

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

APPEAL No. 29/2021

Date of Registration : 15.03.2021

Date of Hearing : 09.04.2021

Date of Order : 16.04.2021

Before:

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

In the Matter of:

M/s. Nicks (India) Tools, Unit-II,
Village Khakat, P.O Nandpur,
Industrial Area, Sua Road, G.T. Road,
Ludhiana.

Contract Account Number: 3003018420

...Appellant

Versus

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

...Respondent

Present For:

Appellant: Er. Sukhwinder Singh,
Appellant's Representative.

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

2. Sh. Rishab Singla,
Revenue Accountant.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 05.01.2021 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-242 of 2020, deciding that:

- “i. The Petitioner has induction heater load from 2008 itself, therefore the amount of ₹ 1994246/-, charged as difference of General & PIU tariff, from 01.01.2014 to 30.04.2018, vide notice no. 459 dated 25.06.2020, is justified and recoverable.*
- ii. Further, as the petitioner during his extension of load/ CD, applied in 2019, has clearly mentioned his bifurcated load/ CD under general & PIU category and same was recommended/ sanctioned by the competent authority, therefore, the tariff be applied accordingly under mixed load category.”*

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 15.03.2021 i.e. after stipulated period of thirty days of receipt of the decision dated 05.01.2021 of the CGRF, Ludhiana in Case No. CGL-242 of 2020. The Respondent made compliance of Forum order vide memo no. 1676 dated 15.02.2021 and requested to deposit balance amount of ₹ 13,92,278/-. An application for

condoning of delay in filing the Appeal in this Court was also received alongwith the Appeal. The Appellant also sent copies of receipts dated 28.07.2020 for ₹ 3,98,849/- and dated 12.03.2021 for ₹ 3,98,849/- on account of requisite 40% of the disputed amount of ₹ 19,94,246/- (revised to ₹ 13,92,278/- as per decision of the Forum vide memo No. 1676 dated 15.02.2021 of the Respondent). Therefore, the Appeal was registered and copy of the same was sent to the Addl. Superintending Engineer/DS Estate Division (Spl.), 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. 318-320/OEP/A-29/2021 dated 15.03.2021.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 09.04.2021 at 11.30 AM and an intimation to this effect was sent to both the sides vide letter nos. 483-84/OEP/A-29/2021 dated 01.04.2021. As scheduled, the hearing was held in this Court on the said date and time. Arguments were heard of both parties and the order was reserved. Copies of the minutes of the proceedings were sent

to the Appellant and the Respondent vide letter nos. 567-68/OEP/A-29/2021 dated 09.04.2021.

4. Condonation of Delay

At the start of hearing on 09.04.2021, the issue of condoning of delay in filing the Appeal beyond the stipulated period of thirty days was taken up. The Appellant's Representative stated that after decision dated 05.01.2021 of the CGRF, Ludhiana, AEE/ Op Sahnewal intimated compliance of order vide memo no. 1676 dated 15.02.2021 to deposit the balance amount of ₹ 13,92,278/-. The Appellant took some time in arranging the funds and finally deposited the balance requisite amount of ₹ 3,98,849/- on 12.03.2021. Therefore, the present Appeal was filed and got received in this court on 15.03.2021. Thus, the delay in filing the Appeal in this Court was due to reasons beyond the control of the Appellant. The Appellant's Representative prayed that the delay in filing the Appeal be condoned otherwise the Appellant would be deprived of justice. The Respondent did not object to the condoning of the delay in filing the Appeal in this Court either in its written reply or during hearing in this Court.

In this connection, I have gone through Regulation 3.18 of PSERC (Forum and Ombudsman) Regulations, 2016 which reads as under:

“No representation to the Ombudsman shall lie unless:

(ii) The representation is made within 30 days from the date of receipt of the order of the Forum.

Provided that the Ombudsman may entertain a representation beyond 30 days on sufficient cause being shown by the complainant that he/she had reasons for not filing the representation within the aforesaid period of 30 days.”

It was observed that non condoning of delay in filing the Appeal would deprive the Appellant of the opportunity required to be afforded to defend the case on merits. Therefore, with a view to meet the ends of ultimate justice, the delay in filing the Appeal in this Court beyond the stipulated period was condoned and the Appellant's Counsel was allowed to present the case.

5. 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. 3003018420 with sanctioned load of 2452.89 kW and CD as 1850 kVA.
- (ii) The reading of the meter was taken every month and the bills raised by the Respondent from time to time on the basis of measured consumption were duly paid by the Appellant.
- (iii) The Respondent, vide its bill dated 25.06.2020 asked the Appellant to deposit ₹ 19,94,246/- on account of difference of tariff of PIU category and General Category for the period 01.01.2014 to 30.04.2018 on the basis of memo no. 554 dated 13.03.2020 issued by Revenue Audit Party. It was stated in the supplementary bill that at the time of release of connection in the year 2008 for 495 kVA, a billet heater of 174 kW had been mentioned in the test report and during

extension in load/ CD in the year 2012, induction heater of 174 kW had been mentioned. As per CC No. 27/2014, the billing from 01.01.2014 to 30.04.2018 was required to be done under PIU category whereas the billing was being done under General Category. The induction/ billet heater was installed only after requisite approval of the competent authority of the Respondent on the request dated 19.03.2018 submitted to the Respondent and before that, it was not installed/ used. As such, charging of huge amount was highly unjustified and unwarranted.

