

CONSUMER GRIEVANCES REDRESSAL FORUM, SHIMLA

Complaint No 1521/202409/30

M/s Venkateshwara Ferro Alloys Pvt. Ltd.

Vs

Himachal Pradesh State Electricity Board Limited & Ors

Brief Facts Of Complaint–

- (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 Venkateshwara Ferro Alloys Pvt. Ltd, 94 Industrial Area, Gondpur, Paonta Sahib -173025;
- (2) In the matter the HP State Electricity Board Ltd is the Respondent;
- (3) Complainant is Large Industries Power Supply (LIPS) category consumer of the Respondent bearing Account No 100012001458, availing electricity supply connection since the year 1989 with original sanctioned contract demand of 1500 kVA, connected load of 1275 kW and 1200 kW of furnace (or special category load). In the year 2010 / 2011 the sanctioned Contract Demand of the Complainant was revised to 1416 kVA while the connected load and furnace load remained the same. The Complainant is availing electricity supply at 11 kV;
- (4) The cause of action arose to the Complainant when the Respondent raised Demand Notice dated 03.07.2024 (**Annexure C-1**) for arrear amount of Rs 16,39,238/- on account of Lower Voltage Supply Surcharge (LVSS) pertaining to the period from 19.11.2018 to 06.02.2024, which had previously not been levied in the bills of respective months. This monetary demand was raised per provisions of Himachal Pradesh Electricity Supply Code (First Amendment) Regulations, 2014 notified on 11.06.2014 and at the behest of Audit Observation. On non-payment by the Complainant, this amount was later raised as sundry by the Respondent in the electricity bill dated 06.09.2024 (**Annexure C-2**). Complainant being aggrieved by this monetary demand has come before the Forum for redressal of its grievance.

Complainant –

- (5) The Complainant's connection was sanctioned in the year 1989 after upgrading the Transformer at the cost of the Complainant;

- (6) That the Complainant's Agreement for supply of electricity was done many years prior to the Electricity Act, 2003 and since then the Agreement was never modified to include provisions of the Act;
- (7) Thus the demand raised by the Respondents is bad in law being based on the provisions of the HP Electricity Supply Code, 2009 notified under the Act and therefore the demand deserves to be quashed;
- (8) Moreover, the said demand is also bad in law being against 2.1.6(A)(a) where maximum permissible load limit is 2200 kVA and 3 MW;
- (9) That the demand notice dated 03.07.2024 is time barred having been raised for time period of more than 5 years and such is outside the purview of the Audit;
- (10) In the Rejoinder cum written arguments, the Complainant has stated that the judgement quoted by the Respondents only comes to their rescue for recovery under section 56(2) when there is neglect of payment and that it has never sought relief under section 56(2) of the Act as no enforceable disconnection Notice has been issued to it. It has further stated that the provisions on LVSS as per Explanation 1 are applicable only for new connections and that Explanation 3 allows for 50% of the LVSS rates to be charged and if Explanation 1 is not considered then still Complainant is entitled to 50% relaxation;
- (11) The Complainant has prayed for quashing and setting aside Demand Notice dated 03.07.2024 (**Annexure C-1**) for Rs 16,39,268/-.

Respondent –

- (12) That electricity connection to Complainant was sanctioned and released in the year 1989, with sanctioned connected load of 1275 kW (including furnace load of 1200 kW) and sanctioned contract demand of 1500 kVA at supply voltage of 11kV (**Annexure R-1**) against which SCO was released on 04.08.1989 (**Annexure R-2**);
- (13) That vide Respondent Office Order dated 29.03.2011 (**Annexure R-6**) the Complainant's sanctioned contract demand was reduced from 1500 kVA to 1416 kVA without change in the sanctioned connected load of 1275 kW (including furnace load of 1200 kW) against which SCO was released on 07.09.2011 (**Annexure R-7**);

