ORDER

BRIEF FACTS OF THE CASE –

(1) Complaint has been filed under regulations 16, 17 and 18 of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013;

(2) The Complainant M/s Milestone Gears Pvt Ltd, Plot No 58, Sector 1, District Solan - 173220 bearing consumer ID 100012000653 is a consumer of the Respondent HPSEBL. Complainant is a Large Industrial Power Supply (LIPS – HT – 2 part) category consumer with a connected load of 770 kW and presently availing 200 kVA Contract Demand at 11 kV;

(3) From complaint it is seen that the initial sanctioned Permanent Contract Demand of the Complainant was 470 kVA; On 20.04.2016, the Contract Demand was revised by the Complainant on Temporary basis to 250 kVA;

(4) The instant matter is regarding raising of additional demand charges (in Rs) by the Respondent HPSEBL to the Complainant on 23.09.2021 (Annexure C1) for the period of 24 months from October 2019 to September 2021, pursuant to HP Electricity Supply Code (Second Amendment) Regulations, 2018 which was notified on 31.07.2018 (here-in-after referred to as Supply Code 2nd Amendment, 2018 or Supply Code 2nd Amendment) by the HP Electricity Regulatory Commission and which became effective from 01.04.2019. The ibid demand charges (in Rs) were later added in the electricity bill dated 05.02.2022 (Annexure C3).

COMPLAINANT –

(5) Per Complainant, he had applied for Temporary reduction of Contract Demand (in KVA or MVA) from 470kVA to 250 kVA in the year 2016 which was affected by the Respondent HPSEBL in April 2016. Thereafter, Demand charges (in KVA or MVA) were levied and billing was being done by the Respondent HPSEBL on the basis of the ibid revised Temporary Contract Demand;

(6) The Complainant is aggrieved by the action of the Respondent HPSEBL to issue Demand Notice along with details for Rs 11,88,000/= vide No 997-1000 dated 23.09.2021 (Annexure-C1) on the basis of some Sales Circular No 17405-17744 dated 03.02.2018. The ibid monetary demand was for the period of 24 months from October 2019 to September 2021. The Complainant vide its letters dated 07.10.2021, 16.02.2022 and 16.03.2022 (Annexure C-2 Colly) had objected to the monetary demand raised by the Respondent HPSEBL, primarily on the grounds of ibid Sales Circular No 17405-17744 dated 03.02.2018 not having been intimated to the Complainant and also that this was not applicable to it for the reason that the Complainant had revised its Contract Demand before the issuance of the order. The objections were not considered and the said amount was added in electricity bill dated 05.02.2022 (Annexure C-3). Vide ibid letter dated 16.03.2022, the Complainant (Annexure C-2 Colly) intimated that they had deposited 50% of the amount of Rs 1205820/= amounting to Rs 602910/= (Cheque No 887702 dated 16.03.2022 SBI) under protest;

(7) The Complainant has further raised the query of applicability of code 3.10 of ibid Supply Code amendment done in 2018 (applicable from April, 2019) in respect of the monetary demand which was raised on account of non-Revision of Temporary Contract Demand;

(8) The Complainant has mainly contends that the HP Electricity Supply Code (Second Amendment) Regulations, 2018 notified on 31.07.2018 (here-in-after referred to as Supply Code 2nd Amendment, 2018 or Supply Code 2nd Amendment) is not applicable to him as he had revised / applied for Temporary Contract Demand (in kVA or MVA) before the enactment of ibid Supply Code 2nd Amendment, 2018. The contentions raised by the Complainant are mainly in terms of questions to the Forum -- whether Code 3.10 of ibid Supply Code 2nd Amendment, 2018 is applicable to temporary reduction of contract demand (in kVA or MVA) done prior to the date of amendment as the amendment no-where says so; whether this amendment was implemented by the Respondents as per instructions of amendment especially when the Respondents had issued instructions on 25.10.2018 (Annexure C-4) to the field units detailing therein methodology to be adopted in respect of the said amendment; whether automatic revision by the Respondents during the first financial year and after the effective date which is 01.04.2019 is justified or not and whether error / omission on part of Respondents for not implementing the amended provisions, can be ignored under the law and whether loss to utility be recovered from erring officers;