- (iv) The Appellant in the Forum had cleared that it could not be explained after such a long period as to how and why the detail of load (submitted in the year 2008) included the load of billet/ induction heater. The connection to the Appellant was released in the year 2008 and extension was made in the year 2012 under General Category and billing was being done accordingly and after such a long period charging of difference of tariff of PIU category and General Category for the period 01.01.2014 to 30.04.2018 was unwarranted. The Appellant had approached the Forum but the Forum vide its order dated 05.01.2021 did not provide full relief as admissible on merit and provided partial relief. The order of

the Forum was not only wrong and biased but self contradictory also and thus the Appellant was not satisfied with the decision of the Forum.

- (v) The sanctioned load of the Appellant was 1633.284 kW/ 995 kVA under General Category upto 03/2018. The Appellant, vide its letter dated 19.03.2018, had informed the Respondent that it wanted to install 2 No. Induction heaters having total load of 470 kVA (230 kVA+267 kVA) and requested to convert its load category from General to PIU category. The Appellant submitted A&A forms, details of load and other requisite documents. The load was approved as per detail of mixed load submitted in A&A form. The Appellant got its load extended from 1633.284 kW/ 995 kVA to 2200 kW/ 1250 kVA (998.55 kVA PIU CD + 251.45 kVA General CD) and this mixed load was approved in 09/2018. The Appellant again got its load extended from 2200 kW/1250 kVA to 2452.890 kW/ 1850 kVA. The load under General category was 1454.195 kW & PIU load as 998.695 kW. The General CD was 740.34 kVA and PIU CD was 1109.66 kVA and the same were approved accordingly. The mixed extended load/ CD was released on 23.12.2019. However, for billing from 04/2018 onwards,

the entire CD was considered under PIU and mixed load/ CD was not considered separately as per clause SI 3.6 of Schedule of Tariff for FY 2018-19 and 2019-20 and billing was done wrongly with entire sanctioned CD as PIU load.

- (vi) The Appellant had got his category converted from General category to PIU category (mixed load/ CD) vide specific request letter dated 19.03.2018 and from 04/2018, billing was being done under PIU category of tariff. Before that, the load was sanctioned under General Category and accordingly billing was being done under General Category of Tariff. However, after a gap of more than 8 years from the date of release of extension in load in the year 2012, the Respondent had issued supplementary bill dated 25.06.2020 of ₹ 19,94,246/- as difference of General tariff and PIU for the period 01.01.2014 to 30.04.2018 (4 years & 4 months). It had been charged on the basis of observations of Revenue Audit Party as per memo no. 554 dated 13.03.2020 that at the time of release of connection in the year 2008 for 495 kVA, a billet heater of 174 kW had been mentioned in the test report and during extension in load/ CD in the year 2012, induction heater of 174 kW had been mentioned. If billet/ induction heater had been actually installed, then

officers of the Respondent recording monthly readings, taking DDL and otherwise checking the connection of the Appellant from time to time might have reported the existence of billet/ induction heater after the issue of instructions by the Respondent vide CC No. 27/2014. The officers of the Respondent were well aware that billing was under General Category and if the use of induction heater had been there, then, it would have been pointed out by them since long ago. It was their duty to ascertain the factual position regarding installation and use of induction heater during the period 01/2014 to 03/2018 (before the information/ request dated 19.03.2018) before raising huge demand of ₹ 19,94,246/- as difference of General tariff & PIU tariff.

- (vii) As per A&A forms, 420.95 kW load (with breakup of load) had been mentioned as motive load and 60.96 kW as light load and total load of 481.916 kW was sanctioned in the year 2008. There was no induction heater in the sanctioned load as approved by competent authority as per A&A form. Further, as per test report submitted in the year 2012, there was no induction heater load at all. The Appellant had mentioned previous load as per A&A form as 481.916 kW

(Motive load 420.951 kW + light load 60.965 kW) and applied load as 1151.368 kW (motive load 1090.872 kW + Light load 60.496 kW) and accordingly load was approved on A&A form. The Appellant had supplied item wise detail of extension applied for 1151.368 kW load and there was no load of induction/ billet heater in the details of load of 1151.368 kW. The test report of 1633.284 kW (existing load 481.916 kW + extension applied 1151.368 kW) was verified for general load on 16.03.2011. There was no induction/ billet heater load as per test report verified for 1633.284 kW.

- (viii) The Appellant had never declared the load as PIU in the A&A forms submitted in the year 2008 and 2012. The Respondent should produce the evidence where the Appellant had declared that this load was PIU load in the A&A forms, which was legally valid document. The induction/ billet heaters were installed only after requisite approval of competent authority of the Respondent on A&A forms on the basis of request dated 19.03.2018 given by the Appellant and before that, it was not installed/ used. PIU load of 470 kVA & General load of 525 kVA was approved on the basis of request given to the Respondent.

(ix) The Respondent, in its reply before the Forum, stated that load of the Appellant was approved as mixed load as per A&A form No. 427/LS dated 22.03.2018 but at the time of release of extension in 09/2018 (A&A form No. 100006045070/LS) from 1633.284 kW/ 995 kVA to 2200 kW/1250 kVA, the load was entirely approved under PIU category. The Appellant had submitted separate detail of general load and PIU load which was available in the record and mixed load was required to be approved (as approved in 03/2018) and if the competent authority had wrongly approved the entire load as PIU, then, Appellant was not at fault. As and when the mistake had come to the notice of the Appellant, the Respondent was given letter on 08.07.2019 for correction of clerical mistake in the record. It was very interesting to point out that on the one hand, the Respondent was raising demand as difference of PIU tariff & General tariff on the basis of alleged break up/ detail of load submitted, even where the load was approved under General Category as per A&A form and on the other hand ignoring the breakup of load (as per A&A forms) with the plea that mixed load was not approved by the competent authority on A&A forms. If the approval on A&A forms by

the competent authority was the only criteria (and actual break of the load was not to be considered) then why the Respondent had raised the demand on the basis of alleged break up of load submitted in the year 2008 although A&A forms as submitted in the year 2008 and year 2012 were approved with General Load as explained above. The Forum had not considered this valid submission. Therefore, this Court was requested to deliberate on this important legal point.