- (14) That in accordance with the provisions of code 2.1.6.1(A) and 2.1.6.1(B) of Supply Code first amendment (**Annexure R-8**), LVSS is chargeable for special category load of 1200 kW, such load exceeding the specified ceiling limits for supply availed at 11 kV vis-à-vis standard supply voltage of 33 kV. Thus the demand of Rs 16,39,238/- on account of Lower Voltage Supply Charge (LVSS) for the period from 19.11.2018 to 06.02.2024 vide Notice (**Annexure R-10**) at the behest of Audit (**Annexure R-9**) has been raised which is further raised as sundry in the electricity bill dated 06.09.2024 (**Annexure R-13**). The impugned demand notice is perfectly legal and valid and Complainant is liable to pay the same as per law and the complaint deserves dismissal;
- (15) That the Respondent has every right to recover the said arrears in accordance with law settled by the Hon'ble Apex Court in Assistant Engineer (D1) Ajmer Vidyut Vitaran Nigam Ltd and Anr Vs Rahamutullah @ Rahamujullah (2020) 4 SCC 650 followed in M/s Prem Cottex Vs Uttar Haryana Vijli Vitran Ltd in Civil Appeal No 7235 of 2009 decided on October 5, 2021. Accordingly the plea by the Complainant is not tenable;
- (16) The demand is a statutory one and constitutes legitimate dues in accordance with applicable rules and regulations as well as settled law which are owed by the Complainant to the Respondent;
- (17) That the Complainant has not recognized Section 185 of The Electricity Act, 2003 on Repeal and Savings
- (18) Respondent has prayed for dismissing the complaint being devoid of merit.

ORDER

- (19) This 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, relevant Tariff

Order(s) 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;

- (20) At the outset Forum observes that the Complainant in its main submissions has taken plea that because it's Agreement for supply of power was much before the advent of the Electricity Act, 2003 and because the demand for LVSS is much after the same having been based on the Supply Code notified by the Commission under the 2003 Act, thus the demand is bad in law, are held by the Forum as naïve and bizarre. The arguments and grounds made out by the Complainant clearly reflect lack of basic understanding of matter either of Complainant or of the Authorized Representative representing it before the Forum;
- (21) On the foregoing plea by the Complainant, Forum further observes that the Complainant may have started its Industry in the year 1989 and executed an Agreement with the Respondent during the concurrency of the Electricity (Supply) Act, 1948 but after the advent of the said Electricity Act, 2003, it must obviously be consuming electricity supplied by the Respondent ie during the concurrency of this 2003 Act and for such consumption must also be paying its electricity bills or statutory dues which are raised by the Respondent in accordance with the Tariff Orders that are passed on an annual basis by the Ld HPERC also under the 2003 Act. Further from complaint, Forum finds that the dispute or Complainant's cause of action pertains to the period from 19.11.2018 to 06.02.2024;
- (22) Thus, under any wisdom it cannot be assumed or even inferred that while the Complainant is making its consumption during the concurrency of the 2003 Act, that its case or dispute be considered under any erstwhile Act because it came into existence and executed an Agreement for supply of power during the erstwhile Act. The instant matter is also not one pertaining to any retrospective

application of law where the Respondent may have raised a demand under the current Act 2003 for the consumption done during the period of the erstwhile Act. The arguments by the Complainant suggest that a repealed law is still applicable to it in respect of the monetary demand raised by the Respondent under the 2003 Act. The Complainant in its quest for making unreasonable arguments has completely lost sight of section 185 of the 2003 Act and also of the fact that the instant complaint preferred by the Complainant is also under the existing framework of law. The arguments made by the Complainant and also by its authorized representative during the final hearing in the matter, are accordingly held by this Forum to be bizarre and naïve;

