

**COURT OF THE LOK PAL (OMBUDSMAN),
ELECTRICITY, PUNJAB,
PLOT NO. A-2, INDUSTRIAL AREA, PHASE-1,
S.A.S. NAGAR (MOHALI).**

**(Constituted under Sub Section (6) of Section 42 of
Electricity Act, 2003)**

APPEAL No. 18/2024

Date of Registration : 28.08.2024
**Date of Hearing : 12.09.2024, 19.09.2024,
25.09.2024, 04.10.2024.**
Date of Order : 10.10.2024

Before:

**Er. Anjuli Chandra,
Lokpal (Ombudsman), Electricity, Punjab.**

In the Matter of:

M/s. Indus Towers Ltd.,
Bestech Business Towers, Tower-A,
Industrial Plot No. 1, Phase-9,
Sector-66, SAS Nagar-160059.

Contract Account Number: 3007362953 (NRS)

...Appellant

Versus

Addl. Superintending Engineer,
DS Division, PSPCL,
Zirakpur.

...Respondent

Present For:

Appellant : Sh. G.K. Nandan,
Sh. Navjot Kumar,
Appellant's Representatives.

Respondent : Er. Hemant Kumar,
AEE/ Commercial,
DS Division, PSPCL, Zirakpur.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 31.07.2024 of the Corporate Consumer Grievances Redressal Forum, Ludhiana (Corporate Forum) in Case No. T-151/2024, deciding that:

“The present complaint/ petition has been filed in Corporate CGRF, Ludhiana after expiry of 2 years from the date of cause of action i.e. 21.06.2022, date of bill in dispute. Therefore, in light of above regulation and the clarification regarding the same received from the O/o Secretary PSERC vide Memo no. 2535 dated 15.04.2024, the present petition is not admissible. Hence, accordingly it is dismissed.”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 28.08.2024 i.e. within the period of thirty days of receipt of the decision dated 31.07.2024 of the CCGRF, Ludhiana in Case No. T-151/2024. The Appellant had deposited the requisite 40% of the disputed amount. Therefore, the Appeal was registered on 28.08.2024 and copy of the same was sent to the Addl. SE/ DS Division, PSPCL, Zirakpur for sending written reply/ parawise comments with a copy to the office of the CCGRF, Ludhiana under intimation to the Appellant vide letter nos. 468-470/OEP/A-18/2024 dated 28.08.2024.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 12.09.2024 and intimation to this effect was sent to both the parties vide letter nos. 497-98/OEP/A-18/2024 dated 04.09.2024. But, on the request of the Respondent the hearing was postponed. The next date of hearing was fixed for 19.09.2024 and intimation to this effect was sent to both the parties vide letter nos. 510-11/OEP/A-18/2024 dated 12.09.2024.

As scheduled, the hearing was held in this Court on 19.09.2024 and arguments of both the parties were heard. The case was adjourned to 25.09.2024 and intimation to this effect alongwith the copy of proceedings dated 19.09.2024 were sent to both the parties vide letter nos. 530-31/OEP/A-18/2024 dated 19.09.2024.

As scheduled, the hearing was held in this Court on 25.09.2024 and arguments of both the parties were heard. The case was adjourned to 04.10.2024 for oral discussion and intimation to this effect alongwith the copy of proceedings dated 25.09.2024 were sent to both the parties vide letter nos. 539-40/OEP/A-18/2024 dated 25.09.2024. As scheduled, the hearing was held

in this Court on 04.10.2024 and arguments of both the parties were heard.

4. Submissions made by the Appellant and the Respondent

Before undertaking analysis of the case, it is necessary to go through written submissions made by the Appellant and reply of the Respondent as well as oral deliberations made by the Appellant and the Respondent alongwith material brought on record by both the parties.

