

CONSUMER GRIEVANCES REDRESSAL FORUM, SHIMLA

Complaint No 2216/202308/22

M/s Aggarwal Steel Industries Pvt Ltd

Vs

Himachal Pradesh State Electricity Board Ltd and Ors

Brief Facts of Complaint -

- (1) Complaint is filed under Regulations 16, 17 and 18 of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 by M/s Aggarwal Steel Industries Pvt. Ltd, Patch No. 1 & 2, Phase II, Industrial Area, Gowalthai, District Bilaspur (HP) - 174201;
- (2) Complainant is a Large Industrial Power Supply (LIPS) category Consumer bearing consumer ID 100012006300 and Respondent is HPSEB Ltd who is the distribution licensee under the Electricity Act, 2003;
- (3) Briefly, the Complainant has raised grievance that it has wrongly been charged late payment surcharge (LPS) and Demand Charges (Rs/kVA/month) and that it is entitled to refund for the payments made by it against these and for Interest on wrong billing;
- (4) This has been refuted by the Respondent who has contended that the charges have been billed correctly in accordance with the provisions of Regulations and Codes framed by the HP Electricity Regulatory Commission (or the HPERC) and Tariff Orders passed by the Ld HPERC;

Complainant-

- (5) That the Respondent had issued multiple electricity bills in the one month of August 2022 on 12.08.2022 (**Annexure C1**), on 17.08.2022 (**Annexure C2**) and on 24.08.2022 (**Annexure C3**);

- (6) Other electricity bills dated 01.09.2022 (**Annexure C4**), dated 10.10.2022 (**Annexure C6**) and dated 14.11.2022 (**Annexure C7**) were also raised by the Respondent;
- (7) That the Complainant had on 16.09.2022 (**Annexure C5**) and on 06.01.2023 (**Annexure C8**) written to the Respondent about the bills with regard to wrong levy of late payment surcharge (LPS) and wrong levy of the Demand Charges (Rs/kVA/month);
- (8) That due to multiple bills being issued before the expiry of the due date of the previous bill, incorrect late payment surcharge of Rs 8,31,991/= has been computed and levied;
- (9) That it had made payments against the ibid bills as follows:-

<u>Bill Date</u>	<u>Due Date by Cash / RTGS</u>	<u>Bill Amount (Rs)</u>	<u>Amount Paid (Rs)</u>	<u>Date of Payment</u>
12.08.2022	22.08.2022	3,38,43,522/-	3,38,43,522/-	24.08.2022
17.08.2022	27.08.2022	5,79,71,055/-	2,41,27,600/-	26.08.2022
24.08.2022	31.08.2022	5,91,29,697/-	1,07,50,549/-	12.09.2022
01.09.2022	12.09.2022	1,07,50,549	--	--

- (10) That, the Demand Charges have been wrongly levied as Rs 62,71,361/= and not been charged on pro-rata basis for the days of billing but for whole of month of August 2022 as follows:-

<u>Bill Date</u>	<u>Bill Consumption From-To</u>	<u>Days of Bill</u>	<u>Days of Demand Charged</u>	<u>Demand Charged (Rs)</u>	<u>Demand Due (Rs)</u>
12.08.2022	01.07.2022 To 26.07.2022	25	31	65,11,000/-	65,11,000/-
17.08.2022	26.07.2022 To 17.08.2022	22	31	47,75,045/-	35,70,781/-
24.08.2022	17.08.2022 To 24.08.2022	7	31	6,80,000/-	1,53,548/-
01.09.2022	24.08.2022 To 01.09.2022	8	31	61,20,000/-	15,79,355/-

- (11) For the period of Temporary Disconnection, the Demand charges were leviable at 10%. Out of above excess charged, Rs 54,55,045/- has been refunded and Rs 8,16,316/- is still refundable;

- (12) In the Rejoinder cum written arguments submitted by the Complainant, the Complainant has argued that in **Annexure C2** the normal Demand Charges have been adjusted by the Respondent for 22 days on pro-rata basis and thus the Respondent cannot take the plea that there is no provision for levy of Demand Charges on pro-rata basis;
- (13) In the Rejoinder cum written arguments submitted by the Complainant, the Complainant has also argued that late payment surcharge is leviable @ 1.5% per month or part thereof and thus the Complainant cannot be penalized when multiple bills were issued in a month and that the Respondent has mis-understood the manner of levy of late payment surcharge;
- (14) The Complainant has sought relief in terms of -
- (15) Directions to Respondent to not charge LPS for the period July to August, 2024 and refund the sum charged;
- (16) Directions to Respondent to refund the demand charges excess charged during multiple billing in single month of August 2022;
- (17) Directions to Respondent to pay interest for delay in adjusting amount of refund from date of excess charging upto date of actual refund / adjustment.

