

**PUNJAB STATE ELECTRICITY REGULATORY COMMISSION**  
SITE NO. 3, BLOCK B, SECTOR 18-A MADHYA MARG, CHANDIGARH

Petition No. 25 of 2023  
Date of Order: 17.10.2023

Petition under conduct of business Regulations 2005 of PSERC under EA-2003 seeking compliance of regulations issued by PSERC and EA-2003 and suitable action against respondents u/s 142 and 146 of EA-2003 for not complying with the regulations.

AND

In the Matter of : M/s Jolly Staple Craft Pvt. Ltd. 61/1, Opp Gurudwara  
Sherpur Khurd, Ludhiana

....Petitioner

Versus

Punjab State Power Corporation Limited, the Mall, Patiala &  
Anr.

.....Respondents

Commission: Sh. Viswajeet Khanna, Chairperson  
Sh. Paramjeet Singh, Member

Petitioner: Sh. Jatinder Singh Dua, Advocate

PSPCL: Ms. Harmohan Kaur, CE&ARR/TR  
Sh. Ajay Bansal, Dy.CE  
Sh. Amrinder Singh, Sr.Xen, PSPCL

**ORDER**

The Petitioner has filed this petition seeking direction against the respondents to refund the amount due to the Petitioner alongwith interest and to take suitable action against PSPCL under Section 142 and 146 of the Electricity Act, 2003 for wilfull contravention of the Regulations framed by the Commission. The Petitioner was booked for unauthorized use of electricity under Section 126 of the Electricity Act, 2003 vide notice dated 14.12.2021. Vide provisional notice dated 16.09.2021, the Petitioner was apprised that due to the installation of the rectifiers at their premises, their connection was considered under PIU load by PSPCL and an amount of Rs. 14,55,293/- was charged

from them. The Petitioner filed an appeal against the final order of assessment under Section 127 of the Electricity Act, 2003, which was decided in their favour vide order dated 24.08.2022 and Ld. Appellate Authority ordered refund of the amount deposited by the Petitioner.

1.2 The Petitioner has submitted that since the rectifiers used for Zinc Electroplating in their premises are not covered under Power Intensive Unit/category as classified vide memo no. 861/66, dated 09.12.2020 issued by PSPCL, therefore, the registration of UUE case and the amount charged as per final Assessment Order dated 14.12.2021 is arbitrary. Further, the said memo also stipulates that UUE case is to be registered against those consumers who have installed PIU without intimating PSPCL but in the case of the Petitioner the rectifiers were installed with due information to PSPCL, therefore, the Petitioner has been wrongly booked under UUE case.

1.3 The Petitioner has further submitted that Petition No. 62 of 2021 for clarification regarding applicability of PIU tariff to Electroplating industries and some other type of industries has also been filed by PSPCL. The Commission vide interim order dated 07.01.2022 in the said petition, has directed PSPCL for conducting a study from an expert body to decide as to which industries are covered under PIU category. Therefore, till the Zinc Electroplating Process is included in the list of declared PIU industries, PSPCL cannot register the aforesaid UUE case against the Petitioner. The grievance of the Petitioner is that despite passing of order of refund by the Appellate Authority and their repeated requests for refund of amount deposited, PSPCL has failed to refund the same.

2. The petition was admitted vide order dated 07.08.2023 and notice was issued to PSPCL. PSPCL filed its reply to the petition vide memo no.6701 dated 01.08.2023, submitting that the Petitioner is a

large supply consumer who got its load sanctioned under General Industrial Tariff Category but the Petitioner was found using Power Intensive Load (PIU) at its premises by the Assessing Officer, due to which Rs. 7,32,326/- was charged as UUE penalty against the Petitioner for using 35KW PIU load. After giving due personal hearing to the Petitioner, the final Order of Assessment was issued to the Petitioner under Section 126 of the Electricity Act, 2003.

2.1 PSPCL submitted that the Appellate Authority has wrongly based its decision on Commercial Circular No. 24/2021 (Tariff structure for FY 2021-22) dated 01.06.2021 and held that since, there is no separate tariff category for PIU load less than 100KW, therefore, the PIU load found by the Assessing Officer at the premises of the Petitioner being below 100KW shall not be considered unauthorized and directed PSPCL to refund the UUE amount charged from the Petitioner. The Commercial Circular No. 24/2021 dated 01.06.2021 is applicable only to those consumers, whose bifurcated load viz. PIU and General is already approved/sanctioned by the Competent Authority, however, the connection of the Petitioner is under General Category and the Petitioner has not got its PIU load regularized by the department. Thus, the Petitioner has been rightly booked for UUE under Section 126 of Electricity Act, 2003 and Regulation 36 (d) of the Supply Code Regulation, 2014.

