

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. The Complainant M/s Prashanti Surya Construction Pvt. Ltd, Village and Post Office, Ghurkari, Tehsil and District Kangra (HP), is a consumer of Respondent distribution licensee HPSEBL, bearing consumer ID 100014000501;
- (2) The Complainant is receiving single point electricity supply from the Respondent at 11kV. Complainant's existing Connected load is 91.44 kW, Contract Demand is 75 kVA, and is presently categorized under the Bulk Supply (BS) category of Schedule of Tariff;
- (3) In the year 2008, the Complainant had constructed Bus Stand at Kangra, with bus ways, ticketing counters, 42 multi-purpose shops and parking. The shops and commercial centres at the bus stand were leased out to different persons (or tenants);
- (4) Initially, the Complainant at the time of seeking electricity supply connection had submitted the Application and Agreement for Commercial Supply (CS) category of Schedule of Tariff, which was accordingly sanctioned by the Respondent HPSEBL and single point electricity connection was released on 23.04.2008. The Complainant having leased the shops, commercial centres etc at the Bus Stand, further distributed / supplied the electricity received by him at the single point connection to these lessees, metered them and received monetary considerations from them;
- (5) In sample Audit conducted in March, 2015 by the Resident Audit Officer (RAO), it was observed in para 1 (Annexure R-1) that the Complainant was wrongly categorised under the Commercial Supply (CS) category of Schedule of Tariff which should have been in terms of the Bulk Supply

(BS) category of Schedule of Tariff. Due to wrong categorisation of Tariff of the Complainant in the past, the Audit at that time assessed / determined the loss to the Respondent as Rs 3,98,989/= and accordingly a monetary demand was raised to the Complainant for the past period 2010 to 2014. This was further included in the electricity Bill dated 09.03.2016 (Not placed on record) raised by the Respondent HPSEBL;

- (6) The Complainant in March, 2018 filed Civil Suit 132 of 2018 in Court of Ld Civil Judge, Senior Division Court No. 1 Kangra, Distt Kangra, for grant of decree for declaration and relief of permanent, prohibitory and mandatory injunction;
- (7) Vide Respondent Bill dated 12.10.2018 (Annexure C-2) another amount of Rs 2,59,740/= was raised as sundry for a mistake / error by the Respondent of wrong application of multiplication factor (MF) of 1 instead of correct multiplying factor of 1000 in the bills for the months from June 2018 to September 2018 (Annexure R-3);
- (8) Vide Respondent's bills for the months of December 2021, January 2022, March 2022 and April 2022 (Annexure C-4 Colly), additional sundry charges were levied for mistake/ error by the Respondent of wrong application of multiplying factor (MF) of 300 instead of correct multiplying factor of 1000 in bills for the months of April 2021 to November 2021. These sundries total amount to Rs 2,67,131/=;
- (9) Due to non-payment of the monetary demands raised by the Respondent HPSEBL, the ibid amounts continued to pile as arrears. On 24.05.2022, the Respondent raised a Demand Notice for total monetary demand of Rs 17,28,950.37/= (Annexure C5). This demand included the aforementioned amounts ibid due to wrong categorization of tariffs, due to wrong application of multiplication factors (MF), late payment surcharges and other charges and also included therein disconnection Notice of 15 days as required under section 56 of the Electricity Act, 2003;

- (10) After the filing of the instant complaint, the ibid Civil Suit was withdrawn unconditionally on 15.06.2022;
- (11) The Complainant is aggrieved by the act of the Respondent to raise the ibid Demands vide Annexure C-5, Annexure C-2 and Annexure C-4 Colly. The Complainant has prayed for relief in terms of quashing the ibid demands. In support of the grievance, the Complainant has relied upon the reason that all of the ibid monetary demands have been raised for acts of omission and commission of the Respondent, when there was no fault of the Complainant Company. The Complainant has also cited the reason that because the Complainant is collecting the bills from the meter readings of the tenants, thus at this stage it would be difficult for the Complainant to collect charges from the tenants and make it very difficult for the Complainant to earn profit for the faults of the Respondent;

