

ORDER

COMPLAINT NO: - 1421/2024/08/22

M/S A B Tools Pvt Ltd

V/s

HPSEBL and Others

BACKGROUND:-

1) The complaint is filed before the Forum under Regulation 17 of Consumer Grievance Redressal Forum (CGRF) and Ombudsman Regulation-2013, vide complaint no mentioned above.

2) Honorable High Court of HP had disposed off the CWP No: 9726 of 2013 on dated 9th July, 2024 in the name of M/s A B Tools Pvt Ltd and anothers v/s HPSEBL and others. The relevant concluding lines of the orders passed by High Court is reproduces as below :-

“In view of the aforesaid submission this writ petition is disposed off with liberty to the petitioners to avail the alternate remedy in terms of Section 42 of the Electricity Act, 2003. In case such a remedy is availed by the petitioners within a period of 4 weeks from today, the competent authority/forum shall decide the dispose of the same on its own merits in accordance with law without raising any question of limitation, subject to fulfillment of other conditions if any.”

The Complainant accordingly filed a fresh application before the Forum for its decision.

COMPLAINANT:-

3) The Complainant is a consumer of Large supply (LS) since 06-04-1985 having connected load 1988.4KW at 11KV. After surrendering some connected load as per their will it got reduced to 875KW with a contract demand of 820KVA at 11KV supply voltage as on 30-03-2006.

4) On 13-01-2009, the Complainant got approved additional connected load of 900KW with additional contract demand 930 KVA resulting in effected connected load 1775KW with 1750KVA contract demand at 11KV supply voltage from HPSEBL by including induction furnace load. The connection of Complainant was falling under LIPS category of tariff supply.

5) The total connected load 1775KW with 1750KVA contract demand provided supply from 66/11KV Substation Parwanoo at 11KV voltage. The fresh A&A Form , test report was also executed with the Respondent and record of all these documents are annexed as C-1 and C-2 respectively.

- 6) The Complainant got aggrieved firstly with the LVSS charges amounting to Rs.33,236/- only levied by the Respondent in the energy bill dated 06-04-2010 which is annexed as Annexure C-3. Then again by the another demand notice of LVSS charges amounting to Rs.23,22,781/- issued by the Respondent on dated 19-08-2013 based on the RAO audit observations. While conducting audit of Electrical Subdivision, HPSEBL, Parwanoo. This made the Complainant quite worried and aggrieved due to such huge amount levied in his account.
- 7) The Complainant vide their representation to the Respondents dated 17-04-2010 objected the LVSS charges levied by the HPSEBL in the electricity bill of 06-04-2010 as well as also objected vide their letter dated 23-08-2013 for wrong levying of LVSS amounting to Rs.23,22,781/-. As the Complainant informed that they have not availed the supply at a lower voltage than the specified voltage so requested to withdraw the demand. The Complainant letter is also annexed as Annexure C-6.
- 8) Respondent also levied LVSS amounting to Rs.74,017/- in the energy bill for the month of August, 2013 against the head Sundry Charges. The copy of this bill is also annexed as Annexure C-8.
- 9) On 15-09-13 the Complainant deposited the amount of Rs.74,017/- under protest in order to avoid disconnection of supply.
- 10) The Complainant alleged that the Respondents again vide bill dated 07-10-2013 placed Sundry Charges of LVSS Rs.23,22,781/- and has not withdrawn this amount against their repeated request.
- 11) The Complainant has also alleged that the LVSS demand is not as per Section 56(2) of the Electricity Act. The Complainant has also termed his demand of LVSS amounting to Rs. Rs.23,22,781/- , Rs.33,236/- only as well as Rs.74017/- is untenable and not according to the Regulation 2.1.6.1 of Electricity Supply Code, 2009.
- 12) The Complainant had also been allowed to deposit Rs.23,22,781/- in 8 equal installments + 2% surcharge on balance amount against the 18 installments desired by the Complainant from the competent authority of Respondent. The Complainant has deposited the LVSS charges along with surcharge Rs.24,97,720/- against the demand of Rs.23,22,781/-.
- 13) The Complainant has requested that demand of LVSS raised through demand notice/bills is wrong, arbitrary, unjustified, unfair and against the provisions of Electricity Supply Code, 2009 and Electricity Act, 2003. The Complainant also sought refund of Rs.24,97,720/- only along with 15% interest.

RESPONDENT:-

- 14) Respondent has submitted that the Complainant is governed under Special Category Load (PIU) which should be governed under Electricity Supply Code, 2009 under clause 2.1.6.1. A load of 1775.80KW with contract demand 1750KVA have been entered after including induction furnace load as on 27-03-2009. The clauses 2.1.6.1 and 2.1.6.2 is reproduced as below,

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 in the relevant distribution system.

Connected Load	Standard Supply Voltage(AC)
51KW up to 2000KW	Three phase 6.6KV, 11KV, 15KV or 22KV

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 voltage 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 a 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.