(A) Submissions of the Appellant

(a) Submissions made in the Appeal

The Appellant made the following submissions in its Appeal for consideration of this Court:-

- (i) The Appellant was having a NRS Category Connection bearing A/c no. 3007362953 with Sanctioned Load/ CD of 21.98 kW/ 24.42 kVA under DS Division, PSPCL, Zirakpur in its name.
- (ii) M/s. Indus Tower Ltd. was a joint venture between three Mobile Operator Companies i.e. Vodafone Group, Bharti Group & Idea Group of Companies, having its registered office at Building No. 10, Tower-A, 4th Floor, DLF Cyber City, Gurugram-122002 and Circle Office at Bestech Business Towers, 1st Floor, Tower-A, Industrial Area Plot No.-1, Phase-9, SAS Nagar (Mohali). M/s.

Indus Towers Limited had been registered as an Infrastructure Provider, Category-1 by the Department of Telecommunications, Ministry of Communications & IT, Government of India and commenced its operations w.e.f. 1st April, 2008 in the business of establishment, operation, maintenance and provision of telecommunication infrastructure services which inter-alia included towers and other allied equipment's etc. of /to various telecom service providers including the aforesaid three Operator Companies who are providing essential and public utility services.

- (iii) The Appellant had filed the complaint to the CGRF, Patiala on 01.10.2022 vide E-mail dated 01.10.2022 sent to:- ce.chairman.forum@gmail.com' with CC to:- 'xendszrk2@gmail.com' and 'ae-comm-zirakpur@pspcl.in for redressal of the grievance relating to the A/c No. 3007362953 of M/s. Indus Tower Ltd., Lohgarh under DS Sub Division, PSPCL, Zirakpur.
- (iv) The Appellant had deposited the 30% of disputed amount/ bill in accordance with the instructions. The above mentioned documents were also sent to the SDO/ DS, Tech-1, Bhabhat (Zirakpur) through WhatsApp on Mobile No. 96461-10132. Thereafter, the Appellant deposited the current bills regularly.

- (v) On 07.03.2024 the documents of the CGRF filed by the Appellant were again requisitioned by the SDO/ DS, Tech-1, Bhabhat (Zirakpur), which were immediately shared by the Appellant's local representative through WhatsApp. Even on the above junction, it had not been pointed out by the SDO/ DS, Tech-1, Bhabhat (Zirakpur) that the CGRF documents had been sent/communicated by the Appellant to wrong addressee/office which had ceased to exist since 07.06.2022.
- (vi) On 06.07.2024, there was a call from the SDO/DS, Tech-1, Bhabhat (Zirakpur) for sharing the copy of documents submitted by the Appellant to the CGRF, PSPCL, Patiala. The documents were shared to the SDO/DS, Tech-1, Zirakpur. After perusing the above mentioned documents by the SDO, Tech-1, Zirakpur, it was informed by him that the office of the CGRF had ceased to exist at Patiala and complaint may be filed before the Corporate Forum, Ludhiana.
- (vii) The office of the SDO/ DS is the primary office for all Intents & Purposes of all the matters relating to the consumers of his jurisdiction. Accordingly, the copies of the CGRF documents communicated to the CGRF, PSPCL, Patiala were shared through e-mail and WhatsApp to the above mentioned Sub-divisional Officer. After receiving the above mentioned CGRF documents

communicated to the CGRF, PSPCL, Patiala, it had never been pointed out by the SDO/DS, Tech-1, Zirakpur that the CGRF documents had been sent/communicated by the Appellant to wrong addressee/office which had ceased to exist since 07.06.2022. As mentioned above, the Appellant had been depositing the current payment of energy bills in above mentioned account regularly. The electricity supply of above mentioned connection/site remained connected during the period and the same had been disconnected after the Appellant had filed the case/complaint before the Corporate Forum.

- (viii) Consequently, the Appellant had filed the same complaint before the Corporate Forum on 06.07.2024.
- (ix) During the Prehearing held on 23.07.2024, the ASE/DS Division, PSPCL, Zirakpur referred to Clause No. 113 (2.25) of ESIM-2018 and stated that the representation before the Forum was to be made within two years from the date of cause contrary to the fact that complaint filed before the Forum was received in his office through e-mail on 01.10.2022 and WhatsApp messages shared with the sub-divisional offices clearly authenticating that the complaint was indeed filed well before two years of cause of action.

