

**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 the  
Electricity Act, 2003)**

**APPEAL No. 79/2021**

**Date of Registration : 04.10.2021**  
**Date of Hearing : 21.10.2021, 27.10.2021**  
**Date of Order : 27.10.2021**

**Before:**

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

**In the Matter of:**

M/s. Crystal International,  
D-71, Phase-V, Focal Point, Ludhiana.

**Contract Account Number: 3002955712 (MS)**  
...Appellant

Versus

Additional Superintending Engineer,  
DS Focal Point (Spl.) Division,  
PSPCL, Ludhiana.

...Respondent

**Present For:**

Appellant: Sh. Parvesh Chadha,  
Appellant's Representative.

Respondent : Er. Manik Bhanot,  
Assistant Executive Engineer,  
DS Focal Point (Spl.) Division,  
PSPCL, Ludhiana.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 31.08.2021 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. T-364 of 2021 (Pre-hearing), deciding that:

*“Forum observed that during 2015 to 2021, Petitioner did not respond to/ acted upon as per process/ mechanism told by Respondent vide above memo and in 07/2021, after 6 years represented again. As per clause 2.27(c) of Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations, 2016, Forum may reject the case if, the grievance has been submitted two years after the date on which the cause of action has arisen. In view of the above, Forum is of the view that the present petition is not maintainable being time-barred as per above clause.”*

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

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 04.10.2021 i.e. within thirty days of receipt of copy of the decision dated 31.08.2021 of the CGRF, Ludhiana in Case No. T-364 of 2021 by the Appellant on 06.09.2021. The Appellant had submitted the Appeal for refund of ACD Security (Consumption) and Security (Meter) alongwith interest so the deposit of requisite 40% of the disputed amount was not required in this case.

Therefore, the Appeal was registered on 04.10.2021 and copy of the same was sent to the Addl. SE/ DS Focal Point (Spl.) Divn., PSPCL, 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. 1412-14/OEP/A-79/2021 dated 04.10.2021.

### **3. Proceedings**

With a view to adjudicate the dispute, a hearing was fixed in this Court on 21.10.2021 at 12.30 PM and an intimation to this effect was sent to both the parties vide letter nos. 1482-83/OEP/A-79/2021 dated 13.10.2021. As scheduled, the hearing was held in this Court. The Appellant as well as the Respondent were not able to give the complete detail/ split up of ₹ 1,66,890/- deposited with PSPCL vide Transaction No. 2639 Dated 07.03.2014. The Appellant requested for another date to submit the required information/ documents. The next date of hearing was fixed as 27.10.2021 at 10.30 AM. Copies of the proceedings dated 21.10.2021 were sent to the Appellant and the Respondent vide letter nos. 1528-29/OEP/A-79/2021 dated 21.10.2021. The Respondent had informed vide email dated 25.10.2021 that as per Consumer's Case of extension, Security (Consumption) amounting to ₹ 1,36,880/- and Security

(Meter) amounting to ₹ 30,000/ were deposited during the year 2014. Total Security works out as ₹ 1,66,880/-. The Respondent had intimated vide email dated 26.10.2021 that no refund has been given in respect of disputed amount of Security in this case. The arguments of both parties were heard on 27.10.2021.

#### **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 along with material brought on record by both 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 Medium Supply Category Connection, bearing Account No. 3002955712 in the name of M/s. Crystal International, D-71, Phase-V, Focal Point, Ludhiana with sanctioned load of 66.560 kW and CD as 73.960 kVA under DS Focal Point (Spl.) Divn., PSPCL, Ludhiana.

- (ii) The Appellant was having MS connection w.e.f 18.12.2004 with load of 66.560 kW and nature of industry was of Manufacturing of Electric Wires, Cables & other Electrical Goods.
- (iii) The Appellant planned for extension in work as per requirements in the market and to install extra machinery as such, an extension in load was applied on 07.03.2014 ONLINE vide transaction no. 2639 dated 07.03.2014 and ₹ 1,66,890/- were deposited. Due to change of planning, the Appellant on 26.03.2014 (after 19 days) requested to cancel the application and also requested to refund the security deposited on 07.03.2014.
- (iv) The regular requests were made on 02.06.2014, 01.09.2014, 05.12.2014, 08.12.2014, 05.05.2015 & 01.09.2015 but no such action was taken to refund the amount.
- (v) A letter was received from ASE, DS Focal Point Division, PSPCL, Ludhiana vide Memo No. 2833 dated 04.09.2015 that the refund of amount will be done as per guidelines given in Account Circular No. 05/2015 and extract of Account Circular 05/2015, Para 8, is reproduced as under:-

