



HIMACHAL PRADESH ELECTRICITY OMBUDSMAN
SHARMA SADAN, BEHIND KEONTHAL COMPLEX, SHIMLA-171002
Phone: 0177-2624525, email: ombudsmanelectricity.2014@gmail.com

In the matter of:

M/S Vardhman Ispat Udyog, Village Bathri, Tehsil Haroli, Near Tahliwala, District Una, HP-174301
- Complainant

Vs

- 1. Executive Director (Personal), HPSEB Ltd, Vidyut Bhawan, Shimla-171004**
- 2. The Assistant Executive Engineer (E), Electrical Sub-Division, HPSEB Ltd, Tahliwala, District Una HP-174507**
- 3. The Sr Executive Engineer (E), Electrical Division, HPSEB Ltd, Gagret, District Una, HP-177201**
- Respondents

Complaint No. 11/2023 (Registered on 19/04/2023)

(Orders reserved on 03/06/2023, Orders issued on 03/06/2023)

Counsel for:

The Complainant: Sh. Rakesh Bansal Authorized Representative

The Respondents: Sh. Anil K God Advocate, Sh. Kamlesh Saklani Law Officer

CORAM

Er. K.L. Gupta
HP Electricity Ombudsman

Order

The case was received and registered on 19/04/2023. The case was listed for 06/05/2023 and the Respondents were to file their reply by 03/05/2023. The Complainant was to file his rejoinder by 06/05/2023. Since the Respondent Board didn't file their reply and informed that they will file the reply on maintainability of the case. Since the maintainability issue was decided earlier in case No. 22/2022 decided on 15/02/2023 and the case was remitted back to Forum below, it was announced that maintainability issue can't be raised again once it has already been decided. The case was listed for 20/05/2023 and the Respondents were directed to file their reply on merits of the case by 15/05/2023.

The Respondents again failed to file their reply even by date of hearing 20/05/2023, they were given last opportunity to file their reply by 25/05/2023 and the Complainant was to file his rejoinder, if any by 26/05/2023. The case was listed for 27/05/2023. TR file their reply on 27/05/2023. The Complainant informed that he will not file his rejoinder and instead argue the case. The case was listed for arguments on 03/06/2023. The



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arguments were concluded and the orders were reserved. There is no undue delay and the case is within the period of 60 days specified by the Himachal Pradesh Electricity Regulatory Commission in Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013.

A – Brief facts of the case:

1. M/S Vardhman Ispat Udyog, Village Bathri, Tehsil Haroli, Near Tahliwala, District Una, HP-174301 have filed an application through Sh. Pradeep Garg (hereinafter referred to as 'The Complainant') under the provisions of Regulation 28 of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 against the orders passed on 29/03/2023 by the Consumer Grievance Redressal Forum at Kasumpti in Complaint No. 3325/2/22/16 – 3325/1/23/11, dated 03/03/2023.
2. Since the Complainant have prayed to quash and set aside the orders passed by the Forum below, the application shall be treated under the provisions of sub-Regulation (1) (b) of Regulation 28 of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013.
3. He has further prayed for decide the matter on merits of the case, make refund of Rs 63,51,300/- already overcharged alongwith interest @15% and issue future bills on tariff applicable of standard supply voltage of 132 kV.

B – The Complainant's submissions:

PROLOGUE/ BACKGROUND:

1. The Complainant submits that he is filing the said Complaint through Sh. Pradeep Garg, partner of the firm, who has been authorized vide resolution to sign, institute, verify swear affidavits, suits, Complaints, appeal and other proceedings to protect his interest and to engage counsel(s)/Advocate (s)/ representatives (s). Further, that he is filing the said Complaint under Regulation No. 28 of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulation 2013. Further, that he is a Consumer under the Electricity Act, 2003 i.e. Section 2 sub-Section 15 and the Respondents are Distribution Licensee under Section 2 sub-section 17 of the Electricity Act, 2003. His company is also a Consumer under Section 3 (d) of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulation 2013. The Respondents/ non-applicants have failed to adhere to the provisions of tariff orders notified from time to time by the Himachal Pradesh Electricity Regulatory Commission under the Electricity Act, 2003 and is charging wrong tariff from him while issuing the electricity bills to him. Further, that he approached the Consumer Grievances Redressal Forum of HPSEBL, for redressal of his grievance, who, in



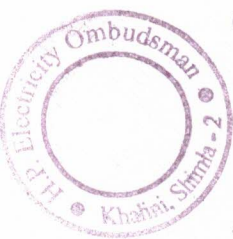
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the end of the proceeding rejected the Complaint as not being maintainable, without going into merits of the case.

Facts of the Case

2. The Complainant submits that he has a sanctioned Connected Load of 15000 kW at 33 kV and is engaged in manufacture of steel castings. He earlier had a Connected Load of 5997.40 kW with 6653 kVA of Contract Demand. He applied for additional load and increased his load to 14000 kW with Contract Demand of 12000 kVA w.e.f. January, 2021. The load was further increased to 15000 kW with Contract Demand of 14000 kVA w.e.f. June, 2021.
3. The Complainant submits that his standard supply voltage remained at 33 kV based on his Connected Load and Contract Demand till the time his Connected Load was up to 12 MW and Contract Demand was up to 10 MVA as per clause 2.1.6 of the Electricity Supply Code, 2009. But as soon as he crossed both or either of these two limits his standard supply voltage changed to 66 kV w.e.f. January 2021 and it changed to 132 kV when the load was finally revised to 15 MW with 14 MVA of Contract Demand in the month of June, 2021.
4. The Complainant submits that his supply is through a 33 kV dedicated feeder constructed for his sole use, the expenditure on which has been incurred by the Consumer. The entire load of 15 MW / 14 MVA is being supplied through this 33 kV dedicated line since a very long time.
5. The Complainant submits that the Respondents also started charging Low Voltage Supply Surcharge (LVSS) @ 1% over and above on the energy charges in the monthly bills issued since the energy bill issued for the consumption period of January, 2021 for a period of five months. From June, 2021 when his load was increased again, the LVSS was charged @ 2 % from thereon on the energy charges component of the electricity bills, the LVSS @ 2 % is being charged continuously and is expected to be charged in the future bills also as per provisions of the tariff. The rates of LVSS are further defined in General Conditions of Tariff.
6. The Complainant submits that the tariff for LS category is applicable to him. Different rates of energy charges are applicable to different sub-categories based on the load and voltages. Similarly, different rates of demand charges have been notified in the tariff for different categories of Consumer.
7. The Complainant submits that he approached the CGRF vide his Complaint in the month of May 2022 dated 30/04/2022. After the submission of the reply dated 27/06/2022, he filed a rejoinder dated 09/07/2022. Thereafter, the matter was listed for arguments on



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several dates. On 15/09/2022, the Respondents raised a new issue, which was never raised earlier in the reply/ submissions by the Respondents stating that a writ petition on similar issue has also been filed by him before the Hon'ble High Court. The Ld. CGRF directed the Respondents to apprise on the factual position to enable the Forum to proceed further in the matter accordingly.

