

**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. 85/2021

Date of Registration : 21.10.2021

Date of Hearing : 02.11.2021

Date of Order : 02.11.2021

Before:

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

In the Matter of:

ATC Telecom Infrastructure Private Limited,
B-320, Bestech Business Towers,
Sector 66, SAS Nagar (Mohali).

**Contract Account Number: 3000059330 (Old)
3007644461 (New)**

...Appellant

Versus

Addl. Superintending Engineer,
DS Model Town Division,
PSPCL, Patiala.

...Respondent

Present For:

Appellant : Sh. Rakesh Sharma,
Appellant's Representative.

Respondent : Er. Jagmohan Singh,
AEE/ Model Town Comml.-1,
PSPCL, Patiala.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 06.08.2021 of the Consumer Grievances Redressal Forum (Forum), Patiala in Case No. CGP-112 of 2021, deciding that:

“Amount of sundry charge of Rs. 4,02,145/-, charged to petitioner as per Revenue Audit party, Patiala Half Margin no. 459 dated 6.11.2020 is recoverable.”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 03.09.2021 i.e within the stipulated period of thirty days of receipt of the decision dated 06.08.2021 of the CGRF, Patiala in Case No. CGP-112 of 2021. The Appellant had not deposited the requisite 40% of the disputed amount and further the connection was not in the name of the Appellant so change of name was also required for filing the Appeal Case in this Court. Therefore, the Appellant was requested vide this office Memo No. 1247/OEP/ATC dated 06.09.2021 to deposit the requisite 40% of the disputed amount and get the change of name affected at the earliest. The Appellant was again requested vide this office Memo no. 1269/OEP/ ATC dated 13.09.2021 to deposit the requisite 40% of the disputed amount and get the change of name affected. The Appellant deposited the requisite 40% of the disputed

amount and the Respondent confirmed the same vide its office Memo No. 9867 dated 14.09.2021 addressed to the Appellant. A pre-hearing was fixed for 29.09.2021 at 11.15 AM in this Court and intimation to this effect was sent to both the sides vide this office Memo no. 1328-29/OEP/ATC dated 22.09.2021. In pre-hearing on 29.09.2021, the Respondent informed that the change of name could not be affected because the Appellant had not submitted the required documents to affect change of name. The Representative of the Appellant requested for two weeks time to do the needful. The Appellant was asked to submit the requisite documents/ information for change of name at an early date and the Respondent shall do the needful after getting documents and receipt of requisite fee for the purpose. Next date for pre-hearing was fixed on 13.10.2021 at 11.30 AM. In pre-hearing on 13.10.2021, the Respondent submitted vide Memo No. 5965/ATC dated 12.10.2021 that the Appellant had submitted the requisite documents for change of name and the Respondent had accepted the documents and Demand Notice No. 100015527830 dated 12.10.2021 for ₹ 11,400/- was issued to the Appellant and new account no. 3007644461 on change of name would be allotted to the Appellant after compliance of Demand Notice. The Appellant's

representative was asked to deposit the amount of ₹ 11,400/- as demanded by the Respondent vide Demand Notice at an early date so as to enable PSPCL to affect change of name of the connection. The next date of pre-hearing was fixed for 21.10.2021 at 11.30 AM. On 21.10.2021 before the start of pre-hearing, the Respondent confirmed vide Memo No. 10841/ATC dated 21.10.2021 that the change of name had been affected. Therefore, the Appeal was registered on 21.10.2021 and copy of the same was sent to the Addl S.E./ DS Model Town Division, PSPCL, Patiala for sending written reply/ parawise comments with a copy to the office of the CGRF, Patiala under intimation to the Appellant vide letter nos. 1521-23/OEP/A-85/2021 dated 21.10.2021.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 02.11.2021 at 12.30 PM and an intimation to this effect was sent to both the parties vide letter nos. 1582-83/OEP/A-85/2021 dated 29.10.2021. As scheduled, the hearing was held in this Court. Arguments were heard of both parties.

