



HIMACHAL PRADESH ELECTRICITY OMBUDSMAN
SHARMA SADAN, BEHIND KEONTHAL COMPLEX, KHALINI, SHIMLA-171002
PHONE:-177-2624525

Case No. 31 of 2017

In the matter of:

M/s Friends Alloys, Village Bated, P.O.Barotiwala, District Solan (HP), through its authorized representative Shri Dina Nath Sharma.

....Applicant/Representationist

Versus

1. H.P.State Electricity Board Ltd., Vidyut Bhawan, Shimla-171004 (HP), through its Executive Director (Personnel)
2. The Asstt. Executive Engineer, Electrical Sub Division, Barotiwala, District Solan(HP)

.....Respondents

And

In the Matter of

Representation under Regulation 28 (1) (b) of HPERC(Consumer Grievances Redressal Forum and Ombudsman) Regulations,2013, against the Order dated 09.12.2016 in Complaint No.1453/3/15/057 passed by the Consumer Grievances Redressal Forum, Shimla.

06.09.2017

Present for:

Applicant: Sh.O.C.Sharma, Advocate

Respondents: Sh.Bhagwan Chand, Advocate

ORDER
(Last heard on 06.09.2017)

M/s Friends Alloys, Village Bated, P.O. Barotiwala, District Solan (HP), hereinafter referred to as "**the Applicant/ Representationist**") was sanctioned connected load of 1999 kW on 11 kV and thereafter the same was extended to 3199 kW as per office order dated 11.10.2006 and corrigendum dated 19.03.2007, as an interim arrangement till 31.08.2007, by the Himachal Pradesh State Electricity Board Limited (hereinafter referred to as "**the Respondent Board**"), with the condition that the firm will shift the entire load on 66 kV supply, failing which supply to the consumer shall be disconnected immediately. The respondents issued notice dated 12.08.2015 to the appellant and demanded an amount of Rs.47,45,612/- on account of LVSS for the period 01/2008 to 12/2014. The appellant firm challenged the correctness of the aforesaid demand of Rs.47,45,612/- before the CGRF, Shimla, but

the CGRF upheld the demand of Rs.47,45,612/- on account of LVSS vide its Order dated 09.12.2016. The appellant approached the Electricity Ombudsman against the impugned order dated 09.12.2016 of the CGRF.

Complainant's contention:

1. The Applicant/Representationist feeling aggrieved and dissatisfied with the findings of the Order dated 09.12.2016 in Complaint No.1453/3/15/057 passed by the Consumer Grievances Redressal Forum, Shimla (hereinafter referred as the **Forum**) has filed the present Representation for the redressal of his grievances:-

(i) That the respondents have taken a stand in their reply that the initially a connected load of 1999 kW was provided to the appellant on 21.08.2004 and thereafter the same was extended to 3197.59 kW on 10.04.2007. The extended load was sanctioned on the Standard supply voltage at 66 kV, but as an interim arrangement to release the load on 11 kV supply voltage against the sanctioned 66 kV supply voltage till 31.08.2007. The appellant consumer also filed the copies of the Tariff orders issued during the year 2011 and 2013 which contain provisions for the levy of LVSS. The Forum after perusing the records and hearing the parties dismissed the complaint of the appellant on 09.12.2016 and upheld the demand of Rs.47,45,612/- raised by the respondents Board on account of LVSS through demand notice dated 12.08.2015 as correct and justified.

(ii) The observations of the Forum in its Order dated 09.12.2016 to the effect that the LVSS is found correct and justified, patently wrong, erroneous and perverse and contrary to the Tariff Orders issued during the year 2011 onwards. In view of the express provision of Schedule of Tariff applicable w.e.f.01.04.2011 the LVSS cannot be levied on the consumers who were already existing on the date 01.12.2007 and had been given electricity connection at a voltage less than the specified standard supply voltage. The provisions contained under head LVSS (Note 2) run as hereunder:

“LVSS shall not be applicable to such HT consumers (11 kV or 15 kV or 22 kV or 33 kV) or to such EHT consumers (66 kV and above) who were already existing on date i.e. 01.12.2007 and had been given electricity connection at a voltage less than the specified Standard Supply Voltage. However, in case any extension of load is sanctioned in such cases after 01.12.2007, the ‘Standard Supply Voltage’ and consequently the LVSS shall be applicable as specified.”