8. The Complainant submits that the Respondents on 30/09/2022, submitted a copy of the CWP No. 2788 of 2022 titled as Vardhman Ispat Udyog versus HPSEBL after which the CGRF did not hear his arguments on merit and rejected the Complaint as being not maintainable in pursuance of the provisions of sub-regulation 19 (a) of the HPERC (Consumers Grievances Redressal Forum and Ombudsman) Regulations, 2013 vide its orders dated 17/10/2022.
9. The Complainant submits that he, not being satisfied by the final decision of the Ld. CGRF, had approached the Hon'ble Ombudsman under Regulation 28 of the HPERC (Consumers Grievances Redressal Forum and Ombudsman) Regulations, 2013 vide this representation for redressal of his grievance and against the orders dated 17/10/2022 passed by CGRF in Complaint number 3325/2/22/16. The said representation was registered as Case No. 22 of 2022. Further, that he had prayed before the Hon'ble Ombudsman to decide the matter on merits besides setting aside of the orders of the CGRF in the said Complaint.
10. Further, that the Respondents filed a detailed reply on maintainability as well as on merits in the Case No. 22 of 2022. However, the Ld. Ombudsman considered it appropriate to set aside the orders dated 17/10/2022 and remanded back the case to the Forum while directing the Forum to decide the grievance on merit.
11. The Complainant submits that the Forum registered the matter as Complaint No. 3325/2/22/16-3325/1/23/11. Further, that he submitted written arguments in addition to the submissions that had been made earlier in the original Complaint No. 3325/2/22/16.
12. Further, that the Forum this time holding a similar view as earlier, this time dismissed the Complaint No. 3325/2/22/16-3325/1/23/11 on merits, primarily stating that the basis reason why he approached the Forum with his grievance was because of LVSS, which is under challenge before the Hon'ble High Court.



Contentions of the Complainant:

Orders passed by the Forum:

13. The Complainant submits that the Forum has failed to consider or reject the written arguments submitted by him in the matter as these arguments do not find a mention in

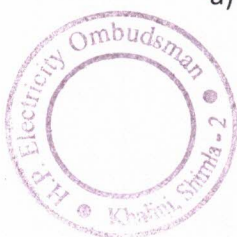
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the order at all. The Forum's stand seems to be pre-determined to dismiss the Complaint on the thought process in their mind, which got further aggravated by the remand back of the matter by the Hon'ble Ombudsman and the orders passed by the Forum is not in the interest of justice and fairness. The mere perusal of the written arguments which were submitted on 14/03/2023 shows that grievance is not entirely based on LVSS. However, only one out of the five arguments were the levy of LVSS. The Forum has not dealt with other arguments submitted in the case.

14. The Complainant submits that the Forum has failed to appreciate that the matter under the grievance is of the applicability of tariff based on categorization and not merely because of LVSS. Further, that he, in his Complaint, has raised the question as to which tariff is legally chargeable from him under the tariffs notified from time to time as tariff nowhere states specifically that the 33kV tariff is applicable in the present case. The Forum has failed to pass any observation on the notified tariff and consequently the interpretation of the Forum on the main issue raised by him. Strangely, the orders of the Forum do not find a mention of the contents of the tariff order at all.
15. The Complainant submits that the Ld. Forum has ignored the provisions of the tariff order for the year 2014-15, wherein it has been clearly written that the said tariff is based on Contract Demand for the categories other than the domestic supply. Further, that it was further stated in the tariff order that the Contract Demand was the only criteria on the basis of which the tariff category of Consumer shall be determined. His Contract Demand which is 14000 kVA makes him eligible for 132 kV tariff as per tariff principles adopted by the Commission since 2014.
16. The Complainant submits that the Ld. Forum has also ignored the clarification issued by the Chief Engineer (Comm) on 18/07/2017, which clearly are in support of his case and is line with the notified tariff.
17. **The Complainant submits that the tariff of wrong category is being charged from him, whereas he has been charged HT Tariff based on actual supply voltage instead of tariff applicable of standard supply voltage:**
 - a) The tariff itself does not mention anywhere that the actual supply voltage shall be considered for the purpose of levy of respective tariff. He is of strong view that the tariff is to be levied on the basis of standard supply voltage rather than the actual supply voltage. Had it been mentioned in the tariff order that actual supply voltage shall be considered for the purpose of levy of tariff, he would not have filed this grievance.
 - b) Further, that the Commission while notifying the tariff for FY 2014-15 had specifically mentioned that the tariff category is to be decided on the basis of Contract Demand.



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- c) Further, that the clarification issued by the Chief Engineer (Comm.) on 18/07/2017 vide his letter No. HPSEBL/CE(Comm.)/SERC-6/2017-4421-25 regarding categorization on the basis of sanctioned Contract Demand besides deciding on the levy of Contract Demand violation charges also states in Para/ Point No. 1 of the letter that

"Original sanctioned contract demand is to be considered for deciding the category of Consumer....." Further in Point No. 2 it states that *"The Original Sanctioned contract demand shall only be the basis of Consumer category....."*

Deriving from above, his original sanctioned Contract Demand, which is 14000 kVA shall be the only basis of the Consumer category for which the tariff has to be charged.

Instead the Respondent is charging the tariff applicable to HT category of Consumers the higher limit of which is only 10000 kVA at 33 kV supply voltage. The Respondents cannot be allowed to choose between the tariffs because the applicable tariff is to be decided purely on the basis of sanctioned Contract Demand, which has been notified by HPERC in Tariff Order 2014-15 and also endorsed by the CE (Comm.) vide his clarification dated 18/07/2017.

- d) Further, that the tariff orders issued in the years 2019-20, 2020-21, 2021-22 and 2022-23, nowhere say that the tariff is to be charged on the basis of the actual supply voltage or that the tariff category of a Consumer is to be decided by the actual supply voltage at which his supply is provided. Had it been desired, the same would have been mentioned in the tariff schedule. The Respondents in their replies before the CGRF or the Hon'ble Ombudsman has not mentioned any such provision which clearly states that the tariff is to be based on actual supply voltage in support of the levy of the 33 kV tariff.
- e) Further, that LVSS is a general provision and had been challenged by other Consumers too, besides him. Another CWP No. 1018 of 2022 filed by M/s Kundlas Loh Udyog, is also pending before the Hon'ble HP High Court on a similar issue of load limits and LVSS. If another Consumer approaches with a grievance similar to the one of this, the justice cannot be denied to him on the issue of tariff category, till such time that there is pending litigation before any other court on the issue of LVSS. Tariff orders issued by HPERC nowhere links the category of a Consumer with the applicability of LVSS, which is purely dependent on the difference in standard supply voltage and the actual supply voltage, whereas the tariff category is only dependent on Contract Demand of a Consumer and not even the Connected Load.