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 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-ATC Telecom Infrastructure Private Ltd., was a Company incorporated under the Companies Act, 1956 having its Registered Office at 404, 4th Floor Skyline Icon, Andheri Kurla Road, Andheri East, Mumbai and its Circle office at B-320, Bestech Business Towers, Sector 66, SAS Nagar (Mohali), Punjab. Ms Amandeep Kaur, Circle Legal Lead, ATC-Punjab, was duly authorized by the Company to file the present Appeal.
- (ii) The Appellant was having a Non-Residential Supply Category Connection, bearing Account No. 3000059330 with sanctioned load of 20.00 kW which was installed outside the tower. The Appellant had been paying the electricity bill regularly to the PSPCL. The Appellant further submitted that in the month of December, 2020, an electricity bill for the period 10.11.2020 to 12.12.2020 for an amount of ₹ 4,45,060/- for consumption of

4554 Units including Sundry Charges amounting to ₹ 4,02,145/- was received

- (iii) The Appellant had approached the Respondent and requested to show the details of the amount including Sundry Charges and the Appellant further requested to rectify the electricity bill of such a huge amount but the Respondent did not pay any heed to the requests of the Appellant. So, the Appellant filed a complaint before the Forum, which was dismissed vide order dated 06.08.2021.
- (iv) The impugned order dated 06.08.2021 passed by the Forum was against the facts established on record, law, regulations and was thus liable to be set-aside. The Forum had dismissed the complaint of the Appellant on 06.08.2021 without considering facts and evidence led by the Appellant. The findings rendered by Forum were perverse, against the facts established on record and result of misreading the evidence.
- (v) The Forum had failed to appreciate the fact that the claim of the Respondent was barred by the law of limitation. The arrears/ dues pertained to the year 2010-2011. Hence, claim of the Respondent was barred by limitation. Thus, impugned order dated 06.08.2021 was not sustainable and was liable to be set-aside on this score alone.

- (vi) The Forum had failed to appreciate that it was mandatory to issue notice, before recovery of arrears, with the details of calculation for arrears which had not been sent by the Respondent. Even notice should briefly indicate the nature and period of the arrears alongwith calculation details for such arrears.
- (vii) The Forum had failed to consider the contradictory arguments raised by the Respondent as mentioned at page no. 4 of the order dated 06.08.2021, in which the Respondent argued that the meter installed in the premises of the Appellant was changed at reading 138884 units on 15.05.2018 and burnt meter was got checked from ME Lab. vide Challan No. 2743/175 dated 26.02.2019 and final reading of meter was reported as 137466 units which itself was contradictory.
- (viii) The Forum had failed to appreciate that the report submitted by the Respondent in the Forum was not maintainable in the eyes of law. Even the Forum had failed to consider the status of the meter of the relevant time.
- (ix) The Forum had passed the impugned order dated 06.08.2021 on the basis of surmises and conjectures and had not rightly appreciated the records and misread the evidence available on record and thus reached at a wrong conclusion of dismissing

the complaint of the Appellant and wrongly passed the order against the Appellant.

- (x) On the basis of ground taken by the Appellant herein, the impugned order dated 06.08.2021 passed by the Forum was totally wrong, illegal, perverse, contrary to the law settled by Hon'ble High Court and Hon'ble Apex Court and was highly irrational in the facts and circumstances of the case and was thus liable to be set-aside.
- (xi) The Respondent had failed to prove their case and had failed to lead any cogent evidence and rather the false case was projected by the Respondent.
- (xii) The Appellant had received the order dated 06.08.2021 on 09.08.2021 through e-mail. Therefore, the present Appeal was being filed within limitation.
- (xiii) The Hon'ble Court of Ombudsman is fully empowered to stay the operation of the impugned order dated 06.08.2021 in the Case No. CGP-112 of 2021 during the pendency of the present Appeal.
- (xiv) It was prayed that the Appeal may kindly be allowed and the impugned order dated 06.08.2021 passed by the Forum be set aside and the Appeal be decided on merits. Any other relief to

which the Appellant was found entitled in equity and in law by this Court may also be granted.