(9) In the Rejoinder, the Complainant has reiterated that the ibid Supply Code 2nd Amendment to be effective from 01.04.2019, is not applicable to the Complainant and has further averred that the Respondents have taken the effect of the ibid Supply Code, 2nd Amendment notified on 31.07.2018, from a retrospective period and that to without giving a Notice to the Complainant;

(10) The Complainant has reproduced Supply Code Amendments and has also taken recourse to a Judgment passed by Hon'ble HP High Court of HP in CWP No 2319 of 2018 on 03.11.2020 in case titled as The Executive Director (Pers). Himachal Pradesh State Electricity Board Ltd

& ors Vs M/s Kundlas Loh Udyog & anr, where in per Complainant it has been held that the implementing officers should bear such omissions and losses and not the consumer or the Board (Annexure C-5);

(11) The Complainant has sought relief mainly in terms of quashing of ibid Demand Notice 23.09.2021 (Annexure-C1) for Rs 11,88,000/=.

RESPONDENT –

(12) On the other hand, the Respondent HPSEBL in its Reply has submitted that the monetary demand has rightly been raised which is in accordance with the Code 3.10 of Himachal Pradesh Electricity Supply Code (Second Amendment) Regulations, 2018 notified on 31.07.2018 which came into effect from 01.04.2019. The Complainant is trying to make hypothetical contentions / submissions contrary to the provisions of law. The Respondent further submitted that the Forum had previously decided a complaint on 24.07.2021 titled M/s Ambuja Cement Private Limited versus HPSEBL in complaint No 1444/3/20/2009, wherein it was held that the consumer who had temporarily revised his Contract Demand prior to the year 2018 is liable to make payment of demand charges in terms of the ibid Supply Code 2nd Amendment and this decision was upheld by the Ld Electricity Ombudsman. Thus, the instant complaint is baseless, unfounded and devoid of any merit;

(13) The Respondent has relied upon the judgment passed by the Hon'ble Constitution bench of the Apex Court in case titled PTC India Ltd versus Central Electricity Regulatory Commission (2010) 4 SCC 603, wherein the Apex Court has held that existing Contracts have to be aligned with the provisions of the Regulations. The Respondent has further argued that the ibid Supply Code 2nd Amendment, 2018 was notified by the Ld HP Electricity Regulatory Commission after following due process i.e receiving objections and suggestions from

stake holders. However, this procedure has been impugned in the complaint and therefore same is liable to be dismissed;

(14) The Respondent has placed on record its letter No 1548-50 dated 03.01.2022 along with details of demand charged, also stating therein the fact of notification of ibid Supply Code 2nd Amendment, 2018 and asking the Complainant to deposit the demanded amount.

FORUM

(15) 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 and the HP Electricity Supply Code, 2009 (or the Supply Code, 2009 or the Supply Code or the Code) including amendments thereto, record 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;

(16) At the outset, this Forum observes that the Complainant has raised the instant complaint by simply reproducing certain provisions of the Himachal Pradesh Electricity Supply Code (Second Amendment) Regulations, 2018 notified on 31.07.2018 which came into effect from 01.04.2019 and by irrationally arguing on untenable propositions that because he had sought Temporary reduction of Contract Demand (in kVA or MVA) in the year 2015 therefore, the ibid Supply Code 2nd Amendment is not applicable to the Complainant but is applicable only to any future Temporary Contract Demand (in kVA or MVA). The Complainant has further argued that ibid Supply Code 2nd Amendment

no-where states that the consumers who were being billed on the basis of Temporary Contract Demand, prior to the notification of the ibid 2nd Amendment, shall fall into the purview of the new mechanism;