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- f) Further, that his logic is further strengthened by the fact that the difference on account of actual supply voltage already stands covered through LVSS and therefore, the same cannot be taken as a reason for applying 33 kV tariff.
- g) Further, that the Respondent should have charged energy rate of Rs. 4.30 per kVAh since January, 2021 and Rs. 4.25 per kVAh from June, 2021 onwards. The Respondents have instead charged an energy rate of Rs. 4.35 per kVAh which is applicable to HT-2 category of industrial Consumers. Also, the Respondents have undercharged the demand charges @ Rs. 400 per kVA in place of Rs. 425 per kVA. He, in all has been overcharged in overall terms of tariff by Rs. 63,51,300/- upto the bills issued upto 31/03/2022. The Respondents are continuing to charge the same tariff even after 31/03/2022 and the amount overcharged has grown further till this date. The HPERC has fixed the energy charges @ Rs. 4.35, Rs. 4.30 and Rs. 4.25 for the standard supply voltage of 33 kV, 66 kV and 132 kV respectively.
18. The Complainant submits that he is also entitled for interest on the amount refundable to him, and which has been overcharged by the Respondents in the bills issued. The entitlement of interest is well defined in Clause 5.7.3 of the Supply Code, 2009 as well as the Regulation 26(2)(a)(ii) of the HPERC (Consumer Grievances Redressal Forum & Ombudsman) Regulations, 2013.

"5.7.3 If on examination of a Complaint, the licensee finds a bill to be erroneous, a revised bill will be issued to the Consumer indicating a revised due date of payment, which will not be earlier than ten days from the date of delivery of the revised bill to the Consumer. If the amount paid by the Consumer under para 5.7.1 is in excess of the revised bill, such excess amount will be refunded through adjustment first against any outstanding amount due to the licensee and then against the amount becoming due to the licensee immediately thereafter. The licensee will pay to such Consumer simple interest on the excess amount @ 15 percent per annum, or where the rate is fixed by the Commission at the rate so fixed, on daily basis from the date of payment till such time the excess amount is adjusted."

19. **Prayer:** The Complainant thus in view of above prays **a)** to quash and set aside the orders dated 29/03/2023 passed in Complaint No. 3325/2/22/16-3325/1/23/11 as the same are contrary to the provisions of the HPERC (Consumers Grievances Redressal Forum and Ombudsman) Regulations, 2013; **b)** to decide the grievance on merits of the matters on the basis of record already available before the Hon'ble Ombudsman, in which the reply on merits already stands filed. As such no further opportunity be granted to the Respondents for filing the reply and the redressal of the grievance be fast tracked; **c)** to direct the Respondents to refund an amount of Rs. 63,51,300/- already overcharged by the Respondents as submitted above in the Complaint and also such amounts overcharged in the subsequent bills; **d)** to direct the Respondents to issue future bills on the basis of tariff applicable on the basis of standard supply voltage i.e. 132 kV in the



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future; **e)** to direct the Respondents to pay interest on the amount charged in excess and the amount that is refundable to him, at simple interest @ 15% p.a. on daily basis, from the date of payment till the excess amount is refunded/ adjusted by the Respondents as per Sub-regulation 5.7.3 of the Supply Code, 2009 or the Regulation 26(2)(a)(ii) of the HPERC (CGRF and Ombudsman) Regulations, 2013 as the Hon'ble Forum may consider appropriate out of the two regulations. **f)** to direct the Respondents to compensate him towards cost of the Complaint amounting to Rs. 1,00,000/-; **g)** to Call for the record of the case and, **h)** any other or further orders which this Hon'ble Forum may deem fit and proper, in the facts and circumstances of the case may kindly be passed in favour of the Complainant company and against the Respondents/distribution licensees.

C – The Respondents' submissions:

Preliminary Submissions:-

1. The Respondents submit that the representation of the Appellant/ Appellant is not maintainable against them. They are acting on behalf of the HPSEBL and order passed by the Ld. CGRF is in accordance with rule of law as well as Rules and Regulations framed by the Hon'ble HPERC. The Appellant is also well aware about the rule of law, as well as rules and regulations; hence the representation filed by the Appellant/ Appellant is liable to be dismissed.
2. The Respondents submit that the Appellant has not come to this Hon'ble Ombudsman with clean hands and has suppressed and concealed the material facts from this Hon'ble Ombudsman and has filed the present representation/ appeal on twisted and distorted facts which are far off from the reality and same is liable to be dismissed.
3. Further, that that the Appellant has no locus standie to file any such representation against them. Further, that the Appellant has entered into an agreement with the HPSEBL at the time of sanctioning/ release of the electric connection to him, wherein he has agreed to comply with the conditions of the agreement viz. PAC and has agreed to pay the dues/ charges as per tariff/ Rules and Regulations applicable from time to time, hence the representation filed by the Appellant is liable to be dismissed.
4. Further, that the order of the Id. CGRF dated 29/03/2023 is legal one in the eyes of law since the CWP No. 2788 of 2022 has already filed by the Appellant before the Hon'ble HP High Court, wherein he has already challenged the LVSS issue and the said petition is still pending adjudication before the Hon'ble High court hence as of now the Order passed by the Ld. CGRF deserves no interference from this Hon'ble Ombudsman as such the instant representation is liable to be dismissed in limine.



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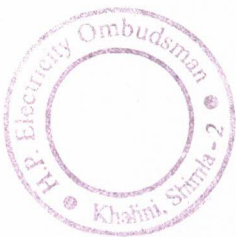
5. The Respondents submit that the jurisdiction of this Ld. Ombudsman is barred in terms of law laid down by the Hon'ble Appellate Tribunal for Electricity(Appellate Jurisdiction) in Appeal No. 181 of 2010 decided on 22nd March 2011, since the Complainant is a HT-LIPS category of Consumer and as per the law referred herein above wherein it is specifically provided that the CGRF nor the Ombudsman has no jurisdiction to entertain a petition from a HT Consumer for change of one category, for the purpose of tariff determination, to another category. Hence, the instant representation is liable to be dismissed in limine.

On Merits

6. The Respondents submit that the Paras of the representation is formal in nature hence needs no reply. The representation of the Appellant is not maintainable and same is liable to be dismissed, since the Ld. Forum below has passed a well reasoned order which is based on record and same warrants no interference of this Hon'ble Forum hence the instant representation is liable to be dismissed.

Reply to grounds of Representation:-

7. The Respondents submit that the Appellant has misread/ misunderstand the relevant provisions of clause 2.1.6 viz. Standard Supply Voltage, as the limits are provided for maximum Connected Load and Contract Demand for 33kV are 12MW and 10 MVA and the Appellant has already exceeded those limits. Further, that as per clause of 2.1.6 of Supply Code, if any Consumer avails supply on three phase on 66 KV, then his Connected Load should be 14 MW and demand would be 12 MVA. Moreover, in present case the Connected Load of the Appellant is 15 MW, and Contract Demand is 14MVA from 132 KV sub-station Gurplah. Therefore, under these circumstances the Appellant is liable to pay LVSS @ 2% of energy charges, as its Contract Demand is more than 10 MVA. Moreover, the tariff order issued by the Hon'ble HPERC is crystal clear.
8. The Respondents submit that previously the supply to M/S H.N Steel (previous owner) was from 33/11 kV Sub Station Taliwal being an interim measure, which was later on shifted to 132/33 kV Sub Station Gurplah, copy of letter dated 16/12/2010 written to Chief Engineer (Comm.) is annexed and in lieu of above stated letter the Chief Engineer (Comm.) has accordingly replied to the Chief Engineer(North), copy of letter dated 29/12/2010 is also annexed. Accordingly, an SJO dated 27/05/2021 has been issued for an interim measure. Further, that rest of the contents is wrong hence denied since those are based on the own hypothesis of the Appellant and are against the tariff order issued/ notified by the Hon'ble HPERC.
9. The Respondents submit that Appellant is deliberately misconstruing and misinterpreting the provisions of Supply Code and tariff orders duly notified by the Hon'ble HPERC. As per