(b) Submission during hearing

During hearing on 02.11.2021, the Appellant reiterated the submissions made in the Appeal and prayed for acceptance of Appeal. The Appellant's Representative raised the new issues about calculations of Half Margin report which were not a part of the Appeal filed in this Court and was not even a part of the Petition filed in the Forum. Even then the Respondent again explained the relevant calculations which are as per regulations applicable form time to time. This issue already stands settled as per judgment of the Forum.

(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 Non-Residential Supply Category connection no. A/c No. 3000059330 with sanctioned Load 20 kW in the name of M/s. Spice Communication, # 97, Gurdarshan Nagar, Patiala. On 12.10.2021, the firm M/s. ATC had submitted the requisite documents for Change of Name of

A/c No. 3000059330 from the name M/s. Spice Communication to M/s. ATC Telecom Infrastructure Private Limited. The concerned Sub Division had accepted the documents submitted by the firm M/s. ATC and had issued Demand Notice No. 100015527830 dated 12.10.2021 for amount ₹ 11,400/-. On 21.10.2021 the firm M/s. ATC had deposited the draft no. 251620 dated 19.10.2021 issued by HDFC Bank for ₹ 11,400/-. The draft was accepted by the concerned S/D vide receipt no. 216600309407 dated 21.10.2021. The Change of Name order had been processed and completed by the Sub Division and the new account no. 3007644461 had been allotted after the compliance of demand notice.

- (ii) Half Margin No. 459 dated 06.11.2020 was issued by Revenue Audit Party, PSPCL, Patiala. Notice was issued to the Appellant by Model Town Commercial-1, Sub Divn., Patiala vide Memo No. 2449 dated 06.11.2020 and thereafter reflected the amount of Sundry Charge in the bills of the Appellant from dated 17.12.2020. The Half Margin was in detail and self-explanatory. The queries of the Appellant were answered in detail. The irregularities found in bills by the Audit Party were as under:

a) The detail of the Electricity Bill issued on 15.10.2010 is as under:

PREVIOUS READING DATE	NEW READING DATE	PREVIOUS READING (kWh)	NEW READING (kWh)	CONSUMPTION	METER STATUS CODE
09.08.2010	15.10.2010	70,664	81,680	11,016	O

The current bill amount was ₹ 65,790/- plus ₹ 5,725/- surcharge/ arrears, therefore the total outstanding/ payable amount was ₹ 71,515/-. Thereafter, 4 no. electricity bills were issued on 'I' code i.e. inconsistent reading (incorrect readings).

Detail is as under:-

PREVIOUS READING DATE	NEW READING DATE	PREVIOUS READING	NEW READING	CONSUMPTION	METER STATUS
15.10.2010	11.12.2010	81680	110605	28925	I
11.12.2010	10.02.2011	110605	96607	17134	I
10.02.2011	09.04.2011	81680	72860	16291	I
09.04.2011	10.06.2011	81680	18594	17415	I
Final 'OK' bill issued from 11.12.10 to 28.05.11 for 168 days at new reading 96062					
11.12.2010	28.05.2011	81680	96062	14382	O

The current bill amount and payment detail against these bills is as under:

BILL DATE	CURRENT BILL AMOUNT	ARREAR	SURCHARGE	PAYMENT MADE BY CONSUMER	PAYMENT / ADJUSTMENT DATE	TOTAL OUTSTANDING
	A (Rs.)	B (Rs.)	C (Rs.)	D (Rs.)		=A+B+C-D
15.10.2010	65,790		5,725			71,515
11.12.2010	1,72,602	71,515	15,019			2,59,136
10.02.2011	1,02,270	2,59,139	8,900	99,206	17.02.2011	2,71,103
09.04.2011	97,243	2,71,104	8,462	1,05,708	28.04.2011	2,71,101
10.06.2011	1,12,803	2,71,104	9,829	40,110	01.07.2011	3,53,626
28.05.2011	88,309	3,53,609		3,12,100	adjustment / allowance against I Code Bills	1,29,818

As brought out in above table, against the total bill amount of ₹ 88,309/- for the period 11.12.2010 to 28.05.2011 (168 days), payment of ₹ 2,45,024/- i.e. excess payment of ₹ 1,56,715/- (₹ 2,45,024/- minus ₹ 88,309/-) was made by the consumer. Therefore, after adjustment of outstanding amount as on 15.10.2010 (i.e. ₹ 71,515/-) balance excess amount of ₹ 85,200/- was refundable.

