

**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. 56/2021

Date of Registration : 04.08.2021

Date of Hearing : 27.08.2021

Date of Order : 07.09.2021

Before:

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

In the Matter of:

M/s. Bansal Rice Mills (Unit-2),
Phul Road, Rampura Phul-151103.

Contract Account Number: 3002963561(MS)

...Appellant

Versus

Sr. Executive Engineer,
DS Division, PSPCL, Rampura Phul.

...Respondent

Present For:

Appellant: Sh. S. R. Jindal,
Appellant's Representative.

Respondent : Er. Sudhir Kumar,
Sr. Xen/ DS Division,
PSPCL, Rampura Phul.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 02.07.2021 of the Consumer Grievances Redressal Forum (Forum), Patiala in Case No. CGP-72 of 2021, deciding that:

- *“No interest is payable on the amount of HT Rebate agreed upon between the petitioner and the respondent for the period 06/2015 to 01/2020.*
- *Respondent is directed to allow TOD rebate to the petitioner for the period 01.11.2017 to 26.3.2018 as per the TOD data of the DDL report without any interest. Petitioner is eligible for TOD rebate for the total period 26.3.2018 to 31.3.2019 but TOD rebate is not allowed on the proportionate basis. However, respondent may seek instructions/clarification from the competent authority and action be taken accordingly.*
- *The account of the petitioner be overhauled for period 07.10.2017 to 31.03.2018 against 13.49% slowness of meter as per Enforcement Checking report no. 12/1935 dtd 27.03.2018 & as per the provisions of Supply Code Regulation and the excess amount charged be refunded to the petitioner.*
- *Refund corresponding to 7828 KVAH units for period 30.05.2017 to 29.06.2018 be given to the petitioner as per the provisions of relevant Tariff orders without any interest.*
- *The respondent is directed to revisit the billing for the period 01.03.2016 to 06/2019 for checking undue surcharges / interest levied if any, double debit entries if*

any and overhaul petitioner's account accordingly. The RCO fees be levied only once at the time of actual re-connection.

- *The wrong demand surcharge charged in the bill for the period 14.03.2019 to 04.04.2019 be refunded to the petitioner. The respondent is directed to overhaul the account of the petitioner as per above and refund/recover the amount found excess/short after adjustment if any after getting the same pre-audited.”*

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 04.08.2021 within thirty days of receipt of copy of decision dated 02.07.2021 by the Appellant on 12.07.2021. The Appellant was not required to deposit the requisite 40% of the disputed amount as relief claimed was on account of refund of HT rebate, TOD rebate, OTS interest etc. Therefore, the Appeal was registered and copy of the same was sent to the Sr. Executive Engineer/ DS Division, PSPCL, Rampura Phul for sending written reply/ para wise comments with a copy to the office of the CGRF, Patiala under intimation to the Appellant vide letter nos.1091-93/OEP/A-56/2021 dated 04.08.2021.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 18.08.2021 at 01.00 PM and an intimation to this effect was sent to both the parties vide letter nos.1122-23/OEP/A-56/2021 dated 12.08.2021. The hearing could not be held on 18.08.2021, as the Appellant's Representative sought adjournment of the case on the ground that he wanted time for filing rejoinder. Accordingly, on 18.08.2021, the case was adjourned to 27.08.2021 at 12.00 Noon in the interest of justice and an intimation to this effect was sent to both the parties vide letter nos. 1141-41/OEP/A-56/2021 dated 18.08.2021. As scheduled, the hearing was held on 27.08.2021 in this Court on the said date and time. Arguments were heard of both parties and order was reserved. Copies of the proceedings were sent to the Appellant as well as the Respondent vide letter nos. 1195-96/OEP/A-56/2021 dated 27.08.2021.

4. Submissions made by the Appellant and the Respondent

Before undertaking analysis of the case, it is necessary to go through written submissions made by the Appellant and reply of the Respondent as well as oral submissions made by the Appellant's Representative and the Respondent alongwith material brought on record by both the sides.