- (x) As deliberated above the Appellant filed the complaint at the CGRF, PSPCL, Patiala on 01.10.2022, well within the period of two period of two years. But, as described above it had never been informed or pointed out at any junction earlier that the office of the CGRF, PSPCL, Patiala had ceased to exist. It was only pointed out to the Appellant by the SDO/DS, Tech-1, Bhabhat (Zirakpur) on 06.07.2024 that of the office of the CGRF, PSPCL, Patiala had ceased to exist since 07.06.2022 and the Appellant should file the case before the Corporate Forum, Ludhiana. As such the Case was filed immediately on 06.07.2024. Had it would have been pointed out earlier on any occasion that the Forum Case had been sent/communicated by the Appellant to wrong addressee/office, which has been pointed out now on 06.07.2024, the question of time barred situation would not have arisen.
- (xi) It is also brought out that it is an era of IT Communication during which the documents and communications are sent through e-mails. When the office of the CGRF, PSPCL, Patiala had ceased to exist the e-mail ID should have also been discontinued so that any e-mail or communication sent by the Consumers is bounced back or auto e-mail revert should have provided enabling the consumers to know the factual situation.

- (xii) The Appellant had submitted the representation to the Corporate Forum on 31.07.2024 during the prehearing. The above mentioned submission was gone through by all the members of the Forum and it was informed to the Appellant that after consideration they will be informed accordingly.
- (xiii) Consequently, the Appellant received the decision from the Corporate Forum vide Memo No. 1216/T-151/24 dated 02.08.2024, wherein the Corporate Forum had not taken into consideration the following aspects/facts described in written statement submitted on 31.07.2024, wherein the Appellant had provided the copies of e-mail and WhatsApp sent to the CGRF, Patiala. The Forum had not informed to the Appellant at any stage that the complaint sent at a wrong address which had ceased to exist.
- (xiv) The Appellant's representation/submissions submitted that the office of the SDO/ DS was primary office for all Intents & Purposes of all the matters relating to the Consumers of his jurisdiction and his office was to guide the Consumer if any communication / representation made by a Consumer to the Forum & allied offices of the PSPCL was sent at a wrong address. As already mentioned that in the first instance the Appellant had sent the complaint on 01.10.2022 to the CGRF,

Patiala, which reportedly ceased to exist since June, 2022, through e-mail to 'ce.chairman.forun@gmail.com' with CC to:- 'xendszrk2@gmail.com' and ae-comm-zirakpur@pspcl.in. The e-mails had been received by all the recipients and the non-delivery report had not been received from any of the above mentioned recipients.

- (xv) The copy of all the above mentioned documents were also sent to the SDO/DS, Tech-1, Bhabhat (Zirakpur) through WhatsApp on Mobile No. 96461-10132. On 07.03.2024, the documents of the Forum filed by the Appellant were again requisitioned by the SDO/ DS, Tech-1, Zirakpur, which were immediately shared by local representative through WhatsApp.
- (xvi) On any of the above mentioned occasions, neither of the offices of the PSPCL pointed out that the complaint to the Forum had been communicated by the Appellant at the wrong address/office which had ceased to exist.
- (xvii) It was pertinent to mention that the above communications were made by the Appellant to the office of the SDO/DS, Tech-1, Bhabhat (Zirakpur) through WhatsApp on Mobile No. 96461-10132. Based on the above mentioned communications the supply of the Appellant above mentioned connection/site continued to be connected. During the period when the above

mentioned communications though E-mail and WhatsApp were made available to the office of the SDO/ DS, Tech-1, Zirakpur, the time limit of filling the complaint before the Forum within a period of two years was in force.

(xviii) Instead of considering the above aspects/facts the Corporate Forum has mentioned in their decision sent vide Memo No. 1216/T-151/24 dated 02.08.2024, that several cases had been filed by the same Consumer before the same Forum. In this regard, it was brought out that the undersigned has not filed any Case before the Corporate Forum except the present one filed on 06.07.2024.