- (23) Based on absurd and faulty grounds raised in complaint, on this count alone the instant complaint cannot survive and deserves dismissal. For foregoing reasons, the Forum finds the grounds of grievance set out by the Complainant to be baseless, irrational, argumentative as well as bizarre while in certain places leaving it for the Forum to extract meaning and essence of the complaint. However, the Forum is still inclined to discuss the matter in greater detail and accordingly proceeds in the complaint --
- (24) During the final hearing stage, the Respondent had cited Judgement passed on 15.03.2010 by Hon'ble Apex Court in the matter of PTC India Ltd Vs Central Electricity Regulatory Commission (2010) in Civil Appeal No 3902 of 2006, where in it has been held that a regulation as a part of regulatory framework, intervenes and even overrides the existing contracts between the regulated entities in as much as it casts a statutory obligation on the regulated entities to align their existing and future contracts with the said regulations. Thus it is settled law that all Agreements / Contracts executed between parties before the advent of new law are aligned with the new law after its promulgation;
- (25) In view of aforesaid, Forum holds that the dispute in the instant matter is not covered under any repealed electricity law but is squarely covered under The Electricity Act, 2003 and Regulations / Codes

notified thereunder by the HPERC, which are equally applicable to the Respondent as well as to the Complainant and accordingly to the impugned demand dated 03.07.2024 raised by the Respondent upon the Complainant for the period from 19.11.2018 to 06.02.2024;

- (26) Before the Forum delves further into the instant complaint, it is imperative to reproduce the provisions of the HP Electricity Supply Code, 2009 notified by the HPERC --

(a) Un-amended provisions of the HP Electricity Supply Code, 2009 notified by the HPERC on 26.05.2009-

Quote

.....

.....

2.1.6 Standard Supply Voltage. -

2.1.6.1 Depending upon the connected load (kW) of a consumer, the supply to the consumer shall be given at the following standard voltage (volts / kV) and phase as may exist on the relevant distribution system:-

Sr.No.	Connected Load	Standard Supply Voltage (AC)
1	≤ 50 kW	Single phase 230 Volts or three phase 400 Volts or 2.2 kV
2	51 kW up to 2000 kW	Three phase 6.6 kV, 11kV, 15kV or 22kV
3	2001 kW up to 10000 kW	Three phase 33kV or 66kV
4	> 10000 kW	≥ 132 kV (three phase)

2.1.6.2 In case, an existing consumer who is already availing on the date of the commencement of this Code a supply voltage different from the standard supply voltages as mentioned in para 2.1.6.1, the consumer shall have the option to convert to the relevant standard supply voltage; provided the conversion is from a lower voltage to a higher one. Provided further that if the consumer continues to avail supply at the existing lower voltages, he shall be and shall continue to be liable to pay lower voltage supply surcharge (LVSS) in accordance with the relevant Tariff Order.

2.1.6.3 In case, it is not possible for the licensee to provide the supply to an existing consumer, as per option exercised by him under para 2.1.6.2, at the relevant specified standard voltage due to physical or practical constraints, the licensee shall, intimate to the consumer, in writing, about his inability to do so, mentioning the reasons in brief while giving the tentative date from which it shall be possible for the licensee to provide the same and during that period the consumer shall be and

shall continue to be liable to pay LVSS charges as per the relevant Tariff Order.

.....

.....

Un-Quote

(27) Ibid code 2.1.6.1 was substituted by code 2.1.6.1(A), 2.1.6.1(B) and 2.1.6.1(C) and provisos added thereto was done vide Himachal Pradesh Electricity Supply Code (First Amendment) Regulations, 2014 notified on 11.06.2014. Vide this amendment, certain provisions for special category load were introduced and load limits of standard supply voltage were substituted. The Respondent has relied on the same. These amended provisions are reproduced here –

(b) Himachal Pradesh Electricity Supply Code (First Amendment) Regulations, 2014 notified on 11.06.2014-

Quote

.....

.....

3. Amendment in para 2.1.6.- In para 2.6.1 of the said Code,-

(a) in the heading, for the words “Standard Supply Voltage”, the words “Standard Supply Voltage/Supply Voltage” shall be substituted; and

(b) for the existing sub-para 2.1.6.1, the following sub-paras 2.16.1(A), 2.1.6.1(B) and 2.1.6.1(C) shall be substituted; namely:-

“2.1.6.1(A) The standard supply voltage shall mean the standard voltage at which electricity shall be given to the consumer through a common or dedicated or joint dedicated feeder without payment of any lower voltage supply surcharge(LVSS). Depending upon the connected load(kW or MW), contract demand (kVA or MVA), nature of load and existence of a voltage (volts/kV) and phase in the relevant distribution system, the standard supply voltage for a consumer shall be as provided in clauses (a) and (b) of this sub-para and sub-para 2.1.6.1(C)-

