



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

In the matter of:

Complaint No. 19/2023

M/S Ind-Sphinx Precision Ltd. 1, Taksal Road, Kasauli Marg Parwanoo distt. Solan HP 173220.

- Complainant

Vs

1. Executive Director (Personal), HPSEB Ltd, Vidyut Bhawan, Shimla-171004
2. The Sr Executive Engineer, Electrical Division, HPSEB Ltd, Parwanoo, District Solan, HP-173220
3. The Assistant Executive Engineer (E), Electrical Sub-Division, HPSEBL, Parwanoo, District Solan HP-173220.

- Respondents

1. Complaint No. 19/2023 (Registered on 22/07/2023)
2. (Orders reserved on 30/11/2023, Issued on 05/12/2023)

Counsel for:

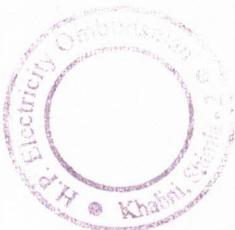
The Complainant: Sh. Rakesh Bansal, authorized Representative
The Respondents: Sh. Kamlesh Sakhlani Under Sectt. Law
Sh. Rajesh Kashyap, Advocate

CORAM

Er. Deepak Uppal
HP Electricity Ombudsman

Order

1. The case was registered on dated 22/07/2023. Complainant had submitted proof of payment of 50% of the disputed amount deposited with the Respondent Board and also attached proof of the services to the Respondents. Accordingly, this court started with the proceedings. The Respondent Board was directed to file their reply duly supported with attested affidavit on or before 11/08/2023 and rejoinder by the complainant thereafter on or before 22/08/2023. The matter was listed for hearing on dated 22/08/2023.
2. Sh. Rakesh Bansal, the authorized Representative for pleading the case on behalf of complainant could not attend the court due to inclement weather conditions as informed through e-mail dated 21/08/2023. Respondent Board could not submit reply by 11/08/2023, further sought two weeks' time for submission of reply thereof. Prayer granted. Subsequently, complainant to submit rejoinder thereafter. The matter was listed for hearing on dated 28/09/2023.



Deepak Uppal



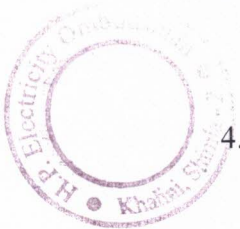
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3. Respondent Board could not submit reply as directed vide this court order dated 22/08/2023 and further sought two weeks' time for submission of reply thereof. Prayer granted for submission of reply on or before 16/10/2023. Subsequently, complainant to submit rejoinder thereafter. The matter was listed for hearing on dated 16/10/2023.
4. In spite of many opportunities given by this court through orders dated 28/7/2023, 22/08/2023, 28/09/2023 to the Respondent Board for submission of reply but could not submit till date. However, on the request of counsel for Respondent to allow one more chance as a last opportunity, prayer granted after listening to the complainant. It was also decided after mutual consensus of both complainant and Respondent to consider the reply that already stands submitted before Consumer Grievance Redressal Forum at Kasumpti during proceedings in said case by the Respondent Board to avoid further delay in the adjudication process of this court and inconvenience to the other party, in case the Respondent Board fails to submit the same. The Respondent was further directed to submit the reply within weeks' time thereof as a last opportunity and rejoinder if any by the complainant immediately thereafter. The matter was further listed for arguments on 30/10/2023, subject to the submission of above requisites.
5. The Arguments could not be conducted as the Respondent Board could not submit the reply as per this court order dated 16/10/2023 and prayed for another weeks' time for submission of reply. As a special request, last opportunity was again granted for submission of reply with in weeks' time and subsequent rejoinder if any by the Complainant thereof. After listening to both the parties, the matter was listed for final Arguments on 30/11/2023.
6. The matter was heard. Both the parties advanced their arguments. In the absence of reply, still awaited from Respondents, it was decided after having mutual consensus of both the parties that since the contentions of averments shall remain same as already stands submitted before Consumer Grievance Redressal Forum at Kasumpti during proceedings in complaint No. 1421/1/23/04 dated 20/06/2023 in the said matter, whether submissions by the Complainant or subsequent reply by the Respondents or rejoinder whatsoever, may be considered for the purpose of closing of proceedings in the instant case. This court agreed with the view points and consensus of both the parties on this account to avoid further delay in the matter. The arguments thereafter were conducted as per schedule and concluded. Hence delay.

A-Brief Facts of the Case:

1. The Complainant M/s Ind-Sphinx Precision Ltd, 1, Taksal Road, Kasauli Marg, Parwanoo, Himachal Pradesh 173220 bearing consumer ID 100012000667, is a Large Industrial Power Supply (LIPS – HT-Two Part) category consumer of the Respondent HPSEBL;
2. M/S Ind-Sphinx Precision Ltd. 1, Taksal Road, Kasauli Marg Parawanoo distt. Solan HP has filed an application under provisions of Regulation 28 of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 against the final Orders dated 20/06/2023 passed by the Consumer Grievance Redressal Forum (CGRF) at Kasumpti in Complaint No. 1421/1/23/04, dated 31/01/2023 and was registered with this Appellate Forum on dated 22/07/2023.
3. In the year 2019, the Original or Permanent sanctioned Contract Demand of 450 kVA was increased to 600 Kva on permanent basis. The Complainant applied to the Respondent On 10th October, 2019 for temporary reduction of its Contract Demand (Temporary Contract Demand) to 500 kVA (Annexure C1), which was affected in December 2019;
4. Accordingly, the electricity billing of the Complainant, up to December, 2019 in the respective financial year, was done by the Respondent on the basis of the Permanent Contract



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Demand of 600 kVA. Thereafter, it was billed by the Respondent on the basis of the Temporary Contract Demand of 500 kVA up to March 2020.

5. The instant matter is regarding raising of monetary demand of Rs 1,35,000 /- by the Respondent HPSEBL to the Complainant vide Demand Notice dated 15.03.2021, further raised as sundry in Bill for month of April 2021 and another monetary demand of Rs 2,70,000 /- vide Bill for the month of June 2022, pursuant to HP Electricity Supply Code (Second Amendment) Regulations, 2018 which was notified on 31.07.2018 and which became effective from 01.04.2019 (herein-after referred to as Supply Code 2nd Amendment, 2018 or Supply Code 2nd Amendment).

B-The Complainant's Submission:

**DETAILS OF REPRESENTATION, FACTS GIVING RISE TO THE REPRESENTATION
PROLOGUE/ BACKGROUND:**

1. The Complainant submits that Ind-Sphinx Precision Ltd., is filing the said complaint through Satish Mehta, authorized signatory of the firm, who has been authorized vide resolution to sign, institute, verify swear affidavits, suits, complaints, appeal and other proceedings to protect the interest of Ind-Sphinx Precision Ltd. and to engage counsel(s)/Advocate (s)/ representatives (s).
2. The Complainant submits that the complainant firm is filing the said complaint under Regulation Nos. 28 of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulation 2013. The complainant/applicant firm 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.
3. The Complainant submits that the complainant firm 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 the Supply Code, 2009 notified by the Himachal Pradesh Electricity Regulatory Commission under the Electricity Act, 2003 and has wrongly claimed the arrears towards demand charges. The complainant approached the Consumer Grievances Redressal Forum of HPSEBL, for redressal of his grievance, who, in the end of the proceeding rejected the complaint holding it being devoid of merits and substance. The complainant has already deposited the disputed amount which was charged in the electricity bills of the complainant.

Facts of the Case:

01.03.201- The complainant's application for increase of contract demand on permanent basis from 450 kVA to 600 kVA was sanctioned and released.

March 2019 to Nov 2019- The complainant was billed on 600 kVA for 9 months.

10.10.2019- The complainant applied for temporary reduction of contract demand from 600 kVA to 500 kVA (Annexure C1, which was effectively reduced w.e.f. December 2019 in the electricity bills issued to the complainant (Annexure C2).



Signature



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Dec-2019 to Mar-2020-The complainant was billed on contract demand of temporary reduced contract demand of 500 kVA

Apr 2020 to Mar-2021-The complainant was billed for entire financial year for 500 kVA(temporarily reduced).

