

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

**(Constituted under Sub Section (6) of Section 42 of
Electricity Act, 2003)**

APPEAL No. 38/2022

Date of Registration : 01.07.2022

Date of Hearing : 12.07.2022

Date of Order : 12.07.2022

Before:

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

In the Matter of:

M/s. Kay Jain Processors,
Village Mangat,
Rahon Road, Ludhiana-141007

Contract Account Number: 3002810541 (LS)

...Appellant

Versus

Addl. Superintending Engineer,
DS Sunder Nagar (Spl.) Divn.,
PSPCL, Ludhiana.

...Respondent

Present For:

Appellant: Sh. Rajesh Jain,
Appellant's Representative.

Respondent : Er. J.S. Jandu,
Addl. Superintending Engineer,
DS Sunder Nagar (Spl.) Divn.,
PSPCL, Ludhiana.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 09.05.2022 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-56 of 2022 (T-18/2022), deciding that:

“Review of security cannot be considered being not a part of dispute challenged in Zonal Level Refund Committee. Interest as per 17.4 of Supply Code 2007 & 17.3 of Supply Code 2014 is disallowed. Decision of Zonal Level Refund committee is upheld and Interest on security be allowed from date of connection.”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 15.06.2022 i.e. within the period of thirty days of receipt of the decision dated 09.05.2022 of the CGRF, Ludhiana in Case No. CGL-56 of 2022 (T-18/2022), received by the Appellant on 16.05.2022. The Appellant was not required to deposit requisite 40% of the disputed amount because it was a case of refund of interest on Securities. The Appellant had not submitted any evidence in support of Authority Letter/ Vakalatnama signed by all the partners authorizing Sh. Ravinder Kumar Jain, Partner of the Appellant firm, for filing the Appeal in this Court and therefore, the Appellant was requested vide Memo Nos. 613/OEP/M/s. Kay Jain dated 16.06.2022, 656/OEP/M/s. Kay Jain dated

22.06.2022 and 711/OEP/M/s. Kay Jain dated 29.06.2022 to send the same. The Appellant sent the Vakalatnama signed by all the partners of the Appellant by e-mail on 30.06.2022. Therefore, the Appeal was registered on 01.07.2022 and copy of the same was sent to the Addl. SE/ DS Sunder Nagar (Spl.) Divn., 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. 731-33/OEP/A-38/2022 dated 01.07.2022.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 12.07.2022 at 11.30 AM and an intimation to this effect was sent to both the parties vide letter nos.750-51/OEP/A-38/2022 dated 05.07.2022. As scheduled, the hearing was held in this Court and arguments of both the parties were heard.

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 deliberations made by the Appellant's Representative and the Respondent alongwith material brought on record by both the parties.

(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 LS Category Connection, bearing Account No. E42SN0100085 (Old) (3002810541 (New) with sanctioned load of 700.00 kW and CD as 700.00 kVA under DS Sunder Nagar (Spl.) Divn., Ludhiana since May, 2010.
- (ii) The Appellant was using the electricity connection under LS Category at his business premises w.e.f. May, 2010, but the Respondent failed to update the amount of ACD and meter securities paid by the Appellant from time to time in the SAP System and not allowed the interest due on the ACD and Meter Security as per Regulations of PSPCL.
- (iii) On 9th of August, 2016, the partner of the Appellant firm, Mr.Namit Jain, requested the Respondent for the up-dation of the entire amount of ACD and Meter Securities deposited with the Respondent from time to time and also to allow the due amount of interest on the security amount as per the instructions of the PSPCL.
- (iv) The Appellant had filed a Case before the Chairman, Zonal Refund Settlement Committee, headed by the Chief Engineer/

DS (Central), Ludhiana vide Case No. 674 of 2020 on 09.12.2020 for allowing the interest on ACD/ AACD and meter securities from 04.05.2010 to 31.03.2020 amounting to ₹ 12,82,634/- after updating each and every amount of ACD/ AACD and meter security deposited by the Appellant from time to time.

