

**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. 58/2021

Date of Registration : 05.08.2021

Date of Hearing : 18.08.2021

Date of Order : 18.08.2021

Before:

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

In the Matter of:

M/s. Sartaj Rice Mills,
Sadarwala Road, Sri Muktsar Sahib.
Contract Account Number 3002490404

...Appellant

Versus

Additional Superintending Engineer,
DS Division,
PSPCL, Sri Muktsar Sahib.

...Respondent

Present For:

Appellant: Sh. Parshotam Girdhar,
Appellant's Representative.

Respondent : 1. Er. Parnpal Singh,
Additional Superintending Engineer,
DS Division, PSPCL,
Sri Muktsar Sahib.

2. Sh. Rajan Sahni,
Upper Division Clerk.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 22.06.2021 of the Consumer Grievances Redressal Forum (Forum), Patiala in Case No. CGP-191 of 2021, deciding that:

“After going through the above position and in view of the facts brought out in the petition and during proceedings, Forum directs the respondent to allow admissible HT Rebate to the Petitioner from 03/2018 to 11/2018 (upto date of actual conversion from MS to LS) as per the provisions of relevant Tariff orders applicable from time to time after pre-audit. However, no interest on the amount of HT Rebate is payable to the petitioner.”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 05.08.2021 within thirty days of receipt of copy of decision dated 22.06.2021 by the Appellant vide Memo No. 1561/CGP-191/2021 dated 06.07.2021. 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. Therefore, the Appeal was

registered and copy of the same was sent to the Addl. Superintending Engineer/ DS Division, PSPCL, Sri Muktsar Sahib 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.1099-1101/OEP/A-58/2021 dated 05.08.2021.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 18.08.2021 at 12.30 PM and an intimation to this effect was sent to both the parties vide letter nos. 1105-06/OEP/A-58/2021 dated 09.08.2021. As scheduled, the hearing was held on 18.08.2021 in this Court. Arguments of both 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 submissions made by the Appellant's Representative and the Respondent alongwith material brought on record by both the sides.

(A) Submissions of the Appellant

(a) Submissions made in the Appeal

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

- (i) The Appellant was having a Large Supply Category Connection bearing Account No. 3002490404 since 11/2018. Earlier, it was a Medium Supply Category Connection since 12/2005. It was running at the premises of the Appellant on HT Supply since its inception for its Rice Sheller.
- (ii) The Respondent had been allowing rebate at the rate of 20 paise per Unit till now to all those MS category connections who were running from HT Supply as per Tariff Orders since 2015. The Appellant had annexed copies of relevant pages of the Tariff Orders for the years 2015-16, 2016-17, 2017-18 and 2018-19.
- (iii) The Appellant while scrutinizing its bills had found that it was not allowed said rebate from the month of 06/2015 to 11/2018.
- (iv) The Forum vide its decision dated 22.06.2021 had allowed rebate from the month of 2015 (from the date when the HT rebate was stopped) to the date of issuance of the order in the case of another connection in the name of M/s. Ambika Agro Mills having similar facts as that of its case but in the case of Appellant, the Forum had allowed rebate from 03/2018 to 11/2018 instead of 06/2015.

- (v) The Respondent in its reply filed before the Forum, had admitted that the Appellant was entitled to the said rebate from the month of 06/2015.
- (vi) The connection of the Appellant had been running under the old account and type of Industry. Supply Voltage of the Appellant was similar and only because of extension in load the category of the Appellant had been changed from MS to LS.
- (vii) The Appellant had got changed its connection to Large Supply Category Connection in the month of 11/2018 and as such, the Appellant was entitled to get HT rebate from the month of 06/2015 to 11/2018. The Forum had referred to Regulation 2.27 of the PSERC (Forum & Ombudsman) Regulation-2016 in its order and as per the provisions of the ibid Regulation, the Forum cannot hear any case beyond the period of 2 years from the date of cause of action. Further, the Forum had referred to order dated 23.03.2020 of the Hon'ble Supreme Court in its final order and as per the said order, Hon'ble Supreme Court had extended the period of limitation for unlimited period from 15.03.2020 due to spread of COVID-19 Pandemic in India and thereafter vide order dated 08.03.2021, the extension was withdrawn vide order dated 14.03.2021 by the Hon'ble Supreme Court. Therefore, the period from 15.03.2020 to

14.03.2021 cannot be reckoned for any kind of limitation. This was approximately a one year's period and the Appellant had got extended its load in 11/2018 and as per the above Regulation, the Appellant could file its case before 10/2021 which had been extended as per orders of the Hon'ble Apex Court upto 10/2021. Therefore, the case of the Appellant was within limitation period.

