IN THE COURT OF THE LOKPAL (OMBUDSMAN),

ELECTRICITY, PUNJAB,

66 KV GRID SUB-STATION, PLOT NO. A-2,

INDUSTRIAL AREA, PHASE-1, S.A.S NAGAR (MOHALI)

Appeal No. 57 / 2017

Jai Bharat Steel Rolling Mills,

C-10, Focal Point, Phase-V,

Ludhiana.

…….Petitioner

Account No. 3002808953

*Through:*

Shri Sukhminder Singh, Petitioner’s Representative (PR)

Versus

Punjab State Power Corporation Limited

…..Respondent

*Through*

Er. Kanwal Preet Singh Sidhu,

Additional Superintending Engineer,

DS Focal Point Division (Special),

PSPCL, Ludhiana.

Petition No. 57/2017 dated 05.09.2017 was filed against order dated 12.07.2017 in case No. CG-50 of 2017 of the Consumer Grievances Redressal Forum (Forum) deciding that:

“T*he amount charged in the bill dated 01.08.2016 of the Petitioner Rs.4,21,440/- on account of defaulting amount of M/s Shubham Vanaspati Pvt. Ltd Ludhiana, Rs.1,57,839/- on account of surcharge and interest for late payment of bills in respect of the Petitioner as per Half Margin no.363 dated 15.6.2016 and Rs.1955/- as surcharge charged by SAP system is correct and chargeable”.*

2. Arguments, discussions and evidence on record were held on 01.02.2018.

1. Shri Sukhminder Singh, Petitioner’s Representative (PR), attended the Court proceedings on behalf of the Petitioner. Er. Kanwal Preet Singh Sidhu, Addl. Superintending Engineer alongwith Shri Gursatinder Singh, AAO (Revenue), DS Focal Point Division (Special), PSPCL, Ludhiana, appeared on behalf of the Respondent Punjab State Power Corporation Limited (PSPCL).

4.At the outset of the proceedings, the issue of delay in filing the Appeal in this Court by the Petitioner was taken up. PR stated that the delay of few days in filing the Appeal had occurred as the Petitioner faced difficulty in arranging fundsto deposit the requisite amount of Rs. 1.90 lac which could be deposited only on 28.08.2017. PR stated that the delay was not intentional and prayed for its condonation.

The Respondent contested the above contention of PR and argued that the Appeal filed by Petitioner was time barred. The Forum closed the case no. CG-50/2017 on 07.07.2017 when the Petitioner Shri Parmod Kumar was present. The decision in this case was sent to the Petitioner vide memo no.1760 dated 12.07.2017 by Secretary /CGRF Patiala. As per Consumer Complaint Handling Procedure, PSERC (Forum and Ombudsman) Regulation - 2016 and Electricity Supply Instruction manual Instruction no. 113.2, a consumer, aggrieved with the decision of the Forum, could file Appeal before this Court within one month from the date of receipt of the order of the Forum. The Appeal was filed by the Petitioner on 05.09.2017. i.e. after a period of more than one month from the receipt of copy of its decision. Thus, the Appeal was time barred and the reasons given by the Petitioner for delay in filling the Appeal were not convincing. The Respondent prayed that the period of delay in filing the appeal by the Petitioner may not be condoned and application of the Petitioner for condonation of delay be dismissed.

*I have heard both the sides on the issue of condonation of delay and observed that order dated 12.07.2017 of the Forum might have been received by the Petitioner latest by 18.07.2017 and accordingly, Appeal was required to be filed in this Court by 18.08.2017 However, the same was submitted in this Court on 05.09.2017 i.e. 18 days after the stipulated period, one month from the date of receipt of order of the Forum, as provided in Regulation of PSERC (Forum and Ombudsman) Regulations-2016. Though the reasons given by the PR, that the Petitioner had faced difficulty in arranging the requisite funds for filing the Appeal, were not much convincing, I am of the view that non-condonation of the delay would not meet the ends of ultimate justice and deprive the Petitioner of the opportunity to present the case on merits. In view of this, delay of 18 days in filing the Appeal in this Court is condoned and the Petitioner is allowed to present the case.*