(xix) Regarding the above mentioned contention of the Corporate Forum, it is brought to the attention of the Hon'ble Ombudsman, Electricity, Punjab that a few Cases have been filed before the Corporate Forum by the representative of the Appellant's associate Company M/s. Aerial Telecom Solutions Private Limited, which was authorized by M/s. Indus Towers Ltd., stationed at Amritsar.

(xx) The jurisdiction of the Cases filed by the above mentioned representative was Corporate Forum before 07.06.2022, when the CGRF, Patiala office ceased to exist and till to date it was the same jurisdiction.

(xxi) The Appellant prayed that the facts and circumstances deliberated in the statement submitted before the Corporate Forum in the proceeding held on 31.07.2024 were not considered and not commented in their decision sent vide Memo No. 1216/T-151/24 dated 02.08.2024 by the Corporate Forum.

(xxii) It was pertinent to mention here that the supply of the site had been disconnected by the PSPCL on 19.07.2024. The Appellant deposited ₹ 5,47,494/- vide receipt no. 209339435 dated 14.08.2024 which was nearly 50% of the total disputed bill due.

(xxiii) Therefore, the Appellant very humbly prayed that in view of the above deliberations, the delay in filling the complaint after the two years of cause of action attributed by the Corporate Forum may be condoned as after filling the above mentioned complaint before the CGRF, Patiala on 01.10.2022, which was filed very much within the time limit of two years, none of the offices of the PSPCL pointed out that it had been filed at wrong address. The delay, if any, in filing the complaint before the Forum was not attributable to the Appellant, rather it was attributable to the officials of the PSPCL, who did not point out during the whole period from 01.10.2022 to 06.07.2024 that the complaint before the Forum had been filed at wrong address as it was informed only on 06.07.2024. During the above mentioned period, the

Appellant was paying the current bills and the supply had never been disconnected. The documents requisitioned by the PSPCL officials in respect of complaint filed before the Forum on 01.10.2022 had invariably been provided to them from time to time as deliberated in paras above. As the documents requisitioned by the officials of the PSPCL were supplied through WhatsApp and initially e-mailed to the concerned e-mail IDs of the PSPCL were duly signed addressed to the CGRF, Patiala. As described above, the office of the SDO/DS was primary office for all Intents & Purposes of all the matters relating to the Consumers of his jurisdiction and his office was to guide the Consumer if any complaint/representation made by a Consumer to the Forum and allied officers of the PSPCL was sent at a wrong address, they should inform to the Consumer to send the same at the right address as was informed by the SDO, Tech-1, Zirakpur on 06.07.2024 and immediately the same complaint was filed by the Appellant at the right address. It was pertinent to mention here that the Appellant have more than 6,500 electricity connections throughout the state of Punjab.

(xxiv) The Appellant respectfully prayed that his Appeal for condonation of the delay not caused by them intentionally may be considered sympathetically as the refusal to condone the delay in

filing the Complaint/ Appeal would deprive them of the opportunity required to be afforded to defend the Case on merits and the principle of natural justice would be deprived from the Appellant. It was also prayed that the PSPCL may be directed to restore the supply as they had paid approximately 50% of the bill.

(b) Submission during hearing

During hearings on 19.09.2024, 25.09.2024 & 04.10.2024, the Appellant's Representatives reiterated the submissions made in the Appeal and prayed to allow the same.

(B) Submissions of the Respondent

(a) Submissions in written reply

The Respondent submitted the following written reply for consideration of this Court:-

- (i) The Appellant was having NRS Category Connection bearing Account No. 3007362953 running in the name of M/s Indus Tower Ltd., Plot No. 20/4, Lohgarh, Zirakpur with sanctioned load of 21.98 kW.
- (ii) The Appellant had filed a complaint in the CGRF, Patiala on 01.10.2022 vide e-mail dated 01.10.2021, when CGRF, Patiala was abolished and Corporate Forum, Ludhiana was constituted. So the complaint of the Appellant was not entertained by them.

