

BEFORE THE HIMACHAL PRADESH ELECTRICITY OMBUDSMAN, SHIMLA  
PHONE: 0177- 2624525



**CASE No. 26 of 2016**

M/s Diamond Products Ltd., Village Moginand, P.O. Kala Amb, Tehsil Nahan, Distt. Sirmour (HP) -173030, through its Counsel Sh. Ajay Vaidya.

...Applicant/Representationist

**Versus**

1. The Executive Director (Personnel), HPSEB Ltd., Vidyut Bhawan, Shimla-171004
2. The Asstt. Engineer, E.S.D., HPSEB Ltd., Kala Amb, Tehsil Nahan, Distt. Sirmour (HP)

.....Respondents

**And**

**In the matter of:**

Representation under Regulation 28 read with Regulation 32 of HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, against the order dated 30.08.2016 passed by the FRGC, Shimla, in Complaint No.1515/1/16/006 titled M/s Diamond Products Ltd., Village Moginand, P.O. Kala Amb, Tehsil Nahan, Distt. Sirmour (HP) Versus HPSEB Ltd. and others.

**19.12.2017**

**In presence:**

**Applicants:**

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**Respondents :**

Sh. Bhagwan Chand, Counsel for Respondents

Sh. Satish Kanwar, Asst. Engineer, ESD, HPSEBL, Kala Amb, Distt. Sirmour (HP)

Sh. Wakib Husain, Sr. Assistant, ESD, HPSEBL, Kala Amb, Distt. Sirmour (HP)

**ORDER**

**(Last Heard on 19.12.2017)**

M/s Diamond Products Ltd., Village Moginand, P.O. Kala Amb, Tehsil Nahan, Distt. Sirmour (HP) -173030, through its Counsel Sh. Ajay Vaidya, hereinafter referred to as ( "**the Applicant/ Representationist**" ) has been availing electricity supply from electric connection (Account No. DPI-1) provided by the Electrical Sub Division, H.P. State Electricity Board Ltd., Kala Amb, District Sirmour (HP) (hereinafter referred to as "**the Respondent Board**").

### **Complainant's contention**

1. That the Applicant/Representationist feeling aggrieved and dissatisfied with the findings of the impugned Order dated 08.09.2016 in Complaint No.1515/1/16/006 passed by the Consumer Grievances Redressal Forum, Shimla-171009, regarding payment of Rs.2,70,000/- on account of peak load exemption charges demanded by the Respondents vide notice dated 29.12.2015 for the time barred period not mentioned by them.
2. That complainant further stated that vide notice dated 20.06.2015, respondents raised demand of sum including from 04/2007 to 06/2012, which has not been shown continuously as recoverable after 2009 to 2014 i.e. two years after they became first due and the aforesaid letter notice dated 20.06.2015 was issued in clear violation of sub section (2) of Section 56 of the Electricity Act,2003 and in total contravention of direction issued by the Commission in para 2.6 of the Order dated 28.07.2014 under the provision of Section 142 of the Electricity Act,2003.

The complainant prayed for setting aside the above Order dated 08.09.2016 demanding Rs.2,70,000/- on account of peak load violation.

### **Respondents contention:**

1. That the contents of para 1 of the representation submitted by the Complainant/Applicant, are false and incorrect and as such denied. The demand raised by the respondents in the said notice dated 29.12.2015 for Rs.2,70,000/- on account of peak load exemption charges is legal and as per provision of the law and within prescribed period of limitation.
2. That the contents of para 5 of the representation are false, incorrect, wrong and as such are denied. The amount which was claimed by the respondents is fully legal and justified on the basis of order passed in Petition No.43/2014 dated 28.07.2014. The appellant firm for whom no peak load exemption was sanctioned and was availing deemed peak load exemption for lighting load, which is to be charged for both demand and energy charges on the consumption for lighting load after 1.4.2007, in accordance with the clarification issued by the Chief Engineer(Comm.), HPSEBL vide letter dated 17.7.2012 and as amended vide letter dated 3.8.2012 and the Tariff Order issued for FY 2008 to FY 2013. So far as the provision of Section 56(2) of the Electricity Act,2003 is concerned, the appellant consumer cannot take benefit of this Section for the reason that the limitation period will start from the date when the

demand notice was issued to the appellant and after issuing the demand notice the limitation period will start. In the present case, the notice was issued to the appellant after passing the Order by the Ld. HPERC vide its Order dated 28.07.2014. Therefore, the demand raised by the respondents in order to pay a sum of Rs.2,70,000/- on account of peak load exemption charges against the appellant is legal and within the period of limitation.