5. Presenting the case on behalf of the Petitioner, Shri Sukhminder Sigh, Petitioner’s Representative (PR) stated that the Petitioner was having a Large Supply category connection with Sanctioned Load 889.750kW and Contract Demand 990kVA. The Petitioner was paying electricity bills against measured consumption, issued by the PSPCL every month. However, an amount of Rs.5,81,234/- was charged as Sundry Charges in the bill issued on 01.08.2016. On enquiry from the Sub Divisional Office, it was told that Rs. 5,81,.234/- related to Shubham Vanaspati Pvt. Ltd, a company in which one of its Directors was a close relative of the Petitioner firm - Jai Bharat Steel Rolling Mills. The amount charged to the Petitioner was unjustified and illegal, as such, it was protested with Focal Point Division (Special), PSPCL, Ludhiana, but every month, payment of energy bill relating to Jai Bharat Steel Rolling Mills, was deposited by the Petitioner by reducing this payment of Rs.5,81,234/- which was being accepted by the Respondent. Even then, the payment (alongwith accumulated surcharge/interest) was being shown in the subsequent bills as arrears of the current financial year. Eventually, this amount alongwith surcharge/interest accumulated to Rs. 8,51,688/- at the end of 01/2017, but the illegal amount relating to Shubham Vanaspati Pvt. Ltd, charged to the Petitioner, was not permanently adjusted/cleared from the regular bills issued to the Petitioner’s firm viz, Jai Bharat Steel Rolling Mills. Therefore, the Petitioner filed a Petition before the Forum, for redressal of its grievance and deposited an amount of Rs.3,00,000/- against the disputed amount. However, the Forum did not consider the pleadings of the Petitioner and decided that *“ the amount charged in the bill dated 01.08.2016 of the Petitioner Rs. 4,21,440/- on account of defaulting amount of Shubham Vanaspati Pvt. Ltd Ludhiana, Rs.1,57,839/- on account of surcharge and interest for late payment of bills in respect of the Petitioner as per Half Margin no. 363 dated 15.6.2016 and Rs.1,955/- as surcharge charged by SAP system is correct and chargeable”.*

PR stated that based on the order of the Forum , AEE/Commercial Focal Point Division (Special), PSPCL, Ludhiana issued a notice, bearing memo no.1525 dated 28.07.2017, asking the Petitioner to deposit balance amount of Rs.7,47,635/-. The Petitioner was not satisfied with the decision of the Forum, therefore, the present appeal was filed.

PR also made the following submissions for consideration of this Court as under:

1. The defaulting amount of Rs. 5,81,234/- charged as sundry charges in the bill issued on 01.08.2016 to the Petitioner was related to Shubham Vanaspati Refineries Pvt. Ltd. The Respondent had tried to justify the charging of amount on the ground that *“Sh. Parmod Kumar, General Attorney of Jai Bharat Steel Rolling Mills was a son of Achhru Ram S/o Sh Narata Ram, was a Director of Shubham Vanaspati Refineries Pvt. Ltd. Therefore the amount of Shubham Vanaspati Refineries Pvt. Ltd had been charged to Jai Bharat Steel Rolling Mills”.*  **PR stated that Sh. Parmod Kumar (Partner of the firmJai Bharat Steel Rolling Mills) was a sonof Sh. Achhru Ram (who was Director of defaulting company-Shubham Vanaspati Refineries Pvt. Ltd)** but could not quote any law/rule or any instruction even of PSPCL to charge/transfer the amount like this to the account of the Petitioner. The Forum, in its proceedings dated 26.04.2017, directed the Respondent to quote instruction under which, the defaulting amount of Shubham Vanaspati Refineries Pvt. Ltd was charged to the Petitioner. The Respondent, in its reply, stated that recovery had been made as per Instruction no. 92.1 of ESIM 2010, which read as under:

*“Disconnection of supply of electric energy to a consumer who defaults in making payment of the electricity bills is not an end in itself but is only the first step towards not only arresting further accumulation of arrears but even forcing him to make the payment. However, all out efforts shall be made to recover the amount and such efforts shall not be relaxed unless the recovery is actually effected”.*

PR stated that it was on the basis of the above instruction that the Forum decided that the amountcharged in the bill dated 01.08.2016 of the Petitioner was correct and chargeable. It was very unfortunate that the Forum was unable to understand the meaning of the above instruction, wherein it had not been prescribed that defaulting amount of a company could be transferred to any other concern/firm/company, only on the ground that brother or father or any other relative was a Director of defaulting company. The Forum might have been able to understand the meaning, idea and implication of this instruction after considering the provision as per Instruction no. 92.2, 92.3 and 92.4 of ESIM 2010 (reproduced below) alongwith ESIM 92.1 which was the basis of conclusion of the Forum:

***92.2*** *“If a disconnected consumer does not seek reconnection within a period of one month, the meter shall be removed and security consumption shall be adjusted against the defaulting amount. The service line must not be allowed to remain idle for more than 6 months. However, where SE/Dy.CE (DS) gives approval in writing that there is a definite possibility of connection being reconnected, the service line and equipment be allowed to remain in position beyond six months but not beyond one year”.*

***92.3*** *“The disconnected consumers who are defaulters of PSPCL may sell their premises /property without any intimation to PSPCL. If this happens, the chances of recovery of defaulting amount become remote. Therefore, it is desirable that the field officers may intimate the revenue authorities like SDM/Tehsildar regarding the amount to be paid by the consumer to the PSPCL so that if any transaction regarding sale or purchase of the property takes place, the revenue authorities may be in a position to recover the outstanding amount due to the PSPCL at the time of such a sale or purchase and pass on to PSPCL. Compliance of these instructions need to be monitored by Sr. Field Officers and in case it is noticed that the Sub divisional Officers/Officials have not taken due care in informing the revenue authorities, then in that case if recovery is not possible due to sale/purchase of the premises/property, the said amount would be recoverable from the officer/official responsible for not intimating to the revenue authorities. Electricity Supply Instructions Manual 124”.*