(17) This Forum finds that the Complainant has failed to set-up the legal basis of his arguments in the complaint. The Complainant has misconceived and mis-appreciated the fact that the ibid Supply Code 2nd Amendment notified on 31.07.2018 is not applicable to him as he had revised / applied for Temporary Contract Demand (in kVA or MVA) before the enactment of ibid Supply Code 2nd Amendment, 2018. However, the Rejoinder filed by the Complainant refers to the issue of retrospective application of ibid Supply Code 2nd Amendment, 2018. Thus primarily, the issue of retrospective application of ibid 2nd Amendment' has emerged for determination by the Forum;

(18) This Forum, before proceeding with the ibid issue that has come up for determination in the instant complaint, considers it necessary and expedient to refer to certain relevant amendments to the HP Electricity Supply Code, 2009 enacted by the HP Electricity Regulatory Commission (or the HPERC). The Supply Code, 2009 was notified by the HPERC on 26th May, 2009. Later Amendments were carried out from time to time. We mainly refer to amendments pertinent in the instant matter with regard to 'Temporary' revision of Contract Demand. The said amendments were first introduced by the HP Electricity Regulatory Commission (or the HPERC) vide Himachal Pradesh Electricity Supply Code (First Amendment) Regulations, 2014 notified on 11th June, 2014. In this amendment, Code 3.10 was first inserted. Thereafter, amendment to this Code 3.10 was carried out by the HPERC vide the Himachal Pradesh Electricity Supply Code (Second Amendment) Regulations, 2018 notified on 31.07.2018. For the sake of

clarity, relevant extracts of these amendments are reproduced here-in-under:-

(A) Himachal Pradesh Electricity Supply Code (First Amendment) Regulations, 2014 dated 11.06.2014 -

<u>Quote</u>

10. Insertion of para 3.10.- *In the said Code, the following para 3.10 shall be inserted; namely:-*
"3.10 Temporary revision of contract demand.–
The consumers to whom two part tariff is applicable shall be entitled to revise their contract demand within the total sanctioned contract demand without surrendering their lien of the total sanctioned contract demand, subject to the following condition- 10
(a) that the consumer shall not reduce the contract demand to lesser than 50% of the total sanctioned contract demand subject to a further condition that the contract demand shall not be reduced below the lowest limit of contract demand as per the tariff category (or any sub-category thereof) applicable to him;
(b) that the consumer shall not be entitled to revise the contract demand more than twice a year subject to the condition that the time gap between two successive revisions shall not be less than 3 months;
(c) that the consumer shall give a notice of at least one month to the licensee before revising the contract demand under this mechanism. Even though the consumer shall not be required to obtain any sanction from the licensee for change in contract demand under this mechanism, he, so as to avoid the disputes, shall ensure that the notice(s) for such revision are duly served by him upon the licensee through registered post or through courier service or is delivered by hand against signed receipt therefor;
(d) that in cases where the contract demand is reduced under this mechanism, such reduced contract demand shall be applicable for billing purposes; and
(e) that in cases where the consumer gets his contract demand reduced permanently, the limit under clause (a) shall be considered with respect to such reduced contract demand, but such reduction shall not be considered to have been made under this mechanism and the time gap of 3 months as per clause (b) shall be reckoned from the date from which the demand was last revised under this mechanism.
Illustration.- *If a consumer who is having sanctioned contract demand of 10 MVA temporarily revises the contract demand to 6 MVA w.e.f. 01.08.2014 under this mechanism but gets his sanctioned contract demand permanently reduced to 8 MVA w.e.f. 01.09.2014, he shall have to pay charges based on 6 MVA contract demand till 31.10.2014 (i.e. till the expiry of 3 months period from the date at which the contract demand was last revised i.e. from 01.08.2014). However, if the contract demand is to be reduced permanently to lesser than 6 MVA (say 4 MVA as on*

01.09.2014), the demand charges would have been based on a contract demand of 4 MVA during the period upto 31.10.2014."

