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

#### APPEAL NO. 25/2021

Date of Registration
Date of Hearing
Date of Order
: 10.03.2021
: 07.04.2021
: 12.04.2021

Before:

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

#### In the Matter of:

M/s. S.S. Concast Pvt. Ltd.

Village: Panjeta, Machhiwara Road (Kohara),

Ludhiana.

Contract Account Number: R74KR0100125

...Appellant

Versus

Senior Executive Engineer, DS Division, PSPCL, Samrala.

...Respondent

#### **Present For:**

Appellant: Sh. Parvesh Chadha,

Appellant's Representative.

Respondent: Er. Rajesh Kumar,

Senior Executive Engineer, DS Division, PSPCL, Samrala.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 10.02.2021 of the Consumer Grievances Redressal Forum (Forum), Patiala in Case No. CGP-09 of 2021, deciding that:

"The Petitioner has been rightly charged under PIU category by the Respondent and as such, the Petitioner is not entitled for any refund on account of difference of Tariffs in case of PIU & mixed category load."

## 2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 10.03.2021 i.e. within the stipulated period of thirty days of receipt of the decision dated 10.02.2021 of the CGRF, Patiala in Case No. CGP-09 of 2021. The Appellant was not required to deposit the requisite 40% of the disputed amount, which was on account of billing under PIU category including auxiliary & general load and it being a case of refund of excess amount of ₹ 28,33,682/-. Therefore, the Appeal was registered and copy of the same was sent to the Addl. Superintending Engineer/ DS Division, PSPCL, Samrala for sending written reply/ parawise comments

with a copy to the office of the CGRF, Patiala under intimation to the Appellant vide letter nos. 286-288/OEP/A-25/2021 dated 10.03.2021.

#### 3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 07.04.2021 at 02.45 PM and an intimation to this effect was sent to both the sides vide letter nos. 474-75/OEP/A-25/2021 dated 01.04.2021. As scheduled, the hearing was held in this Court on the said date and time. Copies of the minutes of the proceedings were sent to the Appellant and the Respondent vide this office letter nos. 516-17/OEP/A-25/2021 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, bearing Account No. R74KR0100125 with sanctioned load of 2495 kW and Contract Demand (CD) as 2495 kVA for its ARC Furnace. The connection to the Appellant was released on 14.03.2011 at 11 kV Supply Voltage.
- were being deposited by the Appellant in full and there was no outstanding amount. The Appellant was being issued bills on CD and kVAh consumption basis as per tariff 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 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 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 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.
- The Appellant was not supplied copy of A&A form of the (viii) sanctioned load. It was demanded during the proceedings in 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 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 Clause 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 file claim. 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 24.04.2019 to charge billing on prorate 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 was the position in test report form. The Forum had not decided the case properly and was in hurry to decide the case in favour of the Respondent.
- (xii) The Forum had not provided copy of A&A form 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 = 2405 kW and General Load = 100 kW. The billing of the Appellant needed to be revised on prorate base as per this bifurcated load.
- (xiv) The excess billing should be refunded by applying prorate base factor as given in CC No. 23/2018 by setting aside the order of the Forum.

#### **(b) Submission in the Rejoinder**

The Appellant's Representative, in its rejoinder to written reply of the Respondent, 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 Furnace and General loads but the Appellant applied the load separately as mentioned in A&A form (cp-31-35) at the time of applying for connection on 14.03.2011 of 2495 kW/2495 kVA. The detail of General load was filled as 100 kW. The copy of Test Report was not supplied during proceedings in CGRF, but the detail of load was at CP-36-37 of the Appeal. The detail of Furnace, Auxiliary and General loads was attached separately. The concerned SDO verified the same before release of connection. The Respondent also attached these documents with the reply. Thus the reply of the Respondent in this regard was wrong and denied. The Appellant was not at fault. The load sanctioning authority had wrongly sanctioned the load without bifurcation.
- It was correct that the bills were issued on the basis of tariff (ii) orders and the same were uploaded on website but the PSPCL had failed to implement the CC-23 of 2018 issued on

- 24.04.2018. The tariff order for FY 2018-19 was itself clear to implement the billing of PIU & General Loads on pro-rata basis. The PSPCL had not sanctioned the load as per applied load of Furnace & General Load but sanctioned the total load in Furnace category.
- (iii) The question was under which instruction, it was clearly mentioned about General load and Auxiliary load. But without replying properly to this question, it was simply replied that there was no need of separate column to be filled up with PIU & General Load. The load as desired already stands filled and detail of load was attached with TEST report but billing was not done as per detail.
- (iv) The detailed load was as per detail of General and Auxiliary load as submitted with A&A Forms & Test reports and both test reports were verified before release of connection. These documents were given with the reply before CGRF, Patiala during the proceedings of the case. The CGRF had not issued proper order.
- (v) The CGRF had not considered this point relating to load. As such, this Appeal had been filed for justice. The General Load was applied as 100 kW and the same was ignored in decision.