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regulation the Appellant can use the Contract Demand up to 10MVA with maximum load 12 MW on 33 KV supply voltage only. In present case the Appellant had used the Contract Demand upto 14 KVA with Connected Load of 15 MW and under these circumstances the Appellant has to be charged with LVSS @ 2% of energy charges. Moreover, that earlier the Appellant was charged with LVSS @ 1% of energy charges, as the electricity was supplied through joint dedicated feeder with M/S Pritika Auto Cast, resultantly LVSS @ 1% from January 2021 to May, 2021 was charged. However, after the SJO dated 27/05/2021 when the Appellant has been shifted to dedicated feeder with extension of load for contract demand upto 14 KVA with connected load of 15 MW from 132/33KV Substation Gurplah, whereas the connection has been released on 33 KV supply voltage, which is two step below therefore the Appellant has to be levied with the LVSS charges @ 4% (2%+2%) of the energy charges, but in case of dedicated feeder, the rebate of 50% is also available hence the Appellant has been charged LVSS @ 2% of energy charges. Under these circumstances they have rightly and legally charged LVSS @ 2% from the Appellant as per the relevant provisions.

10. The Respondents submit that the issues raised by the Complainant/ Appellant are baseless without any understanding of tariff order as well as provisions of the Supply Code duly notified by the Hon'ble HPERC. Moreover, that by lodging the multiple Complaints, the Complainant/ Appellant is just trying to misled this Id. Forum as well as the Forum below despite knowing well that such submissions stand already rejected by the Hon'ble HPERC during Fourth APR Order of 3rd MYT Control period (FY 15-FY 16). Hence, the representation deserves dismissal.
11. The Respondents further mentions that the Ld. CGRF has rightly rejected the Complaint filed by the Appellant, since he has already filed the CWP No. 2788 of 2022 wherein also he is challenging the applicability of LVSS. Hence, the instant representation deserves dismissal.
12. Further, that the Ld. CGRF has rightly dismissed the Complaint filed by the Complainant.

Reply to the Contentions of the Complainant:

13. The Respondents submit that the order passed by the Ld. CGRF is law full as well as a reasoned order which deserves no interference from this Hon'ble Ombudsman. Moreover, the detailed submissions qua applicability of tariff order/ LVSS is already made in paras supra which may kindly be read as part and parcel to this para for the sake of brevity. Furthermore, it is relevant to submit here that the detailed submissions supra may kindly be read as part and parcel to this para for the sake of brevity.
14. The Respondents submit that since, the matter is pending adjudication before the Hon'ble HP High Court, wherein the Appellant is challenging the constitutionality of LVSS hence



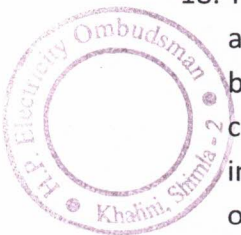
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the instant representation deserves dismissal. Moreover, that the issues raised by the Complainant/ Appellant in the instant representation are baseless without any understanding of tariff order as well as provisions of the Supply Code duly notified by the Hon'ble HPERC. Furthermore, that by lodging the multiple Complaints the Complainant/ Appellant is just trying to misled this Id. Forum as well as the Forum below despite knowing well that such submissions stand already rejected by the Hon'ble HPERC during Fourth APR Order of 3rd MYT Control period (FY 15-FY 19). Hence, the representation deserves dismissal.

15. The Respondents submit that in the prayer clause of this representation the petitioner is himself claiming refund of Rs. 63,51,300/- which in fact is charged as LVSS charges from the Appellant. Since, the pleading of the petitioner is contrary to the factual position hence the instant representation deserves dismissal. Moreover, that since the Appellant by way of instant representation is challenging the realm of tariff order hence in view of the settled law laid down by Hon'ble Appellate Tribunal for Electricity (Appellate Jurisdiction) in Appeal No. 181 of 2010 reference of which has already been submitted herein above in paras supra, hence the instant petition deserves dismissal.
16. The Respondents submit that they are charging LVSS from the Appellant as per the provision 2.1.6 Supply Code, 2009, hence the instant representation deserves dismissal since the averments made by the Appellant in the instant para of the representation is based on the own hypothesis of the Appellant and without any knowledge of the tariff order issued by the Hon'ble HPERC.
17. The Respondents submit that the copy of tariff order applicable in the instant matter is already annexed with instant reply which may kindly be read as part and parcel to this para for the sake of brevity. Moreover, that the Appellant is challenging the realm of tariff order which thing is in fact beyond the jurisdiction of this Id. Forum hence the instant petition deserves dismissal.
18. The Respondents submit that the detailed submissions made herein above qua applicability of tariff may kindly be read as part and parcel to this para for the sake of brevity. Moreover, that on the similar lines a petition is pending before the Hon'ble high court wherein constitutionality of LVSS has been challenged by the Appellant. Hence the instant petition deserves dismissal, moreover copy of Observation of the Hon'ble HPERC on the similar lines are annexed as **Annexure-R-5** for the kind perusal of this Id. Forum.
19. The Respondents submit that the submissions made in this para are based on the own hypothesis of the Appellant. They are charging the LVSS taking into account the provisions/ regulation/ tariff order duly notified by the Hon'ble HPERC.



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20. Further, that since, the Appellant in the instant para is himself admitting this fact that the matter qua LVSS is still pending adjudication before the Hon'ble High Court hence the instant petition is straight way liable to be dismissed. is having jurisdiction to deal the same. Hence the instant representation is liable to be dismissed.
21. Further, that in case the Appellant want challenge the provision or applicability of LVSS, then only the Hon'ble HPERC is having jurisdiction to deal the same. Hence the instant representation is liable to be dismissed.
22. The Respondents submit that the Appellant was charged as per the tariff order duly notified by the Hon'ble HPERC. Moreover, that this Hon'ble Forum has no jurisdiction to try and entertain the instant representation since the Appellant is challenging the provisions of tariff order dully notified by the Hon'ble HPERC and as of now the law in the matter is crystal clear which is dully referred in above para of the preliminary submission supra, furthermore that the matter qua application of LVSS is already pending adjudication before the Hon'ble High Court in CWP No. 2788 of 2022 a/w CWP No.1018 of 2022. Hence, the instant representation deserves dismissal.
23. The Respondents thus submitted that the present representation may kindly be dismissed with cost in the interest of justice and equity.

D – The Complainant's additional submissions through rejoinder:

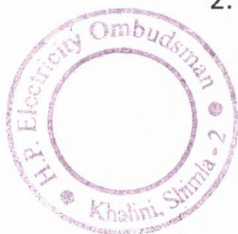
1. The Complainant have refused to file any rejoinder in the hearing held on 27/05/2023 and submitted instead that they will directly argue the case.

