

CONSUMER GRIEVANCES REDRESSAL FORUM, SHIMLA

Complaint No 1454/202308/21

M/s Embros Autocomp Ltd (Unit -III)

Vs

Himachal Pradesh State Electricity Board Ltd and Ors

BRIEF FACTS OF COMPLAINT

- (1) Complaint is filed under Regulations 16, 17 and 18 of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 by M/s Embros Autocomp Ltd (Unit-III), Village Katha, Baddi – 173205 (HP);
- (2) Complainant is a Large Industrial Power Supply (LIPS) Consumer of Respondent HPSEBL, bearing Consumer ID 100012002809 and Respondent is the distribution licensee;
- (3) From 15.12.2017 to 14.03.2022, the permanent contract demand of the complainant was 999 kVA (**Annexure C2**);
- (4) On 15.03.2022, the Respondent revised and sanctioned permanent contract demand of 1300 kVA in favor of the Complainant (**Annexure C2**);
- (5) During the billing period from June 2022 to December 2022 (**Annexure C3 Colly**), the Complainant was continued to be billed on the basis of contract demand of 999 kVA;
- (6) In the billing month of January 2023, the Complainant was billed on the basis of contract demand of 1300 kVA (**Annexure C4**);
- (7) On 27.06.2023, the Respondent raised monetary demand as arrears of Rs 15,13,400/= vide Demand Notice (**Annexure C5**) upon the Complainant at the behest of Audit (**Annexure C5 Colly**) for short assessment for the period April 2022 to November 2022;
- (8) Complainant being aggrieved by the ibid Demand Notice for Rs 15,13,400/= dated 27.06.2023 (**Annexure C5**) raised by the Respondent, has preferred the instant complaint;
- (9) Complainant contends on record that because the Complainant only in the bill month of January 2023 was for the first time billed on the basis of revised contract demand of 1300 kVA and because

the SJO (Sundry Job Order) dated 28.04.2022 (**Annexure C7**) was not intimated to the Complainant, the Complainant could not put to use the additional contract demand of 301 kVA, whereas it is being made to pay for the same. Had the contract demand been released on 28.04.2022, the Complainant would have made use of the same. The mistake is on the part of the Respondent and thus the Respondent cannot be made to recover the said arrears of demand;

- (10) Complainant has prayed before the Forum to quash and set aside the demand notice dated 27.06.2023 (**Annexure C5**) and for payment of interest on amount, if any, ordered to be deposited by the Forum.
- (11) On the other hand, the Respondent while relying on Supply Agreement executed with the Complainant, has submitted on record that it is the fault of the Complainant to not have approached the Sub-Division for correction and that there is no unfair trade practice to raise revised electricity bill, additional or supplementary demand as has been held in judgement passed by the Hon'ble Apex Court in October, 2019 in Civil Appeal No 7235 of 2019 titled M/s Prem Cottex Vs Uttar Haryana Bijli Vitaran Nigam Limited and thus the Complainant is liable to pay the same and has prayed for the complaint to be dismissed.

ORDER

- (12) This Forum has examined the relevant provisions of the Electricity Act, 2003, various relevant Regulations framed and notified 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 and amendments thereto 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) In the instant matter, the Forum from record observes that the Respondent has not denied or disputed the contention of the Complainant with regard to non-intimation of the revision of the contract demand and the corresponding bills raised by the Respondent for the period June 2022 to December 2022 **(Annexure C3 Colly)**;
- (14) The Forum further observes that the Respondent has supported its act as one wherein it is its right to raise past period short assessment as has been held in judgement passed by the Hon'ble Apex Court in October, 2019 in Civil Appeal No 7235 of 2019 titled M/s Prem Cottex Vs Uttar Haryana Bijli Vitaran Nigam Limited and in catena of judgements. However, Forum holds that neither is this the contention of the Complainant nor is the Forum inclined to delve into this aspect;
- (15) In the considered opinion of the Forum, the Respondent may be within its legal right to raise arrears of past period, but for factual reasons pertaining to the instant matter as observed in the ensuing paras, this Forum cannot hold that the monetary demand for Rs 15,13,400/= dated 27.06.2023 **(Annexure C5)** raised by the Respondent as valid -
- (16) In the instant matter, the Complainant due to the fact of non-intimation of the revision of contract demand by the Respondent, has contended the action of the Respondent for raising outstanding arrears of Rs 15,13,400/= for the period from April 2022 to November 2022, on grounds that it could not use the revised contract demand for the period and thus the Respondent is not entitled to raise the said monetary demand on this count;
- (17) From examination of record, Forum finds that the Office Order dated 15.03.2022, sanctioning the revised contract demand of 1300 kVA **(Annexure C2)** and the SJO (Sundry Job Order) dated

28.04.2022 (**Annexure C7**) effecting the said revision, were as a matter of fact not conveyed to the Complainant. The said Office Order has not been addressed to the Complainant nor is there any signature of the Complainant appended on the said SJO nor has the Respondent placed anything on record to show that it may have at any time between the date of sanction of revised contract demand by the Respondent on 15.03.2022 and date of bill for the month of January 2003 or the date of monetary demand raised vide Notice dated 27.06.2023 (**Annexure C5**), ever conveyed the same to the Complainant. Further, the Complainant was continued to be billed from June 2022 to December 2022 on the basis of old unrevised contract demand of 999 kVA (**Annexure C2**);

