**COURT OF THE LOKPAL (OMBUDSMAN),**

 **ELECTRICITY, PUNJAB,**

**PLOT NO. A-2, INDUSTRIAL AREA, PHASE-1,**

 **S.A.S. NAGAR (MOHALI)**

**Appeal No. 87/2017**

**Date of Registration : 28.11.2017**

**Date of Hearing : 12.04.2018**

**Date of Order : 17.04.2018**

**Before:**

**Er. Virinder Singh, LokPal (Ombudsman) Electricity**

**In the matter of:**

M.G. Stone Crusher,

Village Agampur,

Sri Anandpur Sahib,

District Ropar.

...Petitioner

Versus

 Senior Executive Engineer,

 DS Division,

 PSPCL,

 Sri Anandpur Sahib.

 ...Respondent

**Present For:**

Petitioner: Sh. Sandhuri Lal Mittal,

 Petitioner.

Respondent : Er. Harminder Singh Bhattal,

 Senior Executive Engineer.

 Before me for consideration is an Appeal preferred by the Petitioner against the order dated 24.11.2017 in Case No. T-347 of 2017 of the Consumers Grievances Redressal Forum (Forum) deciding that:

 “*Demand Notice was extended by the consumer in 03/2015 which was issued on 29.09.2014 and the issue is regarding reduced rate of service line charges in January 2015. The Petitioner has approached the Forum after lapse of more than two years, from the cause of action. As such, this case is time-barred and the forum decides not to registered this case.*

 *Accordingly, the Petition submitted by the Petitioner is hereby dismissed.”*

**2. Condonation of Delay:**

In this Appeal, the points need to be considered and decided are whether:

1. The delay in filing a Petition in the Forum more than two years after the cause of action, may be condoned and
2. In case, the delay ibid is condoned, the Appeal be heard in this Court or remitted to the Forum for consideration and decision.

 I find that the Petitioner submitted in its Appeal that it applied for release of new connection on 29.09.2014 under Large Supply Category with Sanctioned Load of 498kW and Contract Demand (CD) 498kVA. Accordingly, a Demand Notice was issued by the PSPCL on 30.09.2014, for compliance including deposit of Service Connection Charges (SCC) amounting to Rs. 10,95,600/-, upto 29.03.2015. The Petitioner added that compliance of the said Demand Notice got delayed due to personal reasons. In the meantime, the Petitioner came to know that Service Line Charges had been revised from 01.01.2015 and was verbally told that reduced charges will be applied/taken in this case. Keeping this in view, the Petitioner requested for extension of Demand Notice on 20.03.2015 by depositing the requisite fee. As a result, the extension in Demand Notice was granted upto 26.06.2015. The Petitioner deposited the SCC (as per Demand Notice) on 05.05.2015 before the expiry of due date of extended Demand Notice (26.06.2015). But, the Petitioner was not given the refund on account of difference of SCC deposited and those applicable with effect from 01.01.2015. As such, the Petitioner filed a complaint dated 27.10.2017 in the Forum which, vide its order dated 24.11.2017, dismissed the same as being time-barred due to having been filed more than two years after the cause of action.

 I find that the Respondent, in its reply to the Appeal, did not offer any comment on the submissions made by the Petitioner regarding delay in filing he Petition in the Forum and its condonation by this Court.

 *I have gone through the submissions made by the Petitioner and also the order dated 24.11.2017 of the Forum not to register the complaint of the consumer as being time-barred and also not in accordance with the provisions of Consumers Complaint Handling Procedure (CCHP). There is no denying the fact that a time limit of two years has been prescribed for filing a complaint by any consumer in the CCHP. But I am of the view that denial of the opportunity to the consumer to present and defend its case on merits would not meet the ends of ultimate justice. Therefore, the delay in filing the Appeal by the Petitioner is condoned and the Petitioner is allowed to present the case in the interest of justice.*

