

CONSUMER GRIEVANCES REDRESSAL FORUM, SHIMLA

Complaint No 1432/202308/24

M/s Shree Siddi Vinayak Forging Pvt Ltd

Vs

Himachal Pradesh State Electricity Board Ltd and Ors

BRIEF FACTS OF CASE–

- (1) Complaint is filed under Regulations 16, 17 and 18 of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 by M/s Shree Siddi Vinayak Forging Pvt Ltd, Village Nangal Uparla, PO Nangal, Nalagarh – 174101 (HP);
- (2) Complainant is a Large Industrial Power Supply (LIPS) Consumer of Respondent HPSEBL, bearing Consumer ID 100012000893;
- (3) On 03.08.2022 (**Annexure C1**), the Respondent billed the Complainant for Rs 1,90,85,511/= towards the electricity charges payable by it. In the said electricity bill, the payment due date by cash/demand draft is 16.08.2022 and by cheque it is 14.08.2022;
- (4) Against ibid electricity bill, the Complainant on 11.08.2022 paid the said dues of Rs 1,90,85,511/= against ibid Consumer ID 100012000893, by RTGS (Real Time Gross Settlement) mode reflected in bank statement (**Annexure C2**);
- (5) On 06.09.2022, the Respondent again billed (**Annexure C3**) the Complainant, wherein the said amount of Rs 1,90,85,511/= along with late payment surcharge (Total amounting to Rs 1,93,59,929.39/=) is reflected as arrears. On the very same day the Complainant vide its letter dated 06.09.2023 (**Annexure C4**) brought the error into the knowledge of the Respondent;
- (6) On 14.09.2022 (**Annexure C5**) and 19.09.2022 (**Annexure C7**), the Respondent issued revised/corrected bill, wherein sundry credit

against ibid amount of Rs 1,90,85,511/= is given, but the said late payment surcharge against this amount is not corrected or adjusted;

- (7) Thereafter, the Complainant continued to point the ibid error vide its letters dated 15.09.2022 (**Annexure C6**), 21.09.2022 (**Annexure C8**), 28.09.2022 (**Annexure C12**), 21.12.2022 (**Annexure C13**);
- (8) The Complainant is aggrieved by the ibid excess late payment surcharge of Rs 2,74,705.09/= which was paid by it on 28.09.2022 and has sought relief in terms of refunding this amount along with interest payable in accordance with clause 5.7.3 of the Supply Code, 2009.
- (9) On the other hand, the Respondent has stated on record that the Complainant bearing Consumer ID 100012000893, had deposited its energy bill in some other bank account / in wrong account against consumer ID 1000012000089 of a consumer of Dhalli Sub Division Shimla instead of its own consumer ID, which was credited by the Respondent in Complainant's consumer ID through sundry after taking up the matter with Assistant Engineer Dhalli and therefore the Respondents are nowhere responsible for the levied surcharge which was levied after due date of payment as the payment was not credited in Complainant's account before due date. Late payment surcharge could have been avoided if the Complainant had intimated the error well in time;
- (10) The Respondent has prayed for dismissal of the Complainant as not being maintainable on facts as well as well as law.

ORDER

- (11) This Forum has examined the relevant provisions of the Electricity Act, 2003, various relevant Regulations framed by the HP Electricity Regulatory Commission (or the HPERC) including relevant provisions of HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, HP Electricity Supply Code, 2009 notified by the HPERC and amendments thereto 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;
- (12) At the outset, Forum observes that while the Complainant vide its various letters referred in para supra, was consistently pointing out the error of wrong levy of late payment surcharge by the Respondent, correspondingly the offices of Respondent vide letters dated 20.09.2022 (**Annexure C9**), 23.09.2022 (**Annexure C10**) and 29.09.2022 (**Annexure C11**) had been referring the matter to its higher offices for waiver of the said late payment surcharge. In the said letter by the office of Respondent dated 29.09.2022 (**Annexure C11**), the Forum finds mention of the mistake of wrong credit of the bill amount to a consumer of Dhalli Sub Division, Shimla at the same time admitted as a clerical mistake attributed to wrong reference to consumer ID;
- (13) The Forum also observes that the Respondent has neither denied the Complainant's letters nor has it denied the Bank Statement (**Annexure C2**), nor has it denied the payments by the Complainant nor has it raised any contention that the amount of Rs 1,90,85,511/= was received late by it in whatsoever consumer ID

nor has it disputed the RTGS mode of payment as an invalid mode as not having been permitted by it;