<u>Un-Quote</u>

(B) Himachal Pradesh Electricity Supply Code (Second Amendment) Regulations, 2018dated 31.07.2018-

<u>Quote</u>

3. Amendment of para 3.10*:- For the sign ";" occurring after clause (a) of para 3.10 of the said Code, the sign ":" shall be substituted and thereafter the following provisos shall be inserted, namely:-*
"Provided that the consumer shall not be eligible for temporary revision of contract demand to a value other than the full sanctioned contract demand for a total period of more than six months in one financial year:
Provided further that in cases involving part period of a year e.g. if a consumer takes the connection, or the consumer gets his permanent sanctioned contract demand revised, during the middle of a year, the adjustments shall be made on pro-rata basis.
Note: *The Distribution Licensee shall, immediately after the publication of the Himachal Pradesh Electricity Supply Code (Second Amendment) Regulations, 2018, in the Rajpatra, Himachal Pradesh, issue suitable detailed procedural instructions within the framework of the above provisions to its field units for the smooth implementation of aforesaid provisions w.e.f 01.04.2019."*

<u>Un-Quote</u>

(19) Before proceeding to determine the aforementioned primary issue of retrospective application of Supply Code 2nd Amendment, arising in the instant complaint, this Forum also considers it pertinent to briefly delve into the working of the Contract Demand (in KVA/ or MVA). It is apparent that the Contract Demand is a provision of the Electricity Supply Code and the Tariff Orders. It is a Demand (in KVA/ or MVA) contracted by the consumer at the time of his original application for connection, which is also subjected to permissible revisions during the life of the connection, strictly in accordance with the provisions of the Supply Code, 2009. This Contract Demand is applied for, by the consumer and sanctioned by the licensee, inter-alia with the underlying

purposes of determining the Standard Supply Voltages at the time of connection, for billing of the consumer etc. The original Contract Demand is of ‘Permanent’ nature and the subsequent revisions at the option of the consumer may be of ‘Permanent’ or of ‘Temporary’ nature which are regulated in accordance with the provisions of the Supply Code and further applied in accordance with the provisions of various Regulations / Codes enacted by the HPERC. This Contract Demand (in KVA or MVA) serves as a reference vis-à-vis the actual maximum Demand (in KVA or MVA) recorded on the meter during the times of electricity consumption and is applied towards the billing of the consumer or other matters, as may be prescribed by way of HPERC Regulations / Supply Code. When the Supply Code regulates the revision of Contract Demand (in kVA or MVA), the concerned consumer is expected to keep a strict vigil on his electricity consumption patterns by managing the peaks of his maximum Demands (in KVA or MVA), simultaneously also keeping a vigil and managing / revising his Contract Demand (in kVA or MVA) from time-to-time so as to keep both in synchronization and consequently the optimization of its electricity bills;

(20) The Supply Code 1st Amendment dated 11.06.2014 stipulated various conditions for Temporary revision of Contract Demand (in KVA or MVA) and these were first introduced here by insertion of Code ‘3.10 Temporary revision of contract demand’. This Code was later amended vide Supply Code amendment dated 31.07.2018, when certain Provisos were added to it. This 1st amendment, 2014 provided for limits of revision, number of revisions in a year, gap between successive revisions etc. The subsequent amendment of Supply Code (ie Supply Code 2nd Amendment) notified on 31.07.2018 introduced certain ‘Provisos’ to Code 3.10. The Provisos specifically provided for total

period of 6 months of Temporary contract demand (in KVA or MVA) in a 'Financial Year'. This 2nd amendment came into force from 01.04.2019. It is pertinent to mention here that with regard to ibid 'Temporary revision of contract demand', the key word in the said proviso / amendment is the 'financial year'. It is undisputed that the financial year starts from 01st of April and ends on 31st of March. Accordingly, it becomes clear from the said amendments that on 31st March of each financial year, the 'Temporary Contract Demand', as existing previously shall expire. From the 1st of April of the subsequent financial year, the Contract Demand would get reset to the Permanent Contract Demand (in KVA or MVA) unless the Temporary Contract Demand is re-applied by the consumer. Therefore, in our considered view, a consumer would be required to apply afresh for re-revision of his Temporary Contract Demand (in KVA or MVA) in any new financial year, else a previously existing Temporary Contract Demand (sanctioned or deemed sanctioned) shall automatically get reset to the last sanctioned Permanent Contract Demand (in KVA or MVA) which was also initially / previously applied for by the consumer and sanctioned by the distribution licensee;

