

**COURT OF THE LOK PAL (OMBUDSMAN),  
ELECTRICITY, PUNJAB,  
PLOT NO. A-2, INDUSTRIAL AREA, PHASE-1,  
S.A.S. NAGAR (MOHALI).  
(Established under Sub Section 6 of Section 42  
of the Electricity Act, 2003)**

**APPEAL No. 71/2021**

**Date of Registration : 20.09.2021**

**Date of Hearing : 06.10.2021**

**Date of Order : 06.10.2021**

**Before:**

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

**In the Matter of:**

Indus Tower Ltd.,  
Padhiana, Jalandhar,  
100 Feet Road, SLS Tower,  
Jaycee Motor, Amritsar.

**Contract Account Number: 3005889983(NRS)**

...Appellant

Versus

Addl. Superintending Engineer,  
DS Cantt. Division, PSPCL,  
Jalandhar.

...Respondent

**Present For:**

Appellant: Sh. Manohar Singh,  
Appellant's Representative.

Respondent : Er. Parminder Singh,  
AEE/ DS S/D,  
PSPCL, Adampur, Jalandhar.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 02.08.2021 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-210 of 2021, deciding that:

*“The variation amounting to Rs.1320/- in bill dated 20.07.2018 as per SAP and as per SBM be investigated and action be taken accordingly, LPS/ LPI charged on difference of Rs. 1320/- (Rs.36930 - Rs.35610) shown as previous arrear in manual billing statement included in bill dated 05.08.2018 be refunded if any. Further LPS/LPI charged on bills from 05.12.2018 to 29.03.2019 on a/c of basic difference of Rs. 1320/-be refunded and account of the Petitioner be overhauled accordingly till date after pre-audit.”*

## **2. Registration of the Appeal**

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 20.09.2021 i.e not within stipulated period of thirty days of receipt of the decision dated 02.08.2021 of the CGRF, Ludhiana in Case No. CGL-210 of 2021. The Appellant had filed an application for condoning of delay in filing the Appeal. The Appellant was not required to deposit requisite 40% of the disputed amount as the Appeal was

on account of refund of the amount and interest. Therefore, the Appeal was registered and copy of the same was sent to the ASE/ DS Cantt. Division, PSPCL, Jalandhar for sending written reply/ parawise comments with a copy to the office of the CGRF, Ludhiana under intimation to the Appellant vide letter nos. 1310-12/OEP/A-71/2021 dated 20.09.2021.

### **3. Proceedings**

With a view to adjudicate the dispute, a hearing was fixed in this Court on 06.10.2021 at 11.30 AM and an intimation to this effect was sent to both the parties vide letter nos.1384-85/OEP/A-71/2021 dated 30.09.2021.As scheduled, the hearing was held on 06.10.2021 in this Court. Arguments of the both parties were heard.

### **4. Condonation of Delay**

At the start of hearing on 06.10.2021, the issue of condoning of delay in filing the Appeal in this Court was taken up. The Appellant in its application for condoning of delay, had stated that the case was closed by the Forum on 02.08.2021 and its decision was received on 16.08.2021. Therefore, the delay in filing the Appeal may kindly be condoned in the interest of justice. I find that the Respondent did not object to the

condoning of the delay in filing the Appeal in this Court either in its written reply or during hearing in this Court.

In this connection, I have gone through Regulation 3.18 of PSERC (Forum and Ombudsman) Regulations, 2016 which reads as under:

*“No representation to the Ombudsman shall lie unless:*

- (ii) *The representation is made within 30 days from the date of receipt of the order of the Forum.*

*Provided that the Ombudsman may entertain a representation beyond 30 days on sufficient cause being shown by the complainant that he/she had reasons for not filing the representation within the aforesaid period of 30 days.”*

This Court observes that non condonation of delay in filing the Appeal would deprive the Appellant of the opportunity required to be afforded to defend the case on merits. Therefore, with a view to meet the ends of ultimate justice, the delay in filing the Appeal in this Court beyond the stipulated period was condoned and the Appellant was allowed to present the case.