**3. Facts of the Case:**

 **The relevant facts of the case are that:**

1. The Petitioner applied for release of new connection for the Load of 498kW and Contract Demand (CD) of 498kVA under Large Supply Category on 29.09.2014
2. The Demand Notice (DN) was issued on dated 30.09.2014. Clause 10 of Demand Notice, read as under:

*“fJj fvwKv B'fN; ikoh eoB dh fwsh s'A 3 wjhfBnK d/ ;w/A bJh gqwkfDs j? . i/eo T[es d;hnK PosK B{z fvwKv B'fN; ikoh eoB dh fwsh s"A 6 wjhfBnK d/ gqwkFfDe ;w/A nzdo nzdo g{ok BjhA ehsk iKdk sK fJ; ;pzX ftZu e"Jh j'o B'fN; fdZs/ fpBK s[jkvk fpB?F^ gZso oZd eoB :'r j't/rk . gozs{ i/eo s[;hA fvwKv B'fN; d/ gqwkFfDesk ;w/A fJj tkXk eokT[Dk ukj[zd/ j' sK fJ; ;pzXh s[jkB{z tkXk ch; ti'A 2500 o[gJ/ iwKQ eoke/ T[;dh o;hd ;fjs gqwkfDesk ;w/A d/ g[ZrD s'A gfjbK fJZe jcsk sZe fJ; dcso B{z fJe p/Bsh eoBh ukjhdh j? . feqgk eoe/ fJj B'N eo fbnk ikt/ fe i/eo 6 wjhB/ s'A noEks w{b fvwKv B'fN; ;w/A g[ZrD dh fwsh s'A fszB wjhfBnK d/ ;w/A nzdo nzdo fvwKv d/ ;w/A ftZu tkX/ dh nfijh p/Bsh BjhA ehsh iKdh sK s[jkv/ fpB? ^ gZso B{z nkgD/ nkg oZd ;wM fbnk ikt/rk ns/ fJ; B{z pknd ftZu fe;/ th jkbs ftu w[V ukb{ BjhA ehsk ikt/rk .”*

1. As per Regulation 9.1.1 (i) (a) of Supply Code-2007, the Petitioner had to deposit Service Connection Charges (SCC) of Rs. 10,95,600/- calculated on the basis of Rs. 2,200/- per kVA on total CD of 498kVA because actual charges for release of connection were less.
2. The Petitioner applied for extension in validity of Demand Notice on dated 20.03.2015 after depositing the requisite fee. Accordingly, the validity of the Demand Notice was extended upto 26.06.2015.
3. The Petitioner deposited the amount of Rs. 10,95,600/- on 05.05.2015 before the expiry of the extended due date of Demand Notice.
4. In the meantime, PSPCL with the approval of Hon’ble PSERC, issued CC No. 60/2014 relating to Standard Cost Data and Regulation No. 9.1.1 (a) (ii) of Supply Code-2014.
5. The Petitioner filed a Appeal in the Forum for refund of SCC in view of Regulation 9.1.1 (a) (ii) of Supply Code-2014 (applicable from 01.01.2015) but the Forum did not register the case and hear it on merits and dismissed the case, being time-barred.
6. Not satisfied with the decision of the Forum, the Petitioner filed an Appeal in this Court and prayed as under:

*“ w/oh nkg ih B{z p/Bsh j? fe i' ;kv/ e'b'A tZX ;oft; bkfJB ukoi bJ/ jB T[j Bt/A o/N ftZu bJ/ ikD ns/ i' tZX oew bJh rJh j? T[j oew ftnki ;w/s tkg; ehsh ikt/ ih ns/ fBubh ndkbs dk c?;bk e?A;b ehsk ikt/ .”*

**4. Submissions made by the Petitioner and the Respondent:**

Before undertaking the analysis of the case, it is necessary to go through the written submissions made by the Petitioner in the Appeal and 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.