(A) Submissions of the Appellant

(a) Submissions made in the Appeal

The Appellant made the following submissions in its Appeal for consideration of this Court:-

- (i) The Appellant was having a Medium Supply Category Connection with sanctioned load of 90.280 kW and Contract Demand (CD) as 99 kVA for its Rice Mill.
- (ii) The Appellant had filed Petition before the Forum on 24.12.2019 for wrong/excess billing/ rebates not allowed in current billing since 2015 to date for refund of ₹ 6,13,915/-. The case was registered as T-410 of 2019 and hearing of the case was first conducted on 17.01.2020 and the same was closed for speaking order on 18.06.2021.
- (iii) The detailed history of the case was that the Respondent had not been allowing HT rebate since 06/2015 to date when billing was converted to Computerized System by the Respondent in respect of all such consumers (nearly 35 No's) like the Appellant. When the point regarding the mistake came to the notice of the Respondent, the Respondent had not bothered to rectify the mistake in respect of all consumers but it allowed to those consumers deliberately who fulfilled their demands. The Respondent had not dealt with the Appellant fairly and honestly

to allow HT rebate/correct billing when the point came to the notice of the Respondent firstly. The respondent had now calculated refund of ₹ 75,829/- for the period 06/2015 to 01/2020 whereas interest on the amount on account of wrong billing had not been allowed as per Supply Code Clause 35.1.3. The Appellant had not given consent that interest may not be allowed. The Appellant had never agreed to allow HT rebate without any interest and it had been wrongly mentioned in the decision of the Forum. The Appellant had insisted for interest under rules on the HT rebate. The Forum had added these remarks in the decision which are controversial and contradictory with their own thought without any evidence. If the Respondent had any proof/evidence regarding this, the same may be produced before this Court. For adding such type of remarks beyond rules had damaged the Appellant and required detailed investigation but the Appellant be allowed interest on refund as per the provision of PSPCL Clause 35.1.3.

- (iv) The Appellant had claimed from 10/2015 to date rebate on account of TOD as per the provision of the rules. The rebate for the period 03/2018 to 03/2019 had not been allowed. The decision to seek instructions/clarifications from the Competent Authority as decided by the Forum in its decision was not

justified and genuine. The point was raised on 24.12.2019 through Petition filed before it but the Appellant was surprised that Forum could not proceed the matter during the period of 19 months and now irrelevant remarks had been added in the decision. The responsibility lies on the part of the Respondent to sort out the issue as per Circular No. 59/2013 dated 30.12.2013/ 35.1.3 where interest at the prevailing rate was allowed. The negligence not to allow rebate in time lies on the part of the Respondent who had not cared for instructions of the PSPCL for not allowing rebate on account of TOD timely.

- (v) The Respondent in its reply against the debit raised in the bill dated 31.07.2018 had stated that the amount was debited in the bill without any notice against the checking of Enforcement/ Bathinda dated 27-03-2018 in which the meter was found slow by 13.49 % due to carbon. The Respondent in its record had admitted that the notice in this regard was not issued as per the provision of the rules. Secondly the checking was not made in view of the provision of rules 59.1.3 and CC No. 7/2019 on the basis of active and reactive mode as per provision of the rules, hence be declared null and void. No simultaneously checking in ME Lab/DDL of the meter had been recorded. The billing to the consumer had been made on kVAh meter whereas checking

of kWh meter had been performed by the checking agency. As regard to charging of amount beyond 6 months, the Respondent had withdrawn ₹ 4,688/- which was not acceptable because the checking was not made as per rules. However, the debited amount of ₹ 70,444/- was also charged alongwith interest @ 18% per month in the Chronology Statement which should be withdrawn in the interest of justice.

- (vi) This Court in Appeal Case No. A-38/2021(decided on 28.04.2021) had set aside the decision of the Forum where the refund of fast meter by 24% as checked by the Enforcement was allowed for six months where the checking was done of kWh meter only. It was strange that the checking agency who was supposed to be acquainted with relevant instructions/ rules had not performed the checking as per instructions.
- (vii) The adjustment of the bills prepared at the start of the season was to be made at the end of the season (June) every year in view of the CC No. 40/2012 but the Respondent had not cared for the same. Now the Respondent had agreed before the Forum to adjust excess billing/rebate of ₹ 1,58,791/- vide letter No. 2466 dated 25.03.2021 but interest had not been allowed on the said amount in view of the instructions and the same should be allowed.

(viii) The Appellant had applied on 16.08.2018 by depositing necessary processing fee for review of account under OTS scheme circulated by PSPCL vide CC No. 35/2018 dated 24.05.2018 and as per the provision of this circular, demand notice with relief amount was to be given to the Appellant within 30 days from the deposit of necessary fee but the Respondent forwarded the cases of six consumers who filed applications for similar relief under the provision of the circular to the AO/ Field, Bathinda vide its letter no. 3618 dated 16.10.2018 after a period of 60 days. None of the case had been approved by the Competent Authority so far as reported by the Respondent in the RTI filed by the Appellant in this connection.

