

**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. 100/2021

Date of Registration : 17.12.2021

Date of Hearing : 04.01.2022

Date of Order : 04.01.2022

Before:

**Er. Gurinder Jit Singh,
Lokpal (Ombudsman), Electricity, Punjab.**

In the Matter of:

M/s. Padma Bhavam Engineers Pvt. Ltd.,
D-45, Phase-V, Focal Point,
Ludhiana-141010

Contract Account Number: 3002809623(LS)

...Appellant

Versus

Additional Superintending Engineer,
DS Focal Point (Spl.) Division,
PSPCL, Ludhiana.

...Respondent

Present For:

Appellant: Sh. Rajesh Jain,
Appellant's Representative.

Respondent : Er. Manik Bhanot,
AEE/ Commercial,
DS Focal Point (Spl.) Division,
PSPCL, Ludhiana.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 06.12.2021 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-450 of 2021 (T-486/21), deciding that:

“i. Threshold rebate as per CC 31/2016 has already been allowed in 04/2017 bill and threshold rebate as per CC 49/2014 had already been allowed in view of CC 49/2014 in decision of ZLDSC.

ii. Interest for delay in providing threshold rebate as per CC 49/2014 is disallowed.”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 17.12.2021 i.e within the period of thirty days of receipt of copy of the decision dated 06.12.2021 of the CGRF, Ludhiana in Case No. CGL-450 of 2021 (T-486/21) vide Memo No. 4170-71 dated 07.12.2021 by the Appellant. The Appellant filed the Appeal for payment of interest on the amount of threshold rebate already granted to it, so the Appellant was not required to deposit requisite 40% of the disputed amount before filing the Appeal in this Court. Therefore, the Appeal was registered on 17.12.2021 and copy of the same was sent to the Addl. S.E./ DS Focal Point (Spl.)

Division, PSPCL, Ludhiana for sending written reply/ parawise comments with a copy to the office of the CGRF, Ludhiana under intimation to the Appellant vide letter nos. 1763-65/OEP/A-100/2021 dated 17.12.2021.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 04.01.2022 at 12.45 PM and an intimation to this effect was sent to both the parties vide letter nos. 1795-96/OEP/A-100/2021 dated 29.12.2021. As scheduled, the hearing was held in this Court and arguments of both the parties were heard.

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 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 Large Supply Category Connection, bearing Account No. 3002809623 with sanctioned load of 799.292 kW and CD as 785 kVA under DS Focal Point (Spl.) Division, Ludhiana in the name of M/s. Padma Bhavam Engg. Pvt. Ltd.
- (ii) The Appellant filed its case for grant of the threshold rebate of excess consumption of electricity as per CC Nos. 49/2014 and 31/2016 before the Chairman, ZLDSC headed by the Chief Engineer/ DS (Central), PSPCL, Ludhiana. The Chief Engineer vide its office Memo No. 4928 dated 30.07.2020 sent the case to the Addl. SE/ DS, Focal Point (Spl.) Division, PSPCL, Ludhiana for allowing the threshold rebate.
- (iii) The Respondent had informed the Forum that the Appellant had applied for threshold rebate of excess consumption as per CC Nos. 49/2014 and 31/2016 but as per Memo No. 4928 dated 30.07.2020 of the Chief Engineer/DS (Central), PSPCL, Ludhiana only refund of excess consumption as per CC No. 49/2014 had been considered. It had been represented before ZLDSC and decided by the Committee in its meeting. As per its decision, refund had been allowed to the Appellant by the Respondent.

- (iv) The Respondent had allowed the rebate as per CC No. 31/2016 only and had not allowed the rebate as per CC No. 49/2014, which was allowed by the Respondent in the consumption bill of 22.06.2021 without allowing any interest for the delay.
- (v) The Forum vide its order dated 06.12.2021 disallowed the accrued interest on the delayed payment of rebate made by the Respondent to the Appellant on the plea that “Consumer is ought to be vigilant and prompt in bringing to the notice of the respondent defect of non-payment of threshold rebate.”
- (vi) The order dated 06.12.2021 of the Forum was against the rules of the PSPCL and also against the provisions of Indian Electricity Act, 2003. The decision of the Forum in disallowing the accrued interest on the payments made by the Respondent without allowing interest amounts to miscarriage of justice and the same was passed without discussing the various pleas put forth by the representative of the Respondent and without discussing any provisions contained in the CC No. 49/2014.
- (vii) That as per Instruction No. 17/17.1 of the Supply Code, 2014; the interest on Security (Consumption) and Security (Meter) was being allowed and the Respondent was bound to pay interest to the Appellant as Instruction No. 17.1 of the Supply Code, 2014. If PSPCL pays interest on the Security

(Consumption) and Security (Meter) on its own, the same could also be applied for the threshold rebate on its delayed payment to the Appellant.