(vi) 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/Rejoinder and prayed to allow the Appeal.

### (B) Submissions of the Respondent

# (a) Submissions in written reply:

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

vide A&A No. 38017 LS dated 14.08.2012 and the connection had been released on 11 kV supply voltage vide SCO dated 25.03.2013. The Appellant had applied for Power Intensive Unit (PIU) and had never applied for General Load or Mixed Load. The Appellant had not given any representation in the Sub-Division, Kohara regarding the General Load or Mixed Load. The clause no. SI 3.5 is related to mixed nature load but this connection was applied and approved as Induction Furnace as per A&A form and test report submitted by the Appellant.

- (ii) The bills were issued as per the connection applied by the consumer in Arc Furnace Industry. As per schedule of tariff clause SI 3.5 of CC 26/2016 & CC 47/2017, clause SI 3.6 of schedule of tariff CC 24/2018, 25/2019 & 28/2020; it was clearly mentioned that the MMC/Fixed charges & Energy charges shall be determined by computing the demand & energy consumption on pro-rata basis in proportion to load/demand duly sanctioned by the Distribution Licensee. The sanctioned load/demand of this consumer as per A & A No. 38017 LS dated 14.08.2012 and Test report submitted by the Appellant was Arc Furnace/PIU load and no any separate load was sanctioned or applied by the Appellant.
- (iii) The consumer can give the detail of PIU load and General load in the A&A form or in the separate sheet of load detail.

  There was no need of separate column to be filled up with PIU & General load.
- (iv) It was wrongly mentioned that nobody could know whether the bifurcation of load was made or not because the sanctioned load was mentioned in every monthly electricity bill issued with bifurcation of PIU load and General Load. Actually, Appellant was aware about bifurcation of load and the consumer never raised any deficiency regarding the same.

- (v) The Appellant's demand of refund was wrong because the forum (CGRF) also observed in the decision dated 10.02.2021 that the Appellant demand of 295 kVA as General load out of total load of 2495 kVA was wrong. The General load of 100 kW was just an auxiliary load of his Furnace/PIU load (including lighting load) and can't be segregated & classified as independent general load. Further, no independent manufacturing activity can be carried out with the auxiliary load without running PIU load and vice versa which implies that both the auxiliary load& PIU load installed at Appellant premises were part and parcel of each other.
- (vi) In view of above facts, the bills issued to the Appellant were correct and total load of the Appellant was PIU load.

# (b) Submission during hearing

During hearing on 07.04.2021, the Respondent reiterated the submissions made in the written reply and prayed for dismissal of the same.

# 5. Analysis and Findings

The issue requiring adjudication is the legitimacy of charging of ₹ 28,33,682/- for the period from 14.06.2016 to 31.10.2020 on account of billing as per tariff under PIU category and claim

for refund thereof by bifurcation of load under PIU and General load separately as per applicable regulations.

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

(i) The Appellant's Representative argued that it was correct that no fee was deposited for obtaining copy of A & A from the Respondent. 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 Furnace load and General load but the Appellant applied this load separately as mentioned in A&A form at the time of applying for connection on 14.08.2012 of 2495 kW/2495 kVA. The detail of General load was filled as 100 kW. The copy of Test Report was not supplied during proceedings in CGRF, but the detail of load was at CP-36-37 of the Appeal. The detail of Furnace, Auxiliary and General loads was attached separately. The concerned SDO verified the same before release of connection. The Respondent also attached these documents with the reply. Thus the reply of the Respondent in this regard was wrong and denied. The Appellant was not at fault. The load sanctioning authority had wrongly sanctioned the load without bifurcation. It was correct that the bills were issued on the basis of tariff

