



In the matter of:

Complaint No. 21/2025

M/s Classic Engineering Works, Plot No.104, Phase-III, Industrial Area, Sansarpur Terrace, Tehsil Jaswan, District Kangra (HP).

-Complainant

Vs

1. The Executive Director (Pers.), HPSEBL, Vidyut Bhawan, Shimla-171004.
2. The Sr. Executive Engineer, Elect. Div, HPSEBL, Dehra, Tehsil Dehra, District Kangra (HP)-177101.
3. The Assistant Engineer, M&T Sub-Division, HPSEBL, Banikhet, Teh. Dalhousie, Distt. Chamba (HP)-176304.
4. The Assistant Engineer, Electrical Sub-Division HPSEBL, Sansarpur Terrace, Tehsil Jaswal, District Kangra (H.P.)-176001

-Respondents

1. Complaint No. 21/2025 (Registered on 25/06/2025)
2. (Orders reserved on 24/07/2025, Issued on 31/07/2025)

Counsel for:

The Complainant: - Sh. Atharv Sharma, Advocate,

The Respondents: -Sh. Kamlesh Saklani, Under Sectt. Law

- Sh. Rajesh Kashyap, Advocate

- Er. Janak Raj, AE, ESD, Sansarpur Terrace.

- Er. Vipin Kumar, JE, ESD Sansarpur Terrace

QUORUM

Er. Deepak Uppal

HP Electricity Ombudsman





1. M/s Classic Engineering Works a partnership concern bearing Consumer ID 100011000226 is a Large Industrial Power Supply (LIPS) Consumer of Respondent HPSEBL running the business of charging batteries initially having connected load 320KW with Contract demand 320 KVA which was further enhanced from 320 kW/320kVA to 950 kW/832kVA and as per record the enhanced load was released on dt.31.07.2024.
2. The Complainant is initially aggrieved of demand notice dt. 25.05.2024 of Rs 29,41,028/- including Rs. 4,29,468/- on account of Contract Demand Violation Charges (CDVC) which stands built-in within the said demand, raised by the Respondent on application of new M.F (Multiplication Factor) of 3.33 against old M.F. of 1.66 which as per record further stands revised to the tune of Rs. **14,83,218/-** after accounting for the credits and raised through revised demand notice dt. 18.06.2025 in compliance to the order dt. 04.06.2025 of ld. CGRF.
3. The case was registered and received on 25/06/2025, filed under Regulation 28(1)(b), of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 against the final Order dated 04/06/2025 passed by the Consumer Grievance Redressal Forum at Kasumpti in Complaint No. 3157/202407/20. The case was listed for admission hearing on 07/07/2025. **In order to have in depth analysis, the specific contentions of the Complainant and the**



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findings {from para (26) to (50)} of Id. CGRF, in the said order dt.04/06/2025 are first reiterated as under.

4. The Complainant Contends:

- a. that on 3.8.2023, local office of the respondents where Appellant concern is situated, changed the CT/PT at their own, and respondents continued to issue bills to the Appellant concern as usual i.e. what we're being issued to the Appellant prior to 3.8.2023, i.e. the date of change of CT/PT meter and payments of all those bills as issued by the respondents with respect to Appellant's concern stand paid.
- b. that Instruction No. 26, dealing with difference or dispute over the accuracy of energy meter and overhauling of consumer accounts particularly 26.4 CT/PT meters is as under:
 - i. "26.4.1 In case of CT/PT meters where the accuracy of the meter is not involved and it is a case of incorrect connections, defective CTs/PTs, genuine calculations and mistakes etc, charges would be adjusted in favour of the HPSEBL/consumer as the case may be for the period the mistake/defect continued.
 - ii. 26.4.2 In case of replacement of either CT/PT or Meter due to any reason, the corresponding multiplication factor has not been changed and bills are issued on wrong multiplication factor, the revised bills will be issued for correct multiplication factor for the period from replacement of either meter or CT/PT to the date mistake has been noticed correct bill will be issued thereafter."
- c. that perusal of above two clauses would depict ; (a) charges are required to be adjusted in favour of HPSEBL/consumer, as the case may be, for the period of mistake and (b) in case of replacement of CT/PT meter due to any reason (emphasis laid), the corresponding multiplication factor if is not changed and bills are issued on wrong multiplication factor, revised bills can be issued for correct multiplication factor for the period of





replacement of either meter or CT/PT to the date mistake has been noticed, correct bill will be issued thereafter(emphasis laid).

- d. that respondents issued letter dated 25.5.2024, annexed as **Annexure P-1** and demand notice for Rs. 29,41,028/- on account of alleged billed/less billed amount with reasons of incorrect multiplying factor against electrical connection of the Appellant.
- e. that in the said letter it had been mentioned that the Assistant Engineer, M&T, Banikhet vide his letter dated 15.5.2024 informed that incorrect multiplying factor (MF) was being implemented which after inspection of the records, confirmed that CT/PT unit of the Appellant concern was replaced on 3.8.2023 and on replacement of the same, as per respondents, new MF of 3.33 was required to be applied, whereas while issuing bills, old MMF of 1.66 had been applied with effect from September, 2023 to May, 2024. Accordingly, demand is raised on account of assessment of the under billed/less billed bills annexed with letter dated 25.5.2024 as annexure 'A', along with, violation charges of Rs. 429468.
- f. that this Learned Forum may very kindly consider a few very-very important aspect of the matter in as much as that (a) as per respondents themselves, CT/PT is changed on 3.8.2023 by the local office of the respondents situated where the Appellant concern is professing its business, (b) with the change of CT/PT





meter, as per respondents multiplying factor is required to be changed; (c) in the case in hand from 1.66 to 3.33; (d) respondents continued to issue bills allegedly on the basis of multiplying factor of 1.66; (e) said aspect being not at all in the notice of the Appellant ; (f) bills as issued stand paid; (g) these aspects are not in dispute even as is clear from the perusal of letter dated 25.5.2024 annexure P-1 and (h) demand notice dated 25.5.2024 is being issued even as per respondents on account of the fact that earlier bills have been issued on the basis of multiplying factor of 1.66, but after change of CT/PT meter, the same ought to have been issued on multiplying factor 3.33.

- g. From above, it is crystal clear that there is no mistake of any kind whatsoever on the part of Appellant concern as, as per settled law, no one can be punished without any mistake on his/her part and respondents by issuing annexure P-1 are in the process to do injustice to the Appellant concern by raising a demand notice.
- h. that had Appellant been informed prior to 3.8.2023 with respect to change of the CT/PT meter, remedial measures as are required and as advised by the experts in the field ought to have been taken by the Appellant, in **as much as that by filing application for change of load.**
- i. and furthermore, in any eventuality, it is submitted that bills ought to have been paid as and when issued and now this whole





of the demand as made in lump sum, Appellant is finding it difficult to meet the said demand. Yet more penalty is imposed to the tune of Rs 4,29,268 for alleged load violation. Thus, the present Appeal.

