**CORPORATE CONSUMERS GRIEVANCES REDRESSAL FORUM**

**PUNJAB STATE POWER COPROPRATION LIMITED**

**220 KV S/Stn. Opp. Verka Milk Plant, Ferozepur Road, Ludhiana**

**Tel: 0161-2971912, email: secy.cgrfldh@gmail.com**

**CASE NO.: CF-151/2023**

**Date of Registration : 21.11.2023**

**Date of Closing : 05.12.2023**

**Date of Final Order : 08.12.2023**

**In the Matter of:**

 **Sh. Tajinder Kumar,**

**SCF-3 MT EXT, D Block,**

**Ludhiana.**

**A/C No.: 3002851592.**

**Through:**

Sh. Sukhminder Singh, **…Petitioner**

**Versus**

**Punjab State Power Corporation Ltd**

**Through:**

ASE/Op. Model Town Divn. (Spl.)

PSPCL, Ludhiana. **…Respondent**

1. **BRIEF HISTORY**

Petition, against Case No. CF-151/2023 has been filed in the Forum by Sh. Sukhminder Singh/PR. The Petitioner is having DS category connection with sanctioned load of 12.000 KW in the name of Sh. Tajinder Kumar under Op. Divn. Model Town (Spl.), Ludhiana. Petitioner applied for new NRS category connection on 09.04.2009 after depositing applicable charges, the connection was released but it was mistakenly classified as DS category by respondent. The connection of the petitioner was checked by ASE/Enf.-cum MMTS-6 Ludhiana vide ECR No. 47/6025 dated 6.7.2023 and it was reported that supply from the connection is being used for shop and billing is required to be done under NRS category. Accordingly,Petitioner was issued notice vide memo no. 6639 dated 18.07.2023 for the period from 04/2010 to 06/2023 on account of difference of tariff amounting to Rs. 155207/-. Petitioner did not agree to it and filed his case in Circle CGRF, City West, PSPCL Ludhiana. Circle CGRF, City West, PSPCL Ludhiana on 11.09.2023 decided that amount charged to petitioner for difference of tariff is correct and recoverable. Not satisfied with the decision of Circle CGRF, City West, PSPCL Ludhiana, petitioner filed his case in the Corporate Forum. Forum heard the case in its proceedings on 21.11.2023, 29.11.2023 and finally on 05.12.2023 when the case was closed for passing speaking orders.

1. **PROCEEDINGS:**

***Proceedings Dated: 21.11.2023***

*The petition has been placed before the Forum for admission. After considering the averments made in the petition, the petition is admitted. Notice be issued to ASE/Sr. Xen/Op. Model town Ludhiana (Respondent) along with copy of petition as follows: -*

1. *Respondent shall check/verify the amount charged of Rs. 155207 vide notice bearing memo no. 6639 dated 18.07.2023 on account of difference in tariff of DS & NRS for period beginning from 10.04.2010 to 06.06.2023.*
2. *Respondent shall submit five copies of the following record/documents to the Forum*
3. *point-wise/para-wise reply to the petition in form of hard copy & soft copy (in word format) through email at* *secy.cgrfldh@gmail.com**.*
4. *copy of ECR no 47/6025 dated 06.07.2023.*
5. *copy of decision of Circle CGRF along with its case file.*
6. *copy of consumer case of petitioner.*
7. *copies of reports of checking carried out by various authorities previously.*
8. *Respondent shall ensure that all the documents have been checked/verified & signed by him (ASE/Sr. XEN) and he will be responsible for the authenticity of the documents/information submitted to the Forum.*
9. *Respondent shall further: -*
10. *confirm that the dispute between Petitioner and PSPCL as filed in this Forum has not been decided earlier by any Court/Forum or any other authority and no case pertaining to this dispute is pending before any Court/Forum or any other authority.*
11. *confirm the status of up to date payments and shall ensure that no bill other than the amount in dispute, is pending.*
12. *confirm that the complainant/applicant/petitioner is a competent/authorized person to file/defend the case on behalf of the consumer of the above a/c no.*

*The case be put up on 28.11.2023.*

*Due to unavoidable circumstances date was rescheduled to 29.11.2023.*

***Proceedings dated: 29.11.2023***

*Respondent telephonically requested another date for the submission of reply and the same is admitted.*

*The case is adjourned to 05.12.2023 for submission of reply.*

***Proceedings dated: 05.12.2023***

*Respondent submitted reply in five sets which is taken on record. One copy thereof was handed over to the petitioner/PR.*

*Petitioner/PR stated that the petition and other documents already submitted may also be considered as part of oral discussion.*