(a) The maximum limits of connected load (kW or MW) and contract demand (kVA or MVA) for the supply of power at a voltage, shall be as under-

Sr. No.	Standard Supply Voltage	Maximum Connected Load	Maximum Contract Demand
1.	Single phase 230 volts or three phase 415 volts or 2.2 kV; (for supplies not involving special category loads)	50 kW	50 kVA
2.	Three phase 11 kV or 22 kV; (for supplies not involving special category loads)	3 MW	2.2 MVA
3.	Three phase 33 kV	12 MW	10 MVA
4.	Three phase 66 kV	14 MW	12 MVA
5.	Three phase 132 kV or 220 kV		No limits

Provided that where special category loads are involved, the standard supply voltage shall be 11 kV or 22 kV, as may exist on the relevant distribution system, if –

(i) the total connected load does not exceed 1 MW, irrespective of special category loads; or

(ii) the total quantum of connected load in respect of special category loads does not exceed 750 kW within the overall limit of total connected load upto 3 MW and total contract demand upto 2.2 MVA:

Provided further that, if neither of the limits given in the first proviso, in relation to supplies involving special category loads, are adhered to, the standard supply voltage shall be 33 kV or the appropriate higher voltage in accordance with the limits specified in this clause:

Provided further that where a consumer having connected load of not more than 50 kW is already getting supply at LT voltage immediately before commencement of the Himachal Pradesh Electricity Supply Code (First Amendment) Regulations, 2014, he shall continue to be covered under a LT standard voltage (i.e. single phase 230 volts or three phase 415 volts) irrespective of contract demand already sanctioned in his favour, so long as he does not further extend his connected load or contract demand beyond the specified limits of 50 kW or 50 kVA respectively:

Provided further that where a consumer is getting supply at a voltage higher than the standard supply voltage as per the said specified limits, he shall continue to get supply at such higher voltage without any rebate for higher voltage supply.

(b) Where the connected load or contract demand exceeds the relevant ceiling limit specified in clause (a), the appropriate higher voltage at which both such limits can be adhered to, shall be considered as standard supply voltage and there shall be no minimum limits for supply of power at a particular voltage.

2.1.6.1(B) Where the consumer seeks supply of power at a voltage lower than the standard supply voltage as per sub-para 2.1.6.1(A), the licensee shall supply power at such lower voltage subject to the maximum limits of connected load and contract demand as specified in this sub-para; payment of lower voltage supply surcharge (LVSS) by the consumer at the rates given in the relevant tariff order applicable from time to time; and other conditions, as may be relevant, specified in this sub-para or in sub-para 2.1.6.1(C) or elsewhere in this Code :-

Sr. No.	Supply Voltage	Description	Maximum Connected Load	Maximum Contract Demand
1.	11 kV (for supplies not involving special category loads)	(a) If 22 kV or 33 kV voltage level exists in the relevant distribution system.	5 MW	4 MVA
		(b) If 22 kV or 33 kV voltage level does not exist in the relevant distribution system.	6 MW	5 MVA
2.	22 kV (for supplies not involving special category)	(a) If 33 kV voltage level exists in the relevant distribution system.	6 MW	5 MVA
		(b) If 33 kV voltage level does not exist in the relevant distribution	7 MW	5.5 MVA

Sr. No.	Supply Voltage	Description	Maximum Connected Load	Maximum Contract Demand
	loads)	system.		
3.	33 kV	(a) If 66 kV voltage level exists in the relevant distribution system.	15 MW	12 MVA
		(b) If 66 kV voltage level does not exist in the relevant distribution system.	18 MW	14 MVA
4.	66 kV	(a) Through a common or dedicated or joint dedicated feeder	18 MW	14 MVA
		(b) Through a dedicated or joint dedicated feeder	30 MW	24 MVA

Provided that all such supplies, excepting the same at Sr. No.4(a), shall be given through dedicated or joint dedicated feeders only and that in case of Sr. No. 4(a) the supply shall be given through a common or dedicated or joint dedicated feeder:

Provided further that in case of supply involving special category loads, the same shall be given at 11 kV or 22 kV subject to further conditions that the total connected load in respect of the special category loads does not exceed 1.5 MW within the total connected load upto 3 MW and contract demand upto 2.2 MVA and that the supply is to be given through a dedicated feeder or a joint dedicated feeder emanating from EHV sub-station:

Provided further that if the conditions given in second proviso, in relation to the supplies involving special category loads, are not adhered to, the supply shall be given at 33 kV or at appropriate higher voltage depending on the total connected load and contract demand:

Provided further that the provisions of this sub-para, shall be further subject to the following condition:-

- (i). that the voltage regulation limits shall have to be adhered to while deciding the supply arrangements;*
- (ii). that in case of special category loads and other such loads which can cause disturbances in the power distribution system, the consumer shall provide suitable protection equipments as per the Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, 2010 and other prudent practices to adequately insulate the distribution system from the disturbance caused by such loads;*
- (iii). that the consumer already getting supply at higher voltage as compared to the standard supply voltage or the limits given in this sub-para, shall not be entitled to any higher voltage supply rebate; and*
- (iv). that in cases of joint dedicated feeder, the limits of maximum connected load and maximum contract demand as per this sub-para shall be applicable for the summation of the connected loads and contract demands of both the consumers.*

Explanation.- For the purposes of this sub-para, -

(a) “dedicated feeder” means the electric supply line emanating from the sub-station of the licensee through which electricity is, or is intended to be, supplied to a single consumer; and

(b) “joint dedicated feeder” means the electric supply line emanating from the sub-station of the licensee through which electricity is, or is intended to be, supplied to two consumers.

2.1.6.1(C)

(i) *Where the contract demand has not been applied for or sanctioned, the limit corresponding to 90% of the connected load (in kW) converted into kVA by adopting power factor of 0.9 shall be deemed as the contract demand.*

(ii) *The supply shall be made at the minimum voltage level at which all the relevant limits and conditions are adhered to. However, if the consumer opts for supply of power at a voltage higher than the standard supply voltage, the licensee shall allow the same excepting the cases in which there may be some constraint.*

(iii) *Where the connected load or contract demand is to be enhanced, the standard supply voltage under sub-para 2.1.6.1 (A) and the supply voltage under sub-para 2.1.6.1 (B) shall be redetermined as per the provisions under the said paras based on enhanced connected load and enhanced contract demand.*

Explanation.- For the purposes of sub-paras 2.1.6.1(A) and 2.1.6.1(B), “special category loads” means furnace loads and mass induction heating loads and shall also include any other load as the Commission may, after taking into consideration electrical characteristics and its impact on the distribution system, by order, declare it to be a special category load.”

.....

.....

Un-Quote

(28) Forum observes that the period for which the cause of action has arisen to the Complainant is from 19.11.2018 to 06.02.2024 and this corresponds to the Tariff Orders for FY19 to FY24 passed by the Ld HPERC. From perusal of the Tariff Orders, Forum finds that the provision of LVSS in Tariff Order for FY 19 passed on 04.05.2018 are slightly different from those in Tariff Order for FY 24 dated 31.03.2024 while those in FY 24 are the same as that in Tariff Order (MYT) for FY20 passed on 29.06.2019. The extract of Tariff Order passed by the Ld HPERC on 04.05.2018 for FY19 and Tariff Order dated 29.06.2019 for FY20 are reproduced for the sake of convenience as follows –

(a) Tariff Order passed by the Ld HPERC in 04.05.2018

Quote

.....

.....

H. Lower Voltage Supply Surcharge (LVSS): *Consumers availing electricity supply at a voltage lower than the ‘Standard Supply Voltage’ as mentioned in part-II shall, in addition to other charges, be also charged a ‘Lower Voltage Supply*

Surcharge' (LVSS) at the rates given in the following Table on only the amount of energy charges billed, for each level of step down (as given in following table) from the 'Standard Supply Voltage' to the level of Actually Aailed Supply Voltage.