- (18) In view of foregoing, Forum observes that the fact of not having conveyed the revision of contract demand (in KVA or MVA), has actually deprived the Complainant from exercising its right to use the extended contract demand. The Forum observes that the fact of the contract demand extension by the Respondent has to be clearly visible to the Complainant so as to enable it to use its load. The fact of such not being visible to the consumer complainant resulted in the consumer complainant restricting its power use so as to avoid violations as provided in the tariffs passed by the Ld HPERC for relevant consumer category. In the instant matter, Forum finds that the Complainant could actually not see and use the extended demand and was at the same time continued to be billed on the basis of un-revised contract demand. The Forum therefore holds in unambiguous terms that Complainant was denied the benefit of extended load during the said period and thus the Respondent has wrongly raised the ibid monetary demand on 27.06.2023 (**Annexure C5**) on the basis of revised contract demand during the ibid period from June 2022 to December 2022;

- (19) Further, the action of the Respondent to raise monetary demand as arrears on 27.06.2023 (**Annexure C5**) on the basis of revised contract demand, merely at the behest of Audit (**Annexure C5 Colly**), is held by this Forum as irrational. The correctness and statutory validity of the Audit Report / Observation ought to have been got ascertained before its acceptance by the Respondent. In the Judgement passed on 19.11.2013 by the Hon'ble Punjab & Haryana High Court, in CWP No 10858 of 2000 titled M/s Kundan Mill Board and Paper Mills & Anr Vs Punjab State Electricity Board, Patial & Ors, wherein Judgement of Division bench of the Hon'ble Court in Mohar Singh Vs State of Punjab, 2001(1) PLJ 179 has also been referred to, it has clearly been held by the Hon'ble Court that Audit objection is only an opinion and cannot by itself be justification for raising supplementary bill. Liability cannot be fastened on a party merely on the basis of audit note.
- (20) Thus, when it has become clear to this Forum that any Report or observation by an Audit is subject to its acceptance based upon its validity, accordingly this Forum in unambiguous terms holds that the action of the Respondent to raise a monetary demand upon the Complainant at the behest of an Audit observation and on grounds of revised contract demand, which the Complainant could never avail, for the said period from April 2022 to November 2022, is clearly wrong and untenable on the part of the Respondent and thus the monetary demand raised by the Respondent, clearly cannot sustain;
- (21) On the anvil of the foregoing observations, the Forum is in agreement with the Complainant and safely concludes that the monetary demand for Rs 15,13,400/= dated 27.06.2023 (**Annexure C5**) raised upon the Complainant by the Respondent on basis of

revised contract demand and Audit, clearly does not sustain and is held by this Forum to be 'not valid' and is accordingly set aside;

- (22) Further with regard to the Interest on any amount deposited pursuant to any Orders passed by the Forum, as prayed for by the Complainant, this Forum on perusal of the Interim Order passed by the Forum on 09.05.2023, finds that the Interim relief under regulation 25 of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, was given to the Complainant only on an Application for interim relief by the Complainant and on its voluntary willingness to deposit the 1/3rd amount as required under the said Regulations. Thus no Interest as prayed for by the Complainant, can be allowed by the Forum. The prayer is accordingly rejected.
- (23) Accordingly, the Respondent is directed to adjust in the future bill of the Complainant, any amount that may have been deposited by the Complainant and received by the Respondent pursuant to Interim Order passed by the Forum on 09.05.2023;

On aforesaid terms, the complaint is decided on merits and is partially Allowed and accordingly disposed.

Parties are left to bear their own costs.

Order is announced before the parties present today on 05.12.2023 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: 05.12.2023

Shimla

**--Sd--
Anil Sharma
(Member)**

**--Sd--
Vikas Gupta
(Member)**

**--Sd--
Tushar Gupta
(Chairperson)**

**CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI,
SHIMLA-9.**

Complaint No.: - 1454/202308/21

Date of Admission:-05.09.2023

**Quorum: - Er. Tushar Gupta, Chairman
Er. Vikas Gupta, Member
Sh. Anil Kumar Sharma Member**

In ref:-

M/s Embros Autocomp Ltd.
(Unit-III), Village Katha,
Baddi distt. Solan-173205 (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, HP).
3. The Assistant Engineer,
Electrical Sub-Division HPSEBL, Baddi,
District Solan, (H.P.)

Respondents

Final hearing:- 21.11.2023.

Counsels:-

Complainant 1. Sh. Rakesh Bansal, (Authorized Representative)

Respondent 1. Sh. Rajesh Kashyap, Advocate

2. Sh. Kamlesh Saklani, U.S. Law

Date of Decision: -05.12.2023

Notice

**CONSUMERS GRIEVANCES REDRESSAL FORUM AT KASUMPTI
SHIMLA-171009.**

No.CGRF/Complaint No. 1453/202309/31

Dated:-

M/s Embros Autocomp Ltd.
(Unit-III), Village Katha,
Baddi distt. Solan-173205 (HP)

Complainant

V/s.

HPSEBL & Others.

Respondents

Complaint No. 1453/202309/31

1. The Executive Director (Pers.),
HPSEBL, Vidyut Bhawan,
Shimla-171004.
2. The Sr. Executive Engineer,
Electrical Division, HPSEBL,
Baddi, HP).
3. The Assistant Engineer,
Electrical Sub-Division HPSEBL, Baddi,
District Solan, (H.P.)

Respondents

The Certified copy of final order dated 05.12.2023 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.