

CONSUMER GRIEVANCES REDRESSAL FORUM, SHIMLA

Complaint No 1453/202409/29

M/s Milestone Gears Pvt Ltd (Unit IV)

Vs

HP State Electricity Board Ltd and ors

Brief Facts of Case–

- (1) Complaint has been filed under regulation 16, 17 and 18 of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 by M/s Milestone Gears Pvt Ltd, Opp Himachal Fibre Ltd, Industrial Area, Barotiwala, HP - 174103, bearing Consumer ID No 100012001969;
- (2) In the matter the HP State Electricity Board Ltd is the Respondent;
- (3) In the complaint, Complainant is primarily aggrieved by the non-action of the Respondent to not give rebates on approved energy charges for additional power consumption in the year for FY 2018-19 beyond the level of previous year to be provided to existing industries in accordance with Tariff Orders passed by the Ld HPERC for FY 2018-19.

Complainant -

- (4) That in terms of Tariff Order for FY 2018-19 (**Annexure C1**), it is entitled for rebate on additional power consumption beyond the level of FY 2017-18. Its consumption for FY 2018-19 exceeded consumption in FY 2017-18 by 14,93,920 kVAh against which rebate has been worked out as Rs 6,84,307.20 (**Annexure C2**);
- (5) The said rebate has been ignored by Respondent on which Respondent has remained silent, However, it has written letter on 26.08.2024 (**Annexure C3**) in this regard;
- (6) In addition to the said rebate amount, it is also entitled to consequential refund of Electricity Duty and Interest on amount excess billed as per clause 5.7.3 of the Supply Code, 2009;

- (7) Per Rejoinder: That Respondent has credited a sum of Rs 5,38,517/- as sundry in bill for October, 2024, However, the rebate has been paid by the Respondent excluding additional consumption during peak and night hours whereas there is no bar on the same in the Tariff Order;
- (8) The Complainant has sought relief in terms of refund of the aforesaid rebate amount of Rs 6,84,307.20 (**Annexure C2**) including Electricity Duty and Interest.

Respondent-

- (9) That it has already granted the rebate of Rs 5,38,517/- as sundry in bill for October 2024 (**Annexure R1 & R2**);
- (10) That rebate on electricity duty corresponding to expansion rebate is not admissible;
- (11) On foregoing grounds, the Respondent has prayed for dismissing the complaints.

ORDER

- (12) Forum has examined the relevant provisions of the Electricity Act, 2003, various relevant Regulations framed by the Ld HP Electricity Regulatory Commission (or the HPERC) including relevant provisions of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 (or the CGRF Regulations), HP Electricity Supply Code, 2009 and amendments thereto, various Tariff Order passed by the Ld HPERC and record as facts along with pleadings of the parties. This Forum has heard the parties at length. The considered opinion of the Forum has been gathered after considering the fair facts, evidences and correspondence placed on record and arguments adduced by both the parties;
- (13) Before the Forum delves into the issues of rebate raised by the instant Complainant who is a Large Industrial Power Supply consumers (LIPS), it is imperative to reproduce for sake of clarity

the provisions of rebates contained under Schedule - Large Industrial Power Supply (LIPS) in various Tariff Orders passed by the Ld HPERC, some of which have been relied upon by the Complainant -

(a) Tariff Order passed on 04.05.2018 by the Ld HPERC for FY 2018-19 (applicable w.e.f 01.04.2018 to 30.06.2019)-

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3. Two part Tariff

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b) Energy charge (Charges-2)

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***Note:**

a. For existing industrial consumers, a rebate of 10% on energy charges shall be applicable for additional power consumption beyond the level of FY 2017-18

b. For new industries coming into production after 01.04.2018 the energy charges shall be 10% lower than the approved energy charges for the respective category for a period of 3 years

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c) Demand Charge (Charges-3)

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4. Peak load charges (PLC)

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(b) Tariff Order passed on 29.06.2019 by the Ld HPERC for FY 2019-20 (applicable w.e.f 01.07.2019 to 31.05.2020) --

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3. Two part Tariff

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b) Energy charge (Charges-2)