E – Written arguments of the Complainant:

1. The Complainant submits before the Hon'ble Ombudsman that the earlier submissions made in the Complaint, and the earlier case No. 22/2022, may be considered part and parcel of these arguments. Further, that these written arguments be considered final arguments on his behalf. The written arguments in support of his contentions are as below:

Preliminary Arguments:

2. The Complainant submits that despite the clear orders of the Hon'ble Ombudsman, the Respondents have once again come up in their reply of the Preliminary Submissions questioning the maintainability of the representation since CWP No. 2788 of 2022 was filed with Hon'ble High Court. The Hon'ble Ombudsman in his orders dated 20/02/2023 in Representation No. 22 of 2022 has clearly expressed that the subject matter of the CWP No. 2788 of 2022 and the present grievance filed with the CGRF and thereafter before the Ombudsman are different and distinct and had quashed and set aside the



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orders passed by the CGRF in Complaint No. 3325/2/22/16. After the remittance of the case back to the Forum, the Forum again came up with similar observation in its orders dated 29/03/2023 in Complaint No. 3325/2/22/16-3325/1/23/11.

3. Further, that the Respondent has cited the decision of **APTEL in Appeal No. 181 of 2010**, challenging the jurisdiction of the Hon'ble Ombudsman in the present case. The said judgement is not relevant in the present case and the Respondents are deriving a wrong meaning of the judgement in the said case. The Consumer (Resp. No. 3) in the said case was categorized as HTP-II(A) as per the agreement executed with the distribution licensee and he was a private educational institution and wanted to be recategorized as HTP-I which was applicable to only a specific type of Consumers but not the educational institutions.
4. The Complainant submits that since the tariff was already laid down the CGRF and Ombudsman had to turn down the grievance of the Consumer and recategorization of the Respondent No. 3 in that case would amount to an amendment in tariff categorization, which was not within their powers and such powers rested only with the Regulatory Commission who has notified the tariff.
 - a) Whereas, the present case is purely a billing dispute, which is well within the jurisdiction of the CGRF and the Ombudsman. As is also said in Para 10 of the judgement produced by the Respondents in the present case ***that Ombudsman is approached by an individual Consumer when a dispute called a "billing dispute", arises. In the present representation, the matter is clearly a billing dispute, as the Complainant has alleged that wrong rates of energy charges and demand charges are been levied by the Respondents in the bills issued to him.***

However, if it was required by the present representation that the tariff be modified, it would have fallen out of the jurisdiction of the Ombudsman or the CGRF.

- b) The Respondent No. 3 in Aptel appeal No. 181 of 2010, wanted to be recategorized into the category applicable to research and development units and such other types of Consumers but certainly not the educational institutions, whether private of government. In the present representation, he remains a Large Industrial Power Supply Consumer, within which he has been charged a wrong tariff, whereas the tariff applicability amongst the sub-categories is purely based on the Contract Demand of the Consumer. **The dispute here is that the Respondents have charged a tariff based on the actual supply voltage rather than on the basis of his Contract Demand, which makes him eligible for EHT tariff. The Respondents have billed him wrongly in the past and is continuing to do so.**



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- c) Nowhere in the tariff it is written that rates in LIPS category are to be applied on the basis of actual supply voltage. In the present representation the matter of grievance is not asking for change in tariff categorization or definition or inclusion / exclusion which entirely falls into the Commission's powers. The findings in Para 16 (iii) of the APTEL judgement it is clearly stated that the Commission has no jurisdiction to adjudicate upon a petition of an individual Consumer.
- d) Further, that his agreement does not specifically say that tariff based on supply voltage will be charged from him. All such documents simply state that the tariff as notified by the Commission shall be applicable. He, in his representation is not praying for anything beyond the tariff that has been notified by the Commission from time to time.

Arguments on merits

5. The Complainant submits that first and foremost, he is not agitating against the levy of LVSS (Low Voltage Supply Surcharge) before the Hon'ble Forum, but the levy of LVSS is cited as one of the arguments to support his claim of applicability of the tariff of the correct category.
6. The Complainant submits that in the tariff for the year 2014-15 (**Annexure C- 8 of CGRF Complaint P 65-66**), the Hon'ble Commission had issued tariff based on Contract Demand for categories other than domestic supply from the earlier categorization which was based on Connected Load. **It was notified in the said tariff order that the Contract Demand was the only criteria on the basis of which the tariff category of a Consumer shall be determined.** The present Contract Demand is 14000 kVA, which falls under 132 kV EHT category of tariff and a standard supply voltage of 132 kV. Therefore, the tariff of the 132 kV tariff kV Category should have been charged from the Complainant.
7. The Complainant submits that the clarification issued by the Chief Engineer (Comm.) on 18/07/2017 vide his letter No. HPSEBL/CE(Comm.)/SERC-6/2017-4421-25 regarding categorization on the basis of sanctioned contract demand besides deciding on the levy of contract demand violation charges also states in Para/ Point No. 1 of the letter that

"Original sanctioned contract demand is to be considered for deciding the category of Consumer....." Further in Point No. 2 it states that "The Original Sanctioned contract demand shall only be the basis of Consumer category....."

Deriving from above, his original sanctioned Contract Demand, which is 14000 kVA shall be the only basis of the Consumer category for which the tariff has to be charged. Instead the Respondent is charging the tariff applicable to HT category of Consumers the higher limit of which is only 10000 kVA at 33 kV supply voltage. The Respondents cannot be

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allowed to choose between the tariffs because **the applicable tariff is to be decided purely on the basis of sanctioned contract demand**, which has been notified by HPERC in Tariff Order 2014-15 and also endorsed by the CE (Comm.) vide his clarification dated 18/07/2017.

8. The tariff orders issued in the years 2019-20, 2020-21, 2021-22 and 2022-23, nowhere say that the tariff is to be charged on the basis of the **actual supply voltage** or that the tariff category of a Consumer is to be decided by the actual supply voltage at which his supply is provided. Had it been desired, the same would have been mentioned in the tariff schedule. **The Respondents in their communications have never mentioned any such provision which clearly states that the tariff is to be based on actual supply voltage.**
9. Further, that since, there is a mechanism built in the tariff to recover a charge by the name LVSS to account for/ compensate for the differential on account of actual supply voltage and the standard supply voltage, it becomes all the more unjustified on the part of the Respondents to charge the tariff of 33 kV category instead of 132 kV category, while also recovering LVSS simultaneously.
10. The Complainant thus in view of above, prayed that the Complaint be allowed in totality thereby ordering the refund of amounts due to him along with interest and costs as per applicable Regulations and other reliefs prayed for.