- 15) The Respondent in his reply has discussed about the second amendment of Electricity Supply Code 2009 issued in the year 2014 which is not relevant in this case because the consumer is governed under Electricity Supply Code 2009 and the Tariff Order issued w.e.f. 01-09-2009 upto Tariff Order 2013.
- 16) The Complainant had initially two large supply connections. One Connection is LS-19, with connected load 1998.41 KW which was reduced to 496.290KW on 19-08-99. For another connection, the connected load was enhanced from 49.900KW to 98.790KW. As per terms of agreement, the Complainant has binding to follow Rules and Regulations, tariff in force as well as Electricity Supply Code 2009 and pay all the charges as per tariff order issued by HPERC.
- 17) On 19-05-2006, the Complainant load was clubbed to 875.80KW and which was further enhanced tp 1775.80KW with contact demand 1750kVA as on 13-01-2009.

- 18) The Electricity Supply Code 2009 was introduced by HPERC in 2009 vide power vested in State Commission under Section 50 of Electricity Act 2003. The Respondent has further added that the Standard Supply Voltage is provided at which the electricity shall be given to the consumer through a composite or dedicated or joint dedicated feeder.
- 19) The Respondent has submitted that the Complainant is liable to charge for LVSS w.e.f 01-09-2009 as per applicable tariff. The tariff applicable w.e.f. 01-09-2009 exempted only for those Power Intensive Units (PIU) having standard supply at 11kV which were having connected load less than 1MW. The Power Intensive Units (PIU) having connected load more than 1MW were required to shift to standard supply of 33kV as per the said tariff order read with the provisions of Electricity Supply Code 2009. Therefore, the Complainant has to apply for shifting of his power connection at 33kV by making a specific application to the Respondent which has not been done so far by them. Till then the Complainant is liable to pay LVSS as they are being provided supply at lower voltage i.e. at 11kV which is contrary to provision of tariff for Power Intensive Units (PIU).
- 20) The Respondent has alleged that the Complainant can go for 66kV supply for availing connections at 66kV Voltage. The Respondent has also added that they don't have 33kV Sub-Station at Parwanoo at the time of providing supply to them/after implementation of Electricity Supply Code 2009. The Complainant should apply to Respondent for 33kV Sub-station and it's protection which the Complainant has not followed. Therefore they have opted for 11kV supply for 1775KW(PIU) which is lower than standard supply voltage for PIU units, therefore, they are liable to be charged for LVSS. The Respondents also alleged that if the supply is provided to the loads below the standardized voltage, this cause disturbance in supply system and Grid disturbance which is less at higher voltage level.
- 21) The Respondent has added that the version of Complainant is wrong that the LVSS billing/demand was stopped in between, whereas the LVSS has been continuously been shown in the bills to the Complainant on regular basis.
- 22) The Respondent has termed the LVSS levied to the Complainant from time to time through demand notice, energy bills are statutory in nature, correct and strictly as per tariff regulation and Electricity Supply Code 2009. Therefore the Complainant is liable to pay the same and accordingly the refund of LVSS amounting to Rs.24,97,720/-(LVSS + surcharge) cannot be made to the Complainant.

FORUM:-

- 23) Forum has examined the relevant provisions of Electricity Act 2003, various relevant Regulations including CGRF and Ombudsman Regulations 2013, HP Electricity Supply Code 2009 and relevant tariff issued from time to time by HPERC. The Forum has heard

the parties at length after gathering the fair facts, evidences and correspondence placed on record and the arguments adduced by both the parties in the open Forum.

- 24) Forum has observed that the LVSS charged from the Complainant firstly in the electricity bill of 06-04-2010 amounting to Rs.33,236/- for the month of March 2010. The fact is not denied and the same has been charged somewhere as arrears or sundry charges in the subsequent energy bills.
- 25) The RAO had conducted audit of Electrical sub-Division, HPSEBL, Parwanoo and pointed out short assessment of LVSS charges amounting to Rs.23,22,781/- from the Complainant. The A.E.E, Electrical Sub-Division, Parwanoo vide letter dated 19-08-13 (Annexure C-5) had raised demand in the shape of demand notice and conveyed the Complainant that his load was 1175KW along with 1750kVA contract demand was sanctioned in the favor of M/s A B Tools vide SJO No 110501 dated 01-05-2009 at 11kV instead of 33kV/66kV as per Standard supply voltage prescribed by HPERC in respect of Power Intensive Units (PIU) having load more than 1MW. Therefore M/s A B Tools were liable to pay LVSS w.e.f. 01-05-2009 upto 08,2013 for amounting to Rs.23,22,781/- only. The Complainant vide this demand notice was told to deposit the amount within 30 days otherwise the amount will be debited/recovered from the following monthly energy bills.
- 26) A protracted correspondence have been exchanged between the Complainant and Respondents wherein the Complainant had stated that the levy of LVSS charges with respect to his electricity supply connection w.e.f. 01-05-09 onward is wrong, illegal. Unjustified, arbitrary and unfair. The Complainant requested to withdraw the same. However the Respondent has turned down the request of the Complainant time and again.
- 27) Since the arc/induction furnace comes under the ambit of Power Intensive units (PIU) as per Schedule of Tariff issued by HPERC from time to time and as per powers vested in the State Commission under the Section 61,62 and 64 of Electricity Act, 2003, HPSEBL is a distribution licensee under obligation of implementation of tariff under Section 2(17) of the Electricity Act. HPERC in its tariff order for the FY 2008 has issued following directions under Schedule of Tariff for the FY 2008:-
- “12.12 Minimum voltage for Power Intensive Units:-*
- a. No of connections have been released by HPSEB for min-steel plants, rolling mills, Sponge Iron, ferro-alloys, ferro-silicon, arc/induction furnace and other Power Intensive Units on different voltages ranging from 11KV to 132KV. Some of the connections released on 11KV are not on independent dedicated feeders. Such industries with non-linear type of loads affect the power supply system in terms of generating severe harmonics that impact the quality of supply and supply system. The impact is more severe at lower voltage than if the supply is given at higher voltage to such units.*