- (x) A Public Notice in compliance of order dated 28.10.2013 of the PSERC, was issued by PSPCL on 16.05.2017 (as confirmed by the Respondent before the Forum) i.e. about 2 years & 7 months after the order of PSERC. Further, CC No. 27/2014 was never sent to the Appellant. The Respondent could not say that they were ignorant about the provisions of Circular No. 27/2014. The Respondent was required to explain as to why every consumer case was not scrutinized then and there and as to why LS connection of the consumer was not checked as prescribed in instructions especially with a view to ensure compliance as per CC No. 27/2014. Had it been done, there was no necessity for presumptions/ assumptions, conjectures and surmises that

Appellant had installed this much of load on or before 01.01.2014.

- (xi) CE/ Commercial, Patiala vide its memo No. 861/66/DD/SR-62 dated 09.12.2020 addressed to all Engineer- in-Chiefs/ Chief Engineers (DS) of PSPCL, had clarified certain things relating to PIU and had issued instructions/ guidelines for regularization of PIU load. It had also been made clear in the letter that the matter had been considered by higher authorities and it had been decided that any general category LS consumer whose connection was sanctioned/ released under General Category and who had installed any PIU, a notice be issued to get the PIU load regularized immediately without any further delay. PSPCL had given opportunity to consumers to get the PIU load regularized without any penalty and without charging any difference of tariff from 01.01.2014 i.e. date of issue of CC No. 27/2014.
- (xii) The officers/ officials of the Respondent were required to check connection of the Appellant as per instructions contained in ESIM-106 (amended upto 2017). Had the officers/ officials of the Respondent checked the connection as per instructions then factual position regarding non-existence/ installation of billet/ induction before 03/2018

could have been verified and there was no necessity of conjectures and surmises that the Appellant had installed billet/ induction heater load since the year 2008. The Appellant had installed PIU load only from 03/2018 as explained above. The relevant instructions of ESIM are reproduced as under: -

“106 Checking of connections:

In order to arrest the tendency on the part of the consumers to indulge in unauthorized use of electricity (UUE) or theft of electricity, it is essential to conduct periodical checkings. Such checks must be exercised by the concerned officers as per schedule.

106.1 Checking Schedule:

106.1.3 The Sr. Xen/ ASE (DS) shall check all the HT/ EHT connections upto the point of supply including meter/ metering equipment having connected load/ demand more than 500 kW/ kVA in his jurisdiction at least once every year. Additionally, he will check 5% of the HT/ EHT connections having load/ demand less than 500 kW/ kVA.

106.2.4 The Enforcement/ DS Staff shall check connected load, according to their competency as per Reg-12 of the Supply Code-2014. In case of unauthorized use of electricity (UUE) and theft of electricity, the memo of inspection and seizure must indicate load found connected with the mains at the consumer's premises and the details as to how the same

was being carried out by the consumer, evidence seized if any, and their observations leading to inference drawn by them.”

- (xiii) It was pointed out that though the load of billet/ induction heater was mentioned in the detail of load as submitted in the year 2008 (as observed by Audit Party of PSPCL) but the same was not installed and moreover the industrial consumer/ Appellant can replace any machinery/ equipment within the same category of load. Likewise there was no load of induction/ billet heater in the detail of load of 1151.368 kW. The test report of 1633.284 kW (existing load 481.916 kW + Extn. applied 1151.368 kW) was verified for general load on 16.03.2011. There was no billet/ induction heater existing/ installed in the premises of the Appellant before 03/2018 and if there was any checking report of any authority of PSPCL from 01/2014 to 02/2018 where load of billet/ induction heater had been reported then the same should be brought to the notice of this Court and copy of the report be supplied to the Appellant.
- (xiv) After coming into force of EA-2003 & Supply Code-2007 (revised w.e.f. 01.01.2015), every penal action on the consumer should be supported by rules/ regulations because

it was the consumer who had to pay the difference due to less billing of previous period and he should be informed under which rule/ regulation, the consumer was being penalized. The CE/ Commercial vide CC No. 53/2013& CC No. 59/2014 had issued instructions (on the basis of order dated 26.09.2013 passed by Hon'ble Punjab & Haryana High Court in CWP 10644 of 2010) that while initiating proceedings against any consumer, the competent authority of PSPCL must quote the relevant regulations of the Supply Code or any other regulations framed by the competent authority under the EA-2003. These instructions had been again reiterated vide CC No. 30/2015 dated 05.08.2015 for strict compliance as PSERC had taken serious view of non compliance of these instructions.

- (xv) The Respondent had charged the amount of ₹ 19,94,246/- as difference of General tariff and PIU tariff for the period 01/2014 to 04/2018 (4 years & 4 months) without referring to any rule/ regulation of Supply Code or EA-2003.
- (xvi) The order dated 05.01.2021 of the Forum was non-speaking, biased, wrong and self contradictory. The Forum had failed to consider the submissions of the Appellant in a just and fair manner.

(xvii) Thus charging of huge amount as difference of General tariff and PIU tariff for the period 01/2014 to 04/2018 was unwarranted and illegal. It was requested to allow the Appeal, set aside the decision of the Forum and demand of ₹ 19,94,246/- (revised to ₹ 16,96,666/- as per decision of the Forum) as raised by the Respondent. The relief as admissible for mixed load (against extension applied in 09/2018) as per clause SI 3.6 of Schedule of Tariff for FYs 2018-19 and 2019-20 may be provided as category of the Appellant was PIU since 03/2018 and installed load was mixed load.