*Respondent stated that the reply to the petition and other documents already submitted may be considered as oral discussion.*

*Both the parties have nothing more to say and submit.*

*The case is closed for passing speaking orders.*

1. **FACTS OF THE CASE AND OBSERVATIONS OF THE FORUM:**
2. The Petitioner bearing A/c no. 3002851592, is having DS connection with sanctioned load of 12.000KW, in the name of Sh. Tajinder Kumar, under Op. Model Town (Spl.) Division, Ludhiana.
3. The Petitioner in his Petition prayed that: -

*It is submitted that the petitioner applied for new NRS category connection for 12.00 KW on 9.4.2009, under Sub-Division-T(Unit-2) of Model Town (Spl.) Division PSPCL. The petitioner deposited applicable charges then applicable for NRS category i.e. Security @ Rs.700/- per KW for Rs.8400/- and SCC charges @ Rs 900/- per KW as Rs 10800/- alongwith meter security etc. on 9.4.2009 vide BA-16 receipt No 017/91350* ***(copy enclosed).*** *The petitioner is not aware about the exact date of release of connection and the same can be verified from consumer case available with the respondent' office.*

*It was the duty of respondent office to ensure correct billing under NRS category as applied by the petitioner instead of under DS category. The connection of the petitioner was checked by ASE/Enf.-cum MMTS-6 Ludhiana vide ECR No. 47/6025 dated 6.7.2023 (copy enclosed) and it was reported that supply from the connection is being used for shop and billing is required to be done under NRS category. On the basis of checking by ASE/Enf.-cum MMTS-6 the AEE Commercial Model Town (Spl.) Division raised demand of Rs 155207/- vide notice bearing memo No 6639 dated 18.7.2023* ***(copy enclosed).*** *The account has been overhauled for difference of Tariff of NRS & DS category for the period 10.4.2010 to 6.6.2023* ***(13 years and 2 months apprx)****. The amount charged to the petitioner was not in order, therefore the petitioner filed case before Circle CGRF (City West Circle). The case was heard by Circle CRGF on 11 9 2023 but did not provide any relief admissible on merit. The Circle CGRF decided that* ***"after considering the case, the Forum decided that amount charged to the consumer as difference of tariff is recoverable. The action be initiated against delinquent officers/officials as per instructions of PSPCL for loss to PSPCL due to non levy of correct tariff" (copy enclosed).***

*The above decision of Circle Forum, as far as recovery of difference of tariff from petitioner for such a long period especially when officers/officials are responsible for wrong billing, is wrong and biased. The petitioner is not satisfied with the decision of the Circle Forum Therefore present appeal is being filed.*

*The following submissions are made before the kind consideration of Hon'ble Corporate Forum:*

1. *It is brought out for the consideration of Corporate Forum that the petitioner is not at fault as the connection was rightly applied under NRS category and the concerned office is responsible for issue of wrong bills with DS tariff, which were paid by the different tenants from time to time. The Forum has clearly mentioned in its decision that officers/officials are responsible for loss to PSPCL due to billing with wining tariff as such the loss to PSPCL is required to be recovered from delinquent officers/officials stead of penalizing the consumer who is not at fault.*
2. *It is brought out for the kind consideration of Corporate Forum that the shop where connection has been released by PSPCL is given on rent. During the period 10.4.2010 to 06.06.2023 (13 years and 2 months apprx) different tenants used the electricity and vacated the shop The petitioner cannot recover the difference of tariff charged by respondent office for the period 10 4 2010 to 6.6.2023 from the tenants who had vacated the shop. The latest tenant is Dhanvinder Kaur, Prop Daman Marketing Company, who has taken the shop on lease w.e.f. 17.9.2021 (copy enclosed) The present tenant will pay the difference of DS & NRS tariff from 17.9.2021 till date and the balance amount may kindly be ordered to be recovered from delinquent officers/officials*
3. *The reading of the meter is taken every month and the bills as raised by the department from time to time, on the basis of measured consumption have been paid. The petitioner never checked the bills and the amount was paid as per bill issued every month. The petitioner has come to know after the checking by ASE/Enf cum MMTS-6 on 6.7.2023 that bills were being issued under DS category whereas the same were required to be issued under NRS category of tariff.*
4. *It is also brought out for the kind consideration of Corporate Forum that the AEE/Commercial Model Town (Spl.) Division, in the notice has referred to instruction No 93 of ESIM, which is re-produced as under (relevant part).*

***93 PAYMENT OF ARREARS NOT ORIGINALLY BILLED:***

*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 wring 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.*