(21) From the foregoing implications of express provisions of 'Code 3.10 Temporary revision of contract demand' (or Temporary Contract Demand) (in KVA or MVA) as prescribed in the Supply Code 2nd Amendment, 2018, this Forum holds that after 01.04.2019, i.e when the financial year starts, any monetary demand (in Rs) raised by the Respondent HPSEBL based on a Temporary Contract Demand (in KVA or MVA) existing prior to 01.04.2019, can only be with regard to electricity consumption done prior to 01.04.2019. For electricity consumption occurring after 01.04.2019, such monetary demand (in Rs) shall necessarily have to be based on Temporary Contract Demand (in

KVA or MVA), if such is reapplied. In absence of such re-application, this monetary demand automatically gets based upon Permanent sanctioned Contract Demand which was last applied. This process shall follow for each / new financial year;

(22) In view of above amended provisions and observations, this Forum arrives at a logical conclusion that question of Retrospective application of Supply Code 2^{nd} Amendment, 2018 by the Respondent HPSEBL shall arise only, if a monetary demand is raised by the Respondent HPSEBL after 01.04.2019 for any electricity consumption period/ electricity billing prior to 01.04.2019. Thus, no question of such retrospective application or effect of ibid Supply Code 2^{nd} amendment, 2018 arises, if a monetary demand is raised by the Respondent HPSEBL after 01.04.2019 for any electricity consumption period after 01.04.2019. This monetary demand is based on the condition of 'financial year' as applied to Temporary Contract Demand (in kVA or MVA) contained in the amended provisions of Code 3.10 of the Supply Code, 2009 2^{nd} Amendment, 2018 ibid.

(23) This Forum in the facts and circumstances of the case, safely sums up that any Temporary Revision of Contract Demand (in kVA or MVA) that may have existed in the past before 01.04.2019 shall cease to remain effective beyond 01.04.2019. Therefore, the consumer shall have to apply afresh for a 'Temporary Contract Demand' beyond 01.04.2019, if he so requires and in absence of such revision or re-application, the only Contract Demand that automatically survives in accordance with the Supply Code 2^{nd} Amendment is the 'Permanent Contract Demand' (in kVA or MVA) on the basis of which further billing can be done or any monetary demand can be raised by the distribution licensee. When concerned consumer does not apply afresh or does not revise his Contract Demand after 01.04.2019, then any Temporary revision of

Contract Demand or 'Temporary Contract Demand' (in KVA or MVA) sought before 01.04.2019, such shall deem to get reset to the sanctioned 'Permanent Contract Demand' (in KVA or MVA) from this date onwards, till such time a fresh application for Temporary revision of contract demand or 'Temporary Contract Demand' (in KVA or MVA) is received from consumer and/or sanctioned by the Respondent. This process shall follow for each financial year beyond 01.04.2019 and accordingly all matters of electricity billing shall be dealt vis-à-vis this 'Permanent Contract Demand' (in KVA or MVA) under such a condition;

(24) Now coming to the instant complaint, it is observed by this Forum that the initial sanctioned Permanent Contract Demand of the Complainant was 470 kVA, which it had temporarily revised to 250 kVA (Temporary Contract Demand) in the year 2016 and thereafter, it had not revised or applied afresh for this 'Temporary Contract Demand' (in KVA or MVA) even after the enforcement of the Supply Code 2nd Amendment notified on 31.07.2018. Consequently, the Respondent HPSEBL raised the monetary demand to the Complainant of Rs 11,88,000/= vide Demand Notice placed on record (Annexure C-1) on account of Supply Code 2nd Amendment, 2018, only for those periods (October 2019 to September 2021 i.e 24 months) of electricity consumption occurring after 01.04.2019. This fact has not been denied by the Complainant. Therefore, the plea of the Complainant to this effect that the application of the amended provisions of the Supply Code, 2009, vide Supply Code 2nd Amendment, 2018, are being made retrospectively by the Respondent HPSEBL is wrong, far-fetched and not tenable in face of express provisions of the Supply Code 2nd Amendment ibid. The Supply Code 2nd Amendment is solely in terms of Temporary Contract and underlying conditions of its duration / validity