The HPERC therefore directs the Board that henceforth no connection shall be released to Power Intensive Units on voltage less than 33KV and without provision of independent feeder with control substation and necessary protection and harmonic filters/reactive compensators installed at consumer end. Further the release of load to the furnaces is totally disallowed in future.”

28) The Complainant has alleged that the claim of LVSS amounting to Rs.23,22,781/- time barred as per Section 56(2) of the Electricity Act, 2003. The contention of the Complainant has been negated by the Respondent by saying that the LVSS amount has been continuously mentioned in the subsequent energy bills Section 56(2) of the Electricity Act, 2003 reproduced as under:-

“Notwithstanding anything contained in any other law for the time being in force no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.”

29) In the instant case, the cause of detection of aforesaid amount of LVSS is the demand notice dated 19-08-2013. The amount has continuously been shown in subsequent monthly energy bills as arrear/sundry charges. The version is quite correct in the opinion of Forum. Therefore, the Section 56(2) of the Electricity Act, 2003 does not hold good in this case and therefore the LVSS charges is leviable from the Complainant.

30) According to Electricity Supply Code, 2009 , clause 2.1.6.1, depending upon the connected load(KW) of a consumer, the supply to the consumer shall be given at following standard voltages:-

Connected Load	Standard Supply Voltage(AC)
51KW up to 2000KW	Three phase 6.6KV, 11KV, 15KV or 22KV

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 voltage 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 a 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.

- 31) As the Complainant has been provided supply at normal supply voltage at 11kV for the connected load 1775KW/1750kVA which is normal supply voltage as per Electricity Supply Code provision 2.1.6.1, therefore no low voltage supply surcharge is leviable as per this provision.
- 32) In the tariff order issued by HPERC for FY 2008, under Schedule of General Service Charges part-1, the definition of LVSS is as under,

Lower Voltage Supply Surcharge (LVSS) :- Consumers availing electricity supply at a voltage lower than the 'standard supply voltage' as specified under the relevant category, shall be charged a 'lower voltage supply surcharge' at the following rates on only the amount of energy charges, built for each level of specified step-down(as given in table below) from the 'standard supply voltage' to the level of actually availed voltage.

Standard Supply Voltage	Actually Aailed Supply Voltage	LVSS
11KV or 15KV or 22KV	Single phase 0.23KV or Three phase 0.415KV or 2.2KV	5%
33KV or 66KV	11Kv or 15KV or 22KV	3%
>=132KV	33Kv or 66KV	2%

In such cases the tariff applicable to the lower voltage (i.e. voltage at which connection is actually availed) shall be applicable and the LVSS shall be levied in addition to the said tariff.

LVSS shall not be applicable to such EHT consumers(66KV and above) which were existing on 01-12-2007 and have been given connection at 66KV even if the Standard voltage in their case was 132KV or above. However in case any extension of load is sanctioned in such cases after 01-12-2007 the LVSS shall be applicable as per the normal conditions.

- 33) In the tariff issued by HPERC during FY 2008 there is no restriction on connected load with reference to providing supply voltage at particular level of voltage for the Power Intensive Units therefore the LVSS will be levied only if the supply is given at lower voltage than the normal supply voltage. In the instant case, the connected load was well within 2MW at 11KV.
- 34) In the tariff orders issued by HPERC for the FY2009 effective from 1-09-2009 and subsequently for the year 2010, 2011, 2012 and 2013 under the part-II Schedule of Tariff

for LIPS, the relevant applicability and supply voltage for Power Intensive Units are mentioned as under :-

Applicability:-

This Schedule is applicable to all other industrial power consumers with connected load exceeding 100KW including the Information Technology Industry (limited only to IT Parks recognized by the State/Center government) and not covered by Schedule “WIPS”

Character of Services:-

Connected Load (KW)	Standard Supply Voltage (AC 50 Hz)
101 KW to 200 KW	11 KV or 15 KV or 22 KV
2001 KW to 10000 KW	33 or 66 KV
>10000 KW	>=132 KV

***Note:-** Minimum voltage level for PIUs with load less than 1 MW shall be standard voltage mentioned above and not 33KV.*

35) In the opinion of Forum in accordance with the tariff issued by HPERC during 2008 under the Schedule of LIPS tariff, there is no mention of levying of LVSS on the connections provided to the consumers on connected load with normal supply voltage. The Complainant having connected load 1775KW have been connected at 11KV and fulfill the Schedule of Tariff. Therefore no LVSS is leviable to the Complainant w.e.f. 05-2009 to 08-2009.