b) Further, this account was shifted to General Connection (GC) group and new account no. GC12/289 was allotted. Master File was sent in GC group with initial reading 96,062 and the following bills were issued thereafter upto 12.12.2011 on MMC (Minimum Monthly Charges) as readings were not recorded:-

PREVIOUS READING DATE	NEW READING DATE	PREVIOUS READING (kWh)	NEW READING (kWh)	CONSUMPTION	METER STATUS	MMC BILL AMOUNT (Rs.)
28.05.2011	12.07.2011	96062	NIL	NIL	N	4440
12.07.2011	12.08.2011	96062	NIL	NIL	N	3005
12.08.2011	12.09.2011	96062	NIL	NIL	N	2960
12.09.2011	12.10.2011	96062	NIL	NIL	N	2960
12.10.2011	10.11.2011	96062	44654	-	I	2960
10.11.2011	12.12.2011	96062	49000	-	I	2960
						19,285

The readings were recorded 44654 and 49000, in the bills issued to the consumer on 10.11.2011 and 12.12.2011 respectively. The energy meter was 5 digit meter. As per the audit party, the Meter Round had been completed after reading

99999 and the new readings on 10.11.2011 and 12.12.2011 are to be read as 144654 and 149000 respectively.

c) The bills issued for the period 28.05.2011 to 12.12.2011 (198 days) were WRONG, hence overhauled by the Audit party as below: -

1. Consumed units for the period 28.05.2011 to 12.12.2011

(198 days):

1,49,000 (New reading) minus 96,062 (previous reading) =
52,938 units

2. Total calculated amount for 52,938 units: ₹ 3,37,893/-

3. Amount payable by consumer for the period 28.05.2011 to
12.12.2011:

₹ 3,37,893/- [for 52,938 units]

(-) ₹ 19,285 [MMC charges already billed]

(-) ₹ 85,200/- [refundable amount against excess amount
paid for the period 11.12.2010 to
28.05.2011]

= ₹ 2,33,408/-

d) Thereafter, the account shifted to the SAP system with new Account No. 3000059330. The initial reading taken in SAP was taken as 49000. It was observed that the initial bills issued to the consumer were not correct and issued on L/D codes with incorrect average. Detail is as under:-

e) The summary of calculation was as under: -

Sr. no.	Description		Amount (Rs.)	
1.	The total outstanding/payable amount as on 16.10.2010		71,515	period 11.12.2010 to 28.05.2011 (168 days)
2.	Total bill amount for the period 11.12.2010 to 28.05.2011 (168 days)		88,309	
3.	Amount paid by Consumer b/w the period 11.12.2010 to 28.05.2011		2,45,024	
4.	Excess refundable amount	3 - (1+2)	85,200	
5.	Amount payable by consumer for the period 28.05.2011 to 12.12.2011 (198 days) for 52,938 units		3,37,893	period 28.05.2011 to 12.12.2011 (198 days)
6.	MMC charges already billed for the period 28.05.2011 to 12.12.2011		19,285	
7.	Adjusted Amount payable by consumer for the period 28.05.2011 to 12.12.2011	5 - (4+6)	2,33,408	
8.	Amount payable by consumer for the period 13.12.2011 to 23.08.2012 (255 days) for 25,224 unit		1,68,737	period 13.12.2011 to 23.08.2012 (255 days)
9.	GRAND TOTAL PAYABLE BY CONSUMER	7 + 8	4,02,145	621 days

- (iii) The Appellant had filed an Appeal Case No. CGP-112 of 2021 before CGRF, Patiala. However, CGRF, Patiala vide its order dated 06.08.2021 dismissed the petition.
- (iv) The Consumer Grievances Redressal Forum, Patiala found that Appellant has already benefited by non-payment of justified dues which were payable in the year 2010 to 2012 and being the issue of public money, the Appellant can't be given the benefit of waiver of justified amount.
- (v) Half Margin No. 459 dated 06.11.2020 issued by Revenue Audit Party, PSPCL, Patiala was forwarded to the Appellant by

Subdivision Model Town Commercial-1, Patiala vide Memo No. 2449 dated 06.11.2020. The Appellant was asked to make the payment within 15 days. The amount was posted in the consumer account on 26.11.2020 after giving 15 days notice. The half margin is in detail and self-explanatory. The queries of the Appellant were answered in detail.