(ix) The Appellant had calculated refund of ₹ 36,423/- whereas case for refund of ₹16,141/- had been sent by the Respondent to AO/ Field, Bathinda vide its Memo No. 148 dated 28.01.2021. Now before the Forum, Respondent had agreed to allow refund of ₹ 1,520/- which was self contradictory and controversial itself. The dealing of the Respondent was not fair to allow due amount whereas it had billed 18% per month interest on the outstanding amount.

- (x) The Respondent alongwith the petition filed on 14-12-2019 was provided detail of amount charged from 01.03.2016 to 23.06.2019 in the Chronology Statement in which unnecessary debits were raised on account of Sundry Charges/ RCO fees/ Surcharge/ Interest/ double entries of debits etc. Out of which the respondent had reconciled only few items. The refund on account of RCO Fee debited 35 times + interest 18% debited to the account of the Appellant had not been withdrawn whereas the connection had never been disconnected during the disputed period.
- (xi) During the proceeding before the Forum on 19.02.2021, a list of double entries debited in the Chronology Statement was provided and the Forum had ordered to reconcile and check cross entries and submit the details to provide relief to the Appellant but no reply/action had been taken by the Forum and the Respondent so far.
- (xii) It was duty of the Respondent as per the provision of the rules to provide accurate/ correct billing to the consumers. It was brought to notice of this Court that in Case No. CGP-426 of 2018 of M/s. Garg Rice Mills of Rampura Phul Division, Forum found wrong billing during the disputed period which was similar to the case of the Appellant and ordered waiving of

entire surcharge/ interest during the said period which was refunded to the consumer amounting to ₹ 12.00 lac approximately and the Respondent had not filed further Appeal against the order of the Forum.

(xiii) Due to wrong billing of excess amounts debited without any details, the Appellant had become defaulter because in the office of the Respondent nobody cared to listen to the complaint of the Appellant. The Respondent had now agreed to give refund of ₹ 1,58,791/- without any surcharge/interest which was/ is not fair and genuine.

(xiv) The Appellant had prayed to allow at least ₹ 50,000/- compensation on account of mental, physical, financial harassment given by the Respondent during the period of dispute.

(b) Submissions made in Rejoinder:

The Appellant in its rejoinder to written reply of the Respondent, prayed as under:

(i) HT Rebate due since 06/2015 had been allowed but interest as demanded had not been allowed. The interest was due under Regulation 35.1.3 of Supply Code. It was ordered to allow TOD rebate after taking approval from the Competent Authority but no such rule/direction had been quoted in the

decision of the Forum. If the readings/data were not available, the same may be got available as the TOD rebate due from 26.03.2018 to 31.03.2019 had not been allowed without any fault of the Appellant. Moreover, interest was also payable on the amount in view of CC No. 59/2019 dated 30.12.2013/ Regulation 35.1.3 of Supply Code.

- (ii) In the bill for the month of 07/2018 against checking dated 27.03.2018, a sum of ₹ 70,444/- which was debited without serving any notice, carried 18% interest per month on outstanding amount of bill. The checking of kWh meter by Enforcement was null and void as billing was being done since 2014 on kVAh meter and the meter was not checked in view of ESIM clause 59.1.3. It should be treated as null & void and refund be allowed.
- (iii) SMEC charges amounting to ₹ 47,281/- had been adjusted as per CC No. 40/2012 but adjustment of billing always carried under Supply Code clause 35.1.3 as 18% interest was charged on outstanding amount.
- (iv) PSPCL as per direction of PSERC had issued CC No. 35/2018 dated 24.05.2018 but the said direction was not followed by the Respondent. In all the cases of six consumers, who had applied OTS scheme, none was allowed due benefit of surcharge plus

interest. The cases were neither forwarded well in time nor approved for issue of Demand Notice. Refund of ₹ 16,141/- was allowed but was due amounting to ₹ 36,423/-, be allowed. The calculation was not correct and adjustment of ₹ 1,520/- was not acceptable.