- (viii) The Respondent charged the interest on the outstanding amount of consumption charges from the consumers for the period the amount of consumption charges remained outstanding. On the similar analogy, the Respondent was bound to pay interest on the amount which was due to the Appellant in the year 2014-15, whereas the rebate was credited in the Appellant's Account in 06/2021 on the direction of ZLDSC. The decision of the Forum in disallowing the interest on the delayed payment arbitrarily was not fair which needs to be set-aside by affording the credit of interest for the period of seven years as per the prevalent rate of interest notified by the PSPCL.
- (ix) It was prayed that the order passed by the Forum dated 06.12.2021 be set-aside being illegal and unconstitutional. It was further prayed that the Respondent be directed to allow the interest for the period of 7 years to the Appellant on the prevalent rates notified by the PSPCL as the payment of threshold rebate was made in 06/2021.

(b) Submission during hearing

During hearing on 04.01.2022, the Appellant's Representative (AR) reiterated the submissions made in the Appeal. AR pleaded that the Appellant is fully satisfied with the action of the Respondent relating to threshold rebate for FY 2016-17 and requested to drop this issue.

(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 Large Supply Category Connection, bearing Account No. 3002809623 with sanctioned load of 799.282 kW and CD as 785 kVA, under DS Focal Point (Spl.) Division, PSPCL, Ludhiana in the name of M/s. Padma Bhavam Engineers Pvt. Ltd.
- (ii) The Appellant raised a dispute in ZLDSC, Ludhiana for the claims of Threshold Rebate as per CC No. 49/2014 and CC No. 31/2016 and rebate amounting to ₹ 2,48,050/- was already given as per CC No.31/2016 in bill of 04/2017. It was decided on 05.03.2021 by ZLDSC, Ludhiana that since RBS for Threshold Rebate was already prepared by CBC, rebate was to be given as per CC No. 49/2014 to the Appellant.

- (iii) The Appellant had filed an Appeal in the Forum for claiming the interest due to delay in payment of Threshold Rebate provided to him as per CC No. 49/2014 and Threshold Rebate as per CC No. 31/2016 for which the Forum had decided not to allow interest on the rebate due to period being lapsed by 7 years, considering the negligence of the Appellant in not bringing the matter to notice of the Respondent despite bills being issued to it duly on time.
- (iv) The Respondent should be excused from the charge of interest due to lapse of period by almost seven years. The decision by ZLDSC, Ludhiana in favour of the Appellant to allow the Threshold Rebate as per CC No. 49/2014 should not have been made.
- (v) As per supply Code, 2014; the interest on Security (Consumption) and Security (Meter) was allowed as per rules. It was also submitted that interest on due bills was indeed charged as per the rules. In this case, Threshold Rebate as per CC No. 31/2016 amounting ₹ 2,48,050/- was already given in the bill of 04/2017 and Threshold Rebate as per CC No. 49/2014 was decided by the ZLDSC. Threshold Rebate was given by the Respondent on the request of the Appellant. Hence, delay in the same shall be the accountability of the

Appellant. Additionally, a reference of a previous case of similar nature in Appeal No. 36/2017 was made to make a point in this regard. This Court had decided this case in the favour of the Respondent on 04.10.2017 quoted as saying “The respondent is directed to allow the requisite rebate to the petitioner in letter and spirit in terms of instructions contained in CC no. 49/2014 and as per RBS No. 14/2017 dated 23.02.2017 prepared by CBC, Ludhiana. However, no interest on this payment is allowed.”

(b) Submission during hearing

During hearing on 04.01.2022, the Respondent reiterated the submissions made in the written reply to the Appeal and prayed for the dismissal of the Appeal.

5. Analysis and Findings

The issue requiring adjudication is relating to grant of interest on the amount of Threshold Rebate to the Appellant as per CC No. 49/2014 for previous seven year's period.

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

- (i) The Appellant's Representative (AR) reiterated the submissions made by the Appellant in the Appeal. He pleaded that the

Forum had wrongly decided its Petition by not allowing interest for the period of past 7 years on the amount of Threshold Rebate. The AR alleged that the Respondent was negligent in performing its duties and it was the responsibility of the Respondent to allow the rebate and interest, if any, on the delayed payment, to the Appellant as and when it became due. He had requested for acceptance of the Appeal.