COMPLAINANT

- (12) That the Himachal Pradesh Bus Stand Management and Development Authority (HP BSM & DA) was constituted in April 2000 under the Himachal Pradesh Bus Stand Management and Development Authority, Act 1999 which offered the construction of the Bus Stand at Kangra on Build-Operate-Transfer (BOT) basis to the Complainant. The Bus Stand was then constructed by the Complainant with bus ways, ticketing counters, 42 multi-purpose shops and parking. The shops and commercial centres at the bus stand were leased out to different persons (or tenants). Complainant was sanctioned 100 kVA transformer;
- (13) That, as per agreement with the HPSEBL, a commercial tariff was agreed to be charged from the Complainant. Consequently, the charges and security of the electricity bill / connection and the demand charges were being charged by the Complainant Company, from the above tenants;

- (14) That the Complainant was regularly paying demand charges / bills of Respondent and that the amounts raised by the Respondent at a belated stage, will make it very difficult for the Complainant to earn profit. Whatever is earned will go to the Respondent HPSEBL;
- (15) That, the Respondent on 19.02.2016 and 14.03.2016 (Not placed on record), issued Demand Notices for a monetary demand for the period 2010 to 2014 which included the ibid outstanding amount of Rs 3,98,989/= + Security Deposit of Rs 43,215/= and Demand Charges at the rate of Rs 20,250/= per kVA which was further included in the electricity Bill dated 09.03.2016 (Not placed on record) raised by the Respondent HPSEBL;
- (16) That the Complainant in March, 2018 filed Civil Suit 132 of 2018 in Court of Ld Civil Judge, Senior Division Court No. 1 Kangra, Distt Kangra, for grant of decree for declaration and relief of permanent, prohibitory and mandatory injunction which was later withdrawn after the instant complaint was filed;
- (17) That vide bill dated 12.10.2018 (Annexure C-2) another amount of Rs 2,59,740/= was raised as sundry for which no explanation was offered;
- (18) That due to wrong application of multiplying factor (MF) of 300 instead of correct multiplying factor of 1000 in bills for the months of April 2021 to November 2021, additional sundry charges were levied in the bill months of December, 2021, January 2022, March 2022 and April 2022, total amounting to Rs 2,67,131/= (Annexure C-4 Colly);
- (19) That on 24.05.2022, the Respondent raised a Demand Notice (Annexure C-5) for total demand of Rs 17,28,950.37 which included the aforementioned amounts due to wrong categorisation of tariffs and wrong application of multiplication factor (MF) and disconnection Notice of 15 days under section 56 of the Electricity Act, 2003;
- (20) That ibid Civil Suit has been withdrawn on 15.06.2022;

- (21) In the Rejoinder the Complainant has submitted that the ibid monetary demands cannot be recovered from the Complainant for the reason that the Complainant is collecting the bills from the meter readings of the tenants and at this stage it would be difficult for the Complainant to collect charges from the tenants for the fault of the Respondent. Further, the aforesaid amounts were demanded on account of acts of omission and commission of the Respondent, when there was no fault of the Complainant Company and otherwise also because the demanded amounts are illegal;
- (22) The Complainant in view of the averments made above, has sought quashing of Demand Notice dated 24.05.2022 (Annexure C5) for Rs 17,28,950.37; Quashing of Bill dated 12.10.2018 (Annexure C2) raising therein sundry for Rs 2,59,740/= due to wrong application of multiplication factor of 1 instead of 1000; and quashing of various sundries raised in electricity Bills (Annexure C-4 Colly) towards wrong application of multiplication factor (MF) of 300 instead of 1000 total amounting to Rs 2,67,131/=.

RESPONDENT

- (23) That, in April 2015 it came into the knowledge of the Respondent that the Complainant is further supplying the electricity to various shopkeepers. as well as to adjoining building / shops which is against Schedule of Tariff notified by the Ld HPERC and also against the A&A form. The re-categorization of the Complainant from Commercial Supply (CS) to Bulk Supply (BS) was accordingly done in March 2016;
- (24) That as per ibid Schedule of Tariff, Bulk Supply (BS) Tariff is applicable instead of Commercial Supply (CS) Tariff to Bus Stands with single point connection, where further distribution to various residential or non-residential buildings is to be undertaken by the consumer, for its bona-fide

use and not for resale to other consumers with or without profits. In this regard clarification was sought from the Chief Engineer (Commercial) during May, 2018, wherein it had been clarified that consumer be categorized under Bulk Supply (BS);