15.03.2021- Demand notice (Annexure C-3) for Rs. 1,35,000/- issued by respondent for arrears of demand charges on account of temporary reduction for the six-month period Oct,2020 to March 2021 as per provisions added by second amendment in the Supply Code, 2009 allowing the relief for initial six months provided in Supply Code, 2009 after the 2nd amendment.

March 2021- The respondents charged arrears of Rs. 1,35,000 in the bill issued for March, 2021 (Annexure C4), which was paid by the complainant to avoid disconnection.

Apr-2021onwards-The complainant's demand was restored to sanctioned demand of 600 kVA for billing purposes as per attached bill (Annexure C5)

May 2022- The respondents changed their stand and ignoring the earlier recovered differential demand charges of Rs. 1,35,000 for the period Oct, 20 to March,21, once again charged arrears for entire financial year 2020-21 for a period of 12 months and Rs. 2,70,000/- were charged on account of Sundry Charges in the bill for May-2022 (Annexure C6). The earlier charges of Rs. 1,35,000/- were also for the same period. These charges were also paid by the complainant as the same were charged in the bill and the load enhancement case was getting delayed because of non-payment of these charges.

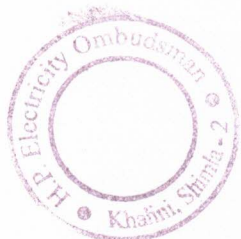
25.01.2023- The complainant preferred a grievance before the CGRF vide complaint no. 1421/01/23/04.

09.02.2023- During the course of the proceedings the respondents, on their own, refunded/ adjusted a sum of Rs. 1,35,000 in the bill dated 09.02.2023, agreeing to the duplication of the period while charging the arrears.

20.06.2023- The Ld. CGRF disposed the complaint filed by the complainant granting no relief to the complainant.

Contentions of the Complainant:

4. The Complainant submits that the complainant is eligible for billing based on temporary revision for six months in 2020-21 in continuity:
5. The Complainant submits that the Ld. Forum has wrongly interpreted the meaning of the amended para 3.10 after the 2nd Amendment. There is no mention of filing fresh application each year in the said amendment, nor is it anywhere written in the amendment that it will be applicable to past revisions which were being continued.
6. The Complainant submits that the Forum has exceeded its jurisdiction with regard to interpreting a legislation, whereas such powers are only vested with courts. The



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mechanism of resetting the contract demand automatically in each financial year has nowhere been mentioned even in the amended clause 3.10. The provision that has been added vide second amendment states as follows:

“Provided that the consumer shall not be eligible for temporary revision of contract demand to a value other than the full sanctioned contract demand for a total period of more than six months in one financial year:

Provided further that in cases involving part period of a year e.g. if a consumer takes the connection, or the consumer gets his permanent sanctioned contract demand revised, during the middle of a year, the adjustments shall be made on pro-rata basis.

Note: The Distribution Licensee shall, immediately after the publication of the Himachal Pradesh Electricity Supply Code (Second Amendment) Regulations, 2018, in the Rajpatra, Himachal Pradesh, issue suitable detailed procedural instructions within the framework of the above provisions to its field units for the smooth implementation of aforesaid provisions w.e.f. 01.04.2019.”

7. The Complainant submits that the proviso clearly talks of eligibility of the consumer being six months in a year, but does not talk of the procedure of resetting etc. The idea resetting of the contract demand is the outcome of the Forum ‘s own ideas.
8. The Complainant submits that it is also proven by the demand notice dated 15.03.2021, wherein the respondents had given relief of six months in a year, while calculating the arrears. The temporary reduced contract demand was automatically carried on for next year also and it was agreed till then that a filing of a fresh application for the temporary reduction.
9. The Complainant submits that the internal procedural instructions issued by the Chief Engineer (Comm.) on 25.10.2018 (Annexure C6) after the notification of the 2nd amendment also does not talk of resetting and re-application for reduction of contract demand. Para 3 (c) of the said instruction states as follows:

“3(c) In this case consumer shall have the option to continue with revised CD for a maximum period of 3 months i.e. 4th, 5th and 6th month. As per revised clause 3.10(a), if a consumer does not revise CD then after 6th month the billing shall be done on the basis of Original Sanctioned Contract Demand only.” The instruction merely talks of billing but not about revision of contract demand, which stays untouched.”

10. The Complainant submits that delayed action on the part of the respondents: The Ld. Forum has observed that the complainant has failed to keep vigil on the change in law, while the real position is vice versa, which the Ld CGRF has not put on record. The 2nd Amendment was notified in July 2018, and the provision in question was applicable w.e.f. 01.04.2019, while the internal instructions were issued by CE (Comm,) on 25.10.2018. The respondents first raised the demand for arrears on 15.03.2021 in pursuance of an amendment which was issued in the year 2018. Ideally, the respondents should have raised the bills on the basis of 600 kVA (sanctioned contract demand w.e.f. 01.04.2020, if the understanding and interpretation of the Forum and respondents is to considered to be correct. The respondents continued to raise bills on temporarily reduced



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contract demand for the entire financial year 2020-21 on 500 kVA (temporarily reduced contract demand) even after more than two years.

11. The Complainant submits that even if, the delay is considered as allowed by the Hon'ble Ombudsman, the first demand notice dated 15.03.2021 for six months i.e. Oct,20 to March 21, was in line with the 2nd amendment. The second demand of Rs. 2,70,000/- for the entire financial year lacks merit even to the extent that it has overlapping effect for the period of six months period between Oct, 20 and Mar, 21 for which the demand was charged twice.
12. The Complainant submits that the Ld. Forum has erred in observing that second demand of Rs. 2,70,000 is legal. Out of the second demand of Rs. 2,70,000/- , the respondents have only refunded a sum of Rs. 1,35,000/-, which is the amount for differential demand charges for six months.
13. The Complainant submits that the order of CGRF is in contradiction with the earlier orders passed by the Hon'ble Ombudsman:
Hon'ble Ombudsman has passed several identical orders on similar issues in the following cases in the recent past:

- a) Case No. 24/ 2022 M/s Mohan Makin Ltd. versus HPSEBL
- b) Case No. 21/ 2022 M/s B N Enterprises versus HPSEBL
- c) Case No. 28/ 2022 M/s Milestone Gears (P) Ltd. versus HPSEBL

14. The Complainant submits that in all these orders the Hon'ble Ombudsman has allowed and considered the previous temporary reduction to be applicable in the succeeding financial year for the initial period of six months. In the present representation also the complainant is praying that his temporary reduction carried out in 2019-20, be allowed to continue upto 30.09.2020 in the financial year 2020-21. The orders passed by the Forum is in contradiction with the principle adopted by the Hon'ble Ombudsman in the previously settled cases on the same issue.
15. The Complainant submits that he is also eligible for interest on the amount excess charged by them for the period which it remained with them:
16. The Complainant submits that the wrongly charged and recovered a sum of Rs. 2,70,000/- in the month of May 2022, out of which only a sum of Rs. 1,35,000/- was returned / adjusted on 09.02.2023 after the delay of nine months. The balance of Rs. 1,35,000/- is still lying with the respondents in excess of the legal provisions. The complainant is eligible for claiming interest as per Clause 5.7.3 of the Supply Code, 2009 @ 15% per annum.

17. **Prayer:**

The Complainant submits prayer as under:

- a) To quash and set aside the orders dated 20.06.2023 passed in Complaint No. 1421/1/23/04 as the same are contrary to the provisions of the law, while accepting the order only to the extent of the relief allowed to the complainant;
- b) To quash the demand in the form of Sundry charges of Rs. 2,70,000/-, overcharged in the May, 2022, declaring it illegal as per provisions of the law;
- c) To pass orders against the respondents for their conduct in respect of delayed action in implementing the provisions of the 2nd amendment.



