

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

APPEAL No. 34/2021

Date of Registration : 24.03.2021

Date of Hearing : 16.04.2021

Date of Order : 16.04.2021

Before:

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

In the Matter of:

M/s. Paul Steels (P) Ltd.,
#2185/C-203/1-A, Phase-7, Village:-Gobindgarh,
Focal Point, Ludhiana
Contract Account Number: 3002809663

...Appellant

Versus

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

...Respondent

Present For:

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

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 17.02.2021 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-028 of 2021, deciding that:

“The total load has been sanctioned by the competent authority under PIU category including auxiliary load & Petitioner has not objected the same till date. Further he has not applied for bifurcation of PIU & general load till date. Therefore the Petitioner has been rightly charged under PIU category and as such, he is not entitled for any refund on account of excess billing.”

2. Registration of the Appeal

The Appellant's Representative stated that the Appellant had received copy of the decision dated 17.02.2021 of the CGRF, Ludhiana in Case No. CGL-028 of 2021 sent vide its memo no. 861 dated 19.02.2021 on 25.02.2021. As per provisions contained in Regulation 3.18 of PSERC (Forum and Ombudsman) Regulation 2016, the Appeal was required to be filed within 30 days. Thus, the Appeal was filed within the limitation period. The Appellant was not required to deposit the requisite 40% of the disputed amount as relief claimed was on

account of refund of billing under PIU category including auxiliary and general load. Therefore, the Appeal was registered and copy of the same was sent to the Senior Executive Engineer/ DS Focal Point Division (Special), PSPCL, Ludhiana for sending written reply/ para wise comments with a copy to the office of the CGRF, Ludhiana under intimation to the Appellant vide letter nos. 419-421/OEP/A-34/2021 dated 24.03.2021.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 16.04.2021 at 11.15 AM and an intimation to this effect was sent to both the sides vide letter nos. 522-23/OEP/A-34/2021 dated 07.04.2021. In response, e-mail dated 15.04.2021 was sent by Sh. Parvesh Chadha, Appellant's Representative stating as under: "Please find rejoinder to reply received through e-mail today for consideration. Kindly decide the case as per petition and rejoinder submitted in my absence." As scheduled, the hearing was held in this Court on the said date and time. However, the Respondent attended the hearing on 16.04.2021 and contested the submissions of the Appellant in its Appeal and rejoinder.

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 for Arc Furnace, bearing Account No. 3002809663, with sanctioned load of 2498 kW and CD as 2499 kVA with effect from 16.05.2015. The connection was released on 01.01.1980 at 11 kV.
- (ii) The Appellant was being issued bills regularly and the same were being deposited by the Appellant in full. There was no outstanding amount. The Appellant was being issued bills on CD and kVAh consumption basis as per Tariff Orders issued by PSPCL and approved by PSERC. The Appellant was being

issued bills by ignoring clauses of Tariff Orders since 2016 to date.

- (iii) SI 3.5 under Schedule of LS Tariff of General Conditions of Tariff Order 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 prorated basis in proportion to such loads duly sanctioned by the load sanctioning authority. In such cases, Power Intensive loads shall comprise of loads as mentioned in para SI 3.2, including auxiliary loads, loads of pollution control machinery, gas plants & corresponding lighting loads and general industrial loads in such cases shall comprise loads of rolling mills and its allied loads, related workshop, general engineering machinery and corresponding lighting load, for the purpose of levy of monthly minimum charges.”

- (iv) 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, bills were being

issued on Furnace load/ CD. No separation of load was got done, which was mandatory when the clause was introduced in the tariff. Due to deficiency in services of the Respondent, the overbilling was done and the Appellant was paying the same.

