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

APPEAL NO. 19/2021

Date of Registration : 01.03.2021
Date of Hearing : 24.03.2021
Date of Order : 30.03.2021

Before:

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

In the Matter of:

M/s. K.K. Alloys Unit No. I,
C/o M/s Pact Industries Ltd., Unit-2,
Bilga Road, Sahnewal,
Ludhiana-141001.
Contract Account Number 3003018350 (old)
3005707765 (new)
...Appellant

Versus

Additional Superintending Engineer,
DS Estate Division (Special),
PSPCL, Ludhiana.
...Respondent

Present For:

Appellant: Sh. Parvesh Chadha,
Appellant's Representative.

Respondent : 1. Er. Kulwinder Singh,
Additional Superintending Engineer,
DS Estate Division (Special),
PSPCL, Ludhiana.

2. Sh. Krishan Singh,
Assistant Accounts Officer.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 18.01.2021 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-416 of 2020, deciding that:

"The total load has been sanctioned by the competent authority under PIU category including auxiliary load & Petitioner has not objected the same till date. Further he has not applied for bifurcation of PIU & general load till date. Therefore the Petitioner has been rightly charged under PIU category and as such, he is not entitled for any refund on account of excess billing."

2. Registration of the Appeal

The Appellant's Representative stated that the Appellant had received copy of the decision dated 18.01.2021 of the CGRF, Ludhiana in Case No. CGL-416 of 2020 on 25.01.2021. The present Appeal was initially received incomplete in this Court on 25.02.2021 (within thirty days of receipt of copy of decision dated 18.01.2021 by the Appellant on 25.01.2021 as per evidence attached). Subsequently, the Appeal was received complete in all respects in this Court on 01.03.2021. The Appellant was not required to deposit the requisite 40% of the

disputed amount as relief claimed was on account of refund of billing under PIU category including auxiliary and general load. Therefore, the Appeal was registered and copy of the same was sent to the Addl. Superintending Engineer/ DS Estate Division (Special), PSPCL, Ludhiana for sending written reply/ para wise comments with a copy to the office of the CGRF, Ludhiana under intimation to the Appellant vide letter nos. 250-52/OEP/A-19/2021 dated 01.03.2021.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 24.03.2021 at 01.00 PM and an intimation to this effect was sent to both the sides vide letter nos. 349-50/OEP/A-19/2021 dated 17.03.2021. As scheduled, the hearing was held on 24.03.2021 in this Court on the said date and time. Arguments were heard of both parties and order was reserved. Copies of the minutes of the proceedings were sent to the Appellant and the Respondent vide this office letter nos. 412-413/OEP/A-19/2021 dated 24.03.2021.

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.

(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, with sanctioned load of 2495 kW and CD as 2495 kVA for its ARC Furnace.

(ii) The Appellant was being issued bills regularly and the same were being deposited by the Appellant in full. There was no outstanding amount. The Appellant was being issued bills on CD and kVAh consumption basis as per tariff orders issued by PSPCL and approved by PSERC. The Appellant was being issued bills by ignoring clause of Tariff Order since 2016 to date.

(iii) SI 3.5 under Schedule of LS Tariff of General Conditions of Tariff provides as under: -

> *"For Arc/ PIU industries, where the load is of mixed nature, i.e. in addition to Arc/ Power Intensive loads, General Industrial loads are also running, monthly minimum charges shall be determined by computing the*

contract demand on prorate basis in proportion to such loads duly sanctioned by the load sanctioning authority. In such cases, Power Intensive loads shall comprise of loads as mentioned in para SI 3.2, including auxiliary loads, loads of pollution control machinery, gas plants & corresponding lighting loads and general industrial loads in such cases shall comprise loads of rolling mills and its allied loads, related workshop, general engineering machinery and corresponding lighting load, for the purpose of levy of monthly minimum charges."

(iv) The above clause had remained same in CC No. 26 of 2016, CC No. 46 of 2017, CC No. 23 of 2018, CC No. 29 of 2019 and CC No. 12 of 2020.

(v) The Appellant was fulfilling the clause as it was having ARC Furnace load and mixed load but since 2016, billing was being issued on Furnace load/ CD. No separation of load was got done, which was mandatory when the clause was introduced in the tariff. Due to deficiency in services of the Respondent, the overbilling was issued and the Appellant was paying the same.