##### **5. 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 NRS Category connection bearing Account No. 3005889983 with sanctioned load of 15kW. The connection was in the name of Indus Tower Pvt. Ltd.
- (ii) The Appellant stated that the Forum had taken a variation amount of ₹ 1,320/- as difference of ledger bill and machine bill generated only and refund the LPS/LPI charged on the bill from 05.12.2018 to 29.03.2019 and basic difference of ₹ 1,320/- be refunded to the Appellant.
- (iii) The Appellant did not agree with the decision of the Forum. The Forum had not considered and touched the disputed period 03.11.2018 to 08.04.2019 in which abnormal billing had been made by the system on the meter status code N-1 and also there was no change of meter at site. Abnormal billing was rectified by the system in the bill issued on 09.05.2019 but the surcharge/ interest levied on abnormal billing had not been

withdrawn from 12/2018 to 04/2019 as ₹ 2,696/- + 5405/- + 496/- + 9931/- + 4273/- totaling ₹ 22,800/- .

- (iv) It was also brought to the notice of this Court that the billing from 03.11.2018 to 09.05.2019 was not correct and amount of Rs. 25,075/- was also excess demanded during this period billing.
- (v) It was also requested that the Appellant had been making monthly bill payment on due date but the surcharge/interest had been added for ₹ 27,877/- for the period 05/2019 to till date. So, the total amount became 22,800/- + 25,075/- + 27,877/- = 75,752/- was refundable.
- (vi) The Appellant had been left with no other alternative remedy by way of Appeal except to approach to this Court.
- (vii) The Appellant prayed that the impugned order dated 02.08.2021 was wrong and claiming of the amount of ₹ 76,697/- was liable to be set aside for justice. It had also prayed that Respondent be restrained from disconnecting the connection of electricity supply during the pendency of present position.

**(b) Submissions made in the Rejoinder:**

The Appellant made the following submissions in its Rejoinder to the written reply filed by the Respondent:

- (i) The Appellant had received 'O' Code bill in 12/2018 for the period from 03.11.2018 to 05.12.2018 for ₹ 1,05,496/- for consumption of 15714 units. It was got issued by the Meter Reader for wrong reading upto 121210.
- (ii) The meter at the premises of the Respondent was installed in 2016. It was working accurately and it was still installed. Therefore, the meter was not required to be challenged.
- (iii) The Appellant did not agree with the plea that the Meter Reader after recording wrong reading on 05/12/2018 had got issued the bills during the months of 01/2019 and 02/2019 under 'N' Code during 03/2019 and 04/2019 under 'I' Code.
- (iv) The Appellant was issued bill in the month for 05/2019 for the period 05.12.2018 to 09.05.2019 for meter reading 118089-123558=5469 Units and adjustment of ₹ 1,09,536/- in respect of 'N' and 'I' Code bills issued earlier. The Appellant agreed to the same but from 05.12.2018 to 08.04.2019 the average bills were for 'N' & 'I' Code, the LPS/ LPI which was charged to the Appellant had not been withdrawn, which was required to be withdrawn.
- (v) The bill for 15714 units (105496-121210) for the period 03.11.2018 to 05.12.2018, was due to recording of wrong reading by the Meter Reader as 121210. The said bill was required to

modified, which was not done and as such the Appellant was charged excess amount of ₹ 25,075/-, which was required to be withdrawn.

- (vi) The Appellant had been making the payment of current bills on due dates. Since there stood arrears against the Appellant on account of wrong bills, as such LPS/ LPI used to be charged from the Appellant in all the bills. This amount comes to the tune of ₹ 27,877/- which was required to be withdrawn.
- (vii) The Appellant did not agree with the version of the Respondent that the bill for the month of 05/2019 was correct. The case of the Appellant may be decided accordingly.

**(c) Submission during hearing**

During hearing on 06.10.2021, the Appellant's Representative reiterated the submissions made in the Appeal as well as Rejoinder 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 served with a bill in the month of 12/2018 for consumption of 15714 units upto reading of 121210. The Appellant had not challenged its meter or bill.
- (ii) The Appellant was issued average bills generated on 'N' Code in the months of 01/2019 and 02/2019 and bills were generated on 'I' Code in the months of 03/2019 & 04/2019.
- (iii) The Appellant was issued bill generated on 'O' code in the month of 05/2019 and adjustment of earlier issued bills generated on 'N' and 'I' Code to the Appellant amounting to ₹ 1,09,536/- was given to it. The bill for the month of 05/2019 issued to the Appellant was correct and recoverable.
- (iv) The Appellant had deposited a sum of ₹ 97,970/- vide receipt no. 251600277215 on 13.09.2021 and nothing was outstanding against the Appellant.