- (25) That sundry for Rs 2,59,740/= in Bill dated 12.10.2018, is on account of wrong application of multiplication factor (MF) of 1 instead of 1000 in the bills for the months from June 2018 to September 2018 (Annexure R-3) which occurred at the time of changeover of billing system from HCL to SAP;
- (26) That the wrong application of multiplication factor (MF) of 300 instead of 1000 occurred when the meter was changed under the IPDS Scheme in February 2021, which was pointed out by the Assistant Engineer (M&T) Sub Division Banikhet when he had visited during routine inspection (Annexure R-4);
- (27) That, Complainant is bound by the conditions of supply including Tariffs and Service Charges of relevant Tariffs as amended from time to time by provisions of the Electricity Act and the rules which Complainant has agreed in the Agreement;
- (28) That, the instant complaint is liable to be dismissed on account of law laid by the Hon'ble Apex Court in Civil Appeal 1672 of 2020 arising out of SLP(Civil) 5190 of 2019 and Civil Appeal 7235 of 2009 decided on 05.10.2021.

FORUM

- (29) 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, amendments thereto, Tariff Orders

issued by the Ld HP Electricity Regulatory Commission (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;

(30) The main issues arising from the complaint for determination by Forum are:-

- (a) Whether, the Complainant as a consumer of the Respondent 'distribution licensee', can or cannot in terms of the Electricity Act, 2003, distribute / supply / resale electricity to other consumers and thereby assume the role of the 'distribution licensee'?
- (b) Whether, consequent to correction /change by the Respondent HPSEBL in the Tariff category of the Complainant from Commercial (CS) to Bulk Supply (BS), can the Respondent HPSEBL raise arrears of short assessments as have been raised vide Demand Notice dated 24.05.2022 (Annexure C5) and Demand Notices 19.02.2016 and 14.03.2016 (Not placed on record but stated by the Complainant to have been raised by the Respondent) and consequently is the Complainant liable to pay the same?;
- (c) Whether, the Respondent can raise arrears of short assessments arising in past dues to earlier error / mistake of wrong application of multiplication factors (MF) to the meter readings of 1 instead of 1000 (Annexure C2) at the time of changeover of the computerized billing systems from HCL to SAP and of 300 instead of 1000 (Annexure C4 Colly) at the time of replacement of meter under the IPDS Scheme and consequently is the Complainant liable to pay the same?.

(31) At the outset, the Forum observes that 'No liberty' to seek remedy in appropriate Forum/ Court was sought at the time of with-drawl of the ibid

Civil Suit, filed by the Complainant before the Ld Civil Judge, Senior Division Court No. 1 Kangra;

- (32) Forum further observes that the Complainant has not disputed and is not aggrieved by the applicability of Bulk Supply category to the Complainant which was effected by the Respondent in March 2016;
- (33) Forum further also observes that the Complainant has not laid challenge to the legal vires of the ibid monetary demands Annexure C2 / Annexure C-4 Colly and Annexure C5, as being in contravention in any way to the statutory provisions and has also not placed challenge to the correctness of the ibid monetary demands raised by the Respondent HPSEBL;
- (34) Forum further also observes that the Complainant has merely prayed for and sought relief only in terms of Quashing of monetary Demands raised by the Respondent HPSEBL towards arrears of short assessments arising in the past due to omission and commissions on the part of the Respondent.
- (35) The Forum further also observes that the Complainant, without substantiating his dispute on legal grounds, has simply contested that the Respondent cannot raise arrears of short assessments arising in the past for the reasons that the Complainant is collecting the bills from the meter readings of its tenants and at this stage it would be difficult for the Complainant to collect charges from the tenants for the fault of the Respondents, thereby effecting the profits of the Complainant. Further, the aforesaid demands are due to acts of omission and commission of the Respondent, when there is no fault of the Complainant Company;
- (36) The Forum now dwells upon the first issue arising for determination by the Forum -
- (37) On examining the relevant sections and provisions of the Electricity Act, 2003 with regard to distribution licensee under 'PART IV LICENSING', 'PART VI DISTRIBUTION OF ELECTRICITY' and 'PART VII TARIFF', read with section 2. Definitions contained in the Act, it is evident

that in order to distribute electricity, a person is required to obtain a valid 'distribution license' from the HPERC or be exempted from obtaining the license;