(vi) The Appellant had claimed refund of excess billing of MMC/ fixed charges & Tariff difference paid due to deficiency in services of the Respondent.

(vii) The Forum had decided the case without going through the points raised by the Appellant in its petition, rejoinder and oral discussions.

(viii) The Appellant was not supplied copy of A&A form of the sanctioned load. It was demanded during the proceedings that copy of the letter be supplied vide which it was given to the Appellant but the Forum totally ignored the demand. The Appellant was in good faith that the load would remain as applied and accordingly the test report was submitted for obtaining the connection. In the absence of the copy of sanctioned A&A form, nobody can know how the bifurcation of load was made or not. There was deficiency on the part of the Respondent and excess billing was issued and recorded. The ESIM Instruction No. 25.3 was clear that PSPCL would provide the photocopies of Agreement to LS consumers by obtaining acknowledgement and in compliance, the Respondent should produce the same. The relevant clause is reproduced as under:

> *"25.3 A photocopy of accepted A&A form/ agreement shall be supplied to the consumer on payment of Rs. 5/- per copy, if so requested by him. As far as possible photocopies of the agreement shall be made available to*

the Medium, Large, Bulk Supply, Railway Traction and Street lighting consumers after obtaining their acknowledgement.

Load sanctioning authority shall supply a photocopy of sanctioned and accepted A&A Form in case of MS/LS/BS/RT/SL and DS/NRS (exceeding 100kW) consumers to Centralized Billing Offices."

(ix) It was pointed out that Appellant had not objected till date about PIU & General Load and has not applied for the bifurcation of load till date. The excess billing was done on total load but the Appellant cannot claim the refund. The question was that any objection can only be raised for wrong billing if the Appellant had knowledge about the facts. As and when it came to the knowledge of the Appellant, the Appellant filed its claim and the Respondent was convinced with the plea of the Appellant.

(x) It was cleared vide clause No. (viii) of CC No. 23 of 2018 issued on 24.04.2018 to charge billing on pro-rata basis. No notice was issued to the Appellant to submit the detail of load of General & Arc Furnace. The Centralized Billing Cell of the Respondent had not called for load details while implementing CC No. 23 of 2018.

(xi) There was no instruction in ESIM, Supply Code that which type of load was general load and which includes auxiliary load. The Respondent had sanctioned the total load in PIU category and the Appellant was not at fault. The A&A form was not having separate column to be filled for PIU & General Load and similar position was in test report form. The Forum had not decided the case properly and was in a hurry to decide the case in favour of the Respondent.

(xii) The Forum had not provided copy of A&A to the Appellant and ignored the demand of the Appellant.

(xiii) The detail of PIU & General Load was submitted before the Forum during proceedings of the case in rejoinder as PIU = 2000 kW, auxiliary load = 362.620 kW and general load = 132.380 kW. The billing of the Appellant needed to be revised on pro-rata base as per this bifurcated load.

(xiv) The excess billing may be refunded by applying pro-rata base factor as given in CC No. 23/2018 by setting aside the order of the Forum.

(b) Submissions made in the Rejoinder

The Appellant's Representative also filed its rejoinder, vide e-mail dated 23.03.2021, to the written reply of the Respondent and made the following submissions:-

(i) The Appellant had applied load of Furnace as well as of General load in A&A Forms separately but the load sanctioning authority approved the whole load under PIU category without bifurcating load as applied. The Appellant was not provided copy of approved/ sanctioned A& A Form separately or with demand notice so as to check the approved load. Feasibility clearance was only a part of the process to submit the A&A forms and to deposit the ACD & Meter Security.

(ii) The Appellant had paid the amount as per demand raised by the Respondent.

(iii) The Respondent had cleared in the clause of Tariff SI 3.5 of FY 2016-17 that the monthly minimum charges shall be determined by computing the contract demand on pro-rata basis in proportion to such loads duly sanctioned by the load sanctioning authority. The load of the Appellant was not sanctioned separately and Appellant was not at fault as the Respondent had not supplied copy of A & A form and the Appellant was not aware about this.

(iv) The Tariff Order was not implemented as per approval and example given therein and the Appellant was depositing the bills as issued by the Respondent.

(v) The Respondent had not provided copy of approved/ sanctioned A & A as applied and had not issued any notice to bifurcate the load as per CC No. 24 of 2018.