**CGRF Views:**

1. The Consumer Grievances Redressal Forum(CGRF) observed that the complainant is having electricity connection (A/c No.DPI-1) at Moginand, Distt. Sirmour (HP). The respondents sent notice dated 29.12.2015 to the complainant for payment of Rs.2,70,000/- on account of peak load exemption for lighting load in the factory. The complainant has said that this demand is wrong, time barred, arbitrary and illegal. The complainant has not attached any documents supporting their case.
2. The respondents have mentioned that the demand raised is fully legal and justified and is on the basis of the Order passed by the HPERC in petition No.43/2014 dated 28.07.2014, wherein its point No.2.5 (Page-18) read as under:-

“The consumers for whom no peak load exemption was sanctioned and who were availing deemed peak load exemption for lighting load had to be charged both demand and energy charges on the consumption for lighting after 01.04.2007. Accordingly, the clarification issued by the Chief Engineer(Commercial), HPSEBL, vide letter No.HPSEBL/CE-(Comm.)/Tariff Clarification/2012-7682-7930 dated 17<sup>th</sup> July,2012 as amended vide letter No.8680-8984 dated 3<sup>rd</sup> August,2012, of even file, is correct and is in accordance with the Tariff Order issued for FY 2008 to FY 2013.

After taking into consideration above discussion, the CGRF is of the opinion that the charges for lighting load in factory are payable by the complainant in the manner that Peak Load Exemption for lighting load is availed by them and demand of Rs.2,70,000/- raised by the respondents Board is held right.

**Electricity Ombudsman findings and Order:**

From the averments made by both the parties, the main issue comes for discussion whether the peak load exemption was allowed to the complainant consumer and the charges for the same are correct and justified, or not and whether the demand raised by the respondents on this account is time barred or not.

On going the averments, reply and contentions of the parties, it is observed that:-

1. That the Applicant/Representationist contention that the demand raised by the respondent for Rs.2,70,000/- on account of peak load exemption charges vide notice dated 29.12.2015 for the time barred period which has not been mentioned by the respondents, cannot be relied upon in absence of proof.
2. That complainant's further plea that the period including 04/2007 to 06/2012, is not shown continuously as recoverable after 2009 to 2014 i.e. two year after that become first due and as demanded vide notice dated 20.06.2015, which is issued in violation of sub-section (2) of Section 56 of the Electricity Act,2003 and in contravention of direction issued by the Commission in para 2.6 of the Order dated 28.07.2014 under the provision of Section 142 of the Electricity Act,2003.), is not found sustainable.
3. The demand raised by the respondents for a sum of Rs.2,70,000/- on account of peak load exemption for lighting load in the factory is legal, justified and is on the basis of the Order passed by the HPERC in Petition No.43/2014 dated 28.07.2014, (in Point No.2.5 ), which reads as under:

“The consumers for whom no peak load exemption was sanctioned and who were availing deemed peak load exemption for lighting load had to be charged both demand and energy charges on the consumption for lighting after 01.04.2007.”

Accordingly, the clarification issued by the Chief Engineer(Commercial), HPSEBL, vide letter No.HPSEBL/CE-(Comm.)/Tariff Clarification/2012-7682-7930 dated 17<sup>th</sup> July,2012 as amended vide letter No.8680-8984 dated 3<sup>rd</sup> August,2012, of even file, is correct and is in accordance with the Tariff Order issued for FY 2008 to FY 2013.

Thus, keeping in view the above facts, it is observed that the charges for lighting load in the factory of the complainant/applicant are payable because the Peak load exemption for lighting load is availed by them.

Dated: 16.01.2018

**Electricity Ombudsman**