

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI, SHIMLA-09
No. CGRF/Complaint No. 1431/3/20/020

Complaint No.: - 1431/3/20/020
Date of Admission: - 27.07.2020
Quorum: - Er. Vikas Gupta, Member
Sh. K.S Dhaulta, Member.

Asian concretes and Cements Pvt. Ltd.
Village Katha, Baddi,
District Solan (HP).
Pin-173205

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, Distt. Solan (HP).
3. Assistant Executive Engineer,
Electrical Sub-Division HPSEBL,
Nalagarh, Distt. Solan (HP).

Respondents

Final hearing:-

24.03.2021

Present for:-

Complainant

1. Rakesh Bansal, Authorized Representative

Respondent

1. Sh. Anil Kumar God, Advocate
2. Sh. Kamlesh Saklani, Law Officer HPSEBL
2. Er. Ranjeet Singh, A.E. Nalagarh

Date of Decision: -

24.03.2021

ORDER

1. The instant complaint has been filed to refund with interest of the amount of late payment surcharge of Rs.2,88,898.30/- wrongly charged from the Complainant by HPSEBL/ Respondents in the bills (**Annexure C1& C3**), despite the fact that the payments were made well before the due dates as per proof annexed as (**Annexure C2**). The main grievance of the Complainant is that the Respondents vide bill dated 6.2.2020 (**Annexure C3**) has included the arrears charged for Rs.2,99,015.18/- which included Rs.10,117.33/- again in addition a sum of Rs.2,88,898.30/-, as late payment, even though the same was made well within the due date by Complainant. The Complainant has referred to the relevant Schedule of Tariff. The payments of the due bills stated to have been made by the Complainant through RTGS well within time/due date as per (**Annexure C-4**) under protest. The claim of the Complainant is that the late payment surcharge can only be levied on the outstanding amount excluding electricity duty/taxes for all the consumer categories, as per Tariff Schedule. In the present case, the Respondents have in contravention to the provisions of TARIFF SCHEDULE, have levied late payment surcharge, despite the fact on record that the payments were made three days before the due date for payments as per **C2**, the proof of payments made through RTGS. The late payment surcharge has been wrongly applied by the computer system, which might be due to wrong posting by concerned persons who enter the payments in the database.
2. The Respondents filed their reply contesting the claim of the Complainant. The Respondents in its reply admit the fact that the Complainant made the payment through RTGS & wrongly charged Rs.19, 523/- as LPS in December, 2018. It's also admitted in reply that an arrear amount of Rs, 94055.86/- was refunded to the consumer which got cleared out of Rs. 19,523.68/-. Now the balance amount of Rs.10, 117/- reflects as pending as ED as per Annexure-1, which will be refunded to the consumer. It is also admitted fact that the surcharge was levied due to the reason that the confirmation of RTGS was produced by the Complainant on 22.01.2020, whereas, the energy bill payments through RTGS were deposited on 15.1.2020 i.e., 3 days prior to the due date of 18.01.2020. The Annexure-2 annexed with reply clearly reflects that the SAP entry of the payments made on 15.1.2020 through RTGS, has been made on 23.1.2020 in pursuance of some instructions from Chief Accounts Officer annexed as Annexure-3.
3. The Respondents submits that an amount of Rs. 2, 88,898.30/- was levied as late payment surcharge due to late payment of bill for the month of Jan, 2020 i.e., on 23.1.2020. The consumer had other option to make payments online instead of RTGS/NEFTetc., to avoid such late surcharge.