(vi) The Appellant had demanded copy of letter vide which copy of sanctioned load was supplied to the Appellant in the Forum and it was overruled/ ignored. It was again demanded in the Appeal but no clear reply was mentioned. The reply to ESIM No. 25.3 clause was not provided and the same should be provided. Whether they had complied with these instructions, if yes, the copy of the same be provided or the same may be denied. The Respondent had been over lapping in their reply to this point as a deficiency on their part. It was correct that a copy of A&A was being retained by the Consumers but copy of sanctioned load was not provided by the Respondent. The Respondent had submitted the copy during the proceedings before the Forum but not earlier and had been claiming that copy had been provided. The same was to be provided as per ESIM Instruction No. 25.3 but was not provided.

(vii) The Appellant had applied load with full details of Furnace load, allied load and general load but the A&A was approved and load was sanctioned under PIU for which Appellant was not at fault. It was not in the knowledge of the Appellant as the

Respondent had not supplied copy of sanctioned A&A forms. The Respondent had stated in the written reply that the Appellant had not submitted revised A&A Forms as per CC No. 23 & 24/2018 for bifurcation of load. The same was not submitted as the Respondent had not issued any notice and were being submitted now.

(viii) The respondent had not complied with the instructions issued by PSERC and misled the Forum and now this Court as the Respondent had not issued bills on pro-rata base as given in Tariff Circular CC No. 23/2018 vide clause (viii).

(ix) Page No. 119 of ESIM-2018 was clause of tariff, quoted was a part of Tariff and not the instruction as demanded in petition. The Respondent should furnish the instruction, in which separate column was provided for in A&A form and test report for PIU & General Load.

(x) The Forum had not decided the case by incorporating proper oral discussion and passed the order in favour of the Respondent. They had not noticed whether A&A Form was supplied to the Appellant or not and whether any notice was issued to petitioner as per CC No. 23 & 24 of 2018.

(c) Submission during hearing

During hearing on 24.03.2021, the Appellant's Representative reiterated the submissions made in the Appeal as well as in the rejoinder and prayed to allow the relief claimed.

(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, with sanctioned load of 2495 kW and CD as 2495 kVA for its Induction Furnace.

(ii) The electric connection of the Appellant was released for Induction Furnace and the entire load was approved in PIU category instead of mixed load as per A& A Form. The feasibility of the Appellant was also cleared in PIU category. The Appellant had deposited ACD in PIU category.

(iii) As per SI 3.5 of General Conditions of Tariff and Schedules of Tariff for FY 2016-17, Power Intensive loads shall comprise of loads as mentioned in para SI 3.2 including auxiliary loads. The same is reproduced as below:-

"SI. 3.5*For Arc/PIU industries where the load is of mixed nature, i.e. in addition to Arc/ Power Intensive loads, General Industrial loads are also running, monthly minimum charges shall be determined by computing the contract demand on prorate basis in proportion to such loads duly sanctioned by the load sanctioning authority. In such cases, Power Intensive loads shall comprise of loads as mentioned in para SI.3.2, including auxiliary loads, loads of pollution control machinery, gas plants & corresponding lighting loads, and general industrial loads in such cases shall comprise loads of rolling mills and its allied loads, related workshop, general engineering machinery and corresponding lighting load, for the purpose of levy of monthly minimum charges."*

(iv) As per SI 3.6 of General Conditions of Tariff and Schedules of Tariff for FY 2018-19 (CC 24/2018), Power Intensive loads shall comprise of loads as mentioned in para SI 3.2, including auxiliary loads. The same is reproduced as under :-

"SI.3.6 *For Arc/PIU industries where the load is of mixed nature, i.e. in addition to Arc/Power Intensive loads, General Industrial loads are also running, Fixed and Energy Charges shall be determined by computing the Maximum Demand and energy consumption for the billing month on pro-rata basis in proportion to such demands sanctioned by the distribution licensee and applicable tariff (Fixed Charge and Energy Charge) shall be as specified against the corresponding demand*

slab (without clubbing of Arc/Power Intensive and general load) under the relevant schedule of tariff.

In such cases, Power Intensive loads shall comprise of loads as mentioned in para SI 3.2 including auxiliary loads, loads of Pollution Control Machinery, Gas Plants and corresponding lighting loads and general Industrial loads in such cases shall comprise loads of rolling mills and its allied loads, related workshop, general engineering machinery and corresponding lighting load for the purpose of levy of Fixed Charges."

