

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

APPEAL No. 33/2021

Date of Registration : 23.03.2021
Date of Hearing : 09.04.2021 and 16.04.2021
Date of Order : 22.04.2021

Before:

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

In the Matter of:

M/s. Nibber Castings Pvt. Ltd.,
Village-Saidomajra, PO Mubarikpur,
Behind Focal Point, Derabassi, Distt. Mohali.
Contract Account Number: Z24-DB02-00117

...Appellant

Versus

Senior Executive Engineer,
DS Division,
PSPCL, Lalru.

...Respondent

Present For:

Appellant: 1. Sh. K.D. Sharma,
Appellant's Representative.
2. Sh. Ajay Rai,
Appellant's Representative.
3. Sh. Ram Murti,
Appellant's Representative.

Respondent : 1. Er. Gurjinder Singh,
Assistant Engineer,
DS Sub Division,
PSPCL, Mubarikpur.
2. Sh. Rohit,
Upper Division Clerk (Accounts).

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 05.03.2021 of the Consumer Grievances Redressal Forum (Forum), Patiala in Case No. CGP-29 of 2021, deciding that:

“The contract demand of the Petitioner be considered bifurcated as 2427.77 kVA under PIU category and 572.23 kVA under General load category after 15 days from the date of submission of complete documents i.e. 12.03.2019. The account of the petitioner be overhauled accordingly by applying the relevant tariff for General load and PIU load as per tariff orders for the respective years.”

2. Registration of the Appeal

The Appeal was received in this Court on 23.03.2021 i.e. within 30 days of receipt of copy of the decision dated 05.03.2021 of the CGRF, Patiala in Case No. CGP-29 of 2021. The Appellant was not required to deposit the requisite 40% of the disputed amount, which was on account of claim for refund of billing under PIU category. Therefore, the Appeal was registered and copy of the same was sent to the Senior Executive Engineer/DS Division, PSPCL, Lalru for sending written reply/ parawise comments with a copy to the

office of the CGRF, Patiala under intimation to the Appellant vide letter nos. 394-396/OEP/A-33/2021 dated 23.03.2021.

3. Proceedings

- (i) With a view to adjudicate the dispute, a hearing was fixed in this Court on 09.04.2021 at 12.00 Noon and an intimation to this effect was sent to both the sides vide letter nos. 749/80/OEP/A-33/2021 dated 01.04.2021. As scheduled, the hearing was held in this Court on the said date and time. At the end of deliberations, another hearing was felt necessary for submission of some documents by the Respondent. Accordingly, next hearing was fixed for 16.04.2021 at 01.00 PM. Copies of the minutes of the proceedings were sent to the Appellant and the Respondent vide letter nos. 569-70/OEP/A-33/2021 dated 09.04.2021.
- (ii) AEE/DS Sub Division, Mubarikpur also submitted Memo No. 528 dated 15.04.2021 in compliance to direction given by this Court during proceedings on 09.04.2021. A copy of the said letter was given to the Appellant's Representatives for information and record. Thereafter, both the sides reiterated their respective points of view and prayed accordingly.

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 representatives of the Appellant 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. Z24-DB02-00117, with sanctioned load of 2973.88 kW and Contract Demand (CD) as 3000 kVA after extension from 673.88 kW/CD as 700 kVA.
- (ii) The Appellant, while requesting for extension in load, had mentioned in the remarks column that furnace load will be 2250 kW but in the old portal, there was no specific column for filling up the load/ CD as PIU and general category load. The transformer to be installed was 1000+2500 kVA against extension.

- (iii) The A&A form was downloaded from PSPCL portal in which all loads were taken in PIU category. The A&A form downloaded was re-uploaded on the system after completing the formalities.
- (iv) The Appellant, while complying with the demand notice dated 14.05.2018, had mentioned and bifurcated the load as PIU and General alongwith detailed list in the test report no. 1753/L dated 14.05.2018 keeping in view the instructions for the bifurcation of load contained in CC No. 23/2018 (Tariff Structure for FY 2018-19). The officers/officials of the Respondent, had not scrutinized the detail submitted by the Appellant in the test report and finally released the whole load in PIU category on 19.07.2018.
- (v) The Appellant, after extension of load, had received the first bill in the month of August, 2018 in which whole load was shown in PIU category and the Appellant was charged fixed and energy charges accordingly from 08/2018 to 09/2019. The Appellant requested the Respondent to bifurcate the load from August, 2018 to September, 2020 but to no effect. The revised A&A forms with bifurcation of General and PIU load as per test report already submitted in 05/2018 was demanded by the Respondent in the month of October, 2018

and the Appellant submitted A&A form after bifurcation on October 25, 2018. No response was received from the Respondent regarding above case and the Appellant was making numerous requests to various offices of the Respondent from 10/2018 onwards. The Respondent bifurcated the load of the Appellant as General and PIU in the month of 09/2019.

