

**CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI, SHIMLA-09**  
**No. CGRF/Complaint No. 1421/4/20/042**

**Complaint No.:** - 1421/4/20/042  
**Date of Admission:** - 17.11.2020  
**Quorum:** - Er. Vikas Gupta, Member.  
Sh. K.S Dhaulta, Member.

M/s Pawan Sons Enterprises.  
Plot No. 6 Industrial Area, Sector-2,  
Parwanoo, District 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,  
Parwanoo, Distt. Solan (HP).
3. Assistant Engineer,  
Electrical Sub-Division HPSEBL,  
Parwanoo, Distt. Solan (HP).

**Respondents**

**Final hearing:-**

**25.03.2021**

**Present for:-**

|             |                                                   |
|-------------|---------------------------------------------------|
| Complainant | 1. Sh. Parveen Gupta, (Authorized Representative) |
| Respondent  | 1. Sh. Anil Kumar God, Advocate                   |
|             | 2. Sh. Kamlesh Saklani Law Officier HPSEBL        |
|             | 3. Sh. Dinesh Kumar JOA                           |

**Date of Decision: -**

**25.03.2021**

## **ORDER**

1. The instant complaint has been filed to refund the amount of Rs.6,86,381/- charged from the Complainant by HPSEBL/ Respondents due to alleged wrong charges as sundry/arrear in the bill, in the monthly bill for the month of May, 2019 (Annexure-C1) by raising first energy consumption bill no. 170000137608 on 14.5.2019 that too without notice. Complainant alleges that these sundry charges were on account of outstanding arrears of previous occupier/consumer in the name of M/S Samtel Electron Devices Limited. The Complainant had purchased the Plot. No.6, Industrial Area, Sector-2, Parwanoo from the Liquidator appointed by the Hon'ble National Company Law Tribunal, Principal Bench, New Delhi, under Insolvency & Bankruptcy Code,2016. The Complainant thereafter, applied for a temporary connection for supply of electricity connection in the month of Dec/2018. The Respondents had sanctioned & installed the energy meter in the said premises after completion of codal formalities as Consumer Id:200007002241.
2. The Complainant further submitted that the Respondents had disconnected the supply of electricity to the Complainant premises on 27.6.2019 owing to non-payments of energy bills. The Complainant represented against it vide **Annexures C-2 & C-3**. However, the Complainant made the payment of the entire amount of energy bill of Rs.6,86,381/- under protest on 2.7.2019 vide cheque no.329432 dated 29.6.2019 and receipt of which was issued vide receipt no. 100306494834 dated 2.7.2019 alongwith restoration charges of Rs.100/-. The Respondents were requested for refund of the amount wrongly charged as sundry/arrears of previous occupier/consumer vide Annexures:C-4 to C-9. It is also submitted that the Respondent HPSEBL, has also filed/submitted the claim of its dues to the Liquidator in response to his letter annexed as Annexure C-10. The Respondent No.2 had vide letters placed on record as **Annexures: C-12 & C-13** requested his superior authority to accord approval for refund of Rs. 6,86,381/- so that the same can be released to the firm accordingly in view of the fact that the claim has been filed before the Liquidator and as requested by the Complainant firm to avoid any further litigations on the matter.
3. The Complainant contends that he is aggrieved by the above stated wrong actions of the Respondents resulting in disconnection and forcing to pay sundry/arrears of the previous consumer in a illegal and arbitrary manner and without any basis. Complainant also refers to provisions of Supply Code,2009 & the HPERC (CGRF & Ombudsman), Regulations,2013

to claim interest for the period the amount refundable to the consumer is held by the Licensee.