- (v) The Hon'ble Committee had deliberated the case and decided on 05.03.2021, that the refund/ credit of interest be given to the Appellant after getting it pre-audited from the AO/ Field, PSPCL, Ludhiana.
- (vi) On the direction of the Zonal Level Refund Settlement Committee of PSPCL, Ludhiana, the Respondent up-dated the Security amount of ₹ 29,17,822/- inclusive of the Meter Security of ₹ 28,500/- on 05.03.2021 in its SAP System and allowed the interest of ₹ 4,94,946/- up to March, 2020 against the total amount of interest from the financial years 2010-2011 to 2020-2021.
- (vii) The Appellant was not satisfied with the order dated 05.03.2021 of the Zonal Level Refund Settlement Committee, PSPCL, Ludhiana for not allowing the interest on the updated amount of ACD/ AACD and meter securities in terms of Regulations 17.1 and 17.3 of Supply Code-2014 and

Regulations 17.1 and 17.4 of Supply Code-2007. It filed Appeal in the Forum vide Appeal Case No. 56/2022 (T-18/2022) for the redressal of its grievances with regard to grant of interest on ACD/ AACD and meter securities updated in the SAP system from the date of deposit as per Regulation 17.4 of Supply Code, 2007 and Regulation 17.3 of Supply Code, 2014. The Forum failed to consider the submissions made in the Appeal by the Appellant as well as the reply tendered by the Respondent and rejected the Appeal arbitrarily.

- (viii) The Forum while deciding the case bearing No. CG-42 of 2018 titled as Rajesh Jain Vs CMC (Spl.) Divn., Ludhiana had observed as under:-

“Keeping in view the above, Forum came to the unanimous conclusion that applicable interest on Security (consumption) and Security (meter) from 01.01.2008 to 31.12.2014 in compliance of Regulation 17.4 of the Supply Code 2007 and from 01.01.2015 till date in compliance of Regulations 17.3 of the Supply Code 2014 after deducting the interest already paid to the Petitioner.”

- (ix) The Appellant was a law - abiding citizen of India and was regularly paying the electricity consumption bills raised by the PSPCL within the stipulated period as specified from time to

time. The Appellant was not in arrears and his accounts with the PSPCL were clear upto date.

- (x) From the statement of interest worked out by the Appellant from 04.05.2010 to 31.03.2022, it was apparent that from 04.05.2010 to 31.03.2016, the Respondent failed to pay/ credit any amount of interest in the Appellant's accounts from the date of deposit of ACD as per the decision of the Hon'ble Lokpal in the Appeal Case No. 82/2021 vide its order dated 25.10.2021 titled as "Rasik Industries Vs/ Addl. SE/ DS Division, PSPCL, Mandi Gobindgarh". The said order stated that the Respondent shall pay interest on the Security (Consumption) from the date of deposit as per regulations of the Supply Code-2014.
- (xi) The Appellant had worked out the interest from 04.05.2010 to 31.03.2016 as per Regulation 17.4 of Supply Code-2007 and 17.3 of Supply Code-2014 and for the remaining period, as per Regulation 17.1 of Supply Code-2014. As a result of which, the Appellant was entitled for the interest of ₹ 15,42,320/- and after adjusting the interest already allowed as ₹ 10,79,157/- (₹ 5,84,211/- + ₹ 4,94,946/-), the Appellant was entitled for the balance interest of ₹ 4,63,163/- upto 31.03.2022.

(xii) The claim of the Appellant was based upon the existing decisions of the Lokpal and the Forum, which had been made applicable by the PSPCL in letter and spirit of the order.

(xiii) The Appellant had prayed that in view of the submissions made above, the Appeal filed by it be accepted and the order dated 09.05.2022 passed by the Forum, being illegal and unconstitutional, be set-aside. Also, the Respondent be directed to pay/credit interest of ₹ 4,63,163/- as per the calculation sheet attached with the Appeal.