- (vi) The Appellant was charged excess fixed charges and energy charges for the period from 08/2018 to 09/2019 because of the lapses on the part of PSPCL. The Respondent had not scrutinized the test report submitted by the Appellant in 05/2018. Had the Respondent asked the appellant for refilling the revised A&A form at the time of test report, the load/A&A form should have been approved separately as per test report well before the release of load in 07/2018. The Appellant submitted revised A&A on the demand of the Respondent in the month of 10/2018 in the light of CC No. 23/2018, circulating Tariff Order for FY 2018-19. The A&A form was not got sanctioned as per instructions due to the reasons well known to the Respondent but the Appellant was charged excess fixed/ energy charges.

(vii) The Appellant had filed petition before the Forum but the case was closed on 12.02.2021 after carrying out investigation. The Appellant had been given relief only for the period from 04/2019 to 09/2019, which was injustice qua the Appellant.

(viii) The Appellant prayed for acceptance of Appeal, investigation of the case and for giving justice to it.

(b) Submission during hearing

(i) During hearing on 09.04.2021, the Appellant's Representative reiterated the submissions made in the Appeal and prayed to allow the relief claimed. The Appellant's Representative pleaded that the Respondent should intimate the action taken on its representation dated 25.10.2018 for bifurcation of load applied.

(ii) During hearing on 16.04.2021, the Appellant prayed to allow the appeal in view of its submissions in the appeal and also on the basis of its oral submissions.

(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. Z24-DB02-00117 with sanctioned load of 2973.88 kW and CD as 3000 kVA for its Furnace extended from 673.88 kW/CD 700 kVA.
- (ii) The case of the Appellant for extension in load, was approved by FCC, in its meeting held on 11.07.2017 under PIU category. Accordingly, the Appellant had submitted its A&A forms and the load was approved by the competent authority under PIU category in 07/2018.
- (iii) The Appellant had given its request for bifurcation of load as Furnace load 2406.63 kW & General load 567.25 kW and requested for refund of fixed charges charged as per PIU instead of PIU & General tariff. The period of refund for which, the Appellant had sought relief was from 08/2018 to 09/2019 i.e the date on which the bifurcation of load was approved by the competent authority. The total amount of refund was ₹ 17,83,354/-
- (iv) While scrutinizing the case of the Appellant, it was found that the Appellant had applied for bifurcation of PIU & General load on 04.01.2019 by submitting fresh A&A forms but other

commercial documents were not submitted by it. The case was processed after receipt of all documents from the Appellant and was forwarded to the competent authority but due to some observations, the case was returned by the competent authority vide its office memo no. 5429 dated 10.04.2019. Thereafter, the case was resubmitted and was sanctioned by the competent authority vide memo no. 9211 dated 05.08.2019.

- (v) As per record available with the Respondent, the Appellant had submitted its complete documents in 03/2020 and then the case was further processed. As per ESIM Instruction No. 27.5.2, the reduction of load/ CD shall be processed in 15 days and if not sanctioned in 15 days, then same shall be deemed to be sanctioned for the purpose of billing.
- (vi) The refund sought by the Appellant for the period from 08/2018 to 09/2019 was not admissible to it because the Appellant had not submitted details of bifurcated load at the time of extension of load/ CD applied vide RID No. 17808. The Appellant had applied for bifurcation of load i.e. PIU & General on 04.01.2019 by submitting fresh A&A forms. Due to non-submission of complete documents, the case of the Appellant could not be processed. The Appellant had submitted all the documents in 03/2019 and as per ESIM

Regulation 27.5.2, the reduced CD would be deemed to have been sanctioned after 15 days from the date of submission of case complete in all respects. The refund can be considered only for the period 04/2019 to 09/2019.