- j. That the Appellant concern submitted case for enhancement of power load in November, 2023, with respect to which respondents issued letter dated 30.1.2024 which was duly replied, but respondents have failed to take final decision on the same and it was informed that file is in the department channels.
- k. that had said application been considered in time, having been filed in November, 2023, the position totally ought to have been different, but there is also is dereliction of duty cast upon respondents owing to which present situation has arisen for which now respondents are trying to put whole of the burden on the Appellant concern, thus, the present Appeal.
- l. That by giving above facts, an application dated 18.6.2024 came to be filed in the office of respondents which is got received on 19.6.2024 with further submission that to avoid any further violation on account of alleged non-payment, Appellant deposited a sum of Rs.12,66,903/- under protest vide NEFT as is stated in the letter dated 18.6.2024 supra. Copy of the letter dated 18.6.2024 is being annexed as **Annexure P-2**.
- m. That this NEFT payment got jumped and on receipt of information qua same again NEFT payment was made which again got jumped. So matter was taken up with respondents and





payment was made online but to the tune of Rs 12,53,683 as reflected in online portal.

- n. That thereafter appellant filed a Writ appeal in the Hon'ble High Court of Himachal Pradesh Shimla, which was disposed off with a direction to approach this Learned Forum.
- o. That the appellant filed complaint before the CGRF, Shimla registered as Complaint no 3157/202407/20. The complaint was decided and the demand dated 25.05.2024 which was impugned was upheld and direction to re compute and re determine the Contract Demand Violation Charges afresh was passed.
- p. That feeling aggrieved by and dissatisfied with the order dated 25.05.2024 and impugned order annexure P-5 dated 04.6.2025, the Appellant prefers the present appeal, being filed on the following amongst other grounds:
 - i. That the action of the respondents above stated contained in Annexure P-1 dated 25.5.2024 and Annexure P5 04.06.2025 viewed from whatever angle available, is highly illegal, unfair, unjust, harsh, oppressive and therefore, arbitrary and in turn un constitutional, thus untenable in the eyes of law and liable to be quashed and set aside for which humble Appellant respectfully prays for.
 - ii. That the impugned action of the respondents contained in dated 25.5.2024 and 04.06.2025 is contrary to the provisions of the electricity act, 2003 and regulations of



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march, 2021 and instructions issued particularly instruction No. 26, thus, the same is liable to be quashed and set aside.

- q. That the Appellant has not filed any other same and similar Appeal either in this Learned Forum or in any other court in India, including the apex court.
- r. That the said appeal may kindly be allowed and an appropriate direction may kindly be passed in favour of the present Appellant to the following effects:
- i. That the impugned order dated 25.5.2024 Annexure P-1 and Annexure P-3 dated 04.06.2025 may kindly be quashed and set aside with directions to the respondents not to recover demand as made in the said demand notice from the Appellant concern.
 - ii. That respondents may kindly be restrained from taking any penal action against the Appellant on the basis of demand notice dt. 25.05.2024 Annexure P-1 and Annexure P-3 dated 04.06.2025.
 - iii. That respondents may further kindly be restrained from charging any interest from the Appellant concern on the amount of demand notice.
 - iv. That the subsequent bills till the date of the order of the CGRF having been issued in consonance of demand notice annexure p1 may kindly be set aside along with withdrawal the penalty imposed to the tune of Rs. 4,29,468 and



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subsequent penalty on the new bills in the interest of law and justice completely without any redetermination afresh.

- v. To call for the entire records of the case.
- vi. Any other order or direction may kindly be passed in favour of the Appellant and against the respondent as this Learned Forum may deem fit and proper in view of the facts and circumstances stated herein this appeal.

5. CGRF Order No.3157/202407/20 dt. 04/07/2025:

ORDER

(26) Forum has examined the relevant provisions of the Electricity Act, 2003, various relevant Regulations and respective amendments framed and notified by the HP Electricity Regulatory Commission (or the HPERC) including relevant provisions of HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, 2012, HP Electricity Supply Code, 2009, Tariff Orders passed by the Ld HPERC, Respondent' HPSEBL's Sales Manual Instructions, Central Electricity Authority (Installation and Operation of meters) Regulations, 2006 and amendments thereto along with record as facts and pleadings of the parties. Forum has heard the parties at length. The considered opinion of the Forum has been gathered after considering fair facts, evidences and correspondence placed on record and arguments adduced by both the parties;

(27) Forum observes from record that impugned demand dated 25.05.2024 (Annexure P-1) for Rs 29,41,028/-has been raised by the





Respondent upon the Complainant towards short assessment of the metered consumption in Complainant's billing in the past from September 2023 to May 2024 (9 months). This short assessment by the Respondent arose due to the wrong application of multiplication factor (MF) of 1.66 instead of 3.33 to the Complainant's meter reading / consumption pursuant to replacement of its faulty current transformer / potential transformer (CT/PT) unit on 03.08.2024 which further resulted in its wrong billing. The fact of faulty CT/PT unit and the application of incorrect multiplication factor was pointed out by the Metering and Testing (M&T) Lab of the Respondent (Annexure RA-3 and Annexure RA-4);

(28) Briefly, it is Complainant's case that that despite CT/PT Unit having been replaced on its own by the Respondent and erroneous bills raised by Respondent without changing the MF from 1.66 to 3.33 and despite these erroneous bills having been paid, thus there is no mistake on Complainant's part and therefore it cannot be punished by the Respondent by issuing the impugned Demand Notice dated 25.05.2024 (Annexure P-1). The action of the Respondent to do so is against the principles of legitimate expectations;

(29) Further, it is Complainant's allegation that it had also submitted case for enhancement of power load in November 2023 against which final application is now being submitted and the same is still pending with the Respondent. Had it been informed in the start, it



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could have taken corrective measures with regard to Contract Demand Violation Charges (CDVC), and now it is finding it difficult to meet the said demand;

- (30) Forum observes and finds that Complainant in its submissions and arguments has relied upon Sales Manual Instruction No 26 of the Respondent distribution licensee;
- (31) Forum after examining the Sales Manual of the Respondent HPSEBL, finds that this is an internal document of the Respondent carrying therein instructions to the field units with regard to common operational procedures to be adopted by them. Therefore, when statute under the Electricity Act, 2003 has already been laid down and notified by the HP Electricity Commission and the Central Electricity Authority (CEA) by way of the HP Electricity Supply Code, 2009 and the CEA (Installation and Operation of meters) Regulations respectively, then this Sales Manual in the opinion of the Forum does not supersede the said prevailing statute and thus cannot help the Forum in determining the instant complaint, which has to be based upon the prevailing statute. Forum after placing reliance on the statute notified under the Act, proceeds to determine the instant complaint-
- (32) Forum further observes from examination of complaint that the Complainant has neither denied the consumption of electricity nor denied over-drawl of demand (kVA/MVA) done during the past



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period nor has it disputed the replacement of metering equipment (CT/PT) by the Respondent nor is there challenge to the consequential application of new multiplication factor (MF) of 3.33 by the Respondent as being wrong in any way nor has it disputed the accuracy of the impugned monetary demand dated 25.05.2024 (**Annexure P1 Colly with Annexure A**). The Complainant has also not shown as to how is the action of the Respondent against the statute or mala-fide in any way;

