

**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. 12/2023

Date of Registration : 18.04.2023

Date of Hearing : 02.05.2023

Date of Order : 02.05.2023

Before:

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

In the Matter of:

M/s. Quality Alloys,
Village Rattanheri, Khanna,
C/o Quality Steels,
Dadheri Road Mandi Gobindgarh.
**Contract Account Number: LS
A&A No. 2890 dated 18.02.2019(LS)**

...Appellant

Versus

Adtl. Superintending Engineer,
DS (Spl.) Division, PSPCL,
Mandi Gobindgarh.

...Respondent

Present For:

Appellant: 1. Sh. Ashok Dhawan,
Appellant's Representative.
2. Sh. Budh Ram Jindal,
Appellant's Representative.

Respondent : Er. Ravi Chouhan,
AEE/ Commercial,
O/o DS (Spl.) Division, PSPCL,
Mandi Gobindgarh.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 31.03.2023 of the Corporate Consumer Grievances Redressal Forum, Ludhiana (Corporate Forum) in Case No. CF-035/2023 deciding that:

“As the petitioner did not withdraw his application and application was cancelled by the respondent due to non-compliance of the demand notice, therefore, he is not entitled to refund of Security (consumption) and Security (meter), as per Regulation 18 of Supply Code-2014.”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 18.04.2023 i.e. within the period of thirty days of receipt of the decision dated 31.03.2023 of the CCGRF, Ludhiana in Case No. CF-035/ 2023. The Appellant was not required to deposit requisite 40% of the disputed amount as it was a refund case of Securities. Therefore, the Appeal was registered on 18.04.2023 and copy of the same was sent to the Addl. Superintending Engineer/ DS (Spl.) Divn., Mandi Gobindgarh for sending written reply/ parawise comments with a copy to the office of the CCGRF, Ludhiana under intimation to the Appellant vide letter nos. 316-318/OEP/A-12/2023 dated 18.04.2023.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 02.05.2023 at 11.30 AM and intimation to this effect was sent to both the parties vide letter nos. 341-42/OEP/A-12/2023 dated 24.04.2023. 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 deliberations 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 had applied for new Large Supply electric connection having load of 4000 kW/ 4000 kVA CD in the Office of AEE/ Commercial Sub Divn., PSPCL, Mandi Gobindgarh under ASE/ DS (Spl.) Divn., PSPCL, Mandi Gobindgarh vide A&A No. 2890 dated 18.02.2019. It was applied after deposit of ₹ 3,00,000/-

as earnest money to be adjustable against ACD vide on line transaction no. 160765 dated 06-09-2018. The feasibility clearance was allowed by the office of the Chief Engineer/ Commercial, PSPCL, Patiala vide Memo No. 1112 dated 05.12.2018. The Appellant had got registered its application within 60 days of the issue of letter after deposit of ₹ 12,30,010/- on account of 25% balance of Security (Consumption) and Security (Meter). The Demand notice was not issued within permissible limit of 30 days as laid down in the Regulation No. 18 of the Supply Code-2014 rather it was issued after 69 days vide Memo No. 117 dated 11.04.2019. The Appellant was unable to comply with the demand notice and it was ultimately cancelled on 10.10.2019. The Respondent had failed to refund the Security (Consumption)/ Security (Meter) within 30 days alongwith interest as admissible under Regulation 18.1.2 of the Supply Code-2014. Therefore, the Appellant was entitled for refund of ₹ 15,30,010/- alongwith interest amounting to ₹ 2,38,397/-. The Appellant was further entitled for additional interest @ Bank rate as allowed under Regulation 18.1.3 of the Supply Code-2014.

- (ii) The Corporate Forum while deciding the case did not act in a justified manner with the Appellant and the case was decided by ignoring all the rules and regulations and even without going into

facts of the case. While deciding the case, the Forum had ignored the principles of natural justice and also did not try to see the past history of the Respondent regarding refund of the Securities and payments in this regard. The only reason for forfeiture of Security (Consumption) and Security (Meter) as per the opinion of the Corporate Forum is that the application of the Appellant was cancelled due to non-compliance of the Demand Notice and not withdrawal of the same. The Corporate Forum had failed to recognize the fact that in both cases there is no difference i.e. in the withdrawal and non-compliance of application. Even the Respondent had clearly admitted that he was ready to refund amount of ACD/ Security after 10% of the deduction. Even in the similar case, decided recently by this Court in Appeal No. A-03/2023, which was also cited by the Forum, wherein the Appellant was allowed refund of the ACD/ Security (Meter) after deduction of 10% amount alongwith interest. Surprisingly, the Corporate Forum had taken the decision regarding forfeiture of the ACD/ Security (Meter).

