

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

APPEAL NO. 21/2021

Date of Registration : 08.03.2021

Date of Hearing : 09.04.2021

Date of Order : 12.04.2021

Before:

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

In the Matter of:

M/s. J.N. Tayal Steels Pvt. Ltd.,
Vill: Bhagwanpura, Dehlon-Sahnewal Road,
Sahnewal, Ludhiana-141001.

Contract Account Number: 3003018351

...Appellant

Versus

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

...Respondent

Present For:

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

2. Sh. Rishab Jain,
Revenue Accountant.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 01.02.2021 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-07 of 2021, 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

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 08.03.2021 (6th and 7th March, 2021 being holidays) i.e. within stipulated period of thirty days of receipt of the decision dated 01.02.2021 of the CGRF, Ludhiana in Case No. CGL-07 of 2021 by the Appellant on 04.02.2021. As per instructions, the appeal was to be filed within thirty days i.e. before 07.03.2021. The Appellant was not required to deposit the requisite 40% of the disputed amount, which was on account of claim for 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/ parawise comments with a copy to the office of the CGRF, Ludhiana under intimation to the Appellant vide letter nos. 270-272/OEP/A-21/2021 dated 08.03.2021.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 09.04.2021 at 11.00 AM and an intimation to this effect was sent to both the sides vide letter nos. 481-82/OEP/A-21/2021 dated 01.04.2021. As scheduled, the hearing was held in this Court on the said date and time and was attended by the Representatives of the Respondent. The Appellant's Representative did not attend the hearing and requested this Court, vide e-mail received on 09.04.2021, to decide the case as per its Appeal and rejoinder sent vide the said e-mail. Copies of the minutes of the proceedings were sent to the Appellant and the Respondent vide letter nos. 565-66/OEP/A-21/2021 dated 09.04.2021.

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, bearing Account No. 3003018351 with sanctioned load of 3995 kW and Contract Demand (CD) as 3995 kVA for its ARC Furnace. The connection to the Appellant was released on 04.05.2011 at 11 kV with the load as 2495 kW and CD as 2495 kVA. Thereafter, extension in load/CD was done on 13.12.2018.
- (ii) The Appellant was being issued bills regularly and the same were being deposited by the Appellant in full and there was no outstanding amount. The Appellant was being issued bills on CD and of kVAh consumption basis as per tariff order issued

by PSPCL and approved by the PSERC. The Appellant was being issued bills by ignoring clauses of Tariff orders 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 prorata 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 done 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 having 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 could know whether 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 had not applied for the bifurcation of load till date. The excess billing was done on total load but the Appellant could not claim the refund. The question was that any objection could 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 explaining 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 = 2750 kW, auxiliary load = 1012.800 kW and light load =

232.200 kW. The billing of the Appellant needed to be revised on pro-rata base as per this bifurcated load.

- (xiv) The excess billing should 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 in the Rejoinder

The Appellant's Representative, in its rejoinder to written reply of the Respondent, made the following submissions and also requested for decision of the case on the basis of contents of the Appeal and Rejoinder: -

- (i) The Appellant had applied load of Furnace as well as General load in A&A form separately but the load sanctioning authority approved it in PIU without bifurcating the load as applied and released on 4th of May, 2011. The Appellant was not provided copy of that approved A&A form neither separately nor with demand notice to check the approved load.
- (ii) The feasibility clearance was only a part of submission of A&A forms for deposit of ACD/Security (Consumption) and Security (Meter). The Appellant had paid the amount as per demand of the Respondent.

- (iii) The Respondent had cleared in clause of Tariff Order 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 was not sanctioned separately and the Appellant was not at fault as the Respondent had not supplied copy of that A&A form and the Appellant was not aware about it. The tariff order was not implemented as per approval and example given in SI 3.6 of Tariff Order for FY 2018-19 (CC No. 24/2018)
- (iv) The Appellant was not provided copy of load sanctioned on A&A form and was not issued any notice to bifurcate its load as per CC No. 24 of 2018.
- (v) The Appellant had demanded copy of letter in the Forum vide which copy of sanctioned load was supplied to the Appellant but it was overruled/ ignored. Now in the Appeal, it was again demanded but no clear reply was given. No reply to Clause No. 25.3 of ESIM had been given. Whether the Respondent had complied with the said instruction, if yes, provide copy thereof or should deny the same. The Respondent had submitted the copy during the proceedings before the Forum but not earlier and claimed that copy had been provided.