- (v) The Respondent had debited ₹ 4,25,192/- from 03/2016 to 23.06.2019 whereas billing to the Appellant served from 06/2015 was illegal and unnecessary surcharge plus interest was carried on regularly against wrong bills. There was no logic/rules for charging surcharge plus interest on wrong bills which had been admitted by the Respondent in its reply also. Adjustment of ₹ 1,94,776/- had been approved on account of wrong bills served upon the Appellant but no rule provides to charge surcharge plus interest on wrong bills and the same be withdrawn in the interest of justice.

(c) Submission during hearing

During hearing on 27.08.2021, the Appellant's Representative reiterated the submissions made in the Appeal as well as in the rejoinder and prayed to allow the relief claimed.

(B) Submissions of the Respondent

(a) Submissions in written reply

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

- (i) HT rebate was not levied since 06/2015 to the Appellant when system was changed from Non-SAP to SAP and now as per decision of the Forum, HT Rebate amounting to ₹ 86,027/- had been refunded to the Appellant and HT Rebate flag has been updated in the SAP system. Interest was not allowed to the Appellant as per first para of the impugned order of the Forum dated 02.07.2021.
- (ii) TOD rebate from 01.11.2017 to 26.03.2018 amounting to ₹ 20,037/- had been refunded to the Appellant as per decision of the Forum. TOD Rebate was not given to the Appellant for the period from 26.03.2018 to 31.03.2019 as TOD readings were not available and hence no TOD rebate was given to the Appellant for that period. Interest was not allowed to the Appellant as per para second of the order dated 02.07.2021 of the Forum.
- (iii) The Appellant was charged amount of ₹ 70,444/- in billing month 07/2018 for meter slowness. The calculations had been revised and the Appellant was charged for 06 months for meter slowness and excess amount of ₹ 5,957/- was refunded to the Appellant on 02.08.2021 which was according to para third of

the order dated 02.07.2021 of the Forum. Date of checking was 27.03.2018 which was prior to CC No. 07/2019 so this was not applicable on this case of the Appellant.

- (iv) SMEC charges as per CC No. 40/2012 were refunded to the Appellant amounting to ₹ 47,281/- on 02.08.2021 and interest was not allowed to the Appellant as per para four of the order dated 02.07.2021 of the Forum.
- (v) The case of the Appellant under OTS was reviewed and it was found that no refund was applicable to the Appellant under OTS as the interest charged to the Appellant during the defaulting period was less than the relief given under OTS. Reviewed calculations under OTS had been supplied to the Appellant.
- (vi) Interest and surcharge were charged on the defaulting amount of the Appellant automatically in the SAP system as per regulations and there was no manual posting of interest or surcharge in the account of the Appellant. As per decision of the Forum, RCO fees amounting to ₹ 5,250/- were refunded to the Appellant. Double entries which were debited in the Chronology Statement were related with interest charged by the system in two parts. These debit entries were payable by the Appellant.

(vii) The Respondent had prayed that the decision of the Forum had been implemented within the stipulated period and amount had been refunded after pre-audit from AO/ Field, Bathinda. Further, the relief of surcharge and penal interest levied to the Appellant due to nonpayment of electricity bills was not admissible being beyond period of limitation.

(b) Submissions made in reply to Rejoinder:

The Respondent in its reply to rejoinder of the Respondent, prayed as under:

- (i) As per the decision of the Forum, a reference was sent to Sr. Xen/ Enforcement-02, Bathinda vide letter no. 2416 dated 22.07.2021 for seeking clarification regarding TOD Rebate on proportionate basis.
- (ii) The Appellant was charged amount of ₹ 70,444/- in billing for the month of 07/2018 for meter slowness. Now calculation was revised and the Appellant was charged for 06 month for meter slowness and excess amount of ₹ 5,957/- charged, was refunded on 02.08.2021.
- (iii) SMEC charges as per CC No. 40/2020 were refunded but interest was not allowed to the Appellant by the Forum.
- (iv) The Appellant's Case under OTS had been reviewed and found that no refund was applicable to the Appellant under OTS as

the interest charged to the consumer during the defaulting period was less than the relief given under OTS. Reviewed Calculations under OTS had already been given to the Appellant.

- (v) Interest and surcharge were charged on the defaulting amount of the consumer automatically in the SAP system as per regulations and no manual posting of interest or surcharge was done in the account of the consumer. As per the decision of the Forum, RCO fees amounting to ₹ 5,250/- were refunded to the Consumer. Double entries which were debited in the Chronology Statement were related with interest and surcharge & were charged by the system in two parts. These debits were also payable by the Appellant.