(v) As per SI 3.6 of General Conditions of Tariff and Schedules of Tariff for FY 2019-20 (CC 25/2019), Power Intensive loads shall comprise of loads as mentioned in para SI 3.2 including auxiliary loads. The same is reproduced as follows:-

"SI 3.6 For industries where the load is of mixed nature, i.e. in addition to General Industrial loads, Arc/Power Intensive loads are also running*, Fixed and Energy Charges shall be determined by computing the Maximum Demand and energy consumption for the billing month on pro-rata basis in proportion to such demands sanctioned by the distribution licensee and applicable tariff (Fixed Charge and Energy Charge) shall be as specified against the corresponding demand slab (without clubbing of Arc/Power Intensive and general load) under the relevant schedule of tariff.*

In such cases, Power Intensive loads shall comprise of loads as mentioned in para SI3.2 including auxiliary loads, loads of Pollution Control Machinery, Gas Plants and corresponding lighting loads and general industrial loads in such cases shall comprise loads of rolling mills and its allied loads, related workshop, general engineering machinery and corresponding lighting load for the purpose of levy of fixed charges. Provided that billet heaters having contract demand upto 100 kVA shall not be considered as PIU load."

Hence the auxiliary load was also part of the PIU Load as per SI 3.2 of General Conditions of Tariff and Schedules of Tariff as the main load was of PIU Category.

(vi) The Appellant had never represented in this regard in the past. The Appellant had not filled A & A Forms till date giving bifurcation of load of mixed nature if he had mainly General Industrial Load as per SI 3.6 of General Conditions of Tariff and Schedules of Tariff for FY 2019-20 and thereafter as stated above.

(vii) The Forum had correctly decided the case in favour of the Respondent by passing detailed speaking orders. A complete copy of Consumer Case, A&A Form, Test Report, Feasibility

Clearance and other documents were supplied to the Appellant in the proceedings before the Forum.

(viii) As per SI 3.6 of General Conditions of Tariff and Schedules of Tariff for FY 2018-19 (CC 23 & 24/2018), Power Intensive loads shall comprise of loads as mentioned in para SI 3.2 including auxiliary loads. The same is reproduced as follows:-

> *"SI. 3.6 For Arc/PIU industries where the load is of mixed nature, i.e. in addition to Arc/Power Intensive loads, General Industrial loads are also running, Fixed and Energy Charges shall be determined by computing the Maximum Demand and energy consumption for the billing month on pro-rata basis in proportion to such demands sanctioned by the distribution licensee and applicable tariff (Fixed Charge and Energy Charge) shall be as specified against the corresponding demand slab (without clubbing of Arc/Power Intensive and general load) under the relevant schedule of tariff.*

In such cases, Power Intensive loads shall comprise of loads as mentioned in para SI 3.2 including auxiliary loads, loads of Pollution Control Machinery, Gas Plants and corresponding lighting loads and general industrial loads in such cases shall comprise loads of rolling mills and its allied loads, related

workshop, general engineering machinery and corresponding lighting load, for the purpose of levy of fixed charges."

Large Supply connections were applied by the Consumers and copies of the submitted documents were to be retained by the Consumers . They maintained a separate LS connection file. Moreover, copies of bills/receipts of securities etc. were preserved by the Consumers for accounting and other purposes. One copy of A&A Form and other documents were given to the Consumers by the Respondent. The Appellant had already attached concerned documents with its petition submitted in the Forum.

(ix) The entire load of the Appellant was sanctioned under PIU (Induction Furnace). The Appellant had not filed new A&A Forms by bifurcating the PIU load and General Load as per instructions contained in SI 3.6 of General Conditions of Tariff and Schedules of Tariff for FY 2018-19 (CC 23 & 24/2018). It proved that the total load of the Appellant falls under PIU category and there was no other general industry (General Load) except PIU load. The above instructions clearly stated that the billing on the basis of PIU load and General Load in proportion to it was only to be applied where General and PIU

load had been separately sanctioned by the Load Sanctioning Authority in the A&A Forms.

(x) The Appellant was misunderstanding these instructions and wanted to get benefit of PIU load which it said as General Load as defined in CC 23 & 24/2018. The instructions clearly stated that this benefit was only to be given where there were two type of industrial loads running i.e. PIU and General Industry.