F – CGRF Order:

1. A Complaint filed by M/s Vardhman Ispat Udyog, Village Bathri, Tehsil Haroli, Near Tahliwal, District Una (HP), was disposed by this Forum vide Order dated 17.10.2022 on grounds of maintainability under provisions of regulation 19(a) of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013. At the time of its disposal, grounds of maintainability were considered in view of the concurrent CWP 2788 of 2022 filed by the Complainant petitioner before the Hon'ble High Court of Himachal Pradesh;
2. The ibid Order of the Forum dated 17.10.2022, was subsequently agitated by the Complainant before the Ld Ombudsman. On 20.02.2023, the Ld Ombudsman passed Order wherein, the ibid Order of the Forum dated 17.10.2022 has been set aside and quashed with directions to Forum to decide the matter on merits;
3. In compliance to the ibid Order passed by Ld Ombudsman on 20.02.2023, the Forum has examined the Complaint on merits. The Forum has once again examined the Complaint as well as the ibid CWP 2788 of 2022 under adjudication before the Hon'ble High Court. The matter has been argued by the parties;

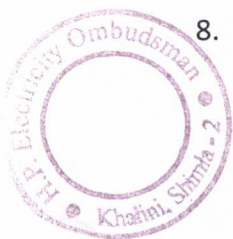


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4. At the outset, Forum finds from the facts and record of the Complaint, that the Complainant, on one hand, in the ibid CWP is placing challenge to the regulations on Lower Voltage Supply Surcharge (or LVSS) as provided in ibid code 2.1.6 of the Supply Code, 2009 Regulations notified by the Ld HP Electricity Regulatory Commission (or the HPERC).
5. On the other hand, the Complainant in the instant Complaint, is simultaneously relying on this very code 2.1.6 to seek monetary benefit in respect of change of tariff applicability, by extending an argumentative and distorted interpretation to the tariffs contained in the Tariff Orders;
6. The Forum finds that in this Complaint, the argument extended by the Complainant is that because, the Complainant has been charged LVSS, under code 2.1.6 of the Supply Code Regulations for availing supply at a lower voltage instead of higher voltage, it is therefore entitled to another tariff which is applicable for a different sub-category existing at higher voltage. Such argument carries within it the inherent implication of giving a lower voltage category Consumer the status of a higher voltage category Consumer and therefore the entitlements as well and for this reason the Forum holds this argument of the Complainant as distorted and thus not tenable;
7. The Forum is again convinced on facts and record of the Complaint, that the issue of Low Voltage Supply Surcharge (or LVSS) as provided in code 2.1.6 of the Electricity Supply Code, 2009 (amended on 16.06.2014) notified by the HPERC, is the very reason in the instant Complaint as well as that in the CWP 2788 of 2022 filed by the same party before the Hon'ble High Court of Himachal Pradesh. Perusal of the ibid writ petition and the Complaint clearly reveals this fact. This fact was also stated by the Forum in its Order dated 17.10.2022. There is no doubt in the mind of the Forum that ibid code 2.1.6 of the Electricity Supply Code, 2009 notified by the HPERC, is being manipulated to extract different outcomes in the present Complaint and then in the said CWP, by the same party;
8. The Forum is consciously aware that in case any Order is passed on merits by it in the instant Complaint, then the same is likely to prejudice the outcome of the proceedings pending before the Hon'ble High Court in CWP 2788 of 2022. Conversely, any decision by the Hon'ble Court in the future in the said CWP, is likely to render the outcome of the decision by this Forum as irreversibly wrong. Both these eventualities are inherently bad in law;
9. The Forum is also aware that it is not within its jurisdiction and authorities to either allow a particular tariff category to the Complainant or to interpret tariffs which are notified from time to time by the Ld HP Electricity Regulatory Commission (or the HPERC) vide its Tariff Orders under the extant Regulations. The Forum in the facts and circumstances of the matter is convinced that the cause of action raised by the Complainant in the instant



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Complaint is seriously flawed, argumentative in nature and clearly misleading, indirectly requiring interpreting tariffs notified by the Ld HPERC.

10. The Forum accordingly concludes that it cannot be misled into extending unlawful benefits to the Complainant and further holds that it cannot pass Orders on merits in the face of the present facts and circumstances of the case;
11. Thus, in view of the foregoing stated position, the Forum after considering the Complaint on merits, in unequivocal terms declines to pass Orders on merits;
12. Otherwise also, in accordance with sub-regulation 19(a) of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, the Forum cannot decide the matter on merits once a concurrent CWP is pending before the Court in a similar matter;
13. In view of foregoing, the Forum concludes that it is neither proper nor lawful to pass any Order on merits in the present Complaint as the same / similar issues are pending adjudication before the Hon'ble High Court in CWP 2788 of 2022; Seen from any angle, the Complaint clearly deserves dismissal. On foregoing term, the Complaint is disposed of as dismissed.

G – Analysis of the Complaint:

1. The case file in Complaint No. 3325/2/22/16-3325/1/23/11 dated 03/03/2023, orders on which were passed by the Consumer Grievance Redressal Forum at Kasumpti on 29/03/2023 have also been requisitioned and gone through.
2. The earlier case file 22/2022 at this Appellate Forum, orders on which were passed on 20/02/2023 have also been gone through.
3. The documents on record and submissions made by both the parties have also been gone through.
4. The written submissions made by both the parties have been reproduced above just to have bird eye view of the case.
5. Earlier after dismissal of the original Complaint by the Forum below, the case was registered as Complaint No. 22/2022 on dated 15/02/2023 and the case was remitted back to the Forum below to decide the case further on the merits of the case. Maintainability issue was decided in order dated 15/02/2023 and further confirmed through Interim Order dated 19/04/2023 in the current case. The Respondent Board filed



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their reply on the last hearing on 27/05/2023 after last opportunity after failing to file their reply by earlier hearings dated 06/05/2023 and 20/05/2023.

6. The Forum below again passed orders dated 29/03/2023 on earlier lines citing that the case is not maintainable and dismissed the Complaint again even defying the directions issued by this Appellate Forum which shows the attitude of the Forum below in deciding the matters even defying the directions of the higher office i.e. this Appellate Forum. Hence the present appeal.
7. The Complainant has a sanctioned Contract Demand of 15000 kW at 33 kV with 14000 kVA Contract Demand currently since June 2021. Earlier the Connected Load was 5997.40 kVA and the Contract Demand was 6653 kVA which was further enhanced to 14000 kW Connected Load and 12000 kVA Contract Demand in January 2021.
8. Initially when the Connected Load of the Complainant was up to 12 MW and with Contract Demand 10 MVA his standard supply voltage was 33 kV and was being fed through dedicated feeder. After his load was increased to 15 MW and 14 MVA, his standard supply voltage changed to 132 kV. Still his load is being supplied through 33 kV joint dedicated feeder (With M/S Pritika Auto Cast) and LVSS is being charged @ 2% (Half of 4% due to joint dedicated feeder).
9. He is being charged tariff applicable for LS Category with HT-2 sub-category and charges are applicable for different supply voltages alongwith specified demand charges.
10. Now let us examine the contentions of the Complainant. His contention is that the Forum below has failed to appreciate that the matter under grievance was the applicability of correct tariff to him not LVSS. His contention is that since his standard supply voltage is 132 kV, he should be charged based on the tariff applicable for 132 kV specified under LS category.
11. His further contention is that the Contract Demand is alone criteria for tariff and since his Contract Demand is 14000 MVA, he is eligible for 132 kV standard supply voltage Tariff as per Tariff principle adopted by the Commission since 2014 onwards.
12. He has cited a clarification given by the Chief Engineer (Commercial) on dated 18/07/2017 in support of his claim. The communication dated 18/07/2017 states:

Para 1

"Original sanctioned Contract Demand is to be considered to decide the category of Consumer"



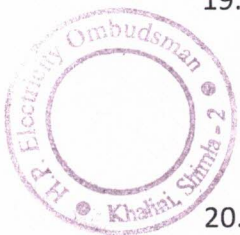
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Para 2

"The original sanctioned Contract Demand shall only be the basis of Consumer Category....."