- (iii) The Appellant had submitted that the Corporate Forum had taken very negative view about this case and about Regulation No. 18 of the Supply Code-2014 and decided to forfeit the ACD/ Security (Meter) deposits without going into history and real meaning of the

said Regulation. It is specifically mentioned that nowhere it is written or nor any direction had been given by Hon'ble PSERC that in case of cancelled application due to non-compliance of Demand Notice, Security/ ACD amount would be liable to be forfeited. Therefore, the impugned order of the Corporate Forum is liable to be set aside on this score only.

- (iv) The term of Security has been well defined in the Supply Code under Regulation 14 which is as under: -

“14. SECURITY (CONSUMPTION)

The applicant seeking supply of electricity as per regulation 6 of these Regulations shall initially be required to pay to the distribution licensee an amount on kW/kVA basis as specified in the Schedule of General Charges approved by the Commission, as Security (Consumption) towards estimated electricity likely to be supplied after release of connection. However, in case of applicants with demand exceeding 100 kVA, 25% of Security (Consumption) (inclusive of EMD deposited at the time of feasibility clearance) be deposited at the time of registration of A&A Form and remaining Security (Consumption) be deposited at the time of compliance of demand notice.”

- (v) There is also a provision in the Supply Code regarding withdrawal of Application and the procedure regarding refund of ACD/Meter Security has been well explained vide Regulation No. 18.1 of the Supply Code, which is as under: -

REFUND OF SECURITY (CONSUMPTION)

18.1 On Withdrawal of Application

18.1.1 *In case the applicant after submitting his application for supply of electricity/extension of load etc. withdraws the same, 10% of the Security (consumption)/additional Security (consumption) shall be deducted by the distribution licensee and the balance refunded within thirty (30) days to the applicant without payment of any interest by the distribution licensee.*

18.1.2 ¹*[If the applicant is not issued a Demand Notice within the time period specified in regulation 6 and the applicant withdraws his application, the Security (consumption)/additional Security (consumption), as the case may be, shall be refunded in full within thirty (30) days along with interest for the period the Security (consumption)/additional Security (consumption) remained with the distribution licensee at Bank Rate (as on 1st April of each year) as notified by RBI.]*

18.1.3 ¹*[In the event of delay in refund beyond the stipulated period as per regulation 18.1.2, the distribution licensee shall pay interest at Bank Rate (as on 1st April of each year) as notified by RBI plus 4%.]*

- (vi) It was very much clear that circumstances regarding receiving and refund of Securities had been well explained in the Supply Code and nowhere it was mentioned that if an applicant didn't comply with the Demand Notice and the application was cancelled then deposit of ACD/ Security (Meter) was liable to be forfeited, the observation of the Forum before deciding the case is as under –

“Forum have gone through the written submissions made by the Petitioner in the Petition, written reply of the Respondent, Rejoinder by Petitioner, oral discussions made by Respondent & Petitioner along with material brought on record. Keeping in view the discussion above, Forum observed that the Regulation 18 of Supply Code-2014

regarding Refund of Security (Consumption) deals with cases of refund of Security (Consumption) only on withdrawal of application by the applicant. Further it is also observed that neither Petitioner nor Respondent has mentioned the Regulation which deals with the cases of refund of Security (Consumption) where application has been cancelled by the licensee due to non-compliance of the demand notice. Therefore, Forum with a majority view, is of the opinion that as Petitioner did not withdraw his application and application was cancelled by the respondent due to non-compliance of the demand notice, therefore, he is not entitled to refund of Security (Consumption) and Security (Meter) as per Regulation 18 of Supply Code-2014.

