

**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. 87/2021

Date of Registration : 11.11.2021

Date of Hearing : 29.11.2021

Date of Order : 29.11.2021

Before:

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

In the Matter of:

M/s. A.P. Refinery Pvt. Ltd.,
Village Tapar Harnia, Nakodar Road, Jagraon,
Distt. Ludhiana. Pin 142026.

Contract Account Number: U24SJ0200066 (LS)
...Appellant

Versus

Additional Superintending Engineer,
DS Division,
PSPCL, Jagraon.

...Respondent

Present For:

Appellant: Sh. Jivtesh Singh Nagi,
Appellant's Counsel.

Respondent : Er. Gurpreet Singh,
ASE/ DS Divn.,
PSPCL, Jagraon.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 11.10.2021 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-372 of 2021, deciding that:

“Interest allowed by Respondent as per decision of ZLDSC, after pre-audit is correct. The interest demanded as per regulation 17.3 of Supply code, 2014 is disallowed.”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appellant's Counsel submitted the Appeal, complete in all respects on 11.11.2021. The Appeal was received within the thirty days of receipt of copy of decision dated 11.10.2021 of the CGRF, Ludhiana. The Appellant had prayed for payment of interest under Regulation 17.3 of Supply Code, 2014 so the Appellant was not required to deposit requisite 40% of the disputed amount before filing this appeal in this Court. Therefore, the Appeal was registered and copy of the same was sent to the Addl. Superintending Engineer/ DS Division, PSPCL, Jagraon for sending written reply/ parawise comments with a copy to the office of the CGRF, Ludhiana under

intimation to the Appellant vide letter nos. 1607-09/OEP/A-87/2021 dated 11.11.2021.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 29.11.2021 at 11.30 AM and an intimation to this effect was sent to both the parties vide letter nos. 1640-41/OEP/A-87/2021 dated 24.11.2021. As scheduled, the hearing was held on 29.11.2021 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 Counsel and the Respondent alongwith material brought on record by both the 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 Large Supply Category Connection, bearing Account No. U24SJ0200066 with

sanctioned load of 2300kW and CD as 2300 kVA under DS Division, Jagraon in the name of M/s. A.P. Refinery Pvt. Ltd.

- (ii) The Appellant had deposited the security in terms of calculation sheet annexed with the Appeal. It was evident from the calculation sheet and otherwise admitted by the Respondent that the Respondent erred and inadvertently did not update the security (ACD/ AACD) deposited by the Appellant in its record for the periods reflected in the calculation sheet.
- (iii) Consequently, the Respondent did not pay interest on the said security in terms of Regulation 17.1 and 17.2 of Supply Code-2014. Aggrieved by the non-compliance of the said Regulations, the Appellant had approached the ZLDSC for redressal of its grievance. The ZLDSC after hearing the matter was pleased to direct the Respondent to pay the unpaid interest on the security vide its order dated 05.03.2021. However, the order was silent on the quantum of interest and denial or allowing of the interest payable in terms of Regulation 17.3 of Supply Code-2014 i.e. additional interest to be paid for non-compliance of Regulation 17.1 & 17.2 of Supply Code, 2014.
- (iv) The partial relief was granted to the Appellant, however, the order was silent on the said aspect. The Appellant approached

the CGRF, Ludhiana whereby the order of the ZLDSC was upheld and interest under Regulation 17.3 was denied.

- (v) The CGRF, Ludhiana had erred in concluding that the Appellant was not diligent and wrongly denied its claim. The Forum had passed a perverse finding without appreciating the fact that the relevant Regulation imposes a duty on the Respondent to credit the interest on security in prescribed time period. The Forum had overlooked the negligence of the Respondent and disregarded the mandate laid down in Regulation 17.3 of Supply Code-2014.
- (vi) The order of the CGRF was in violation of Regulation 17.3 of Supply Code, 2014 and therefore deserves to be set aside.
- (vii) It was therefore prayed that refund be credited to the Appellant in terms of Regulation 17.3 of Supply Code, 2014 and as described in the calculation sheet for the period and rate of interest provided therein.

(b) Submission during hearing

During hearing on 29.11.2021, the Appellant's Counsel reiterated the submissions made in the Appeal and prayed to allow the relief claimed. The Appellant's Counsel admitted during hearing that normal interest has been given on the

amount of Security deposit updated in the record of the Licensee.

(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 Large Supply Category Connection, bearing Account No. U24SJ0200066 with sanctioned load of 2300 kW and CD as 2300 kVA and the Security deposited by the Appellant has been updated on its request.
- (ii) The ZLDSC had passed correct order based on the facts and figures of the case and the Forum had rightly upheld the decision of ZLDSC and passed correct order.
- (iii) Therefore, it was prayed that the Appeal of the Appellant may be dismissed as the relief had already been granted by the ZLDSC to the Appellant and the said order had also been upheld by the Forum also. The order of the ZLDSC had already been implemented by the Respondent.

(b) Submission during hearing

During hearing on 29.11.2021, the Respondent reiterated the submissions made by it in the written reply and contested the

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

5. Analysis and Findings

The issue requiring adjudication is the legitimacy of claim of the Appellant regarding payment of penal interest as per Regulation 17.4 of Supply Code, 2007 and Regulation 17.3 of Supply Code, 2014 in addition to interest already paid as per Regulations 17.1 and 17.2 of Supply Code, 2007 and Supply Code, 2014 on the amount of Security (Consumption) and Security (Meter) deposited by the Appellant.