(b) Submissions in the Rejoinder to written reply

The Appellant's Representative, in its rejoinder to written reply of the Respondent, submitted the following for consideration of this Court:

- (i) The reply given by the Respondent was not convincing at all. As such, submissions as per Appeal may kindly be considered while arriving at any conclusion in the case.
- (ii) The Respondent had repeatedly mentioned in its reply that detail of load submitted alongwith test report dated 11.12.2009 included induction furnace of 174 kW but the

Respondent was not confirming the position as per detail of load given/approved in A&A forms by the Competent Authority. It was again reiterated that as per A&A forms, 420.95 kW load (with breakup of load) had been mentioned as motive load and 60.96 kW as light load and total load of 481.916 kW was sanctioned accordingly as per A&A form in the year 2008. There was no Induction Heater in the sanctioned load as approved by Competent Authority as per A&A form. Moreover, in the test report verified for 481.916 kW, there was no detail of load and separate sheet of detail of load of 481.916 kW (as produced by the Respondent) was not even signed by the Officer who verified the Test Report. Further, as per test report submitted in the year 2012, there was no induction heater load at all. The Appellant had mentioned previous load as per A&A form as **481.916 kW (Motive Load 420.951 kW+Light Load 60.965 kW)** and Applied load as 1151.368 kW (motive load 1090.872 kW+ Light load 60.496 kW), accordingly the load was approved on A&A form. The Appellant had supplied item wise detail of extension applied for 1151.368 kW load and there was no load of induction/billet heater in the detail of load of 1151.368 kW. The test report of 1633.284 kW (existing load

481.916 kW+Extn. applied 1151.368 kW) was verified for general load on 16.3.2011. Thus there was no induction/billet heater load as per test report verified for 1633.284 kW. Needless to mention here that if there was difference in detail of load approved as per A&A forms for 420.95 kW and actual load installed, then the Officer verifying the test report could have failed the test report and Respondent should have directed the Appellant to submit fresh test report as per detail of load given/approved by Competent Authority as per A&A form but at this stage the Respondent cannot deny the breakup of load given/approved as per A&A form.

- (iii) There was no induction/billet heater in the premises of the Appellant and while installing 2 Nos. induction heaters having total load of 470 kVA (203 kVA+ 267 kVA), AEE/Op Sahnewal was requested vide letter dated 19.3.2018 to convert its load category from General to PIU category.
- (iv) It was brought out for the consideration of this Court that at the time of release of extension in 9/2018 (A&A form No.100006045070/LS) from 1633.284 kW/995 kVA to 2200 kW/1250 kVA, the load was entirely approved under PIU category, although separate breakup of PIU load and General load was there. The Forum did not provide relief for mixed

load (against extension applied in 9/2018) on the ground that entire load was approved by Competent Authority as PIU as per A&A form. It was very interesting to point out that against extension applied in 9/2018, the Forum considered the actual approval as per A&A form but at the same time ignored the detail/breakup given and approved in the A&A form in the year 2008 and relied only the detail of load alleged to have been supplied with the test report in 2008. Thus the decision of the Forum was self contradictory also.

- (v) The load approved as per A&A Forms was required to be considered while charging applicable tariff. As explained above, in the years 2008 and 2011, the load as approved in A&A forms did not include the load of any induction/billet heater. As and when (for the first time) 2 nos. induction heaters of 470 kVA (203 kVA+ 267 kVA) were installed, AEE/Op S.D, Sahnewal was informed accordingly vide letter dated 19.3.2018 for necessary action/approval. This Court had recently decided the following cases on the basis of approval as per A&A forms for charging the relevant category of Tariff:

Appeal Case No.	Name of the Applicant	Date of Order
16/2021	M/s Noble Steels Pvt. Ltd	30.3.2021
17/2021	M/s Menka Industries	30.3.2021
18/2021	M/s K.K Alloys Pvt Ltd, Unit-2	30.3.2021
19/2021	M/s K.K Alloys Pvt Ltd, Unit-2	30.3.2021

These cases were decided on the basis of load sanctioned as per A&A forms and relief on account of billing with mixed load tariff had been denied on the ground that mixed load was not sanctioned by the Competent Authority and PSPCL rightly issued bills on PIU tariff as per load sanctioned in A&A forms. It had also been mentioned in the findings that consumers did not object to billing as per load approved in A&A forms and continued to pay the bills. Accordingly, this court had decided that *“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 as per applicable Tariff Orders in future”*

(vi) In the instant case, the motive load as per A&A forms was 420.95 kW (breakup of load has been mentioned) & 60.96 kW as light load and total load of 481.916 kW was sanctioned as per A&A form in the year 2008. Similarly, in the year 2011, while approving extension in load applied as 1151.368 kW, there was no Induction Heater in the sanctioned load as approved by Competent Authority as per A&A forms. The Respondent had continued raising bills as per load approved in A&A forms without any objection that there was any deficiency/difference of breakup of load as approved in A&A forms and as per **alleged** detail of load submitted with test report dated 11.12.2009 even after issuance of CC No.27/2014. Further, the Respondent had not brought on record any checking to prove/substantiate that petitioner had installed any Induction Heater before 03/2018 (as explained above). Had Respondent raised any objection in this regard, the Appellant would have clarified the position then and there and would have submitted required documents for the satisfaction of the Respondent. Thus there was no justification to raise demand after so many years vide supplementary bill

dated 25.6.2020 of ₹ 19,94,246/- on account of difference of tariff of PIU category and General Category for the period from 01.01.2014 to 30.04.2018 on the basis of memo no. 554 dated 13.03.2020 of Revenue Audit Party.

