

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

APPEAL NO. 11/2021

**Date of Registration : 15.02.2021
Date of Hearing : 17.03.2021
Date of Order : 22.03.2021**

Before:

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

In the Matter of:

M/s. Saraswati Poly Tubes Pvt. Ltd.,
Dhuri Road, Village Ratolan,
Malerkotla- 148023

**Contract Account Number: L36MS360158F (old)
L36-MS01-00053(new)**

...Appellant

Versus

Senior Executive Engineer,
DS Division,
PSPCL, Malerkotla.

..Respondent

Present For:

Appellant : Sh. Mahipal Yadav, Advocate,
Appellant's Counsel.

Respondent : 1. Er. Aamir Ashraf,
Senior Executive Engineer,
DS Division,
PSPCL, Malerkotla.

2. Sh. Varun Goyal,
Revenue Accountant,
DS Sub- urban Sub Division,
PSPCL, Malerkotla.

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-343 of 2020, deciding that:

“The HT Rebate to the Petitioner for the period May, 2013 to March, 2018 is not considerable for decision now being time barred in view of clause no. 2.25 of PSERC (Forum & Ombudsman) Regulation, 2016.

The security amount deposited at the time of release of MS connection be updated in the security account of the petitioner and upto date interest on total ACD/ Security amount be paid to the petitioner as per Supply Code 2014 Regulation clause no. 17.1 after pre-audit.”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 15.02.2021 i.e. within thirty days of receipt of the decision dated 13.01.2021 of the CGRF, Patiala in Case No. CGP-343 of 2020 by the Appellant on 16.01.2021. The Appellant was not required to deposit the requisite 40% of the disputed amount, which was on account of refund of HT rebate for the period May, 2013 to March, 2018 and interest on ACD/Security (Consumption) and Security

(Meter). Therefore, the Appeal was registered and copy of the same was sent to the Senior Executive Engineer/ DS Division, PSPCL, Malerkotla for sending written reply/ parawise comments with a copy to the office of the CGRF, Patiala under intimation to the Appellant vide letter nos. 175-176/OEP/A-11/2021 dated 15.02.2021.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 17.03.2021 at 11.00 AM and an intimation to this effect was sent to both the sides vide letter nos. 276-77/OEP/A-11/2021 dated 10.03.2021. As scheduled, the hearing was held in this Court, on the said date and time. Arguments were heard from both sides and the order was reserved. Copies of the minutes of the proceedings were sent to the Appellant and the Respondent vide letter nos. 321-22/OEP/A-11/2021 dated 17.03.2021.

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 Counsel and the Respondent alongwith material brought on record by both the sides.

(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. L36-MS01-00053 with sanctioned load of 150 kW and CD as 166 kVA.
- (ii) The present Appeal was filed by the Appellant against the order dated 13.01.2021 which was dispatched on 13.01.2021 by the Forum and received by the Appellant on 16.01.2021.
- (iii) The Forum, vide its order dated 13.01.2021, had rejected the HT rebate to the Appellant for the period from May, 2013 to March, 2018 being time barred and further directed that the security amount deposited at the time of release of MS category connection be updated in the security account of the Appellant and upto date interest on total ACD/ Security (Consumption) and Security (Meter) be paid to the Appellant as per Regulation 17.1 of Supply Code-2014 after pre-audit.

- (iv) The Forum had failed to consider that the Respondent never denied that the Appellant was entitled for HT rebate for the period of May, 2013 to March, 2018 but the same had been wrongly rejected on the ground of being time barred, whereas it was the duty of the Respondent to grant the same to the Appellant as the Appellant was entitled for the same.
- (v) There was a negligence on the part of the Respondent as once the Appellant was entitled for the HT rebate, then, there would be no occasion for the Respondent for rejecting the same on technical grounds. The Respondent never denied that the Appellant was not entitled for the above said HT rebate and thus, there was no negligence on the part of the Appellant. On the other hand, the Respondent was negligent for not giving the same to the Appellant. Whenever the Appellant contacted the Respondent regarding HT rebate, every time, the Respondent put the matter on one pretext or the other by saying that the file was under consideration and the same would be duly provided to the Appellant as the Appellant was entitled for the same. Now the Forum had wrongly rejected the same on the ground that the claim of the Appellant was time barred and thus, grave injustice had been caused to the Appellant.