in a financial year. Thus, the contention of the Complainant that the Supply Code 2^{nd} Amendment is not applicable to him is out-rightly rejected by the Forum as being grossly misplaced and wrong;

(25) The Complainant has further contested that the ibid Supply Code 2^{nd} Amendment was not implemented as per Instructions of Amendment as can be seen from Respondent HPSEBL letter of instructions to the field units on 25.10.2018 (Annexure C-4). Further, the Complainant has relied upon this letter of the Respondent HPSEBL dated 25.10.2018 (Annexure C-4) addressed to its field units, to state that the field units did not implement these instructions well in time;

(26) This Forum finds that the ibid letter of instructions dated 25.10.2018 (Annexure C-4) addressed to its field units was written by the Respondent HPSEBL to its field units in accordance with the instructions contained in the ibid Supply Code 2^{nd} Amendment, 2018. However, reliance of the Complainant on the instructions imparted by the Respondent HPSEBL to the field units vide ibid letter which are limited to conditions within a financial year, are therefore of no help to the case of the Complainant which is in terms of transition of the financial year / boundary conditions of the start and the end of the financial year. In accordance with the Supply Code 2^{nd} Amendment, the end of the financial year is signified by the date of 31^{st} March of the year and this is not denied by the Complainant. On this end date the 'Temporary Contract Demand' as existing, shall automatically expire or cease to exist. Thus, from the start of the next financial year as being 01^{st} April, which is also not denied by the Complainant, the concerned consumer shall be expected to apply afresh for the Temporary Contract Demand (in KVA or MVA) if he so intends. In the instant complaint, the Complainant had failed to apply afresh for the 'Temporary Contract Demand' from 01.04.2019 onwards;

(27) Therefore it can be safely concluded that there is no retrospective application of the Supply Code 2nd Amendment, 2018 by the Respondent HPSEBL as wrongly perceived by the Complainant but it is his own fault of not re-applying for a fresh 'Temporary Contract Demand beyond 01.04.2019 and that he has wrongly raised the instant dispute. The contention of the Complainant with regard to Respondent not adhering to instructions of the 2nd Amendment and the field units not adhering to the instruction of the Respondent HPSEBL, is found to be misplaced and is therefore rejected;

(28) The Forum also finds the arguments of Complainant as untenable, that the Respondent should have issued Notices to the consumers for the revision of Contract Demand. It is a settled proposition that ignorance of law is no excuse. The fact is undisputed that change of law through amendments is done after following due process. The 2nd Amendment, 2018 to Supply Code has been effected by the HPERC after inviting public/ objections etc from all stake holders. The said amendments after enactment were notified and published in official gazette for the knowledge of public/stake holders at large. It is safely presumed and expected that all stake holders / public including the Complainant are well aware of the said amendment. Thus, there is no requirement of any prior notice to raise monetary demand (in Rs) as per amended provisions of the Code and the contention of the Complainant to this effect is patently wrong, misplaced and is accordingly rejected. Monetary demands based upon Statutes, Regulations/ Codes notified by the HPERC and on Tariff Orders passed by the Ld HPERC, cannot be held to be illegal. Thus pleas of the Complainant are naive, flimsy and devoid of any substance and not tenable in facts and circumstances narrated above;