(38) The Forum observes that the Complainant has no-where shown that he is a 'distribution licensee' holding a valid 'distribution license', in terms of the Electricity Act, 2003. The Complainant has also no-where shown that it has been exempted under the Act from obtaining a license, as has been done by way of The Electricity (Removal of Difficulty) Fourth Order, 2005 dated 08th June 2005 for supply of electricity by generating companies to the housing colonies of, or townships housing, the operating staff. Similar exemption has also been provided by way of The Electricity (Removal of Difficulty) Seventh Order, 2005 dated 08th June 2005 for supply of electricity by transmission licensee to the housing colonies of the operating staff. The *ibid* Removal of Difficulty Orders provide specific exemptions with regard to requirement of a license to supply electricity under the Act. From the complaint, this Forum finds that the Complainant is not a 'distribution licensee' nor has it been exempted under the Act from requiring a 'distribution license';

(39) Further on examination of the HP Electricity Supply Code, 2009 notified by the HPERC on 26.05.2009 and relevant Tariff Orders passed by the Ld HPERC, it is seen in the 'Applicability' part contained in Schedule - Commercial Supply (CS) of the Tariff Orders, that 'Resale to tenants, adjoining houses and to other parties is strictly prohibited. Further in terms of Bulk Supply (BS) category, it is also seen in the 'Applicability' part contained in Schedule- Bulk Supply (BS) that this category is applicable to 'mixed or general loads with single point connections where distribution to various residential and non-residential buildings is to be undertaken by the consumer, for its own bona-fide use and not for resale to other consumers with or without profit';

- (40) In view of the *ibid* position of law, the Forum holds that Complainant being a consumer of the Respondent HPSEBL is not a distribution licensee. Thus, the Complainant cannot resale electricity to tenants / other parties in terms of Schedule- Commercial Supply (CS) of Tariff Orders. Further in terms of Schedule- Bulk Supply (BS), because this category is applicable to ‘mixed or general loads with single point connections where distribution to various residential and non-residential buildings is to be undertaken by the consumer, for its own bona-fide use and not for resale to other consumers, with or without profit’, the Complainant cannot resale electricity in terms of the Bulk Supply category as well;
- (41) This Forum further holds that, the other consumers of electricity, connected to the Complainant, would thus be required to avail individual / separately metered electricity supply connections from the distribution licensee being the Respondent HPSEBL and be charged Tariffs by the Respondent HPSEBL as determined by the Ld HPERC by way of its Tariff Orders applicable to the Respondent distribution licensee;
- (42) In view of the foregoing legal position and having established that the Complainant not being a distribution licensee but a consumer of the Respondent HPSEBL, cannot resale electricity to tenants / other parties with or without profit’, thus this Forum also holds that the act of the Complainant to resale electricity is *ab-initio* wrong and illegal;
- (43) In view of foregoing exposition of law, the Forum also holds that the Respondent has rightly corrected the status of the category of the Complainant from Commercial Supply (CS) to Bulk Supply (BS), which is applicable to ‘mixed or general loads with single point connections and where distribution to various residential and non-residential buildings is to be undertaken by the consumer Complainant, for its own bona-fide use.
- (44) Having been established that Complainant as a consumer, without holding any ‘distribution license’ and not exempted under the Act to require

a 'distribution license', this Forum concludes that the Complainant was/is illegally and wrongly reselling electricity to other consumers and further wrongly charging them at unknown tariffs, which otherwise are determined by the Ld HPERC for the distribution licensee and therefore to be metered / billed, as may be specified by the HPERC by way of Regulations / Tariff Orders, only by the distribution licensee being the Respondent HPSEBL herein. Therefore, the Complainant is barred from raising grievance with regard to Complainant's inability to recover charges from its tenants and earn profits;

- (45) On foregoing terms, the first issue is accordingly decided against the Complainant.
- (46) The Forum now dwells on the second (2nd) issue, arising for determination by the Forum with regard to raising of arrears of short assessment due to wrong categorization of Tariff Schedule—
- (47) The Complainant has not disputed and is not aggrieved by the applicability of Bulk Supply category to the Complainant which was effected by the Respondent in March 2016;
- (48) The Complainant in its complaint and arguments made before the Forum has vehemently contested charging of arrears due to wrong categorization of Tariff, attributable to and being the fault of the Respondent HPSEBL;
- (49) On examination of the HP Electricity Supply Code, 2009, it is seen that the classification, tariff and other conditions of supply applicable to each consumer has been specified in the ibid Code, 2009 as - 'to be fixed by the Commission in the Tariff Order' and accordingly, Tariff Orders passed by the Ld HPERC, specify the 'Applicability' under each Tariff category, based upon nature of load use of a consumer;
- (50) After examining the record, facts and settled position of law coupled with provisions of the Electricity Act, 2003 on the matter, it is established that in accordance with the Hon'ble Supreme Court in Judgment dated 15.03.2010

in Civil Appeal No 3902 of 2006, titled PTC India Ltd Vs Central Electricity Regulatory Commission, a regulation casts a statutory obligation on the regulated entities to align their existing and future contracts with the said regulations;