(vii) Thus it was requested to allow the Appeal, set aside the decision of Forum and quash the demand ₹ 19,94,246/- as raised by Respondent in view of principle of natural justice and fairness.

(c) Submission during hearing

During hearing on 09.04.2021, the Appellant's Representative reiterated the submissions made in the Appeal and prayed to allow the same.

(B) Submissions of the Respondent

(a) Submissions in written reply

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

(i) The Appellant was having a Large Supply Category Connection, bearing Account No. 3003018420 with

sanctioned load of 2452.89 kW and Contract Demand (CD) as 1850 kVA.

- (ii) The account of the Appellant was overhauled by Revenue Special Audit Party by charging the difference of tariff between General Category and PIU Category for the period from January, 2014 to April, 2018. The Special Audit Party observed that the Appellant had applied for change of tariff from General to PIU in 03/2018 but no change in existing load/CD. However, at the time of applying new connection of 495 kVA in 2008, the Appellant submitted test report showing Induction Heater of 174 kW and also in 2012, during extension of Load/CD, Induction Heater of 174 kW was shown in test report. So, it was a PIU from 2008 itself. Thus as per CC 27/2014, PIU tariff was to be charged from 01.01.2014.
- (iii) A supplementary notice, bearing no. 459 dated 25.06.2020 charging ₹ 19,94,246/- was issued thereafter on the basis of observation of Special Audit Party. The Appellant had not agreed with the above said notice. Instead of depositing the amount, the Appellant had preferred a petition before the Forum. The Appellant had deposited a sum of ₹ 3,98,849/-

(i.e. 20% of disputed amount, current bill extra) on 28.07.2020.

The Forum decided the case of the Appellant vide order dated 05.01.2021 and the Appellant had now put in its Appeal in this Court after depositing further 20% of the disputed amount on 12.03.2021 vide receipt no. 253520199093 dated 12.03.2021. The details of the case of the Appellant regarding grant of LS connection at the initial stage, its extension from time to time and deposit of Security (Meter) and Security (Consumption) as per record of the Respondent was submitted as under: -

A&A No./Date	New Connection /Extension	Approved Load/CD by Load Sanctioning Authority	Load (General/PIU) declared by the consumer as per Test Report/ Load Sheet along with A&A Form and details of ACD deposited
31441/LS dt. 15.05.2008	New connection applied for 481.916 KW/495 KVA.	Load/CD = 481.916 kW/495 kVA (whole load/CD approved in General Category)	General = 307.916 kW Induction Heater = 174 kW (1 Nos.) Consumer had deposited ₹ 5,84,100/- on account of ACD for 495kVA CD @ 1180/- kVA (@ General ACD i.e. 1180/-)
36972/LS Ext. dt. 11.11.2011	Load/CD Extended from 481.916 kW / 495 kVA to 1633.284 kW/995 kVA.	Load/CD = 1633.284 kW/ 995 kVA (whole load/CD approved in General Category)	General = 1459.284 kW Induction Heater = 174 kW (1 Nos.) The consumer had deposited ₹5,90,000/- on account of ACD for 500kVA CD @ 1180/- kVA (@General ACD i.e. 1180/-)
4271/LS Change of Category dt. 22.03.2018	Change of Category from General to PIU	Total Load/CD = 1633.284 kW/995 kVA out of which partial load/CD (PIU Load/CD=422.982 kW/470 kVA) approved in PIU category	General = 1210.302 kW PIU Load = 422.982 kW (Induction Heater 1 = 182.770 kW Induction Heater 2 = 240.212 kW) Consumer had deposited ₹1,50,400/- on account of difference of ACD for 470 KVA CD @ 320/- kVA (@ PIU ACD – General ACD i.e. 1500 – 1180 = 320/-)

10000604507 0/LS Ext. (RID 19189 dt. 18.06.18)	Load/CD Extended from 1633.284 kW/ 995 kVA to 2200 kW/1250 kVA.	Load/CD = 2200 kW/1250 kVA (whole load/CD approved in PIU category)	General Load = 1282.665 kW PIU Load = 917.335 kW (Induction Heater 1 = 182.770 kW Induction Heater 2 = 240.212 kW Induction Heater 3 = 182.770 kW Induction Heater 4 = 311.583 kW) Note:- The consumer had deposited ₹ 3,82,500/- on account of ACD for 255 kVA extension of CD @ 1500/- kVA (@ PIU ACD).
10000874234 3/LS Ext. (RID 20604 dt. 14.02.2019)	Load/CD Extended from 2200 kW/1250 kVA to 2452.89 kW/1850 kVA.	Gen. Load/CD=1454.195 kW/740.34 kVA (approved in General Category)&PIU Load/CD=998.695 kW/1109.66 kVA (approved in PIU category)	General Load = 1420.671 kW PIU Load = 1032.219 kW (Induction Heater 1 = 182.770 kW Induction Heater 2 = 240.212 kW Induction Heater 3 = 182.770 kW Induction Heater 4 = 311.583 kW Induction Heater 5 = 114.884 kW) The consumer had deposited ₹9,00,000/- on account of ACD for 600 kVA extension of CD @ 1500/- kVA (@ PIU ACD)

- (v) The Appellant had bifurcated its PIU Load/CD and General Load/CD vide A&A No. 10000874234/LS Ext. (RID 20604 dated 14.02.19) by bifurcating the PIU Load/CD 998.695 kW/1109.66 kVA and General load/CD 1454.195 kW/740.34 kVA making Total Load/CD 2452.89 kW/1850 kVA as approved by the Respondent.
- (vi) The refund on account of bifurcation as stated above had been given to the Appellant vide SCA 117/154/R-273 and the Appellant had also been intimated vide memo no. 1676 dated 15.02.2021 by the Respondent.
- (vii) The Revenue Audit Party had correctly charged an amount of ₹ 19,94,246/- as difference of PIU tariff and General tariff

as per CC No. 27/2014 for the period 01/2014 to 04/2018 vide memo no. 554 dated 13.03.2020 of RAP of Estate (Spl.) Division and memo no. 262 dated 12.03.2020 of the Respondent during Special Audit. The Forum had correctly decided the case by passing detailed speaking order.