- (vi) The Appellant had raised the issue of burnt meter in 05/2018. However, the issue before the Hon'ble Court is of Sundry Charges relating to years 2010 to 2012. For the matter of record, it is pertinent to mention here that the reading dated 13.05.2018 was issued on "R" code and the average reading of 138884 was considered by the SAP System as per automatic logic set as per Clause No. 21.5.2 of Supply Code, 2014 issued by Punjab State Electricity Regulatory Commission, Chandigarh (PSERC) for the overhauling of consumer accounts for Defective (other than inaccurate)/Dead Stop/Burnt/Stolen Meters. However, the final reading of the meter was found as 137466 in the ME Lab during checking while returning the burnt meter. This reading was the last reading recorded by the meter before getting burnt/stop.

- (vii) The consumption pattern of the Appellant is as under:-

YEAR	CONSUMPTION
2012	13,512
2013	46,946
2014	53,118
2015	44,859
2016	42,700
2017	38,730
2018	47,443
2019	57,395
2020	59,045
Upto 09/2021	31,861

From the above, the potential fall in units was found only in the year 2012 i.e. 13512 units, whereas for the other years consumption was around 40,000 units to 50,000 units. Therefore, the overhauling of the account was correct. The amount of Sundry Charge of ₹ 4,02,145/-, charged to petitioner as per Revenue Audit party, Patiala Half Margin No. 459 dated 06.11.2020 was recoverable.

- (viii) The Appellant did not contradict the details of charges levied vide Notice No. 2449 dated 06.11.2020 which means that it is agreeable to the same. The only point it contended was the charging of dues pertaining to the year 2011-12 in the year 2020.
- (ix) The prayer of the Appellant alongwith grounds of Appeal was also wrong and hence denied. The Respondent had rightly

imposed the amount/ fine as per the rules and regulations of the Electricity Act, 2003. The Appellant was not entitled to any relief. The Appeal of the Appellant may kindly be dismissed with costs.

(b) Submission during hearing

During hearing on 02.11.2021, the Respondent reiterated the submissions made in the written reply to the Appeal and prayed for dismissal of the Appeal.

5. Analysis and Findings

The issue requiring adjudication is the legitimacy of the Sundry charges of ₹ 4,02,145/- charged to Appellant as per Revenue Audit Party, Patiala Half Margin No. 459 dated 06.11.2020.

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

- (i) The Appellant argued that Appellant-ATC Telecom Infrastructure Private Ltd., was a Company incorporated under the Companies Act, 1956 having its Registered Office at 404, 4th Floor Skyline Icon, Andheri Kurla Road, Andheri East, Mumbai and its Circle office at B-320, Bestech Business Towers, Sector 66, SAS Nagar (Mohali), Punjab.

Ms.Amandeep Kaur, Circle Legal Lead, ATC-Punjab, was duly authorized by the Company to file the present Appeal.

- (ii) The Appellant was having a Non-Residential Supply Category Connection, bearing Account No. 3000059330 with sanctioned load of 20.00 kW which was installed outside the tower. The Appellant had regularly been paying the electricity bill to the PSPCL. The Appellant further submitted that in the month of December, 2020, an electricity bill for the period 10.11.2020 to 12.12.2020 for an amount of ₹ 4,45,060/- for consumption of 4554 Units including Sundry Charges amounting to ₹ 4,02,145/- was received. Thereafter, the Appellant approached the Respondent and requested to show the details of the amount including Sundry Charges and the Appellant further requested to rectify the electricity bill of such a huge amount, but the Respondent did not pay any heed to the requests of the Appellant. The case of the Appellant in the Forum was dismissed vide order dated 06.08.2021. The Appellant further pleaded that the Forum failed to appreciate the fact that the Sundry Charges of ₹ 4,02,145/- charged to the Appellant were for the period from 2011-2012 so this claim was barred by the law of limitation. Also the Forum failed to note that before the recovery of these charges, the Respondent did not send the

notice of the same. The Appellant prayed that the Appeal may kindly be allowed and the impugned order dated 06.08.2021 passed by the Forum be set-aside and the Appeal be decided on merits.