(33) The Complainant has simply contended that when it is the mistake of the Respondent to not apply the correct MF in the past or not sanction its enhancement of load in time, then the action of the Respondent to raise the impugned demand by application of new multiplication factor at a later stage and for charging contract demand violation charges (CDVC), is against the principles of legitimate expectations;

(34) On the other hand, the Respondent has defended its action to raise monetary demand for past period arrears arising from application of correct MF, by stating that it is its right to recover arrears amount in accordance with section 56 of the Act including the said CDVC in accordance with HPERC Tariff Orders while at the same time citing and relying on Judgement passed by the Hon'ble Apex Court in a similar matter of application of incorrect MF;



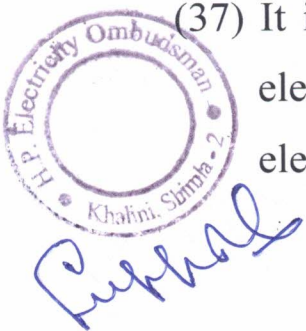
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(35) After examining the record, facts and settled position of law in the matter coupled with provisions of the Electricity Act, 2003 and Regulations and Code notified by the Ld HPERC and Tariff Orders passed by the Ld HPERC, it is established that in view of the settled position of law laid by the Hon'ble Apex Court in the matter titled as Assistant Engineer (D1) Ajmer Vidyut Vitaran Nigam Ltd and Anr Vs Rahamutullah Khan alias Rahamjula in Civil Appeal No 1672/2020 decided on 18.02.2020 and M/s Prem Cottex Vs Uttar Haryana Vijli Vitran Ltd in Civil Appeal No7235 of 2009 decided on October 5, 2021, which is also referred to by the Respondent, the issue of recovery of past dues of arrears by the DISCOM is no more res-integra;

(36) In the ibid Judgment of the Hon'ble Supreme Court dated 18.02.2020, which refers to other Judgments as well, electricity has been held to be 'goods' by a constitution bench of the Hon'ble Apex Court in a case titled State of Andhra Pradesh Vs National Thermal Power Corporation Ltd. Further, as also referred to in the Judgment ibid, under the Sale of Goods Act, 1930, a purchaser of goods is liable to pay for it at the time of purchase or consumption and that the quantum and time of payment may be ascertained post facto either by way of an agreement or the relevant statute;

(37) It is therefore clear from settled law that while the consumer uses electricity being a good, the distribution licensee charges for this electricity / good at the specified tariffs/ charges of electricity,





which in the State of Himachal Pradesh are determined by the Ld HP Electricity Regulatory Commission (HPERC) vide its Tariff Orders passed in pursuance to Regulations framed under the Electricity Act, 2003. Thereafter, these tariffs / charges are applied to the goods purchased which here is the electricity consumption done by a consumer and thereafter a Bill or monetary demand is raised to the consumer;

(38) Further, this Forum is of the considered opinion that the Respondent HPSEBL being a distribution licensee cannot recover any tariff / charges in excess of that specified by the Ld HPERC. These Tariff Orders lay out statutory charges. At the same time, it is also relevant in the context of the instant matter, that the Respondent HPSEBL being a distribution licensee, is bound to recover the cost / price of electricity consumed by a consumer. This accordingly has strictly to be as per tariffs /charges that are determined and specified by the Ld HPERC vide its Tariff Orders. Accordingly, the consumer is bound to pay for the electricity consumption at the determined tariffs / charges being of statutory nature. Any lapse, mistake or bona-fide error by the distribution licensee with regard to under recovery of actual tariff / cost / price of electricity, if not recovered from the respective consumer, who has availed the goods, may result either in permanent financial loss to the distribution licensee being a regulated public utility or with the burdening of this utility's loss upon other consumers. Both of these situations or eventualities





are bad and against mandated provisions of Tariff Regulations on the matter;

(39) Forum is also of the considered opinion that short recording or non-recording or incorrect recording of actual consumption by personnel or systems of distribution licensee / utility, results in loss to the distribution licensee / utility and a free ride to the consumer which cannot be allowed. Thus, Complainant is liable to make good any such loss to the Respondent and make payments towards the full metered consumption for the sole reason that electricity/energy to that extent has actually been consumed by the consumer. Here, the monies involved are not of individuals but of a regulated entity, being a Company. No one is entitled to adversely use the deficiencies in a system to their advantage, such as to cause loss in any way to the distribution licensee / utility. Not allowing such loss to be recovered likely results in malpractices and connivances which are detrimental to the system;

(40) In the matter, this Forum concludes that the Respondent HPSEBL did make a bona-fide mistake / error in the past by missing to raise statutory amounts in the original electricity bill arising out of less recording of consumption due to error or mistake of wrong application of multiplication factor (MF) of 1.66 instead of 3.33, which resulted in less consumption being billed to the Complainant in the past and which went unnoticed for some time. The Complainant has actually consumed electricity which is more than

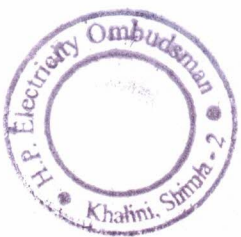


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that which was originally billed and this fact is not in dispute by the Complainant. From perusal of statute, Forum finds that the Respondent is certainly within its legal rights to replace defective metering equipment in accordance with the said CEA Metering Regulations and the Electricity Supply Code notified by the CEA and the HPERC respectively and further to recover the statutory charges towards the actual consumption made by the Complainant by raising monetary demand towards past arrears or dues of statutory nature, not raised earlier due to any mistake as has been held in Hon'ble Apex Court Judgment dated 18.02.2020 in Civil Appeal 1672/2020 while interpreting section 56(2) of the Electricity Act, 2003. However, onus would still lie on the Complainant to show that such arrears have been calculated wrongly;

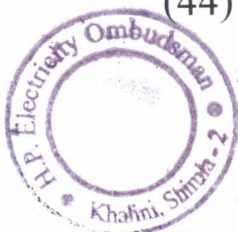
(41) Having gone through the instant case and having heard the matter by way of arguments extended by the parties, this Forum holds that there was mistake or bona-fide error by the Respondent HPSEBL in not applying the correct multiplication factor (MF) of 3.33 to the metered consumption of the Complainant during the past period. Multiplication factor (MF) is a condition of metering / meter reading. Non-application of correct MF has caused error in recorded consumption resulting in the Complainant being billed in the past for less electricity consumed as against its actual electricity consumption. This eventually resulted in arising of past arrears / dues recoverable from the Complainant;