1. **Submissions of the Petitioner:**

The Petitioner made the following submissions for consideration of this Court:

1. The Petitioner applied for release of new connection under Large Supply Category in the name of M.G. Stone Crushers, Village Agampur, Sri Anandpur Sahib on 29.09.2014 with Load of 498kW and Contract Demand (CD) of 498kVA by depositing on-line the requisite Security of Rs. 6,17,650/-.
2. A Demand Notice for compliance (including deposit of Service Connection Charges (SCC) for Rs. 10,95,600/-) was issued on 30.09.2014 with validity upto 29.03.2015.
3. Owing to personal reasons, deposit of SCC with the PSPCL got delayed.
4. The Petitioner applied for extension of Demand Notice by depositing the prescribed fee on 20.03.2015 and accordingly, extension was granted upto 26.06.2015.
5. In the meantime, Service Connection Charges (SCC) were revised and the Petitioner was verbally informed that SCC at reduced rates will be charged from it.
6. However, the Petitioner deposited SCC, as per Demand Notice dated 30.09.2015 before expiry of the extended due date i.e. 26.06.2015.
7. The Petitioner was not given refund on account of difference of SCC deposited and SCC at reduced rates applicable from 01.01.2015 onwards.
8. The Petitioner filed a complaint on 27.10.2017 in the Forum which dismissed the same on 24.11.2017 on the plea of its being time-barred and not being filed within a period of two years as per provisions of Consumers Complaint Handling Procedure.
9. The Petitioner's case was genuine on merits as was evident from perusal of Para 2 of the Demand Notice clarifying that the PSPCL undertook to provide electricity supply subject to deposit of charges mentioned therein (Demand Notice) on current rates. In case, the charges were revised by the Distribution Licensee at the time of release of Load/Connection, difference, if any, will be payable by the consumer.
10. On the one hand, the State Govt. was keen that industries should be set-up in the State. On the other hand, consumers setting up industries were being harassed.
11. Service Connection Charges (SCC) already deposited be re-calculated/charged at the revised rates and amount received in excess by the PSPCL be refunded with interest.
12. **Submissions of the Respondent:**

 **The Respondent, in its defence, submitted that:**

1. The Petitioner applied for release of new connection for Load/ Contract Demand (CD) of 498kW/498kVA under Large Supply (LS) Category on 29.09.2014. The Demand Notice was issued to the Petitioner on 30.09.2014 for depositing Service Connection Charges (SCC) of Rs. 10,95,600/- calculated @ Rs. 2,200/- per kVA on total CD of 498kVA as per Regulation No. 9.1.1 (i) (a) of Supply Code-2007.
2. The Petitioner applied for extension in validity of Demand Notice on 20.03.2015 after depositing required charges and accordingly, date of the Demand Notice was extended up to 26.06.2015. The Petitioner deposited the amount of Rs. 10,95,600/- vide BA 16 No. 244/4132 Dated 05.05.2015 before the expiry of extended due date of Demand Notice.
3. As per CC No. 60/214 relating to Standard Cost Data and Regulation No. 9.1.1 (a) (ii) of Supply Code-2014, Service Connection Charges (SCC) at revised rates to be recovered from the consumers for Demand Notices to be issued on or after 01.01.2015 and it must be ensured that SCC at revised rates were recovered from the applicant/consumer before release of connection.
4. From the perusal of CC No. 60/2014, it was very much clear that SCC at revised rates were applicable only for Demand Notices issued on or after 01.01.2015. In the case of the Petitioner, the Demand Notice was issued on 30.09.2014 i.e. before 01.01.2015 and further, on its request dated 20.03.2015, it was extended upto 26.06.2015, because in CC No. 60/2014, nothing was mentioned about its implication in respect of those Demand Notices which were originally issued before 01.01.2015 and extended on or after 01.01.2015. Therefore, the SCC of Rs. 10,95,600/- were correctly recovered from the Petitioner.
5. In view of the above submissions, the Appeal of the Petitioner may be disposed of.