(vii) It was very much clear that the Corporate Forum had not mentioned that if the compliance was not made then why the amount of Security/ ACD was being forfeited. Thus, as per said order it was clear that order was not only incomplete rather unjustified also because the basic principle of justice were not followed and also the Corporate Forum failed to mention that why penalty was being imposed upon the Appellant regarding forfeiture of ACD/ Security (Meter) when there was no regulation/ circular existing in this regard neither in the past nor at present. It was very important to mention about the regulation which empowers the Corporate Forum to impose penalty by way of forfeiture of ACD/ Security (Meter).

(viii) The withdrawal of the application or cancellation of application due to non-compliance of Demand Notice had little difference as in the

former case it was done by the applicant and in the latter case it was done by the Respondent while result and consequences were the same in the both the cases. In the past, the rules and regulation had treated both cases at par under same rule and regulation which was prevalent from time to time. The Appellant would like to draw your kind attention in this regard.

- (ix) Instruction no. 265-B of the Sales Manual deals with refund of ACD/ Security (Meter), which is reproduced as under: -

Before release of Connections

- i) Permanent Connection “In case of prospective consumer, where demand notice has been issued within one year of registration of the application and the prospective consumer does not comply with the demand notice but requests for refund of Security or when the demand notice has not been issued within a period of one year and the consumer requests for withdrawal of the application and refund of Security within one year of registration, the Board may accede to the request in such cases and cancel the application by forfeiting 10% of ACD/ AACD/ Security Deposit at the time of registration of application (excluding the Security for metering equipment). The balance amount of ACD deposited alongwith security for metering equipment should be refunded.
- ii) Further same instructions were continued to be followed in the Sales Regulation (1999) as instructions no. 166.2.3 (page no. 156)

iii) The same instructions were again repeated in Electricity Supply Regulation no. 166.2.3 (Page no. 293) as under:-

“If a prospective consumer, where demand notice have been issued within one year of registration of the application and the prospective consumer does not comply with the demand notice but requests for refund of Security or when the demand notice has not been issued within a period of one year and the consumer requests for withdrawal of the application and refund of Security within one year of registration, the Board may accede to the request in such cases and cancel the application by forfeiting 10% of ACD/ AACD/ Security deposit at the time of registration of application. The balance amount of ACD alongwith full Security for metering equipment should be refunded.”

- (x) From above, it is very much clear that -
- a) Application withdrawn after issue of DN
 - b) Application cancelled due to non-compliance of DN.

In both cases a & b, same procedure was followed and the equal amount of refund was allowed.

(xi) The procedure regarding refund of ACD/ Security (Meter) was the same and in both cases 10% of the ACD deposited at the time of registration of application, was liable to be deducted.

(xii) It was clear that in case of non-compliance of demand notices, the Appellant was liable for deduction of 10% of ACD deposited at the time of registration of application.

However, the Hon'ble Commission had merged both cases as

withdrawal of application after issue of DN, when Supply Code-2007 w.e.f. 01.01.2008 was made applicable both cases as mentioned above i.e. application withdrawn after issue of DN and application cancelled due to non-compliance of DN, was termed as application withdrawal under Regulation no. 18 of the Supply Code-2007, because the consequences and procedure regarding refund of ACD were the same. That's why no separate procedure for refund ACD/ Security (Meter) in case of cancelled application due to non-compliance of DN was referred. But the Corporate Forum didn't realize the significance of the past history in this regard and imposed penalty upon the Appellant by ordering forfeiture of ACD/ Security (Meter).

(xiii) The period of one year for issue of demand notice which was applicable upto the Year 2007, had been reduced to 30 days now as mentioned in the Regulation 18.1.2 of the Supply Code, 2014.

(xiv) The Respondent had claimed in the reply about deduction of 10% of total ACD instead of 10% of the deposited amount i.e. 25% of total ACD as ₹ 15,00,000/- as per Memo No. 216 dated 01.01.2021 issued by the Office of Chief Engineer/ Commercial, Patiala. However, it is 10% of the deposited

amount as clarified and mentioned in the Sales Regulation No. 166.2.3. The said letter as mentioned was not issued with the approval of Hon'ble PSERC as no mention/ reference about the approval taken from the PSERC was mentioned in the Memo No. 216 dated 01/01/2021. Therefore, it is prayed to act according to the instructions issued/ approved by the Hon'ble PSERC only.

