

CONSUMER GRIEVANCES REDRESSAL FORUM, SHIMLA

Complaint No 1454/202406/16

M/s Four M Propack 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 Four M Propack Pvt Ltd, Village Katha, PO Baddi, District Solan-173205;
- (2) Complainant is a Large Industrial Power Supply (LIPS) Consumer of Respondent HPSEBL, bearing Consumer ID 100012002240;
- (3) The Complainant is aggrieved by the action of Respondent to overcharge Demand Charges amounting to Rs 24,46,875/- in bills for the period of 81 months from 24.10.2016 up to 28.11.2023, except 4 months i.e from December 2022 to March 2023. The Demand Charges were applicable on 400 kVA whereas the Complainant has been charged on 535 kVA Demand charges in its bills;
- (4) Thus the Complainant is before the Forum for refund of the aforementioned amount along with Interest.

COMPLAINANT –

- (5) That in the year 2013, Complainant submitted Application cum Agreement (**Annexure C1**) for permanent reduction of Contract Demand from 535 kVA to 400 kVA and deposited necessary fees along with other charges vide receipt No 2167521 dated 26.09.2013;
- (6) Thereafter Respondent carried out billing on basis of contract demand of 400 kVA from November 2013. However, with effect from 24.10.2016 up to 28.11.2023, the Respondent carried out billing on basis of contract demand of 535 kVA instead of 400 kVA, except 4 months i.e from December 2022 to March 2023;
- (7) The Respondents have overcharged a sum of Rs 24,46,875/- in bills before carrying out correction and have issued corrected bills thereafter but have not refunded the said amount;

- (8) The Complainant has sought relief from the Forum in terms of directions to Respondent for the refund of said overcharged demand charges total amounting to Rs 24,46,875/- and for payment of Interest in accordance with clause 5.7.3 of the Supply Code, 2009.

RESPONDENT –

- (9) That the refund of Rs 24,46,875/- on account of difference of original contract demand and reduced demand has been made to the Complainant in the bill of October 2024;
- (10) That the Complainant is not entitled to Interest on the amount refunded. Complainant has raised the issue after lapse of more than 7 years, as such the complaint is not sustainable in the eyes of law as per mandate of Regulation 19(c) of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013;
- (11) Respondent has prayed for rejecting the prayer for Interest on grounds that refund has already been credited in Complainant's account.

ORDER

- (12) 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, Tariff Orders passed by the Ld HPERC 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;
- (13) Forum after examining the Tariff Orders passed by the Ld HPERC, observes that the Demand Charges levied in Complainant's electricity bills by the Respondent are based on the Contract Demand of the Complainant consumer. Any wrong application of

the Contract Demand by the Respondent will make the consumer liable to be wrongly charged the said demand charges and consequently result in issue of wrong bill(s) which the Complainant becomes liable to pay;

- (14) There is nothing on record that may show or suggest that the Complainant never paid its electricity dues raised in electricity bills which include the said demand charges;
- (15) Forum observes that in Respondent's Reply it has been acknowledged that on account of difference in original contract demand and reduced demand, it has made refund of the claimed amount of Rs 24,46,875/- to the Complainant in the bill of October 2024;
- (16) In the submissions made by the Respondent, Forum does not find anything that may suggest that the amount was not refundable or that it had erroneously made the refund which was subsequently recoverable or that the amount refunded was not to be considered from the date as may have been claimed by the Complainant;
- (17) Clearly, there is admission on Respondent's part of wrong billing to the Complainant. Thus, in accordance with code 5.7.3 of the HP Electricity Supply Code, 2009 and amendments thereto including the second amendment notified on 31.07.2018, any amount paid by the Complainant to the Respondent as a result of wrong billing, attracts Interest;
- (18) Forum also observes that the Respondent has partially settled the grievance of the Complainant during the concurrency of the complaint, by refunding the disputed amount of Rs 24,46,875/- in the bill of October 2024 arising from wrong levy of demand charges and which pertains to period from 24.10.2016 upto 28.11.2023 but not paying the consequential Interest thereon;
- (19) In the Reply submitted by the Respondent, Forum further observes that for the non-payment of consequential Interest, the Respondent has raised issue of maintainability on grounds of limitation as

provided in regulation 19(c) of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013. This regulation binds and places limitation on Forum to reject a grievance submitted 2 years after arising of cause of action to the Complainant;

- (20) Forum is well aware of the ibid limitation provisions enshrined in the Regulations. However, Forum holds that once refund of the disputed amount has been made by the Respondent in the month of October 2024, then there exists continued cause of action for the Complainant. Under these conditions, for the Respondent to raise issue of limitation and to seek rejection of complaint automatically becomes inconsistent with its own action of refunding the disputed amount. In the considered opinion of the Forum there is clear estoppel upon the Respondent to raise grounds of limitation as may be provided under the law, once the said refund has been made by it;
- (21) In view of foregoing discussion, Forum rejects the arguments made by the Respondent that the Complainant is not entitled to refund of Interest on grounds of limitation and holds such arguments as untenable. Forum accordingly rejects the arguments raised by the Respondent for non-payment of Interest on grounds of maintainability;
- (22) Forum in terms of code 5.7.3 of the HP Electricity Supply Code, 2009 and amendments thereto including the second amendment notified on 31.07.2018 accordingly holds that the Complainant is certainly entitled to Interest on demand charges wrongly raised to it in bills by the Respondent that may have been paid by it from 24.10.2016 to 28.11.2023, total amounting to Rs 24,46,875/-, which the Forum allows;
- (23) Accordingly, the Respondent is directed to compute the Interest on wrong demand charges as stated in para supra, that may have been paid by the Complainant against its bills from 24.10.2016 to 28.11.2023 (except bills of 4 months i.e from December 2022 to

March 2023), such Interest to be computed upto the time of refund in bill of October 2024 and to further refund this Interest by way of adjustment in the next electricity bill to be raised to the Complainant.

On aforesaid terms, the complaint is **Allowed** and is disposed accordingly.

Parties are left to bear their own costs.

Order is announced before the parties present today on 06.02.2025 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: 06.02.2025
Shimla

--Sd--
Vikas Gupta
(Member)

--Sd--
Tushar Gupta
(Chairperson)

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI, SHIMLA-9.

Complaint No.: - 1454/202406/16

Date of Admission: - 18.06.2024

**Quorum: - Er. Tushar Gupta, Chairman
Er. Vikas Gupta, Member**

In ref:-

M/s Four M Propack Pvt. Ltd.
Village Katha, P.O. Baddi,
Distt. Solan (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,
Baddi Distt Solan.
3. The Assistant Engineer,
Electrical Sub-Division
HPSEBL, Baddi,
District Solan (H.P.)

Respondents

Final hearing:- 29.01.2025.

Counsels:-

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

Date of Decision: -06.02.2025

Notice

Registered
CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI
SHIMLA-171009.

No. CGRF/Complaint No. 1454/202406/16

Dated:-

M/s Four M Propack Pvt. Ltd.
Village Katha, P.O. Baddi,
Distt. Solan (HP).

Complainant

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Respondents

Complaint No. 1454/202406/16

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

Respondents

The Certified copy of final order dated 06.02.2025 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.