36) As per Schedule of Tariff issued by HPERC for the year 2009 effective from 01-09-2009 special provision of connected load at voltage was mentioned in a footnote reproduced as under :

Note: - “Minimum voltage level for PIUs with load less than 1 MW shall be standard voltage mentioned above and not 33KV”

In accordance the PIU with connected load less than 1MW have been restricted only on 11KV supply voltage. The connected load more than 1000KW(1MW) upto 3 MW shall be connected to 33KV supply as per Electricity supply Code 2009. This schedule remained applicable for PIUs upto 2013 in all relevant Tariff Schedule for PIU under LIPS tariff.

37) The Forum is of the considered opinion that LVSS is leviable to the Complainant after inception of Tariff of 2009 effective from 01-09-2009 because the complainant is connected at lower supply voltage i.e. 11KV for connected load 1775KW with contract demand 1750KVA being PIU(Power Intensive Unit) under LIPS category. Therefore

LVSS should be levied w.e.f. 01-09-2009 upto 2013. LVSS levied for the month of 05,2009 to 08,2009 will not be leviable as it does not cover under the LIPS Tariff for the Schedule of Tariff 2008.

38) As it is quite evident that Electricity Supply Code 2009, Schedule of Tariff, CGRF and Ombudsman regulation 2013 issued by HPERC governed under Electricity Act 2003 are statutory in nature and are required to be implemented by the Respondents in letter and spirit and accordingly consumer has also binding to make the payments of electricity bills/dues for the energy consumed –qua- the other payments comes under these rules and Regulations.

39) Accordingly the demand notice amounting to Rs.23,22,781/- issued by Respondent (Annexure C-5) is set aside. Respondents are further directed to issue a fresh demand notice after deducting the LVSS charges levied for the month of 05/2009 to 08/2009. The fresh demand notice shall be commended for the period w.e.f. 01-09-2009 to 08-2013. The amount of refund of LVSS for the months w.e.f. 05,2009 to 08,2009 excessive charged may be refunded to the Complainant along with interest as per clause 5.7.3 of the Electricity Supply Code 2009. The action may be taken within 30 days of the issue of this order.

On the aforesaid terms, the complaint is partially allowed in favor of Complainant as well as Respondent.

The parties are left to bear their own cost.

Order is announced before the parties present today on 27-11-2024 at Shimla in open forum.

Certified copies of this order be supplied to the parties. The Complaint along with this order be consigned to record room for safe custody.

Dated: 27-11-2024

Place: Shimla

Sd/-

(Vikas Gupta)
(Member)

CONSUMER GRIEVANCES REDRESSAL FORUM, SHIMLA

Complaint No 1421/202408/22

M/s AB Tools Pvt Ltd

Vs

HP State Electricity Board Ltd

BRIEF FACTS OF CASE–

- (1) Complaint has been filed under regulation 17 of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 by M/s AB Tools Pvt Ltd, Plots No 7 &8, Sector 3, Parwanoo, Tehsil Kasauli, District Solan, HP, bearing Account No LS-19. In the matter the HP State Electricity Board Ltd is the Respondent;
- (2) The Complainant is before this Forum pursuant to Judgement / Order passed by the Hon'ble High Court of HP on July 09, 2024 in CWP No 9726 of 2013, wherein the Hon'ble Court has held as follows:-

“
.....
4. *In view of the aforesaid submissions, this writ petition is disposed of with liberty to the petitioners to avail the alternate remedy in terms of Section 42 of the Electricity Act, 2003. In case such a remedy is availed by the petitioners within a period of four weeks from today, the competent authority/forum shall decide and dispose of the same on its own merits in accordance with law without raising any question of limitation, however, subject to fulfillment of other conditions, if any.*
.....
.....”
- (3) In the matter, the cause of action arose to the Complainant on various occasions when the Respondent charged Lower Voltage Supply Charge (LVSS) for the period with effect from 01.05.2009 onwards. The Complainant is aggrieved by the levy of LVSS of Rs 33,236/- in bill dated 06.04.2010 (**Annexure C-3**) for the consumption month of February 2010, Rs 74,017/- raised in bill dated 07.09.2013 (**Annexure C-8**), Rs 23,22,781/- in demand notice dated 19.08.2013 (**Annexure C-5**) for the period from 01.05.2009 onwards further raised in bill dated 07.10.2013 (**Annexure C-11**) and Rs 60,270/- raised in bill dated 07.11.2013 (**Annexure C-15**);