- (vi) The illegal order was passed without considering the facts and circumstances of the case. The impugned order be set aside and the Respondent be directed to give HT rebate to the Appellant for the period from May, 2013 to March, 2018 and also to give interest on ACD/ Security (Consumption) and Security (Meter) deposited by it from time to time for the period from August, 2016 to August, 2020.
- (vii) The Forum had passed the impugned order without considering the claim of the Appellant and without considering the facts and circumstances of the case.
- (viii) The Appellant had prayed for acceptance of Appeal and setting aside the impugned order and further the Respondent be directed to give HT rebate to the Appellant for the period from May, 2013 to March, 2018 and also to give interest on ACD/ Security (Consumption) and Security (Meter) for the period from August, 2016 to August, 2020.

(b) Submission during hearing

During hearing on 17.03.2021, the Appellant's Counsel 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, in its defence, submitted the following written reply for consideration of this Court:

- (i) A Medium Supply Category connection, bearing Account No. L36-MS360158F with sanctioned load of 89.98 KW and CD (Contract Demand) as 99.98 kVA was running in the name of the Appellant M/s. Saraswati Poly Tubes Pvt. Ltd. The Appellant had got extended its sanctioned load to 150 kW and CD to 166 kVA in February, 2019.
- (ii) As per the decision of the Forum, the Respondent would pay interest on security to the Appellant in the bill of April, 2021 after the circular for rate of interest for the FY 2020-21 was issued.
- (iii) It was correct that the Respondent had never denied that the Appellant was entitled for HT rebate for the period from May, 2013 to March, 2018 but as per Regulation No. 2.25 of PSERC (Forums & Ombudsman) Regulations-2016, the HT rebate of the Appellant for the period from May, 2013 to March, 2018 had become time barred and was not considerable for decision.

- (iv) As mentioned by the Appellant, no application regarding HT rebate of the Appellant was found in the record of the Respondent.

(b) Submission during hearing

During the hearing on 17.03.2021, the Respondent reiterated the submissions made in the written reply. The Respondent stated that the case for updation of security account of the Appellant had been sent for pre-audit and updated security/interest duly pre-audited would be reflected in the next bill to be issued to the Appellant.

5. Analysis and Findings

The issues requiring adjudication are the legitimacy of

- a) HT rebate for the period from May, 2013 to March, 2018.
- b) Interest on Security (Consumption) and Security (Meter) from August, 2016 to August, 2020.

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

Issue (i)

- (a) The Appellant's Counsel contested that the Forum had rejected the claim of the Appellant for giving HT Rebate for the period from May, 2013 to March, 2018 on the ground of being time barred. The Forum had failed to consider that the Respondent had admitted that the Appellant was entitled for HT rebate for the period of May, 2013 to March, 2018 but the same had been wrongly rejected on the ground of being time barred, whereas it was the duty of the Respondent to grant the same to the Appellant as the Appellant was entitled for the same. There was a negligence on the part of the Respondent as once the Appellant was entitled for the HT rebate, then, there would be no occasion for the Respondent for rejecting the same on technical grounds. The Respondent never said that the Appellant was not entitled for the above said HT rebate and thus, there was no negligence on the part of the Appellant. On the other hand, the Respondent was negligent for not giving the same to the Appellant. Whenever the Appellant contacted the Respondent regarding HT rebate, every time, the Respondent deferred the matter on one pretext or the other by saying that the file was under consideration and the same would be duly

provided to the Appellant as the Appellant was entitled for the same. Now the Forum had wrongly rejected the same on the ground that the claim of the Appellant was time barred and thus, grave injustice had been caused to the Appellant. The illegal order was passed without considering the facts and circumstances of the case. The impugned order be set aside and the Respondent be directed to give HT rebate to the Appellant for the period from May, 2013 to March, 2018.