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- d) To pass orders directing the respondents to pay interest on amount refundable to the complainant on the excess amount recovered till the date of actual refund as per clause 5.7.3 of the Supply Code, 2009, on the increasing/ reducing balance;
- e) To direct the respondents to compensate the complainant towards cost of the complaint amounting to Rs. 75,000/-.
- f) To Call for the record of the case.
- g) 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 Respondent's Submission:

1. The final hearing was conducted on dt. 30.11.2023. However, in the absence of reply, awaited from Respondents, it was decided with mutual consensus of both the parties that since the contentions of averments shall remain same as already stands submitted before Consumer Grievance Redressal Forum at Kasumpti during proceedings in complaint No. 1421/1/23/04 dated 20/06/2023 in the said matter, whether submissions by the Complainant or subsequent reply by the Respondents or rejoinder whatsoever, may be considered for the purpose of arguments and closing of proceedings in the instant case. This court agreed with the view points and consensus of both the parties on this account to avoid further delay in the matter. The arguments thereafter were conducted as per schedule and concluded.
2. For the sake of brevity, the same is not reproduced and para 11to15 under item "G- Consumer Grievance Redressal Forum Order No." below may be referred to.
3. However, instead of submission of reply, the Respondent (Sr. Executive Engineer, Electrical Division, HPSEBL, Parwanoo submitted with this Appellate Forum through letter dt. 27/10/2023 regarding seeking permission of higher authorities for implementation of CGRF dt. 20.06.2023 as well as for refund of Rs. 135000/- charged for six months (April,2020 to Sept,2020) which is also taken on record for consideration.

D- The Complainant's written Arguments:

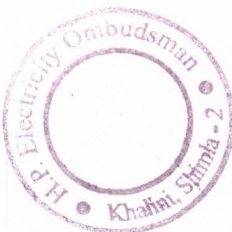
The Complainant did not submit any written arguments instead preferred oral arguments.

E- The Respondent's written Arguments:

The Respondent also did not submit any written arguments instead preferred oral arguments.

F- The Arguments of both during proceedings :

1. The final arguments were conducted on dt. 30.11.2023. In the absence of reply, awaited from Respondents, during the course of arguments, it was decided in the open court with mutual consensus by both the parties that since the contentions of averments shall remain same as already stands submitted before Consumer Grievance Redressal Forum at Kasumpti during proceedings in complaint No. 1421/1/23/04 dated 20/06/2023 in the said matter, whether submissions by the Complainant or subsequent reply by the Respondents or rejoinder whatsoever, may be considered for the purpose of arguments for speeding up the process of adjudication and closing of the proceedings in the instant case. This court agreed with the



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view points and consensus of both the parties on this account to avoid further delay in the matter. The detailed arguments thereafter were conducted as per schedule and concluded.

2. Instead of submission of reply, the prudent efforts being put up by the Respondent Board for judicious settlement of the legitimate claim in respect of doubly charged amount of Rs. 1,35,000/- from the Complainant, was appreciated by this Appellate Forum in terms of Respondent (Sr. Executive Engineer, Electrical Division, HPSEBL, Parwanoo letter dt. 27/10/2023 on seeking permission of higher authorities for implementation of CGRF dt. 20.06.2023 for refund of Rs. 135000/- doubly charged for six months.
3. The representative for Complainant read out the Grievances and earlier submissions and finally prayed for refund of Rs. 1,35,000/- with interest as per provisions, which were doubly charged by the Respondent Board. He also prayed for allowing relief for initial six months in continuation. Counsel for Respondent expressed contentions on due adherence to clause 3.10(a) under 2nd amendment of the supply code.

G- Consumer Grievance Redressal Forum Complaint No. 1421/1/23/04 dated 31/01/2023:

BRIEF FACTS OF THE CASE –

1. Complaint has been filed under regulations 16, 17 and 18 of the HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013;
2. The Complainant M/s Ind-Sphinx Precision Ltd, 1, Taksal Road, Kasauli Marg, Parwanoo, Himachal Pradesh 173220 bearing consumer ID 100012000667, is a Large Industrial Power Supply (LIPS – HT-Two Part) category consumer of the Respondent HPSEBL;
3. In the year 2019, the Original or Permanent sanctioned Contract Demand of the Complainant was increased to 600 kVA. This has been stated on record by the Complainant;
4. On 10th October, 2019, the Complainant submitted an application to the Respondent for temporary reduction of its Contract Demand (Temporary Contract Demand) to 500 kVA (Annexure C1), which was effected in December 2019;
5. Accordingly, the electricity billing of the Complainant, up to December, 2019 in the respective financial year, was done by the Respondent on the basis of the ibid Permanent Contract Demand of 600 kVA. Thereafter, as stated on record by the Complainant, it was billed by the Respondent on the basis of the ibid Temporary Contract Demand of 500 kVA up to March 2020;
6. The instant matter is regarding raising of monetary demand of Rs 1,35,000 /= by the Respondent HPSEBL to the Complainant vide Demand Notice dated 15.03.2021 (Annexure C3) further raised as sundry in Bill for month of April 2021 (Annexure C4), and another monetary demand of Rs 2,70,000 /= vide Bill for the month of June 2022 (Annexure C6), pursuant to HP Electricity Supply Code (Second Amendment) Regulations, 2018 which was notified on 31.07.2018 and which became effective from 01.04.2019 (herein-after referred to as Supply Code 2nd Amendment, 2018 or Supply Code 2nd Amendment).

COMPLAINANT –

7. The Complainant has argued on record that the Respondent was entitled to recover for six (6) months and that the 2nd Amendment to Supply Code only restricts the benefit to six months in a year but the amendment no-where states that there will be automatic switching of contract demand (in kVA or MVA) to level of sanctioned contract demand



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in the beginning of financial year and thus the Complainant was eligible for benefit of temporary reduction for the period 01.04.2020 to 30.09.2020 and thus no separate application was required;

8. Had the Respondent raised the bill of April 2020 on the basis of sanctioned contract demand, the Complainant would have submitted fresh application for temporary reduction and taken benefit of six (6) months;
9. The Complainant is aggrieved by the action of the Respondent to have recovered arrears of Rs 2,70,000/= in excess of six (6) months, i.e for full Twelve (12) months, while earlier charges of Rs 1,35,000/= were also for the same period, such action being against provisions of code 3.10 of Supply Code 2nd Amendment;
10. The Complainant has sought relief in terms of quashing of Demand Notice and Sundry charges of Rs 2,70,000 /= in Annexure C-6-P1

RESPONDENT –

11. On the other hand, the Respondent HPSEBL in its Reply has submitted that the impugned monetary demand has been raised strictly in accordance with the Code 3.10 of Himachal Pradesh Electricity Supply Code 2009 and that the Forum has already decided similar issues in its previous Orders. In the 2 nd Amendment, 2018 word “financial year” is used by the Hon’ble HPERC;
12. That it is without any dispute that financial year is from 01st April to 31st March in each year;
13. That 2nd Amendment to Supply Code was done by the Hon’ble HPERC after previous publication, calling objections from stake holders and after public hearing. The Amendment was duly published in the official gazette of Himachal Pradesh and thus Complainant cannot be allowed to claim ignorance;
14. That the Complainant has completely misunderstood and misinterpreted the provisions of Code 3.10 of Supply Code 2009. The Complainant is not entitled to benefit of temporary reduction of Contract Demand for entire financial year 2020-21 and that from April, 2020 the Complainant was liable to be charged on the basis of sanctioned Permanent Contract Demand of 600 kVA;
15. That the impugned action of the Respondent is valid and legal and therefore the complaint is liable to be dismissed.