(iii) That the respondents required the appellant to shift on 33 kV or higher voltage through communication dated 23.01.2015 and to levy the LVSS prior to this, there was no notice to the appellant consumer from the respondents.

(iv) That the Forum has failed to appreciate that there is no infrastructure created by the respondents in the vicinity of the appellant for providing supply on 66 kV.

Therefore, the appellant/complaint consumer prayed that the impugned Order dated 09.12.2016 passed in Complaint No.1453/3/15/057 by the Forum and demand of Rs.47,45,612/- raised through notice dated 12.08.2015 may be set aside and quashed.

Respondent's contention:

1. Orders passed by CGRF are correct and justified.
2. The connected load of 1999 kW was sanctioned on 11 kV and the same was extended by the applicant from 1999 kW to 3199 kW, which was sanctioned at 66 kV supply voltage by the Chief Engineer (Op.) South, Shimla vide No.6873-74 dated 11.10.2006 and Corrigendum dated 19.03.2007 and can be read as:-

“The supply will be on 66 kV from 132/66 kV Barotiwala Sub-Station. However, additional 1200 kW load making the total to 3199 kW (existing 1999 kW+ Addl.1200 kW) with 3421 kVA Contract Demand, shall be released at 11 kV supply voltage as an interim arrangement till 31.08.2007. This arrangement was made on insistence of the consumer. Thereafter, the firm will shift the entire load on 66 kV supply voltage, failing which supply to the consumer shall be disconnected immediately”.
3. The consumer has himself agreed that correspondence dated 31.08.2008, 20.01.2009, 12.05.2009 and 01.05.2012 was made for shifting of load by the consumer on sanctioned supply voltage i.e.66 kV. The consumer intentionally not created required infrastructure for availing of 66 kV standard/sanctioned supply voltage. Beside above stated letter, the letter vide No.3552-53 dated 16.07.2007, 6229-32 dated 19.09.2014, 12222-25 dated 23.01.2015 and 6752-55 dated 31.08.2015 are also written for shifting of load on 66 kV supply voltage. LVSS had been levied as provisions of Tariff applicable and consumer enjoyed usage of electricity on 11 kV Voltage supply which is lower than standard supply voltage and sanctioned supply voltage i.e. 66 kV.
4. The two Nos. Sub stations i.e.220/66/11 kv Sub-station Katha and 132/66/11 kV Sub-station Jharmajri are available. But the consumer has neither created/commissioned 66 kV sub-station at his premises. The consumer vide representation dated 21.09.2015 have sought exemption for creating required infrastructure for availing supply on 66 kV. It is also clear from the letter of the Chief Engineer (Op.)south, HPSEBL, Shimla, vide No.15878-80 dated 05.01.2015 that the consumer is liable to pay the LVSS w.e.f.31.08.2007 to till date and further upto the date when he will shift to the higher supply voltage. In similar matter

regarding levy of LVSS letters vide No.10596-98 dated 08.10.2015 & 7901 dated 01.10.2015 have also been written to the consumer.

In view of the submission made here in above, the respondents prayed that the complaint of the complainant may kindly be dismissed and they may be directed to deposit the amount with the HPSEBL as demanded.

Forum's observations and Order:

Forum observes that initial load of 1998.59 kW was sanctioned at 11 kV in 2003. We also observed that the total extended load of 3197.59 kW was sanctioned on 11.10.2006 at 66 kV supply voltage. As an interim arrangement, the load was released on 11 kV till 31.08.2007 and the complainant was asked to switch over to 66 kV during this time i.e. by 31.08.2007 against the sanctioned 66 kV till 31.08.2007. We have also taken note of respondent letter dated 12.05.2009, 20.01.2009 and 01.05.2013 requesting the complainant to shift his load to 66 kV. We find that the complainant deliberately did not shift to Standard Supply Voltage of 66 kV. During arguments the complainant challenged the figure of LVSS Rs.47,45,612/-. Both the parties were directed to reconcile the LVSS figures. During hearing on dated 20.08.2016, the respondents informed that the representative of the complainant agreed with the figure of LVSS Rs.47,45,615/- but did not sign the reconciled figure details.