COMPLAINANT –

- (4) That as on 06.04.1985, Complainant's connected load was 1998.4 kW, some of which was surrendered and as on 30.03.2006 the sanctioned connected load at 11 kV supply voltage was 875kW with contract demand of 820 kVA and thereafter vide Respondent's Office Order dated 13.01.2009, the connected load was increased to 1775 kW with contract demand of 1750 kVA at 11 kV Supply Voltage (**Annexure C-1**);
- (5) That the Respondent levied LVSS of Rs 33,236/- in bill dated 06.04.2010 (**Annexure C-3**), Rs 74,017/- raised in bill dated 07.09.2013 (**Annexure C-8**), Rs 23,22,781/- in demand notice dated 19.08.2013 (**Annexure C-5**) for the period from 01.05.2009 onwards further raised in bill dated 07.10.2013 (**Annexure C-11**) and Rs 60,270/- raised in bill dated 07.11.2013 (**Annexure C-15**);
- (6) The Complainant had on various occasions written to the Respondent against levy of LVSS (**Annexure C-4, C-6, C-9, C-10, C-13, C-16, C-18**) and Respondent had written various letters (**Annexure C-7, C-12, C-14, C-17**) to the Complainant;
- (7) That the Complainant is not liable to be charged LVSS in accordance with Code 2.1.6 of the Supply Code notified on 26.05.2009, which is prospective in nature and wherein standard supply voltage for load up to 2000 kW is 11 kV and not 33 kV. Further that, code 2.1.6.1(A), 2.1.6.1(B) and 2.1.6.1(C) and added proviso thereto of amended Supply Code, where special category loads are involved, cannot be given retrospective effect by the RAO or the Respondent for the reason that this first amendment to Supply Code was notified on 11.06.2014 and accordingly provisions of code 2.1.6.1 substituted;
- (8) The Complainant has prayed for Order declaring the demands of LVSS as wrong, illegal, arbitrary, unjustified, unfair and against the provisions of the Electricity Supply Code and to quash and set aside the same along with Order for refund of entire amount of Rs 24,97,720/- deposited by the Complainant under protest and with Interest on the same.

RESPONDENT –

- (9) That the Complainant having special category load is availing supply at 11 kV with test report verified connected load of 1775.8 kW including furnace load of 900 kW, as such in accordance with clause 2.1.6.1(B) of the Supply Code, 2009, where special category load does not exceed 750kW with overall connected load up to 3 MW, then standard supply voltage is 33 kV or higher and therefore impugned demand for LVSS is perfectly legal and valid and requires to be upheld;
- (10) That the said monetary demand (**Annexure C-5**) was raised upon the Complainant in terms of code 2.1.6.1(A) and 2.1.6.1(B) of the HP Electricity Supply Code, 2009 (or “the Supply Code”) and in terms of the applicable Tariff Orders passed by the Ld HP Electricity Regulatory Commission for Financial Years FY 2007 (**Annexure R-5**), FY 2008 and FY 2009-2011 (**Annexure R-6**). In accordance with the provisions of the Code and Tariff Orders the Complainant was to avail electricity supply at 33 kV for special category loads with connected load in excess of 1 MW, whereas the Complainant was availing electricity supply at 11 kV for total connected load of 1775 kW and contract demand of 1750 kVA (with 900 kW furnace load) sanctioned on 13.01.2009 (**Annexure C-1**) and therefore the Complainant was liable to be charged LVSS. This amount on account of LVSS was observed by the Resident Audit Officer (RAO) and charged in electricity bill of Complainant for the month of September 2013 (**Annexure C-14**);
- (11) During the hearing stage the Respondent placed on record extracts of ‘Schedule of Tariff and Schedule of General and Service Charges’ which are provisions of Tariff Orders passed by the Ld HPERC and applicable with effect from 01.04.2007, 01.09.2009, 01.04.2010, 01.04.2011, 01.04.2012, 01.04.2013 and 01.08.2014;
- (12) That tariff applicable from 01.09.2009 exempted only those power intensive units (PIU) from 33 kV Standard Supply Voltage which had connected load less than 1 MW. The PIUs having connected load more than 1 MW were to shift to standard supply voltage of 33

kV, therefore Complainant is obliged to shift to 33 kV standard supply voltage;

- (13) That Tariff Order for FY2008 had issued directions for minimum voltage level as 33 kV with regard to PIUs. But because Respondent does not have 33 kV substation at Parwanoo, then Complainant either bear complete expenditure for upgradation or avail supply at 66 kV;
- (14) On foregoing grounds, the Respondent has prayed for dismissing the complaint.