***92.4 Litigation Cases****:*

*i) The Sr.XEN/ASE (DS) shall pursue the cases with the legal section directly for taking legal opinion, whenever required.*

*ii) The cases where the suit for recovery of defaulting amount or for vacating the stay, if any, ordered by the court, is to be filed on behalf of the PSPCL, it shall be filed within the stipulated time limit in consultation with the Legal Section. However, in case any clarification regarding sales/commercial matters is required, the specific point may be separately referred to the Commercial Organization for clarification or this may be discussed at personal level but well in time. Field officers of the PSPCL shall be apprised of the law of limitation and the time limits within which a case/appeal is to be filed in the various courts. Delay on the part of the lawyer or any of the officer/official of the PSPCL shall not deprive the PSPCL of opportunity of filing appeal in the next court”.*

PR stated that from the above, it was very clear that the Respondent was required to inform the SDM/Tehsildar regarding the amount to be paid by the consumer and to file a suit for recovery of defaulting amount, after the first step of disconnection of supply as per Instruction no. 92.1 of ESIM 2010*.*

1. Further, Regulation 30.1.3 of Supply Code-2014 provided that:

*“If a consumer vacates any premises to which electricity has been supplied by a distribution licensee without paying all charges due from him in respect of such supply, or for the provision of an electricity meter, electric line or electrical plant, the distribution licensee may refuse to give him supply at any other premises until he pays the amount due and also may refuse to connect such premises either on request from existing consumer or on application for new connection by any person till all dues are cleared”.*

The Respondent PSPCL could refuse to give supply toShubham Vanaspati Refineries Pvt. Ltd at any other premises and might also refuse to release any new connection in that premises till all dues were cleared apart from filing recovery suit as explained above. But the Respondent- PSPCL had no legal right to transfer the defaulting amount of Shubham Vanaspati Refineries Pvt. Ltd to Jai Bharat Steel Rolling Mills, as explained in the preceding para.

c) As per information gathered from the sources of Shubham Vanaspati Refineries Pvt. Ltd, the defective transformer was not replaced by PSPCL due to which, the consumer remained without power supply for about nine months before disconnection of supply due to non-payment. The consumption during these months was Nil which was possible only if supply was not there from Transformer, otherwise, consumption of few units should be there with the unavoidable use of one two light points and shunt capacitors etc. The officials of the PSPCL might have got repaired the same transformer afterwards or any other transformer, available with them, might have been installed.

d) The supply of the consumer was required to be disconnected after non-payment of first bill (as per rules of PSPCL) instead of waiting for accumulation of defaulting amount through billing on Monthly Minimum Charges (MMC) basis for months together.

e) The date of disconnection of supply had been mentioned as 07.08.2015 as per Load Checking Register (LCR) No. 013/694 dated 09.09.2015 and on the same LCR, the defaulting amount had been mentioned as Rs.3,82,688/- but an amount of Rs.5,81,234/- was charged as sundry charges in the bill issued on 1.8.2016 to the Petitioner.

f) An amount of Rs.1,57,839/- had been charged to the Petitioner as interest and surcharge from 19.08.2015 to 17.12.2015. However, the amount of surcharge of Rs.1,08,386/- (included in this amount) could not be charged, as supply to the consumer was said to have been permanently disconnected on 07.08.2015.

g) The PSPCL had also introduced One Time Settlement Scheme (OTS) for permanently disconnected defaulting connections vide Commercial Circular (CC) No.17/2017 dated 15.5.2017 and this scheme was valid for one year. The Respondent-PSPCL should impress upon the defaulting company Shubham Vanaspati Refineries Pvt. Ltd to opt for the OTS scheme and settle their case.

h) The Respondent did not provide copy of TDCO and PDCO vide which the supply of Shubham Vanaspati Refineries Pvt. Ltd was disconnected due to non-payment.

i) The Forum failed to consider all the above points before delivering the judgment in the disputed case of the Petitioner. The language of whole judgment (including history of the case, proceedings, observations and decision) was not properly understandable. Besides, the decision, being against the law, biased and non-speaking.

Further, as per its decision, the Forum ordered that “the amount charged in the bill dated 1.8.2016 of the Petitioner Rs.4,21,440/- on account of defaulting amount of Shubham Vanaspati Pvt. Ltd Ludhiana, Rs.1,57,839/- on account of surcharge and interest for late payment of bills in respect of the Petitioner as per Half Margin No. 363 dated 15.06.2016 and Rs.1,955/- as surcharge charged by SAP system is correct and chargeable”. Thus, the total of chargeable amount came to Rs.5,81,234/-, however the AEE/Commercial had taken this amount as Rs.8,51,688/-in the notice dated 28.07.2017.