13. His contention is that he is being charged wrong category of HT-2 based sub-category on actual supply voltage of 33 kV instead of category based on his Contract Demand as per standard supply voltage of 132 kV.
14. His further contention is that since he is at 14000 kVA Contract Demand, this should be the criteria to decide the category for which tariff is to be charged. He is being charged the tariff for 33 kV category under HT-2 sub-category of LIPS category which is only up to 10000 kVA Contract Demand. His contention is that the Respondent Board is charging wrong tariff. He has not contended for LVSS charge being levied on him.
15. His other contention is that the Respondent Board is undercharging Contract Demand charges as Rs 400/- per kVA instead of actual applicable 132 kV Category for Rs 425/- per kVA.
16. He has accordingly calculated that since he is being charged wrong tariff and even demand charges for same, he should be refunded Rs 63,51,300/- charged in excess from him up to 31/03/2022. His tariff should be Rs 4.25 instead of Rs 4.35 per unit applicable for 132 kV.
17. He has thus prayed to set aside the orders passed by the Forum below on 29/03/2023 alongwith refund for Rs 63,51,300/- and apply correct tariff to him at 132 kV standard supply voltage.
18. Now let us examine the submissions made by the Respondents. They have again cited that since the Consumer has already filed a CWP No. 2788/2022 at HP High Court challenging the LVSS, the Complaint filed is not maintainable. They have further cited a judgement of Hon'ble APTEL in Appeal No. 181/2010 decided on March 2011 further stating that neither CGRF not the Ombudsman have powers to change the category of the Consumer.
19. They have further contended that as per Himachal Pradesh Electricity Supply Code 2009 para 2.1.6, the standard supply voltage limits have been specified for loads and since he has exceeded the limits of 33kV supply voltage LVSS is applicable @ 2% for demand more than 10 MVA.
20. They have further supported the decision of the Forum below that they have rightly rejected the Complaint since the case of LVSS is pending at HP High Court. They have further stressed on that LVSS is being charged from the Consumer as applicable.



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21. The Complainant however has contended in his written argument that the case cited by the Respondents 181 of 2010 is not relevant to the present case since in that case the private education institution was categorized as HTP-II(A) and wanted to re-categorize under different category HTP-I which was applicable to specific types of the Consumers but not the educational institutions. Whereas here his contention is altogether different. His contention is that wrong tariff of 33 kV under LIPS category is being applied to him whereas he is entitled for 132 kV under LIPS category (Same category but different voltage) based on sanctioned Contract Demand.
22. His further contention is that the Chief Engineer (Commercial) vide communication dated 18/07/2017 have already clarified that Contract Demand shall be the basis for deciding Tariff Category.
23. Now let us examine the provision under Clause 2.1.6 of the Himachal Pradesh Electricity Supply Code 2009

"Standard Supply Voltage/ Supply Voltage

"2.1.6.1(A) The standard supply voltage shall mean the standard voltage at which electricity shall be given to the consumer through a common or dedicated or joint dedicated feeder without payment of any lower voltage supply surcharge (LVSS). Depending upon the connected load (kW or MW), contract demand (kVA or MVA), nature of load and existence of a voltage (volts/kV) and phase in the relevant distribution system, the standard supply voltage for a consumer shall be as provided in clauses (a) and (b) of this sub-para and sub-para 2.1.6.1(C)-

(a) The maximum limits of connected load (kW or MW) and contract demand (kVA or MVA) for the supply of power at a voltage, shall be as under-

Sr. No.	Standard Supply Voltage	Maximum Connected Load	Maximum Contract Demand
1.	Single phase 230 volts or three phase 415 volts or 2.2 kV; (for supplies not involving special category loads)	50 kW	50 kVA
2.	Three phase 11 kV or 22 kV; (for supplies not involving special category loads)	3 MW	2.2 MVA
3.	Three phase 33 kV	12 MW	10 MVA
4.	Three phase 66 kV	14 MW	12 MVA
5.	Three phase 132 kV or 220 kV	No limits	



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Provided that where special category loads are involved, the standard supply voltage shall be 11 kV or 22 kV, as may exist on the relevant distribution system, if –

- i) the total connected load does not exceed 1 MW, irrespective of special category loads; or*
- ii) the total quantum of connected load in respect of special category loads does not exceed 750 kW within the overall limit of total connected load upto 3 MW and total contract demand upto 2.2 MVA:*

Provided further that, if neither of the limits given in the first proviso, in relation to supplies involving special category loads, are adhered to, the standard supply voltage shall be 33 kV or the appropriate higher voltage in accordance with the limits specified in this clause:

Provided further that where a consumer having connected load of not more than 50 kW is already getting supply at LT voltage immediately before commencement of the Himachal Pradesh Electricity Supply Code (First Amendment) Regulations, 2014, he shall continue to be covered under a LT standard voltage (i.e. single phase 230 volts or three phase 415 volts) irrespective of contract demand already sanctioned in his favour, so long as he does not further extend his connected load or contract demand beyond the specified limits of 50 kW or 50 kVA respectively:

Provided further that where a consumer is getting supply at a voltage higher than the standard supply voltage as per the said specified limits, he shall continue to get supply at such higher voltage without any rebate for higher voltage supply.

(b) Where the connected load or contract demand exceeds the relevant ceiling limit specified in clause (a), the appropriate higher voltage at which both such limits can be adhered to, shall be considered as standard supply voltage and there shall be no minimum limits for supply of power at a particular voltage.”

24. The clause 2.1.6.1 particularly (a) of Himachal Pradesh Electricity Supply Code 2009 as reproduced above, is only for the purpose of deciding the voltage level at which the supply should have been provided to the Consumer. In this case since his current Connected Load is at 15 MW with Contract Demand of 14 MVA, he is covered under 132 kV standard supply voltage. He is being fed from 33 kV supply voltage and being charged 2% as LVSS which is not the bone of contention in this particular case.



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25. Now let us examine the schedule of Tariff under LIPS category.

LIPS: Large Industrial Power Supply

This schedule is applicable to all industrial power consumers with contracted demand exceeding 100 kVA including the Information Technology industry (limited only to IT parks recognized by the State/Central Government) and not covered by the schedule "IDWPS".