ORDER-

16. Forum has examined the relevant provisions of the Electricity Act, 2003, various relevant Regulations framed by the HP Electricity Regulatory Commission (or the HPERC) including relevant provisions of HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 and the HP Electricity Supply Code, 2009 (or the Supply Code, 2009 or the Supply Code or the Code) including amendments thereto, record and facts along-with pleadings of the parties. We have heard the parties at length. The considered opinion of the Forum has been gathered after examining and analyzing fair facts, evidences and correspondence placed on record and arguments adduced by both the parties;
17. At the outset, this Forum finds that the only moot issue that has come up before it for determination, is whether the Complainant is or is not entitled to continued benefit of Temporary Contract Demand existing in a previous financial year into the subsequent financial year, for a period of six (6) months, without a fresh re-application?;



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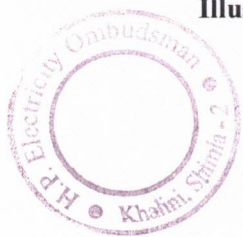
18. The Forum, before proceeding with the grievance of the Complainant, considers it necessary and expedient to refer to certain relevant amendments to the HP Electricity Supply Code, 2009 enacted by the HP Electricity Regulatory Commission (or the HPERC). The Supply Code, 2009 was notified by the HPERC on 26th May, 2009. Later Amendments were carried out from time to time. We mainly refer to amendments pertinent in the instant matter with regard to 'Temporary' revision of Contract Demand. The said amendments were first introduced by the HP Electricity Regulatory Commission (or the HPERC) vide Himachal Pradesh Electricity Supply Code (First Amendment) Regulations, 2014 notified on 11th June, 2014. In this amendment Code 3.10 was first inserted. Thereafter, amendment to this Code 3.10 was carried out by the HPERC vide the Himachal Pradesh Electricity Supply Code (Second Amendment) Regulations, 2018 notified on 31.07.2018. For the sake of clarity, relevant extracts of these amendments are reproduced here-in-under: -

(A) Himachal Pradesh Electricity Supply Code (First Amendment) Regulations, 2014 dated 11.06.2014 –

Quote 10. Insertion of para 3.10.- In the said Code, the following para 3.10 shall be inserted; namely: - “3.10 Temporary revision of contract demand. – The consumers to whom two part tariff is applicable shall be entitled to revise their contract demand within the total sanctioned contract demand without surrendering their lien of the total sanctioned contract demand, subject to the following condition-

- 10 (a) that the consumer shall not reduce the contract demand to lesser than 50% of the total sanctioned contract demand subject to a further condition that the contract demand shall not be reduced below the lowest limit of contract demand as per the tariff category (or any sub-category thereof) applicable to him;
- (b) that the consumer shall not be entitled to revise the contract demand more than twice a year subject to the condition that the time gap between two successive revisions shall not be less than 3 months;
- (c) that the consumer shall give a notice of at least one month to the licensee before revising the contract demand under this mechanism. Even though the consumer shall not be required to obtain any sanction from the licensee for change in contract demand under this mechanism, he, so as to avoid the disputes, shall ensure that the notice(s) for such revision are duly served by him upon the licensee through registered post or through courier service or is delivered by hand against signed receipt therefor;
- (d) that in cases where the contract demand is reduced under this mechanism, such reduced contract demand shall be applicable for billing purposes; and
- (e) that in cases where the consumer gets his contract demand reduced permanently, the limit under clause (a) shall be considered with respect to such reduced contract demand, but such reduction shall not be considered to have been made under this mechanism and the time gap of 3 months as per clause (b) shall be reckoned from the date from which the demand was last revised under this mechanism.

Illustration. - If a consumer who is having sanctioned contract demand of 10 MVA temporarily revises the contract demand to 6 MVA w.e.f. 01.08.2014 under this mechanism



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but gets his sanctioned contract demand permanently reduced to 8 MVA w.e.f. 01.09.2014, he shall have to pay charges based on 6 MVA contract demand till 31.10.2014 (i.e. till the expiry of 3 months period from the date at which the contract demand was last revised i.e. from 01.08.2014). However, if the contract demand is to be reduced permanently to lesser than 6 MVA (say 4 MVA as on 01.09.2014), the demand charges would have been based on a contract demand of 4 MVA during the period upto 31.10.2014.”

Un-Quote (B) Himachal Pradesh Electricity Supply Code (Second Amendment) Regulations, 2018 dated 31.07.2018- Quote 3. Amendment of para 3.10: - For the sign “;” occurring after clause (a) of para 3.10 of the said Code, the sign “:” shall be substituted and thereafter the following provisos shall be inserted, namely: - “Provided that the consumer shall not be eligible for temporary revision of contract demand to a value other than the full sanctioned contract demand for a total period of more than six months in one financial year: Provided further that in cases involving part period of a year e.g. if a consumer takes the connection, or the consumer gets his permanent sanctioned contract demand revised, during the middle of a year, the adjustments shall be made on pro-rata basis.

Note: The Distribution Licensee shall, immediately after the publication of the Himachal Pradesh Electricity Supply Code (Second Amendment) Regulations, 2018, in the Rajpatra, Himachal Pradesh, issue suitable detailed procedural instructions within the framework of the above provisions to its field units for the smooth implementation of aforesaid provisions w.e.f 01.04.2019.”

19. Un-Quote

On examination of the HP Supply Code, 2009, the Forum finds that the concept of Temporary Contract Demand was first introduced by way of first (1st) amendment to Supply Code vide HP Electricity Supply Code (First Amendment) Regulations, 2014, notified by the HP Electricity Regulatory Commission on 11.06.2014. Thus, it becomes evident that before the notification of this amendment, the Contract Demand and its revisions were of Permanent nature;

20. Before proceeding to determine the grievance raised by the Complainant, this Forum considers it pertinent to briefly delve into the working of the Contract Demand (in KVA/ or MVA)-

21. It is apparent that the Contract Demand is a provision of the Electricity Supply Code and the Tariff Orders. It is a Demand (in KVA/ or MVA) contracted by the consumer at the time of its original application for connection, which is also subjected to permissible revisions during the life of the connection, strictly in accordance with the provisions of the Supply Code, 2009. This Contract Demand is applied for, by the consumer and sanctioned by the licensee, inter-alia with the underlying purposes of determining the Standard Supply Voltages at the time of connection, for billing of the consumer etc. The original Contract Demand is of ‘Permanent’ nature and the subsequent revisions at the option of the consumer may be of ‘Permanent’ or of ‘Temporary’ nature which are also regulated in accordance with the provisions of the Supply Code. This Contract Demand (in KVA or MVA) serves as a reference vis-à-vis the actual maximum Demand (in KVA or MVA) recorded on the meter during the times of electricity consumption. When the Supply Code regulates the revision of Contract Demand (in kVA or MVA), the concerned



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consumer is expected to keep a strict vigil on its electricity consumption patterns by managing the peaks of its maximum Demands (in KVA or MVA), simultaneously also keeping a vigil and managing / revising its Contract Demand (in kVA or MVA) from time-to-time, so as to keep both in synchronization and consequently the optimization of its electricity bills;

22. The Supply Code First (1st) Amendment dated 11.06.2014, stipulated various conditions for Temporary revision of Contract Demand (in KVA or MVA) and these were first introduced here by insertion of Code '3.10 Temporary revision of contract demand'. This Code was later amended vide Supply Code amendment dated 31.07.2018, when certain Provisos were added to it. This First (1st) amendment, 2014 provided for permissible number of revisions in a year as two (2) with gap between successive revisions as three (3) months;
23. The subsequent amendment of Supply Code (ie Supply Code 2nd Amendment) notified on 31.07.2018 introduced certain 'Provisos' to Code 3.10. The Provisos specifically provided for total period of Temporary contract demand (in KVA or MVA) as six (6) months in a 'Financial Year'. This 2nd amendment came into force from 01.04.2019;
24. On further examination of the ibid Supply Code 2nd Amendment, the Forum finds that, in the said proviso / amendment to the ibid 'Temporary revision of contract demand', the word or expression 'financial year' is the key and is therefore of significance in context of the instant complaint. It is undisputed that the financial year starts from 01st of April and ends on 31st of March. Accordingly, it becomes clear from the said amendments that on 31st March of each financial year, the 'Temporary Contract Demand', as existing previously shall expire. From the 1st of April of the subsequent financial year, the Contract Demand would get reset to the Permanent Contract Demand (in KVA or MVA) unless subsequently a fresh Temporary Contract Demand is re-applied afresh by the consumer. It thus becomes the right of the Complainant to decide the period of six (6) months in a financial year when the Complainant would temporarily (Temporary Contract Demand) desire a revision in its Contract Demand (kVA or MVA);
25. Therefore, in our considered view, a consumer would be required to apply afresh for re-revision of his Temporary Contract Demand (in KVA or MVA) in any new financial year, else the previously existing Temporary Contract Demand (sanctioned or deemed sanctioned) shall automatically get dissolved and cease to remain effective and thus the last sanctioned Permanent Contract Demand (in KVA or MVA) shall automatically stand and become effective;
26. From the foregoing implications of express provisions of 'Code 3.10 Temporary revision of contract demand' (or Temporary Contract Demand) (in KVA or MVA) as prescribed in the Supply Code 2nd Amendment, 2018, this Forum holds and safely concludes that from 01.04.2019, i.e when the financial year starts or whenever any financial year starts, then any monetary demand (in Rs) raised by the Respondent HPSEBL based on a Temporary Contract Demand (in KVA or MVA) existing prior to 01.04.2019, can only be with regard to electricity consumption done prior to 01.04.2019. For electricity consumption occurring after 01.04.2019, such monetary demand (in Rs) shall necessarily have to be based on Temporary Contract Demand (in KVA or MVA), if such is applied or reapplied after 01.04.2019 by the consumer. In absence of such application or re-application, this monetary demand shall automatically get based upon Permanent