(b) Submission during hearing

During hearing on 12.07.2022, the Appellant's Representative (AR) 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 LS Category Connection, bearing Account No. 3002810541 with sanctioned load of 700.00 kW and CD as 700.00 kVA under DS Sunder Nagar Division, PSPCL, Ludhiana in its name.

- (ii) The Respondent stated that the Appellant gave a representation before the Zonal Refund Settlement Committee, Ludhiana that it had deposited ACD/ AACD from 2010 to 2020 amounting to ₹ 29,17,822/-, but total ACD was not updated in its account. The interest on the amount updated in the system was paid to the Appellant. After up-dation of all ACD/ AACD in SAP system, interest calculation sheet was provided to the Zonal Refund Committee.
- (iii) The Zonal Refund Committee decided the Case on 05.03.2021 that the refund/ credit of interest on security be given to the Appellant after getting it pre-audited from the AO/ Field. After getting pre-audit of the interest calculation sheet, interest amounting to ₹ 4,79,651/- was credited to the Appellant's account. After that the Appellant filed an Appeal against the order of Zonal Refund Settlement Committee, Ludhiana before the Forum on 24.02.2022.
- (iv) As per the decision of the Forum, it was decided that Review of Security cannot be considered being not a part of dispute challenged in Zonal Level Refund Committee. Interest as per Regulation 17.4 of Supply Code, 2007 & Regulation 17.3 of Supply Code, 2014 was disallowed. The decision of Zonal

Level Committee was upheld and interest on Security was allowed from the date of connection.

- (v) The Appellant was not satisfied with the decision of the Forum and he filed the Appeal before the Ombudsman.
- (vi) The Respondent admitted that earlier interest was given to the Appellant only on ACD/ AACD which was updated in SAP and after the decision of Zonal Refund Committee, interest amounting to ₹ 4,49,946/- was given to the Appellant on the all securities deposited by the Appellant from the date of connection. The Meter of the Appellant was installed in 2011.
- (vii) The Respondent stated that the copy of request letter attached by the Appellant with the Appeal was not received. It was neither found in any official record of his office nor it was marked by any official/ officer of his office. It was not acceptable.
- (viii) The Respondent admitted that in Supply Code-2014, it was mentioned that interest was to be given from the date of deposit of security. But in this case, Supply Code-2014 is not applicable because the Appellant deposited his first security on 04.05.2010 vide receipt no. 93/1562 amounting to ₹ 5,48,880/-. At that time, Supply Code-2007 was applicable. In Supply

Code-2007, it was not mentioned that interest was to be given from the date of deposit of ACD.

- (ix) The Respondent prayed that the Appeal may kindly be dismissed in the interest of justice.

(b) Submission during hearing

During hearing on 12.07.2022, the Respondent reiterated the submissions made in the written reply to the Appeal and prayed for the dismissal of the Appeal.

5. Analysis and Findings

The issue requiring adjudication is the legitimacy of claim of the Appellant for payment of interest on Security (Consumption) and Security (Meter) from the date of deposit and payment of Penal interest on the amount of Security (Consumption) and Security (Meter) as per Regulation 17.4 of Supply Code, 2007 and Regulation 17.3 of Supply Code, 2014.

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

- (i) The Appellant's Representative (AR) reiterated the submissions made by the Appellant in the Appeal. He pleaded that the Appellant was using the electricity connection under LS Category and the Respondent failed to update the amount of