(b) Submission during hearing

During hearing on 27.08.2021, the Respondent reiterated the submissions made by it in the written reply and contested the submissions of the Appellant's Representative. He had requested for dismissal of the Appeal of the Appellant.

5. Analysis and Findings

The issues requiring adjudication as prayed in the Appeal are as below:-

- (i) Payment of interest on the amount of HT Rebate;
- (ii) Grant of TOD rebate and interest thereon;
- (iii) Overhauling of the account of the Appellant due to 13.49% slowness of meter;
- (iv) Adjustment of accounts as per CC No. 40/2012 alongwith interest;
- (v) Review of accounts under OTS scheme as per CC No. 35/2018;
- (vi) Wrong Charging of Surcharge/Interest/RCO fee/ double entries of debits/ Sundry charges etc.

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

I have gone through the arguments of both the parties. The Appellant had reiterated the averments made by it in the Appeal and requested that the reliefs sought should be granted as prayed in its Appeal.

The Respondent had pleaded to uphold the decision of the Forum and requested for the dismissal of the Appeal on the ground that the decision of the Forum had been implemented and now the Appellant was not entitled to anything more than already granted to it.

After going through the submissions/rejoinders of both the parties and the material brought on record, the issues raised in the Appeal are discussed as under:-

ISSUE (i)

- (i) The Appellant was having a Medium Supply Category connection with sanctioned load of 90.280 kW and CD as 99 kVA for its Rice Mill. He had prayed for allowing HT rebate since 06/2015 to date alongwith interest. The Respondent had intimated that HT rebate of ₹ 86,027/- had been refunded/granted without interest as per decision of the Forum and HT rebate flag was updated in SAP system.
- (ii) The Appellant did not point out or represent to the Respondent about the issue of non receipt of HT Rebate during the period from 06/2015 onwards. HT rebate was invariably depicted in the monthly electricity bills served to the Appellant but he had failed to challenge the bills to get the mistakes rectified and even did not bother to represent in the office of the Respondent about this lapse. All the regulations and tariff orders are available on the websites of PSERC and PSPCL. The Appellant(MS Industrial Consumer) did not take appropriate remedy at an appropriate time and had failed to exercise its obligation to approach the Respondent in time for attending this

issue. HT rebate already allowed by the Forum relates mostly to the period which was more than two years old from the date of filing of the petition in the Forum. The Forum had not invoked Regulation No. 2.27 (c) of PSERC (Forum and Ombudsman) Regulations, 2016 while settling this issue. The Appellant had already been benefited by the Forum due to grant of the refund of HT Rebate relating to the very old period prior to two years. Further, the Forum had mentioned about the fact that the decision was as per consent of both the parties although the same was denied by the Appellant during the submissions made in this Court. This Court had no reason to differ with the decision of the Forum signed by all Members and Chairperson of the Forum on 02.07.2021. The Respondent also failed to update HT rebate Flag in SAP system for a very long time and this was a serious lapse on the part of the Respondent. In view of above analysis, I am not inclined to allow any interest as claimed by the Appellant and uphold the decision of the Forum on this issue.

ISSUE (ii)

- (i) The Appellant had claimed from 10/2015 to date rebate on account of TOD as per provisions made in the regulations and tariff orders. TOD rebate given to the consumers was invariably

depicted in the monthly electricity bills served to them. The Appellant did not challenge the bills to get the TOD rebate if the same was not appearing in the bills. He did not make any representation in the office of the Respondent for grant of TOD rebate whenever the same was admissible. The Forum had mentioned in its order that TOD rebate for the period prior to 11/2017 was not considerable for decision being time barred under Regulation 2.27 of PSERC (Forum & Ombudsman) Regulations, 2016 because the Appellant had approached the Forum in 12/2019. TOD rebate from 01.11.2017 to 26.03.2018 of ₹ 20,037/- had already been given by the Respondent without interest as per decision of the Forum. The rebate for the period 27.03.2018 to 31.03.2019 had not been given because TOD readings were not available with the Respondent. MS consumers opting for TOD tariff have to arrange their own meters capable of recording TOD readings/ data as per time blocks mentioned in the tariff orders. Detailed instructions were issued in this regard on the basis of tariff orders of PSERC vide Commercial Circular Nos. 46/2014 dated 04.09.2014 & 16/2015 dated 07.05.2015. The appellant failed to get the meter installed as per PSERC directions given in the tariff orders. Storage of data is for limited period in the energy meter

installed at the premise of the Appellant and cannot be retrieved now at this stage relating to the period 27.03.2018 to 31.03.2019. Had the Appellant pointed out the non-receipt of TOD rebate immediately after receipt of bills, admissible TOD rebate may have been granted.