(29) The present complaint under adjudication, relates mainly to the undeniable fact and circumstances, where the Complainant has failed to adhere to the amended provisions of Supply Code, 2018 by not keeping vigil on the change in law. As already discussed in paras supra that change in statute through a due process of law, especially when the amendments are made public, does not require its intimation to the consumer or the Complainant separately neither is it imperative upon the Respondent HPSEBL to inform its consumers individually. We further observe that there is no statutory requirement under the Supply Code with regard to prior intimation by the HPSEBL to the consumers of amendments made in law. The Forum is of considered view that it is incumbent upon the consumer /Complainant to exercise due diligence to keep strict vigil especially in respect of change in law being affected by the HPERC through an open transparent due process. Thus Complainant ought to have appropriately revised its 'Contract Demand' in pursuance to the Supply Code 2nd Amendment, 2018. The 'Note' at the end of Code 3.10 of the Supply Code 2nd Amendment, 2018 is merely in terms of issuing of detailed procedural instructions by the 'Distribution Licensee' i.e the HPSEBL to its field units and not to the consumers at large. It is also otherwise impractical and illogical to assume intimation to each and every consumer of amendments which are notified in Official Gazette and uploaded on the website of HPERC for knowledge of consumers at large;

(30) The Complainant during the course of arguments admitted that the amended provisions of Code 3.10 of the Supply Code, 2009 2nd Amendment notified on 31.07.2018 with regard to the Temporary revision of Contract Demand, had not been applied by the Respondent HPSEBL on the electricity consumption existing prior to 01.04.2019. This admitted fact is also evident from details attached with the

'Demand Notice' dated 13.06.2022 (Annexure C-1) which clearly depicts the period for which the monetary demand was raised, as being October 2019 to September 2021 i.e 24 months. Thus, on this score alone the complaint deserves to be dismissed as it cannot be held that there is retrospective application of ibid 2nd Amendment;

(31) The Complainant has relied upon Judgment passed by Hon'ble HP High Court of HP in CWP No 2319 of 2018 on 03.11.2020 (Annexure C-7) in a case titled as The Excutive Director (Pers). Himachal Pradesh State Electricity Board Ltd & ors Vs M/s Kundlas Loh Udyog & anr where in per Complainant, it has been held that the implementing officers should bear such omissions and losses and not the consumer or the Board;

(32) The Forum after examination, finds that the ibid Judgment dated 03.11.2020 passed by the Hon'ble High Court is of no help to the Complainant for the sole reason that facts of the ibid case are different from the facts of present complaint. In said matter before the Hon'ble Court, the main issue was that of Interest / Penal Interest on Security Deposit which was payable to the consumer by the distribution licensee HPSEBL, being the petitioner in that writ. Whereas, the instant complaint is with regard to a statutory monetary demand raised by the Respondent HPSEBL in terms of prospective application of the Supply Code, 2nd Amendment notified on 31.07.2018 payable by the Complainant as per provisions of the Supply Code. The Complainant has no-where laid challenge to the correctness of the monetary demand raised by the Respondent HPSEBL. To raise a monetary demand by the Respondent HPSEBL based upon statutory provisions, cannot be held to be an error or omission or as being contrary to the Code;

(33) It is evident from the observations made here-in-above, that the instant complaint pertains to non-application /non-revision of Contract

Demand (in kVA or MVA) on Temporary basis i.e Temporary Reduction of Contract Demand after 01.04.2019 by the Complainant. This resulted in Permanent Contract Demand (in kVA or MVA) automatically becoming the basis for raising of a net monetary demand by the Respondent HPSEBL on 23.09.2021 (Annexure C1) for Rs 11,88,000/=. This monetary demand is for the consumptions done in the financial years after 01.04.2019 based on the Supply Code 2nd Amendment, 2018 notified on 31.07.2018;

(34) This Forum is not inclined to accept the arguments extended by the Complainant. There is no force in the arguments of the Complainant that amended provisions of Code 3.10 of Supply Code 2nd Amendment, 2018 are not applicable to him. It is also not tenable that applicability of amended provisions with effect from October 2019 to September 2021 amounts to giving retrospective effect to the Supply Code 2nd Amendment, 2018. From the observations made above, it is established and safely held that that the ibid 2nd Amendment, 2018 is effectively applicable to the consumers / Complainant, with effect from 01.04.2019. We find no substance in assertions by the Complainant in the facts and circumstances of the case discussed above that the monetary demands (in Rs) have been raised by the Respondent HPSEBL by way of retrospective application of or by giving retrospective effect to the amended Code 3.10 of Supply Code 2nd Amendment notified on 31.07.2018;