Respondent-

- (18) In the Reply filed by Superintending Engineer (IT) HPSEBL Vidyut Bhawan Shimla in October 2023 (impleaded as additional party on 05.09.2023 to effectively determine the complaint), the following has been submitted -
- (19) That the Complainant had to deposit bills issued to it by the Respondent within the due date. The dues against electricity bill

dated 12.08.2022 whose payment due date was 22.08.2022, was received from Complainant by the Respondent on 24.08.2022 and dues against bill dated 17.08.2022 whose due date was 27.08.2022, was received on 29.08.2022;

- (20) The Bills are at **Annexure R1** and details of payment (reflecting payments and mode of payment by RTGS (Real Time Gross Settlement)) is at **Annexure R2** and details of LPS (total amounting to Rs 8,31,991.36) are at **Annexure R3**;
- (21) That the demand charges have been levied for entire month for the reason that the Tariff Order nowhere provides for pro-rata levy of demand charges and that the demand charges on pro-rata basis are against the provisions of Supply Code 2009 and amendments thereto and against the Tariff Orders passed by the HPERC. The Demand charges have been specified in terms of Rs/kVA/month and not Rs/kVA/day;
- (22) That as regards the excess levy of demand charges @10% for the period of TDCO (Temporary Disconnection) levied in bills dated 17.08.2022 (Rs 47,75,045/-) and 24.08.2022 (Rs 6,80,000/-) it is admitted and this excess levy of demand charges of Rs 54,55,045/- already stand refunded and followed by Respondent for the period of TDCO;
- (23) The Reply filed by Superintending Engineer, Operation Circle, HPSEBL, Bilaspur in March 2024 is mostly a re-iteration of the Reply filed by Superintending Engineer (IT) as foregoing;
- (24) The Respondent has prayed that complaint be dismissed being baseless, false and devoid of facts.

ORDER

- (25) Forum has examined the relevant provisions of the Electricity Act, 2003, 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 Ld HP Electricity Regulatory Commission (HPERC), record and facts along-with pleadings of the parties. We have heard the parties. 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 parties-
- (26) At the outset, the Forum from record finds that the Complainant has not placed on record the payment receipts which it ought to have done to enable the Forum to ascertain the payment details. The Forum has found one date of 26.08.2022 stated as a payment date by the Complainant, later revealed from the Reply submitted by Respondent to be 29.08.2022 and as will be seen from the later part of this Order, this has serious bearing on the outcome of the case especially in context of a bill wherein due date is 27.08.2022;
- (27) Forum from record also finds that the Complainant has not placed on record the Pollution Control Board Order nor has it placed on record documents related to its Temporary Disconnection and Reconnection to enable the Forum in ascertaining the details including the period of disconnection of the Complainant;
- (28) The onus lies on the Complainant to prove its case beyond doubt. It is imperative that when a case is being made out by the Complainant, the Complainant place on record all documents on which the Complainant has relied and on which the complaint may

be built. The Forum however proceeds to determine the complaint relying on the documents placed on record -

- (29) In the complaint the Complainant has raised multiple cause of action. The Forum now proceeds to frame the following three issues for determination, on the anvil of which the complaint is made out:-
- (30) **Issue No 1:** Was the Complainant late while making payments vis-à-vis the respective bill due dates and is it liable to pay the late payment Surcharge (LPS) against the unpaid bills?,
- (31) **Issue No 2:** When there are multiple billings in a month, then as per the Tariff Orders passed by the Ld HPERC are the Demand Charges (Rs/kVA) to be levied for the whole of the month (Rs/kVA/month) or are these to be levied on pro-rata basis only for the days of billing (Rs/kVA/day)?,
- (32) **Issue No 3:** Is the Respondent liable to pay Interest for excess payment that may have been made by the Complainant towards undue charges levied by the Respondent or due to erroneous billing done by the Respondent?;
- (33) Each of the Issues framed ibid are determined hereinafter-
- (34) **Issue No 1:** From the submissions made by the complainant and replies submitted by the Respondent, Forum finds that the Complainant had indeed made late payments after the due dates. The payments were made by the Complainant on 24.08.2022, 29.08.2022 and 12.09.2022 against due dates of 22.08.2022, 27.08.2022 and 31.08.2022 respectively carried in respective bills dated 12.08.2022, 17.08.2022 and 24.08.2022. If it is the argument of the Complainant that since there were multiple bills in a single month of August 2022, thus it is entitled to due date of a later bill in respect of payments made against a previous bill, then the Complainant is