Standard Supply	Actually Aailed Supply Voltage	LVSS
11kV or 15kV or 22 kV	1Ø 0.23 kV or 3Ø 0.415kV OR 2.2kV	5%
33 kV	11 kV or 22 kV	3%
66 kV	33 kV	2%
≥ 132 kV	66 kV	2%

EXPLANATION:

1) The revised provisions of standard supply voltage under the HPERC Electricity Supply Code have been notified and new connections shall be released on that basis.

2) Here the expression "for each level of step down" as an example shall mean that in a particular case if the Standard Supply Voltage is 33kV and the Actually Aailed Supply Voltage is less than 11 kV, then the number of step downs shall be two (2) and the rate of LVSS applicable shall be 8% (5%+3%). Similarly, if the Standard Supply voltage is 132 kV or 220 kV and actual aailed supply voltage is 33 kV LVSS shall be applicable @4%.

3) The LVSS shall be charged at 50% of the rates determined as per the above provisions if any one or all of the following conditions are met:-

- i. if supply is given through a dedicated feeder or a joint dedicated feeder and metering for billing purpose is done at the licensee's sub-station; and/or
- ii If the LVSS becomes payable inspite of the contract demand being within the relevant permissible limit applicable for the standard supply voltage viz 50 kVA for LT supply, 2200 kVA for 11 kV or 22 kV supplies, 10000 kVA for 33 kV and 12000 kVA for 66 kV supplies.

4) The low voltage surcharge shall also be applicable in cases where the consumer, after having taken the connection, is found to have violated the maximum demand or the connected load beyond the maximum limits applicable for the relevant Standard Supply Voltage corresponding to the voltage at which supply has been aailed.

.....

.....

Un-Quote

(b) MYT Order passed by the Ld HPERC on 29.06.2019

Quote

.....

.....

H. Lower Voltage Supply Surcharge (LVSS): Consumers availing electricity supply at a voltage lower than the 'Standard Supply Voltage' as mentioned in part-II shall, in addition to other charges, be also charged a 'Lower Voltage Supply Surcharge' (LVSS) at the rates given in the following Table on only the amount of energy charges billed, for each level of step down (as given in following table)

from the 'Standard Supply Voltage' to the level of Actually Aailed Supply Voltage.

Standard Supply	Actually Aailed Supply Voltage	LVSS
11kV or 15kV or 22 kV	1Ø 0.23 kV or 3Ø 0.415kV OR 2.2kV	5%
33 kV	11 kV or 22 kV	3%
66 kV	33 kV	2%
≥ 132 kV	66 kV	2%

EXPLANATION:

1) The revised provisions of standard supply voltage under the HPERC Electricity Supply Code have been notified and new connections shall be released on that basis.

2) Here the expression "for each level of step down" as an example shall mean that in a particular case if the Standard Supply Voltage is 33kV and the Actually Aailed Supply Voltage is less than 11 kV, then the number of step downs shall be two (2) and the rate of LVSS applicable shall be 8% (5%+3%). Similarly, if the Standard Supply voltage is 132 kV or 220 kV and actual aailed supply voltage is 33 kV LVSS shall be applicable @4%.

3) The LVSS shall be charged at 50% of the rates determined as per the above provisions if any one or all of the following conditions are met:-

- i. if supply is given through a dedicated feeder or a joint dedicated feeder and metering for billing purpose is done at the licensee's sub-station; and/or
- ii If the LVSS becomes payable inspite of the contract demand being within the relevant permissible limit applicable for the standard supply voltage viz 50 kVA for LT supply, 2200 kVA for 11 kV or 22 kV supplies, 10000 kVA for 33 kV and 12000 kVA for 66 kV supplies.

.....

.....