(35) Further, when the impugned Demand Notice dated 23.09.2021 (Annexure C-1), is examined, it becomes evident that the Respondent HPSEBL has applied the provisions of ibid Code 3.10 of second (2nd) amendment notified on 31.07.2018 (effective 01.04.2019) only for the period from October 2019 to September 2021 (24 months). These provisions have not been applied for the period from 01st April 2019 (i.e

when the ibid 2nd amendment became effective) to 30th September, 2019 (6 months) for reasons best known to the Respondents, especially when the Complainant had failed to revise his Contract Demand (in kVA or MVA) either on Temporary or on Permanent basis for this period. As per record before the Forum, the action of the Respondent appears to be partial in compliance to the express provisions of Himachal Pradesh Electricity Supply Code (Second Amendment) Regulations, 2018 dated 31.07.2018;

(36) In view of the discussions and observations made here-in-above, the present complaint preferred by the Complainant is found to be devoid of any substance and merits and deserves to be dismissed / rejected. We find no illegality in the Demand Notice dated 13.06.2022 (Annexure C-1) raised by the Respondent HPSEBL which has been issued in terms of the amended provisions of the Supply Code, 2009 i.e Code 3.10 vide amendment notified on 01.07.2018 to be effective from 01.04.2019. The Demand Notice Annexure C-1 is accordingly upheld.

In the aforesaid terms, the complaint being devoid of substance and merits is rejected. The complaint is accordingly decided on merits against the Complainant and in favour of the Respondents HPSEBL and stand disposed of as dismissed.

Parties are left to bear their own costs.

Order is announced before the parties present today on 20.12.2022 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: 20.12.2022
Shimla:

Sd/-	**Sd/-**
K.S.Dhaulta (Member)	**Tushar Gupta (Chairperson)**

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI, SHIMLA-

No. CGRF/Complaint No. 1421/3/22/29
Dated:-

Complaint No.: -	**1421/3/22/29**
Date of Admission: -	**06.09.2022**
Quorum: -	**Er. Tushar Gupta, Chairman.** **Sh. K.S. Dhaulta, Member II.**

M/s Milestone Gears (P) Ltd.
(Unit-V) Plot No. 58 Sector-1
District Solan-173220 (HP) **Complainant**

V/s.

1. The Executive Director (Pers.),
HPSEBL,Vidyut Bhawan,
Shimla-171004.

2. The Executive Engineer,
Electrical Division, HPSEBL,
Parwanoo, Distt. Solan (HP).

3. The Assistant Engineer,
Electrical Sub-Division,HPSEBL,
Parwanoo, Distt. Solan (HP). **Respondents**

Final hearing:- **30.11.2022**

Present for:-

Complainant 1 Sh. Rakesh Bansal, Representative

Respondent 1. Sh. Anil Kumar God, Advocate
2. Sh. Kamlesh Saklani, Law Officer

Date of Decision: - **20.12.2022**

Notice

Registered

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI SHIMLA-171009.

No.CGRF/Complaint No. 1421/3/22/29 **Dated:-**

M/s Milestone Gears (P) Ltd.
(Unit-V) Plot No. 58 Sector-1
District Solan-173220 (HP) **Complainant**

V/s.

HPSEBL & Others. **Respondents**

Complaint No. 1421/3/22/29

1. The Executive Director (Pers.),
HPSEBL,Vidyut Bhawan,
Shimla-171004.

2. The Executive Engineer,
Electrical Division, HPSEBL,
Parwanoo, Distt. Solan (HP).

3. The Assistant Engineer,
Electrical Sub-Division,HPSEBL,
Parwanoo, Distt. Solan (HP). **Respondents**

The Certified copy of final order dated 20.12.2022 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-171009.