- (vi) The Appellant had applied load of Furnace, allied load and general load in the A&A form but it was sanctioned for PIU load for which the Appellant was not at fault. Non bifurcation of load was not in the knowledge of the Appellant as the Respondent had not supplied copy of A&A form showing bifurcation of load. In its reply, Respondent had stated that the Appellant had not submitted revised A&A forms as per CC No. 23 & 24/2018 for bifurcation of load separately but the Respondent had not issued any notice in this regard. A&A form was being submitted by the Appellant.
- (vii) The Respondent had not complied with the instructions issued by PSERC and had misled the Forum and now this Court. The Respondent had not issued the bills on prorate basis as given in CC No. 23 of 2018 vide clause (viii).
- (viii) Page no. 119 of ESIM-2018 was a clause of tariff and it was not instructions. The Respondent should furnish the instructions in which separate column was provided for in A&A form, test report for PIU and General Load.
- (ix) The Forum had not decided the case properly and decided the same in favour of the Respondent. The Forum had not cared whether A&A form was supplied to the Appellant or not or any

notice was issued to the Appellant as per CC No. 23 & 24/2018 by the Respondent.

(x) It was prayed that the Appeal be decided in favour of the Appellant.

(c) Submission during hearing

The Appellant's Representative intimated vide WhatsApp message from his mobile no. on 09.04.2021 that "I am not coming. Please decide the case." Simultaneously, he sent an e-mail stating as: "With due respect, kindly find attached rejoinder in the case of A-21/2021 M/s J. N. Tayal please decide the appeal as per petition and rejoinder."

(B) Submissions of the Respondent

(a) Submissions in written reply

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

(i) The electric connection of the Appellant was released on 04.05.2011 with sanctioned load of 2495 kW/ 2495 kVA as contract demand for Induction Furnace (type of industry) and the entire load was approved in PIU category instead of mixed load as per A&A Form. Subsequently, the consumer had got extended its sanctioned load from 2495 kW to 3995 kW and

contract demand from 2495 kVA to 3995 kVA on 11.12.2018 in PIU category.

- (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 SI3.2 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 prorated 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 SI3.2 including auxiliary loads. The same is reproduced as follows:-

“SI3.6 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 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. 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 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.

- (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 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 should be dismissed.

(b) Submission during hearing

Before the start of hearing on 09.04.2021, copy of rejoinder sent by the Appellant's Representative vide e-mail dated 09.04.2021 was given to the Respondent. During hearing, the Respondent reiterated the submissions made in the written reply and prayed to dismiss of the Appeal.

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 ₹ 32,83,766/-) charged as per applicable regulations.

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

- (i) The Appellant's Representative submitted that the Appellant had applied load of Furnace as well as of General load in A&A form separately but the load sanctioning authority approved it in PIU without bifurcating the load as applied and released the same on 4th May, 2011. The Appellant was not provided copy of the approved A&A form either separately or with demand notice to check the approved load. The feasibility clearance was only a part of submission of A&A forms for deposit of ACD/Security (Consumption) and Security (Meter). The Appellant had paid the amount as per demand of the Respondent. The Respondent had cleared in clause of Tariff Order 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 was not sanctioned separately and the Appellant was not at fault as the Respondent had not supplied copy of the A&A form and the Appellant was not aware about it. The tariff order was not implemented as per

approval and example given in SI 3.6 of Tariff Order for FY 2018-19 (CC No. 24/2018). The Appellant was not provided copy of load sanctioned in A&A form and was not issued any notice to bifurcate its load as per CC No. 24 of 2018. The Appellant had demanded copy of letter in the Forum vide which copy of sanctioned load was supplied to the Appellant but it was overruled/ ignored. Now in the Appeal, it was again demanded but no clear reply was given. No reply to Clause No. 25.3 of ESIM had been given. Whether the Respondent had complied with the said instruction, if yes, provide copy thereof or should deny the same. The Respondent had submitted the copy during the proceedings before the Forum but not earlier and claimed that copy had been provided. The Appellant had applied load of Furnace, allied load and general load in the A&A form but it was sanctioned for PIU load for which the Appellant was not at fault. Non bifurcation of load was not in the knowledge of the Appellant as the Respondent had not supplied copy of A&A form showing bifurcation of load. In its reply, Respondent had stated that the appellant had not submitted revised A&A forms as per CC No. 23 & 24/2018 for bifurcation of load separately but the Respondent had not issued any notice in this regard. A&A form was being

submitted by the Appellant. The Respondent had not complied with the instructions issued by PSERC and had misled the Forum and now this Court. The Respondent had not issued the bills on prorata basis as given in CC No. 23 of 2018 vide clause (viii). Page no. 119 of ESIM-2018 was a clause of tariff and it was not instructions. The Respondent should furnish the instructions in which separate column was provided for in A&A form, test report for PIU and General Load. The Forum had not decided the case properly and decided the same in favour of the Respondent. The Forum had not cared whether A&A form was supplied to the Appellant or not or any notice was issued to the Appellant as per CC No. 23 & 24/2018 by the Respondent. It was prayed that the Appeal be decided in favour of the Appellant.