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- (42) Forum, on the anvil of *ibid* interpretation rendered by the Hon'ble Apex Court, holds that the Complainant as the purchaser of goods of the form of electricity consumed in the past, was liable to pay for it at the time of purchase or consumption in accordance with the prevailing statute. The Respondent in the past had erred in not fully charging for this electricity / good at the specified tariffs/ charges of electricity. However, on this error being later noticed and pointed by the M&T lab on 16.05.2024 (**Annexure RA-4**), the Respondent raised the impugned demand upon the Complainant only for the shortfall in electricity consumption which remained unrecorded in the past. Forum holds that the Complainant is liable to pay the same.
- (43) Forum further holds that by charging for the actual electricity consumption made by the Complainant based on correct MF and at Ld HPERC determined Tariffs, it cannot be said that the Complainant is being punished. The Respondent is liable to recover *ex post facto* for the shortfall of statutory charge not billed earlier, which the Complainant is liable to pay towards the consumption of goods done by it, if not paid earlier and accordingly the Forum does not find any violation of principles of legitimate expectation in the matter;
- (44) Further, in Reply by the Respondent Forum finds mention of applicability of section 126 of the Electricity Act, 2003 to the drawl of demand by the Complainant in excess of the Contract Demand. Here, Forum does not observe that the Respondent has any-where



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raised objection with regard to complaint having wrongly been filed before this Forum nor raised the issue of maintainability on grounds of ibid section 126. Further, Forum no-where finds, neither in the Electricity Act, 2003 nor in the Supply Code that the Contract Demand violation results in unauthorised use of electricity or assessment there-against. Thus for the Respondent to even state application of section 126 in the present matter, Forum holds such to be wrong and out rightly rejects the same;

(45) Further, on Complainant's allegation of submission of case for enhancement of power load in November 2023 by it which is still pending with the Respondent, Forum finds such allegation not to be relevant in the facts and circumstances of the instant matter and accordingly rejects the same;

(46) It is observed from the complaint that the Complainant has paid some amount towards the impugned demand dated 25.05.2024 (**Annexure P1**) for Rs 29,41,028/-. Thus no question of considering payment in instalments, as prayed by the Complainant, exists at this stage;

(47) Now coming to the Complainant's contention with regard to Contract Demand Violation Charges (CDVC), that had it been informed in the start, it could have taken corrective measures. Forum from examination of Annexure A to impugned Demand dated 25.05.2024 (**Annexure P1**) observes that before the issue of



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wrong application of MF arose in the instant matter, the Complainant was not in violation of contract demand which has been linked to a higher tariff in the Tariff Orders passed by the Ld HPERC and which is apparent from the said Annexure A. However, when the bona-fide error was noticed or discovered by the Respondent and correct MF applied to the consumption of the Complainant, then by virtue of computation, Complainant's Maximum Demand (in kVA) by default resulted in Contract Demand (in kVA) of 320 kVA being exceeded, further resulting in the Contract Demand violation. From perusal of Tariff Orders passed by the Ld HPERC, Forum finds that this CDVC is linked to a higher special tariff. Forum understands and to an extent agrees that the Complainant within its ignorance of the condition of wrong application of MF, was never in any position to see the violation and accordingly to take corrective action either of managing its actual Maximum Demand or for enhancement of its Contract Demand;

(48) Complainant has no-where denied that it was not consuming electricity. Forum is aware that consumption of electricity results in demand (in kVA). For demand not exceeding contract demand, Forum is also aware that the Complainant is charged normal demand charges (Rs) at the rates specified by the Ld HPERC. However, when Complainant is not at fault while there is a bona-fide error on the part of the Respondent, Forum holds that Complainant cannot be



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held to be at fault or in violation under the typical circumstances confronted by the Complainant. Here equitable treatment necessitates that when the Complainant is not at fault while there is a bona-fide error on the part of the Respondent, then for the months for which the CDVC has been raised by the Respondent at a higher rate on the part of demand (in kVA) in excess of the Contract Demand (in kVA), then the Complainant is certainly entitled to relief under the presumption that there is no violation. However, as prayed by the Complainant, Forum cannot accept complete waiver of the CDVC. Under the facts and circumstances of the instant matter, Forum further holds that the Complainant's part of demand (in kVA) in excess of the Contract Demand (in kVA) has also to now be charged at normal rates of demand charges (Rs/kVA) and CDVC to be revised accordingly;

(49) In view of foregoing, no illegality is observed in the impugned demand dated 25.05.2024 (**Annexure P1**) for Rs 29,41,028/-. This impugned demand being a legal one is upheld to the extent as aforesaid. In the first instance, Complainant is directed that it shall within a period of 10 days from this Order, pay in full the impugned demand after deducting the monies already paid against this Demand;

(50) Further, in view of reasons laid out and consequent relief granted by the Forum in paras supra, the Respondent against the CDVC charged for the months of February 2024 to May 2024 (as reflected

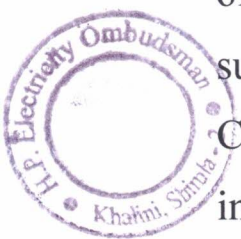


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in Annexure A of Annexure 1), is subsequently directed to re-compute the demand charges for the demand (in kVA) in excess of the Contract Demand (in kVA) also at normal rates of Demand Charges. Forum observes that this amount reflected in said Annexure A towards the CDVC is Rs 4,29,468/- which shall now be required to be determined afresh at normal rates by the Respondent. Thereafter, Respondent is directed that any excess recovered by it on account of CDVC as a result, be refunded in the next electricity bill to be raised upon the Complainant.

6. Case called, the matter was heard for admissions on 07/07/2025. The Id. Counsel for complainant submitted the proof of having deposited 50% of the disputed amount with the Respondents which was also confirmed by the Id. Counsel for Respondents.
7. The complainant had also filed an Application under Regulation 36(1) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 for restraining the Respondent Board from disconnecting the electricity supply during the pendency of the complaint. The prayer granted, after listening to both the parties during admission hearing.
8. After listening to both the parties, the matter was admitted to the extent of initiation of proceedings with directions to Respondent Board to submit reply on or before 19.07.2025 with a copy of reply to the Complainant and Rejoinder if any, to be submitted by the Complainant immediately thereafter the submission of the reply by the Respondent



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Board. Accordingly, the case was listed for final argument on 24/07/2025 subject to the submission of above documents.

9. Case called, the matter was heard on 24/07/2025. The Respondent Board submitted reply on 23.07.2025 and subsequent rejoinder by the Complainant in the court room on dt. 24.07.2025 which was taken on record. **Let us first have a glance on the reply submitted by the Respondents and Rejoinder submitted by the Complainant.**

10. The Respondent Contends:

- a. That no Legal or Vested right whatsoever of the complainant has been infringed or violated by the replying respondents in any way or any manner, so as to entitle the complainant to raise any grievance(s) against the replying Respondents, moreover in the present complaint, the complainant has concealed the material facts from this Hon'ble Forum, hence, not maintainable and deserves dismissal.
- b. That the Ld. CGRF, after thorough examination of facts, documents, statutory provisions under the Electricity Act, 2003, the HPERC Supply Code, HPERC Tariff Orders, and applicable judgments of the Hon'ble Apex Court, rightly held that the **impugned** demand notice dated 25.05.2024 for ₹29,41,028/- is legal (Annexure-P1), valid and sustainable and accordingly upheld the same, while granting limited relief on equitable grounds with respect to the Contract Demand Violation Charges (CDVC). In compliance with the said directions of the Ld. LD. CGRF, the Respondent has duly issued a revised demand notice dated





18.06.2025 (Annexure P5), thereby ensuring full and proper compliance with the order of the Hon'ble Forum.