- (iii) The Appellant had deposited the 30% of the disputed amount vide receipt no. 186704205 dated 27.09.2022 amounting to ₹ 3,54,377/-.
- (iv) The case was filed by the Appellant directly at CGRF, Patiala through e-mail, not through SDO/Commercial. Also the Appellant had not informed the o/o the Respondent about filing of the case.
- (v) When proper documents were produced by the Appellant to the SDO/Commercial, on knowing that the documents were sent by the Appellant to the wrong address, correct address was given to the Appellant.
- (vi) The bill dated 21.06.2022 issued to the Appellant amounting to ₹ 5,16,652/- and bill dated 19.07.2022 amounting to ₹ 5,23,203/- were not deposited by the Appellant, only 30% of the disputed amount was deposited by the Appellant for filing the case in the CGRF. The Appellant had not deposited full amount due to which disconnection order was issued to the Appellant. When the Technical staff had gone to disconnect the connection of the Appellant, the Appellant approached o/o the Respondent to inform about the case filed by him at the CGRF in the year 2022. In the year 2022, no communication was

received in o/o of the Respondent regarding filing of case in the CGRF by the Appellant.

- (vii) The Appellant had filed its case in the Corporate Forum, Ludhiana on 06.07.2024.
- (viii) The case was dismissed by the Corporate Forum, Ludhiana by referring the Clause No. 113 (2.25) of ESIM-2018.
- (ix) No communication was received in o/o of the Respondent regarding filing of case in the CGRF, Patiala by the Appellant. It came to know about the same only when technical staff had visited the premises of the Appellant for disconnection due to pending bills.
- (x) After filing its case in the CGRF, Patiala on 01.08.2022, the Appellant had neither contacted the o/o the Respondent nor deposited its pending bills amount. The Appellant neither approached the CGRF, Patiala again regarding status of its case nor o/o the Respondent for proceedings of the case in the CGRF, Patiala. The Respondent office had come to know when technical staff had visited the premises of the Appellant for disconnection due to pending bills. Only then the Appellant had shown its documents relating to CGRF, Patiala to the PSPCL officials.

- (xi) The supply of the Appellant was disconnected due to the defaulting amount not being paid by the Appellant.
- (xii) The Respondent certified that the Appellant had deposited the requisite 40% of the disputed amount, i.e. ₹ 5,47,494/- vide Receipt No. 251800398552.

(b) Submission during hearing

During hearings on 19.09.2024, 25.09.2024 & 04.10.2024, the Respondent reiterated the submissions made in the written reply to the Appeal.

5. Analysis and Findings

The issue requiring adjudication is the legitimacy of the bill dated 21.06.2022 issued to the Appellant for the period of 19 days from 30.04.2021 to 19.05.2021 for 67607 kVAh units amounting to ₹ 5,16,040/-.

My findings on the points that emerged and my analysis is as under:

- (i) The Corporate Forum in its order dated 31.07.2024 observed as under:-

“The present complaint/ petition has been filed in Corporate CGRF, Ludhiana after expiry of 2 years from the date of cause of action i.e. 21.06.2022, date of bill in dispute. Therefore, in light of above regulation and the clarification regarding the

same received from the O/o Secretary PSERC vide Memo no. 2535 dated 15.04.2024, the present petition is not admissible. Hence, accordingly it is dismissed.”

- (ii) I have gone through the written submissions made by the Appellant in the Appeal, written reply & the data placed on the record by the Respondent as well as oral arguments of both the parties during the hearings on 19.09.2024, 25.09.2024 & 04.10.2024. The Appellant's Representative (AR) pleaded that the Corporate Forum, Ludhiana had rejected the claim of the Appellant on the ground that representation had not been made within 2 years from the date of cause of action i.e. 21.06.2022, date of issue of disputed bill. He pleaded that the Appellant had submitted its petition to the CGRF, Patiala through email on 01.10.2022, which was filed well within the time limit of two years & had also sent the copy of the same to the concerned SDO. But, none of the offices of the PSPCL pointed out that it had been filed at wrong address. The delay, if any, in filing the complaint before the Forum was not attributable to the Appellant, rather it was attributable to the officials of the PSPCL, who did not point out during the whole period from 01.10.2022 to 06.07.2024 that the complaint before the Forum had been filed at wrong address. It was informed only on 06.07.2024 by the SDO, Tech-1, Zirakpur and immediately the same complaint was filed by the Appellant at the right address.