- (viii) The Appellant had submitted test reports at the time of applying new connection of 495 kVA in the year 2008 and at the time of extension of load/CD in the year 2012 which were subsequently verified by the Respondent. The detail of load sheet submitted by the Appellant clearly showed induction Heater of 174 kW in the details given in test report no. 69 dated 11.12.2009.
- (ix) Further, at the time of extension of load/CD vide A&A No. 36972/LS dated 11.11.2011, the Appellant had applied extension making total load 1633.284 kW/995 kVA. The Appellant had submitted test report no. 13 dated 14.03.2012 which was verified by the Respondent for 1633.284 kW/CD 995 kVA. As per test report, list of load was remarked as attached in the test report. The list was supplied for new extended load of 1151.368 KW. The detail of old load was not attached with the test report. The remarks in the test report had been given as existing load 481.916 kW/CD 495

kVA and extended load 1151.368 kW/CD 500 kVA thus making total load 1633.284 kW/CD 995 kVA. The contention of the Appellant that it had not submitted any PIU load for this extension made vide test report no. 13 dated 14.03.2012 was not maintainable as the Appellant had itself stated in this test report that the existing load as same and had attached the details of the new extended load. The test report no. 69 dated 11.12.09 against A&A No. 31441 dated 15.05.2008 clearly depicted the induction heater of 174 kW (233.24 BHP) as per the list attached by the consumer with the test report duly signed by it and also verified by the Respondent. In the test report, the note as per list attached of 481.916 kW was given by the Appellant and the Wiring Contractor. The contention of the Appellant that it had not filled PIU load of 174 kW in A&A Forms was not maintainable as the Appellant had submitted test report against this A&A Form vide test report no. 69 dated 11.12.2009 by giving detail of load of 481.916 kW/CD 495 kVA and the load mentioned as installed by the Appellant as per the test report load detail sheet duly signed by it and contractor was final which had been verified at site by the Respondent. The test report was final and was a part of

agreement with PSPCL and the Appellant cannot deny installation of PIU load as submitted in the test report on the ground that it had not filled this in the A&A Forms.

- (x) The Appellant had bifurcated its PIU Load/CD and General Load/CD vide A&A 100008742343/LS Ext. (RID 20604 dated 14.02.2019) by bifurcating the PIU Load/CD 998.695 kW/1109.66 kVA and General load/CD 1454.195 kW/740.34 kVA making Total Load/CD 2452.89 kW/1850 kVA as approved by the Respondent. The refund on account of bifurcation as stated above had been given to the Appellant vide SCA 117/154/R-273 and the Appellant had also been intimated vide memo no. 1676 dated 15.02.2021 by the Respondent.
- (xi) After issue of Circular No. 27/2014 dated 25.9.14, PSPCL had issued a Public Notice in the newspaper dated 16.5.2017 for the registration of PIU load under PIU category and had also uploaded Circular No. 27/2014 on the PSPCL website for wide publicity for the intimation of the consumers. In this regard, letter no.718 dated 30.10.2017 was issued by Chief Engineer/ Commercial as clarification sought in the Forum in the case of M/s. Brij Mohan Syal.

- (xii) It was not possible for PSPCL to check all connections in regard to UUE. Moreover, the checking of Large Supply connections regarding connected load was stopped so many years ago by PSPCL and the consumers were made acquainted with the instructions issued vide Commercial Circulars by uploading the same on PSPCL website for the intimation of the consumers.
- (xiii) The Appellant had applied for change of tariff from General to PIU as stated below, in which the Appellant had stated 2 Nos. induction heaters of 182.770 kW and 240.212 kW which proved that the Appellant was in need of more PIU load in addition to its existing industrial PIU machinery:-

4271/LS Change of Category dated 22.03.2018	Change of Category from General to PIU	Total Load/CD = 1633.284 kW/995 kVA out of which partial load/CD (PIU Load/CD=422.982 kW/470 kVA))	General = 1210.302 kW PIU Load = 422.982 kW (Induction Heater 1 = 182.770 kW Induction Heater 2 = 240.212 kW)
---	---	---	--

- (xiv) As per ECR 20/1564 dated 24.05.2011, ECR 24/1686 dated 27.12.2011, ECR 27/1835 dated 22.05.2012 and ECR 11/1984 dated 23.08.2012 of ASE/MMTS-3, Ludhiana, Nature of Industry of the Appellant was recorded as “Forging” which was a Power Intensive Unit. Hence account was rightly overhauled.

- (xv) The contention of the Appellant that it had not submitted any PIU load in the extension made vide test report no. 13 dated 14.03.2012 was not maintainable.
- (xvi) The Appeal of the Appellant should be dismissed and the decision of the Forum be upheld.

(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 averments of the Appellant in the Appeal and the Rejoinder. The Respondent also prayed to dismiss the Appeal.

6. Analysis and Findings

The issues requiring adjudication are the legitimacy of the amount of

- (i) difference of tariff applicable to General and PIU load charged to the Appellant from 01.01.2014 to 30.04.2018.
- (ii) difference of the amount of mixed and PIU load tariff (against the extension applied in 09/2018 with mixed load installed) as per General Schedule of Tariff of Tariff Order FY 2018-19 and 2019-20.