ORDER

- (15) 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, various Tariff Order passed by the Ld HPERC including the 1st MYT Tariff Order passed on 30.05.2008 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;
- (16) Before the Forum delves into the instant complaint, it is imperative to reproduce the provisions of the HP Electricity Supply Code, 2009 notified by the HPERC --
- (17) **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:-

<i>Sr.No.</i>	<i>Connected Load</i>	<i>Standard Supply Voltage (AC)</i>
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1	$\leq 50 \text{ kW}$	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	$> 10000 \text{ kW}$	$\geq 132 \text{ kV}$ (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

- (18) 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 proviso 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 not reproduced here for the reason that the cause of actions to the Complainant existed between the periods from 01.05.2009 to 07.11.2013 which is prior to this amendment;
- (19) Further, Forum from perusal of Tariff Orders passed by the Ld HPERC, observes that the rates of LVSS are consistently being notified in Tariff Orders passed by the Ld HPERC since early years. Forum from complaint further observes that the cause of action to the Complainant arose for the first time on 01.05.2009. Further, the Supply Code, 2009 was notified on 26.05.2009;

- (20) Therefore, in respect of the instant complaint, for the period before the advent of Supply Code, 2009, the Tariff Order for FY 2008-09 passed by the Ld HPERC on 30.05.2008 for the period wef 01.04.2008 to 31.08.2009 (Tariff Order dated 24.08.2009 for FY 2009-10 is effective from 01.09.2009) remains applicable from 01.05.2009 to 26.05.2009;
- (21) Further, the Respondent has relied upon the provisions of Tariff Order passed by the Ld HPERC in April, 2007 for FY2007-08;
- (22) Relevant extracts of ibid Tariff Orders in respect of various provisions including that for power intensive units (PIU), Standard Supply Voltage and LVSS, passed by the Ld HPERC in April, 2007, passed on 30.05.2008 (effective 01.04.2008 to 31.08.2009) and passed on 24.08.2009, are reproduced here for convenience—

(a) Tariff Order passed by the Ld HPERC in April, 2007

Quote

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2.12 Minimum voltage level for Power Intensive Units: *A number of connections have been released by HPSEB for mini steel plants rolling mills, Sponge Iron, ferroalloys, ferrosilicon, arc/ induction furnace and other power intensive units on different voltages ranging from 11 KV to 132 KV. Some of the connections released on 11 KV are not on independent dedicated feeders. Such industries with non-linear type of loads affect the power supply system in terms of generating severe harmonics that impacts the quality of supply and supply system. The impact is more severe at lower voltage than if the supply is given at higher voltage to such units.*

The Commission therefore, directs the Board that henceforth no connection shall be released to power intensive units on voltage less than 33 KV and without provision of independent feeder with control sub-station and necessary protection and harmonic filters/ reactive compensation installed at consumer end. Further the release of load to arc furnaces is totally disallowed in future.

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Un-Quote

(b) Tariff Order dated 30.05.2008 passed by the Ld HPERC (effective 01.04.2008 to 31.08.2009)

Quote

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9.22 As per the Tariff Order of FY08 the industries with connected load of more than 100 kW were covered in schedule LS (Large Industrial Power Supply) or PIU (Power Intensive Units) depending on the nature of industries. The energy charge rate for the industries covered in the schedule PIU was higher by 25 paise per kVAh. The demand charges of both the categories were, however, the same. In order to differentiate the industries (more than 100 kW) on the basis of over all consumption pattern rather than on the nature of such industries, the Commission has decided that all the industries with connected load of more than 100 kW be covered under a single schedule which shall be named as "Large Industrial Power Supply" (LIP) and the earlier LS and PIU categories have been clubbed together under this category.

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Annexure 2

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G. Standard Supply Voltage - The standard of supply voltage, as existing on the relevant network system, in KV, to be followed by HPSEB, based on the connected load measured in KW, as specified under each consumer category of this 'Schedule of Tariff', in respect of supply of electricity to prospective consumers OR at the time of change of supply voltage on request of existing consumer OR at the time of application of 'Lower Voltage Supply Surcharge' and 'Higher Voltage Rebate' respectively to its existing consumer categories in their bills.

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I. Lower Voltage Supply Surcharge (LVSS) – Consumers availing electricity supply at a voltage lower than the 'Standard Supply Voltage' as specified under the relevant category, shall be charged a 'Lower Voltage Supply Surcharge' at the following rates on only the amount of energy charges, billed, for each level of specified step down (as given in table below) from the 'Standard Supply Voltage' to the level of Actually Aailed Supply Voltage.

<u>Standard Supply Voltage</u>	<u>Actually Aailed Supply Voltage</u>	<u>LVSS</u>
11KV or 15KV or 22 KV	1Ø 0.23 KV or 3Ø 0.415KV OR 2.2 KV	5%
33 KV or 66 KV	11 KV or 15KV or 22 KV	3%
>= 132 KV	33 KV or 66 KV	2%

Note 1. In such cases the tariff applicable to the lower voltage (i.e. voltage at which connection is actually aailed) shall be applicable and the LVSS shall be levied in addition to the said tariff.

2. LVSS shall not be applicable to such EHT consumers (66 KV and above) which were existing on 1.12.2007 and have been given

connection at 66 KV even if the standard voltage in their case was 132 KV or above. However, in case any extension of load is sanctioned in such cases after 1.12.2007 the LVSS shall be applicable as per the normal conditions.

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PART –II- SCHEDULE OF TARIFF

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SCHEDULE - LARGE INDUSTRIAL POWER SUPPLY (LIP)

1. Applicability

This schedule is applicable to all other industrial power consumers with connected load exceeding 100 kW including the Information Technology industry (limited only to IT parks recognized by the State/Central Govt.) and not covered by schedule "AAAS".