The office of the SDO/DS was primary office for all Intents & Purposes of all the matters relating to the Consumers of his jurisdiction and his office was to guide the Consumer if any complaint/representation made by a Consumer to the Forum and allied officers of the PSPCL was sent at a wrong address, they should have informed to the Appellant to send the same at the right address. He prayed this Court to hear the present Appeal on merits otherwise it would deprive the Appellant of the opportunity required to be afforded to defend the case on merits and the principle of natural justice would be deprived from the Appellant. During hearing on 19.09.2024, the Respondent did not object to it. It was observed that non condoning of delay would deprive the Appellant of the opportunity required to be afforded to defend the case on merits. Therefore, with a view to meet the ends of ultimate justice, the delay was condoned and the Appeal was accepted for being heard on the merits. The Respondent was directed to provide the Data Download (DDL) of the disputed meter alongwith the other relevant documents related to the case.

- (iii) During hearing on 25.09.2024, the Respondent could not provide DDL to establish the actual Final Readings. He even failed to retain the main evidence in the case, i.e. the disputed

meter. He submitted that the disputed meter had already been surveyed off, so the DDL of the disputed meter was not available. He produced the original ME Lab Challan No. 240 dated 16.06.2021 of the disputed meter alongwith the other documents. This Court observed that the final readings of the disputed meter were recorded as 623609 kWh/ 86181 kVAh on the ME Lab challan. The Respondent could not explain that when the Final Reading of the disputed meter was recorded as 86181 kVAh on the ME Lab challan, then why the Appellant was issued the bill on 21.06.2022 showing readings as 686181 kVAh & 623609 kWh. It is observed that even if the readings of 686181 kVAh & 623609 kWh as shown in the bill dated 21.06.2022 are considered as correct, then also there is a huge difference in the consumption in kWh & kVAh mode. The kVAh consumption is 67607 units whereas the kWh consumption is only 5198 units clearly indicating that the readings are incorrect.

- (iv) It is also seen from the data supplied by the Respondent vide email dated 01.10.2024 that the consumption of the Appellant has remained in the range of 4,000 kVAh to 6,000 kVAh per month for the period 2019 to 30.04.2021 & thereafter from 20.05.2021 till date. It was only during the period of 19 days

from 01.05.2021 to 19.05.2021 that a consumption of 67,607 kVAh units was shown in the bill issued to the Appellant.

- (v) In view of the above, it is clearly established that the disputed bill dated 21.06.2022 was issued on the basis of incorrect readings. Therefore, this disputed bill is quashed. New bill for the period of 19 days from 30.04.2021 to 19.05.2021 be issued to the Appellant on the basis of Regulation 21.5.2 (a) of Supply Code, 2014.

6. Decision

As a sequel of above discussions, the order dated 31.07.2024 of the CCGRF, Ludhiana in Case No. T-151/2024 is hereby quashed.

The disputed bill dated 21.06.2022 is quashed. New bill for the period of 19 days from 30.04.2021 to 19.05.2021 be issued to the Appellant on the basis of Regulation 21.5.2 (a) of Supply Code, 2014.

- 7.** The Appeal is disposed of accordingly.
- 8.** As per provisions contained in Regulation 3.26 of Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations-2016, the Licensee will comply with the award/order within 21 days of the date of its receipt.

9. In case, the Appellant or the Respondent is not satisfied with the above decision, he is 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.

October 10, 2024
S.A.S. Nagar (Mohali)

(ANJULI CHANDRA)
Lokpal (Ombudsman)
Electricity, Punjab.