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- sanctioned Contract Demand which was last applied. This process shall follow for each / new financial year;
27. This Forum, in the facts and circumstances of the case, safely sums up that any Temporary Revision of Contract Demand (in kVA or MVA) that may have existed in the past before 01.04.2019 shall cease to remain effective beyond 01.04.2019. Therefore, the consumer shall have to apply afresh for a 'Temporary Contract Demand' beyond 01.04.2019 or after the start of any financial year thereafter, if he so requires and in absence of such revision or re-application, the only Contract Demand that automatically survives in accordance with the Supply Code 2nd Amendment is the 'Permanent Contract Demand' (in kVA or MVA) on the basis of which further billing can be done or any monetary demand can be raised by the distribution licensee. When concerned consumer does not apply afresh or does not revise his Contract Demand after 01.04.2019 or after the start of financial year, then any Temporary revision of Contract Demand or 'Temporary Contract Demand' (in KVA or MVA) existing before 01.04.2019 or in a previous financial year, such shall deem to get reset while sanctioned 'Permanent Contract Demand' (in KVA or MVA) shall stand from this date onwards, till such time a fresh application for Temporary revision of contract demand or 'Temporary Contract Demand' (in KVA or MVA) is received from consumer and/or sanctioned by the Respondent. This process shall follow for each financial year beyond 01.04.2019 and accordingly all matters of electricity billing shall be dealt vis-à-vis this 'Permanent Contract Demand' (in KVA or MVA) under such a condition;
28. Now coming to the instant complaint, it is observed by this Forum that the Complainant had temporarily revised its Contract Demand to 500 kVA (Temporary Contract Demand) in the financial year 2019-20 and thereafter, it had failed to revise or apply afresh for the 'Temporary Contract Demand' (in KVA or MVA) even after the start of the new financial year 2020-21. Consequently, the Respondent HPSEBL raised the impugned monetary demand to the Complainant vide Annexure C-3, Annexure C4 and Annexure C6 on account of Supply Code 2nd Amendment, 2018 for the complete financial year based on the Permanent Contract Demand as provided in the amended Supply Code 2nd Amendment. Therefore, the plea of the Complainant to this effect that the 2nd Amendment, 2018 allows benefit of Temporary Contract Demand of previous financial year for six (6) months in subsequent financial year, is wrong, far-fetched and not tenable in face of express provisions of the Supply Code 2nd Amendment ibid. The contention of the Complainant is out-rightly rejected by the Forum as being grossly misplaced and wrong;
29. In accordance with the Supply Code 2nd Amendment, the end of the financial year is signified by the date of 31st March of the year and this is not denied by the Complainant. On this end date the 'Temporary Contract Demand' as existing, shall deem to expire or cease to exist. Thus, from the start of the next financial year i.e 01st April, which is also not denied by the Complainant, the Complainant shall be expected to apply afresh for the Temporary Contract Demand (in KVA or MVA), if it so intends and desires. It is the choice of the Complainant to select the six (6) months of Temporary Contract Demand, either continuous or in the case of such being continual then its period and duration, in the respective financial year. In the instant complaint, the Complainant had failed to apply afresh for the 'Temporary Contract Demand' from 01.04.2020 onwards, i.e the start of



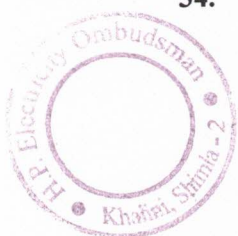
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- financial year 2020-21 and thus was liable to be billed on the basis of sanctioned Permanent Contract Demand from 01.04.2020 onwards;
30. Therefore, it can be safely concluded by the Forum, that it is Complainant's own fault of not re-applying for a fresh 'Temporary Contract Demand beyond 01.04.2020 ie after the start of the financial year. Because the Complainant failed to re-apply afresh for Temporary Contract Demand beyond 01.04.2020 or after the start of the financial year thus, any benefit of six months as is being argued by the Complainant, cannot and shall also not become available to the Complainant. Thus the argument of the Complainant is found to be grossly misplaced and wrong;
31. The Forum also finds the contention of Complainant as being argumentative that, had the Respondent raised bill for the month of April 2020 correctly on the basis of permanent contract demand, it would have taken corrective measures in time. It is a settled proposition that ignorance of law is no excuse. The fact is undisputed that change of law through amendments is done after following due process. The instant 2nd Amendment, 2018 to Supply Code has been effected by the HPERC after inviting public/ objections etc from all stake holders. The said amendments after enactment were notified and published in official gazette for the knowledge of public/stake holders at large. It is safely presumed and expected that all stake holders / public including the Complainant are well aware of the said amendment. In the instant matter it is Complainant's own fault of not reapplying for a fresh 'Temporary Contract Demand beyond 01.04.2020 ie after the start of the financial year. The contention and plea of the Complainant to this effect is patently wrong, misplaced, naive, flimsy and devoid of any substance and not tenable in facts and circumstances narrated above and is accordingly rejected;
32. The Forum finds that the Complainant has irrationally argued on untenable propositions and placed forth self-contradictory arguments that a six months period is allowed in a subsequent financial year by the Supply Code 2nd Amendment Regulations, 2018 notified on 31.07.2018, even without a fresh re-application on its part for the Temporary Contract Demand in the subsequent financial year;
33. On the anvil of foregoing discussions, this Forum also does not find force in the arguments of the Complainant that benefit of Temporary Contract Demand (in kVA or MVA) of previous financial year can be continued into the next financial year and that there is no necessity for re-applying for the new Temporary Contract Demand in the subsequent Financial Year. From the foregoing discussions and express provisions of the Regulations, it is amply clear that on 01st April of a financial year, ie. at the start of the new financial year, any Temporary Contract Demand of a previous year ceases to remain effective. The Complainant, if it had so desired, may have re-applied for a fresh Temporary Contract Demand in the subsequent financial year, which the Complainant failed to do. The absence of re-application for a fresh Temporary Contract Demand causes the Permanent sanctioned Contract Demand to become the basis for future billing of the Complainant by the Respondent, which has been done by the Respondent in accordance with the provisions of Supply Code 2nd Amendment. Thus, no fault is seen in the action of the Respondent to raise monetary demand in accordance with the Regulations / Code;
34. This Forum also observes that the Complainant has failed to set-up the legal basis of his arguments in the complaint. The Complainant has at the same time misconceived and mis-appreciated the ibid Supply Code 2nd Amendment notified on 31.07.2018 to wrongly