***“8. In case consumer does not want the connection and withdraws the application of new connection/load extension:***

In these cases, the applicant/ consumer shall submit the request on Single Window portal by giving his unique ID No. As and when the consumer request is received, the nodal office shall check the status of release of connection and send SMS and e-mail to respective operation office. Respective office shall inform the current status of connection and also intimate (within some specific stipulated time limit) the amount to be deducted/forfeited as per prevailing instructions/guidelines of PSPCL. On receipt of the requisite information from the concerned operation office, the Nodal Office will raise the demand through FIMS system, and after getting the funds from the office of AO/ Banking Drawing the payments will be made through RTGS by the nodal officer. The nodal officer will issue U-Cheque against the funds received from AO/ Banking Drawing and will pass the following entries.”

- (vi) Since then no refund was received. The Appellant again & again visited SDO/ Comm. and Sr. Xen/ DS Focal Point with a request to refund this deposit but nothing was done. The last request was given on 23.07.2021.
- (vii) The Appellant approached the CGRF, Ludhiana vide petition dated 09.08.2021 (Case No. T-364 of 2021 dated 09.08.2021). The Forum in pre-hearing decided the petition on 31.08.2021

and dismissed the petition being time barred as it was more than 2 years old. The orders were issued and conveyed vide Memo No. 2946/47 dated 31.08.2021 received on 06.09.2021.

- (viii) The Appeal was filed due to the grievances against the orders of CGRF, Ludhiana received on 06.09.2021 vide letter no. 2946/47 dated 31.08.2021. The decision of the Forum is as under: -

*“Forum observed that during 2015 to 2021, Petitioner did not respond to/acted upon as per process/mechanism told by Respondent vide above memo and in 07/2021, after 6 years represented again. As per clause 2.27(c) of Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations, 2016, Forum may reject the case if, the grievance has been submitted two years after the date on which the cause of action has arisen. In view of the above, Forum is of the view that the present petition is not maintainable being time-barred as per above clause. Petitioner is at liberty to approach competent authority prescribed in this regard. The present petition is hereby dismissed.”*

- (ix) The decision made during the pre-hearing on 31.08.2021 was wrong and not admitted. The Appellant applied for the refund of deposited ACD on 26.03.2014 (after 19 days). The Appellant had requested to cancel the application and also requested to refund the security deposited on 07.03.2014.

- (x) Then it was well in time and there was no delay on the part of the Appellant. As such, the claim was not a time barred case.
- (xi) The Appellant applied online for the extension in load on 07.03.2014 and deposited the ACD on 07.03.2014. The Appellant requested for cancellation of applied extension on 26.03.2014. There was no delay as the request to refund the ACD was made immediately on 01.09.2014 & 05.12.2014 through registered posts. After that e-mails were sent on 05.05.2015, 06.05.2015 & 01.09.2015. Again, the Appellant requested vide letter dated 02.09.2015 which had Diary No. 2377 dated 02.09.2015.
- (xii) The Respondent replied vide Memo No. 2833 dated 04.09.2015 that the mechanism to be followed was as per CC No. 05/2015, as per which applicant/ consumer shall initiate cancellation request with his unique ID No. and then further process will begin. In this regard, the Appellant had already taken action on 26.03.2014 (after 19 days). So further action was pending with PSPCL.
- (xiii) The reference of CC No. 05/2015 was relating to burnt/ stolen and augmentation of Transformer of AP consumers for the connections released in SFS and not related to the refund of ACD case. The reply given by the Respondent was not correct



as it was the Account Circular. As per this Account Circular No. 05/2015, this was an internal process and guidelines to handle the refund case. There was no need of again cancellation of application by the consumer when it already stood cancelled and the consumer had applied for refund.