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***Note:**

a. For existing industrial consumers, a rebate of 15% on energy charges shall be applicable for additional power consumption beyond the level of FY 2018-19

b. For new industries which have come into production between 1.04.2018 to 30.06.2019, the energy charges shall be 10% lower than the approved energy charges for the respective category for a period of 3 years

c. For new industries coming into production after 01.07.2019 the energy charges shall be 15% lower than the approved energy charges for the respective category for a period of 3 years

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c) Demand Charge (Charges-3)

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4. Peak load charges (PLC)

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(c) Tariff Order passed on 06.06.2020 by the Ld HPERC for FY 2020-21 (applicable w.e.f 01.06.2020 to 31.05.2021) --

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3. Two part Tariff

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b) Energy charge (Charges-2)

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***Note:**

a. For new industries coming into production after 01.06.2020, the energy charges shall be 10% lower than the approved energy charges for the respective category for a period of 3 years.

b. For existing industries which have undergone expansion in the FY 2018-19 onwards and/or shall be undergoing expansion in this financial year i.e. FY2020-21, energy charges shall be 10% lower than the approved energy charges corresponding to the respective category for a period of three years for quantum of energy consumption corresponding to proportionate increase in contract demand.

Provided that such expansion if undertaken during 1.07.2019 to 31.05.2020, the energy charges shall be 15% lower than the approved energy charges for the respective category for a period of 3 years for quantum of energy consumption corresponding to proportionate increase in contract demand.

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4. Peak load charges (PLC)

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(d) Tariff Order passed on 31.05.2021 by the Ld HPERC for FY 2021-22 (applicable w.e.f 01.06.2021 to 31.03.2022)-

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13. Rebate for New and Expansion Industries:

- a. For new industries which have come into production between 01.04.2018 to 30.06.2019, the energy charges shall be 10% lower than the approved energy charges for the respective category for a period of three years.*
- b. For new industries which have come into production between 01.07.2019 to 31.05.2020, the energy charges shall be 15% lower than the approved energy charges for the respective category for a period of 3 years.*
- c. For new industries which have come into production between 01.06.2020 to 31.05.2021, the energy charges shall be 10% lower than the approved energy charges for the respective category for a period of 3 years.*
- d. For new industries coming into production on or after 01.06.2021, the energy charges shall be 15% lower than the approved energy charges for the respective category for a period of 3 years.*
- e. For existing industries which have undergone expansion during 01.04.2018 to 30.06.2019 and/or during 01.06.2020 to 31.05.2021, energy charges shall be 10% lower than the approved energy charges corresponding to the respective category for a period of three years for quantum of energy consumption corresponding to proportionate increase in contract demand.*
Provided that such expansion if undertaken during 1.07.2019 to 31.05.2020 and/or shall be undergoing expansion on or after 01.06.2021, the energy charges shall be 15% lower than the approved energy charges for the respective category for a period of 3 years for quantum of energy consumption corresponding to proportionate increase in contract demand.
- f. It is clarified that the above-mentioned rebate on energy charges shall be applicable during normal and peak hours. In case of night hours, night time concession shall only apply.*
- g. In case of units registered under HP Industrial Policy 2019, but not falling under the respective category of small, medium, large industrial power supply as notified by the Commission, the rebate on energy charges (as per relevant tariff category) shall be applicable for new units as well as for existing units which have undergone expansion similar to the applicability of rebate on Industrial power supply.*

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- (e) Tariff Order passed on 29.03.2022 by the Ld HPERC for FY 2022-23 (applicable w.e.f 01.04.2022 to 31.03.2023) --**

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13. Rebate for New and Expansion Industries:

- a. For new industries which have come into production between 01.04.2018 to 30.06.2019, the energy charges shall be 10% lower than the approved energy charges for the respective category for a period of 3 years.*
- b. For new industries which have come into production between 01.07.2019 to 31.05.2020, the energy charges shall be 15% lower than the approved energy charges for the respective category for a period of 3 years.*

c. For new industries which have come into production between 01.06.2020 to 31.05.2021, the energy charges shall be 10% lower than the approved energy charges for the respective category for a period of 3 years.