Un-Quote

- (29) Forum from the foregoing reproduced provisions on LVSS contained in Order dated 29.06.2019 for FY20 further observes that these have been continued by the Ld HPERC in the Tariff Order for FY 24 dated 31.03.2023 as well. Forum still further observes that Code 2.1.6.1(A) specifies the Standard Supply Voltages including the Standard Supply Voltage for special category loads whereas Code 2.1.6.1(B) and Code 2.1.6.1(C) specify the voltage that can be aailed by consumer seeking supply of power vis-à-vis load / contract demand limits i.e for new connections and the Explanation under Code 2.1.6.1(C) specifies as to what is a special category load which includes and means furnaces and the Explanations in Tariff Orders specifies certain conditions for application of rates of LVSS;

- (30) Forum from complaint again observes that the dispute or Complainant's cause of action pertains to the period from 19.11.2018 to 06.02.2024;
- (31) As observed from record, during the ibid period of dispute, the Complainant's sanctioned connected load was 1275 kW, sanctioned contract demand was 1416 kVA, special category load of furnace was 1200 kW and availed supply voltage was 11 kV. These are not in dispute;
- (32) Forum further observes that the Complainant is not a new consumer who may have applied for a new electricity supply connection but is a consumer existing since the year 1989, for whom, given the afore stated furnace load of 1200 kW, the provisions in the Supply Code at 2.1.6.1 (A) specify 33 kV or higher voltage as Standard Supply Voltage for special category loads exceeding 750 kW within overall connected load of 1 MW whereas Complainant consumer has special category furnace load of 1200 kW, overall connected load of 1275 kW and despite this is availing supply at 11kV whereas its Standard Supply Voltage in accordance with the said Code has to be 33 kV;
- (33) Clearly, Forum finds that the Complainant falls within the scope of 33 kV Standard Supply Voltage and not 11 kV. However, it is availing supply at 11 kV which is lower than the specified permissible limit of standard supply voltage of 33 kV. Thus, in view of the foregoing discussions and explanation, the Complainant automatically becomes liable to pay the LVSS at the full rates specified in Tariff Orders, being a statutory levy for the said period of dispute for the reason that its special category load is 1200 kW which is in excess of the specified permissible limits for Standard Supply Voltage of 750 kW and also that where special category loads are involved its total connected load is 1275 kW (or 1.275 MW) which is also in excess of that specified as 1MW (or 1000 kW);
- (34) Now coming to the Complainant's contention for its eligibility of 50% rates of LVSS, Forum also finds that the grounds made out by the

Complainant in its main pleadings have taken a contradictory position and volte-face in its Rejoinder;

- (35) As against the earlier grounds taken by the Complainant that it is not governed under the existing laws, which the Complainant in its Rejoinder has contradicted and modified to that it be charged by the Respondent at 50% of the LVSS rates as provided in the Tariff Orders reproduced in paras supra;
- (36) Forum from perusal of Tariff Orders along with the provisions of Regulations observes that the said provision of 50% rates under Sr No 3(ii) in the Explanation part of the Tariff Order, covers a peculiar condition of overlapping of load under which it may not be possible to exactly identify the load category of a consumer for the purpose of applicability of LVSS. However, this is not the case for the Complainant, in whose case special category load limits can clearly be identified and related from that specified by the Commission. Forum observes that the Complainant is clearly not entitled for the 50% relaxation in rates, as claimed by it. In view of the foregoing discussions and explanation, Forum again rejects the said contention of the Complainant and holds that the Complainant is not entitled to the said 50% LVSS rates and the Complainant is liable to pay the said LVSS at the full rates;
- (37) On the averments by the Complainant that the demand raised by the Respondent is time barred / under limitation, the Forum again rejects the arguments of the Complainant in this regard. Forum in paras supra has already held that the Electricity Act, 2003 is applicable in the instant matter and accordingly the contention of limitation raised by the Complainant has for the time being to be seen and considered with regard to section 56(2) of the Electricity Act, 2003 and not under any other law. Forum is inclined to agree with the contention of Respondent that present demand is not hit by limitation. Forum is in agreement with the Respondent and holds that the Hon'ble Apex Court while interpreting the said section, has already settled the law in this regard vide Judgment dated 18.02.2020 in Civil Appeal No 1672 of