(xi) As per above said instructions (CC 23 & 24/2018), SI 3.6 of General Conditions of Tariff and Schedules of Tariff for FY 2018-19, Power Intensive loads shall comprise of loads as mentioned in para SI3.2 including auxiliary loads, loads of Pollution Control Machinery, Gas Plants and corresponding lighting loads. General industrial loads in such cases shall comprise loads of rolling mills and its allied loads related workshop, general engineering machinery and corresponding lighting load, for the purpose of levy of fixed charges. The Appellant had filled A&A Forms with type of industry as PIU at the time of applying for the connection.

(xii) If there was any general load (as defined in circular), then the Appellant must had filled the same in A&A forms. As per the above stated instructions, the general load comprise loads of rolling mills and its allied loads, related workshop, general

engineering machinery and corresponding lighting load but the Appellant had not given any detail of PIU load and General Load in A&A Forms, before the Forum and in the present Appeal.

(xiii) The instructions stand uploaded on PSPCL website for the intimation and knowledge of the general public and organizations as well as the consumers and others. These instructions were issued with the approval of Hon'ble PSERC and notice to general public for filing objections was issued by PSERC and PSPCL. The instructions are available in ESIM-2018 at Page No. 119 and the Forum had correctly decided the case by passing detailed speaking orders after considering all the facts.

(xiv) The required documents demanded by the Appellant were produced by the Respondent before the Forum.

(xv) The proportionate billing of PIU and general tariff was only to be done if it was separately sanctioned in the A&A Form by the Load Sanctioning Authority as per CC 23 & 24/2018 and SI 3.6 of General Conditions of Tariff and Schedules of Tariff for FY 2018-19.

(xvi) It was prayed that the Forum had correctly decided the case and present Appeal of the Appellant may be dismissed.

(b) Submission during hearing

During hearing on 24.03.2021, the Respondent reiterated the submissions made by it in the written reply and contested the submissions of the Appellant's Representative. He had requested for dismissal of the Appeal of the Appellant.

5. Analysis and Findings

The issue requiring adjudication is the legitimacy of charging of Tariff for the period from 14.06.2016 to 31.10.2020 and refund of excess amount (disputed amount ₹ 25,98,899/-) charged as per applicable regulations.

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

(i) The Appellant's Representative contended that the Appellant had applied for Furnace and General loads separately in A & A Forms but the load sanctioning authority approved the load as PIU Category without bifurcating the load as applied. The Appellant was not provided copy of that approved A & A Form separately or with demand notice to check the approved load. Feasibility clearance was only a part of the process to submit the A & A forms and to deposit the ACD & Meter Security. The Appellant had paid the amount as per demand raised by the

Respondent. The Respondent had cleared in the clause of Tariff SI 3.5 of 2016-17 that the monthly minimum charges shall be determined by computing the contract demand on pro-rata basis in proportion to such loads duly sanctioned by the load sanctioning authority. The load of the Appellant was not sanctioned separately and Appellant was not at fault as the Respondent had not supplied copy of A & A Form and the Appellant was not aware about this. The Tariff Order was not implemented as per approval and example given therein and the Appellant was depositing the bills as issued by the Respondent. The Respondent had not provided copy of approved/ sanctioned A & A form as applied and had not issued any notice to bifurcate the load as per CC No. 24 of 2018. The Appellant had demanded copy of letter vide which copy of sanctioned load was supplied to the Appellant in the Forum and it was overruled/ ignored. The reply to submission made for compliance of ESIM Instruction No. 25.3 was not provided and the same should be provided. Whether the Respondent had complied with these instructions, if yes , the copy of the same be provided or the same may be denied. The Respondents had been overlapping in their reply to this point as a deficiency on their part. It was correct that a copy of A&A Form was being