d. For new industries which have come into production on or after 01.06.2021, the energy charges shall be 15% lower than the approved energy charges for the respective category for a period of 3 years.

e. For new industries coming into production on or after 01.04.2022 upto 31.12.2022, the energy charges shall be 15% lower than the approved energy charges for the respective category for a period of 3 years. Provided in case the GoHP Industrial Policy is continued beyond 31.12.2022, the above incentive shall continue upto 31st March, 2023.

f. For existing industries which have undergone expansion during 01.04.2018 to 30.06.2019 and/or during 01.06.2020 to 31.05.2021, energy charges shall be 10% lower than the approved energy charges corresponding to the respective category for a period of three years for quantum of energy consumption corresponding to proportionate increase in contract demand.

g. Provided that such expansion if undertaken during 1.07.2019 to 31.05.2020 and/or during 01.06.2021 to 31.03.2022 and/or shall be undergoing expansion on or after 01.04.2022 upto 31.12.2022, the energy charges shall be 15% lower than the approved energy charges for the respective category for a period of 3 years for quantum of energy consumption corresponding to proportionate increase in contract demand. Provided in case the GoHP Industrial Policy is continued beyond 31.12.2022, the above incentive shall continue upto 31st March, 2023.

h. It is clarified that the above-mentioned rebate on energy charges shall be applicable during normal and peak hours. In case of night hours, night time concession shall only apply.

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(f) Tariff Order passed on 31.03.2023 by the Ld HPERC for FY 2023-24 (applicable w.e.f 01.04.2023 to 31.03.2024) -

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13. Rebate for New and Expansion Industries:

a. For new industries, which have come into production between 01.07.2019 to 31.05.2020, the Energy Charges shall be 15% lower than the approved Energy Charges for the respective Category for a period of 3 years.

b. For new industries, which have come into production between 01.06.2020 to 31.05.2021, the Energy Charges shall be 10% lower than the approved Energy Charges for the respective Category for a period of 3 years.

c. For new industries, which have come into production from 01.06.2021 onwards, the Energy Charges shall be 15% lower than the approved Energy Charges for the respective Category for a period of 3 years.

d. For existing industries, which have undergone expansion during 01.06.2020 to 31.05.2021, Energy Charges shall be 10% lower than the approved Energy Charges corresponding to the respective Category for a period of three years for quantum of energy consumption corresponding to proportionate increase in Contract Demand.

Provided that such expansion, if undertaken during 1.07.2019 to 31.05.2020 and/or during 01.06.2021 to 31.03.2023 and/or shall be undergoing expansion on or after 01.04.2023, the Energy Charges shall be 15% lower than the approved Energy Charges for the respective Category for a period of 3 years for quantum of energy consumption corresponding to proportionate increase in Contract Demand.

- e. *Example: In case of Contracted Demand is increased by an industry from 2 MVA to 3 MVA, the monthly units consumption for the purpose of lower Energy Charges shall be considered in proportion of the Original Contracted Demand and increased Contracted Demand. i.e., in case of the monthly consumption is 6 LUs, the lower Energy Charges shall be applicable on 2 LUs while 4 LUs shall be billed at the regular Energy Charge.*
- f. *The above-mentioned rebate on Energy Charges shall be applicable during normal and peak hours. In case of night hours, night-time concession shall only apply.*

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- (14) Now coming to the Complainant's entitlement for rebate on additional or excess consumption existing in year FY 2018-19 vis-à-vis that in the previous year, with regard to Tariff Order passed by the Ld HPERC for FY 2018-19--
- (15) In the matter the Respondent has stated that it has already allowed the rebate in the electricity bill of October 2014. However, Complainant has contended that the rebate on additional consumption given by the Respondent is short in terms of non-consideration of this rebate by the Respondent on the consumption during the peak and the night hours. Forum is of the considered opinion that the fact of consumption of the Complainant being in the knowledge of the Respondent, it is for the Respondent to evaluate and determine the quantum of said rebate on additional consumption in a year vis-à-vis that in the previous year. This is to be based upon Tariff Orders passed by the Ld HPERC for FY 2018-19;
- (16) Forum from perusal of the provisions of Tariff Orders reproduced in paras supra, finds that only those Tariff Orders passed by the Ld HPERC on and after 31.05.2021 specifically provided for such rebate to not be considered on the night hour consumption. The Tariff Orders before this date were silent on this aspect. For night hours, provisions are covered under Sr No 19 and here also the said rebate has not been made available for night hour consumption.;

