

PUNJAB STATE ELECTRICITY REGULATORY COMMISSION

SITE NO. 3, BLOCK B, SECTOR 18-A MADHYA MARG, CHANDIGARH

Petition No. 38 of 2023

Date of Hearing: 27.07.2023

Date of Order: 02.08.2023

Petition under conduction of Business Regulation 2005 of PSERC Issued under Electricity Act, 2003 for the seeking compliance of the Regulations issued by PSERC and suitable action against the respondents for not complying with the provisions of Supply Code-2014 issued by the PSERC.

AND

In the Matter of : Sh. Sunil Kumar. B- 194-195, St. No. 2 Sherpur, Ludhiana.
.....Petitioner

Versus

Punjab State Power Corporation Limited, Patiala through its managing Director, & ASE-OP, CMC Spl. Division Ludhiana.
.....Respondent

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

Petitioner: Sh. Parvesh Chadha

PSPCL: Ms. Harmohan Kaur, CE/ARR&TR
Sh. J.K. Jindal, Sr.Xen
Sh. Rajinder Singh, ASE,CMC

ORDER

1.0 The petition was taken up for hearing on admission. After examining the averments made in the petition and hearing the representative appearing for the petitioner, petition is admitted.

1.1 The petitioner is having LS category connection, bearing account No. 3002954022 with sanctioned load as 249.780 KW & CD 277 KVA, (including 150 KW Heater Load) under CMC (Spl) Division PSPCL, Ludhiana. The petitioner is a consumer of PSPCL and initially obtained connection under MS category with sanctioned load as 39.780 KW. Thereafter, the petitioner applied for extension in load by 210 KW to its already existing load which was released under General Category with the nature of industry being indicated in

the bill as "Cotton Spinning & Weaving". PSPCL checked the premises of the petitioner and in the report dated 26.04.2018, It was found that the petitioner has installed induction heaters which are covered in PIU category. A case of unauthorized use of electricity was initiated against the petitioner demanding a sum of Rs. 21,94,109 and ultimately final order of assessment was made vide letter No. 4140 dated 22.05.2018. The petitioner filed an Appeal against the final order of assessment before Divisional Commissioner, Patiala and the Appellate Authority vide Order dated 18.03.2020 has held that when the Appellant has applied for extension in load for 210 KW for installing two normal types of heaters of 100 KW and 50 KW and the PSPCL authorities had duly approved the same then PSPCL could not claim and hold that the Appellant has made unauthorized use of electricity. The petitioner is not liable for any penalty on the ground of UUE. The Appellate Authority quashed the proceedings initiated under Section 126 of the Electricity Act 2003. The petitioner has submitted in the petition that the Order passed by the Appellate Authority under Section 127 of the Electricity Act has attained finality and PSPCL is liable to refund the amount charged/deposited as per Regulation 36.3.4 of the Supply Code 2014. The petitioner requested for refund but there is no communication from PSPCL in this regard. The petitioner has prayed for direction to PSPCL to comply with the provisions of the Supply Code and refund the amount with interest and for suitable action under Section 142 and 146 of the Electricity Act against the respondents.

2. It has been submitted by PSPCL that in view of the high revenue involved in the case, CWP No. 16800/2020 dated 12.10.2020 was filed before the Hon'ble Punjab and Haryana High Court against the decision dated 18.03.2020 passed by the Divisional Commissioner Patiala. The office of Sr.Xen/DS, CMC (SPL.) Division Ludhiana has approached the office of Legal Advisor, Patiala to provide advice whether 50% of the total UUE amount that

the consumer has deposited can be refunded in such circumstances where the writ petition is already before the Hon'ble Court but there is no stay of the order appealed against. Till now the legal opinion from the Legal Advisor has not been received.

3. The Commission has examined the submissions made by the parties. 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 18.03.2020 has held that the case of UUE is not made out against the petitioner and has quashed the Final Order of assessment. Regulation 36.3.4 of the Supply Code 2014 provides 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."

Although PSPCL has filed a CWP No. 16800 of 2020 against the Order dated 18.03.2020 passed by the Appellate Authority before the Hon'ble High Court, however, no stay has been granted by the Hon'ble High Court. In the absence of any stay order, PSPCL is liable to comply with the Order dated 18.03.2020 passed by the Appellate Authority and refund the amount alongwith interest due to the petitioner as per Supply Code, 2014 Regulations. PSPCL shall comply with the Order dated 18.03.2020 passed by the Appellate authority without any delay and submit the compliance report within 15 days.

The effect of the decision of the Appeal filed by PSPCL before the Hon'ble High Court will be implemented after the order is announced by the High Court

The Petition is disposed of accordingly.

Sd/-
(Paramjeet Singh)
Member

Sd/-
(Viswajeet Khanna)
Chairperson

Chandigarh
Dated: **02.08.2023**