- (vi) The Appellant had claimed refund of excess billing of MMC/ fixed charges and Tariff difference paid due to deficiency in services of the Respondent.
- (vii) The Forum had decided the case without going through the points raised by the Appellant in its petition, rejoinder and oral discussions.
- (viii) The Appellant was not supplied copy of A & A form of the sanctioned load. It was demanded during the proceedings of the Forum that copy of the letter be supplied vide which, it was given to the Appellant but the Forum totally ignored the demand. The Appellant was having 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. The relevant clause is reproduced as under:

“25.3 A photocopy of accepted A&A form/ agreement shall be supplied to the consumer on payment of Rs. 5/- per copy, if so requested by him. As far as possible photocopies of the agreement shall be made available to the Medium, Large, Bulk Supply, Railway Traction and Street Lighting consumers after obtaining their acknowledgement.

Load sanctioning authority shall supply a photocopy of sanctioned and accepted A&A Form in case of MS/LS/BS/RT/SL and DS/NRS (exceeding 100kW) consumers to Centralized Billing Offices.”

- (ix) It was pointed out that Appellant had not objected till date about PIU & General Load and had not applied for the bifurcation of load till date. The excess billing was done on total load but the Appellant could not claim the refund. The question was that any objection could only be raised for wrong billing if the Appellant had knowledge about the facts. As and when it came to the knowledge of the Appellant, the Appellant filed its claim and the Respondent was convinced with the plea of the Appellant.

- (x) It was cleared vide clause no. (viii) of CC No. 23 of 2018 issued on 24.04.2018 to charge billing on pro-rata basis. No notice was issued to the Appellant to submit the detail of load of General & Induction Furnace. The Centralized Billing Cell of the Respondent had not called for load details while implementing CC No. 23 of 2018.
- (xi) There was no instruction in ESIM & Supply Code explaining that which type of load was general load and which includes auxiliary load. The Respondent had sanctioned the total load in PIU category and the Appellant was not at fault. The A & A form was not having separate column to be filled for PIU & General Load and similar position was in test report form. The Forum had not decided the case properly and was in a hurry to decide the case in favour of the Respondent.
- (xii) The Forum had not provided copy of A&A to the Appellant and ignored the demand of the Appellant.
- (xiii) The detail of PIU & General Load was submitted before the Forum during proceedings of the case in rejoinder as PIU= 2200 kW, auxiliary load = 270.052 kW and light load =27.948 kW. The billing of the Appellant was required to be revised on pro-rata basis as per this bifurcated load of Industrial and General Load (light and small motors=100 kW).

- (xiv) The excess billing should be refunded by applying pro-rata base factor as given in CC No. 23/2018 by setting aside the order of the Forum.

(b) Submissions made in the Rejoinder

The Appellant's Representative also filed its rejoinder, vide e-mail dated 15.04.2021, to the written reply of the Respondent and made the following submissions:

- (i) It was correct that no fee was deposited for obtaining copy of A & A. As per A & A form supplied during the proceeding in the Forum, the Appellant noted that the total load was sanctioned under PIU and there was no bifurcation of load of Furnace and General load but the Appellant had applied this load separately as mentioned in A & A forms at the time of applying for connection on 23.12.2013 of 2499 kW/2498 kVA. The A & A, Test Report are attached with the appeal at cp-18 to 23. The detail of Furnace, Auxiliary load and General load was attached separately. The concerned SDO verified the same on 27.09.2012. The Respondent also attached these documents with the reply. Thus the reply of the Respondent was wrong and denied. The Appellant was not at fault. The load sanctioning authority had wrongly sanctioned the load without bifurcation.

- (ii) It was correct that the Tariff Orders were issued and uploaded on web site but the PSPCL failed to implement the CC-23 of 2018 issued on 24.04.2018. The tariff of the FY 2018-19 was itself clear to implement the billing of PIU & General Load on pro-rata basis. The reference of order dated 28.10.2013 in petition no. 3 of 2012 was not related in this case. It was related to Billet Heaters covered under PIU but in this case we had already applied for Furnace and not for Billet Heater. This was only to divert the case to another side by confusing this court.
- (iii) The question was under which instruction, it was clearly mentioned about load of General and Auxiliary category. It was simply replied that the detail was mentioned in tariff circular of mixed nature. The proper reply was needed from the Respondent.
- (iv) The detailed load was as per detail of General and Auxiliary load submitted with A & A Forms & Test reports and both test reports were verified before release of connection/ extension. These documents were given with the reply in the Forum during the proceedings of the case. The exact detail was available therein.
- (v) It was prayed that excess billing charged be refunded to the Appellant.