**5. Analysis:**

 The issue requiring adjudication is the legitimacy of the plea of the Petitioner for refund of the Service Connection Charges deposited (on 05.05.2015) against Demand Notice issued (on 30.09.2014) before their revision in respect of Demand Notices issued on or after 01.01.2015 as per provisions of Commercial Circular (CC) No. 60/2014 issued by the Chief Engineer/Commercial, PSPCL, Patiala.

 *The points emerged are analysed and deliberated as under:*

**(i)** The Petitioner applied on 29.09.2014 for release of new connection under Large Supply Category for Load of 498kW and Contract Demand of 498kVA. The Demand Notice was issued to the Petitioner by the Respondent on 30.09.2014, which was valid for six months i.e. upto 29.03.2015. The Petitioner did not deposit the SCC, within the stipulated period, statedly due to personal reasons and requested on 20.03.2015 for extension of validity of the Demand Notice by depositing the requisite fee. Accordingly, the extension in Demand Notice was granted to the Petitioner upto 26.06.2015 by the Respondent.

I find that the Petitioner, in its Petition and also during oral submissions, referred to the Clause 2 of the Demand Notice dated 30.09.2014, which reads as under:

*“p'ov ;gbkJh d/D dk fJeoko eodk j? pPos/ fe s[;hA fBwB doi you/ G/i fdzd/ j' fijV/ fe toswkB doK s/ jB . i/eo e{B?ePB $ b'v d/ ikoh eoB ;w/A fJjBK yofunK ftZu ;'X ehsh iKdh j? sK i/eo e'Jh coe j't/rk sK T[j s[jkB{z ndk eoBk gt/rk .”*

 *I observe that the aforesaid Clause mentioned about the liability of the Petitioner to pay the difference on account of SCC at the time of actual installation but nothing was mentioned therein about the obligation of the PSPCL to refund the difference, if any, on account of reduced Service Connection Charges (SCC) applicable at the time of release of Load/installation of the connection.*

**(ii)** I have gone through the approval of the Standard Cost Data, conveyed by the PSERC, vide Memo. No. 13759 / PSERC / DTJ-50 / Vol-IV dated 18.12.2014, on the basis of which, the CC No. 60/2014 dated 30.12.2014 was issued by the Chief Engineer / Commercial, PSPCL, Patiala. In the approval ibid, it has been mentioned that:

 “*The Standard Cost Data approved by the Commission shall be applicable to the demand notices to be* ***issued on or after 1.1.2015*** *to the applicants requiring supply of electricity or additional load/demand. The Cost Data shall continue to be in force till it is revised or modified by the Commission.”*

In the present case, the Demand Notice was issued on 30.09.2014 in view of the Petitioner’s requirement and the same was valid upto 29.03.2015 as per normal rules. Further extension was allowed, on the request of the Petitioner upto on 26.06.2015. I observe that new Connection/Load was actually required by the Petitioner at the time of applying for it i.e. on 29.09.2014. It is another matter that the Petitioner did not deposit the Service Connection Charges (SCC) after issuance of Demand Notice on 30.09.2014 and deposited the same on 05.05.2015. The above directions of Hon’ble PSERC make it amply clear that the Standard Cost Data approved by the Commission shall be applicable to the Demand Notices issued on or after 01.01.2015 while the Demand Notice to the Petitioner was issued on **30.09.2014.**

 From the above analysis, it is concluded that the Petitioner is liable to pay SCC as per Demand Notice dated 30.09.2014 which was issued in accordance with the provisions contained in Supply Code-2007.

**6. Decision:**

 **As a sequel of above discussions, it is held that the Petitioner is not entitled to relief claimed as its case is covered under the applicable Regulations prevailing at the time of issue of Demand Notice (30.09.2014), accordingly, the Petitioner has to pay per kW/kVA charges or actual expenditure incurred, whichever is higher, as per provisions contained in Regulation 9.1.1 (i) (b) of Supply Code-2007.**

**7.** The Appeal is dismissed.

**8.** 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 the Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations – 2016.

 (VIRINDER SINGH)

April 17, 2018 LokPal (Ombudsman)

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