retained by the Consumers but copy of sanctioned load was not provided by the Respondent. The Respondent had submitted the copy during the proceedings before the Forum but not earlier and had been claiming that copy had been provided. The same was to be provided as per ESIM Instruction No. 25.3 but not provided. The Respondent had stated in the written reply that the Appellant had not submitted revised A&A Forms as per CC No. 23 & 24/2018 for bifurcation of load. The same was not submitted as the Respondent had not issued any notice and the Appellant had submitted it now. The Respondent had not complied with the instructions issued by PSERC and misled the Forum and now this Court as the Respondent had not issued bills on pro-rata base as given in Tariff Circular CC No. 23/2018 vide clause (viii). Page No. 119 of ESIM-2018 was clause of tariff, quoted was a part of Tariff and not the instruction as demanded in petition. The Respondent should furnish the instruction, in which separate column was provided for in A & A form and test report for PIU & General Load. The Forum had not decided the case by incorporating proper oral discussion and passed the order in favour of Respondent. The Forum had not noticed whether A & A Form was supplied to

the Appellant or not and whether any notice was issued to petitioner as per CC No. 23 & 24 of 2018.

(ii) The Respondent stated that the Appellant was having a Large Supply Category Connection, bearing Account No. 3005707765 with sanctioned load of 2495 kW and CD as 2495 kVA for its Induction Furnace. The electric connection of the Appellant was released for Induction Furnace and the entire load was approved under PIU category instead of mixed load as per A & A Forms. The feasibility of the Appellant was also cleared in PIU category. The Appellant had deposited ACD in PIU category. The Appellant had never represented in this regard in the past. The Appellant had not filled A & A Forms till date giving bifurcation of load of mixed nature if he had mainly General Industrial Load as per SI 3.6 of General Conditions of Tariff and Schedules of Tariff for FY 2019-20 and thereafter. A complete copy of Consumer Case, A & A Form, Test Report, Feasibility Clearance and other documents were supplied to the Appellant in the proceedings before the Forum. As per SI 3.6 of General Conditions of Tariff and Schedules of Tariff for FY 2019-20 (CC 25/2019), Power Intensive loads shall comprise of loads as mentioned in para SI3.2 including auxiliary loads. A & A Form for Large Supply

connections were submitted by the Consumers to the Competent Authority of PSPCL alongwith the documents and a copy of these documents was retained by the Consumers. The Appellant, being a large supply consumer, was required to keep record and maintain the same with all documents submitted to the Respondent who maintains a separate LS connection file. Copies of bills/ receipts of securities etc. were preserved by the consumers for accounting and other purposes. Moreover, one copy of A&A Forms and other documents were given to the Consumers by the Respondent. The Appellant had already attached concerned documents with its petition submitted in the Forum. The entire load of the Appellant was sanctioned under PIU (Induction Furnace). The Appellant had not filed new A&A Forms by bifurcating the PIU load and General Load as per instructions contained in SI 3.6 of General Conditions of Tariff and Schedules of Tariff for FY 2018-19 (CC 23 & 24/2018) and it proved that the total load of the Appellant falls under PIU category and there was no other general industry (General Load) except PIU load. The above instructions clearly stated that the billing on the basis of PIU load and General Load in proportion to it was only to be applied where General and PIU load had been separately sanctioned by the Load

Sanctioning Authority in the A & A Forms. The Appellant was misunderstanding these instructions and wanted to get benefit of PIU load which it said as General Load as defined in CC 23 & 24/2018. The instructions clearly stated that this benefit was only to be given where there were two type of industrial loads running i.e. PIU and General Industry. As per above said instructions (CC 23 & 24/2018), SI 3.6 of General Conditions of Tariff and Schedules of Tariff for FY 2018-19, Power Intensive loads shall comprise of loads as mentioned in para SI 3.2 including auxiliary loads, loads of Pollution Control Machinery, Gas Plants and corresponding lighting loads. General industrial loads in such cases shall comprise loads of rolling mills and its allied loads, related workshop, general engineering machinery and corresponding lighting load, for the purpose of levy of fixed charges. The Appellant had filled A & A Forms with type of industry as PIU at the time of applying for the connection. If there was any general load (as defined in circular), then the Appellant might had filled the same in A & A forms. As per the above stated instructions, the general load comprise loads of rolling mills and its allied loads, related workshop, general engineering machinery and corresponding lighting load but the Appellant had not given any detail of PIU

load and General Load in A & A Forms, before the Forum and in the present Appeal. The instructions stand uploaded on PSPCL website for the intimation and knowledge of the general public and organizations as well as the consumers and others. These instructions were issued with the approval of PSERC and notice to general public for filing objections was issued by PSERC and PSPCL. The instructions were available in ESIM-2018 at Page No. 119 and the Forum had correctly decided the case by passing detailed speaking orders after considering all the facts. The required documents demanded by the Appellant were produced by the Respondent before the Forum. The proportionate billing of PIU and general tariff was only to be done if it was separately sanctioned in the A & A Form by the Load Sanctioning Authority as per CC 23 & 24/2018 and SI 3.6 of General Conditions of Tariff and Schedules of Tariff for FY 2018-19. The Forum had correctly decided the case in favour of the Respondent by passing detailed speaking orders.