- (17) Forum also finds from perusal of the Tariff Order for FY2018-19 and FY 2019-20, reproduced in paras supra that the rebate provision in the Tariff Orders contained in 'Note' under Sr No 3(b), pertains to energy charges for normal hours, while separate provisions exists for peak hours under Sr No 4 and this does not include any provisions for rebates. Thus in terms of the complaint, the only conclusion that can be drawn by the Forum is that the said rebate is only available for consumption during normal hours and not during other hours. Forum cannot find anything in the said Tariff Orders which may permit or even suggest that the said rebate on the additional or excess consumption be available also for consumption during peak hours. From perusal of Tariff Orders it can be seen that such rebate became applicable for peak hour consumption only with effect from 01.06.2021 that is from the Tariff Order for FY 2021-22.
- (18) Thus based on the foregoing explanation and findings by the Forum in paras supra, the Forum does not find anything wrong in the action of Respondent to not grant the said rebate on peak hour and night time consumption;
- (19) The Complainants case is for rebate on additional consumption based on Tariff Order for FY 2018-19, thus the Forum in view of the foregoing discussion and explanation holds that the Complainant is clearly not eligible for any peak hour or night hour consumption. Forum observes that the issue raised by the Complainant for the grant of rebate on additional or excess consumption made by it during peak hours and night hours in the year 2018-19, is based on faulty premises and is accordingly rejected and disposed on foregoing terms.
- (20) On the issue of refund of Electricity Duty (ED) raised by the instant Complainant, Forum is inclined to specifically look into the facet of the Electricity Duty –

- (21) Forum, from bare perusal the HP Electricity (Duty) Act, 2009 finds that Electricity Duty (ED) is a levy by the Government. This is collected by the Respondent on behalf of the Government on actual consumption of electricity made by consumer or supply of electricity by the licensee in accordance with the HP Electricity (Duty) Act, 2009. No-where in the Tariff Orders passed by the Ld HPERC has the rebate on expansion or excess consumption, been considered to have the net effect of reduction in actual consumption or on reduction of ED. Other-wise also, such a proposition would be absurd for the simple reason that actual consumption remains actual and not nominal and also because the Electricity Duty is the specific domain of the Government as well as property of the government and not the Respondent's or the HPERC's. This Electricity Duty while being applicable on electricity consumption or supply is simply to be calculated on energy charges. Further, the Complainant has no-where shown that it has not consumed the electricity which has been billed to it. Thus any monetary rebate cannot have any effect what-so-ever on reduction of Electricity Duty nor can these entitle the Complainant for its refund;
- (22) In view of foregoing, Forum holds that while the Electricity Duty is the specific domain of the Government however, the Complainant is still not at all eligible for any refund of Electricity Duty by the Respondent that may have arisen from rebates being claimed by it or rebates that may have been passed on to the Complainant by the Respondent or allowed by the HPERC. The arguments and contentions raised by the Complainant for refund of Electricity Duty is thus also rejected and accordingly disposed.
- (23) On the issue of payment of Interest raised by the Complainant, Forum does not find any reference to payment of Interest on rebates in the Tariff Orders passed by the HP Electricity Regulatory Commission. The Forum now proceeds to look into the specific

facet of payment of Interest arising from the non-payment of rebates, in accordance with regulations notified by the HPERC –