PR requested this Court to set-aside the decision of the Forum, allow the appeal and order the refund of Rs.3,00,000/- (deposited on 03.02.2017) and Rs.1,70,000/-(deposited on 28.08.2017) alongwith applicable interest, in view of the principles of natural justice and fairness apart from any other cost and damages considered appropriate by the Court.

6. Defending the case on behalf of the Respsonodent – PSPCL, Er. Kanwal Preet Singh Sidhu, Addl. S.E/DS Focal Pont Division (Special), PSPCL, Ludhiana, stated that the connection of the Petitioner was running under Large Supply category in the name of Jai Bharat Steel Rolling Mill bearing Account no. 3002808953 with Sanctioned Load 889.750kW and Contract Demand 990kVA. The consumer was charged Rs.4,21,440/- on dated 29.07.2016 which related to defaulting amount of Shubham Vanaspati Ltd (Account No. MS45/766) and Rs.1,57,839/- was charged on dated 07.07.2016 on the basis of Half Margin no.363 dated 15.06.2016 of Revenue Audit Party (RAP), Focal Point, PSPCL, Ludhiana which related to surcharge and interest as the Petitioner had not deposited the bills on the due date. Both the amounts had been added in the bill issued on dated 01.08.2016.

The Respondent stated that amount of Rs. 4,21,440/- related to the defaulting amount of Shubham Vanaspati Ltd., (Account no. MS45/766) and was charged to the account of Petitioner on the basis of LCR No.77/555 dated 07.08.2015, LCR no.013/694 dated 09.09.2015 and LCR no.72/802 dated 25.02.2016 wherein it was mentioned that the connection of the consumer (Shubham Vanaspati Ltd) was disconnected on 07.08.2015 due to defaulting amount outstanding in the account and as the said consumer was having another connection in the name of Jai Bharat Steel, (Account No. 3002808953), so, the amount outstanding against Shubham Vanaspati Ltd. (Account no. MS45/766) be charged to the account of Jai Bharat Steel Rolling Mill. So, the amount of Rs. 4,21,440/- in respect of Shubham Vanaspati Ltd Account no. MS45/766 was charged to Account No. 3002808953 in the name of Jai Bharat Steel Rolling Mill in the bill issued on 01.08.2016.

The Respondent also stated that the amount of Rs. 1,57,839/- was charged to the Petitioner on the basis of Half Margin. no. 363 dated 15.06.2016 issued by Supdt., Revenue Audit Party, Focal Point, Ludhiana. This amount was charged to the Petitioner on account of surcharge and interest as it had not deposited the bills on due date. This amount of surcharge was omitted by SAP system and was shown chargeable by Supdt. Revenue Audit Party, Focal Point, PSPCL, Ludhiana vide HM No.363 dated 15.06.2016. The amount of Rs. 1,955/- was also the amount of surcharge which was charged by the SAP system. This amount of surcharge and interest was charged to the Petitioner on the basis of CC No.43/2014 which related to late payment surcharge and provided as under:

*In the event of monthly energy bill or other charge relating to electricity not being paid in full within the time specified in the bill, late payment surcharge shall be levied @ 2% on the unpaid amount of the bill upto 7 days after the due date. After 7 days, the surcharge shall be levied @ 5% on the unpaid amount of bill upto 15 days from the due date.”*

*In case of consumers having LT specified supply voltage, if the full amount of the bill was not paid within due date, the late payment surcharge shall be levied @ 2% on the unpaid amount of the bill upto 15 days from the due date.*

*Interest @ 1.5% per month on gross unpaid amount including surcharge payable shall be levied after expiry of 15 days from the due date of the bill till the deposit of outstanding amount. Part of the month shall be treated as full month of this purpose.”*

The Respondent further stated that the consumer disagreed with charging of the above amount and filed Petition no. 50 of 2017 before the Forum which decided the same on 12.07.2017 as under:

*“ The amount charged in the bill dated 01.08.2016 of the Petitioner Rs. 4,21,440/- on account of defaulting amount of Shubham Vanaspati Refineries (P) Ltd. Ludhiana Rs.157839/- on account of surcharge and interest for the payment of bills in respect of the Petitioner as per half margin No.363 dated 15/06/2016 and Rs.1955/- as surcharge charged by SAP System is correct and chargeable.”*

In Compliance to the above decision of the Forum, a Notice, bearing no. 1525 dated 28.07.2017, was issued to deposit Rs. 7,47,635/- after adjusting the amount already deposited and interest charged. The Petitioner was not satisfied with the said decision dated 12.07.2017 of the Forum and filed an Appeal before this Court.