Security (Consumption) and Security (Meter) paid by the Appellant from time to time in the SAP System and had not allowed the interest due on the amount of Security (Consumption) and Security (Meter) as per Regulations of PSPCL. On 9th August, 2016, the partner of the Appellant firm, Mr. Namit Jain, requested the Respondent for the up-dation of the entire amount of ACD and Meter Securities deposited with the Respondent from time to time and also to allow the due amount of interest on the security amount as per the instructions of the PSPCL. The Respondent had updated the Security amount of ₹ 29,17,822/- inclusive of the Meter Security of ₹ 28,500/- on 05.03.2021 in its SAP System as per directions of the Zonal Level Refund Committee and allowed the interest of ₹ 4,94,946/- upto March, 2020 against the total amount of interest from Financial Years 2010-2011 to 2020-2021. From the statement of interest worked out by the Appellant from 04.05.2010 to 31.03.2022, it was apparent that from 04.05.2010 to 31.03.2016, the Respondent failed to pay/ credit any amount of interest in the Appellant's accounts from the date of deposit of Security (Consumption) as per the decision of the Lokpal in the Appeal Case No. 82/2021 vide its order dated 25.10.2021 titled as "Rasik Industries Vs/ Addl.

SE/ DS Division, Mandi Gobindgarh”. It was decided by the Lokpal that the Respondent shall pay interest on the Security (Consumption) from the date of deposit as per regulation of the Supply Code-2014. The Appellant was entitled for total interest of ₹ 15,42,320/- and after adjusting the interest already allowed as ₹ 10,79,157/- (₹ 5,84,211/- + ₹ 4, 94,946/-), the Appellant got less interest of ₹ 4,63,163/- upto 31.03.2022. The Appellant prayed that in view of the submissions made above, the Appeal filed by it be accepted and the order dated 09.05.2022 passed by the Forum, being illegal and unconstitutional, be set-aside. Also, the Respondent be directed to pay/ credit interest of ₹ 4,63,163/- less received upto 31.03.2022 as per the calculation sheet attached with the Appeal.

- (ii) On the other hand, the Respondent controverted the pleas raised by the Appellant in its Appeal and reiterated the submissions made by the Respondent in the written reply. The Respondent argued that an amount of ₹ 29,17,822/- as Security had already been updated in the account of the Appellant and the Appellant had also agreed with it. Also, the additional interest of ₹ 4,79,651/- from the date of connection to 31.03.2022 on the updated Security amount had been credited to the account of

the Appellant after Pre-audit as per the decision of the Zonal Level Refund Committee. He argued that the alleged request letter dated 09.08.2016, the copy of which was attached by the Appellant with the Appeal, was neither found in any official record of his office nor it was marked by any official/ officer of his office. The Appellant never represented its grievance regarding up-dation of Security amounts before his office and directly approached the Zonal Level Refund Committee. The decision of the Zonal Level Refund Committee had been fully implemented. So Penal interest was not payable. He further argued that the provisions of Supply Code-2007 were applicable in the present case while the case of “Rasik Industries Vs Addl. SE/ DS Division, Mandi Gobindgarh” as quoted by the Appellant in its Appeal related to period in which provisions of Supply Code-2014 were applicable. As per Supply Code-2007, the interest on Security was allowed from the date of release of connection and not from date of deposit. Since the interest from the date of connection had already been given to the Appellant, so nothing was due to the Appellant from the Respondent on this account. The Respondent prayed that the Appeal may kindly be dismissed in the interest of justice.

(iii) The Forum in its order dated 09.05.2022 observed as under:

“Forum observed that as per the decision of Zonal Level Refund Committee there is no mention of any review of security which means that issue was not raised at that platform, therefore this dispute cannot be heard in Forum being not a part of dispute challenged in Zonal Level Refund Committee. Petitioner stated that the security has been updated upto his satisfaction and interest had also been given as per regulation 17.1 of Supply Code but he is also eligible for penal interest as per regulation 17.4 of Supply Code 2007 and as per regulation 17.3 of Supply Code 2014 and further the interest should be calculated from the date of deposit of security and not from date of connection. Forum further observed that as per Supply Code 2007 the interest on security is allowed from the date of release of connection and not from date of deposit and further it is observed that the Petitioner has not placed on record any representation made to Respondent during 2011 to 2021 for refund of interest on security and being a LS consumer, Petitioner is supposed to be vigilant and careful enough to get the things right as and when they occur. So, penal interest cannot be allowed in the present case and only interest as per regulation 17.1 can be allowed.