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- mean that it allows the benefit of six (6) of Temporary Contract Demand of a previous financial year to be continued in the subsequent financial year;
35. It is evident from the observations made here-in-above, that the instant grievance pertains to non-re-application /non-revision of Contract Demand (in kVA or MVA) on Temporary basis i.e Temporary Reduction of Contract Demand, after 01.04.2020 by the Complainant. This resulted in Permanent Contract Demand (in kVA or MVA) automatically becoming the basis for raising of impugned monetary demand by the Respondent HPSEBL in accordance with the amended provisions of the Regulations / Code notified on 31.07.2018, effective 01.04.2019 by the Ld HP Electricity Regulatory Commission (or the HPERC);
 36. Monetary demands based upon Statutes, Regulations/ Codes notified by the HPERC and on Tariff Orders passed by the Ld HPERC, cannot be held to be illegal. Thus, on this score alone the complaint deserves to be dismissed, being argumentative and without any legal basis, as it cannot be held that the Respondent wrongly applied the Regulations notified by the Ld HPERC;
 37. In view of the foregoing discussions, the Forum in unambiguous terms holds that the Complainant is not entitled to benefit of six (6) months as is being sought by it, for the sole reason that the Complainant had failed to re-apply for fresh Temporary Contract Demand ie revise it at the start of financial year 2020-21 or later as necessitated by the provision of Supply Code. The Forum does not find any illegality in the Demand Notice (Annexure C-3) nor in the Bills (Annexure C4 and Annexure C6) raised by the Respondent HPSEBL which this Forum finds as having been issued in terms of the amended provisions of the Supply Code, 2009 i.e Code 3.10 notified on 01.07.2018; On aforesaid terms, the Demand Notice (Annexure C-3) for Rs 1,35,000/= further included as sundry in Bill dated 03.04.2021 (Annexure C4) and impugned Sundry of Rs 2,70,000/= included in Bill dated 01.06.2022 (Annexure C6-P1) raised by the Respondent HPSEBL, are held by this Forum to be legal and in accordance with the Supply Code notified by the HP Electricity Regulatory Commission. Further, Annexure C6-P2 clearly depicts the difference of amount to be recovered from the Complainant, which includes Rs 1,35,000/= that was previously recovered by the Respondent and thus Forum also does not find any infirmity in the ibid sundry of Rs 2,70,000/= in Annexure C6-P1. The ibid monetary demands are accordingly upheld. The complaint is accordingly decided on merits and is disposed as dismissed. Parties are left to bear their own costs.
 38. Order is announced before the parties present today on 20.06.2023 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.

H-Analysis of the Complaint:

1. The case file bearing Complaint No.1421/1/23/04 and orders passed on dated 20.06.2003 by the Consumer Grievance Redressal Forum (CGRF) Kasumpti, Shimla-171009 have been requisitioned and gone through.
2. The submissions made by both the parties during arguments have also been incorporated in this order to have composite view of the entire case.
3. The documents on record, arguments made by both the parties have also been gone through.
4. The relevant Acts, Supply Codes, Manual of Instructions Part-1 and relevant supply conditions have been referred for the sake of clarity.



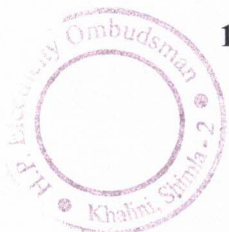
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5. The Complainant M/s Ind-Sphinx Precision Ltd, 1, Taksal Road, Kasauli Marg, Parwanoo, Himachal Pradesh 173220 bearing consumer ID 100012000667, is a Large Industrial Power Supply (LIPS – HT-Two Part) category consumer of the Respondent HPSEBL;
6. M/S Ind-Sphinx Precision Ltd. 1, Taksal Road, Kasauli Marg Parawanoo distt. Solan HP has filed an application under provisions of Regulation 28 of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 against the final Orders on dated 20/06/2023 passed by the Consumer Grievance Redressal Forum (CGRF) at Kasumpti in Complaint No. 1421/1/23/04, dated 31/01/2023 and was registered with this Appellate Forum on dated 22/07/2023.
7. The Complainant contends that in the year 2019, the Original or Permanent sanctioned Contract Demand of 450 kVA was increased to 600 Kva on permanent basis.
8. The Complainant also contends that on 10th October, 2019 they applied for temporary reduction of Contract Demand (Temporary Contract Demand) to 500 kVA which was affected in December 2019 and subsequently, the electricity billing of the Complainant, up to December, 2019 in the respective financial year, was done by the Respondent on the basis of the Permanent Contract Demand of 600 kVA. Thereafter, it was billed by the Respondent on the basis of the Temporary Contract Demand of 500 kVA up to March 2020.
9. It was further contended that the billing was done for the entire FY 2020-21 (Apr 2020 to Mar-2021) on the basis of 500KVA Contract Demand (temporarily reduced).
10. As per the record submitted by the Complainant, the Demand notice dt. 15.03.2021 was issued for Rs. 1,35,000/- by the Respondent Board towards arrears of demand charges on account of temporary reduction for the six-month period Oct, 2020 to March 2021 as per provisions added by second amendment in the Supply Code, 2009, allowing the relief for initial six months provided in Supply Code, 2009 and charged arrears for Rs. 1,35,000 in the bill issued in March, 2021 and which was also paid by the complainant to avoid disconnection.
11. The Complaint submits that demand was restored to sanctioned Contract Demand of 600 kVA for billing purposes w.e.f. Apr-2021 onwards.
12. The Complainant further emphasis that the Respondents changed their stand and ignoring the earlier recovered differential demand charges of Rs. 1,35,000 for the period Oct, 20 to March, 21, once again charged arrears for entire financial year 2020-21 for a period of 12 months and Rs. 2,70,000/- were charged on account of Sundry Charges in the bill for May-2022 which were in addition to the earlier charges of Rs. 1,35,000/- raised vide demand notice dt. 15.03.2021. These charges were also paid by the complainant as the same were charged in the bill and the load enhancement case was getting delayed because of non-payment of these charges.
13. The instant matter is regarding raising of monetary demand of Rs 1,35,000 /- by the Respondent HPSEBL to the Complainant vide Demand Notice dated 15.03.2021, further raised as sundry in Bill for month of April 2021 and another monetary demand of Rs 2,70,000 /- vide Bill for the month of June 2022, pursuant to HP Electricity Supply Code (Second Amendment) Regulations, 2018 which was notified on 31.07.2018 and which became effective from 01.04.2019 (herein-after referred to as Supply Code 2nd Amendment, 2018 or Supply Code 2nd Amendment).
14. After going through the said averments of the Complainant in details as well as contentions in depth, listening to the Arguments of both the parties, the letter dt. 27.10.2023 from Sr. Executive Engineer, Electrical Divn. Parwanoo, Reply of Respondents submitted before



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CGRF, Rejoinder of Complainant submitted before CGRF, opinion of CGRF in order dt.20.06.2003 and relevant clauses of supply code along with communique dt. 25.10.2018 of Chief Engineer (Commercial) Shimla on the Internal Procedural Instructions issued after the notification of the 2nd amendment of clause 3.10(a), this Appellate Forum conceives without any doubt that the Complainant has misconceived the essence of amended clause 3.10(a) of the supply code and could not fetch the exact contentions behind the 2nd amendment when read in conjunction with 1st amendment & the procedural instructions issued vide Chief Engineer (Comm.) letter dt.25.10.2018.