- (51) It is observed by the Forum that the Complainant has not laid any challenge to the 'Applicability' of Bulk Supply (BS) category which was effected by the Respondent from March 2016. Further, during the course of hearing, Respondent had shown to the Forum that the Complainant had initially at the time of seeking electricity connection applied for Commercial Supply (CS) category of connection. An Agreement was accordingly executed between Complainant and Respondent. This fact was not disputed by the Complainant. In the case of the Complainant, it had originally obtained a Commercial Supply (CS) connection which was granted by the HPSEBL. Later, on an Audit observation, The Complainant's tariff category was changed / corrected by the Respondent based upon 'Applicability' specified for Bulk Supply (BS) category contained in schedule of Tariff of Ld HPERC's Tariff Orders;
- (52) It is further observed by the Forum, that the Respondent has merely averred that the arrears have been raised for the period from the year 2010 to year 2014 at the behest of an Audit due to wrong categorization of Commercial Supply (CS) Tariff instead of Bulk Supply (BS) category which is applicable to the Complainant being a mixed load receiving supply on single point connection in respect of the Bus Stand being operated by the Complainant;
- (53) This Forum finds that it cannot ascertain from record as to from when is the applicability of Bulk Supply Tariff per statute, specifically applicable for Bus Stands, such as to enable the Respondent HPSEBL to raise arrears on this count. The Respondent has failed to show the same to the Forum. The submissions of the Respondent are also without proof;

- (54) In view of above, this Forum holds that while there is no challenge to the applicability of Bulk Supply (BS) category to the Complainant and because the HPSEBL had effected the change in Complainant's category to Bulk Supply (BS) in March 2016 which is undisputed and accordingly aligned the contracts with the regulations per *ibid* Apex Court ruling on this date, the only logical conclusion is that the Bulk Supply (BS) tariff shall be applicable only from the time the re-categorization was made effective. No arrears can be raised for a past period on this count and accordingly the monetary Demand of Rs 3,98,989/= raised by the Respondent in respect of the period for which the Complainant was availing Commercial Supply (CS) is wrong and does not sustain and is accordingly set aside. The second (2nd) issue is accordingly decided in favour of the Complainant and against the Respondent;
- (55) The Forum now dwells on the third (3rd) issues, arising for determination by the Forum with regard to arrears raised by the Respondent on account error / mistake of wrong application of multiplication factors (MF) to the meter readings -
- (56) The issue of recovery of past dues of arrears by the DISCOM is no more *res-integra*, in view of the settled position of law laid by the Hon'ble Apex Court in the matter titled as Assistant Engineer (D1) Ajmer Vidyut Vitaran Nigam Ltd and Anr Vs Rahamutullah Khan alias Rahamjula in Civil Appeal No 1672/2020 decided on 18.02.2020 and M/s Prem Cottex Vs Uttar Haryana Vijli Vitran Ltd in Civil Appeal No7235 of 2009 decided on 05.10, 2021.
- (57) In the *ibid* Judgment of the Hon'ble Supreme Court dated 18.02.2020, which refers to other Judgments, electricity has been held to be 'goods' by a constitution bench of the Hon'ble Apex Court in a case titled State of Andhra Pradesh Vs National Thermal Power Corporation Ltd. Further as also referred to in the Judgment *ibid*, under the Sale of Goods Act, 1930, a