4. The parties today argued the matter and prayed to dispose of the complaint accordingly. We have heard both the Parties and examined the relevant record, Regulations and Schedule of Tariff etc., placed on record by the parties during course of hearing. The facts on record and pleadings of the parties clearly establish that the Respondent HPSEBL, has wrongly charged and received the Late Payment Surcharge (LPS) from the Complainant, despite the fact that payments of the bill were made well before the due date. It is an admitted fact that the amount of LPS has been levied, well knowing the fact that payments through RTGS has been made by the Complainant on 15.1.2020 i.e., three days prior to the due date of 18.1.2020. The Respondents in its reply have admitted that the amount of energy bill was deposited on 15.1.2020. It's also established from the reply of the Respondents that the SAP entry of the RTGS payments made on 15.1.2020 were posted on 23.1.2020, when the Complainant brought it to the notice of Respondents. Thus, the late payment surcharge was levied of Rs.2, 88, 898.30/- due to late payment of bill of Jan, 2020. This systemic problem requires to be addressed by the Respondent HPSEBL, to facilitate posting of entries of payments made through RTGS within reasonable time to prevent levy of LPS and avoidable litigation on the matter.
5. We find it hard to accept the arguments of the Respondents that they were late informed and SAP entry were made on 23.1.2020. It is an admitted fact that the amount of LPS has been levied well knowing the fact that payments through RTGs has been made by the Complainant on 15.1.2020 i.e., three days prior to the due date of 18.1.2020. The relevant Tariff Schedule in Part-1 General Conditions of Tariff which provide for levy of LPS clearly defines it. It states that:-

“J. Late Payment Surcharge (LPS):- Surcharge for late payment shall be levied at the rate of 2% per month or part thereof, on the outstanding amount excluding electricity duty/taxes for all the consumer categories....” The Respondent HPSEBL, has wrongly charged and received the Late Payment Surcharge (LPS) from the Complainant, despite the fact that payments of the bill were made well before the due date i.e., on 15.1.2020. The consumer cannot be penalised for the systemic errors or problems in not posting the payments made well in time on SAP. Further it's also admitted in reply that an arrear amount of Rs, 94055.86/- placed on October/2019 electricity bill was refunded to the consumer. Rs.19,523.68/- placed in the account of consumer as LPS was charged wrongly and have been refunded to the consumer subsequently in 09/2020 bill. Now the balance amount of Rs.10,117/- reflects as pending as ED as per Annexure-1, which will be refunded to the consumer. Again the late payment surcharge could have been levied only in case of outstanding amount, as per above referred clause of Tariff Schedule, which was not the case with present Complainant. Thus, we find the no logic in the arguments of the Respondents that LPS was levied due to late posting of payments in SAP on

23.1.2020. The consumer, who has made the payment of bill well before three days of the due date, as recorded above, cannot be allowed to be penalised for late SAP entry. We find plausible reasons to allow the present complaint in the facts and circumstances narrated above.

6. In view of the observations made here-in-above, the present complaint is allowed in the light of the facts on record & provisions of Tariff Schedule referred in paras supra. The Respondent HPSEBL, is directed to refund the amount of Rs. 2, 88,898.30/- wrongly charged on account of Late Payment Surcharge (LPS); along with simple interest @ 15% p.a. for the period the amount refundable to the consumer is held by the licensee; in terms of clause 26(2)(a) of HPERC (CGRF & Ombudsman) Regulations, 2013, by way of adjustments in the future energy bills of the consumer Complainant; within a period of 21 days from the communication of this order under intimation to the Forum.
7. The parties are left to bear their own costs. Announced before the parties present at Kasumpti, (Shimla) on 24.3.2021.
8. The Case File be consigned to record room after due completion. A copy of the order be kept in safe custody of folder of orders. The certified copy of these orders be supplied to both the parties.

Dated:-24.03.2021

Place:- Shimla

Sd/-

(K.S. Dhaulta)
Member

Sd/-

(Vikas Gupta)
Member

Notice

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI SHIMLA-171009.

No.CGRF/Complaint No. 1431/3/20/020 **Registered**
Dated:-

Asian concretes and Cements Pvt. Ltd.
Village Katha, Baddi,
District Solan (HP).
Pin-173205

Complainant

V/s.

HPSEBL & Others.

Respondents

Complaint No. 1431/3/20/020

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Nalagarh, Distt. Solan (HP).

Respondents

The Certified copy of final order dated 24.03.2021 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.