15. While analysing the main moto behind the 2nd amendment of clause 3.10(a), this Appellate Forum first focuses on the specific directions and for the sake of legitimate lending of the contentions arising on account of misinterpretation, reproduces the relevant clause of as under:

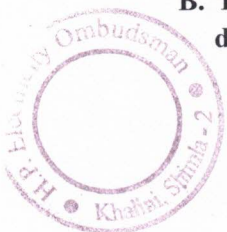
A. Himachal Pradesh Electricity Supply Code (First Amendment) Regulations, 2014 dated 11.06.2014 –

10. **Insertion of para 3.10.-** In the said Code, the following para 3.10 shall be inserted; namely: -

“3.10 Temporary revision of contract demand: - *The consumers to whom two-part tariff is applicable shall be entitled to revise their contract demand within the total sanctioned contract demand without surrendering their lien of the total sanctioned contract demand, subject to the following condition-*

- (a) *that the consumer shall not reduce the contract demand to lesser than 50% of the total sanctioned contract demand subject to a further condition that the contract demand shall not be reduced below the lowest limit of contract demand as per the tariff category (or any sub-category thereof) applicable to him;*
- (b) *that the consumer shall not be entitled to revise the contract demand more than twice a year subject to the condition that the time gap between two successive revisions shall not be less than 3 months;*
- (c) *that the consumer shall give a notice of at least one month to the licensee before revising the contract demand under this mechanism. Even though the consumer shall not be required to obtain any sanction from the licensee for change in contract demand under this mechanism, he, so as to avoid the disputes, shall ensure that the notice(s) for such revision are duly served by him upon the licensee through registered post or through courier service or is delivered by hand against signed receipt therefor;*
- (d) *that in cases where the contract demand is reduced under this mechanism, such reduced contract demand shall be applicable for billing purposes; and*
- (e) *that in cases where the consumer gets his contract demand reduced permanently, the limit under clause (a) shall be considered with respect to such reduced contract demand, but such reduction shall not be considered to have been made under this mechanism and the time gap of 3 months as per clause (b) shall be reckoned from the date from which the demand was last revised under this mechanism.*

B. Himachal Pradesh Electricity Supply Code (Second Amendment) Regulations, 2018 dated 31.07.2018 –



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clause 3.10. The following provisions under second amendment were inserted:

“Provided that the consumer shall not be eligible for temporary revision of contract demand to a value other than the full sanctioned contract demand for a total period of more than six months in one financial year:

Provided further that in cases involving part period of a year e.g. if a consumer takes the connection, or the consumer gets his permanent sanctioned contract demand revised, during the middle of a year, the adjustments shall be made on pro-rata basis.

C. Relevant to the instant case, Para 3 (c) of internal procedural instructions issued by the Chief Engineer (Comm.) on dt. 25.10.2018 after the notification of the 2nd amendment, is also reproduced as under:

3. After three months, consumer shall have following three options:

“3(c) In this case consumer shall have the option to continue with revised CD for a maximum period of 3 months i.e. 4th, 5th and 6th month. As per revised clause 3.10(a), if a consumer does not revise CD then after 6th month the billing shall be done on the basis of Original Sanctioned Contract Demand only.

In case consumer wishes to revise CD in 4th or 5th month he may do so but the said revision as per revised clause 3.10(a) shall be for two months in case CD is revised in 4th month and one-month in case revision is being done in 5th month, considering 1 month notice period for revision of CD. At the end of which billing shall be done on the basis of original Sanctioned Contract Demand only.”

16. In due cognizance to the clause 3.10 (a) Supply Code (First Amendment) Regulations, 2014 dated 11.06.2014, (Second Amendment) Regulations, 2018 dated 31.07.2018 read with procedural instruction 3(c) issued by Chief Engineer Commercial vide letter dt. 25.10.2018 after the notification of the 2nd amendment to be effective from 01.04.2019 onwards, this Appellate Forum on the contentions of the Complainant, delves as under:

- a. The Complainant submits that the complainant is eligible for billing based on temporary revision for six months in 2020-21 in continuity. The analysis on this contention reveals that the Complainant has misconstrued the true meaning of 2nd amendment which categorically envisages that the consumer shall not be eligible for temporary revision of Contract Demand to a value other than the full sanctioned contract demand for a total period of more than six months in one financial year. Here, the quote “total period of more than six months in one financial year” has the hidden meaning which is quite apparent when clause 3.10 of (Second Amendment) Regulations, 2018 dated 31.07.2018 read with clause 3.10 (b) of (First Amendment) Regulations, 2014 dated 11.06.2014, clearly provides that one cannot revise Contract Demand for a total period of more than six months in one financial year with revision twice a year subject to the condition that the time gap between two successive revisions shall not be less than 3 months.
- b. This analysis further infers contrary and misconceived contentions of the Complainant on eligibility of billing, based on temporary revision for six months in 2020-21 in continuity, that in case the Complainant avails revision only for the last four months of the preceding Financial Year as in the instant case, this will not



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make him eligible for availing benefit of remaining two months by spilling over to the next Financial year, as the (Second Amendment) Regulations, 2018 of clause 3.10 under any circumstances, restricts/confines benefit of revision specifically to the Financial Year in which such revision was resorted to. Hence, the averments made are not viable in the instant case.

- c. The Complainant's apprehension on the findings of Forum on wrong interpretation of the meaning of amended para 3.10 after the 2nd Amendment that there is no mention of filing fresh application each year in the said amendment, nor is it anywhere written in the amendment that it will be applicable to past revisions which were being continued, is again misconstrued by the Complainant as they are referring the respective amendments in isolation whereas, this Appellate Forum is of the considered opinion that if the clause 3.10 (a) Supply Code (First Amendment) Regulations, 2014 dated 11.06.2014, (Second Amendment) Regulations, 2018 dated 31.07.2018 and the procedural instruction 3(c) issued by Chief Engineer Commercial vide letter dt. 25.10.2018 after the notification of the 2nd amendment to be effective from 01.04.2019 onward are read in totality, clearly reveals that all revisions confine only to the preceding Financial Year and after the expiry of the option of months availed in that Financial Year if one intends to continue with the same revision or further revision, a fresh Application shall be entertained only if a few months remain balance out of six months in that Financial or otherwise, henceforth, the billing shall start with the original sanctioned Contract Demand as per provisions, unless the fresh application is submitted in the next Financial Year for availing any revision on Contract Demand intended to.
- d. After going through the procedural instruction No.3 imparted by CE (Comm.) vide above referred letter dt. 25.10.2018, it is clearly mentioned that after three months, consumer can exercise three options, where 3(c) is relevant in the instant case and transparently provides that the consumer has option to continue with revised CD for a maximum period of 3 months i.e. 4th, 5th and 6th month. As per revised clause 3.10(a), if a consumer does not revise CD then after 6th month the billing shall be done on the basis of Original Sanctioned Contract Demand only.
- e. In case consumer wishes to revise CD in 4th or 5th month he may do so but the said revision as per revised clause 3.10(a) shall be for two months in case CD is revised in 4th month and one-month in case revision is being done in 5th month, considering 1 month notice period for revision of CD. At the end of which billing shall be done on the basis of original Sanctioned Contract Demand only.
- f. After above analysis on these averments, it is amply clear without any doubt that these three months (option 4th, 5th and 6th month) are out of total six months of the option in respective Financial Years and does not allow to carryover to next Financial Year or continue in the same Financial Year once all six months get exhausted, even if months remain balance in that Financial year, as contended by the Complainant, rather automatically switches on to the sanctioned Contract demand as per 2nd amendment after expiry of the period of total six months in that Financial Year if not applied afresh.
- g. This Appellate Forum appreciates the detailed and concise analysis by CGRF on the interpretation of clause 3.10 of the 2nd amendment and the same may also be considered as a part and parcel of the findings.



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- h. This Appellate Forum after above analysis in an elaborate form also delved on the contentions of the Complainant in isolation and asserts that in consonance with above provisions, in the instant case the Complainant had option to avail revised Contract Demand only for four months i.e. December,2019 to March,2020 in FY2019-20, which he had availed. However, after the expiry of FY2019-20, the Complainant had an option to avail another revision of total six months in FY-2020-21 subject to submission of fresh application which could not be exercised by the Complainant due to misconception on interpretation of clause 3.10(a) in 2nd Amendment of the Supply code as well as procedural instruction issued by Chief Engineer Commercial vide letter dt. 25.10.2018. However, such misconceptions have no excuse, when all Amendments are issued by the Hon'ble Commission after taking the detailed views of the stake holders. This Appellate Forum agrees with the findings of CGRF on this account and may also be considered as part and parcel of the analysis of this Appellate Forum.
- i. After making detailed analysis on different averments and contentions on the conception of interpretation of clause 3.10(a) of 2nd Amendment, this Appellate Forum holds that second demand notice raised by the Respondent Board is in conformity with the relevant provision of said clause of supply code except for refund of an amount of Rs.1,35,000/- doubly raised, hence sustained in principle.
- j. This Appellate Forum after analysing the facts of the case directs that due cognizance warrants on each end whether Complainant or Respondents while interpretation of new amendments take their way for implementation as it has been observed that either of the parties did not bother to show their awareness for implementation of clause 3.10 (a) Supply Code (Second Amendment) Regulations, 2018 and the procedural instructions issued by Chief Engineer Commercial vide letter dt. 25.10.2018 on this account. However, within the ambit of misconceptions, the process of justice cannot be injured as such this Appellate Forum upholds the analysis made by CGRF and allows only the refund of Rs.1,35,000/- along with requisite interest in terms of Regulation 26a(2)(ii) (2nd Amendment) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, as a legitimate claim, doubly charged by the Respondent Board through Sundry Charges in the bill for the month of May-2022.
- k. This Appellate Forum is of the considered view that every case is governed under its own merits and statute and hence, explores issues as under.