- (ii) I had observed that the Appellant did not point out or represent to the Respondent about the issue of non-receipt of TOD Rebate for a very long time. The Appellant did not take appropriate remedy at appropriate time and had failed to exercise its obligation to approach the Respondent in time for attending to this issue. The onus for not taking appropriate remedies rests with the Appellant being a MS consumer. The Appellant failed to point out to the Respondent to take timely action for giving it TOD Rebate. This lapse of the Appellant led to washing of stored data of the meter which had limited storage capacity. It is true that TOD consumption for calculation of TOD rebate cannot be determined in the absence of correct TOD readings. The onus for this lapse also lies on the Appellant because he failed to get the TOD Compliant Meter installed although the directions in this regard were issued vide CC No. 46/2014 & CC No. 16/2015. It was receiving regular energy bills from the Respondent and in all the bills, the details

of various amounts charged/rebates given were invariably depicted and the Appellant failed to exercise its obligation to take appropriate remedy at appropriate time.

- (iii) TOD rebate at this stage cannot be worked out/assessed for the period 27.03.2018 to 31.03.2019 because TOD data relating to this period could not be downloaded from the meter now. It might have been lost due to limited storage capacity. Further, the Appellant had failed to install TOD compliant meter at its premises and as such, the Appellant cannot ask for benefits for its own wrongs, delays and laches. I am not inclined to allow any interest on the payment of ₹ 20,037 already made relating to period from 01.11.2017 to 26.03.2018. The Forum had rightly decided that TOD rebate prior to 01.11.2017 was not considerable in view of Regulation 2.27 (c) of PSERC (Forum & Ombudsman) Regulations, 2016. The Appellant could not be granted any TOD rebate during the period from 27.03.2018 to 31.03.2019 because readings/data for this period are not available due to lapses on the part of the Appellant as well as the Respondent. The Respondent should investigate and fix responsibility of delinquent officers/ officials who had failed to obtain TOD data/readings required for working out admissible TOD rebate.

ISSUE (iii)

- (i) The Appellant had pleaded that an amount of ₹ 70,444/- charged on 31.07.2018 on account of 13.49% slowness of meter detected as per Enforcement Checking No. 12/1935 dated 27.03.2018 was not acceptable because the accuracy of the meter was checked for kWh consumption only whereas billing of the connection was being done on kVAh basis. The checking of Enforcement was incomplete and cannot be the basis for overhauling of account with 13.49% slowness for six months as decided by the Forum. The Respondent had informed that the Appellant was charged an amount of ₹ 70,444/- in the billing month of 07/2018 for meter slowness. Now, calculation was revised for 06 months for meter slowness and excess amount of ₹ 5,957/- was refunded on 02.08.2021. Date of checking (27.03.2018) was prior of CC No. 07/2019 and this circular was not applicable on this case. It is observed that accuracy of kVAh consumption was not determined by Enforcement on 27.03.2018 although billing of this connection was being done on kVAh basis. Slowness of 13.49% of kWh part cannot be made applicable for overhauling of kVAh consumption for six months prior to date of checking. The decision of the Forum on this issue is against the basic principles of Electrical

Engineering. The perusal of checking report of Enforcement revealed that the meter was found slow by 13.49% on kWh consumption due to wrong connections of CT/PT wires. The Respondent in its record had admitted that the notice in this regard was not issued as per the provision of the regulations. The Appellant was not given any opportunity to represent against the checking but the checking report had signatures of the Consumer. The accounts (kVAh Consumption) of this meter should be overhauled by treating it as defective meter because the testing of kVAh consumption was not done during checking of connections on 27.03.2018 by the Enforcement. The account of the Appellant should be overhauled for six months prior to date of checking (27.03.2018) as per Regulation No. 21.5.2 (d) & (e) of Supply Code, 2014. The decision of the Forum is modified.

ISSUE (iv)

- (i) The Appellant submitted that the adjustment of the bills prepared at the start of the season should be made at the end of the season (June) every year in view of CC No. 40/2012 but the Respondent had not cared for the same. Now, the Respondent had agreed to adjust excess billing/rebate not allowed amounting to ₹ 1,58,791/- before the Forum vide Memo No.