purchaser of goods is liable to pay for it at the time of purchase or consumption and that the quantum and time of payment may be ascertained post facto either by way of an agreement or the relevant statute. It is therefore evident from settled law that while the consumer uses electricity being a good, the distribution licensee charges for this electricity / good at the specified tariffs/ charges of electricity which are determined by the Ld HP Electricity Regulatory Commission (HPERC) vide its Tariff Orders passed in pursuance to Regulations framed under the Electricity Act, 2003. These tariffs / charges are applied to the consumption of goods and thereafter a Bill or monetary demand is raised to the consumer. Thus, Forum is of the considered opinion that the Respondent HPSEBL being a distribution licensee cannot recover any tariff / charges in excess of that specified by the HPERC. At the same time, it is also relevant to mention that the Respondent HPSEBL being a distribution licensee, is bound to recover the cost / price of electricity consumed by a consumer strictly, as per tariffs /charges that are determined and specified by the HPERC vide its Tariff Orders. Accordingly, the consumer is bound to pay for the electricity consumption at the determined tariffs / charges being of statutory nature. These Tariff Orders lay out statutory charges. Any lapse, mistake or bona-fide error by the distribution licensee with regard to under recovery of actual tariff / cost / price of electricity, if not recovered from the respective consumer, who has availed the goods, may result either in permanent loss to the distribution licensee being a public utility or with the burdening of this utility's loss upon other consumers. Both of these situations or eventualities are bad and against mandated provisions of Tariff Regulations on the matter;

- (58) Further, *ibid* Apex Court Judgment dated 18.02.2020 in Civil Appeal 1672 of 2020 relying on earlier Judgments of Apex Court held that section 56(2) of the Electricity Act, 2003 does not put any limitation for raising the

past dues or arrears, if not discovered earlier due to any mistake. Liability to pay arises on consumption of electricity and obligation to pay when bill is raised. Electricity charges would become first due only when bill is issued by the licensee to the consumer quantifying therein the charges to be paid;

- (59) Accordingly, as per settled law, it is from the date the bill is raised that the sum becomes first due and it is from this date that the period of limitation of 2 years as provided in section 56(2) of the Electricity Act shall start and it is from this date that the sum has to be continuously shown as recoverable as arrears. Consequently, in addition to the date electricity is consumed, the liability to pay electricity charges is also created when meter reading is recorded or when meter is found defective or theft of electricity is detected and Obligation to pay when Bill or Demand is raised;
- (60) When there is wrong application of multiplication factor (MF) to the meter reading, the amount charged by the distribution licensee is towards wrongly calculated consumption vis-à-vis actual consumption or good.
- (61) Thus, in view of the *ibid* Hon'ble Apex Court Judgements dated 18.02.2020 and 05.10.2021, coupled with the fact that the Complainant has actually consumed more electricity than that for which it has been charged, it can safely be concluded that the Respondent is within its rights to raise monetary demand arising as past period arrears on account of error / mistake of wrong application of multiplication factor (MF) on two occasions and for different periods (Annexure C2 / Annexure R3 and Annexure C4 Colly). It is undisputed that the demand has been raised at the behest of error / mistake of wrong application of multiplication factors (MF) to the meter readings. Wrong application of multiplication factor (MF) to the meter readings resulted in wrong determination of electricity consumption of the Complainant consumer, which needs to be recovered by the Respondent for the reasons that their non-recovery results in financial loss to the Respondent distribution licensee, while allowing the

Complainant to benefit at the behest of the Utility and other consumers. Further, such recoveries are also necessitated to prevent connivances. On this count, the Complainant has no-where shown that the error / mistake of the Respondent is in anyway mala-fide.

(62) In the matter, this Forum holds that the Respondent HPSEBL did make a bona-fide mistake / error in the past by missing to raise amounts in the original Bills arising out of wrong categorization / classification of the Complainant and on account wrong application of multiplication factors (MF) to the meter readings on two occasions for different periods, which went unnoticed for some time. The Respondent HPSEBL is certainly within his legal rights to raise past arrears or dues if not discovered earlier due to any mistake as has been held in the *ibid* Hon'ble Apex Court Judgments. However, onus would still lie on the Complainant to show that such arrears have been calculated wrongly or are hit by limitation of 2 years prescribed in *ibid* section 56(2), which is conspicuously missing on the part of the Complainant;