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

Issue (i)

- a) The dispute arose after checking of the cases of industrial consumers by the AAO, DS City West Division (Special), PSPCL, Ludhiana who, vide Memo No. 262 dated 13.03.2020, observed as under:

“The Consumer applied for change of tariff from general to PIU in 03/2018 but no change in existing load/CD. However, at the time of new connection of 495 kVA in 2008, the consumer submitted test report showing induction furnace of 174 kW and also in 2012 during extension of load /CD, induction heater of 174 kW was shown in test report. So, it was a PIU from 2008 itself. So as per CC no. 27/2014, PIU tariff is to be charged from 01.01.2014.”

Based on the above checking report, Revenue Audit Party, Estate Division, PSPCL, Ludhiana issued Memo No. 554 dated 13.03.2020 charging the Appellant a sum of ₹ 19,94,246/- as difference of General and PIU tariff for the period from 01.01.2014 to 30.04.2018. As a result, a Notice bearing No. 459 dated 25.06.2020 was issued by the

Respondent to the Appellant asking it to deposit the said amount of ₹ 19,94,246/-. The Appellant did not agree with the amount charged and filed Petition No. 242 of 2020 in the office of the CGRF, Ludhiana on 28.07.2020. The Forum, after hearing both the sides, decided on 05.01.2021 that the amount charged to the Appellant, vide Notice dated 25.06.2020, was justified and recoverable. The Forum also held that since the Appellant had clearly mentioned bifurcation load/CD (under General & PIU category) at the time of applying for extension in load/CD in the year 2019 and the same was recommended /approved by the Competent Authority, tariff be applied under mixed load category. In compliance to the said decision of the Forum, the Respondent revised the amount earlier charged as ₹ 16,96,666/- and asked the Appellant to deposit ₹ 13,92,278/- (after adjusting 20 % amount already deposited) vide Memo No 1676 dated 15.02.2021. But the Appellant was not satisfied with the decision dated 05.01.2021 of the Forum and challenged the same in this Court by filing the present Appeal.

- b) As per evidence on record, Application and Agreement Forms detailed below were signed between the

representatives of the Licensee and the Appellant as per details tabulated below:

A & A dated	Signed by	Load/CD applied and approved	Remarks
15.05.2008	ASE/DS, Estate Division, Ludhiana, AEE, Sahnewal	Load=481.916 kW, CD=495 kVA, T/f=500 kVA, SV=11 kV	One No. Induction Heater 174 kW mentioned in test report. Load sanctioned under General category.
11.11.2011	Addl. S.E/DS, Estate Division, Ludhiana, AEE, S/D, Sahnewal	Load=1633.284 kW, CD=995 kVA, T/f=1200 kVA, SV=11 kV	One No. induction heater of 174 kW continued. Load sanctioned under General category.
18.06.2018	Dy. CE/Op, City West Circle, Ludhiana, AEE/S/D, Sahnewal	SL=2200 kW (PIU), CD=1250 kVA, T/f=1x1250 kVA, SV=11 kV	Induction Heaters of 182.770 kW and 311.583 kW added
14.02.2019	Dy. CE/Op, City West Circle, Ludhiana, AEE/C, Sahnewal	Load=2452.890 kW, CD=1850 kVA, T/f=1x3000 kVA, SV=11 kV	Fifth Induction Heater added. (114.884 kW). Total PIU Load=1032.219 kW

- c) The Court noted the contention of the Respondent that the Appellant had submitted test reports at the time of applying new connection of 495 kVA in the year 2008 and at the time of extension of load/CD in the year 2012 which were subsequently verified by the Respondent. The detail of load sheet submitted by the Appellant clearly showed induction furnace of 174 kW in the details given in test report no. 69 dated 11.12.2009. Subsequently, at the time of extension of load/ CD vide A&A No. 36972/LS dated 11.11.2011, the

Appellant had applied extension making total load 1633.284 kW/ 995 kVA. The Appellant had submitted test report no. 13 dated 14.03.2012 which was verified by the Respondent for 1633.284 kW/ CD 995 kVA. As per test report, list of load was remarked as attached with the test report. The list was supplied for new extended load of 1151.368 KW. The detail of old load was not attached with the test report. The remarks in the test report had been given as existing load 481.916 kW/ CD 495 kVA and extended load 1151.368 kW/ CD 500 kVA making total load 1633.284 kW/ CD 995 kVA. The contention of the Appellant that it had not submitted any PIU load for this extension vide test report no. 13 dated 14.03.12 was not maintainable as the Appellant had itself stated in this test report that the existing load as same and had attached the details of the new extended load only. The test report no. 69 dated 11.12.09 against A&A No. 31441 dated 15.05.2008 clearly depicted the induction heater of 174 kW (233.24 HP) as per the list attached by the consumer with the test report duly signed by it and also verified by the Respondent. In the test report, the note load verified as per list attached of 481.916 kW was given. The contention of the Appellant that it had not filled PIU load of 174 kW in A&A

Forms was not maintainable as the Appellant had submitted test report against this A&A Form vide test report no. 69 dated 11.12.2009 by giving detail of load of 481.916 kW/ CD 495 kVA and the load mentioned as installed by the Appellant as per the test report load detail sheet duly signed by it and contractor was final which had been verified at site by the Respondent. The test report was final and was a part of agreement with PSPCL and the Appellant cannot deny installation of PIU load as submitted in the test report on the ground that it had not filled this in the A&A Forms.