That it is an admitted fact that the Complainant was billed using an **incorrect Multiplying Factor (MF) of 1.66** from **September 2023 to May 2024**, despite the replacement of the CT/PT unit on 03.08.2023 which warranted application of the correct MF of **3.33**. This resulted in underbilling/short assessment. The short-billed amount was subsequently **assessed and Demand notice (Annexure-P1) was issued under Section 56 of the Electricity Act, 2003.**

- c. That the Ld.LD. CGRF **correctly relied upon binding judgments** of the Hon'ble Supreme Court including but not limited to: *M/s Prem Cottex vs. Uttar Haryana Bijli Vitran Nigam Ltd., Civil Complaint No. 7235 of 2009*, and *Assistant Engineer (D1) Ajmer Vidyut Vitran Nigam Ltd. vs. Rahamatullah Khan, Civil Complaint No. 1672 of 2020*, to uphold the **right of the licensee to recover past arrears**, even where the error is bonafide and discovered subsequently, provided that the consumer has actually consumed the energy.
- d. That the LD. CGRF rightly held that **electricity is a "good" under law**, and as such, **the consumer is liable to pay for the actual quantity of energy consumed**, regardless of whether the under-billing was due to a bonafide clerical or technical error of the licensee.



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- e. That it is further submitted that the LD. CGRF, while upholding the demand, has **already extended equitable relief** to the Complainant by directing HPSEBL to **re-compute CDVC at normal demand charges** instead of penal rates for the period February 2024 to May 2024. This clearly demonstrates that the Ld. Forum exercised discretion judiciously, balancing both law and equity.
- f. That the Complainant's contention regarding the doctrine of "legitimate expectation" has been duly considered and rejected by the Ld. CGRF, noting that billing based on actual consumption cannot be equated with punishment or violation of expectation, especially when the shortfall is due to consumption which is undisputed and verifiable.
- g. That no procedural lapse, illegality, or perversity has been shown by the Complainant in the LD. CGRF order, which is **reasoned, detailed, and based on settled legal principles**. Mere dissatisfaction of the Complainant with the decision does not make it erroneous or liable to be interfered with as per law.
- h. That, it is submitted with the utmost respect that in past competent Authority has sanctioned 320 kW load with 320 kVA contract demand in favour Complainant for HT electrical connection of LIPS category bearing consumer ID 100011000226 and Trivector Energy Meter bearing Sr.No. 12383108 was installed to measure consumption.
- i. That the Complainant intended to enhance its connected load from **320 kW to 950 kW** and the contract demand from **320 kVA to 832**



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kVA. Accordingly, a **Power Availability Certificate (PAC)** was issued in favour of the Complainant on **26.03.2024**.

j. That thereafter, the Complainant submitted the **final application for load enhancement** on **01.07.2024 through online mode**, after completion of works required for the release of the enhanced load. The **sanction for the enhanced load** was granted on **06.07.2024**, and the load was **finally released on 31.07.2024** upon receipt of payment and completion of all work required to release load & **codal formalities**. The copies of all the aforementioned Annexures dated 26.03.2024, 01.07.2024, 06.07.2024 & 31.07.2024 are annexed herewith as **Annexure RA-1 (Colly)** for the kind **perusal of the Hon'ble Ombudsman**.

k. That, it is further submitted that Respondent No. 4 replaced the 25/5 Amp. CT/PT unit with a new 50/5 Amp. CT/PT unit on 03.08.2023, in accordance with Sundry Jobs Order No. 5 dated 12.06.2023. This action was undertaken in compliance with the report of the Assistant Engineer, M&T Sub-Division, HPSEBL, Banikhet, wherein the test results at Sr. No. 12 of the report dated 07.06.2023 clearly indicated that the R-phase PT of the existing CT/PT unit was beyond permissible limits and required immediate replacement.

l. that the replacement of the CT/PT unit was carried out in the presence of a representative of the applicant's firm, namely Shri Baldev Singh, whose acknowledgment and signature were duly obtained on the Sundry Jobs Order dated 12.06. 2023. Furthermore,





copies of both the M&T reports dated 07.06.2023 and the Sundry Jobs Order dated 12.06.2023 were also duly forwarded to the complainant for their record and reference. Copies of the aforementioned Annexures dated 12.06.2023, & 07.06.2023 are annexed herewith as **Annexure RA-2 (Colly)** for the kind perusal of the Hon'ble Ombudsman.

- m. That it is further submitted that the replacement of the CT/PT unit resulted in a new Multiplying Factor (MF) of 3.33. However, this new MF was not updated in the billing system, leading to the issuance of bills from 09/2023 to 05/2024 using the old MF of 1.66 instead of 3.33. This oversight resulted in a short assessment of the energy consumed.
- n. that the issue of wrong Multiplying Factor was again identified and reported by the Assistant Engineer, M&T Sub-Division, HPSEBL, Banikhet on 16.05.2024 (**Annexure RA-3**). Subsequently, the correct MF of 3.33 was implemented in the billing system by Respondent No. 4, and the complainant's accounts were overhauled/ adjusted for the under-billed period. An assessment of **Rs. 29,41,028/-** was made based on the actual energy consumption for the corresponding short/under billed period of 09 months (from bills issued between 09/2023 to 05/2024) by applying the correct MF of 3.33.
- o. that additionally, two reminders regarding the demand notice were issued by Respondent No. 4 to the complainant on **20.06.2024** and **01.07.2024 (Annexure RA-4 colly)** in the matter. Despite receipt of



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these communications, the complainant neither expressed any intention to make payment of the assessed dues nor approached the Respondent-4 to seek any available remedial measures, including the option of payment through instalments as per prevailing HPSEBL policies and regulatory provisions.

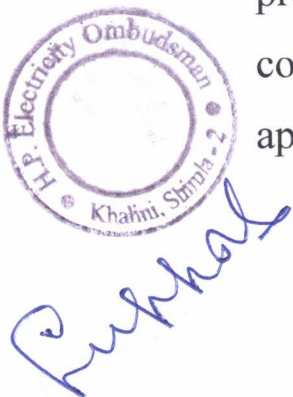
- p. That it is further submitted that Tri-vector meters are capable of recording parameters relevant to a two-part tariff, including the actual Maximum Demand. Demand charges are levied based on the higher value between the actual maximum recorded demands within any 30-minute interval in a month or 85% of the contract demand, up to the ceiling of the contract demand. Contract Demand Violation Charges (CDVC) applies if this ceiling is exceeded, as per the approved tariff of HPERC.
- q. That it is further added that the MRI record (**Annexure RA-5**) of the complainant's energy meter clearly indicates that the complainant began consistently drawing demand in excess of the sanctioned contract demand of 320 kVA from the month of January 2024 consumption. This establishes that the complainant had connected and was utilizing/drawing additional load/demand beyond the sanctioned 320 kW without obtaining prior approval or load sanctioning from the competent authority.
- r. That however, due to the application of an incorrect Multiplying Factor (MF), this contract demand violation did not reflect in the energy bills issued from February 2024 to May 2024. It was only after the correction of the MF to the accurate value of 3.33 that the





subsequent bills issued prior to the approval of the enhanced load correctly recorded and reflected the contract demand violation.