(iii) As per evidence brought on record of this Court, office of the CE/Commercial, PSEB, Patiala, vide Memo No. 66850/51 dated 01.12.2009 conveyed the decision of the Competent Authority to release new connection in favour of M/s Pact Industries Pvt. Ltd (previous owner/consumer) with a load of

2495 kW/2495 kVA (under Induction furnace category). Thereafter, A & A was signed on 24.12.2009 by the Dy.CE/Op., City West Circle, Ludhiana, Addl. S.E/DS, Estate Division (Special), PSPCL, Ludhiana & Representative of M/s Pact Industries (P), Ltd. The agreement was approved by the E.I.C/Commercial, Patiala. In the aforesaid agreement, the following values were mentioned: Total Connected Load=2495 kW, Total Contract Demand=2495 kVA, Supply Voltage=11 kV, Transformer Capacity=2565 kVA and Type of Industry= Induction Furnace. The Appellant had deposited ACD/Security (Consumption) in PIU category as intimated by the Respondent in its written reply. Subsequently, change of the name of the connection was applied for by M/s K. K. Alloys Unit-I (P) Ltd. (Appellant) on 27.07.2020 and A & A was signed between the PSPCL and the Appellant .

(iv) It is observed that the M/s Pact Industries Pvt. Ltd. (previous owner/consumer) had got its connection released on 14.03.2011 before circulation/publicity of Tariff Orders for FY 2016-17, 2017-18, 2018-19, 2019-20 and 2020-21 vide CC Nos. 26/2016, 47/2017, 24/2018, 25/2019 and 28/2020. The above cited Tariff Orders were circulated and uploaded on the websites of PSPCL/PSERC for wide publicity. Accordingly, at

the time of submission of A & A form for release of its connection (after Feasibility Clearance) for load/CD (under PIU category), the Appellant became aware that it had applied for and agreed to the sanction of load/CD under PIU category (as per A & A form signed on 24.12.2009). But, the consumer never submitted any request in writing or fresh A & A Form for bifurcation of load as of mixed nature if it had mainly General Industrial Load as per relevant provisions of General Conditions of Tariff and Schedules of Tariff.

(v) It is also observed that the Appellant did not point out in writing any instance of excess billing due to charging of Tariff as per PIU category load to the Respondent on receipt of regular energy bills from PSEB/PSPCL. Rather, the Appellant continued to pay the bills issued to it regularly by PSPCL without any objection / challenge.

(vi) There is merit in the submission of the Respondent in its written reply that Large Supply Connections were applied by the Consumers with the relevant documents and a copy of these documents was to be retained by the Consumers. The Appellant, being a Large Supply Category Consumer, must keep record of all documents submitted to the Respondent and maintain a separate LS connection file. Copies of bills/ receipts

of securities etc. were preserved by the Consumers for accounting and other purposes. Moreover, one copy of A&A Forms and other documents were given to the Consumers by the Respondent. The Appellant had already attached concerned documents with its petition submitted in the Forum.

(vii) The Appellant's Representative contended that the Appellant was not supplied copy of A&A form of the sanctioned load. It was demanded during the proceedings that copy of the letter be supplied vide which it was given to the Appellant but the Forum totally ignored the demand. The Appellant was having a good faith that the load would remain as applied and accordingly, the test report was submitted for obtaining the connection. In the absence of the copy of sanctioned A & A form, nobody can know that the bifurcation of load was made or not. There was deficiency on the part of the Respondent and excess billing was issued / recorded. The ESIM Instruction No. 25.3 was clear that PSPCL would provide the photocopies of Agreement to LS consumers by obtaining acknowledgement and in compliance, the Respondent should produce the same.