4. 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 of the entire amount of energy bill of Rs.6,86,381/- under protest on 2.7.2019 vide cheque no.329432 dated 29.6.2019 and receipt of which was issued vide receipt no. 100306494834 dated 2.7.2019 along with restoration charges of Rs.100/-. It is also admitted fact that the Respondents have instituted a civil suit for recovery of its outstanding dues against previous consumer M/S Samtel Electronic Devices before the Hon'ble Civil Judge (Junior Division) Kasauli, District Solan as per Annexure R1. The fact is also not denied by the Respondents that the HPSEBL has also filed a claim before the Liquidator, as is evident from Annexure C-13 i.e., a letter 7.8.2019 of Sr. XEN Electrical Division Parwanoo. Thus, it is evident from record that the Respondents have legally & legitimately filed the claim of the dues of previous consumer to the Liquidator appointed by the Hon'ble National Company Law Tribunal, Principal Bench, New Delhi, under Insolvency & Bankruptcy Code, 2016.
5. 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 case laws 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 sundry charges which were on account of outstanding arrears of previous occupier/consumer in the name of M/S Samtel Electron Devices Limited in violations of the express provisions of Supply Code, 2009 under Para 5.2.13 which provides that the **Licensee will not be entitled to require the payments of such amount from the next occupier of the premises**. In the present case the Complainant is an occupier of the premises namely Plot. No.6, Industrial Area, Sector-2, Parwanoo, purchased from the Liquidator appointed by the Hon'ble National Company Law Tribunal, Principal Bench, New Delhi, under Insolvency & Bankruptcy Code, 2016. Further our attention was drawn to the case laws on the matter. **The Hon'ble Supreme Court of India in a case titled Southern Power Distribution Company of Telengana Ltd through its CMD & Ors vs Gopal Aggerwal & Ors Civil Court Cases 48(SC) decided on 27.7.2017** held that an *Auction Purchaser cannot be called upon to clear the past arrears. It was further held that a power connection to an*

*Auction Purchaser cannot be withheld for the dues of the past owner. Again in a case **Ahmedabad Electricity Company Ltd vs Gujrat Inns Pvt.Ltd & Ors 2004(1) Apex Court Judgements 515 (SC) decided on 16.3.2004**, the Hon'ble Court had held that *in case of fresh connection though the premises are same, the Auction purchaser shall not be liable to clear the arrears incurred by the previous owner in respect of Power Supply to the premises, especially in the absence of their being a specific statutory provisions in this regard.**

6. The above stated case laws on the matter and the express provisions of Supply Code, 2009 under Para 5.2.13 clearly hold that Complainant was not liable to pay these sundry charges of Rs.6,86,381/- on account of outstanding arrears of previous occupier/consumer i.e., M/S Samtel Electron Devices Limited. Further Respondents have legally & legitimately filed the claim of the dues of previous consumer before the Liquidator appointed by the Hon'ble National Company Law Tribunal, Principal Bench, New Delhi, under Insolvency & Bankruptcy Code, 2016. The Respondents no.2 & 3 have rightly sought approval from Superior/ Competent Authority of Respondent No.1 vide Annexure C-12 &13, to refund the amount deposited by the Complainant under protest, to avoid further litigation on the matter. It is strange to observe that the required approval to refund the amount is yet to be accorded to settle the issue for good. The Forum is constrained to record that due to failure of the Competent Authority to accord timely approval to settle the issue, has now resulted in the present avoidable litigation. The HPSEBL, is burdened to bear the avoidable interest also on the amount of refund on account of sheer laxity to deal and settle such claims at the level of competent authority. It needs serious thought at the level of higher authorities of the HPSEBL, to fix a time line with accountability, to settle such claims to avoid unnecessary litigations and burden on the exchequer of the HPSEBL,.
7. In view of the observations made here-in-above, the present complaint is allowed in the light of the settled position of law & provisions of Supply Code, 2009 referred in paras supra. The Respondent Board is directed to refund the amount of Rs. 6,86,381/- deposited under protest by Complainant, on account of outstanding arrears of previous occupier/consumer i.e., M/S Samtel Electron Devices Limited; 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, within a period of 21 days from the communication of this order under intimation to the Forum.

8. The parties are left to bear their own costs. Announced before the parties present at Kasumpti, (Shimla) on 25.3.2021.
9. 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:-25.3.2021

Place:- Shimla

Sd/-

**(K.S. Dhaulta)**  
**Member**

Sd/-

**(Vikas Gupta)**  
**Member**

**Notice**

**Registered**  
**CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI SHIMLA-171009.**  
**No.CGRF/Complaint No. 1421/4/20/042** **Dated:-**

M/s Pawan Sons Enterprises  
Plot No.6 Industrial Area  
Sector-2 Parwanoo Distt.  
Solan (HP)

**Complainant**

**V/s.**

HPSEBL & Others.

**Respondents**

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Parwanoo, Distt. Solan (HP).
3. The Assistant Executive Engineer,  
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Parwanoo, Distt. Solan (HP).

**Respondents**

The Certified copy of final order dated 25.03.2021 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.