- (14) The Forum finds that the said Bank Statement clearly reflects a with-drawl amount of Rs 1,90,85,511/= against HPSEBL – 100012000893, which is in fact the Complainant's consumer ID. Further, the Complainant has stated on record and the Respondent has acknowledged that the said amount was wrongly credited in another consumer ID of Dhalli Sub Division which was later credited as sundry to the Complainant's consumer ID;
- (15) Thus the fact remains undisputed that the principle amount of Rs 1,90,85,511/= was received well in time in the accounts of the Respondent HPSEBL. In view of foregoing, once an amount paid by the Complainant, which may have wrongly been credited to another consumer ID of the Respondent, not being that of the Complainant, either due to Complainant's mistake or by Respondent's or by the banks but which was later adjusted or credited against Complainant's consumer ID by the Respondent and that such amount was not received late, then the Forum is convinced that the dues of the Complainant have been received by the Respondent without delay and thus late payment surcharge shall not become payable by the Complainant;
- (16) On the issue of Late Payment Surcharge as provided in the Tariffs passed by the Ld HPERC, the Forum is of the considered opinion that the late payment surcharge is against delayed payment of dues of Respondent HPSEBL or in the converse delayed receipt of payment by the Respondent. The fact that such delay is viewed and considered by the Respondent against a specific consumer ID, is merely technical and of accounting purpose. When there is no denial on the part of the Respondent with regard to any delayed receipt of payment by it, even if against some other consumer ID,

then Forum holds and concludes that no late payment surcharge is payable by Complainant;

- (17) Once there is clear acceptance on the part of the Respondent by way of refund / adjustment / settlement of the principle amount of Rs 1,90,85,511/= and further by way of its letters written to its higher offices, while also on the anvil of the fact that there is no denial on the part of the Respondent that the payment was not received by it in time, the Forum finds that the Respondent has unnecessarily tried to justify its wrong action and placed blame on the Complainant. The Forum does not find Complainant to be at fault. The submissions made by the Respondent in its Reply are accordingly found unsustainable and thus rejected;
- (18) Once the issue of payment of principle amount of Rs 1,90,85,511/= has been settled by the Respondent, which is not delayed, then the only logical conclusion in the matter is that no late payment surcharge was payable ab-initio by the Complainant against Respondent's electricity bill dated 03.08.2022 (**Annexure C1**) which has wrongly been received by the Respondent on 28.09.2022 and is now refundable with Interest;
- (19) The Forum further observes that the Complainant has claimed Interest in accordance with code 5.7.3 of the Supply Code, on the late payment surcharge of Rs 2,74,705.09/= paid by it. However, from perusal of the provisions of HP Electricity Supply Code, 2009 notified by the HPERC, the Forum finds that the said code 5.7.3 is applicable only with regard to electricity billing disputes which are before the distribution licensee being the Respondent herein, whereas the present dispute is before this Forum;
- (20) Accordingly, the *ibid* Late Payment Surcharge of Rs 2,74,705.09/= wrongly recovered from the Complainant is refundable to the Complainant along with Interest in accordance with regulation

26(2)(ii) of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013;

- (21) In view of above, the Respondent is directed to calculate as stated in paras supra up, the Interest on Rs 2,74,705.09/= which was deposited by the Complainant on 28.09.2022, up to the date of actual refund / adjustment of the said amount;
- (22) The Respondent is further directed to refund the late payment surcharge of Rs 2,74,705.09/= recovered by it to the Complainant, along with the calculated Interest as aforesaid, by way of adjustment in the next bill of the Complainant;

On aforesaid terms, the complaint is decided on merits in favour of the Complainant and is **Allowed** and disposed accordingly.

Parties are left to bear their own costs.

Order is announced before the parties present today on 03.11.2023 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: 03.11.2023
Shimla

--Sd--
Anil Sharma
(Member)

--Sd--
Vikas Gupta
(Member)

--Sd--
Tushar Gupta
(Chairperson)

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

Complaint No.: - 1432/202308/24

Date of Admission: -22.08.2023

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

In ref:-

M/s Shree Siddi Vinayak,
Forging Pvt. Ltd. Village
Nangal Uparal Nalagarh 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,
Nalagarh, HP).
3. The Assistant Engineer,
Electrical Sub-Division HPSEBL, Nalagarh,
District Solan, (H.P.)

Respondents

Final hearing:- 31.10.2023.

Counsels:-

- | | |
|-------------|---|
| Complainant | 1. Sh. Rakesh Bansal, (Authorized Representative) |
| Respondent | 1. Sh. Rajesh Kashyap, Advocate |
| | 2. Sh. Kamlesh Saklani, U.S. Law |

Date of Decision: -03.11.2023

Notice

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

No.CGRF/Complaint No. 1432/202308/24

Dated:-

M/s Shree Siddi Vinayak,
Forging Pvt. Ltd. Village
Nangal Uparal Nalagarh HP

Complainant

V/s.
HPSEBL & Others.

Respondents

Complaint No. 1432/202308/24

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

Respondents

The Certified copy of final order dated 03.11.2023 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.