The Respondent added that in the LCR No. 13/694 dated 09.09.2015, the Petitioner - Shivam Aggarwal had also signed **and it was mentioned therein that defaulting amount of Shubham Vanaspati and Refineries Ltd. be charged to the running Large Supply Connection bearing Account No. 3002808953 of Jai Bharat Steel Rolling Mill.**

The Respondent further stated that Sh. Parmod Kumar, General Attorney of Jai Bharat Steel Rolling Mills, Ludhiana was a son of Sh. Achhru Ram son Sh.Narata Ram who was a Director shown at Serial no.1 out of four Directors in Shubham Vanaspati & Refineries Pvt. Ltd. and this was certified by Dass Khanna and Company, Chartered Accountants, as per record in consumer case of Shubham Vanaspati Refineries Pvt. Ltd., Ludhiana, as on dated 31.10.2006. Therefore, the defaulting amount of Shubham Vanaspati & Refineries Pvt. Ltd. had been charged to the Jai Bharat Steel Rolling Mill and transferred to its account in terms of Instruction No. 92.1 of ESIM. The connection of Shubham Vanaspati & Refineries had been disconnected permanently and Tehsildar (East), Ludhiana had been informed vide letter no. 5847 dated 21.12.2016. Also, the recovery suit for the recovery of Rs. 3,48,265/-, after adjusting the security and interest on security, had already been filed in the court of Hon’ble C.J.J. Division, Ludhiana.

The Respondent contended that as per Central Store, Ludhiana letter no. 1265 dated 05.07.2017, no transformer was issued against this location/consumer to the concerned JE during the month of 02/2015 i.e period under dispute.

The Respondent clarified that the amount of Rs. 5,81,234/- included the defaulting amount of Rs.4,21,440/- of Shubham Vanaspati, Rs. 1,57,839/- on account of amount charged vide Half Margin No.363 dated 05.06.2016 and Rs.1,955/- on account of interest charged by SAP system.

The Respondent also submitted that the Petitioner can apply, if eligible, under One Time Settlement scheme, circulated by the PSPCL vide CC No.17/2017 within the stipulated period, for consideration of its case.

The Respondent contended that as the Petitioner had not been depositing the full amount and was depositing only the current bill, so, during 01.08.2016 to 31.03.2017, the amount of interest and surcharge (on the amount not deposited by the Petitioner) amounting to Rs. 5,81,234/- got increased to Rs.8,51,688/-.

The Respondent prayed to dismiss the Appeal, in view of the submissions made above.

**Decision**

7. The relevant facts of the case are that the connection of the Petitioner is running under Large Supply category in the name of Jai Bharat Steel Rolling Mill having Account No. 3002808953 with Sanctioned Load 889.750kW and Contract Demand 990kVA. The consumer was charged Rs. 4,21,440/- on dated 29.07.2016 which related to the defaulting amount of Shubham Vanaspati Ltd. (Account no. MS45/766) and Rs.1,57,839/-, on account of Surcharge and interest, was charged on dated 07.07.2016, on the basis of Half Margin No.363 dated 15.06.2016 of Revenue Audit Party, Focal Point, PSPCL, Ludhiana as the Petitioner had not deposited the bills on due dates. Both the amounts had been added in bill issued on dated 01.08.2016. The amount of Rs.4,21,440/- related to the connection of Shubham Vanaspati Ltd., (Account No.MS45/766), was charged to the account of Petitioner on the basis of LCR No.77/555 dated 07.08.2015, LCR No.013/694 dated 09.09.2015 and LCR no.72/802 dated 25.02.2016, wherein it was mentioned that the connection of the consumer (Shubham Vanaspati Ltd) was disconnected on 07.08.2015 due to defaulting amount outstanding in its account as the consumer was having another connection in the name of Jai Bharat Steel bearing Account No. 3002808953 and the amount outstanding of Shubham Vanaspati Ltd. (Account No. MS45/766) be charged to the account of M/s Jai Bharat Steel Rolling Mill. Accordingly, the amount of Rs.4,21,440/- of Shubham Vanaspati Ltd. (Account No. MS45/766) was charged to Account no. 3002808953 in the name of Jai Bharat Steel Rolling Mill in the bill issued on 01.08.2016. The amount of surcharge and interest was charged to the consumer on the basis of CC No.43/2014 which related to late payment surcharge and issued with the approval of Hon’ble PSERC.

The Petitioner disagreed with charging of the above amount and filed appeal No.50 of 2017 before the Forum which decided the Appeal on 12.07.2017 as under:

*“ The amount charged in the bill dated 01/08/2016 of the Petitioner Rs.4,21,440/- on account of defaulting amount of Shubham Vanaspati Refineries (P) Ltd. Ludhiana Rs.1,57,839/- on account of surcharge and interest for the payment of bills in respect of the petitioner as per half margin No.363 dated 15.06.2016 and Rs.1,955/- as surcharge charged by SAP System is correct and chargeable.”*

In compliance to the decision of the Forum, a Notice bearing No. 1525 dated 28.07.2017 was issued by the Respondent asking the Petitioner to deposit Rs. 7,47,635/- after adjusting the amount already deposited. The Petitioner was not satisfied with the said decision of the Forum dated 12.07.2017 and filed an Appeal before this Court.