(xiv) CGRF had not pointed out during the pre-hearing on 31.08.2021 about no response/ action during the period 2015 to 2021 on the grounds of dismissal of petition. No further date was given. The proceedings were not prepared at the spot but letter was issued on same date vide No. 2947 dated 31.08.2021 and received by the Appellant on 06.09.2021, which can be authenticated from the dispatch register of the Forum.

(xv) During the period 2015 to 2021, the Appellant was under treatment of spine problem from the various hospitals and did not properly attend factory. The work was looked after by his son and Manager as Doctors advised not to work. The detail of medical treatment was as under:-

- a) Fortis Hospital, Ludhiana dated 30.05.2016.
- b) CMC Hospital, Ludhiana dated 26.07.2016.
- c) CMC Hospital, Ludhiana dated 30.07.2016.
- d) Fortis Hospital, Ludhiana dated 08.09.2016.
- e) Max Healthcare, Delhi dated 16.09.2016.
- f) Max Healthcare, Delhi dated 21.09.2016.
- g) Max Healthcare, Delhi dated 27.09.2016.
- h) Max Healthcare, Delhi dated 07.01.2017.
- i) Max Healthcare, Delhi dated 14.04.2017.
- j) Max Healthcare, Delhi dated 15.05.2018.

- k) Fortis Hospital, Ludhiana dated 08.12.2018.
- l) Fortis Hospital, Ludhiana dated 12.02.2019.
- m) Fortis Hospital, Ludhiana dated 20.08.2020.
- n) Fortis Hospital, Ludhiana dated 08.08.2021.

Most of the industry was not working during 2019 due to Covid-19.

- (xvi) There was deficiency on the part of the Respondent for the delay as they had failed to act as per instructions of their own Department (PSPCL).
- (xvii) As per ESIM-2018 Regulation 11.7.1, the consumer if withdraw the application then the ACD was refunded within thirty (30) days after deduction of 10% amount and balance was to be refunded, but in Appellant's case nothing was refunded within the prescribed time. The Appellant had submitted requests in time and had given reminders also.
- (xviii) As per Regulation 11.7.3 of ESIM-2018, "in the event of delay in refund beyond the stipulated period as per 11.7.1, the PSPCL shall pay interest at Bank Rate (as on 1<sup>st</sup> April of each year) as notified by the RBI plus 4%."
- (xix) A sum of ₹ 1,66,890/- was paid and 10% i.e. ₹ 16,689/- were deductible. Net refund due was ₹ 1,50,201/-. This amount was kept pending with PSPCL, as such interest becomes ₹ 1,03,368/- from 07.03.2014 to 31.07.2021 (7 years & 5 months). Total refund due was ₹ 1,50,201/- + ₹ 1,03,368/- =

₹ 2,53,569/- and interest was also to be given till the date of refund.

- (xx) The case was not properly viewed by the Forum on 31.08.2021 and order passed for dismissal of petition as time barred needs to be set aside for justice. The Appellant had applied for refund on 26.03.2014, so there was no delay on the part of the Appellant. How can it be treated as a time barred case?
- (xxi) It was prayed that refund of ACD with interest be given to the Appellant from the date of deposit to the date of refund as per rates fixed by PSPCL itself under the provision of Supply Code-2014 & ESIM.

**(b) Submission in the rejoinder to the reply**

The Appellant had filed rejoinder dated 21.10.2021 to the reply of the Respondent. The Appellant had repeated most of the points raised in the Appeal. The main points raised in the rejoinder are as below: -

The refund case was pending with PSPCL till 22.05.2020 as per list of cases circulated vide CE/ Commercial Memo No. 460/64/SWS/ Vol. I/ DB-98 Dated 22.05.2020. As such, the case cannot be treated as time barred. Money deposited by the Appellant was being utilized by PSPCL. The lack of follow up from 2016 to 2021 was due to sickness of the Appellant and

proofs had been attached with the Appeal. The Appeal may be accepted.

**(b) Submission during hearing**

During hearing on 21.10.2021 & 27.10.2021, the Appellant's representative reiterated the submissions made in the Appeal as well as in the Rejoinder. The Appellant's Representative requested that Security amount deposited may be refunded by deducting 10% amount and interest should be paid as per regulations.