- (24) Forum observes that after a claim having been raised by the consumer, at the outset the quantum and question of eligibility and entitlement of Rebate by the Complainant has to be assessed and established by the Respondent distribution licensee based on Tariff Orders passed by the Ld HPERC and Codes / Regulations notified by the HPERC. Once the same has been assessed, established, determined and paid by the distribution licensee, shall the question of payment of any Interest arise on the principle amount so determined. At the same time, such shall have to be permitted by the HPERC through its Regulations or Tariff Orders;
- (25) On bare examination of sub-regulation 26(2)(ii) of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 which is in terms of Interest to be paid on undue charges that have been paid by the Complainant consumer, no-where has the Complainant shown to the Forum that the bills paid by it contained undue charges and neither is any bill disputed by the Complainant which may be carrying undue charges. Non-inclusion of rebate in a bill by the Respondent does not make the bill to become un-due. It has to be shown by the Complainant that the charges included in the bill were not due and which were paid by the Complainant, such as to invoke this provision of regulations, and this aspect is conspicuously missing in the filing by the Complainant;
- (26) Also on bare examination of code 5.7.3 of the HP Electricity Supply Code, 2009, Forum finds this to be with regard to Interest on excess payment made by the Complainant due to erroneous billing and this is also not the case of the Complainant. Merely the non-inclusion of rebate by the Respondent in a bill does not make the bill to become erroneous. This rebate is separate and it may be a case that such

rebate is paid separately by the Respondent or is required to be calculated on a yearly basis;

- (27) In view of foregoing, Forum holds that the payment of Interest to the instant Complainant by the Respondent on Rebates allowed in Tariff Orders, is not provided in the said Code / Regulations notified by the HPERC. The Complainant is accordingly not eligible for any Interest arising from payment of the rebate. Thus, the contention raised by the Complainant with regard to refund of Interest on rebate is also rejected by the Forum and is accordingly disposed.

On aforesaid terms, the complaint is **Dismissed** and disposed accordingly; Parties are left to bear their own costs.

Order is announced before the parties present today on 21.01.2025 at Shimla in open Forum.

Registry of Forum is directed to supply certified copies of this Order to the parties and the complaint along with this Order be consigned to record room for safe custody.

Date: 21.01.2025
Shimla

--Sd--
Vikas Gupta
(Member)

--Sd--
Tushar Gupta
(Chairperson)

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI, SHIMLA-9.

Complaint No.: - 1453/202409/29

Date of Admission: -20.09.2024

**Quorum: - Er. Tushar Gupta, Chairman
Er. Vikas Gupta, Member**

In ref:-

M/s Milestone Gears Pvt. Ltd.

Unit IV, Village Katha, P.O. Barotiwala,
District Solan (HP).

Complainant

V/s.

HPSEBL & Others.

Respondents

1. The Executive Director (Pers.),
HPSEBL, Vidyut Bhawan,
Shimla-171004.

2. The Sr. Executive Engineer,
Electrical Division, HPSEBL
Barotiwala Distt Solan.

3. The Assistant Engineer,
Electrical Sub-Division
HPSEBL, Baddi,
District Solan (H.P.)

Respondents

Final hearing:- 08.01.2025.

Counsels:-

Complainant 1. Sh. Rakesh Bansal A.R.

Respondent 1. Sh. Kamlesh Saklani US Law.

2. Sh. Rajesh Kashyap, Advocate

Date of Decision: -21.01.2025

Notice

Registered

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI
SHIMLA-171009.

No. CGRF/Complaint No. 1453/202409/29

Dated:-

M/s Milestone Gears Pvt. Ltd.
Unit IV, Village Katha, P.O. Barotiwala,
District Solan (HP).

Complainant

V/s.

HPSEBL & Others.

Respondents

Complaint No. 1453/202409/29

1. The Executive Director (Pers.),
HPSEBL, Vidyut Bhawan,
Shimla-171004.
2. The Sr. Executive Engineer,
Electrical Division, HPSEBL
Barotiwala Distt Solan.
3. The Assistant Engineer,
Electrical Sub-Division
HPSEBL, Baddi,
District Solan (H.P.)

Respondents

The Certified copy of final order dated 21.01.2025 passed by the Hon'ble Forum in the aforesaid complaint is enclosed find herewith for further necessary action at your end please. The compliance be reported/ intimated within one month after the receipt of order in the office.

DA:-As above.

Secretary,
Consumers Grievances Redressal Forum,
HPSEBL, Kasumpti Shimla-9.