

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

APPEAL No. 24/2021

Date of Registration : 10.03.2021

Date of Hearing : 07.04.2021

Date of Order : 09.04.2021

Before:

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

In the Matter of:

M/s. D. C. Steels Pvt. Ltd.,
VPO- Jhabewal, Chandigarh Road,
Ludhiana.

Contract Account Number: 3002809420

...Appellant

Versus

Senior Executive Engineer,
DS Focal Point Division (Special),
PSPCL, Ludhiana.

...Respondent

Present For:

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

Respondent : Er. Jagdeep Singh,
Senior Executive Engineer,
DS Focal Point Division (Special),
PSPCL, Ludhiana.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 03.02.2021 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-424 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 03.02.2021 of the CGRF, Ludhiana in Case No. CGL-424 of 2020 on 08.02.2021. As per provisions contained in Regulation 3.18 of PSERC (Forum and Ombudsman) Regulation 2016, the Appeal was required to be filed within 30 days of receipt of decision of the Forum by 10.03.2021. Thus, the Appeal was filed within the limitation period. 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 Focal Point 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. 283-285/OEP/A-24/2021 dated 10.03.2021.

3. Proceedings

With a view to adjudicate the dispute, a hearing was initially fixed in this Court on 31.03.2021 at 12.45 PM and an intimation to this effect was sent to both the sides vide letter nos. 373-74/OEP/A-24/2021 dated 22.03.2021. On 30.03.2021, the Appellant's Representative sent an e-mail & requested for adjournment of hearing due to late receipt of written reply. Accordingly, hearing was deferred to 07.04.2021 at 11.00 AM and intimation to this effect was sent vide letter no. 450-51/OEP/A-24/2021 dated 30.03.2021. As rescheduled, the hearing was held in this Court on the said date and time. Arguments of both the parties were heard and order was reserved. Copies of the minutes of the proceedings were sent to the Appellant and the Respondent vide letter nos. 510-11/OEP/A-24/2021 dated 07.04.2021.

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, with sanctioned load of 2215 kW and CD as 2461 kVA for its Induction 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 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 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 Induction 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 had 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 & Induction 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 = 1845 kW, auxiliary load = 296.485 kW and light load = 73.515 kW. The billing of the Appellant is required 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 made in the Rejoinder

The Appellant's Representative also submitted a rejoinder to the written reply vide e-mail dated 30.03.2021 and made the following submissions:

- (i) It was correct that no fee was deposited. As per A & A form supplied during the proceedings in CGRF, the Appellant noted that the total load was sanctioned under PIU and there was no bifurcation of load of Furnace and General load but the Appellant applied this load separately as mentioned in A & A forms at the time of applying for connection on 16.03.2007 of 2215 kW/2461 kVA. The Test Report was attached with the petition at cp-21 to 24. The detail of Furnace, Auxiliary load and General load was attached separately. The concerned SDO verified the same on 15.09.2003. The Respondent also attached these documents with the reply. Reply of the Respondent in this regard was wrong and denied. The Appellant was not at fault. The load sanctioning authority wrongly sanctioned the load without bifurcation.

- (ii) It was correct that the tariff orders were issued and uploaded on website but the PSPCL had failed to implement the CC-23 of 2018 issued on 24.04.2018. The tariff of the FY-2018-19 was itself clear to implement the billing of PIU & General Load on pro-rata base. The reference of order of Petition No. 3 of 2012 was not related in this case. It was related to Billet Heaters covering under PIU but in the present case the Appellant had already applied for Furnace not for Billet Heater. This is only to divert the case to another side thus confusing the Court.
- (iii) The question was under which instruction it was clearly mentioned about load of General and Auxiliary category. It was simply replied that as per point 2 of reply the detail was mentioned in tariff circular of mixed nature. The proper reply was needed.
- (iv) The detailed load with detail of General and Auxiliary load was submitted with A & A Forms and Test reports and both test reports were verified before release of connection/extension. These documents were given with the reply before CGRF, Ludhiana during the proceedings of the case. The exact detail was given therein.
- (v) It was prayed that excess billing charged be refunded to the Appellant.

(c) Submission during hearing

During hearing on 07.04.2021, 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 bearing account no. 3002809420 is Large Supply Consumer under Focal Point Division, Ludhiana. The total load of 2461 kVA/2215 kW as approved by the Competent Authority vide A & A No. 38818 dated 16.03.2007 for Extension in Load was for Induction Furnace means PIU. Therefore, the Rate Category was set as Power Intensive for the complete Load.
- (ii) The Forum decided the case against the Appellant stating 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.’