- s. Further, Such act of utilizing/drawing additional load or demand beyond the sanctioned limit before obtaining prior approval or load sanctioning is not only in violation of Regulation 45(6) of the Central Electricity Authority (Measures Relating to Safety and Electric Supply) Regulations, 2023, but also constitutes unauthorized use of electricity as defined under Section 126 of the Electricity Act, 2003, and consumer is liable to pay electricity charges at a rate equal to twice the tariff applicable for the relevant service category. These charges will continue to be levied until the unauthorized usage is rectified as per the Insertion made of para 6.1.1 Himachal Pradesh Electricity Supply Code (First Amendment) Regulations, 2014.
- t. that the complainant was duly made aware in advance regarding the consequences of exceeding the sanctioned load. When the complainant initially expressed its intention to seek load extension vide its letter dated **03.10.2023**, the Respondent-Board, through its **reply** letter No. HPSEBL/STSD/CS-19/2023-24-3021-23 dated **06.10.2023**, clearly informed the complainant of the applicable procedures and regulatory requirements, including the consequences of unauthorized overdrawn of demand without prior approval/sanctioned. The Copies of the aforementioned Annexures





dated 03.10.2023, & 06.10.2023 are annexed herewith as **Annexure RA-7 (Colly)** for the kind perusal of the Hon'ble Ombudsman.

- u. That, it is further submitted that according to Clause No. 3.2 of the HPSEBL Supply Code 2009 as amended time to time when the contract demand for a new or additional load exceeds 100 kVA, the consumer is required to obtain a Power Availability Certificate (PAC). After the PAC is granted. Complainant has to submit an **“application”** to supply electricity to the premises within the validity period of the PAC, which is typically three years or a shorter period as mutually agreed upon. The Complainant must also complete all formalities required for the sanctioning of the load.
- v. that PAC is a feasibility clearance certificate that confirms the board's capacity/readiness to supply the requested load. However, it does not entitle the Complainant to use the load immediately upon the issuance of the PAC. The Complainant must complete the necessary work to facilitate the release of the connection/load and all required formalities and obtain approval from the competent authority before applying sanction of load after issuance of PAC in accordance with Instruction No. 5.7 and 6.1 of HPSEBL Sales Manual (revised upto 01.01.2017). The copies of the extract of both instructions are annexed herewith as **Annexure RA-8 (Colly) for the kind perusal of the Hon'ble Ombudsman**. It is further submitted that post grant of PAC, it was incumbent upon the consumer to complete the requisite works based on its own requirements, such as augmentation of the CT/PT unit and

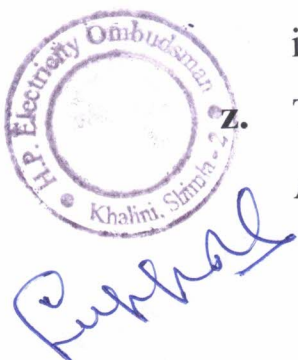


Perusal



transformer capacity. In this case, the consumer opted for self-execution, and transformer was procured by the consumer on dated **27.06.2024** and got approval from Chief Electrical Inspector on dated **20.06.2024 & 05.08.2024 (Annexure RA-9 colly)** in the case.

- w. That in this case, the MRI records of the complainant's energy meter clearly indicate that the complainant began overdrawing the contract demand well before obtaining approval for the new or extended load/contract demand from the competent authority.
- x. That the replying respondents, has the right to recover the short-billed/short-assessed amount, including the Contract Demand Violation Charge (CDVC), which arose due to the incorrect Multiplying Factor. This position is supported by a similar matter that was settled by the Hon'ble Supreme Court of India in the case of **M/s Prem Cottex vs. Uttar Haryana Bijli Vitran Nigam Ltd. & others**, as per Civil Complaint No. 7235 of 2009, decided on **October 5, 2021** in the case.
- y. That it is most humbly prayed that the complaint may be dismissed with costs and that the complainant be **directed to deposit the assessed amount along with applicable surcharge or interest, CDVC**, in accordance with the relevant provisions of the Electricity Act, 2003 and HPERC Tariff Orders as such the present complaint is devoid of merits and liable to be dismissed.
- z. That the term "**application**" under Section 43 of the Electricity Act, 2003 (as amended in 2007) has been clearly defined to mean





“the application complete in all respects in the appropriate form, as required by the distribution licensee, along with documents showing payment of necessary charges and other compliances.”

- aa. Further submitted that, the duty to supply electricity under Section 43 of the Electricity Act, 2003 is not absolute, but rather conditional upon the consumer fulfilling all procedural and financial obligations. This principle has also been affirmed by the Hon'ble Supreme Court in *K.C. Ninan v. Kerala State Electricity Board & Ors.*, Civil complaint No. 2109 to 2110 of 2004 decided on May 19, 2023, wherein it was held that the obligation to supply electricity is subject to charges and compliance requirements laid down by the distribution licensee.
- bb. The complainant was duly informed of the applicable regulatory procedure well in advance through letter dated 06.10.2023(**Annexure RA-7 colly**), issued in response to its initial request for load enhancement. The said communication also clearly stated that HPSEBL shall not be held responsible for any delay in extending supply, including delays arising from the consumer's obligation to obtain approval from the Chief Electrical Inspector for High Tension or Extra High-Tension installations, or for any other reasons beyond the reasonable control of the distribution licensee.
- cc. Accordingly, the complainant **cannot now claim ignorance of the applicable procedure** or allege that the Respondents failed to inform it of the necessary steps required for processing and releasing the enhanced load. All actions taken by HPSEBL were in





full compliance with the prescribed regulatory framework, and the onus to comply with the procedural requirements rested solely with the consumer. The Respondents have acted strictly in accordance with the applicable statutory and regulatory framework, and there is no lapse or delay attributable to the Respondents in processing or releasing the enhanced load in the complainant's case.

- dd. That in the complainant's own letter/representation dated **18.06.2024**, the complainant expressly admitted to having obtained the **Power Availability Certificate (PAC)** and stated that the **final application for load enhancement would be submitted within a day or two**. Respondent 4 vide letter dated **24.06.2024** in reply has also confirm that final application of Load enhancement was still awaited at that time. Copies of the aforementioned letter dated 18.06.2024, 24.06.2024 are annexed herewith as **Annexure RA-10 (Colly)** for the kind perusal of the Hon'ble Ombudsman.
- ee. That the Complainant submitted the **final application for load enhancement on 01.07.2024**, after completion of works required for the release of the enhanced load. The **sanction for the enhanced load** was granted on **06.07.2024**, and the load was **finally released on 31.07.2024 (Annexure RA-1colly)**. Before **31.07.2024** the **sanctioned contract demand of complainant remained 320 kVA**, and therefore, any drawl of demand in excess of the sanctioned limit was **liable for Contract Demand Violation Charges (CDVC)** in accordance with the **approved Tariff Orders of HPERC and applicable regulations**.