- (vii) When the Appellant had applied for extension in load, it had not mentioned its PIU and General Load separately in the A&A form so submitted by it. The Appellant was served with bills under PIU category from 08/2018 to 09/2019.
- (viii) It was wrong that the Respondent had not scrutinized the case of the Appellant while sending the advice to CBC. The Appellant had submitted fresh A&A forms, in which he had mentioned PIU and General load separately after paying the requisite processing fees on 04.01.2019 and the same was approved by the Competent Authority.
- (ix) The refund granted by the Forum was correct and based on the facts of the case.
- (x) It was prayed that the Forum had correctly decided the case and present Appeal of the Appellant may be dismissed.

(b) Submission during hearing

- (i) During hearing on 09.04.2021, the Respondent reiterated the submissions made by it in the written reply and contested the

submissions of the Appellant's Representative. He also requested for dismissal of the Appeal of the Appellant. At the end of the proceedings, the Respondent was directed to intimate the action taken on the representation dated 25.10.2018 addressed to AEE, PSPCL, Sub Division, Derabassi, Distt. Mohali (PB). (Annexure-5 to the Appeal) requesting for the bifurcation of the load mentioned therein. But, the Respondent did not have the requisite record available during hearing. Accordingly, the Respondent was directed to attend this Court on 16.04.2021 at 01.00 PM and bring the relevant records in support of its defence. The Appellant's Representatives were also directed to attend this Court on the said date and time for deliberating the matter further.

- (ii) During hearing on 16.04.2021, the AEE, DS Sub Division, PSPCL, Mubarikpur (Respondent) submitted Memo No. 528 dated 15.04.2021 in response to directions given by this Court on 09.04.2021. The contents of the said Memo are reproduced as under:

“In reference to the proceeding dated 09-04-2021 it is informed in reference to letter dated 25-10-2018 and A&A form submitted is not completed & processing fees not

deposited & same has been verbally informed to consumer for completion of A&A Form & deposit of requisite fees for bifurcation of Load so that same can be processed. It is also pertinent that connection of consumer has been disconnected from 31-10-2018 to 10-12-2018 as per NGT order & PPCB order No.-6116 Dated 29-10-2018 (Sr. no. 38) (Copy Attached) Vide Tdco No. 60/2073 s (Copy Attached) Dt 29-10-2018 & connection of consumer has been reconnected vide RCO No. 23/3051 (Copy Attached) dated 10-12-2018. After reconnection consumer applied for bifurcation of Load vide A&A No. 293/LS/(Change of Cat PIU to PIU+GEN) Dt 04-01-2019 vide BA-16 No. 355/50987 dt 04-01-2019 P. Fee-2950(2500+450) & same has been processed for bifurcation of load.”

- (iii) AEE/DS Sub Division, Mubarikpur also submitted Memo No. 528 dated 15.04.2021 in compliance to direction given by this Court during proceedings on 09.04.2021. A copy of the said letter was given to the Appellant's Representatives for information and record. Thereafter, both the sides reiterated their respective points of view and prayed accordingly.

5. Analysis and Findings

The issue requiring adjudication is the legitimacy of charging of PIU Load Tariff and claim for refund from 19.07.2018 to 27.03.2019 due to difference between PIU and Mixed Load (PIU plus General Load) Tariff as per applicable regulations.

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

- (i) In the present Appeal, the Appellant had challenged the order dated 05.03.2021 of the Forum deciding to overhaul the account of the Appellant by considering the bifurcation of CD under PIU Category as 2427.27 kVA and under General Category as 572.23 kVA taking the deemed date of release of mixed load as 15 days after submission of complete documents i.e. 12.03.2019. The Appellant had pleaded that it had requested the Forum to grant him relief from 19.07.2018 i.e. the date from which, the whole load was released under PIU (instead of bifurcated load under PIU & General Category).
- (ii) As per Memo No. 1266/SWS/RID No. 17808 dated 02.08.2017 issued by office of the CE/Commercial, PSPCL, Patiala, the FCC decided to allow extension of 2300 kW load

/2300 kVA CD, having its existing load of 673.88 kW/CD 700 kVA, to make total load of 2973.88 kW/CD 3000 kVA, fed through 11 kV Haibatpura Road Industry feeder, after erecting new feeder with 3 core 11 kV XLPE cable 150 mm²3.8 km, as proposed by field office. The category type has been mentioned as Power Intensive in this feasibility clearance letter. Subsequently, A&A dated 27.09.2017 was signed between the representative of PSPCL and the Appellant. The said agreement was approved by the CE, DS (South), PSPCL, Patiala. In this agreement, approval was accorded for Total Sanctioned Load=2973.88 kW, Contract Demand=3000 kVA, Supply Voltage=11 kV, Transformer Capacity=3500 kVA.