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

- (i) The Appellant's Counsel (AC) reiterated the pleas raised in the Appeal and argued that the Appellant was having a Large Supply Category Connection, bearing Account No. U24SJ0200066 with sanctioned load of 2300 kW and CD as 2300 kVA and the Appellant had deposited the requisite security for the said connection and the Respondent did not update the Security (Consumption) and Security (Meter) (ACD/AACD) deposited by the Appellant in its record. Consequently, the Respondent did not pay interest on the said security in terms

of Regulation 17.1 and 17.2 of Supply Code-2014. Aggrieved by the non-compliance of the said Regulations, the Appellant had approached the ZLDSC for redressal of its grievance. The ZLDSC after hearing the matter was pleased to direct the Respondent to pay the unpaid interest on the security vide its order dated 05.03.2021. However, the order was silent on the quantum of interest and denial of interest payable in terms of Regulation 17.3 of Supply Code-2014 i.e. additional interest to be paid for non-compliance of Regulation 17.1 & 17.2 of Supply Code, 2014.

- (ii) The partial relief was granted to the Appellant and the Appellant had approached the Forum whereby the order of the ZLDSC was upheld but interest under Regulation 17.3 was denied. It was alleged that the Forum had erred in concluding that the Appellant was not diligent and wrongly denied its claim. The Forum had passed a perverse finding without appreciating the fact that the relevant Regulation imposes a duty on the Respondent to credit the interest on security in prescribed time period. The Forum had overlooked the negligence of the Respondent and disregarded the mandate laid down in Regulation 17.3 of Supply Code-2014.

- (iii) It was therefore prayed that refund be credited to the Appellant in terms of Regulation 17.3 of Supply Code, 2014.
- (iv) On the other hand, the Respondent reiterated the submission made by it in its written reply and argued that ZLDSC had passed correct order based on the facts and figures of the case and the Forum had rightly upheld the decision of ZLDSC and passed correct order. Therefore, it was prayed that the Appeal of the Appellant may be dismissed as the relief had already been granted by the ZLDSC to the Appellant and the said order had also been upheld by the Forum also. Further, the order of the ZLDSC had already been implemented by the Respondent
- (v) From the above, it is concluded that earlier the amount of Security (Consumption) and Security (Meter) deposited by the Appellant was not updated in the bills issued to the Appellant from time to time and when the Appellant had pointed out this mistake then the same was corrected by the Respondent. It is worthwhile to mention here that the Appellant was a Large Supply Category Consumer and had been receiving regularly the energy bills issued by PSPCL from time to time. In all these bills issued by the Respondent, amount of ACD/Security (Consumption) and Security (Meter) was invariably depicted. The Appellant paid these bills regularly on receipt thereof but

did not point out or filed claim/representation to the Respondent about not crediting/adjusting the interest amount on the total Security (Consumption) and the Security (Meter) for the disputed period. Thus, the Appellant did not take appropriate remedy at an appropriate time despite the fact that provisions for allowing interest on Security (Consumption) and Security (Meter) were made in the Supply Code-2007 and 2014. Instead of finding lacunae in the working of the Respondent, the Appellant was expected to be vigilant, update and prompt in discharging its obligation. Had the Appellant exercised necessary prudence/ vigilance, the present litigation could have been avoided? The Appellant cannot take benefit of its own wrongs, delays and latches. Further, it is common saying that ignorance of law is no excuse. Thus, it is unequivocally clear that the Appellant had not been updating himself about the rules/ regulations and benefits available to him. The rules/ regulations framed by PSERC vis a vis by the PSPCL are in public domain and are available on the Website of PSERC/ PSPCL. The Appellant should be prompt to follow them and failure to follow them on the part of the Appellant cannot be attributed to the Respondent. It is also observed that the Appellant willfully avoided to represent/ file a claim to the

Respondent so that in the event of delay it would get interest at comparatively higher rates from PSPCL than that admissible for deposits in the Banking Institutions.

- (vi) The Forum also observed in its order dated 11.10.2021 that the Petitioner was supposed to point out the missing/ incorrect entries of Security (Consumption) and Security (Meter), if any, in the energy bills. Thus, the Appellant did not take appropriate remedy at appropriate time despite the fact that provisions for allowing interest on Security (Consumption) and Security Meter) were made in the Supply Code-2007 (applicable from 01.01.2008 to 31.12.2014) amended vide Supply Code-2014 (effective from 01.01.2015). Therefore, Forum is of the opinion that interest allowed by Respondent after pre-audit as per decision of ZLDSC is correct.
- (vii) From the above, I find that the order of the Forum is correct and therefore, this Court is inclined to agree with the order of the Forum.
- (viii) In view of the above, the issue of allowing penal interest under Regulation 17.4 of Supply Code, 2007 and Regulation 17.3 of Supply Code, 2014 and interest on interest on the Security (Consumption) and Security (Meter) for the disputed period is decided against the Appellant after due consideration.

6. Decision

As a sequel of above discussions, the order dated 11.10.2021 of the CGRF, Ludhiana in Case No. CGL-372 of 2021 is upheld. The prayer for grant of interest to the Appellant as per Regulation 17.4 of Supply Code, 2007 and Regulation 17.3 of Supply Code, 2007 is rejected.

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 29, 2021
S.A.S. Nagar (Mohali)

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