(c) Submission during hearing

A day before hearing on 16.04.2021, the Appellant's Representative sent an e-mail dated 15.04.2021 stating as under: Please find rejoinder to reply received through e-mail today for consideration. Kindly decide the case as per petition and rejoinder submitted in my absence.

(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. 3002809663. The total load of 2499 kVA/2498 kW as approved by the Competent Authority vide A & A No. 66951 dated 23.12.2013 was 'Induction Furnace' means PIU. Therefore, the Rate Category was set as Power Intensive for the complete load.
- (ii) The Forum decided the case against the consumer stating that 'The total load has been sanctioned by the Competent Authority under PIU Category including auxiliary load & petitioner has not objected the same till date. Further, he has not applied for bifurcation of PIU & General load till date. Therefore, the

petitioner has been rightly charged under PIU Category and as such, he is not entitled for any refund on account of excess billing.’

- (iii) The Consumer had thus, approached the Court of Ombudsman against the said decision of the Forum. No request had ever been received by the office of the Respondent from the Appellant for supplying it copy of approved A & A. However, copy of approved A & A was submitted to the Forum during the proceedings of the case. It was added that total PIU Load (Induction Furnace) of 2499 kVA/2498 kW had been approved by CE/ DS Central, Ludhiana. No bifurcation of load can be seen on the A & A form approved by the Competent Authority.
- (iv) As per PSERC Order dated 28.10.2013 in Petition No. 3 of 2012, publication in the leading newspaper was issued for wide publicity of the orders of the Commission.
- (v) The total load of 2499 kVA/2498 kW as approved by the Chief Engineer (DS), Central Zone vide A & A No. 66951 dated 23.12.2013 for extension of load was ‘Induction Furnace’ means PIU. Therefore, the Rate Category was set as Power Intensive for the complete Load. In the present case, the Appellant had deposited the total security under PIU category and total load had been sanctioned under PIU Category.

Moreover, the Appellant had not requested/applied for any bifurcation of PIU/General Load/CD till date.

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

(b) Submission during hearing

Before the start of hearing on 16.04.2021, a copy of the rejoinder dated 15.04.2021 sent by Sh. Parvesh Chadha, Appellant's Representative was given to the Respondent for perusal and offering comments, if any. During hearing, the Respondent reiterated the submissions made by it in the written reply and contested the submissions of the Appellant's Representative in the Appeal and Rejoinder. The Respondent also requested for dismissal of the Appeal of the Appellant.

5. Analysis and Findings

The issue requiring adjudication is the legitimacy of charging of Tariff as per applicable regulations for the period from 14.06.2016 to 24.12.2020 and resultant claim for refund of disputed amount of ₹ 34,62,463/-.

- (i) The present Appeal poses a challenge to the decision of CGRF, Ludhiana holding that tariff charged to the Appellant during the disputed period of 14.06.2016 to 24.12.2020 was correct and the Appellant was not entitled to the refund claimed on account of not charging it for PIU and General/Mixed load tariff separately.
- (ii) As per evidence on record, office of the CE/Commercial, PSPCL, Patiala, vide memo no. 133 dated 29.01.2014 addressed to the M/s Paul Steels (P) Ltd. (Appellant) with a copy to Dy. CE/DS, City East Circle, PSPCL, Ludhiana and others, conveyed the decision to grant feasibility clearance and permission for registration of A & A forms for extension in load of 2498 kW/CD as 2443 kVA to 2498 kW/CD as 2499 kVA at 11 kV supply voltage for induction furnace unit. A & A No. 66951 dated 13.02.2014 was signed by the Dy. CE, City EAST Circle, Ludhiana, Addl. S.E/DS, Focal Point Division (Special), PSPCL, Ludhiana, AEE/Commercial and Representative of the Appellant. The load was approved by the CE (DS), Central Zone, PSPCL, Ludhiana. In the aforesaid agreement, the following values were mentioned: Total Load=2498 kW, Total Contract Demand=2499 kVA, Supply Voltage=11 kV, Transformer Capacity=3100 kVA and Kind of