**(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, bearing Account No. 3002955712 with sanctioned load of 66.560 kW and CD as 73.96 kVA under DS Focal Point Division (Special), PSPCL, Ludhiana.
- (ii) As per the Appellant, extension of load had been applied by him. For which, an amount of ₹ 1,66,890/- as ACD had been deposited by him to PSPCL on 07.03.2014. On 26.03.2014, request for cancellation of the application and refund of

Security amount had been given by him, against load change order.

- (iii) The Appellant filed an Appeal in the Forum for the refund, for which the Forum decided to dismiss the Case due to being over 6 year old, as per Regulation 2.27 (c) of Punjab State Electricity Regulatory Commission (Forum and Ombudsman), Regulation-2016 in its order which was communicated vide letter no. 2946/47 dated 31.08.2021.
- (iv) The Appellant was not satisfied with the decision of the Forum and he had filed this Appeal Case.
- (v) The Respondent submitted that Application of request for the refund on Single Window Portal was to be initiated by the Nodal Office. In addition, it was submitted that Single Window Portal M/s 'Yeah' had already been discontinued since 31.05.2020 vide CE/ Commercial office Memo No. 460/64/SWS/Vol-1/DB-98 dated 22.05.2020. So, there was no record pertaining to Single Window Portal for the year 2015, available in their office.
- (vi) The Respondent stated that no record of request for refund by the Appellant was available in their office.

- (vii) The Respondent submitted that the procedure for refund is mentioned in para 8 of Account Circular 05/2015 which is as follows:

*“In case consumer does not want the connection and withdraws the application of new load/load extension:*

*In these cases, the applicant/ consumer shall submit the request on Single Window Portal by giving his unique ID no. As and when the request is received, the nodal office shall check the status of release of connection and send SMS and e-mail to respective operation office. Respective office shall inform the current status of connection and also intimate (within some specific stipulated time limit) the amount to be deducted/ forfeited as per prevailing instructions/ guidelines of PSPCL. On receipt of the requisite information from concerned operation office, the nodal office will raise the demand through FIMS system, and after getting the funds from office of AO/ Banking Drawing the payments will be made through RTGS by the nodal officer. The nodal officer will issue u-cheque against the funds received from AO/Banking Drawing and will pass the following entries.”*

- (viii) The Respondent agreed with the decision dated 31.08.2021 of the Forum.

- (ix) But due to no record for request of refund being available in the office of the Respondent as now, claims cannot be admitted.

**(b) Submission during hearing**

During hearing on 21.10.2021 & 27.10.2021, the Respondent reiterated the submissions made in the Appeal and prayed to dismiss the Appeal.

**5. Analysis and Findings**

The issue requiring adjudication is the legitimacy of the claim of the Appellant for the refund of security amount of ₹ 1,66,890/- and the interest thereon.

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

- (i) The Appellant's Representative (AR) pleaded that the Appellant was having a Medium Supply Category Connection, bearing Account No. 3002955712 in the name of M/s. Crystal International, D-71, Phase-V, Focal Point, Ludhiana with sanctioned load of 66.560 kW and CD as 73.960 kVA under DS Focal Point Division (Special), PSPCL, Ludhiana. The Appellant applied through online for the extension of load on 07.03.2014 vide Transaction No. 2639 Dated 07.03.2014 and

deposited ₹ 1,66,890/-, but due to change of plans, the Appellant requested to cancel the application of extension of load and requested for refund of ₹ 1,66,890/- deposited on 07.03.2014.

(ii) The Appellant made regular requests for refund on 02.06.2014, 01.09.2014, 05.12.2014, 08.12.2014, 05.05.2015 & 01.09.2015 but no action was taken by the Respondent to refund the amount. The Appellant received a letter from ASE, DS Focal Point Division, PSPCL, Ludhiana vide Memo No. 2833 dated 04.09.2015 that the refund of amount will be done as per guidelines given in Account Circular No. 05/2015 and extract of Account Circular No. 05/2015 as per Para 8 is as under:-

**“8. In case consumer does not want the connection and withdraws the application of new connection/load extension:**

In these cases, the applicant/ consumer shall submit the request on Single Window portal by giving his unique ID No. As and when the consumer request is received, the nodal office shall check the status of release of connection and send SMS and e-mail to respective operation office. Respective office shall inform the current status of connection and also intimate (within some specific stipulated time limit) the amount to be deducted/ forfeited as per prevailing instructions/guidelines of



PSPCL. On receipt of the requisite information from concerned operation office, the Nodal Office will raise the demand through FIMS system, and after getting the funds from the office of AO/ Banking Drawing the payments will be made through RTGS by the nodal officer. The nodal officer will issue U-Cheque against the funds received from AO/ Banking Drawing and will pass the following entries.”