(63) Thus, in view of the *ibid* Hon'ble Apex Court Judgements dated 18.02.2020 and 05.10.2021, it can safely be concluded that any monetary demand arising as past period arrears on account of wrong application of multiplication factor (MF) to the meter readings of the Complainant on two occasions and for different periods, shall accordingly be recoverable by the Respondent and payable by the Complainant. No illegality is seen in the action of the Respondent HPSEBL with regard to correcting its mistake of wrong application of multiplication factor in the past and subsequently raising a differential demand in the future bills. The monetary demands of Rs 2,67,131/= (Annexure C-4 Colly) and of Rs 2,59,740/= in Bill dated 12.10.2018 (Annexure C2 / Annexure R3) are upheld. On aforesaid terms, the third (3rd) issue is also decided against the Complainant and in favor of the Respondent HPSEBL;

(64) On aforesaid terms, the complaint is Partially Allowed. The monetary demand of Rs 3,98,989/= raised by the Respondent HPSEBL as arrears towards re-categorization, is not payable by the Complainant. Further, the monetary demands raised by the Respondent HPSEBL vide Annexure C2 / Annexure R3 dated 12.10.2018 for Rs 2,59,740/= and Annexure C4 Colly for total of Rs 2,67,131/= towards error of multiplication factor (MF) are upheld and shall be payable by the Complainant. The Respondent is directed to delete the ibid amount of Rs 3,98,989/= in Annexure C5 dated 24.05.2022 and Annexure C5 be recalculated and accordingly corrected monetary demand be raised to the Complainant within one (1) week. The Complainant is liable to deposit the same within a period of 15 days from the date the revised monetary demand is raised by the Respondent along with the applicable late payment surcharge. However, no late payment surcharge shall be recoverable by the Respondent for the period the Complainant was before the ibid Ld Civil Court or before this Forum. Failure on the part of the Complainant to deposit the same, shall attract provisions of section 56 of the Electricity Act, 2003 on electricity disconnection for non-payment;

(65) Further, the Respondent No 1 is advised to look into and investigate the admitted fact of the Complainant where-by he has been allowed by the Respondent's respective offices to act and continue as a distribution licensee all the time by way of reselling electricity to other consumers, despite being a consumer itself, such action being wrong and illegal, against the Electricity Act, 2003 and the Regulations /Codes framed thereunder by the Ld HPERC and to further take appropriate action for the correction of the same on foregoing terms.

In aforesaid terms, the complaint is decided on merits and partially allowed. The complaint is accordingly disposed of.

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/-
K.S.Dhaulta
(Member)

Sd/-
Tushar Gupta
(Chairperson)

DRAFT

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI, SHIMLA-

No. CGRF/Complaint No. 3121/2/22/18

Dated:-

Complaint No.:- 3121/2/22/18
Date of Admission:- 03.06.2022
Quorum:- Er. Tushar Gupta, Chairman.
Sh. K.S. Dhaulta, Member II.

M/s Prashanti Surya Constructions Co. Pvt. Ltd.
R/O Village & P.O. Ghurkari,
Tehsil & District Kangra (HP).

Complainant

V/s.

1. The Executive Director (Pers.),
HPSEBL, Vidyut Bhawan,
Shimla-171004.
2. Sr. Executive Engineer,
Electrical Division,
HPSEBL, Kangra (HP).
3. Assistant Executive Engineer,
Electrical Sub-Division HPSEBL,
Kangra No. I (HP).

Respondents

Final hearing:-

30.11.2022

Present for:-

Complainant

1. Sh. Sunil Mohan Goel, Advocate
2. Sh. Raman Jamalta, Advocate
3. Sh. Paras Dhaulta vice Sh. Sunil Mohan Goel, Advocate

Respondent

1. Sh. Anil Kumar God, Advocate
2. Sh. Kamlesh Saklani, Law Officer
3. Sh. Yash Pal, J.E.
4. Sh. Vinod Kumar, Sr. Asstt.

Date of Decision:-

20.12.2022

Notice

Registered

CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI SHIMLA-171009.

No.CGRF/Complaint No. 3121/2/22/18

Dated:-

M/s Prashanti Surya Constructions Co. Pvt. Ltd.
R/O Village & P.O. Ghurkari,
Tehsil & District Kangra (HP.)

Complainant

V/s.

HPSEBL & Others.

Respondents

Complaint No. 3121/2/22/18

1. The Executive Director (Pers.),
HPSEBL, Vidyut Bhawan,
Shimla-171004.
2. The Sr. Executive Engineer,
Electrical Division,
HPSEBL, Kangra (HP).
3. The Assistant Executive Engineer,
Electrical Sub-Division HPSEBL,
Kangra No. I (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.