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- ff. That the complainant had been drawing demand in excess of the sanctioned limit prior to the approval and release of the enhanced load. Such unauthorized drawl is **liable for Contract Demand Violation Charges (CDVC)** and same had intimated to the complainant by respondent 4 vide Notice dated 20.06.2024 (**Annexure RA-11**) when contract demand violation noticed first time after correction of MF as 3.33 in energy bill issued during 06/2024. It is further submitted that when the bills dated 06-06-2024, 11-07-2024 and 06-08-2024 had been issued, the complainant was full aware about the multiplying factor of 3.33 in the case, hence the complainant intentionally violated the same.
- gg. that, in view of the detailed submissions made hereinabove, the instant representation filed despite the complainant being fully informed of the applicable procedures, legal obligations, and regulatory framework—may kindly be dismissed as devoid of merit.
- hh. That the complainant, having knowingly violated the applicable laws and regulations, deliberately withheld payment of a legally assessed demand, and unnecessarily initiated litigation, should be directed to pay the full outstanding amount of ₹29,41,028/- along with applicable interest/surcharge and penalties to the Respondents, in accordance with the provisions of the Electricity Act, 2003, HPERC Tariff Orders, and other relevant rules and regulations.



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11. The Complainant's Additional Submissions through Rejoinder:

- a. that as the violation was not deliberate neither fault can be attributed to the Consumer hence just because electricity has been utilized, ordered to pay the amount but waived off CDVC charges.
- b. that Multiplying Factor has been changed as the CT/PT meter was changed. It is submitted that the CT/PT meter was changed but that was done behind the back of the consumer and if the consumer would have been made aware about the Change in CT/PT meter then remedial measures would have been taken by the consumer.
- c. Ld. CGRF did not attribute the mistake to the consumer. Hence, it is humbly submitted that even if the electricity stands used that too on the lapse on part of the department, the consumer cannot be held liable for that mistake.
- d. Moreover, the error committed by the department is not bonafide as firstly intimation that CT/PT shall be changed was not given only an opinion was given that it may be changed. Secondly, after the meter was changed again no intimation and only it was found out on 16.05.2024 that wrong multiplying factor has been used. Therefore, the said factor if was to be applied was to be only after 16.05.2024, whereas the demand notice was issued for 09/2023 to 05/2024, being un-sustainable in law, hence was to be set aside.
- e. that the replying respondent cannot be allowed to take contradictory pleas as on one hand it has been accepted that a well-reasoned order has been passed but on the other hand the



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replying respondent is asking that the entire amount is to be paid for which no complaint or appeal has been filed by the department. Thus, the stand being taken is not tenable in the eyes of law.

- f. that defamatory pleas are being taken in reply that the complainant is avoiding his legal liability. It is submitted that the respondents cannot be allowed to take such stand as the complainant before the filing of the complaint also deposited amount under protest, moreover, the complainant is exercising his legal right which has been hampered by the respondent department.
- g. that as the contract demand violation charges have been waived therefore it was not appropriate on the part of respondents to again impose CDVC for the months when the case was pending before the Ld. CGRF, this issue has not even been addressed by the department. The said bills have been annexed as AnnexureP4 with the present appeal. It is pertinent to mention that in para 15 complete facts have not been given as the application for enhancement of load was given well within time after the issuance of PAC and was duly received. The respondents should be penalised for keeping the documents away from the court and also not giving true picture. If is required the said document will be produced at the time of arguments.
- h. That the letter dated 12.06.2023 is being relied by the replying respondent that the meter was changed and all the information was given to the firm as signature of One Sh. Baldev Singh was



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obtained. It is submitted that no person named Baldev Singh is the partner of the firm and such signature on any person as per the department's whim will not go to prove that the intimation was sent to the present complainant. Hence undue advantage is being taken by the department which is not permissible under law and such like pleas cannot withhold the test of Judicial Scrutiny. It has been admitted by the replying respondents vide para 18 and Annexure RA3 that the mistake on the part of the respondent was noticed on 16.05.2024, hence when the replying respondent itself has committed an error, which as per them is bonafide then the complainant can also not be held liable for use of electricity. It is pertinent to mention again that the CDVC also arose only after the change in multiplying factor. Therefore, the complainant cannot be held liable for the lapse on the part of the department. Furthermore, the question of reminders being issued dated 20.06.2024 and 1.07.2024 will not arise as reminder is only issued when first proper intimation is given, which is lacking in the present case hence said stand by the replying respondents is misconceived.

- i. that firstly the PAC was issued to the Consumer on 30.1.2024, thereafter, on 28.03.2024 A&A form was also submitted which was duly received by the department. Hence, the PAC was issued therefore firstly when the excess is only after change of the MF and coupled with the fact that PAC was issued it is wrong to submit that the load was being drawn in excess. Secondly, Section



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45(6), section 126 of the electricity acts as mentioned in the reply respectively, will not be applicable as the mistake is on the part of department, hence, it cannot be called as unauthorized used. The reliance being placed on letter dated 6.10. 2023 is also misconceived as it nowhere intimated the change in CT/PT meter neither intimates that the multiplying factor will be changed. It is submitted that the load is to be released from the end of the department. The respondent is giving undue weightage to PAC and that after completion of formalities only load could be released, whereas the present is the case of wrong billing due to change of CT/PT Meter and multiplying factor at the back of the consumer. Hence, for such mistake the complainant cannot be penalized. It is also submitted that the CDVC charged on the bills when the case was pending before the Ld. CGRF is wrong and are to be waived.

j. It is therefore respectfully prayed that the appeal may kindly be allowed and the reliefs as have been sought in the appeal may kindly be granted in the interest of Justice.

12. The counsel for Respondents and concerned Assistant Engineer appeared in the Court room along with the record and with the mutual Conesus of both the parties, the final arguments were conducted on 24/07/2025.



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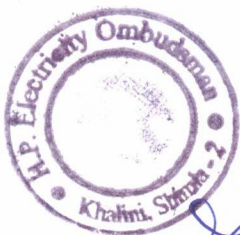
During final arguments both the parties were given due opportunity to argue their contentions at length.

13. The deliberations made by the Assistant Engineer representing Respondent Board and participation in discussions were appreciable. Both Id. Counsel for Respondent Board, Assistant Engineer appeared as Respondent and the Id. Counsel for Complainant advanced their arguments to the brim. After hearing both the parties at length, the order was kept reserved for delving the contentions and averments made by both the parties during final arguments to the depth before issuance of final order.
14. The case file bearing Complaint No. 3157/202407/20 and orders passed on dated 04.06.2025 by the Consumer Grievance Redressal Forum Kasumpti, Shimla-171009 have been requisitioned and gone through and the relevant extract from **para (26) to para (50)** of the said order reiterated under the “**para-5**” above to arrive at legitimate conclusion.
15. The documents annexed and placed on record, arguments offered by both the parties have also been gone through in depth.
16. The appropriate Acts, Supply Codes, Tarif Orders and Sales Manuals have been referred to for clarity.
17. The contentions of the Complainant detailed under **para-‘4’**, response of Respondent Board detailed under **para-‘10’**, Rejoinder under **para-‘11’** and Arguments conducted at length gathers considered opinion to pursue for the detailed analysis on merit.