- (iii) The Respondent controverted pleas raised by the Appellant and argued that Non-Residential Supply Category connecting having Account No. 3000059330 was running in the name of M/s. Spice Communication and on 12.10.2021, the firm M/s. ATC had submitted the requisite documents for Change of Name from M/s. Spice Communication to M/s. ATC Telecom Infrastructure Private Limited. The Respondent had accepted the documents submitted by the firm M/s. ATC and had issued Demand Notice for amount ₹ 11,400/-. On 21.10.2021 the Appellant had deposited the draft no. 251620 dated 19.10.2021 for ₹ 11,400/- and the Change of Name order had been processed & completed and new Account No. 3007644461 had been allotted after the compliance of demand notice. The Half Margin No. 459 dated 06.11.2020 was issued by Revenue Audit Party, PSPCL, Patiala. Notice alongwith this Half Margin was issued to the Appellant by the Respondent vide Memo No. 2449 dated 06.11.2020 and the Appellant was asked to make the payment within 15 days. The amount was posted in

the consumer account on 26.11.2020 after giving 15 days notice. Thereafter, when this amount was not received, the amount of Sundry Charge was reflected in the bills of Appellant from 17.12.2020. The Half Margin was in detail and self-explanatory. The queries of the Appellant were answered in detail. The Respondent further pleaded that there was potential fall in the consumption of electricity only in the year 2012 i.e. 13512 units whereas for the other years from 2013 to 2021, consumption was around 40,000 units to 50,000 units and thus the overhauling of the account was correct. The amount of Sundry Charges of ₹ 4,02,145/-, charged to petitioner as per Revenue Audit party, Patiala Half Margin No. 459 dated 06.11.2020 was recoverable. The Appellant did not contradict the details of charges levied vide notice no. 2449 dated 06.11.2020 which means that it was agreeable to the same. The only point the Appellant contended was the charging of dues pertaining to the year 2011-12 in the year 2020. The prayer of the Appellant along with grounds of Appeal was also wrong and hence denied. The Respondent had rightly charged the amount as per the rules and regulations of the Electricity Act, 2003. The Appellant was not entitled to any relief. The Appeal of the Appellant may kindly be dismissed with cost.

(iv) The Forum observed that in view of Regulation 30.1.2 of the Supply Code-2014 and Instructions 93.1 and 93.2 of ESIM, Sundry Charges of ₹ 4,02,145/- became due only after Revenue Audit Party checked the account of petitioner and Half Margin no. 459 dated 6.11.2020 issued for recovery of this amount as mentioned in Half margin. Notice was issued to Appellant by the Respondent vide Memo No. 2449 dated 06.11.2020 and thereafter reflected the amount of Sundry Charges in the bills of petitioner from 17.12.2020. Regulation 30.1.2 of the Supply Code-2014 & ESIM Instruction No. 93 are reproduced below:-

“30.1.2 The bill cum notice for arrears in the case of under assessment or the charges levied as a result of checking etc. shall be initially tendered separately and shall not be clubbed with the current electricity bill. The arrear bill cum notice would briefly indicate the nature and period of the arrears along with calculation details of such arrears. If the arrears are not cleared by the consumer such arrears shall be indicated regularly in the subsequent electricity bills. However, in case arrear bill is included in the current energy bill at the first instance, the distribution licensee shall not be entitled to take any punitive action against the consumer for non payment of such arrear amount along with the current energy bill.”