I have gone through the submissions made by the Petitioner in the Petition and written reply of the Respondent as well as oral submissions made by the Representatives of the Petitioner and the Respondent alongwith the material brought on record by both the sides.

The issue requiring adjudication is the legitimacy of the following amounts charged to the Petitioner though the same related to the connection in the name of Shubham Vanaspati and Refineries Ltd. which was disconnected on 07.08.2015 and one of the Directors of this firm was father of the General Attorney of the Petitioner firm:

1. Rs. 5,81,234/- charged as Sundry Charges in the bill dated 01.08.2016. This amount includes Rs. 4,21,440/- on account of defaulting amount of Shubham Vanaspati & Refineries Limited (Account No. MS 45/766) and Rs. 1,57,839/- charged by Revenue Audit Party (RAP) vide Half Margin No. 363 dated 15.06.2016 on account of surcharge on delayed payment.
2. Rs. 1,955/- as interest charged by SAP System.
3. Interest and Surcharge upto 31.03.2017 on the amount not deposited as only the current amount was deposited by the Petitioner.

The point emerged and deliberated at length are as under:

1. PR argued that the defaulting amount of Rs. 5,81,234/- charged as sundry charges in the bill issued on 01.08.2016 to the Petitioner, related to Shubham Vanaspati Refineries Pvt. Ltd. The Respondent had tried to justify the charging of amount on the ground that *“Sh. Parmod Kumar, General Attorney of Jai Bharat Steel Rolling Mills was a son of Achhru Ram S/o Sh Narata Ram, was a Director of Shubham Vanaspati Refineries Pvt. Ltd. Therefore the amount of Shubham Vanaspati Refineries Pvt. Ltd had been charged to Jai Bharat Steel Rolling Mills”.*  PR stated that Sh. Parmod Kumar (Partner of the firmJai Bharat Steel Rolling Mills) was a sonof Sh. Achhru Ram (who was Director of the defaulting company-Shubham Vanaspati Refineries Pvt. Ltd) but Sh. Achhru Ram had nothing to do with the Petitioner firm and there was no law/rule or any instruction even of PSPCL to charge/transfer the amount like this to the account of the Petitioner. The Forum, in its proceedings dated 26.04.2017, directed the Respondent to quote instruction under which, the defaulting amount of Shubham Vanaspati Refineries Pvt. Ltd was charged to the Petitioner. The Respondent, in its vague and irrelevant reply, stated that recovery had been made as per Instruction no. 92.1 of ESIM -2010, which read as under:

*“Disconnection of supply of electric energy to a consumer who defaults in making payment of the electricity bills is not an end in itself but is only the first step towards not only arresting further accumulation of arrears but even forcing him to make the payment. However, all out efforts shall be made to recover the amount and such efforts shall not be relaxed unless the recovery is actually effected”.*

PR also argued that it was on the basis of the above instruction that the Forum decided that the amountcharged in the bill dated 01.08.2016 of the Petitioner was correct and chargeable. It was very unfortunate that the Forum was unable to understand the meaning of the above instruction, wherein it had not been prescribed that defaulting amount of a company could be transferred to any other concern/firm/company, only on the ground that brother or father or any other relative was a Director of defaulting company. The Forum might have been able to understand the meaning, idea and implication of this instruction after considering the provision as per Instruction No. 92.2, 92.3 and 92.4 of ESIM-2010 alongwith ESIM 92.1 which was the basis of conclusion of the Forum.

PR also stated that from the above, it was very much clear that the Respondent was required to inform the SDM/Tehsildar regarding the amount to be paid by the consumer and to file a suit for recovery of defaulting amount, as a first step after disconnection of supply as per Instruction no. 92.1 of ESIM-2010.

The Respondent, in its defence, stated that amount of Rs. 4,21,440/- related to the defaulting amount of Shubham Vanaspati Ltd., (Account no. MS45/766) and was charged to the account of Petitioner on the basis of LCR No.77/555 dated 07.08.2015, LCR No.013/694 dated 09.09.2015 and LCR no.72/802 dated 25.02.2016 wherein it was mentioned that the connection of the consumer was disconnected on 07.08.2015 due to defaulting amount outstanding in its account and as the said consumer was having another connection in the name of Jai Bharat Steel, (Account no. 3002808953), the amount outstanding against Shubham Vanaspati Ltd. (Account No. MS45/766) be charged to the account of Jai Bharat Steel Rolling Mill. So the amount of Rs .4,21,440/- of Shubham Vanaspati Ltd. Account No. MS45/766 was charged to Account No. 3002808953 in the name of Jai Bharat Steel Rolling Mill in the bill issued on 01.08.2016. The Respondent further stated that the amount of Rs. 1,57,839/- was charged to the consumer on basis of Half Margin. No. 363 dated 15.06.2016 issued by Revenue Audit Party, Focal Point, Ludhiana. This amount was charged to the consumer on account of surcharge and interest as the Petitioner had not deposited the bills on due dates. This amount of surcharge was omitted by SAP system and was shown chargeable by Revenue Audit Party, Focal Point, PSPCL, Ludhiana, vide HM No.363 dated 15.06.2016. The amount of Rs. 1,955/- was the amount of surcharge which was charged by the SAP system. This amount of surcharge and interest was charged to the consumer on the basis of CC No.43/2014 which related to late payment surcharge and provided as under:

*“In the event of monthly energy bill or other charge relating to electricity not being paid in full within the time specified in the bill, late payment surcharge shall be levied @ 2% on the unpaid amount of the bill upto 7 days after the due date. After 7 days, the surcharge shall be levied @ 5% on the unpaid amount of bill upto 15 days from the due date.”*

*In case of consumers having LT specified supply voltage, if the full amount of the bill was not paid within due date, the late payment surcharge shall be levied @ 2% on the unpaid amount of the bill upto 15 days from the due date.*

*Interest @ 1.5% per month on gross unpaid amount including surcharge payable shall be levied after expiry of 15 days from the due date of the bill till the deposit of outstanding amount. Part of the month shall be treated as full month of this purpose.”*

1. PR next argued that Regulation 30.1.3 of Supply Code-2014 provided that:

*“If a consumer vacates any premises to which electricity has been supplied by a distribution licensee without paying all charges due from him in respect of such supply, or for the provision of an electricity meter, electric line or electrical plant, the distribution licensee may refuse to give him supply at any other premises until he pays the amount due and also may refuse to connect such premises either on request from existing consumer or on application for new connection by any person till all dues are cleared”.*

PR contended that in view of the above, the Respondent PSPCL could refuse to give supply to Shubham Vanaspati Refineries Pvt. Ltd at any other premises and might also refuse to release any new connection in that premises till all dues were cleared apart from filing recovery suit as explained above. But the Respondent- PSPCL had no legal right to transfer the defaulting amount of Shubham Vanaspati Refineries Pvt. Ltd to Jai Bharat Steel Rolling Mills, as explained in the preceding para.

I find that the Respondent contested the contention of the PR by stating that **in the LCR No. 13/694 dated 09.09.2015, the Petitioner - Shubham Aggarwal had also signed and it was mentioned therein that the defaulting amount of Shubham Vanaspati & Refineries Ltd. be charged to the running Large Supply Connection bearing Account no. 3002808953 of Jai Bharat Steel Rolling Mill.** The Respondent further stated that Sh. Parmod Kumar, General Attorney of Jai Bharat Steel Rolling Mills, Ludhiana was a son of Sh. Achhru Ram son of Sh. Narata Ram who was a Director shown at Serial no.1 out of four Directors in Shubham Vanaspati & Refineries Pvt. Ltd and this was certified by Dass Khanna and Company, Chartered Accountants, as per record in consumer case of Shubham Vanaspati Refineries Pvt. Ltd, Ludhiana, as on dated 31.10.2006. Therefore, the amount of Shubham Vanaspati & Refineries Pvt. Ltd. had been charged to the Jai Bharat Steel Rolling Mill.

The Respondent added that the defaulting amount of Shubham Vanaspati & Refineries had been transferred to the account of Jai Bharat Steel Rolling Mill in terms of Instruction No. 92.1 of ESIM. The connection of Shubham Vanaspati & Refineries had been disconnected permanently and the Tehsildar (East), Ludhiana had been informed vide letter No. 5847 dated 21.12.2016 by the Respondent. Also, the recovery suit for the recovery of Rs. 3,48,265/- (after adjusting the security and interest on security) had already been filed in the court of Hon’ble C.J.J. Division, Ludhiana.

1. PR next contended that as per information gathered from the sources of Shubham Vanaspati Refineries Pvt. Ltd, the defective transformer was not replaced by PSPCL due to which, the consumer remained without power supply for about nine months before disconnection of supply due to non-payment. The consumption during these months was Nil which was possible only if supply was not there from Transformer, otherwise, consumption of few units should be there with the unavoidable use of 1-2 light points and shunt capacitors etc. The officials of the PSPCL might have got repaired the same transformer afterwards or any other transformer, available with them, might have been installed.

I find that the Respondent contested the above contention of the PR and stated that as per Central Store endst no. 1265 dated 05.07.2017, no transformer was issued against this location/consumer to the concerned JE during for the month of 02/2015 i.e period under dispute.