2466 dated 25.03.2021 but interest had not been allowed on the said amount in view of the instructions and the same should be allowed.

- (ii) The observations/findings of the Forum relating to this issue are as below:-

“Petitioner has stated that the bills for period 28.02.2017 to 31.03.2017 were issued for 6304 units (12400- 6096) whereas during the year 69934 units were consumed against SMEC units required 64110 and adjustment of 5824 units excess billed (Rs. 38080/-) is required to be made. Respondent has stated that 6095 KVAH units have already been adjusted in the 31.03.2017 bill. The petitioner has agreed to the contention of respondent and the matter is resolved between the parties.

Petitioner has stated that bills for the period 08.08.2017 to 31.10.2017 (84 days) prepared for SMEC units adjustable and bills for the period 30.05.2017 to 29.06.2018 requires adjustment of SMEC units amounting to Rs. 96,000/-. Respondent in his reply has stated that as per record, 7828 KVAH units (71938-64110) are refundable for the said period. The petitioner has agreed to the contention of respondent.

Petitioner has stated that bills for period 21.01.2019 to 14.02.2019 were prepared for 35966 units without allowing Govt. Subsidy and has claimed an amount

of Rs. 41,000/- . The Respondent has stated that the necessary rebate has already been allowed in the subsequent bill for the month 04/2019. The petitioner has agreed to the contention of respondent and the matter is resolved between the parties”.

It is evident from the above that 7828 kVAh are refundable as agreed by the Appellant. The Respondent had intimated that SMEC charges as per CC No. 40/2012 amounting to ₹ 47,281/- had been refunded on 02.08.2021 without interest as per decision of the Forum. The Appellant failed to exercise its obligation to approach the Respondent in time for attending this issue. As the onus for not taking appropriate remedies rests with the Appellant being a MS industrial consumer, so the Forum rightly decided not to give interest on this old payment.

ISSUE (v)

- (i) The Appellant applied on 16.08.2018 by depositing processing fee for review of account under OTS scheme circulated vide CC No. 35/2018 dated 24.05.2018. Demand notice with relief amount was to be given within 30 days from the deposit of necessary fee. This case had not been approved by the Competent Authority so far.
- (ii) The Respondent had informed that the case of the Appellant under OTS scheme was reviewed and found that no refund was applicable to the Appellant under OTS scheme as the interest

charged to the Appellant during the defaulting period was less than the relief given under OTS.

(iii) The findings/ observations of the Forum relating to this issue are as below :-

“Petitioner has stated that their connection was disconnected and re-connected under OTS scheme as per CC 35/2018. They have applied for reviewing their account under OTS scheme and deposited processing fees for getting benefit of Surcharge/interest. But they were not given any relief under OTS scheme. Respondent has stated that under OTS scheme, no refund is admissible as per AO/field, Bathinda letter no. 422 dated 06.02.20. As per clause No. B(a) of Commercial Circular No. 35/2018, the refund of surcharge under OTS scheme is not considerable because the petitioner has not deposited the subsequent bills regularly. Further the Petitioner has not been charged interest @ 1.5% per month in his account and as such petitioner is not eligible for benefit under OTS scheme. Petitioner has stated that as per memo no. 148 dtd 28.01.2021, Rs. 16,141/- were refundable but the respondent has now calculated refundable amount as Rs. 1,520/- whereas as per their calculation, the refundable amount under OTS is Rs. 36,423/-.

Forum after considering the contention of the Petitioner and Respondent brought out in written and verbal submissions during the course of proceeding is of the opinion that as per clause No. B(a) of Commercial Circular No. 35/2018, the refund of surcharge under OTS scheme is not considerable

because the petitioner has not deposited the subsequent bills regularly and as such petitioner is not eligible for benefit under OTS scheme. It has been observed that the petitioner connection was permanently disconnected during 04/2019 and the petitioner opted for reconnection during Oct./ 2019 after depositing 50% of amount and requested for 2 no. installments of the pending dues meaning thereby the petitioner has agreed to the pending dues amount on that day in Oct./ 2019 and also agreed to deposit 50% amount in one go and as such the issue of allowing benefits to the petitioner under OTS scheme at this belated stage is not considerable now. The respondent corporation subsequently allowed the installments of the pending energy bill dues and connection of the petitioner was restored. However, the petitioner did not deposit the complete installments as per agreed schedule”.