*Thus as per instruction No. 93 2 of ESIM maximum period for which sum (difference of tariff) can be charged cannot exceed 2 years as such sum (the amount pointed out as per notice) was not shown continuously as recoverable as arrears of charges for electricity supplied. The difference of tariff for the period 10.4.2010 to 6.6.2023 (13 years and 2 months apprx) has been charged on the basis of checking dated 6.7.2023 of ASE/Ent-cum MMTS-6. Thus difference of tariff charged exceeding 2 years is required to be quashed in view of ESIM-93 (as referred by the AEE Commercial Model Town (Spl.) Division). Thus for the sake of justice, the difference of tariff may be charged from 17.9.2021 (as explained above) or for a maximum for a period of 2 years.*

***PRAYER:*** *In view of position explained above it is requested that decision of Circle Forum may kindly be set aside and demand of Rs 155207/- raised vide notice bearing memo No 6639 dated 18.7.2023 of AEE/Commercial Model Town (Spl.) Division may be quashed. The Hon'ble Corporate Forum may kindly order the overhauling of account from 17.9.2021 or for a maximum period of 2 years as per instruction No. 93.2 of ESIM (as submitted above) Further, the respondent may please be directed to provide following record information so that further submission (if required) can be made for the kind consideration of Corporate Forum.*

1. *Copy of consumer case including Job Order vide which connection was released.*
2. The Respondent in his reply to petition submitted as under: -

*ies Kpqkwr dw mitr SCF No. 3. Model Town Extension ivKy l`igAw hoieAw hY, ijsdI ibilMg fI.AYs kYtwgrI tYirP ADIn ho rhI sI[ imqI 06.07.2023 ƒ vDIk ingrwn ieMjInIAr/ieMnPorsmYNt-km-eI.ey qy AYm.AYm.tI.AYs-6 luiDAwxw jI v~loN Kpqkwr dw Ahwqw cY`k kIqw igAw Aqy AwpxI irport eI.sI.Awr. nM. 47/6025 imqI 06.07.2023 Kpqkwr v~loN ibjlI dI vrqoN vpwrk kMm krn sbMDI hyT drswey Anuswr irport kIqI,*

*"mOky qy ies mItr dI ibjlI dI splweI SCF No. 2. dI Upper Ground Floor iv`c bxI dukwn 'Daman Markeitng Co." ij`Qy CCTV Cameras dw kMm* ***(****Traidng) cldw hY, iv`c vrqI jw rhI hY, ijsdI ibilMg AYn.Awr.AYs kYtwgrI ADIn hoxI bxdI hY, mOky qy mItr dw swrw juiVAw Bwr AYn.Awr.AYs kYtwgrI ADIn c~l irhw hY Aqy koeI vI irhwieSI lof nhIN hY[ ieh XU.XU.dw kys hY[”*

*ienPorsmYNt ivMg dI cYikMg Anuswr kwrvweI krn ihq dPqrI irkwrf Aqy Kpqkwr pwsoN pu~C-pVqwl krn qy ieh pwieAw ik Kpqkwr v~loN imqI 09.04.2009 ƒ ieh kunYkSn AYn.Awr.AYs kYtwgrI ADIn AplweI kIqw igAw sI, pRMqU iesƒ glqI nwl GrylU (fI.AYs) tYirP l~g igAw sI, ies krky Kpqkwr dy kys ƒ XU.XU.eI dw kys nhIN bxwieAw igAw Aqy isrP ijs mhIny qoN fwtw aupl`bD sI (04/2010 06/2023) q`k tYirP dw AMqr (DS to NRS) bwbq rkm 155207/- rupey cwrj krdy hoey ey.eI.eI.vxj v~loN Awpxy mImo nM. 6639 imqI 18.07.2023 nwl Kpqkwr ƒ smyq kYlkulySn dI kwpI noits krvwieAw igAw[ Kpqkwr vloN ieh rkm jmW nhIN krvweI geI Aqy aus v~loN Awpxw kys mwxXog srkl sI.jI.Awr.AYP iv~c lgwieAw igAw sI[ mwxXog srkl sI.jI.Awr.AYP dy PYsly muqwbk rkm augrwhuxXog hY[ kys 5 prqW ivc iqAwr krky iesƒ mwxXog CGRF iv~c ivcwrn leI ByijAw jWdw hY[*