1. PR also submitted that the PSPCL had also introduced One Time Settlement (OTS) Scheme for permanently disconnected defaulting connections vide CC no.17/2017 dated 15.5.2017 and this scheme was valid for one year. PR added that the Respondent-PSPCL may impress upon the defaulting company Shubham Vanaspati Refineries Pvt. Ltd to opt for the OTS scheme and settle their case.

I find that the Respondent stated that the defaulting company can apply, if eligible, under One Time Settlement scheme, circulated by the PSPCL vide CC No.17/2017, for consideration of its case.

I have heard the submissions made by both the sides and have also gone through LCR No. 77/555 dated 07.08.2015 wherein it was reported that:

“ygseko dk whNo PDCO No. 302954797 nB[;ko T[so u[Zek j? . fJ; yks/ dh e[skjh oew FP03/0093 (Jai Bharat Steel) d/ yks/ ftu gk fdsh ikt/ ih . d¸B' e[B?eµBK dk wkbe fJZe j? .

I have also perused the LCR No. 013/694 dated 09.09.2015 reporting that:

*“ygseko dk njksk u?e ehsk frnk ygseko d/ njks/ dk whNo e[skjh oew j'D eoe/ fwsh 7/8/15 B{z T[sko fbnk frnk ;h fJ; ;pzXh i/Jh-1 ifszdo w'jB Gzvkoh tZb¯ LCR 77/555 fwsh 7H8H15 gfjb/ jh eZNh ik u[Zeh j? fi; ftZu fbfynk frnk fe fJj e[skjh oew ygseko d/ d{i/ njks/ LS FP03/0093 Jai Bharat Steel gk e/ ukoi ehsh ikt/ ygseko d/ njks/ ftZu¯ 1 No. welding set, 1 No. welding Gas Cylinder, 1 No. Machine dk co/w dk ;Noeuo, 1 No. Desert cooler, 3 No. Lamp, 1 No. Exhaust Fan, bZrk j? . w'e/ s/ ;gbkJh ubdh Bjha t/yh rJh . fJ; MS yks/ dk n;bh wkbe w'e/ s/ Bjh fwfbnk gqzs{ fJ; d/ Bkb brdh LS Jai Bharat Steel ftZu p?m/ wkbe gq'wd e[wko ns/ T[; dk p/Nk f;tw fwfbnk fijBQK dh wdd Bkb jh fJj MS yksk u?e ehsk frnk j? .*

*ygseko dh e[skjh oew 3,82,688/- ygseko d/ ub oj/ LS e{B?eµB yksk BzL FP03/0093 Jai Bharat Steel gke/ ukoi ehsh ikt/ .”*

Further, in the LCR No. 72/802 dated 25.02.2106, which was reported that:

*“ygseko dk whNo gfjbK jh T[so u[Zek j? , PDCO th tkfg; ehsk ik u[Zek j? fwsh 7/8/15 s¯ gfjbK dk whNo T[sfonk j? . ygseko dk d{ik yksk BzL FP03/0093 M/s Jai Bharat Steel d/ Bkw s/ j? . fJjBK d¸BK ykfsnK dk (e{B?eµBK dk ) wbke fJZe jh j? . fJj MS yks/ d/ g/;/ LS yks/ ftZu Transfer ehs/ ikD .”*

Thus, on the basis of written and oral submissions alongwith material brought on record by both the sides, it is concluded that charging of outstanding dues (consumption/MMC charges) of the connection of Shubham Vanaspati Refineries Pvt. Ltd (after its permanent disconnection on 07.08.2015) to the account of Jai Bharat Steel Rolling Mills is with the express consent of the Petitioner and this is in order. However, the Respondent also defaulted in taking timely/prompt action by not disconnecting the connection, on noticing non-payment of first bill, as per rules of PSPCL. As a result, dues of the disconnected connection continued to be accumulated leading to levy of surcharge/interest as per rules.

**As a sequel of above discussions, it is held that outstanding electricity dues relating to consumption and MMC only due to non-payment of the same after permanent disconnection on 07.08.2015, of Subham Vanaspati Refineries Pvt. Ltd, Ludhiana and are chargeable. It is also held that no interest/surcharge should be recovered for non/delayed payment from the Petitioner as the onus for not taking prompt action in the matter, resulting into accumulation of the amount with surcharge and interest, lies on the Respondent. Accordingly, the Respondent is directed to recalculate the amount and refund/recover the amount found excess/short, if any, without any interest. It is further held that on deposit of the defaulting amount by the Petitioner, the Respondent shall withdraw the recovery suit filed with the concerned authorities and treat the case as settled for all intents and purpose.**

8. The Appeal is disposed off accordingly.

9 In case, the Petitioner or the Respondent (Licensee) is not satisfied with the above decision, they are at liberty to seek appropriate remedy against this order from the appropriate Bodies in accordance with Regulation 3.28 of Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations – 2016.

(VIRINDER SINGH)

Date: 08.02.2018 LokPal (Ombudsman)

Place: S.A.S. Nagar (Mohali) Electricity, Punjab.