This Court agrees with above findings of the Forum. The Appellant is not entitled to any relief under OTS Scheme.

ISSUE (vi)

- (i) The Appellant submitted that the Respondent had provided detail of amount charged from 01.03.2016 to 23.06.2019 in the Chronology Statement in which unnecessary debits were raised on account of Sundry Charges/ RCO fees/ Surcharge/ Interest/ double entries of debits etc. Out of which the respondent had reconciled only few items. The refund on account of RCO Fees debited 35 times + interest 18%

debited to the account of the Appellant had not been withdrawn whereas the connection had never been disconnected during the disputed period. Interest and surcharge were charged on the defaulting amount of the Appellant automatically in the SAP system as per regulations and there was no manual posting of interest or surcharge in the account of the Appellant. As per decision of the Forum, RCO fees amounting to ₹ 5,250/- were refunded to the Appellant. Double entries which were debited in the Chronology Statement were related with interest charged by the system in two parts. These debit entries were payable by the Appellant.

- (ii) The findings of the forum relating to this issue are as below:-

“Petitioner has stated that they have been charged with Surcharge/interest, RCO Fees, Sundries, interest amounts during the period 01.03.2016 to 06/2019. There are 35 no. entries of Rs. 250/- each debited on account of RCO Fees. Further there are double debit entries of Surcharge/interest and requested for reviewing the same. Respondent has stated that surcharge/interest has been charged to the petitioner due to nonpayment of energy bill amount within due period as per Clause no. 35.1.1 of Supply Code and as such his demand to wave off these

charges is not maintainable. Further the RCO fees have been levied as per SAP System instructions for billing.

Forum after considering the contention of the Petitioner and Respondent brought out in written and verbal submissions during the course of proceedings is of the opinion that Surcharge/ Interest on the unpaid bill amounts is leviable as per the provisions of Supply Code Regulation and RCO Fees is leviable only once at the time of actual re-connection. All the double debit entries appearing in the account statement need to be re-checked. The respondent also need to re-visit the billing for period 01.03.2016 to 06/2019 and make adjustments as per above wherever required”.

- (iii) Keeping in view the submissions made by Appellant and Respondent, this Court upholds the decision of the Forum relating to this issue.

Further, the Appellant had prayed to allow at least ₹ 50,000/- compensation on account of mental, physical & financial harassment given by the Respondent during the period of dispute. There is nothing on the record to prove the charges of mental, physical and financial harassment of the Appellant. I am not inclined to award any compensation to the Appellant in this Appeal case.

6. Decision

As a sequel of above discussions, Appeal No. A-56 of 2021 is hereby disposed of as detailed below:-

- (i) No interest is payable on HT rebate amounting to ₹ 86,027/- already refunded.
- (ii) No interest is payable on the TOD rebate amounting to ₹ 20,037/- already refunded for the period 01.11.2017 to 26.03.2018. TOD rebate for the period 27.03.2018 to 31.03.2019 cannot be assessed/ worked out because TOD data/ readings for this period are not available with both parties. Both parties are responsible for missing TOD data/ readings.
- (iii) Overhauling of the accounts of the Appellant on the basis of Enforcement Checking No. 12/1935 dated 27.03.2018 should be done for six months prior to 27.03.2018 as per Regulation No. 21.5.2 (d) & (e) of Supply Code, 2014 by treating the meter as defective.
- (iv) The decision of the Forum regarding refund of 7828 kVAh consumption for the period from 30.05.2017 to 29.06.2018 without any interest is upheld. A refund of ₹ 47,281/- was given by the Respondent on 02.08.2021 to the Appellant.
- (v) No refund is payable to the Appellant under OTS scheme.
- (vi) The decision of the Forum to revisit the billing for the period 01.03.2016 to 06/2019 for checking undue surcharge/ interest levied if any, double debit entries, if any and overhauling of the

account of the Appellant accordingly is upheld. RCO fees amounting to ₹ 5,250/- stand refunded to the Appellant.

(vii) No compensation is granted/ awarded as prayed in the Appeal.

(viii) The Respondent is directed to recalculate the demand and refund/ recover the amount found excess/ short after adjustment, if any, with surcharge/ interest (if applicable) as per instructions of PSPCL.

7. 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.
8. 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.

September 7, 2021.
S.A.S. Nagar (Mohali)

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