grossly mistaken. Argumentative submissions without rational and legal basis are invalid. Forum is of the considered opinion that when the amount paid by the Complainant directly corresponds to the bill amount in a bill under dispute, then that is sufficient proof of payment against that bill and not any other bill and therefore the Complainant cannot take an afterthought. If it is the Complainant's intention that bill payment has been made against the due date of a subsequent bill merely because there were multiple billings in a month, then the Complainant is vexatious and seriously mistaken. Nowhere is it the case of the Complainant nor is it forthcoming from the complaint that the Complainant was either making a part payment against a current bill which otherwise requires permission to do so or that the Complainant was making advance payments against a future bill, under which circumstances the payment amount would be different from the bill amount and this is not the case here;

- (35) The date of payment of 26.08.2022 depicted by the Complainant has been shown by the Respondent to actually be 29.08.2022. The Forum is unable to understand that is it the Complainant's intention to mislead the Forum by presentation of wrong facts and irrational arguments. Similarly Complainant has depicted the bill dated 24.08.2022 to be of Rs 5,91,29,697/- whereas from record Forum finds this bill to be of Rs 1,07,50,549/-;
- (36) Forum from record clearly finds that the payments made by the Complainant, using the RTGS mode, indeed corresponds to the bill amount. The payment of Rs 3,38,43,522/- on 24.08.2022 clearly corresponds to bill dated 12.08.2022. Once this was paid on 24.08.2022, balance of next bill dated 17.08.2022 amounts to Rs 2,41,27,533/- (= Rs 5,79,71,055 – Rs 3,38,43,522) which corresponds to the payment of Rs 2,41,27,533 done by the

Complainant on 29.08.2022. Once this was also paid, against next bill for Rs 1,07,50,549/- dated 24.08.2022, payment was done on 12.09.2022 for Rs 1,07,50,549/-. Thus it becomes clear that the Complainant by its irrational arguments is attempting to prove that it had made payments well in time against due dates contained in subsequent bills and this argument Forum finds as non-tenable. Such arguments are not acceptable to the Forum that the Complainant had made payments not against a current or previous bill but had made payments against a subsequent bill especially when there is an equivalent payment made by the Complainant against the disputed current or previous bill. Such baseless arguments have thus to be rejected by the Forum. As pointed out in earlier part of the Order, it becomes obvious that the wrong payment date of 26.08.2022 cited by the Complainant against payment date of 29.08.2022 informed by the Respondent certainly has a serious bearing on the final outcome of the complaint. These payments were made later than the due date of that bill by the Complainant and accordingly the condition of late payment after due date is binding and thus the Complainant is liable to pay late payment surcharge (LPS);

- (37) The Forum also does not find Complainant's arguments given in its Rejoinder that with multiple bills it is being penalized when it is being levied LPS @ 1.5% per month or part thereof. The Forum finds this argument to also be untenable. If it is the Complainant's case for interpretation of the provisions of Tariff Orders passed by the Ld HPERC, then the Forum lacks jurisdiction and the Complainant is at liberty, if it so desires, to approach the Hon'ble HPERC;
- (38) The Forum thus clearly rejects the arguments extended and contentions raised by the Complainant on refund of late payment

surcharge (LPS) amounting to Rs 8,31,991/=. The Forum holds without doubt that the payments made by the Complainant are in-fact late. Respondent has rightly charged LPS and the Complainant is liable to pay the same for late payments made by it and thus no amount is refundable;