- (iii) The Appellant had thus, approached the Court of Ombudsman against the CGRF decision. No request had ever been received from the Appellant for supplying it copy of approved A & A. However, copy of approved A & A was submitted to the Forum during the proceedings of the case. It was also stated that total PIU Load (Induction Furnace) of 2461 kVA/2215 kW had been approved by CE/Commercial, Patiala. No bifurcation of load can be seen on the A & A form that had been approved by the Competent Authority.
- (iv) As per PSERC Order dated 28.10.2013 in Petition No. 3 of 2012, publication in the leading newspaper was issued for wide publicity of the orders of the Commission.
- (v) The General Load of 302 kVA, was just auxiliary load of its Furnace/PIU load, as such it can be considered under PIU category. In the present case, Appellant had deposited the total security under PIU category and total load had been sanctioned under PIU Category and moreover, Appellant had not requested/applied for any bifurcation of PIU/General Load/CD till date.

- (vi) The consumer (Appellant) had been requested to submit A & A form for load bifurcation at Focal Point Division Office.
- (vii) The Court of the Ombudsman had been requested to decide the case.

(b) Submission during hearing

During hearing on 07.04.2021, 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 ₹ 21,92,807/-) charged as per applicable regulations.

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

- (i) The Appellant's Representative contended that it was correct that no fee was deposited. As per A & A form supplied during the proceeding in CGRF, the Appellant noted that the total load was sanctioned under PIU and there was no bifurcation of load of Furnace and General load but the Appellant applied this load

separately as mentioned in A & A forms at the time of applying for connection on 16.03.2007 of 2215 kW/2461 kVA. The Test Report was attached with the petition at cp-21 to 24. The detail of Furnace, Auxiliary load and General load was attached separately. The concerned SDO verified the same on 15.09.2003. The Respondent also attached these documents with the reply. Reply of the Respondent in this regard was wrong and denied. The Appellant was not at fault. The load sanctioning authority wrongly sanctioned the load without bifurcation. It was correct that the tariff orders were issued and uploaded on website but the PSPCL had failed to implement the CC-23 of 2018 issued on 24.04.2018. The tariff of the FY-2018-19 was itself clear to implement the billing of PIU & General Load on pro-rata base. The reference to order in petition no. 3 of 2012 was not related in this case. It was related to Billet Heaters covered under PIU but in the present case the Appellant had already applied for Furnace not for billet heater. This was only to divert the case to another side thus confusing the Court. The question was under which instruction it was clearly mentioned about load of General and Auxiliary category. It was simply replied that the detail was mentioned in tariff circular of mixed nature. The proper reply was needed.

The detailed load along with detail of General and Auxiliary load was submitted with A&A Forms and Test reports and both test reports were verified before release of connection/extension. These documents were given with the reply before CGRF, Ludhiana during the proceedings of the case. The exact detail was given therein. It was prayed that excess billing charged be refunded to the Appellant.

- (ii) The Respondent submitted that the Appellant bearing account no. 3002809420 is Large Supply consumer under Focal Point Division, Ludhiana. The total load of 2461 kVA/2215 kW as approved by the Competent Authority vide A & A No. 38818 dated 16.03.2007 for Extension in Load was for Induction Furnace means PIU. Therefore, the Rate Category was set as Power Intensive for the complete load. No request had ever been received from the Appellant for supplying it copy of approved A&A. However, copy of approved A&A was submitted to the Forum during the proceedings of the case. Total PIU Load (Induction Furnace) of 2461 kVA/2215 kW had been approved by CE/ Commercial, Patiala. No bifurcation of load can be seen on the A&A form that had been approved by the Competent Authority. As per PSERC Order dated 28.10.2013 in Petition No. 3 of 2012, publication in the leading

newspaper was issued for wide publicity of the orders of the Commission. The General Load of 302 kVA, was just auxiliary load of its Furnace/PIU load, as such it can be considered under PIU category. In the present case, Appellant had deposited the total security under PIU category and total load had been sanctioned under PIU Category. Moreover, Appellant had not requested/applied for any bifurcation of PIU/General Load/CD till date.

- (iii) A & A dated 16.03.2007 was signed by the S.E, Addl. S.E, AEE & Representative of the Appellant. The agreement was approved by the CE/Commercial, PSEB, Patiala. In the aforesaid agreement, the following values were mentioned: Connected Load=2215 kW, Contract Demand=2461 kVA, Transformer Capacity=2550 kVA, Supply Voltage=11 kV and Type of Industry= Induction Furnace. The Appellant had deposited ACD/Security (Consumption) in PIU category as intimated by the Respondent.
- (iv) It is observed that Appellant had got its connection released on 01.01.1980 at 11 kV and extension in load /CD were got sanctioned subsequently. The existing load /CD was approved vide A & A dated 16.03.2007 i.e. 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 16.03.2007).

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 PSEB/PSPCL without any objection / challenge.

(vi) There is merit in the 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 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 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 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 confirmed in the rejoinder 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) 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.

- (x) The averments made by the Appellant particularly in rejoinder to written reply and during hearing on 07.04.2021 (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 not sustainable. Ever since release of the Appellant's LS category connection on 01.01.1980, 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. A 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 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.

- (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 (₹ 21,92,807/-) 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 03.02.2021 of the CGRF, Ludhiana in Case No. CGL-424 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.

April 09, 2021
S.A.S. Nagar (Mohali)

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