(xv) The claim of Respondent that Appellant didn't comply with the demand notice, therefore he was not entitled for interest was not only wrong but also against the instructions also.

(xvi) It was wrong as claimed by the Respondent, as per page no. 6 and para no. 7 of the judgment that Appellant was not entitled for interest as the Appellant didn't comply with the demand notice. In this regard, attention of this Court was drawn towards the decision in Appeal No. 3/2023 by this Court. The said appeal was also similar to this case. Therefore, it was requested to grant interest as already allowed to the Appellant as the demand notice was issued after 69 days of the registration of A&A Form. It was further wrong that as per reply of the Respondent that demand notice was issued as per natural convenience of the PSPCL was incorrect as the same should have been issued as per time

limit fixed by the Hon'ble PSERC vide Regulation No. 6 of the Supply Code-2014 and not according to the mutual convenience of the PSPCL.

It was requested to accept the Appeal in the interest of justice otherwise the Appellant will have to bear the irreparable losses.

(b) Submission during hearing

During hearing on 02.05.2023, the Appellant's Representative (AR) reiterated the submissions made in the Appeal and prayed to allow the same.

(B) Submissions of the Respondent

(a) Submissions in the written reply

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

- (i) The Appellant had applied for new LS Category Connection for power intensive load of 4000 kW/4000 kVA and deposited the ACD as below:

Sr. No.	Transaction No.	Date	Amount (₹)
1.	150765	06.09.2018	300000/- (EMD)
2.	153302	02.02.2019	1200000/- (ACD)
3.	153302	02.02.2019	30010/- (Meter Security)
Total			1530010/-

- (ii) The Appellant was issued Demand Notice No. 117 dated 11.04.2019. The Appellant had not complied with the Demand Notice and consequently, the application of the Appellant was cancelled on 10.10.2019. The Appellant had never requested for the refund of Security from 2019 till filing of the case in CCGRF, Ludhiana. So, the Appellant was not entitled for interest on ACD amount. The application of the Appellant was cancelled due to its own reasons. The Appellant had now requested for refund of Security/ Interest whereas as per CC No. 39/2021, the amount of interest cannot be paid due to reason that period of incident was more than 2 years old and the Commercial Circular No. 39/2021 was issued on 28.10.2021.
- (iii) The CCGRF, Ludhiana had decided the case of the Appellant in view of Regulation 18 of Supply Code, 2014. The Appellant had not withdrawn its application. Regulation 18 of Supply Code, 2014 was applicable if the Appellant had withdrawn its application. But in the present case, the application of the Appellant was cancelled due to non-compliance of demand notice.
- (iv) The Regulation 14 for Security (Consumption) and Regulation 18.1 for the withdrawal of application were already specified by the Appellant in its Appeal. The decision of the Corporate Forum,

Ludhiana was also already mentioned by the Appellant in its Appeal.

- (v) The Corporate Forum, Ludhiana had decided the case after giving personal hearing to both the Appellant and the Respondent.
- (vi) As per Memo No. 216 dated 01.01.2021 of Chief Engineer/ Commercial, PSPCL, Patiala, the 10% of the total Security (Consumption) recoverable from the consumer was liable to be deducted from the total amount deposited by the consumer.
- (vii) The Regulation 18 of Supply Code, 2014 was applicable in the case the Appellant had withdrawn its application. The Corporate Forum, Ludhiana had decided the case by keeping in view the Regulation 18 of Supply Code, 2014.
- (viii) The Regulation 18.1.2 of Supply Code, 2014 was already mentioned in the Appeal by the Appellant.
- (ix) The Appellant had not complied with the demand notice issued to it and it had not withdrawn its application.
- (x) The Corporate Forum, Ludhiana had not allowed the refund of amount due to non-compliance of demand notice by the Appellant as per Regulation 18 of the Supply Code, 2014.
- (xi) It was pertinent to mention here that the Appellant had not approached the office of the Respondent for its Security refund before presenting its claim in Corporate Forum, Ludhiana. So, the

Respondent requested that decision of the Corporate Forum, Ludhiana may be upheld.

(b) Submission during hearing

During hearing on 02.05.2023, the Respondent reiterated the submissions made in the written reply to the Appeal and prayed for the dismissal of the Appeal. The Respondent agreed to refund the Security (Consumption) after deducting 10% amount along with simple interest.