Respondent stated that the date of releasing this connection was 14.01.2011.”

(iv) I have gone through the written submissions made by the Appellant in the Appeal and submissions made by the Respondent in its reply as well as oral arguments of both the parties during the hearing on 12.07.2022. The claim of the Appellant regarding payment of penal interest/ interest on interest as per Regulation 17.4 of Supply Code, 2007 and Regulation 17.3 of Supply Code, 2014 is not tenable and maintainable as the Appellant who is LS Category Consumer had not made any representation to the Respondent for refund of interest on Security (Consumption) and Security (Meter) at

an appropriate time. The Appellant could not produce any concrete documentary evidence which shows that it had represented its grievance to the Respondent at an appropriate time. The copy of request letter dated 09.08.2016 attached with the Appeal did not contain anything which shows that it was received in the office of the Respondent. This letter was addressed to PSPCL Kakkowal Ludhiana & not addressed correctly to the Respondent. The Appellant failed to prove that this letter was ever delivered to the Respondent. The Appellant being a LS Consumer, should be vigilant about its rights and ignorance of the same on the part of the Appellant is no excuse. The Appellant itself failed to approach the Respondent at an appropriate time for redressal of its grievances and as such, the Appellant cannot take benefit of its own wrongs/ delays. The Security amounts are invariably shown on the monthly electricity bills served to the Appellant but he had never represented in the office of the Respondent for updation/ correction of Security amounts and payment of interest. The bills were not challenged for rectification of errors by the Appellant at an appropriate time. Delay on the part of the Appellant to file the representation for correction/ updation of securities should not result in additional income to the

Appellant at the cost of the Respondent (PSPCL). Therefore, this Court is of the view that the Appellant didn't take appropriate remedy at an appropriate time. As such, the claim of the Appellant for allowing penal interest/ interest on interest on the Security (Consumption) and Security (Meter) for the disputed period is decided against the Appellant after due consideration.

- (v) As regards the issue of the Appellant regarding payment of interest on Security from the date of deposit i.e. 04.05.2010 to the date of connection in the year 2011, this Court is of the view that the Distribution Licensee is required to pay interest on Security Amounts as per Sub-Section 4 of Section 47 of The Electricity Act, 2003, reproduced as under:

“The distribution licensee shall pay interest equivalent to the bank rate or more, as may be specified by the concerned State Commission, on the security referred to in sub-section (1) and refund such security on the request of the person who gave such security.”

Accordingly, the PSERC had provided for payment of interest on Security Amounts to the consumer as per Regulation 17 of Supply Code, 2007 and Supply Code, 2014. But in this case, the Distribution Licensee had failed to pay full interest on the Security to the Appellant as per the Electricity Act and regulations of the PSERC due to late up-dation of ACD

(Securities) in the account of the Appellant. The Appellant cannot be penalized for the faults/ deficiencies of the Respondent. The Respondent had not submitted any documents in respect of his contention that interest on Securities was payable only from the date of release of the connection. The Forum had erred in disallowing the interest on the Security Amount to the Appellant from the date of deposit of Security amount. It would be unfair if interest is not allowed as per the Electricity Act and regulations.

- (vi) In view of the above, I am inclined to modify the decision dated 09.05.2022 of the Forum in case of CGL 56/2022 (T-18/2022) to the extent to allow the interest on Security Amount from the date of deposit i.e. 04.05.2010 instead of date of connection (14.01.2011).

6. Decision

As a sequel of above discussions, the order dated 09.05.2022 of the CGRF, Ludhiana in Case No. CGL-56 of 2022 (T-18/2022) is amended to the extent to allow the interest on Security Amount from the date of deposit i.e. 04.05.2010 instead of date of connection.

- 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.

July 12, 2022
S.A.S. Nagar (Mohali)

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