payment Surcharge/interest is required to be levied on the unpaid amount of the disputed bill in terms of provisions contained in Clause 21.1 and 21.4 of General Conditions of Tariff of Tariff Order FY 2020-21 as also agreed to by the Respondent during hearing on 12.03.2021 minutes whereof were sent to him (AR) vide letter no. 304-05/OEP/A-07/2021 dated 12.03.2021 sent vide e-mail on the same date.

**6.** **Decision**

As a sequel of above discussions, the order dated 13.01.2021 of the CGRF, Patiala in Case No. CGP-351 of 2020 is set aside. It is held that Late Payment Surcharge/interest shall be levied on the Appellant on the unpaid amount of the disputed bill dated 19.09.2020 as per provisions contained in Clause 21.1 and 21.4 of the General Conditions of Tariff of Tariff Order FY 2020-21 as also agreed to by the Representative of the Appellant and Respondent (PSPCL) during hearing in this Court on 12.03.2021. Accordingly, the Respondent is directed to recalculate the demand and refund the amount found excess after adjustment, if any, 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 Appellant or the Respondent is not satisfied with the above decision, it is at liberty to seek appropriate remedy against this order from the Appropriate Bodies in accordance with Regulation 3.28 of the Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations-2016.

(GURINDER JIT SINGH)

March 17, 2021 Lokpal (Ombudsman)

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