We are, thus, of the opinion that LVSS raised by the respondents is correct and is payable by the complainant. We thus direct as under:-

- i) The LVSS of Rs.47,45,612/- demanded by the respondents Board vide note dated 12.08.2015 is correct, justified and is payable by the complainant.
- ii) The complainants are directed to make payment of LVSS in 3 equal instalments in energy bills of next three months after adjusting the amount already paid at the instance of this Forum. The first instalment is payable alongwith the bill payable in 02/2017.

The case is decided in favour of the respondents.

Electricity Ombudsman findings and Order:

From the above averments/submissions made and on examination of the documents produced by both the parties in support of their claims in the case matter, the issue comes out for determination is whether the LVSS is leviable on the complainant consumer or not. Thus, it is observed as under:-

1. Initially a connected load of 1999 kW was provided to the appellant on 21.08.2004 and thereafter the same was extended to 3197.59 kW on 11.10.2006 and as per Corrigendum

dated 19.03.2007 by the respondents. The extended load was sanctioned on the Standard supply voltage of 66 kV, as an interim arrangement to release the load on 11 kV supply voltage against the sanctioned 66 kV supply voltage from 132/66 kV Barotiwala Sub Station till 31.08.2007, on insistence of the complainant consumer and thereafter the firm was required to shift the entire load on 66 kV supply voltage by creating infrastructure at his premises for availing of 66 kV standard/sanctioned supply voltage. But the firm failed to do so.

2. The respondents Board have created infrastructure and two Nos. Sub-stations i.e. 220/66 kV Sub-station, Katha and 132/66/11 kV Sub-station Jharmajri are available, but the applicant/consumer have intentionally not created/ commissioned 66 kV substation at their premises to avail 66 kV standard supply voltage from the sub-station of the respondents, despite correspondence made by the respondents vide letters dated 31.01.2008, 20.01.2009, 12.05.2009 and 01.05.2012 for shifting of load by the consumer on sanctioned 66 kV supply voltage. Beside above letters, the letter No.3552-53 dated 16.07.2007, 6229-32 dated 19.09.2014, 12222-25 dated 23.01.2015 and 6752-55 dated 31.08.2015 were also written to the complainant consumer for shifting of load on 66 kV supply voltage. On perusal of these letters, it is transpired that the complainant firm i.e. M/s Friends Alloys, Village Bated, Barotiwala, District Solan(HP), have not created/commissioned the 66 kV Sub-station at their premises and have failed to discharge their obligation of creating the infrastructure, which is mandatory for availing the supply voltage of 66 kV, which attracted levy of LVSS upto 31.08.2007. Further, the firm through its letter dated 21.09.2015 have expressed its inability to shift on 66 kV voltage due to involvement of huge funds between Rs.2.50 Crore to 3.00 Crore for drawing the line and agreed to continue to pay the extra charges levied on them.

From the findings made out as above, it is evident that the extension in load was sanctioned from 1999 kW to 3197.58 kW on 11.10.2006 and as per corrigendum dated 19.03.2007 upto 31.08.2007, subject to the condition that during this period 10.04.2007 upto 31.08.2007, the entire load was to be shifted from 11 kV to 66 kV Standard Supply Voltage by the complainant consumer. The consumer have the usage of electricity on 11 kV supply voltage, which is lower than Standard Supply Voltage and sanctioned voltage i.e. 66 kV and have failed to fulfil the condition of shifting the entire load from 11 kV to 66 kV standard supply voltage within the stipulated period. As such, it is found that LVSS amounting to Rs.47,45,612/- levied for the period January,2008 to December,2014 by the respondents Board as per provisions of Tariff

applicable are correct and justified and the appellant/ representationist i.e. M/s Friends Alloys, Village Bated, Barotiwala, District Solan (HP) is liable to make the payment on account of LVSS.

Compliance by both the parties be reported to this office within a month.

Dated:13.09.2017

ELECTRICITY OMBUDSMAN