I- Issues in Hand:

Issue No.1:

Whether the Complainant is eligible for billing based on temporary revision for six months in 2020-21 in continuity in the instant case?

Issue No.2:

Whether the temporary revised Contract Demand automatically switches on to the Sanctioned Contract Demand as per 2nd amendment after the expiry of the period of total six months in that Financial Year?



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Issue No.3:

Whether the Complainant has to submit fresh application after the expiry of each Financial Year.?

Issue No.4:

Whether the Demand notice raised by the Respondent Board are in consonance with clause 3.10 (a) of Supply Code (Second Amendment) Regulations, 2018 dated 31.07.2018?

J-Findings on the Issues:

Issue No.1:

1. The Complainant submits that the complainant is eligible for billing based on temporary revision for six months in 2020-21 in continuity, whereas contrary to the averments, clause 3.10(a) of (Second Amendment) Regulations, 2018 dated 31.07.2018 read with clause 3.10 (b) of (First Amendment) Regulations, 2014 dated 11.06.2014, clearly provides that one cannot revise Contract Demand for a total period of more than six months in one financial year with revision twice in a year subject to the condition that the time gap between two successive revisions shall not be less than 3 months.
2. This Appellate Forum while doing findings in consonance with the above provisions asserts that in case the Complainant avails revision only for the last four months of the preceding Financial Year as in the instant case, this will not make him eligible for availing benefit of remaining two months by spilling over to the next Financial year, as clause 3.10(a) of the (Second Amendment) Regulations, 2018 under any circumstances, restricts/confines benefit of revision specifically to that Financial Year in which such revision was sought unless he applies afresh.
3. This Appellate Forum while closing findings on this issue concludes that the Complainant has misconstrued the true meaning of 3.10(a) of the supply codes under 2nd amendment and could not fetch the exact contentions behind the 2nd amendment when read in conjunction with 1st amendment & the procedural instructions issued vide Chief Engineer (Comm.) letter dt.25.10.2018.

This closes the findings on Issue No.1

Issue No.2:

1. After giving findings on Issue-1, this Appellate Forum observed that in order to arrive at legitimate consensus in Issue-2, the procedural Instructions No. 3 imparted through letter dated 25.10.2018 by CE(Comm.) play vital role which without any doubt provides that after three months, consumer can exercise three options, where 3(c) is relevant in the instant case and transparently provides that the consumer has option to continue with revised CD for a maximum period of 3 months i.e. 4th, 5th and 6th month. As per revised clause 3.10(a), if a consumer does not revise CD then after 6th month the billing shall be done on the basis of Original Sanctioned Contract Demand only.
2. The term as mentioned above “if a consumer does not revise CD then after 6th month the billing shall be done on the basis of Original Sanctioned Contract Demand only.”, without any doubt clearly indicates that it is mandatory for the consumer to revise or afresh his



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requisition or otherwise henceforth, the Original Contract Demand shall automatically switch on for billing.

3. This Appellate Forum after going through these instructions , gathers opinion without any doubt that these three months (option 4th, 5th and 6th month) are out of total six months of the option in the respective Financial Years and does not allow to carryover to next Financial Year or continue in the same Financial Year, once all six month get exhausted, even if months remain balance in that Financial year , as contended by the Complainant in the instant case, rather automatically switches on to the sanctioned Contract demand as per 2nd amendment of the supply code read with instruction 3(c) of above mentioned CE(Comm.) letter dt.25.10.2018, after the expiry of the period of total six months in that Financial Year .
 This closes the findings on Issue No.2

Issue No.3:

1. While closing findings on Issue-1to2, this Appellate Forum feels nourished that if the provisions as per the clause 3.10 (a) of Supply Code (First Amendment) Regulations, 2014 dated 11.06.2014, (Second Amendment) Regulations, 2018 dated 31.07.2018 and the procedural instruction 3(c) issued by Chief Engineer Commercial vide letter dt. 25.10.2018 after the notification of the 2nd amendment to be effective from 01.04.2019 onward, are read in totality, clearly reveals that all revisions confine only to the preceding Financial Year and after the expiry of the option of months availed in that Financial Year if one intends to continue with the same revision or further revision , a fresh Application shall be entertained only if a few months remain balance out of six months in that Financial or otherwise, henceforth, the billing shall start with the original sanctioned Contract Demand in that Financial Year as per provisions. This clears the contention that fresh application is required.
2. After going through the said averments of the Complainant in details as well as contentions in depth, opinion of CGRF in order dt.20.06.2003 and relevant clauses of supply code along with letter dt. 25.10.2018 of Chief Engineer (Commercial) Shimla on the Internal Procedural Instructions issued after the notification of the 2nd amendment of clause 3.10(a), this Appellate Forum lands to the very clear consensus without any doubt that the Complainant has misconceived the essence of hidden meaning of clause 3.10(a) of the supply code both in 1st Amendment relevant operative part as well as 2nd Amendment and could not fetch the exact contentions behind the 2nd amendment when read in conjunction with 1st amendment & the procedural instructions issued vide Chief Engineer (Comm.) letter dt.25.10.2018 as the Complainant is referring all above provisions in isolation .
 This closes the findings on Issue-3.

Issue No.4:

After detailed analysis of the contentions, Arguments of both the parties and relevant provisions of Supply Code 2009, before amendment and after amendment, this Appellate Forum fetches considerable opinion that 1st Demand notice dt. 15.03.2021 is contrary to the 2nd Amendment of clause 3.10(a) of the supply code whereas 2nd Demand raised is in conformity with the spirit of 2nd Amendment of clause 3.10(a) of the supply code and are sustained in principle for the sake of monetary settlement of legitimate contentions of Complainant on doubly charged amount of Rs. 1,35000/-and directs both the parties to appreciate immediate implementation of any amendments thereof in the public interest.
 This closes the findings on Issue-4.



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K-Order:

1. The order passed by the Consumer Grievance Redressal Forum (CGRF) at Kasumpti Shimla on dated 20/06/2023 in Complaint No. 1421/1/23/04, dated 31/01/2023 is upheld.
2. The demand notice raised by the Respondent Board are sustained in principle.
3. The Respondent Board is directed to refund Rs. 1,35,000/- along with requisite interest as applicable in terms of Clause 5.7.3 of the Supply Code, 2009 read with Regulation 26a(2)(ii) and subsequent 2nd Amendment dt. 20.01.2022 of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 & 2022 respectively on account of doubly charged through Sundry Charges in the bill for the month of May-2022, if not refunded earlier.
4. The Respondent Board is at liberty to adjust the said amount through future energy bills of the Complainant.
5. Under the power drawn from the provisions of Regulation 37 (3)(d) (e) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, both Complainant and Respondent Board are directed to keep awareness for immediate implementation of the ensuing Amendments to be issued by the Hon'ble Commission to avoid litigations and violations in future thereof.
6. The Respondent Board is further directed to report compliance of the directions as stated above within a period of 30 days excluding holidays from the date of issuance of this order to avoid onus of Regulation 37(6) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013.
7. The parties are left to bear their own costs.
8. The Complaint filed by M/S Ind-Sphinx Precision Ltd. 1, Taksal Road, Kasauli Marg Parawanoo distt. Solan HP 173220 is hereby disposed of.

Given under my hand and seal of this office.

Dated: 05/12/2023

Shimla



[Signature]
05/12/2023
Electricity Ombudsman