(viii) The Appellant had prayed to set aside the decision of the Forum and to allow HT rebate from 06/2015 to 11/2018.

(c) Submission during hearing

During hearing on 18.08.2021, the Appellant's Representative reiterated the submissions made in the Appeal and prayed to allow the relief claimed. The Appellant confirmed that he never challenged the bills relating to disputed period. He did not represent to PSPCL for grant of HT rebate during the period of dispute.

(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 Medium Supply Category Connection, with sanctioned load of 92.510 kW and CD as 100 kVA for its Rice Sheller with effect from 10.12.2005.
- (ii) The Appellant had got extended its load on 02.11.2018 and the connection of the Appellant had become Large Supply Category Connection. The type of industry and Account No. 3002490404 of the Appellant remained the same. It had continued to be fed from 11kV line. The Appellant had continued to get the benefit of HT rebate so long as the billing was being got done from Duke Company by PSPCL.
- (iii) SAP system was introduced in the office of Respondent from 2015 and the billing of all the Industrial connections was started under the SAP system from that year. In order to allow HT rebate to a consumer, a voltage flag was required to be set in the system. As the SAP system was new, so the official of the Respondent could not set the flag system in respect of the Appellant and the HT rebate could not be started in respect of the Appellant.
- (iv) Due to extension in load from 02.11.2018 onwards the billing of the Appellant came under LS category and the refund of the previous period was omitted to the Appellant. The Appellant had filed case before the Forum which was decided on

22.06.2021. As per the decision of the Forum, refund of ₹ 4,897/- had been granted to the Appellant vide Sundry No. 52/22/108.

- (v) The Appellant was not satisfied with the decision of the Forum on the ground that it had been granted refund for the lesser period. The Respondent had recommended that the Appellant was entitled for the refund of the omitted period from 05/2015 to 01.11.2018. Had the refund been continued in the SAP system from 05/2015 to the Appellant neither the Appellant would have suffered any financial loss nor it would have made any difference to the PSPCL as there had been provision in the Tariffs approved by the PSERC for such rebate.
- (vi) The Appellant was entitled for the refund from 05/2015 to 01.11.2018. The MS connection was running at HT Supply (11kV) during this period.

(b) Submission during hearing

During hearing on 18.08.2021, the Respondent pleaded that the decision of the Forum in this case should be upheld which is as per Regulations. He informed the Court that the Appellant did not challenge the bills during the period of dispute although the HT rebate was depicted on the bills. He contested the

submissions of the Appellant's Representative. He had requested for dismissal of the Appeal of the Appellant.

5. Analysis and Findings

The issue requiring adjudication is whether the Appellant was entitled to HT rebate for the period from 06/2015 to 02/2018.

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

- (i) The Appellant's Representative contended that the Appellant was entitled to get HT rebate from the month of 06/2015 to 11/2018. He further stated that the Forum had referred to Regulation 2.27 of the PSERC (Forum & Ombudsman) Regulation-2016 in its order and as per the provisions of the *ibid* Regulation, the Forum cannot hear any case beyond the period of 2 years from the date of cause of action. The Forum had also referred to order dated 23.03.2020 of the Hon'ble Supreme Court in its order and as per the said order, Hon'ble Supreme Court had extended the period of limitation for unlimited period from 15.03.2020 due to spread of COVID-19 Pandemic in India and thereafter vide order dated 08.03.2021, the extension of limitation was ended w.e.f 14.03.2021 by the Hon'ble Supreme Court. Therefore, the period from 15.03.2020

to 14.03.2021 cannot be reckoned for any kind of limitation. This was approximately a one year's period and the Appellant had got extended its load in 11/2018 and as per the above Regulation, the Appellant could file its case before 10/2021 which had been extended as per orders of the Hon'ble Supreme Court upto 10/2021. Therefore, the case of the Appellant was within limitation period. The Appellant reiterated the submissions made by it in the Appeal and requested that the Appeal may kindly be accepted as prayed for.