1. Forum have gone through the written submissions made by the Petitioner in the petition, written reply of the Respondent as well as oral arguments made by the Petitioner and the Respondent along with the material brought on the record. The issue that requires adjudication in the present dispute is to decide the legitimacy of amount of Rs. 155207/- charged to the petitioner vide notice no. 6639 dated 18.07.2023 for the period from 04/2010 to 06/2023 on account of difference of tariff held as correct and recoverable by Circle CGRF, City West, PSPCL Ludhiana vide its decision dated 11.09.2023.
2. Forum observed that Petitioner applied for new NRS category connection on 09.04.2009 after depositing applicable charges, the connection was released but it was mistakenly classified as DS category by respondent. The connection of the petitioner was checked by ASE/Enf.-cum MMTS-6 Ludhiana vide ECR No. 47/6025 dated 6.7.2023 and it was reported that supply from the connection is being used for shop and billing is required to be done under NRS category. Accordingly,Petitioner was issued notice vide memo no. 6639 dated 18.07.2023 for the period from 04/2010 to 06/2023 on account of difference of tariff amounting to Rs. 155207/-. Petitioner did not agree to it and filed his case in Circle CGRF, City West, PSPCL Ludhiana. Circle CGRF, City West, PSPCL Ludhiana on dated 11.09.2023 decided as under:-

*“kys ivcwrn auprMq Porm v`loN PYslw kIqw igAw ik Kpqkwr nUM cwrj kIqI tYirP dy AMqr dI rkm vsUlxXog hY[ shI tYirP nw lgwaux Aqy pI.AYs.pI.sI.AYl nUM hoey mwlI nukswn leI ijMmyvwr AiDkwrIAW/krmcwrIAW ivru`D pI.AYs.pI.sI.AYl dIAW hdwieqW Anuswr bxdI kwrvweI AwrMBI jwvy[”*

Not satisfied with the decision of Circle CGRF, City West, PSPCL Ludhiana petitioner filed his case in Corporate CGRF.

Forum observed that petitioner had applied new connection under NRS category and the connection was released but mistakenly categorized under DS category by the respondent. Since then, its billing continued under DS category and the petitioner used to pay the bills regularly and nothing was outstanding.

Site of petitioner was checked by ASE/Enf.-cum MMTS-6 Ludhiana and LCR no. 47/6025 dated 06.07.2022 was prepared wherein it was reported as under: -

*“ieh kunYkSn au`c AiDkwrIAW qoN pRwpq SCO/SCF dI ilst Anuswr cY`k kIqw igAw mOky qy 3 Phase whole current mItr Ahwqy dy bwhr Pillar qy l`gw hoieAw sI mItr dI Pulse cldy Bwr qy Blink krdI hY mOky qy ies mItr dI ibjlI dI splweI SCF-3 dI Upper Ground floor iv`c bxI dukwn “Daman Marketing Co.” ij`Qy CCTV Cameras dw kMm (Trading) cldw hY, iv`c vrqI jw rhI hY, ijs dI Billing NRS Category ADIn hoxI bxdI hY[ mOky Aqy mItr dw swrw juiVAw Bwr NRS Category ADIn c`l irhw hY koeI vI irhwieSI lof nhIN hY[ ieh UUE dw kys hY[ mOky qy AEE/Tech-2, Model Town-cum-assessing officer hwzr hn[ EA 2003 dI Dwrw 126 ADIn bxdI kwrvweI kIqI jwvy Aqy ies dPqr nUM sUicq kIqw jwvy[ MCB, MTC nUM sIlW lgvwieAW jwx[”*

Petitioner received a notice no. 6639 dated 18.07.2023 from AEE Commercial, Div. Model town (Spl.), Ludhiana to pay Rs. 155207/- for the difference of tariff between NRS and DS category for the period from 04/2010 to 06/2023 as the supply was being used for shop as reported by the enforcement. The respondent also submitted that petitioner had applied new connection on 09.04.2009 for NRS purpose which was mistakenly classified as DS category. So, no action regarding the UUE case is required to be taken.

Forum also observed that petitioner had applied for NRS connection for sanctioned load of 12kw. Application and Agreement (A&A) was signed by both the parties for release of an electric connections for NRS purpose in the petitioner’s premises situated at SCF-3 Model Town Extension, D Block, Ludhiana. The tariff is required to be charged from the petitioner strictly as per Application and Agreement (A&A) signed between both the parties and as per tariff orders of the commission issued from time to time.

Further as the NRS category tariff was applicable to the Petitioner but he was being charged DS category tariff due to the negligence on the part of officers/officials of the respondent. This lapse on the part of the respondent is required to be investigated and disciplinary action is required to be initiated against the erring officials/officers responsible for billing the consumer under DS category instead of NRS category resulting in recurring loss of revenue to PSPCL and undue harassment to the petitioner.