ESIM Instruction No. 93:- PAYMENT OF ARREARS NOT ORIGINALLY BILLED is as below: -

“93.1 There may be certain cases where the consumer is billed for some of the dues relating to previous months/years or otherwise as arrears on account of under assessment or demand / load surcharge pointed out by Internal Auditor/ detected by the authorized officers either owing to negligence of the PSPCL employees or due to some defect in the metering equipment or due to application of wrong tariff/ multiplication factor or due to mistake in connection or other irregularities etc. In all such cases, separate bills shall be issued giving complete details of the charges levied. Such charges shall be shown as arrears in the subsequent electricity bills regularly till the payment is made. Supplementary bills shall be issued separately giving complete details of the charges in regard to slowness of meter, wrong connections of the meter and application of wrong tariff/multiplication factor etc. In such cases the copy of relevant instructions under which the charges have been levied shall also be supplied to the consumer for facilitating the quick disposal of cases by consumer forums, if approached by the consumer.

93.2 Limitation:

Under Section 56(2) of the Act, no sum due from any consumer shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrears of charges for electricity supplied.”

During the course of proceedings, the Forum directed the Respondent to check the details of charges levied and submit a summary of calculation for easy understanding of the Appellant. The Respondent submitted the same and a copy was given and explained to the Appellant. The Forum further observed that the Appellant did not contradict the details of charges levied vide notice no. 2449 dated 06.11.2020 which means that the Appellant was agreeable to the same. The only point the Appellant contended was the charging of dues pertaining to years 2010 to 2012 in the year 2020 for which the Forum observed that Appellant had already been benefitted by non-payment of justified dues which were payable in the year 2010 to 2012 and being the issue of public money, the petitioner can't be given the benefit of waiver of justified amount only due to the reason that the Respondent had charged the same after a period of 8 to 10 years. In view of *ibid* Regulation of Supply Code-2014 and Instructions of ESIM and after going through submissions of the Appellant and the Respondent along with the material brought on record, the Forum decided that sundry charges of ₹ 4,02,145/-, as worked out by Revenue

Audit Party, for irregular bills issued to petitioner during period 9.08.2010 to 23.08.2012 were recoverable.

- (v) It is observed by this court that the Appellant in its Appeal never challenged the Sundry Charges of ₹ 4,02,145/-, charged to it as per Revenue Audit Party, Patiala Half Margin No. 459 dated 06.11.2020, levied vide Notice No. 2449 dated 06.11.2020. The same was also observed correctly by the Forum. The Appellant demanded the relief only on the issue that the demand pertaining to period of 2010 to 2012 was raised by the Respondent in the year 2020, which is time barred at this stage as per Section 56(2) of the Electricity Act, 2003 (Act).
- (vi) The Appellant's Representative raised a new issue of calculations in Half Margin of Revenue Audit Party, copy of which was given to the Appellant vide Memo No. 2449 dated 06.11.2020. This issue was raised during hearing on 02.11.2021. However, this issue was not raised in the main Petition filed before the Forum. It was not even a part of the Appeal filed in this Court. This issue stands resolved as per judgment dated 06.08.2021 of the Forum. The Respondent again explained the details/ calculations of the Half Margin during hearing on 02.11.2021 and pleaded that the demand raised was as per regulations applicable from time to time. The

Appellant's Representative pleaded that this demand cannot be raised at this stage in view of various judgments of the Courts.

- (vii) Hon'ble Supreme Court of India in its judgment dated 05.10.2021 in Appeal Case No. 7235/ 2009, M/s Prem Cottex v Uttar Haryana Bijli Vitran Nigam Limited & Ors., had clarified the position relating to Section 56(2) of the Electricity Act, 2003 that though the liability to pay arises on the consumption of electricity, the obligation to pay would arise only when the bill is raised by the licensee, therefore electricity charges would become "first due" only after the bill is issued, even though the liability would have arisen on consumption. The Hon'ble Court also held that Section 56 (2) does not preclude the licensee from raising an additional or supplementary demand after the expiry of period of limitation in the case of a mistake or bonafide error. The liability to pay the electricity charges is a statutory liability and this liability cannot be waived off.
- (viii) Keeping in view of the above, the demand raised by the Respondent is fully recoverable. This Court is not inclined to interfere with the order dated 06.08.2021 passed by the Forum in Case No. CGP- 112 of 2021.

6. Decision

As a sequel of above discussions, the order dated 06.08.2021 of the CGRF, Patiala in Case No. CGP-112of 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.

November 02, 2021
S.A.S. Nagar (Mohali)

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