2020 titled Assistant Engineer (D1) Ajmer Vidyut Vitaran Nigam Ltd and Anr Vs Rahamutullah alias Rahamujulla (2020) 4SCC 650 and in M/s Prem Cottex Vs Uttar Haryana Vijli Vitran Ltd in Civil Appeal No7235 of 2009 decided on October 5, 2021;

- (38) In the context of instant matter, this Forum observes that in Hon'ble Apex Court Judgment dated 18.02.2020 in Civil Appeal No 1672 of 2020, which has further relied upon other Apex Court cases while interpreting section 56(2) of the Electricity Act, 2003, it has been held that section 56(2) does not put any limitation for raising the past dues or arrears, if not discovered earlier due to any mistake. Liability to pay arises on consumption of electricity and obligation to pay when bill or demand is raised. Electricity charges would become first due only when bill is issued by the licensee to the consumer quantifying therein the charges to be paid;
- (39) Accordingly, the Hon'ble Court has held in clear terms that limitation starts from the date the Bill/ monetary demand is raised which is when the sum becomes first due and it is from this date that the period of limitation of 2 years as provided in section 56(2) of the Electricity Act shall start. Thus the action of the Respondent to raise the impugned demand dated 03.07.2024 (**Annexure C-1**) is not hit by the limitation under section 56 of the Electricity Act, 2003. Forum finds that the Complainant has not raised any contention with regard to action of the Respondent as being mala-fide. Because no mala-fide action is observed on the part of the Respondent to raise the impugned demand, the Forum holds the action of the Respondent to raise the impugned demand as bona-fide and accordingly rejects the averments and arguments made by the Complainant with regard to limitation;
- (40) In view of the foregoing discussion, the Forum does not agree with the submissions and arguments made by the Complainant which the Forum finds as untenable on the anvil of the statute covering the instant matter and accordingly rejects these. Forum does not find anything wrong in the demand of arrears of LVSS raised by the

Respondent which the Forum holds to be a statutory one which the Respondent is liable to recover and the Complainant is liable to pay;

- (41) Forum holds and concludes that the action of Respondent to raise upon the Complainant impugned monetary demand dated 03.07.2024 (**Annexure C-1**) for Rs 16,39,238/-, further raised as sundry in the electricity bill dated 06.09.2024 (**Annexure C-2**), is a statutory one in accordance with the Supply Code notified and Tariff Orders passed by the Ld HPERC for Lower Voltage Supply Surcharge (LVSS) which was not raised in electricity bills of Complainant before 03.07.2024. Forum accordingly upholds the impugned monetary demand raised by the Respondent which the Complainant is liable to pay in full;
- (42) The Complainant is accordingly directed to pay in full, the monetary demand dated 03.07.2024 (**Annexure C-1**) for Rs 16,39,238/- which has further been raised as sundry in the electricity bill dated 06.09.2024 (**Annexure C-2**) within a period of 7 days from this Order. On non-payment of the same, Respondent shall be at liberty to take action as per extant law/ Regulations;

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.: - 1521/202409/30

Date of Admission: -23.09.2024

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

In ref:-

M/s Venkateshwara Ferro Alloys Pvt. Ltd.
94 Industrial Area, Gondpur,
Paonta Sahib, Distt. Sirmour (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
Paonta Sahib, Distt Sirmour (HP)..
3. The Assistant Engineer,
Electrical Sub-Division
HPSEBL, Paonta Sahib,
District Sirmour (H.P.)

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

**CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI
SHIMLA-171009.**

No. CGRF/Complaint No. 1521/202409/30

Registered

Dated:-

M/s Venkateshwara Ferro Alloys Pvt. Ltd.
94 Industrial Area, Gondpur,
Paonta Sahib, Distt. Sirmour (HP).

Complainant

V/s.

HPSEBL & Others.

Respondents

Complaint No. 1521/202409/30

1. The Executive Director (Pers.),
HPSEBL, Vidyut Bhawan,
Shimla-171004.
2. The Sr. Executive Engineer,
Electrical Division, HPSEBL
Paonta Sahib, Distt Sirmour (HP)..
3. The Assistant Engineer,
Electrical Sub-Division
HPSEBL, Paonta Sahib,
District Sirmour (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.