Since then no refund was received. The Appellant again & again visited the office of SDO/ Comm. and Sr. Xen/ DS Focal Point for refund of this deposit but nothing was done. The last request was given on 23.07.2021.

- (iii) The Respondent submitted that Application of request for the refund on Single Window Portal was to be initiated by the Nodal Office. In addition, it was submitted that Single Window Portal M/s 'Yeah' had already discontinued since 31.05.2020 vide CE/ Commercial office Memo No. 460/64/SWS/Vol-1/DB-98 dated 22.05.2020. So, there was no record pertaining to Single Window Portal for the year 2015, available in their office. The Respondent stated that no record for request of refund by the Appellant was available in their office. Further, the Respondent submitted that the procedure for refund is mentioned in para 8 of Account Circular No. 05/2015.

- (iv) The Appellant approached the Forum for the refund but the Forum dismissed the request of the Appellant on 31.08.2021 in Case No. T-364 of 2021 (Pre-hearing), deciding that:

*“Forum observed that during 2015 to 2021, Petitioner did not respond to/acted upon as per process/mechanism told by Respondent vide above memo and in 07/2021, after 6 years represented again. As per clause 2.27(c) of Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations, 2016, Forum may reject the case if, the grievance has been submitted two years after the date on which the cause of action has arisen. In view of the above, Forum is of the view that the present petition is not maintainable being time-barred as per above clause.”*

- (v) After going through the decision of the CGRF, Ludhiana and submissions of the Appellant and the Respondent, the Court is of the view that the CGRF had erred in deciding the case as time barred. The Appellant had cancelled its Application dated 07.03.2014 for extension in load on 26.03.2014 and requested for refund of amount deposited on 07.03.2014. The Appellant had given reminders through registered post & emails on 01.09.2014, 05.12.2014, 08.12.2014, 05.05.2015, 06.05.2015, 01.09.2015 & 02.09.2015. The last request was given on 23.07.2021. The Respondent had failed to refund the amount. The Appellant remained silent after 02.09.2015 till 23.07.2021

due to its sickness. In view of the facts of the case, the case was pending with the Respondent and it was never rejected. The perusal of Memo No. 460/64/SWS/ Vol. I /DB-98 dated 22.05.2020 of CE/ Commercial (Sales-I) reveals that the refund case of the Appellant was pending with PSPCL till 22.05.2020. It would be unfair to treat the pending refund case in PSPCL as time barred. The refund should be allowed as per regulation 18.1 of Supply Code-2007. The Account Circulars are for the official work of the PSPCL and not for the consumers, so denying refund on the basis of Account Circular No. 5/2015 is not justified.

The delay of more than seven years in releasing the payment as per regulations is on the part of the Licensee (PSPCL). As such, I am inclined to allow the interest on delayed payment as per Regulation 17.1 of Supply Code, 2007 & Supply Code, 2014 as applicable from time to time. The interest shall be payable with effect from 26.04.2014 till the date of payment.

## **6. Decision**

As a sequel of above discussions, the decision is as below:-

- a) The order dated 31.08.2021 of the CGRF, Ludhiana in Case No. T-364of 2021 (pre-hearing) is hereby quashed;

b) The Respondent shall refund the security amount deposited on 07.03.2014 as per Regulation No. 18.1 of Supply Code-2007. Interest shall be payable on the amount worked out as per above regulation with effect from 26.04.2014 (30 days after Cancellation of application on 26.03.2014) till the date of payment as per Regulation No. 17.1 of Supply Code, 2007 & Supply Code, 2014 as applicable from time to time.

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.

October 27, 2021  
S.A.S. Nagar (Mohali).

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