In this connection, it is worthwhile to peruse the Instruction No. 25.3 of ESIM 2018 which reads as under:

*"**25.3** A photocopy of A&A form/agreement shall be supplied to the consumer on payment of Rs. 5/- per copy, if so requested by him. As far as possible photocopies of the agreements shall be made available to the LS, MS, BS, RT and SL consumers after obtaining their acknowledgement.*

Load sanctioning authority shall forward a photocopy of sanctioned and accepted A&A Form to centralized billing office where billing is not done in the sub division."

The Appellant's Representative, on being asked during hearing on 24.03.2021, confirmed that it had not deposited the requisite fee of ₹ 5/- per copy for obtaining photocopies of sanctioned A & A forms from the Respondent and he had not even given any request in writing in this regard to the Respondent. In view of the above, the contention of the Appellant's representative regarding non supply of sanctioned A & A forms does not hold good .

(viii) It is observed that the Appellant had misunderstood the instructions contained in General Conditions of Tariff and Schedule of Tariff relating to the Tariff Orders for FY 2016-17, 2017-18, 2018-19, 2019-20 and 2020-21 whose perusal revealed that billing on the basis of PIU load and General Load in proportion to it was only to be applied where General and

PIU load had been separately sanctioned by the Load Sanctioning Authority in the A &A Form. In the present case, the whole load was sanctioned by the Load Sanctioning Authority under PIU Category and billing was done correctly.

(ix) The present Appeal has been preferred by M/s K. K. Alloys (P) Ltd. Unit-I who is the present owner of erstwhile M/s Pact Industries (P) Ltd. The Appellant applied for the change of name on 27.07.2020 and the Appellant signed an agreement with PSPCL authorities in July, 2020. Even, while submitting this Application and Agreement Form for change of name, the Appellant did not mention specifically the bifurcation of load of General and PIU category and that also too after filing its Petition for relief (in CGRF, Ludhiana) on account of dispute of previous owner of the Unit i.e. M/s Pact Industries (P) Ltd. The whole load was sanctioned under PIU category by the Load Sanctioning Authority of the Licensee even after change of name.

(x) From the above analysis, it is concluded that the entire load of the Appellant was sanctioned by the Competent Authority under PIU category. The Appellant had not submitted new A&A Forms by bifurcating the PIU load & General Load. Further, the Appellant did not file any objection to charging it

as per PIU load in terms of instructions contained in SI 3.5/3.6 of General Conditions of Tariff and Schedules of Tariff for FY 2016-17, 2017-18, 2018-19, 2019-20 and 2020-21. It proved that the total load of the Appellant falls under PIU category and there was no other general industry (General Load) except PIU load. The proportionate billing of PIU and general tariff was to be done only if it was separately sanctioned in the A&A Form by the Load Sanctioning Authority as per provisions referred to above. Thus, the Forum rightly decided that the Appellant was not entitled for any refund on account of billing done by the Respondent.

(xi) All the Commercial Circulars issued by PSPCL are available on its website and are in public domain. Further, Tariff orders issued by PSERC are available on the websites of PSERC as well as PSPCL. Wide publicity was also given in the press about tariff rates approved by PSERC in respect of various categories of the consumers. The Appellant, being LS consumer, cannot say that he was ignorant about tariff orders / regulations relating to tariff matters. There was no need to issue separate notices to each consumer informing about changes in tariff structure. Each consumer had to take appropriate action for getting any benefit given in the tariff orders of the PSERC.

The Appellant failed to take timely appropriate action regarding bifurcation of PIU & General Load by submitting revised A & A forms so as to obtain the approval of bifurcated load from the Load Sanctioning Authority.

(xii) The allegation of deficiency of service levelled by the Appellant against the Respondent in this case is not just and fair. As such, the claim of the Appellant regarding refund of disputed amount (₹ 25,98,899/-) already paid in the bills without any challenge is hereby rejected after due consideration of all the facts of the case.

6. Decision

As a sequel of above discussions, the order dated 18.01.2021 of the CGRF, Ludhiana in Case No. CGL-416 of 2020 is upheld. The Appellant is at liberty to submit fresh/ revised A& A forms to the Licensee (PSPCL) so as to obtain the approval/ sanction of Load Sanctioning Authority of PSPCL in respect of PIU and General Load separately if it wants to get the benefit of tariff rates in future.

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)
Lokpal (Ombudsman)
Electricity, Punjab.

March 30, 2021
S.A.S. Nagar (Mohali)

OMBUDSMAN
ELECTRICITY PUNJAB