Industry= Induction Furnace. The Appellant had deposited ACD/Security (Consumption) in PIU category as intimated by the Respondent in its written reply.

- (iii) It is observed that Appellant had got its extension in load sanctioned vide A & A dated 13.02.2014 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 (as per A & A form dated 13.02.2014). 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.
- (iv) 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.

- (v) There is merit in the submissions of the Respondent that Large Supply Connections were applied by the Consumers with the relevant documents and a copy of these documents was to be retained by the Consumers. The Appellant, being a Large Supply Category Consumer, must keep record of all documents submitted to the Respondent and maintain a separate LS connection file. Copies of bills/ receipts of securities etc. were preserved by the Consumers for accounting and other purposes. Moreover, one copy of A & A Forms and other documents was given to the Consumers by the Respondent. The Appellant had already attached relevant documents with its petition submitted in the Forum.
- (vi) The Appellant's Representative contended that the Appellant was not supplied copy of A & A form of the sanctioned load. It was demanded during the proceedings of the Forum that copy of the letter be supplied vide which, it was given to the Appellant but the Forum totally ignored the demand. The Appellant was having 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 observed 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 approved A & A form from the Respondent. He had not even

referred to any request in writing from the Appellant 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 sustain.

- (vii) 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 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.
- (viii) The Appellant's Representative, in its rejoinder, admitted that all the Commercial Circulars issued by PSPCL were available on its website and are in public domain but stated that their implementation was not done correctly. The Court observed that the Tariff Order 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, could not say that it was ignorant about tariff orders/regulations relating to tariff matters. There was no need to issue separate notice to each consumer informing it about changes in tariff structure. Each consumer had to take appropriate action/remedy 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. The Appellant also failed to take action 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.

- (ix) The averments made by the Appellant particularly in rejoinder to written reply (specifically that the Appellant was not at fault and that the load sanctioning authority had wrongly sanctioned the load without bifurcation) are not convincing and not sustainable. Ever since extension of load/CD, the Appellant's LS category connection vide A & A dated 13.02.2014, it did not point out in writing that bifurcation of load applied for by it had not been reflected in the bills which, in turn, were paid regularly. LS category consumer is expected to be sincere, responsible and vigilant in discharging its obligations instead of incorrectly pointing out lacunae in the working of the

distribution licensee. Thus, the Appellant cannot absolve itself of the responsibility and liability for the disputed amount billed to it as per instructions of PSPCL/P SERC.

- (x) From the above analysis, it is concluded that the entire load of the Appellant was sanctioned by the Competent Authority under PIU category. The Appellant had not submitted new A&A Forms by bifurcating the PIU load & General Load. Further, the Appellant did not file any objection to charging it or challenge any bill issued 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 FYs 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 to any refund on account of billing done by the Respondent.
- (xi) The allegation of deficiency of service against PSPCL in this case is not just & fair and not supported by evidence. As such,

the claim of the Appellant regarding refund of disputed amount (₹ 34,62,463/-) already paid in the bills without any challenge is devoid of merit and is hereby rejected after due consideration of all the facts/documentary evidence of the case.

6. Decision

As a sequel of above discussions, the order dated 17.02.2021 of the CGRF, Ludhiana in Case No. CGL-028 of 2021 is upheld. The Appellant is at liberty to submit fresh/ revised A& A Form 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 accordingly 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 16, 2021
S.A.S. Nagar (Mohali)

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