- (ii) The Respondent contended that the Appellant had applied for load of 2495 kW/CD as 2495 kVA vide A & A No. 34262 LS dated 12.04.2010 and the connection had been released on 11 kV on 04.05.2011. The Appellant had further extended its Sanctioned Load from 2495 kW to 3995 kW and Contract Demand from 2495 kVA to 3995 kVA on 11.12.2018. 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. Copies 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 SI 3.2 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) A&A No. 34262/LS dated 12.04.2010 was signed by Dy. CE/OP City, West Circle, Ludhiana, ASE/DS Estate Division (Special), Ludhiana, AEE/DS S/D, Sahnewal and Representative of the Appellant. The load was approved by the CE/ Commercial, PSEB, Patiala. In the aforesaid agreement, the following values were mentioned: Connected Load= 2495 kW, Contract Demand= 2495 kVA, Supply Voltage=11 kV, Transformer Capacity= 2250+250=2500 kVA and Type of Industry= Induction Furnace. The Appellant had deposited ACD/Security (Consumption) in PIU category as intimated by the Respondent. Subsequently, A & A dated 04.10.2017 was signed between Dy. CE/City West Circle, Ludhiana, Addl. SE/DS Divn. (Estate), Ludhiana, AEE/Estate Unit III,

Sahnewal and Representative of the Appellant. The load was approved by the CE/DS, Central Zone, PSPCL, Ludhiana. In the aforesaid agreement, the following values were mentioned: Total Load= 3995 kW, Contract Demand= 3995 kVA, Supply Voltage=11 kV, Transformer Capacity= 4000 kVA and Kind of Industry= Power Intensive.

- (iv) It is observed that the Appellant got its load/CD sanctioned initially as 2495 kW/2495 kVA vide A & A dated 12.04.2010 i.e. before issue of Tariff Orders for FY 2016-17 and 2017-18 vide CC No. 26/2016 and 47/2017 respectively. Subsequently, the Appellant got its load/CD extended to 3995 kW/3995 kVA vide A & A Form dated 04.10.2017 i.e. after issue of Tariff Order FY 2016-17 and 2017-18 vide CC No. 26/2016 and 47/2017. Thereafter, Tariff Orders FY 2018-19, 2019-20 and 2020-21 were issued vide CC No. 24/2018, 25/2019 and 28/2020 respectively. The aforesaid Tariff Orders were 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. 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 monthly energy bills from PSPCL. Rather, the Appellant continued to pay the bills issued to it regularly by PSPCL without any objection / challenge.
- (vi) There is merit in submissions of the Respondent 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/ relevant documents with its petition submitted in the Forum.

(vii) The Appellant's Representative stated in the Appeal that the Appellant was not supplied copy of A & A form of the sanctioned load. It was demanded during the proceedings of the Forum 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 could know whether 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 Court noted that as per material available on record, the Appellant did not request in writing to the Respondent by depositing the prescribed fee for obtaining a copy of A & A Form signed by it with the licensee. 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 Appellant's Representative itself admitted that all the Commercial Circulars issued by PSPCL are available on its

website and are in public domain but stated that their implementation was not done correctly.

The Court observed that the 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 notice 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 to pin point any instance of incorrect implementation of Tariff Order. He also failed to apply for 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.

- (x) The averments made by the Appellant's Representative particularly in rejoinder to written reply (specifically that the Appellant was not at fault and that the load sanctioning authority had wrongly sanctioned the load without bifurcation) are not convincing and hence are not sustainable. Ever since

release of the Appellant's LS category connection, it did not point out in writing that bifurcation of load applied for by it had not been reflected in the bills which in turn, were paid regularly. LS category consumer is expected to be sincere, responsible and vigilant in discharging its obligations instead of incorrectly pointing out lacunae in the working of the Distribution Licensee. Thus, the Appellant cannot absolve itself of the responsibility and liability for the disputed amount billed to it as per instructions of PSPCL/P SERC.

- (xi) From the above analysis, it is concluded that the entire load of the Appellant was sanctioned by the Load Sanctioning 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.

- (xii) The allegation of deficiency of service in this case is not just and fair. As such, the claim of the Appellant regarding refund of disputed amount (₹ 32,83,766/-) already paid in the bills without any challenge is devoid of merit and is hereby rejected after due consideration of all the facts/documentary evidence of the case.

6. Decision

As a sequel of above discussions, the order dated 01.02.2021 of the CGRF, Ludhiana in Case No. CGL-07 of 2021 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.

April 12, 2021
S.A.S. Nagar (Mohali)

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