**(b) Submissions made in the additional reply:**

The Respondent made the following additional submissions on 05.10.2021 after filing the written reply:

- (i) The bill issued on 03.11.2018 was of 'OK' Code for consumption of 4087 units which was normal as per the previous record of the Appellant. After that the Meter Reader recorded wrong reading in the bill issued during the month of December. However, the

Appellant neither contacted the office to get it rectified nor challenged the bill. After that 'N' and 'I' Code bills were issued from January, 2019 to April, 2019 and when the Meter Reader recorded reading of 'OK' Code, the adjustment of wrong bills generated under 'N' and 'I' Code was given by the system itself to the Appellant.

- (ii) After thoroughly studying the calculation provided by the consumer and official record present in the office, it was found that the 'N' and 'I' Code bills were adjusted by the system itself but the adjustment of 3121 units (difference of 121210 and 118089) was not given to the Appellant.
- (iii) The Appellant had deposited the current bills on its own without challenging the 'N' or 'I' Code bills due to which surcharge cannot be refunded to the Appellant.

**(c) Submission during hearing**

During hearing on 06.10.2021, the Respondent reiterated the submissions made in the written reply as well as made by way of additional submissions and prayed for dismissal of the Appeal of the Appellant.

## 6. Analysis and Findings

The issue requiring adjudication is refund of LPS/ LPI charged to the Appellant through bills from 12/2018 to 04/2019 by the Respondent.

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

- (i) The Appellant's Representative reiterated the submissions made by it in the Appeal as well as in the Rejoinder filed after written reply. He further argued that the Appellant was having NRS Category connection with sanctioned load of 15 kW. He further stated that the Forum had taken a variation amount of ₹ 1,320/- as difference of ledger bill and machine bill generated only and refund the LPS/ LPI charged on the bills from 05.12.2018 to 29.03.2019 and basic difference of ₹ 1,320/- be refunded to the Appellant. The Forum had not considered and touched the disputed period 03.11.2018 to 08.04.2019 in which abnormal billing had been made by the system on the meter status code N & I and also there was no change of meter at site. Abnormal billing was rectified by the system in the bill issued on 09.05.2019 but the surcharge/ interest levied on abnormal

billing had not been withdrawn from 12/2018 to 04/2019 as ₹ 2,696/- + 5405/- + 496/- + 9931/- + 4273/- totaling ₹ 22,800/- .

- (ii) The billing from 03.11.2018 to 09.05.2019 was not correct and amount of ₹ 25,075/- was also excess demanded during this period billing. The Appellant had been making monthly bill payments on due date but the surcharge/ interest had been added for ₹ 27,877/- for the period 05/2019 to till date. So, the total amount become  $22,800/- + 25,075/- + 27,877/- = 75,752/-$  & was refundable.
- (iii) The Appellant prayed that the impugned order dated 02.08.2021 was wrong and claiming of the amount of ₹ 76,697/- was liable to be set aside for justice.
- (iv) The Respondent controverted the pleas raised by the appellant and contended that the Appellant was served with a bill in the month of 12/2018 for consumption of 15714 units upto reading of 121210. The Appellant had neither challenged its meter nor the said bill. The Appellant was issued average bills generated on 'N' Code in the months of 01/2019 and 02/2019 and bills generated on 'I' Code in the months of 03/2019 & 04/2019.
- (v) Later on, the Appellant was issued bill for 'O' code in the month of 05/2019 and adjustment of earlier issued bills generated on 'N' and 'I' Code to the Appellant amounting to ₹

1,09,536/- was given to it. The bill for the month of 05/2019 issued to the Appellant was correct and recoverable.

- (vi) The Respondent argued that when the Appellant was issued bills from 12/2018 to 04/2019, it had neither deposited the said bills with the Respondent nor challenged the said bills after deposit of the average based preceding 6 months bills issued to him. The Respondent had drawn the attention of this Court towards Regulation 35 of Electricity Supply Code and Related Matters Regulations, 2014, which is reproduced as under: -

*“35. DISPUTED ELECTRICITY BILLS*

*35.1 Current Energy Bills*

*35.1.1 A consumer shall effect full payment of the billed amount even if it is disputed failing which the distribution licensee may initiate action treating it as a case of non-payment.*

