

CONSUMER GRIEVANCES REDRESSAL FORUM, SHIMLA

Complaint No 1453/3/23/19

M/s Kundlas Loh Udyog

Vs

Himachal Pradesh State Electricity Board Ltd and Ors

ORDER

- (1) Complaint is filed under Regulations 16, 17 and 18 of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 by M/s Kundlas loh Udyog, Village Balyana, Post Office Barotiwala, Tehsil Baddi, District Solan (HP)-174103;
- (2) Complainant is a Large Industrial Power Supply (LIPS) category Consumer bearing consumer ID 100012001845 and Respondent is HPSEB Ltd who is a distribution licensee under the Electricity Act, 2003;
- (3) Briefly, the Complainant has raised grievance that it had increased its Contract Demand (in kVA) on a number of occasions from 31.10.2019 to 01.06.2022 and from 01.05.2023 to 17.06.2023. However, the Respondent stopped giving rebate for expansion in the bills from 01.11.2022. Complainant has cited the Tariff Order for FY 2021 notified on 01.06.2020 as its eligibility for expansion rebate up to 31.10.2023 and for a period of three years expiring on 04.05.2024, expiring on 31.05.2025 and expiring on 30.06.2026, and for the refund of electricity duty charged on refundable overcharged amount of rebate and for payment of interest on the excess amount billed to him up-to the time of refund;
- (4) In its Reply filed in August, 2024, it has been submitted by the Respondent that it has already granted rebate to the Complainant from November, 2019 to December 2023 on account of multiple expansions, amounting to Rs 1,78,11,164/=;

- (5) During the pendency of the complaint, Complainant also filed an Application on 26.03.2024 and today handed a Rejoinder submitting before the Forum that the overall rebate paid is deficient and less paid;
- (6) 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 and the HP Electricity Supply Code, 2009, including amendments thereto, and the Tariff Orders passed by the HP Electricity Regulatory Commission, record and HP Electricity (Duty) Act, 2009 and facts along-with pleadings of the parties. We have heard the parties at length. The considered opinion of the Forum has been gathered after examining and analyzing fair facts, evidences and correspondence placed on record and arguments adduced by both the parties;
- (7) At the outset Forum does not find any precise or specific monetary claim nor is there any specific challenge to any bill that may have been raised by the Respondent. Forum observes that if the Complainant seeks recovery of money, then the Complainant is bound to state the precise amount claimed up to the time of filing the complaint in July 2023;
- (8) On bare perusal of the complaint, Forum finds that the Complainant has clearly not filed any monetary claim in its complaint towards primary amount to be paid as expansion rebate by the Respondent and the amount of Electricity Duty and Interest payable. Forum also finds that the Complainant has made an elusive attempt to raise a perpetual grievance extending also into the future upto 30.06.2026. Forum also finds that it is only after the Reply was filed by the

Respondent, did the Complainant begin to raise shortfall in the payments of rebate made by the Respondent to the Complainant;

- (9) It thus becomes amply clear to the Forum that the complaint has been filed in the most elusive manner which results in unending dispute or litigation and which ought to be rejected;
- (10) However, the Forum from Reply submitted by the Respondent finds that the Respondent has already granted the rebate to the Complainant up to 02.12.2023 of Rs 1,78,11,164/- and thus there is settlement of grievance;
- (11) On the issue of payment or refund of Electricity Duty by the Respondent to the Complainant, it is reiterated that the Complainant has in the first instance not filed any precise claim in this regard.
- (12) However, Forum is still inclined to look into the facet of payment of the Electricity Duty by the Complainant to Respondent on actual consumption of electricity made by it. No-where in the Tariff Orders passed by the Ld HPERC has the rebate on expansion or excess consumption, been considered to have the net effect of reduction in actual consumption. Such a proposition would be absurd as actual consumption remains actual and not nominal. Complainant has nowhere shown that the Complainant has not consumed the electricity billed to it. The Electricity Duty is payable by the Complainant on the actual electricity consumption in accordance with the HP Electricity (Duty) Act, 2009 and thus any monetary rebate, such as expansion rebate on energy charges due to actual electricity consumption, does not entitle the Complainant for refund of Electricity Duty which is paid as energy charges but on actual electricity consumption by the Complainant. Thus, the Forum holds that the Complainant is not at all eligible for any refund of Electricity Duty, whether claimed or not;

- (13) On the issue of payment of Interest by the Respondent to the Complainant, it is reiterated that the Complainant has in the first instance also not filed any precise claim in this regard;
- (14) However, the Forum is still also inclined to look into the facet of payment of Interest on rebate. On bare examination of sub-regulation 26(2)(ii) of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 which is in terms of Interest to be paid on undue charges that have been paid by the Complainant consumer, no-where has the Complainant shown to the Forum that the bills paid by the Complainant contained undue charges and neither is any bill disputed by the Complainant which may be carrying undue charges. Non-Payment of Rebate in a bill by the Respondent does not make the bill to become un-due. It has to be shown by the Complainant that the charges included in the bill were not due and which were paid by the Complainant, such as to invoke this provision of regulations, and this aspect is conspicuously missing in the filing by the Complainant;
- (15) Also on bare examination of code 5.7.3 of the HP Electricity Supply Code, 2009, Forum finds this to be with regard to Interest on excess payment made due to erroneous billing and this is also not the case of the Complainant. Eligibility for Rebate has to be assessed by the Respondent. Merely the non-Payment of Rebate by the Respondent in a bill by the Respondent does not make the bill to become erroneous. This rebate is separate and it may be a case that such rebate is paid separately by the Respondent. This aspect is also conspicuously missing in the filing by the Complainant;
- (16) The Forum also does not find any reference to payment of Interest that may be paid by the Respondent on expansion rebate, in the Tariff Orders passed by the HP Electricity Regulatory Commission.

Complainant in this regard is at liberty to approach the HP Electricity Regulatory Commission;

- (17) Thus the contention of the Complainant with regard to Interest on expansion Rebate is also rejected. The Forum holds that the Complainant is not at all eligible for any Interest on expansion rebate;
- (18) In the event of balance grievance of Complainant, if any, for any difference in rebate receivable by it, the Complainant is at liberty to approach the Respondent;

On aforesaid terms the complaint is disposed of.

Order is announced before the parties present today on 05.09.2024 at Shimla in open Forum.

Parties are left to bear their own costs.

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: 05.09.2024

Place: Shimla

--Sd--

**Anil Sharma
(Member)**

--Sd--

**Tushar Gupta
(Chairperson)**

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

Complaint No.: - 1453/3/23/19
Date of Admission: - 17.07.2023
Quorum: - Er. Tushar Gupta, Chairman
Sh. Anil Kumar Sharma Member

In ref:-

M/s Kundlas Loh Udyog,
Vill. Balyana, P.O. Barotiwala,
Tehsil Baddi, Distt. Solan (HP).

Complainant

V/s.

HPSEBL & Others.

Respondents

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

Respondents

Final hearing:- 05.09.2024.

Present for:-

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

Date of Decision: -05.09.2024.

Notice

Registered

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI SHIMLA-171009.

No.CGRF/Complaint No. 1453/3/23/19

Dated:-

M/s Kundlas Loh Udyog,
Vill. Balyana, P.O. Barotiwala,
Tehsil Baddi, Distt. Solan (HP).

Complainant

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

Respondents

The Certified copy of final order dated 05.09.2024 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.

Sd/-

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