Petitioner pleaded in his petition that arrears relate to the period prior to the period of more than 2 years and thus not recoverable as per Section 56(2) of the Act/ Instruction no. 93.2 of ESIM as under: -

*“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.”*

Forum observed that Supreme Court of India in the Civil Appeal No. 7235 of 2009 titled as M/s Prem Cottex Vs Uttar Haryana Bijli Vitran Nigam Ltd. & Ors while deciding appeal observed in para 24 & 25 of this judgment as follows:

*"24.' Subsection (2) uses the words "no sum due from any consumer under this Section". Therefore, the bar under Subsection (2) is relatable to the sum due under Section 56. This naturally takes us to Subsection (1) which deals specifically with the negligence on the part of a person to pay any charge for electricity or any sum other than a charge for electricity. What is covered by section 56, under subsection (1), is negligence on the part of a person to pay for electricity and not anything else nor any negligence on the part of the licensee. ln other words, the negligence on the part of the licensee which led to short billing in the first instance and the rectification of the same after the mistakes detected is not covered by Subsection (1) of Section 56. Consequently, any claim so made by a licensee after the detection of their mistake, may not fall within the mischief, namely, "no sum due from any consumer under this Section", appear in Subsection (2).*

On perusal of above Para’s & complete judgment of the Hon’ble Supreme Court of India, it becomes very clear that the Respondent can recover the amount short billed due to negligence on the part of Licensee/respondent even after two years.

Petitioner in his petition also pleaded that the shop where connection has been released by PSPCL is given on rent. During the period 10.4.2010 to 06.06.2023 (13 years and 2 months apprx) different tenants used the electricity and vacated the shop. The petitioner cannot recover the difference of tariff charged by respondent office for the period 10.4.2010 to 6.6.2023 from the tenants who had vacated the shop. The latest tenant is Dhanvinder Kaur, Prop Daman Marketing Company, who has taken the shop on lease w.e.f. 17.9.2021. The present tenant will pay the difference of DS & NRS tariff from 17.9.2021 till date and the balance amount may kindly be ordered to be recovered from delinquent officers/officials. In this regard, Forum observed that the agreement for getting connection has been signed by Sh. Tajinder Kumar. As far as the matter of different tenants occupying the shop is concerned, petitioner has never intimated the respondent that he has given his shop on rent to the different tenants, as such it is the internal matter of the petitioner and as such, his this plea cannot be considered.

Forum also observed that the amount has been charged from 04/2010 to 06/2023, whereas the same is required to be charged from the date of release of the connection.

Forum has gone through the written submissions made by the Petitioner in the petition, written reply of the Respondent as well as oral arguments and other material brought on record. Keeping in view of the above, Forum is of the opinion that account of the petitioner is required to be billed under NRS category from the date of release of connection. The charged amount be rechecked, revised and recovered accordingly. The decision dated 11.09.2023 of Circle CGRF, City West, PSPCL Ludhiana is required to be modified to that extent.

Keeping in view the above, Forum came to the unanimous conclusion that the account of the petitioner be billed under NRS category from the date of release of connection. The charged amount be revised and recovered accordingly. The decision dated 11.09.2023 of Circle CGRF, City West, PSPCL Ludhiana be modified to that extent.

1. **DECISION:**

Keeping in view the petition, reply, oral discussion, after hearing both the parties, perusal of the record produced by them & observation of Forum, Forum decides that: -

1. **The account of the petitioner be billed under NRS category from the date of release of connection. The charged amount be revised and recovered accordingly. The decision dated 11.09.2023 of Circle CGRF, City West, PSPCL Ludhiana is modified to that extent.**
2. **As required under Regulation 2.41 of the Punjab State Electricity Regulatory Commission (Forum & Ombudsman) Regulations, 2016 the compliance of this decision shall be made within 21 days from the date of receipt of this order.**
3. **If the Petitioner is not satisfied with the decision of CGRF, he is at liberty to file a representation before the Ombudsman appointed / designated by the Punjab State Electricity Regulatory Commission within 30 days from the date of receipt of the order of the Forum, as required under Regulation 2.49 read with Regulation 2.45 and 2.48 of the Punjab State Electricity Regulatory Commission (Forum & Ombudsman) Regulations, 2016.**

**(CA. Baneet Kumar Singla) (Er. Himat Singh Dhillon)**

**Member (Finance) Independent Member**

**(Er. Navdeep Singh Chahal) (Er. Kuldeep Singh)**

**Permanent Invitee Chairperson**

**O/o CE/Commercial, PSPCL**

**Place: Ludhiana**

**Date: 08.12.2023.**