- (b) The Respondent submitted that a Medium Supply Category connection, bearing Account No. L36-MS360158F with sanctioned load of 89.98 KW and CD as 99.98 kVA was running in the name of the Appellant M/s. Saraswati Poly Tubes Pvt. Ltd. The Appellant had got extended its sanctioned load to 150 kW and CD as 166 kVA in February, 2019. It was correct that the Respondent had said that the Appellant was entitled for HT rebate for the period from May, 2013 to March, 2018 but as per Regulation No. 2.25 of PSERC (Forum & Ombudsman) Regulations-2016, the HT rebate of the Appellant for the period from May, 2013 to March, 2018 had become time barred and was not considerable for decision. As mentioned by the Appellant, no application regarding HT rebate of the Appellant was found in the record of the Respondent. The Respondent

added that the Forum had rightly decided that dispute of the Appellant on this issue was time barred and had not considered for decision.

(c) The Appellant had not filed any application/ request in the Forum for condoning of the delay in filing the claim of HT rebate after two years from the date on which the cause of action had arisen.

(d) In this connection, it is worthwhile to peruse the observations of the Forum on this issue in its decision stating as under:

“Forum has observed that the Petitioner was a MS consumer receiving regular energy bills from the respondent corporation from time to time and in all the bills, the details of various amounts charged / rebates given were invariably depicted. The petitioner has never intimated and applied for HT Rebate to PSPCL in the past and this fact has been admitted by the petitioner in the course of verbal discussions also. The petitioner did not point out or represent to the respondent the issue of non receipt of HT Rebate during the period May, 2013 to March, 2018 and even after that upto the year 2020. Thus the petitioner did not take appropriate remedy at appropriate time and has failed to exercise its obligation to approach respondent in time for attending this issue. The onus for not taking

appropriate remedies rests on the petitioner, a MS consumer. He failed to point out to the respondent to take timely action for giving him HT Rebate. As such, the matter of allowing HT Rebate to the Petitioner during the period May, 2013 to March, 2018 is not considerable for decision now being time barred.”

- (e) During the hearing in this Court on 17.03.2021, the Appellant’s Counsel was asked if the Appellant had ever given any representation to the Respondent (PSPCL) against not being given HT Rebate relating to the period May, 2013 to March, 2018. In response, the Appellant’s Counsel stated that no written representation in this regard was submitted to the Respondent (PSPCL).
- (f) It is observed that instead of finding lacunae in the working of the PSPCL, the Appellant (being a MS/LS Category Consumer) should have been vigilant and discharged its obligation sincerely by pointing out that the requisite HT Rebate had not been given in the disputed bills. Thus, the Appellant itself remained negligent and was responsible for the lapse. Had the Appellant risen to the occasion at the appropriate time, the present dispute would not have arisen.
- (g) In view of the above, this Court agrees with the decision of the Forum not to consider this issue for decision due to being time

barred as per Regulation No. 2.25 of PSERC (Forum & Ombudsman) Regulations, 2016. Accordingly, this issue is decided against the Appellant.

Issue (ii)

- (a) The Appellant's Counsel next contended that the Forum had, vide its order dated 13.01.2021, directed that the security amount deposited at the time of release of MS category connection be updated in the security account of the Appellant and upto date interest on total ACD/ Security (Consumption) and Security (Meter) be paid to the Appellant as per Regulation 17.1 of Supply Code-2014 after pre-audit. He prayed that the Respondent be directed to give interest on ACD/Security (Consumption) and Security (Meter) for the period from August, 2016 to August, 2020.
- (b) The Respondent, in its written reply, submitted that as per the decision of the Forum, the Respondent would pay interest on security to the Appellant in the bill of April, 2021 after the circular for rate of interest for the FY 2020-21 was issued. On being specifically asked during hearing about the status of updation of Security and interest thereon upto the close of FY 2019-20, the Respondent stated that the case for updation of

security account of the Appellant had been sent for pre-audit and updated security/interest duly pre-audited would be reflected in the next bill to be issued to the Appellant.

- (c) On being apprised accordingly during hearing on 17.03.2021, the Appellant's Counsel felt satisfied.
- (d) As the order dated 13.01.2021 of the Forum on this issue is in the process of being implemented to the satisfaction of the Appellant's side, this issue is disposed off accordingly.

6. Decision

As a sequel of above discussions, the order dated 13.01.2021 of the CGRF, Patiala in Case No. CGP-343 of 2020 is upheld.

- 7. The Appeal is disposed off 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.

March 22, 2021
S.A.S. Nagar (Mohali)

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