2. Character of Service

<i>Connected Load (KW)</i>	<i>Standard Supply Voltage (AC 50 Hz)</i>
<i>101 KW to 2000 KW</i>	<i>11 KV or 15 KV or 22 KV</i>
<i>2001 KW to 10000 KW</i>	<i>33 or 66 KV</i>
<i>>10000 KW</i>	<i>>=132 KV</i>

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Un-Quote

(c) Tariff Order dated 24.08.2009

Quote

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SCHEDULE - LARGE INDUSTRIAL POWER SUPPLY (LIPS)

1. Applicability

This schedule is applicable to all other industrial power consumers with connected load exceeding 100 kW including the Information Technology industry (limited only to IT parks recognized by the State/Central Govt.) and not covered by schedule "WIPS".

2. Character of Service

Connected Load (KW)	Standard Supply Voltage (AC 50 Hz)
101 KW to 2000 KW	11 KV or 15 KV or 22 KV
2001 KW to 10000 KW	33 or 66 KV
>10000 KW	>=132 KV

Note: minimum voltage level for PIUs with load less than 1 MW shall be standard voltage mentioned above and not 33 KV

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Un-Quote

- (23) For the sake of brevity, because the provisions from other Tariff Orders passed by the Ld HPERC are same or similar, these provisions are not being reproduced despite the Respondent having placed these on record. These other Tariff Orders were passed after the advent of the Supply Code, 2009;
- (24) Now coming to the instant dispute, from examining the foregoing provisions of the HP Electricity Supply Code, 2009 notified on 26.05.2009 and amended provisions thereto notified on 11.06.2014 and the Tariff Order passed in April 2007 and Tariff Order dated 30.05.2008 (effective 01.04.2008 to 31.08.2009) and Tariff Order dated 24.08.2009 passed by the Ld HPERC, it becomes clear to the Forum that the consumer category namely Power Intensive Unit or PIU for special category loads, as may have previously existed, was dissolved by the Ld HPERC vide its Tariff Order dated 30.05.2008 although with footnote to Standard Supply Voltage Table as “ *Note: minimum voltage level for PIUs with load less than 1 MW shall be standard voltage mentioned above and not 33 KV*” in later Tariff Orders. Therefore the provisions of Tariff Order of April 2007 reproduced in paras supra and the conditions of PIU or special category loads ceased to exist with effect from 01.04.2008 albeit with the ibid reproduced footnote in Tariff Orders from FY 2009-10 to FY 2013-14 for loads less than 1 MW (or 1000 kW) but which were later comprehensively re-introduced only in the amended Supply Code dated 11.06.2014;

- (25) The cause of actions to the Complainant existed between the periods from 01.05.2009 to 07.11.2013 which is prior to the first amendment dated 11.06.2014. Seen from record, the Complainant's connected load was 1775 kW which is less than the connected load up to 2000 kW specified in Tables reproduced foregoing in respect of standard supply voltage of 11 kV. From the ibid reproduced provisions of Supply Code and Tariff Order, Forum finds that Standard Supply Voltage is therefore clearly 11 kV for connected load less than 2000 kW, while the actual availed supply voltage by Complainant is 11kV. The Tariff Order of April 2007 is not applicable in the instant dispute while the ibid footnote reproduced supra is only for loads less than 1 MW (or 1000 kW) which is also not applicable to Complainant;
- (26) During the final hearing stage the Respondent had vehemently defended its action to raise the LVSS demand and argued on the anvil of code 1.1.4, 1.1.5 and 1.2.51 of the Supply Code, 2009, wherein per Respondent the footnote in Tariff Orders, reproduced in para supra, gives the Respondent the authority to levy LVSS as per Tariff Orders but not as per provisions on Standard Supply Voltage contained in Supply Code, 2009. These said codes are reproduced as follows:-
- 1.1.4 This Code will be read and construed in all respects as being subject to the provisions of the Act, rules and regulations made thereunder and the provisions of any other law for the time being in force.*
- 1.1.5 Nothing contained in this Code will abridge or prejudice the rights of the licensee and the consumer under the Act or any Rules or Regulations made there under.*
- 1.2.51 Unless the context otherwise requires, words or expressions used and not defined in this Code, but specifically defined in the Act, shall have the meanings assigned to them in the Act. Other words or expressions used in this Code, but not specifically defined in this Code or the Act, shall have meanings as are generally understood in the electricity supply industry.*
- (27) From perusal of the ibid reproduced codes, the Forum is of the considered opinion that these provisions are general in nature, giving

therein precedence to the statute. However, because the footnote reproduced supra is not applicable to Complainant and it is not for the Forum to add or subtract words or to state the intention behind such footnote and because the Forum is clear in its mind that the Tariff Orders are passed by the Ld HPERC in accordance with the Regulations framed by it and not otherwise, therefore the Forum is not inclined to draw any other meaning to the said footnote other than that it is applicable to connected load of less than 1 MW (or 1000 kW), whereas the Complainant's connected load is 1775 kW. Further with regard to Standard Supply Voltage and special loads, to state that when the provisions of Supply Code 1st amendment, 2014 were missing in the un-amended Supply Code but which may have existed in Tariff Orders before the cause of action arose to the Complainant, to be automatically applicable, clearly amounts to assumption which the Forum is not inclined to do.