orders and the same were uploaded on website but the PSPCL had failed to implement the CC-23 of 2018 issued on 24.04.2018. The tariff order for FY 2018-19 was itself clear to implement the billing of PIU & General Loads on pro-rata basis. The PSPCL had not sanctioned the load as per applied Furnace Load & General Load but sanctioned total load in furnace category. The question was under which instruction, it was clearly mentioned about General load and Auxiliary load. But without replying properly to this question, it was simply replied that there was no need of separate column to be filled up with PIU & General Load. The load, as desired, already stands filled and detail of loads was attached with TEST report but billing was not done as per this detail. The detailed load was as per detail of General and Auxiliary loads as submitted with A&A Forms / Test reports and Test reports were verified before release of connection. These documents were given with the reply before CGRF, Patiala during the proceedings of the case. The CGRF had not issued proper order. The CGRF had not considered this point in respect of loads. As such, this appeal had been filed for justice. The General Load was applied as 100 kW and the same was ignored in decision. It was prayed that excess billing charged be refunded to the Appellant.

(ii) The Respondent contended that the Appellant had applied for 2495 kW/2495 kVA load vide A&A No. 38017 LS dated 14.08.2012 and the connection had been released on 11 kV supply voltage vide SCO dated 25.03.2013. The Appellant had applied for Power Intensive Unit (PIU) and had never applied for General Load or Mixed Load. The Appellant had not given any representation in the Sub-Division, Kohara regarding the General Load or Mixed Load. The clause no. SI 3.5 is related to mixed nature load but this connection was applied and approved as Induction Furnace as per A&A form and test report submitted by the Appellant. The bills were issued as per the connection applied by the consumer in Arc Furnace Industry. As per schedule of tariff clause SI 3.5 of CC 26/2016 & CC 47/2017, clause SI 3.6 of schedule of tariff CC 24/2018, & 28/2020; it was clearly mentioned that the 25/2019 MMC/Fixed charges & Energy charges shall be determined by computing the demand & energy consumption on pro-rata basis proportion to load/demand duly sanctioned by the Distribution Licensee. The sanctioned load/demand of this consumer as per A & A No. 38017 LS dated 14.08.2012 and Test report submitted by the Appellant was Arc Furnace/PIU

load and no any separate load was sanctioned or applied by the Appellant. The consumer can give the detail of PIU load and General load in the A&A form or in the separate sheet of load detail. There was no need of separate column to be filled up with PIU & General load. It was wrongly mentioned that nobody could know whether the bifurcation of load was made or not because the sanctioned load was mentioned in every monthly bill issued with bifurcation of PIU load and General Load. Actually, Appellant was aware about bifurcation of load and the consumer never raised any deficiency regarding the same. The Appellant's demand of refund was wrong because the forum (CGRF) also observed in the decision dated 10.02.2021 that the Appellant demand of 295 kVA as General load was wrong. The General load of 100 kW was just an auxiliary load of his Furnace/PIU load (including lighting load) and can't be segregated & classified as independent general load. Further, no independent manufacturing activity can be carried out with the auxiliary load without running PIU load and vice versa which implies that both the Auxiliary load& PIU load installed at Appellant premises were part and parcel of each other. From the above facts, the bills issued to the Appellant were correct and total load of the Appellant was PIU load.

- (iii) A & A dated 14.08.2012 was signed by Dy. CE/DS Circle, Rupnagar, Sr.Xen/DS, Samrala, SDO/DS, Kohara and Representative of the Appellant. The Load was approved by the CE/DS, South, Patiala. In the aforesaid agreement, the following values were mentioned: Total Sanctioned Load= 2495 kW, Contract Demand= 2495 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 in its written reply.
- (iv) It is observed that Appellant had got its connection released on 25.03.2013 before circulation/publicity of Tariff Orders for FYs 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. 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 PSPCL. Rather, the Appellant continued to pay the bills issued to it regularly by PSPCL without any objection / challenge.
- 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 (LS) 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 contended that the Appellant was not supplied copy of A&A form of the sanctioned load. It

was demanded during the proceedings in 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 the Appellant's Representative, in its rejoinder to written reply, 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 Appellant's Representative, in its rejoinder, 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. Further, 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 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 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/PSERC.

(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 in respect of 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 (₹ 28,33,682/-) for the period from 14.06.2016 to 31.10.2020 already paid in the bills without any challenge/ protest 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 10.02.2021 of the CGRF, Patiala in Case No. CGP-09 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)

CARIC

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