- (ii) On the other hand, the Respondent controverted the pleas raised by the Appellant in its Appeal and reiterated the submissions made by the Respondent in the written reply. The Respondent argued that the Appellant had already been allowed threshold rebate as per CC No. 31/2016 amounting to ₹ 2,48,050/- through bill for the month of 04/2017. So far as grant of interest on the amount of threshold rebate was concerned, the Appellant itself was negligent as it being a Large Supply Consumer was duty bound to bring it to the notice of the Respondent regarding non grant of threshold rebate by the Respondent at an appropriate time and this negligence of the Appellant cannot be attributed to the Respondent. Therefore, it was prayed that the Appeal of the Appellant may be dismissed being devoid of merit and the eligible relief was already granted to the Appellant by the ZLDSC. The Appellant though was not

entitled to threshold rebate as per CC No. 49/2014 after lapse of more than 7 years yet it was granted the relief by the ZLDSC. The decision of the Forum is legal and valid and requires no interference by this Court.

- (iii) The observations of the Forum as per its order dated 06.12.2021 are as below:-

“Forum observed that the dispute was filed for interest for delay on threshold rebate now provided as per CC 49/2014 and threshold rebate as per CC 31/2016. Forum observed that as per petition filed in ZLDSC, Petitioner claimed threshold rebate as per CC 49/2014 & 31/2016. ZDSC decided that rebate be allowed as per RBS prepared by CBC. Petitioner claimed that RBS of threshold rebate as per CC 49/2014 is prepared and it did not include threshold rebate as per CC 31/2016. Respondent submitted that Rs. 248050/- has already been given in bill of 04/2017 as per CC 31/2016, to which Petitioner agreed.

Forum observed that undoubtedly there was delay on part of Respondent in providing threshold rebate as per CC 49/2014 but even the petitioner remained silent for a period of 7 years from 2014 to 2020 and did not represent to Respondent for threshold rebate as per CC 49/2014 and being a LS category connection, Consumer is ought to be vigilant and prompt in bringing to the notice of the Respondent the fact of non-credit of threshold rebate. Petitioner received regularly the energy bills issued by PSPCL but did not point out or file a claim/ representation to the Respondent about non-credit of threshold rebate. Considering the error or omission at end of both the parties, interest for the delayed period is disallowed”.

- (iv) It is worthwhile to note that the Appellant was a Large Supply Category Industrial Consumer and he was supposed to know all the regulations, tariff orders and instructions of the Licensee

(PSPCL) relating to its connection. All the regulations and tariff orders were/ are available on the Websites of PSERC and PSPCL. Commercial Circulars and important instructions are also available on the website of PSPCL. PSPCL cannot get all the regulations/ tariff orders/ instructions noted from the Consumers. As per A&A forms, the Appellant had to follow the regulations and tariff orders. All the electricity bills served to the Appellant invariably depicted rebates allowed. In case of missing rebates in the monthly bills, the Appellant was supposed to avail the facility of challenging the bills as per Supply Code Regulations. The Appellant had not challenged the bills relating to the FYs 2014-15 to 2016-17. He did not file any representation in the office of the Respondent for Threshold Rebate yet it was granted threshold rebate as per CC No. 49/2014 by the ZLDSC. There was no concealment of any documents/ instructions relating to Threshold Rebate by the Respondent. The Appellant failed to scrutinize the monthly electricity bills in time and it could not take timely action to get the mistake rectified as per Regulations. The Appellant had already been benefitted by ZLDSC by allowing it threshold rebate as per CC No. 49/2014 even after a long period of 7 years. Now, the claim of the Appellant for grant of interest on the amount of threshold rebate after lapse of 7 years period cannot be considered being barred by

time. The Appellant failed to make representation in this regard in the office of the Respondent at appropriate time.

- (v) In view of the above, this Court is not inclined to interfere with the orders of the Forum on the issue raised in the Appeal relating to grant of interest on the amount of threshold rebate. So far as the other issue regarding grant of threshold rebate as per CC No. 31/2016 is concerned, the Appellant had already been granted the rebate in bill of 04/2017. The Appellant is satisfied with regard to the payment of threshold rebate as per CC No. 31/2016 and is not interested to pursue this issue.

6. Decision

As a sequel of above discussions, the order dated 06.12.2021 of the CGRF, Ludhiana in Case No. CGP-450/21 (T-486/21) is hereby upheld.

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.

January 04, 2022
S.A.S. Nagar (Mohali)

(GURINDER JIT SINGH)
Lokpal (Ombudsman)
Electricity, Punjab.