5. Analysis and Findings

The issue requiring adjudication is the legitimacy of the claim of the Appellant for the refund of Security (Consumption) of ₹ 15,00,000/- & Security (Meter) of ₹ 30,010/- along with interest of ₹ 2,38,397/- & further penal interest under Regulation 18.1.3 of Supply Code-2014.

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

- (i) The Corporate Forum in its order dated 31.03.2023 observed as under:-

“Forum observed that Petitioner had submitted requisition for Load/CD of 4000 KW/4000 KVA under DS Division, PSPCL, Mandi Gobindgarh depositing an amount of Rs. 3 Lac. as Earnest Money on 06.09.2018. Feasibility clearance was granted by the O/O

CE/Commercial, PSPCL, Patiala vide Memo no. 1112 dated 05.12.2018. Petitioner submitted his A&A forms on 18.02.2019 along-with deposit of Rs. 12 Lac as balance of 25% security consumption, Rs. 30010/- as security meter and Rs. 2500 as processing fee. A&A form was registered with no. 2890 dated 18.02.2019. Demand Notice was issued to petitioner by the office of Respondent vide Memo no. 117 dated 11.04.2019 after a period of 68 days. Petitioner failed to comply with the Demand Notice and application of petitioner was cancelled by the Respondent on 10.10.2019. Petitioner has approached the Corporate CGRF, Ludhiana for a refund of Rs. 1530010/- deposited as Earnest Money, Security Consumption and Security Meter at the time of application of new connection. Petitioner has further prayed for the interest of Rs. 238397/- on the amount deposited by him.

The case was put up for pre-hearing on dated 21.03.2023. Member Finance observed that the case is older than 2 years from the date of cause of action, so it is time barred and it is not considerable in this Forum. Other Members of the Forum observed that the Appellant although failed to comply with the Demand Notice, but the Respondent did nothing to refund the Security (Consumption) as per applicable regulation in this regard. The Respondent was required to refund of Security (Consumption) as per regulations, but the Respondent failed to refund the Security (Consumption) to the Petitioner after cancellation of his application. Moreover, Honorable Ombudsman, PSPCL, Mohali has already decided the Appeal no. 03/2023 in the similar nature of dispute and has given relief to the appellant. It would be unfair to treat the refund of security amount as time barred under these circumstances. Keeping in view of the above Forum with a majority view decided to register the case.

Forum observed that the petitioner, M/s Quality Alloys, had applied to PSPCL under Special Division Mandi Gobindgarh for Load/CD of 4000 KW/4000 KVA and had deposited the following amounts: -

Sr. No.	Transaction No.	Date	Amount	Description
1.	150765	06.09.2018	300000/-	EMD
2.	153302	02.02.2019	1200000/-	ACD
3.	153302	02.02.2019	30010/-	Security (meter)
TOTAL			1530010/-	

Respondent issued Demand Notice no. 117 dated 11.04.2019, compliance of which was to be made by the petitioner within 6 months i.e., by 10.10.2019. Petitioner did neither comply with the Demand notice nor applied/obtained any extension of the same. Also, he did not withdraw his application. He submitted in his petition that he could not avail the connection due to unfavorable market conditions. Now he has demanded refund of Rs. 1530010/- deposited by him as Security (consumption) and Security (meter) combined along-with a sum of Rs. 238397/- as interest on this amount and in addition to this he has demanded interest under Regulation 18.1.3 of Electricity Supply Code and Related Matters Regulations-2014. Petitioner further pleaded that 10% of ACD is not deductible from him as Demand Notice had not been issued to him in time. It was issued after 68 days against the prescribed time limit of 30 days.