2.2 PSPCL has submitted that since a similar case i.e. M/s Ark Engineer vs. PSPCL has already been decided in their favour by Ld. Appellate Authority vide order dated 17.06.2022. PSPCL, vide email dated 17.10.2023, has informed that they have filed a writ petition against the Petitioner and other similar firms who were booked for unauthorized use of electricity, vide CWP No. 22990 of 2023 titled as PSPCL vs. M/s Ganesh Expotrade Pvt. Ltd. and Ors. Hon'ble High

Court while issuing notice of motion to the respondents for 18.12.2023, has also issued notice regarding stay as well vide order dated 11.10.2023.

3. The Petitioner has submitted rejoinder to the reply filed by PSPCL vide email dated 26.09.2023 wherein the Petitioner has stated that the present Petition has been filed on account of non implementation of the order dated 24.08.2022 passed by Ld. Appellate Authority and that although the approval for filing the Writ Petition in the present case was given on 11.05.2023 but no action has been taken by PSPCL till date. Thus, PSPCL has deliberately delayed the proceedings and has violated Regulation 36.3.4 of the Supply Code, 2014. Citing the opinion given by the Commission in Petition No. 38 of 2023 and Petition No. 55 of 2022, the Petitioner further stated that in absence of any stay order in the present case, PSPCL is bound to implement the order of the Appellate Authority and the petitioner is entitled to get refund of the deposited amount alongwith interest from the date of deposit to the date of actual refund as per Regulations 36.3.4 of the Supply Code, 2014.

4. After hearing the parties, Order was reserved vide order dated 29.09.2023.

#### **Observations & Decision of the Commission**

5. The Commission has carefully gone through the submissions made in the petition, reply of PSPCL, rejoinder and arguments made during the hearings. The findings and decision of the Commission are as here under:-

The petitioner challenged the final order of assessment by way of filing an Appeal under Section 127 of the Electricity Act 2003 before the Appellate Authority. The Appellate Authority vide Order dated 24.08.2022 has quashed the Final Order of assessment and

has ordered the refund of the deposited amount in view of Regulation 36.3.4 of the Supply Code, 2014.

The aforementioned Regulation 36.3.4 of the Supply Code, 2014 specifies as under:

*“In case the Appellate Authority holds that no case of unauthorized use of electricity is established, no further proceedings shall be initiated by the distribution licensee and the amount deposited by the appellant refunded along with interest for the period from the date of deposit to the date of refund, at the SBI's Base Rate prevalent on first of April of the relevant year plus 2% through cheque or adjustment in the electricity bills of immediately succeeding months, consumer/person. as per the discretion of the consumer/person.”*

Vide order dated 28.04.2023 in Petition No. 55 of 2022 and order dated 02.08.2023 in Petition No. 38 of 2023, the Commission has unambiguously directed that in the absence of any stay order, PSPCL is bound to implement the order passed by the Appellate Authority and comply with Regulation 36.3.4 of the Supply Code, 2014. In this case, PSPCL has filed writ petition i.e. CWP No. 22990 of 2023 before the Hon'ble High Court and vide order dated 11.10.2023, Hon'ble High Court have issued notice of motion to the respondents and notice regarding stay as well. Since, only the notice has been issued regarding the stay but no stay order has been issued by Hon'ble High Court till date, therefore, PSPCL is liable to comply with the order dated 24.08.2022 passed by the Appellate Authority and to refund the amount along with interest due to the petitioner as per the Supply Code, 2014 regulations. PSPCL shall comply with the

order dated 24.08.2022 passed by the Appellate Authority without any delay and submit compliance report within 15 days.

Further, the Commission observes that the delay in compliance with the order passed by the Appellate Authority under Section 127 of the Act without any valid reason has become endemic to PSPCL. A number of such petitions are being received from aggrieved consumers. To preclude such harassment to the consumers, PSPCL is directed to ensure meticulous action as per Regulation 36.3.4 of the Supply Code, 2014 and to conduct a thorough internal check to identify such pending cases and to ensure strict compliance with ibid regulations failing which the Commission shall be constrained to consider imposing penalties U/s 142 of the Electricity Act 2003 in such cases.

**Sd/-**  
(Paramjeet Singh)  
Member

**Sd/-**  
(Viswajeet Khanna)  
Chairperson

Chandigarh  
Dated: 17.10.2023