- (39) On aforesaid terms **Issue No 1** *ibid*, is decided against the Complainant and in favor of the Respondent.
- (40) **Issue No 2:** Issue is raised by the Complainant of Demand Charges (Rs / kVAh) having been raised by the Respondent for the whole of the month which ought to have been levied on pro-rata basis only for the days of billing and for the refund of the same amounting to Rs 8,16,316/-;
- (41) On this Issue, the Forum is in agreement with the Respondent that the Ld HPERC in the Tariff Orders passed by it, has specified the rate of Demand Charges to be in Rs/kVAh/month and not in Rs/kVAh/day. Thus the Forum does not find any wrong in the Respondents action to levy the demand charges in Rs/kVAh/month and thus the Forum rejects the contentions of the Complainant. The Forum upholds the Demand charges amounting to Rs 8,16,316/- levied by the Respondent on Rs/kVAh/month basis;
- (42) If it is the interpretation being propagated by the Complainant that the Demand Charges have to be in terms of Rs/kVAh/day but for the Forum to state the same tantamount to giving interpretation to the Tariff Orders passed by the Ld HPERC. Forum is aware that it is not within its jurisdiction to interpret Tariff Orders passed by the Ld HPERC. The Forum therefore holds that the Complainant, if it so desires, is at liberty to approach the Hon'ble HPERC for interpretation on the issue raised by the Complainant;

- (43) **Issue No 2** is accordingly decided on aforesaid terms against the Complainant and in favor of the Respondent.
- (44) **Issue No 3:** Coming to the third issue of whether the Respondent is liable to pay Interest for excess payment that may have been made by the Complainant towards undue charges levied by the Respondent or due to erroneous billing done by the Respondent -
- (45) It has been admitted by both the Complainant and the Respondent that refund of excess Demand charges amounting to Rs 54,55,045/- raised by the Respondent for the period of Temporary Disconnection (TDCO) at the instance of Pollution Control Board, has been made. Here, in accordance with the Regulations / Code, the Demand charges for the period of Temporary disconnection were to be charged @ 10% which was wrongly done at 100% by the Respondent. On realizing its mistake the Respondent refunded the said amount;
- (46) Thus once there is refund of said amount of Rs 54,55,045/- which was carried by the Respondent for some time, by default the liability of Interest arises which is to be paid by the Respondent for the duration such amount was carried by the Respondent;
- (47) Forum holds that the Complainant in accordance with the regulation 26(2)(a)(ii) of HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, is entitled to payment of Interest by the Respondent for wrongly billed ibid amount of Rs 54,55,045/- and for the period the same was carried by the Respondent that is from the date of payment by the Complainant of such amount (which is Rs 47,75,045/- paid by Complainant on 29.08.2022 and Rs 6,80,000/- paid by Complainant on 12.09.2022) and up to the date of issue of bill on 10.10.2022 or the date of sundry entry whichever

is earlier. The Respondent is directed to adjust this Interest in the next bill to be raised to the Complainant;

(48) On aforesaid terms, **Issue No 3** is decided in favor of the Complainant.

On aforesaid terms the complaint is disposed of, as **partly allowed**.

Order is announced before the parties present today on 24.09.2024 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: 24.09.2024

Place: Shimla

--Sd--
Anil Sharma
(Member)

--Sd--
Tushar Gupta
(Chairperson)

**CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI,
SHIMLA**

Complaint No.: - 2216/202308/22

Date of Admission:- 08.08.2023

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

In ref:-

M/s Aggarwal Steels Pvt. Ltd.
Patch No.1 & 2 Phase II ,
Industrial Area Gowalthai
Distt. Bilaspur (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,
Bilaspur, Distt. Bilaspur (HP).
3. The Assistant Engineer,
Electrical Sub-Division, HPSEBL Kot,
Bilaspur Distt. Bilaspur (HP).

Respondents

Final hearing:- 24.09.2024.

Counsels:-

- | | |
|-------------|--|
| Complainant | 1. Miss Shabnam, Advocate, vice of Sh. Rakesh Bansal, A.R. |
| Respondent | 1. Sh. Rajesh Kashyap, Advocate |
| | 2. Sh. Kamlesh Saklani, U.S. Law |

Date of Decision: -24.09.2024.

Notice

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI SHIMLA-171009.
No.CGRF/Complaint No. 2216/202308/22

Registered

Dated:-

M/s Aggarwal Steels Pvt. Ltd.
Patch No.1 & 2 Phase II ,
Industrial Area Gawalhai
Distt. Bilaspur (HP).

Complainant

V/s.

HPSEBL & Others.

Respondents

Complaint No. 2216/202308/22

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

Respondents

The Certified copy of final order dated 24.09.2024 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.

Sd/-

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