Respondent pleaded that the petitioner has not requested for refund since 2019 and also not submitted original receipt of ACD deposited and moreover he could not make compliance of the Demand Notice due to bearish conditions of the market and was unable to arrange necessary funds for the project as also admitted by himself. Application of the petitioner was cancelled due to his own Reasons. As per CC NO: 39/2021, the amount of interest cannot be paid due to period of incident is more than 2 years as the commercial circular No: 39/2021 was issued on dated 28.10.2021

Petitioner had pleaded that being EHT connection as applied, the DN was required to be issued within 30 days but was actually issued after 69 days. Hence, the refund of ACD/ Meter Security is covered under Reg. no. 18.1.2 & 18.1.3 and not under 18.1.1. Forum observed the Regulation 18 of Supply Code-2014 reproduced as under:

18. REFUND OF SECURITY (CONSUMPTION)

18.1 On Withdrawal of Application

18.1.1 *In case the applicant after submitting his application for supply of electricity/extension of load etc. withdraws the same, 10% of the Security (consumption)/additional Security (consumption) shall be deducted by the distribution licensee and the balance refunded within thirty (30) days to the applicant without payment of any interest by the distribution licensee.*

18.1.2 ¹*[If the applicant is not issued a Demand Notice within the time period specified in regulation 6 and the applicant withdraws his application, the Security (consumption)/additional Security (consumption), as the case may be, shall be refunded in full within thirty (30) days along with interest for the period the Security (consumption)/additional Security (consumption) remained with the distribution licensee at Bank Rate (as on 1st April of each year) as notified by RBI.]*

18.1.3 ¹*[In the event of delay in refund beyond the stipulated period as per regulation 18.1.2, the distribution licensee shall pay interest at Bank Rate (as on 1st April of each year) as notified by RBI plus 4%.]*

Forum observed that Regulation 18.1.2 quoted by the petitioner in his petition, on the basis of which he has pleaded for refund, is applicable in cases wherein **applicant is not issued a Demand Notice within the time period specified in regulation 6 and the applicant withdraws his application**. But in this case petitioner was issued demand notice (although little late) but neither he complied with the demand notice nor he withdrew his application. Respondent had cancelled his application due to non-compliance of Demand Notice by him. As such the above Regulation is not applicable in the present case.

Forum have gone through the written submissions made by the Petitioner in the petition, written reply of the Respondent, rejoinder by Petitioner, oral discussions made by Respondent & Petitioner along with material brought on record. Keeping in view the discussion above, Forum observed that the Regulation 18 of Supply Code-2014 regarding **Refund of Security (Consumption)**, deals with cases of refund of security (Consumption) only on withdrawal of application by the applicant. Further it is also

observed that neither petitioner nor respondent has mentioned the regulation which deals with the cases of refund of security (Consumption), where application has been cancelled by the licensee due to non-compliance of the demand notice. Therefore, Forum with a majority view, is of the opinion that as petitioner did not withdraw his application and application was cancelled by the respondent due to non-compliance of the demand notice, therefore, he is not entitled to refund of Security (consumption) and Security (meter), as per Regulation 18 of Supply Code-2014.

Keeping in view the above, Forum, with a majority view, came to the unanimous conclusion that as the petitioner did not withdraw his application and application was cancelled by the respondent due to non-compliance of the demand notice, therefore, he is not entitled to refund of Security (consumption) and Security (meter), as per Regulation 18 of Supply Code-2014.

Keeping in view the above, Forum, with a majority view, came to the unanimous conclusion that as the petitioner did not withdraw his application and application was cancelled by the respondent due to non-compliance of the demand notice, therefore, he is not entitled to refund of Security (consumption) and Security (meter), as per Regulation 18 of Supply Code-2014.”

- (ii) I have gone through the written submissions made by the Appellant in the Appeal, written reply of the Respondent as well as oral arguments of both the parties during the hearing on 02.05.2023. It is observed by this Court that the Appellant had deposited 5% of Security (Consumption) i.e ₹ 3,00,000/- vide online Transaction No. 150765 dated 06.09.2018 as Earnest Money for new LS category connection for power intensive load of 4000 kW/ 4000 kVA. The approval of Technical Feasibility Committee was accorded by the office of the CE/ Commercial vide Memo No. 1122 dated 05.12.2018. The Appellant had got registered A&A No.

2890 on 18.02.2019 after depositing ₹ 12,00,000/- as balance of 25% of the Security (Consumption) & ₹ 30,010/- as Security (Meter) vide Transaction No. 153302 dated 02.02.2019. Demand Notice No. 117 dated 11.04.2019 was issued to the Appellant. The Appellant had neither complied with the Demand Notice nor got it extended. So, the Respondent cancelled the application dated 18.02.2019 of the Appellant on 10.10.2019 due to non-compliance of the Demand Notice No. 117 dated 11.04.2019.