- d) As per ECR No. 20/1564 dated 24.05.2011, ECR No. 24/1686 dated 27.12.2011, ECR No. 27/1835 dated 22.05.2012 & ECR No. 11/1984 dated 23.08.2012 of ASE/MMTS-3, Ludhiana; Nature of Industry was recorded as "FORGING" which is a Power Intensive Unit. It is evident that type of Industry in this case was PIU before 01.01.2014.
- e) CC No. 27/2014 was issued as per order dated 28.10.2013 of PSERC in Petition No. 3 of 2012, in which Hon'ble PSERC while arriving at conclusion mentioned that (page No. 35 of order dated 28.10.2013) this order will be applicable with effect from 01.01.2014. The Respondent (PSPCL) shall issue

a public notice in the leading newspapers having wide circulation in the State for wide publicity to the Order of the Commission and its impact. Appellant argued that no such notice had been issued as directed by the PSERC and the Respondent had not placed anything on records. Respondent replied that the consumer had himself declared Induction Heater load of 174 kW in test reports dated 11.12.2009 and 14.03.2012 which were also signed by Wiring Contractor and subsequently verified by official of PSPCL. This was sufficient proof of existence/use of Induction Heater load. Further, Chief Engineer/Comm., PSPCL had issued CC No. 27/2014 vide memo no. 509/513 dated 29.05.2014 as per the order dated 28.10.2013 of Hon'ble PSERC after completing necessary formalities. Respondent also stated that CC No. 27/2014 was uploaded on the PSPCL website for wide publicity & for the intimation of the consumers and also submitted the copy of public notice in the newspaper dated 16.5.2017 for the registration of Induction Heater loads under PIU category. The Appellant had not declared load of 174 kW of Induction Heater installed at its premises since 2009 as PIU in spite of Public Notice No. C-174/2017 published in

newspapers by the office of CE/ Commercial, PSPCL, Patiala.

- f) The reliance placed by the Appellant on the decision of this Court in Appeal Cases No. A-16/2021 to A-19/2021 is not relevant as the facts and circumstances of these cases are not exactly similar to those of the present Appeal.
- g) It is also observed that a Large Supply Category consumer cannot feign ignorance about details of load/CD or nature of load (viz. PIU, Mixed/General) applied, agreed to and sanctioned/approved by the competent load sanctioning authority. A Large Supply Category consumer must show a sense of sincerity and responsiveness to the instructions governing its connection issued/circulated by the Licensee from time to time. After declaration of installation of Induction Heater in the Test Report submitted by it for release of new connection/extension of load / CD, the Appellant is not expected to pose challenge to observations of Audit based on factual position on record vis-à-vis instructions applicable on the subject.
- h) After going through the oral and written submissions made and evidence brought on record of this Court by both the sides, this Court is inclined to agree with the conclusion

arrived at by the Forum in its order dated 05.01.2021 observing as under:

“The Petitioner has himself mentioned induction heater of 173 kW in detail of load, while applying new connection in 2008 and further during 2018, when he applied for extension of load from existing 1633.284 kW/995 kVA to 2200 kW/1250 kVA, in the list of existing load attached with the test report, he mentioned two nos. of induction heaters of 182.770 & 240.212 kW already existing there. Therefore, Forum is of the opinion that Petitioner has induction heater load from 2008 itself, which was later on declared as PIU load from 01.01.2014 vide CC no. 27/2014, therefore the amount of ₹ 1994246/-, charged as difference of General & PIU tariff from 01.01.2014 to 30.04.2018, vide notice no. 459 dated 25.06.2020, is justified. Further as the Petitioner has clearly mentioned his bifurcated load/CD under General & PIU category during his extension applied in 2019, therefore, the tariff is required to be applied accordingly under mixed load category.”

- i) Accordingly, this issue is decided against the Appellant after due consideration.

Issue (ii)

- a) The Appellant has also prayed for relief as admissible for Mixed Load (against extension applied in 9/2018) as per Clause SI 3.6 of Schedule of Tariff of Tariff Order FY 2018-19 and 2019-20 as the category of the Appellant was PIU since 3/2018 and installed load was Mixed Load. The details of the load approved in A & A dated 18.06.2018 by the Respondent on 29.08.2018 after considering the extension of load applied are as below:-

Connected Load = 2200 kW

Contract Demand = 1250 kVA

Supply Voltage = 11kV

Type of Industry = PIU

The entire load was approved under PIU (with four no. Induction Heaters) by the Load Sanctioning Authority and no split up of PIU & General Load is available in A & A forms.

- b) The aforesaid plea of the Appellant for relief is at variance with its contention in regard to order passed by this Court in Appeal Cases No. A-16/2021 to A-19/2021 thus, the Appellant cannot place reliance by pleading contradictory version for getting undue relief.

- c) As such, the relief as admissible for Mixed load against extension applied in 2018 as per Clause SI 3.6 of Schedule of Tariff of Tariff Orders for FY 2018-19 and FY 2019-20 is hereby declined because the Load Sanctioning Authority of PSPCL had not separately approved load of PIU & General Category in the A & A forms. Further, the Appellant had not represented to PSPCL for sanctioning of loads separately for General & PIU category even after receiving monthly bills showing the detail of sanctioned loads. He continued to pay the monthly bills without any challenge/protest.
- d) A Large Supply Category Consumer cannot absolve itself of the responsibility of performing its obligation sincerely and intelligently instead of finding out and pin pointing the lacunae in the working of the licensee, it should have taken appropriate remedies in representing to the Respondent by submitting revised A & A forms giving specific details of bifurcation of load at the appropriate time.
- e) In view of the above, this issue is decided against the Appellant.

7. Decision

As a sequel of above discussions, the Appeal preferred by the Appellant against the decision dated 05.01.2021 of the CGRF, Ludhiana in Case No. CGL-242 of 2020 is dismissed.

8. The Appeal is disposed of accordingly.

9. 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.

10. 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 16 , 2021
S.A.S. Nagar (Mohali)

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