*Provided that no action shall be initiated if such a consumer deposits, under protest:-*

- (a) an amount equal to the sum claimed from him; or*
- (b) the electricity charges for each month calculated on the basis of average charge for electricity paid by him during the preceding six months, whichever is less, pending disposal of any dispute between him and the distribution licensee.*

*35.1.2 The distribution licensee shall after the receipt of a complaint from a consumer in its notified office, decide on the billing dispute within twenty four (24) hours if no*

*additional information is required and within seven working days if additional information is required.*

*35.1.3 If on examination of a complaint, the distribution licensee finds a bill to be erroneous, a revised bill shall be issued to the consumer indicating a revised due date of payment, which shall not be earlier than seven days from the date of delivery of the revised bill to the consumer. If the amount paid by the consumer under Regulation 35.1.1 is in excess of the revised bill, such excess amount shall be refunded through adjustment first against any outstanding amount due to the distribution licensee and then against the amount becoming due to the distribution licensee immediately thereafter.*

*Provided that in case a consumer pays excess amount erroneously due to typographical error in figures while making payment of his electricity bill(s) by digital means, such excess amount paid by consumer shall be refunded after verifying the genuineness of the case,*

*Provided further that in case the refundable amount is more than average bill of the consumer for more than 3 billing cycles, the amount in excess of average bill for 3 billing cycles shall be refunded through cheque.*

*The distribution licensee shall pay to the consumer interest on the excess amount at SBI's Base Rate prevalent on first of April of the relevant year plus 2% from the date of payment till such time the excess amount is adjusted.*

*35.1.4 If the distribution licensee finds the bill to be correct, the consumer shall be intimated accordingly and shall be required to pay the balance amount if any along*

*with additional charges for delayed payment from the due date, initially stipulated in the bill.*

*35.1.5 In case the consumer is not satisfied with the decision of the distribution licensee, he/ she may, after effecting payment in terms of Regulation 35.1.1, seek redressal in accordance with the Consumer Complaint Handling Procedure &/or PSERC (Forum & Ombudsman) Regulations, 2016, as amended from time to time.”*

The Respondent argued that the Appellant had failed to follow *ibid* Regulation 35.1 which is in public domain and every consumer is expected to know the same.

(vii) The Respondent in its additional submissions had agreed that the Appellant was not given adjustment of 3121 units (difference of 121210 and 118089) units. At the same time, the Appellant was given adjustment of ‘N’ and ‘I’ Code bills when the Meter Reader recorded OK Code. The Appellant had deposited the said bills of ‘N’ and ‘I’ Code on its own without its challenge and as such it cannot claim refund of the amount of surcharge. The Appellant cannot take benefit of its own wrongs, delay and latches.

(viii) The Respondent had admitted vide its Memo No. 10821 dated 05.10.2021 that adjustment of 3121 units was not given to the Consumer. He agreed during hearing on 06.10.2021 to give refund in respect of this mistake. This issue was not raised by

the Appellant in its Petition before the Forum. This Court had no objection if the Respondent wants to correct its mistake.

- (ix) From the above, it is concluded that the Appellant had failed to follow the *ibid* Regulation. Furthermore, the Appellant was served with bill for reading of 123558 generated under 'O' Code wherein adjustment of ₹ 1,09,536/- was allowed in respect of the bills generated under 'N' and 'I' Code.
- (x) This Court comes to the conclusion that the Appellant had already been given the benefit of amount charged from him on the basis of the bills generated under 'N' and 'I' Codes while issuing him bills under 'O' Code during May, 2019. The Appeal of the Appellant regarding refund of LPS/ LPI charged to the Appellant through the bills from 12/2018 to 04/2019 is rejected as the excess amount charged to the Appellant had already been adjusted by the Respondent in the bill of 05/2019. The Appellant had not challenged the monthly bills as per regulations. As such, it is not entitled for any refund of surcharge/ interest levied as per tariff orders.

## **7. Decision**

As a sequel of above discussions, the order dated 02.08.2021 of the CGRF, Ludhiana in Case No. CGL-210 of 2021 is upheld. Further, the Appeal of the Appellant regarding refund of LPS/

LPI charged to the Appellant through the bills from 12/2018 to 04/2019 by the Respondent is hereby rejected.

8. The Appeal is disposed of accordingly.
9. 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.

October 06, 2021  
S.A.S. Nagar (Mohali)

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