- (iii) The Appellant never approached the Respondent for the refund of the Security amounts of ₹ 15,30,010/- and directly approached the Corporate Forum, Ludhiana vide Case No. CF-035/2023 on 06.03.2023 after approximately 3 years & 5 months for the refund of Security (Consumption) of ₹ 15,00,000/- & Security (Meter) of ₹ 30,010/- alongwith interest of ₹ 2,38,397/- & penal interest admissible under Regulation 18.1.3 of Supply Code, 2014. The Corporate Forum in its order dated 31.03.2023 decided that since the Appellant had not withdrawn its application & application was cancelled by the Respondent due to non-compliance of the demand notice, so the Appellant was not entitled to refund of Security (Consumption) & Security (Meter) as per Regulation 18 of Supply Code-2014. Then, the Appellant filed the present Appeal before this Court.

- (iv) I am of the view that the Corporate Forum had erred in deciding the case resulting in forfeiture of full amount of securities deposited by the Appellant without quoting any regulation of the Supply Code or instructions of the Licensee. The Appellant although failed to comply with the Demand Notice No. 117 dated 11.04.2019 but the Respondent did nothing to refund the Security (Consumption) & Security (Meter). The Demand Notice No. 117 dated 11.04.2019 was valid for 6 months and the Appellant was supposed to comply with it or get its validity extended from the Respondent on or before 10.10.2019 but it neither complied with the same nor got it extended any further. On non-compliance of Demand Notice, the Application No. 2890 dated 18.02.2019 of the Appellant was cancelled by the Respondent on 10.10.2019. After cancellation of the application, the Respondent was required to process the case for refund of Security (Consumption) & Security (Meter) but the Respondent failed to refund the Security (Consumption) & Security (Meter) to the Appellant after cancellation of his Application dated 18.02.2019 on 10.10.2019. It would be unfair to forfeit full security amounts of the Appellant under these circumstances without quoting any regulations/ instructions.
- (v) The Appellant contended that since the Demand Notice was not issued within 30 days of submission of its application, no deduction

of 10% of the security amount should be made as per Regulation 18.1.2 of Supply Code, 2014, which is reproduced as under:

“18.1.2 ¹[If the applicant is not issued a Demand Notice within the time period specified in regulation 6 and the applicant withdraws his application, the Security (consumption)/ additional Security (consumption), as the case may be, shall be refunded in full within thirty (30) days along with interest for the period the Security (consumption)/ additional Security (consumption) remained with the distribution licensee at Bank Rate (as on 1st April of each year) as notified by RBI.]”

It is clearly mentioned in above regulation that security amount will be refunded in full without deducting 10% only when the Demand notice is not issued to the applicant within time period specified in Regulation 6 i.e. 30 days of submission of his application and he withdraws the same. In the present case, the Appellant never withdrew his application, but its application was cancelled due to non-compliance of the Demand Notice. So, the claim of the Appellant regarding non-deduction of 10% as per Regulation 18.1.2 of Supply Code, 2014, is not tenable and hence rejected after due consideration.

- (vi) The Respondent kept the load applied by the Appellant as reserve till 10.10.2019. Had the Appellant got its application withdrawn/ cancelled, then the Respondent could have utilized this reserve capacity for release of other pending connections. Further, withdrawal of Application by the Applicant and Cancellation of

Application by the Licensee due to non-compliance of demand notice are required to be treated at par for refund of Securities.

- (vii) In view of discussion above, the refund of Security (Consumption) of ₹ 15,00,000/- shall be permissible as per Regulation 18.1.1 of Supply Code, 2014 after deduction of 10% of total Security (Consumption) amount recoverable from the Appellant in view of Memo No. 216 dated 01.01.2021 of the Chief Engineer/ Commercial, PSPCL, Patiala. Also, Security (Meter) of ₹ 30,010/- shall be refunded in full as per Regulation 20.1 of the Supply Code, 2014.
- (viii) As regards the second issue of interest on this refundable amount, the delay of more than three years in releasing the payment as per regulations is on the part of the Licensee (PSPCL). The Distribution Licensee is required to pay interest on Security Amounts as per Section 47 of 'The Electricity Act, 2003'. The Distribution Licensee had failed to pay interest on the Securities to the Appellant as per the Act and regulations of the PSERC. On the other hand, the Appellant had applied for a Large Supply Category Consumer and it was expected to be vigilant, update and prompt in discharging its obligations. The Appellant did not file any claim/ representation to the Respondent during the period of more than 3 years from the date of cancellation of its application on 10.10.2019