- (ii) On the other hand, the Respondent refuted the pleas taken by the Appellant and stated that all the Regulations are very well placed on the Websites of Respondent as well as PSERC, which are within the public domain. The Appellant should be vigilant, update and prompt in discharging its obligations. Ignorance of law was no excuse. Further, laxity in discharging the moral obligation on the part of the Appellant was not desirable. The Appellant was not entitled to HT rebate before March, 2018 (i.e. two years before 15.03.2020 in line with the orders of Hon'ble Supreme Court). The claim of the Appellant for the earlier period was barred by limitation. The Appellant was not entitled to anything more than already granted by the Forum and the decision of the Forum was correct. The refund

of HT rebate as per the decision of the Forum had already been allowed to the Appellant by the Respondent.

- (iii) The Forum had observed as under in its decision dated 22.06.2021:

“Forum observed that the petitioner was previously getting HT Rebate but the same was stopped during 05/2015 at the time of migration of data to SAP system and has not been restored subsequently. The load of the petitioner was extended in 11/2018 and the category of consumer was changed from MS to LS. HT Rebate was not allowable to LS category consumers. PR during the proceedings stated that the consumer has not represented to Respondent regarding non-allowing of HT Rebate before coming to Forum.

Forum observed that HT Rebate was allowable to petitioner only upto conversion of his connection from MS to LS in November, 2018 and the petitioner has not represented his issue to respondent before coming to forum in 06/2021. Petitioner also could not give any substantive reason for condoning the delay. Forum also observed that the respondent was a MS/LS consumer receiving regular energy bills from the respondent corporation from time to time and in all the bills, the details of amount charged / rebates given were invariably depicted. The bills were paid by the petitioner regularly but the petitioner did not point out or represent to the respondent about non-allowing of HT Rebate during all this period. Thus the petitioner did not take appropriate

remedy at appropriate time. Further all the regulations are very well placed on the Website of Respondent Corporation which are within the domain of the petitioner. The petitioner was expected to be vigilant, update and prompt in discharging its obligations. He failed to point out to the respondent to take timely action for allowing him the HT Rebate. Regulation 2.27 of PSERC (Forum & Ombudsman) Regulations, 2016 provides that the Forum may reject the grievance at any stage, through a speaking order in cases where the grievance has been submitted two years after the date on which the cause of action has arisen or after two months from the date of receipt of the orders of DSC. Forum observed that taking cognizance of COVID-19 pandemic H'nable Supreme Court vide its order dated 23.3.2020 had extended the period of limitation prescribed under general law as special laws wef 15.03.2020 till further orders. H'nable Supreme Court vide order dated 8.3.2021 has ended extension of limitation wef 14.3.2021 and as a result the period from 15.3.2020 to 14.3.2021 shall stand extended in computing the period of limitation for any suit, appeal, application or proceeding. Subsequently due to fresh Covid surge, H'nable Supreme Court vide its Record of Proceedings dated 27.04.2021 on Misc Application no. 665/2021 in SMW(C) no. 3/2020 restored the order dated 23.3.2020 and in continuation to order dated 08.03.2021 directed that the period(s) of limitation shall stand extended till further order.

In view of above Forum is of considered opinion that issue of allowing of HT rebate before the month of March-2018 (i.e two years before 15.03.2020 as per direction of H'nable Supreme Court) is time barred for the purpose of any decision by the Forum..”

- (iv) This Court agrees with the findings of the Forum, which are in line with Regulation 2.27 of PSERC (Forum & Ombudsman) Regulations, 2016 and orders of Hon'ble Supreme Court issued relating to limitation period.
- (v) The Appellant had never challenged the electricity bills issued during the disputed period. All the bills invariably depict HT Rebate.
- (vi) From the above analysis, it is concluded that the Appellant failed to discharge its obligation at the appropriate time. The Appellant being a industrial consumer cannot be expected to be negligent about the billing module and relevant instructions and regulations on the subject. The Forum had rightly decided that the Appellant was not entitled for any refund on account of HT rebate prior to March, 2018. Further, no interest is payable to the Appellant because he failed to challenge the bills at an appropriate time. He did not file any representation before PSPCL against the bills issued during the disputed period.

6. Decision

As a sequel of above discussions, the order dated 22.06.2021 of the CGRF, Patiala in Case No. CGP-191 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.

August 18, 2021
S.A.S. Nagar (Mohali)

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