The Commission has retained the existing tariff for the Large Industrial Power Supply category as shown in the table below:

EHT

220 kV and above	4.20		425.00	4.20		425.00
132 kV	4.25		425.00	4.25		425.00
66 kV	4.30		425.00	4.30		425.00
HT-1 (up to 1 MVA)	4.60	-	250.00	4.60	-	250.00
HT-2 (More than 1 MVA)	4.35	-	400.00	4.35	-	400.00

26. The Tariff specifies the Voltage wise rates under LIPS category. Currently, the Complainant is being charged rates for HT-2 category being fed at 33 kV. The Complainant contention is that he is eligible for 132 kV rates under same category based on the clarification given by the Chief Engineer vide letter dated 18/07/2017 and also as per provisions in the schedule specifying the rates based on the Contract Demand.

27. From the scrutiny of above it can be interpreted that Contract Demand is the base for tariff applicability whereas the load limit is for deciding the voltage level. The contention of the Complainant appears to be genuine and convincing.

28. Now let us examine the Respondent Board's contention that as per APTEL ruling in petition No. 181/2010, he is not allowed to change the category. The particular judgement is discussed above also and is for change in category whereas in this particular case, the Complainant is seeking correction of tariff under same category i.e. LIPS from HT-2 to 132 kV. Thus, this case is different and the judgement of APTEL is not relevant to this case.



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29. From above discussions, it is quite clear that contention of Complainant that wrong tariff is being made applicable to him under the same category of LIPS is quite genuine and in my considered opinion, based on the documents on record including the clarification provided by the Chief Engineer (Commercial) vide dated 18/07/2017, the Respondent Board is required to apply correct tariff to the Complainant under the same category of LIPS.
30. However, since his applicability of standard supply voltage is at 132 kV and he is being fed at 33 kV through joint dedicated feeder, the LVSS shall be applicable as per Tariff provisions.
31. The Complainant is also entitled for refund of excess amount charged, if any, due to wrong application of tariff.
32. Now let us examine the Consumer Grievance Redressal Forum at Kasumpti orders dated 29/03/2023. Despite referring back the case for decision on merits in case No. 22/2022, orders on which were passed on 20/02/2023 by this Appellate Forum and deciding that the both matters before the Forum below and the Hon'ble HP High Court were different, the Forum below dismissed the case on same grounds as was done by them vide orders dated 17/10/2022.
33. The Forum below have not gone through the orders of this Appellate Forum dated 20/02/2023 and dismissed the case without applying their mind that LVSS is not being challenged before him and the case is quite different than the case filed at the HP High Court. The detailed differentiation between two cases have also been deliberated in detail at paras 'F-17 to 26' Analysis of Complaint in orders dated 20/02/2023 in Case No. 22/2022 and require no repetition.
34. Had they distinguished the matter at first instance and decided the case on merits, the Complainant may not have suffered due to careless attitude of the Forum below. Even they could have decided the matter on merits of the case after the same was remitted back to them vide orders dated 20/02/2023 but they choose to defy the orders of this Appellate Forum which is against the principles on which these Forums have been created for the benefits of the Consumers under the provisions of Electricity Act, 2003.
35. The action of the Consumer Grievance Redressal Forum at Kasumpti whereby the rights of the Complainant has been adjudicated to his prejudice is also against Judicial Propriety, which forms an important part of fair trial which is a part of Article 21 of the Constitution of India. Further, If such violations or flouting of the order of the Appellate Forum is being done by the lower Forum, then it will shackle the confidence of the litigants towards the



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adjudication process, judiciary, the judicial process, and the rule of law, which cannot be allowed.

H – Issues at hand:

1. **Issue No. 1:** Whether the orders passed on 29/03/2023 by the Consumer Grievance Redressal Forum at Kasumpti in Complaint No. 3325/2/22/16-3325/1/23/11, dated 03/03/2023 are in line with the facts on record and as per prevailing Regulations/ Codes etc or not?
2. **Issue No. 2:** Whether the Respondent Board is applying wrong tariff rates under LIPS category to the Complainant or not?

I – Findings on the issues:

Issue No. 1:

1. As is evident from the analysis done above and the documents available on record, the orders passed on 29/03/2023 by the Consumer Grievance Redressal Forum at Kasumpti in Complaint No. 3325/2/22/16-3325/1/23/11, dated 03/03/2023 is not based on the documents on record and other provisions of applicable Regulations/ codes etc.
2. Further, the Consumer Grievance Redressal Forum at Kasumpti have again defied the orders of this Appellate Forum issued vide orders dated 20/02/2023 ignoring the facts on record which is not a healthy practice and Consumer have been forced to shuttle between Forum's unnecessarily for no fault of his.
3. Had they distinguished the matter at first instance and decided the case on merits, the Complainant may not have suffered due to careless attitude of the Forum below. Even they could have decided the matter on merits of the case after the same was remitted back to them vide orders dated 20/02/2023 but they choose to defy the orders of this Appellate Forum which is against the principles on which these Forums have been created for the benefits of the Consumers under the provisions of Electricity Act, 2003.

Issue No. 2:

1. As is evident from the analysis done above, the Respondent Board is applying wrong tariff rates under the LIPS category to the Complainant after his Connected Load reached 15 MW and Contract Demand was at 14 MVA.
2. The Complainant is entitled to rates specified for 132 kV sub-category instead of HT-2 sub-category under LIPS category. Further, LVSS is applicable to him as per applicable Tariff



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HIMACHAL PRADESH ELECTRICITY OMBUDSMAN
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Phone: 0177-2624525, email: ombudsmanelectricity.2014@gmail.com

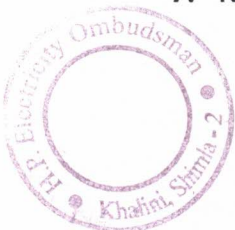
provisions since he is entitled for 132 kV standard supply voltage and he is being fed at 33 kV joint dedicated feeder.

3. The Complainant is further entitled for refund of excess charges, if any, made by the Respondent Board due to wrong application of tariff.

J – Order:

1. The orders passed on 29/03/2023 by the Consumer Grievance Redressal Forum at Kasumpti in Complaint No. 3325/2/22/16-3325/1/23/11, dated 03/03/2023 is hereby quashed and set aside.
2. The Respondents are directed to overhaul the account of the Complainant after correcting his tariff applicable for 132 kV sub-category instead of HT-2 sub-category under Large Industrial Power Supply (LIPS) Category.
3. LVSS shall be applicable as per Tariff provisions since he is being supplied electricity at 33 kV instead of 132 kV entitlement.
4. The Respondents are further directed to refund the excess amount charge, if any, on account of wrong application of tariff within a period of 30 days from the date of issue of this order but not later than 03/07/2023. In case of delay beyond 30 days, the interest @ 15% shall be applicable in line with Clause 5.7.3 of Himachal Pradesh Electricity Supply Code 2009.
5. The Respondents are further directed to report Compliance of above directions within a period of 30 days of issuance of the orders or but not later than 03/07/2023 positively failing which the matter shall be reported to the Hon'ble Commission for violations of the directions under Regulation 37 (6) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 for appropriate action by the Commission under the provisions of the Act.
6. The Complaint filed by M/S Vardhman Ispat Udyog, Village Bathri, Tehsil Haroli, Near Tahlwala, District Una, HP-174301 is hereby disposed off.
7. No cost to litigation

Given under my hand and seal of this office.



Kasumpti
03/06/2023
Electricity Ombudsman