- (iii) The Appellant's Representatives argued that the Appellant, after extension of load, had received the first bill in the month of August, 2018 in which, whole load was shown in PIU category and the Appellant was charged fixed and energy charges accordingly from 08/2018 to 09/2019. The Appellant requested the Respondent to bifurcate the load from August, 2018 to September, 2020 but to no effect. The revised A&A forms with bifurcation of General and PIU load as per test report already submitted in 05/2018 was demanded by the Respondent in the month of October, 2018 and the Appellant

submitted A&A form after bifurcation on October 25, 2018. No response was received from the Respondent regarding above case and the Appellant made numerous requests to various offices of the Respondent from 10/2018 onwards. The Respondent bifurcated the load of the Appellant as General and PIU in the month of 09/2019.

- (iv) With a view to ascertain the factual position, the Respondent was directed during hearing of the case on 09.04.2021, to intimate the action taken on the representation dated 25.10.2018 of the Appellant addressed to AEE, PSPCL, Sub Division, Derabassi, Distt. Mohali (PB). (Annexure-5 to the Appeal) requesting for the bifurcation of the load mentioned therein. But, the Respondent did not have the requisite record available during hearing. Accordingly, the Respondent was directed to attend this Court on 16.04.2021 at 01.00 PM and bring the relevant records in support of evidence in its defence. In compliance to the above directions, the AEE, DS Sub Division, PSPCL, Mubarikpur (Respondent) attended this Court on 16.04.2021 and submitted Memo No. 528 dated 15.04.2021 which is reproduced as under:

“In reference to the proceeding dated 09-04-2021 it is informed in reference to letter dated 25-10-2018 and A&A form submitted is not completed & processing fees not deposited & same has been verbally informed to consumer for completion of A&A Form & deposit of requisite fees for bifurcation of Load so that same can be processed. It is also pertinent that connection of consumer has been disconnected from 31-10-2018 to 10-12-2018 as per NGT order & PPCB order No.-6116 Dated 29-10-2018 (Sr. no. 38) (Copy Attached) Vide Tdco No. 60/2073 s (Copy Attached) Dt 29-10-2018 & connection of consumer has been reconnected vide RCO No. 23/3051 (Copy Attached) dated 10-12-2018. After reconnection consumer applied for bifurcation of Load vide A&A No. 293/LS/(Change of Cat PIU to PIU+GEN) Dt 04-01-2019 vide BA-16 No. 355/50987 dt 04-01-2019 P. Fee-2950(2500+450) & same has been processed for bifurcation of load.”

- (v) The Court perused the A&A No. 293/LS dated 04.01.2019 which was signed by Dy. CE/DS, PSPCL, Mohali, Sr. Xen/DS Division, Lalru, AEE, DS Sub Division, Mubarikpur and Representative of the Appellant. The agreement was approved

by CE/DS, (South), PSPCL, Patiala. In the said agreement, the following values were approved: PIU Load=2406.63 kW, General Load = 567.25 kW, PIU CD=2427.77 kVA, General CD=572.23 kVA, Supply Voltage=11 kV, Transformer Capacity= 1000+2500 =3500 kVA.

- (vi) In this connection, it is worthwhile to peruse the observations of the Forum in its order dated 05.03.2021 which read as under:

“Forum observed that the petitioner had not submitted the bifurcation of load details at the time of extension of load applied vide RID no. 17808 dtd 05.06.17 and the total load / CD has been mentioned as 2973.88 KW/ 3000 KVA with industry type as "Power Intensive". The capacity of furnace transformer has been mentioned as 2500 KVA and furnace load mentioned as 2250 KW (in remarks). Subsequently the test report no. 1753/L dtd. 14.05.18 also indicates Furnace Load with auxiliary as 2406.63 KW, motive and power load as 530.84 KW and lighting load as 36.41 KW totaling to 2973.88 KW and no bifurcation of Contract demand has been indicated. The petitioner has submitted Fresh A&A form indicating bi-furcation of CD under PIU and General Load

category & processing fee on 04.01.19 and the documentation was completed on 12.03.19 as per respondent.