till it approached the Corporate Forum on 06.03.2023, about not refunding the amount of Security (Consumption) & Security (Meter) deposited by it. The Appellant did not take appropriate remedy at an appropriate time. Had the Appellant exercised necessary prudence/ vigilance at an appropriate time, the present litigation could have been avoided. The Appellant cannot take benefit of its own wrongs, delays and laches. Further, ignorance of law is no excuse. It is evident that the Appellant had not been updating himself about the rules/ regulations and benefits available to him. The regulations framed by PSERC are in public domain and are available on the Websites of PSPCL/ PSERC. The Appellant should be prompt to follow them and failure to follow them on the part of the Appellant cannot be attributed to the Respondent. The delay of more than three years on the part of the Appellant to file a claim/ representation should not result in undue benefit of penal interest to it. But since these security amounts remained with the Licensee during this period of more than three years without paying interest on this, so I am inclined to allow simple interest on delayed payment as per Regulation 17.1 of Supply Code, 2014 as applicable from time to time without any penal interest. The interest shall be payable with effect from 10.11.2019, i.e, after 30 days from the

date of cancellation of application dated 18.02.2019 on 10.10.2019, till the date of payment to the Appellant.

- (ix) Another issue is regarding payment of interest as per Regulation 18.1.3 of the Supply code-2014, which is reproduced as under:

“18.1.3 ¹[In the event of delay in refund beyond the stipulated period as per regulation 18.1.2, the distribution licensee shall pay interest at Bank Rate (as on 1st April of each year) as notified by RBI plus 4%.]”

From the perusal of the above Regulation 18.1.3, it is inferred that the interest specified under this Regulation is payable in case of delay in refund beyond the stipulated period as per Regulation 18.1.2. Further, Regulation 18.1.2 is applicable only if the applicant/ consumer withdraws his application. But, in the present case, the Appellant never withdrew his application, but its application was cancelled due to non-compliance of the Demand Notice. As such, the claim of the Appellant in this regard is rejected after due consideration.

- (x) In view of above, this Court is not inclined to agree with the decision dated 31.03.2023 of the Corporate Forum in Case No. CF-035/2023. The Security (Consumption) of ₹ 15,00,000/- be refunded as per Regulation 18.1.1 of Supply Code, 2014 after deduction of 10% of total Security (Consumption) amount recoverable from the Appellant in view of Memo No. 216 dated 01.01.2021 of the Chief Engineer/ Commercial, PSPCL, Patiala.

Also, Security (Meter) of ₹ 30,010/- shall be refunded in full as per Regulation 20.1 of Supply Code, 2014. Simple interest on these delayed payments shall be refunded as per Regulation 17.1 of Supply Code, 2014 as applicable from time to time with effect from 10.11.2019 till the date of refund to the Appellant. No further interest is payable to the Appellant under Regulation 18.1.3 of the Supply Code, 2014.

6. Decision

As a sequel of above discussions, the order dated 31.03.2023 of the Corporate Forum in Case No. CF-035/2023 is hereby quashed. The Security (Consumption) of ₹ 15,00,000/- be refunded as per Regulation 18.1.1 of Supply Code, 2014 after deduction of 10% of total Security (Consumption) amount recoverable from the Appellant in view of Memo No. 216 dated 01.01.2021 of the Chief Engineer/ Commercial, PSPCL, Patiala. Also, Security (Meter) of ₹ 30,010/- shall be refunded in full as per Regulation 20.1 of Supply Code, 2014. Simple interest on these delayed payments shall be refunded as per Regulation 17.1 of Supply Code, 2014 as applicable from time to time with effect from 10.11.2019 till the date of refund to the Appellant. No further interest is payable to the Appellant under Regulation 18.1.3 of the Supply Code, 2014.

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.

May 02, 2023
S.A.S. Nagar (Mohali)

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