- (28) Thus the Forum does not agree with the arguments extended by the Respondent which the Forum finds as untenable in the facts and circumstances of the instant matter and accordingly rejects the same;
- (29) In view of foregoing discussions, the Forum clearly holds that the Standard Supply Voltage for the Complainant is clearly 11 kV and not 33 kV or above, for connected load less than 2000 kW, while the actual availed supply voltage by Complainant is 11kV. Therefore, the Complainant cannot be made liable for LVSS for the period of dispute. Making the amended provisions of the HP Electricity Supply Code notified on 11.06.2014 applicable to the Complainant by the Respondent clearly amounts to giving retrospective effect to these amended Regulations / Code whichs clearly does not sustain in the eyes of law and therefore the monetary demands raised by the Respondent on account of LVSS for the period from 01.05.2009 are held by this Forum as bad and otherwise also wrong;
- (30) In view of foregoing, the Forum concludes and holds that the action of Respondent to raise upon the Complainant impugned monetary demands on account of Lower Voltage Supply Surcharge (LVSS) of -- Rs 33,236/- in bill dated 06.04.2010 (**Annexure C-3**), Rs 74,017/- raised in bill dated 07.09.2013 (**Annexure C-8**), Rs 23,22,781/- in

demand notice dated 19.08.2013 (**Annexure C-5**) for the period from 01.05.2009 onwards further raised in bill dated 07.10.2013 (**Annexure C-11**) and Rs 60,270/- raised in bill dated 07.11.2013 (**Annexure C-15**) is bad in the eyes of law and otherwise is also wrong ab-initio. The ibid impugned monetary demands are accordingly set aside;

- (31) The Complainant is clearly eligible for the refund of ibid principal amounts which may have been paid by it. Accordingly the Respondent is directed to refund the amounts received by it towards LVSS along with Interest calculated in accordance with the code 5.7.3 of the HP Electricity Supply Code, 2009 up to January 22, 2013 and thereafter Interest be calculated in accordance with sub-regulation 26(2)(ii) of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 notified on January 23, 2013, for the period the principal amount is held or carried by the Respondent;

On aforesaid terms, the complaint is **Allowed** and is disposed accordingly.

Parties are left to bear their own costs.

Order is announced before the parties present today on 27.11.2024 at Shimla in open Forum.

Certified copies of this Order be supplied to the parties. The complaint along with this Order be consigned to record room for safe custody.

Date: 27.11.2024
Shimla

--Sd--
Anil Sharma
(Member)

Vikas Gupta
(Member)

--Sd--
Tushar Gupta
(Chairperson)

**CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI,
SHIMLA-9.**

Complaint No.: - 1421/202408/22

Date of Admission: -08.08.2024

**Quorum: - Er. Tushar Gupta, Chairman
Er. Vikas Gupta, Member
Sh. Anil Kumar Sharma Member**

In ref:-

M/s A.B. Tools Pvt. Ltd.
Plots 7 and 8, Sector-3,
Parwanoo, Tehsil Kasauli,
District Solan (HP).

Complainant

V/s.

HPSEBL & Others.

Respondents

1. The Executive Director (Pers.),
HPSEBL, Vidyut Bhawan,
Shimla-171004.
2. The Assistant Engineer,
Electrical Sub-Division
HPSEBL, Parwanoo, Tehsil Kasauli,
District Solan (H.P.)

Respondents

Final hearing:- 06.11.2024.

Counsels:-

- | | |
|-------------|----------------------------------|
| Complainant | 1. Sh. O.C. Sharma, Advocate |
| Respondent | 1. Sh. Rajesh Kashyap, Advocate |
| | 2. Sh. Kamlesh Saklani, U.S. Law |

Date of Decision: -27.11.2024

Notice

Registered

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

No. CGRF/Complaint No. 1421/202408/22-57274 Dated:- 22/11/24

M/s A.B. Tools Pvt. Ltd.
Plots 7 and 8, Sector-3,
Parwanoo, Tehsil Kasauli,
District Solan (HP).

Complainant

V/s.

HPSEBL & Others.

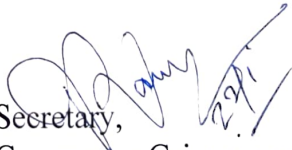
Respondents

Complaint No. 1421/202408/22

1. The Executive Director (Pers.),
HPSEBL, Vidyut Bhawan,
Shimla-171004.
2. The Assistant Engineer,
Electrical Sub-Division
HPSEBL, Parwanoo, Tehsil Kasauli,
District Solan (H.P.)

Respondents

Take notice that order passed by the Ld. Forum on 27.11.2024
have been passed in majority of 2 is to 1.


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