Forum further observed that the respondent was a LS consumer and he is expected to be well aware & conversant with the commercial policies of PSPCL which are in public domain and are available at the website of PSERC/PSPCL. The petitioner erred during applying for extension of load vide RID no. 17808 dtd 05.06.17 in which bifurcation of Contract Demand was not mentioned and subsequently also while submitting test report no.1753/L dtd 14.05.18. Had the petitioner exercised the necessary prudence /vigilance on this issue, the present litigation could have been avoided. The onus for not taking appropriate remedies rests on the petitioner also, a LS consumer. The petitioner was expected to be vigilant, update and prompt in discharging its obligations. He failed to apply correctly for bifurcation of contract demand for his PIU load and General load. Further there has been a delay on the part of respondent also in sanctioning the revised contract demand after applying for bifurcation in January/March, 2019. As per the clause no. 8.5 of Supply Code 2014, the request for reduction in connected

load/demand by a consumer shall be granted by the distribution licensee within maximum period of 15 days from the date of submission failing which the load/demand shall be deemed to have been reduced as requested by the consumer. This provision is also available ESIM clause no. 25.5.2 which provides that even if the reduced demand is not sanctioned within 15 days, it will be deemed to have been sanctioned for the purpose of billing after 15 days from the date of receipt of application complete in all respects. These clauses although directly relates to the cases of reduction in contract demand but the basic underlying motive is to safeguard the interest of consumers in case of delay by the sanctioning authority. Forum further observed that the petitioner submitted in-complete documents on 04.1.2019 and the respondent erred in getting deposited the processing fees on 04.1.2019 without checking the complete documents submitted by the petitioner. Although the claim of the petitioner for approval of bi-furcated CD can be considered to start from 15 days of deposit of processing fees but forum is not inclined to allow the same as petitioner ought to have submitted the complete documents to PSPCL on 04.1.2019 and responsibility for incomplete documentation also lies with the petitioner. However, the

respondent further delayed the matter by sanctioning of bi-furcated CD in 09/2019 after submission of complete documents on 12.3.2019 by the Petitioner and this is a deficiency of service on the part of respondent. In view of the ongoing, forum is of the opinion that the bifurcation of contract demand for PIU load and General load can at the most be considered to be effective after 15 days from the date of submission of complete case i.e.12.03.19.”

(vii) The Court was apprised by the Respondent during hearing on 16.04.2021 that deposit of processing fee for extension in load/CD by a consumer was mandatory and the amount to be charged as processing fee was prescribed in Clause 7 of Schedule of General Charges of ESIM-2018. The Appellant did not complete the requisite formalities including deposit of processing fee with PSPCL expeditiously. Thus, the onus for the delay in approval of its case as per bifurcated load applied rested on the Appellant.

(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 FYs 2017-18, 2018-19 and 2019-20 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 as applied by the Appellant and billing was done correctly.

- (ix) From the above analysis, it is observed that the Appellant defaulted in taking appropriate remedy at appropriate time and also failed to ensure fulfillment of requisite requirements for seeking approval for bifurcation of load.
- (x) By not taking timely precautions and due to failure on its part to exercise vigilance and prudence, the Appellant itself became responsible for non-grant of relief claimed by it. Being a Large Supply Category consumer, the Appellant must have kept a vigil on the instructions issued by the Licensee and uploaded on its website from time to time and also should have ensured completion of essential formalities including deposit of processing fee etc. in its own interest. As a result, this court is not inclined to interfere with the order dated 05.03.2021 of the Forum in this case after due consideration of oral as well as written submissions and documentary evidence brought on record by both the parties.

6. Decision

As a sequel of above discussions, the order dated 05.03.2021 of the CGRF, Patiala in Case No. CGP-29 of 2021 is upheld.

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 22, 2021
S.A.S. Nagar (Mohali)

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