18. Before further perusal, it shall be legitimate to first groom on the issue of non-maintainability as the reasons sorted out on non-maintainability by the Respondents under **para-(1to4)** in their reply are not convincing one and in the interest of justice draws attention of this authority that unless the Representation falls beyond the jurisdiction of this authority which could be pronounced at the very outset as non-maintainable or fatal to the essence of provisions, this authority feels judicious to give opportunity to all by honoring the 'Hierarchy of Adjudication System' and proceeds.
19. In view of foregoing findings, the instant case is held maintainable to the extent of initiation of proceedings subject to further findings on merit on the contentions raised.
20. This authority further proceeds to explore whether the instant case falls under the scope of Section-126,127 or not. After examining the reply of the Respondents under **para-22(i)**, here placed at **para-10(s)** above read with subsequent Rejoinder of Complainant replicated under **para-11(i)** above and the arguments advanced among the parties, this authority extracts vivacious feelings on the misconception carried on the implementation of said sections of the Act by either party contrary to the circumstances prevailed in the instant case. This attracts reiteration of specific averments made here in the reply by the Respondents under the said para as well as by the Complainant in the Rejoinder for landing to judicious platform, the very relevant extracts are recapped as under:





Respondent's (Reply):

"Para-22(i) or 10(s) above Such act of utilizing/drawing additional load or demand beyond the sanctioned limit before obtaining prior approval or load sanctioning is not only in violation of Regulation 45(6) of the Central Electricity Authority (Measures Relating to Safety and Electric Supply) Regulations, 2023, but also constitutes unauthorized use of electricity as defined under Section 126 of the Electricity Act, 2003, and consumer is liable to pay electricity charges at a rate equal to twice the tariff applicable for the relevant service category."

Complainant's (Rejoinder)

Para 22 to 28

"-----Secondly, Section 45(6), section 126 of the electricity acts as mentioned in the reply respectively, will not be applicable as the mistake is on the part of department, hence, it cannot be called as unauthorised used" -----.

21. During arguments the Respondents reiterated their above stand as per para-22(i) and the ld. counsel for Complainant argued that in the instant case no assessment was made on the basis of inspection of machines and devices etc, which warrants indulgent of any unauthorized usage of electricity and further added that as per provisions of the act, particularly section 126 and 127 which deals with the investigation and enforcement when assessment is made, does not qualify section 126 of the act under present circumstances.
22. After listening to both the parties, this authority was not convinced to the satisfaction although the arguments of the ld. counsel for Complainant were workable to certain extent and further deduces that Contract Demand Violation does not construe unauthorized act under the prevailing circumstances when Contract Demand Violation appeared only after the Application of new MF. This authority however, agrees with the diligent analysis and opinion of

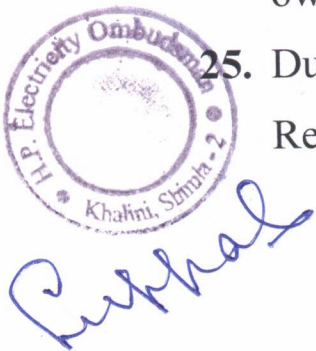




ld. CGRF under para-(44) in the said order dt.04.06.2025 and for the sake of clarity, replicates the same as under.

“Para-(44) Further, Forum no-where finds, neither in the Electricity Act, 2003 nor in the Supply Code that the Contract Demand violation results in unauthorized use of electricity or assessment there-against. Thus, for the Respondent to even state application of section 126 in the present matter, Forum holds such to be wrong and out rightly rejects the same;”

23. In view of foregoing analysis, this authority also affirms that the instant case is not being governed under the provisions of section-126 ,127 and by setting a side all wrong contentions of the Respondent on application of Section-126,127 which may be principally correct but under present circumstances when the Contract Demand Violation appeared only after the Application of new MF gives benefit of doubt and as such puts this authority under constraints to uphold the decision of ld. CGRF on this issue and further as a natural law of justice, takes a pace to adjudicate remaining issues in line with above findings.
24. After resorting to above findings, this authority feels comfortable to delve remaining contentions on merit. It has been observed that the Complainant has raised the contention that the replacement of defective CT/PT had been done by the Respondents at their own (in the absence of any representative) which later on came to their notice, that on dt. 03.08.2023 the Respondents made such changes owing to faulty CT/PT unit.
25. During the arguments, the Assistant Engineer appeared as Respondents kept his stand by saying that on the behest of report dt.





07.06.2023 of M&T Sub-Divn. Banikhet, the replacement of the CT/PT unit was carried out on dt. 03.08.2023 in the presence of a representative of the applicant's firm, namely Shri Baldev Singh, whose acknowledgment and signature were duly obtained on the Sundry Jobs Order dated 12.06.2023 (RA-2colly) as per record and also asserted that the copies of both the M&T reports dated 07.06.2023 (RA-2colly) and the Sundry Jobs Order dated 12.06.2023 were also duly forwarded to the complainant for their record and reference. Whereas, the ld. counsel for Complainant while arguing denied acknowledgement of above correspondence, asserted as forwarded by the Respondents.

26. On further scrutiny of the M&T report dt. 07.06.2023(RA-2colly) as was placed on record, it has been observed that the said report was sent by Assistant Engineer (M&T), addressed to the Sr. Executive Engineer(M&T) Kangra with copies to Assistant Engineer, ESD Sansarpur Terrace and M/s Classic Engg. Works. Plot No.104, phase-III, Indst. Area, Sansarpur Terrace, Tech. Jawan Kotla Distt. Kangra-176501.

27. This becomes suspicious as to why that report was not received by the Complainant when it was categorically sent on the postal address of the Complainant with the remarks at Sr.No.12 of the said report, carrying directions for replacement of CT/PT unit i.e.

"The Test Results of CTs are within the permissible limits. The test results of R-phase PT are beyond permissible limit, hence CT/PT combined unit be replaced with new one." and why no intimation was conveyed to the Complainant Firm



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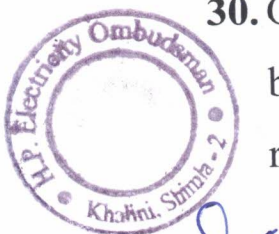


when their own man witnessed & signed the said replacement at site.

28. After referring to the above arguments as well as documents placed on record, this authority focusing on vulnerable points of contentions prima facie to the record and telephonic conversation between the counsel for complainant & Representative of Complainant in the court room, holds above contentions as partially sustainable.
29. It has been observed that the Complainant in its submissions has shown reliance upon Sales Manual Instruction No 26 of Respondents. However, this authority after referring to the order dt.04.06.2025 of Id. CGRF wherein under **para-31**, the Id CGRF has explicitly dealt with meticulousness, would not like to further extend and reiterates the specific contents of the said para as below which are self-sufficient in itself and hence the contention of the Complainant is not tenable when the statute stands notified under the Act:

“(31) Forum after examining the Sales Manual of the Respondent HPSEBL, finds that this is an internal document of the Respondent carrying therein instructions to the field units with regard to common operational procedures to be adopted by them. Therefore, when statute under the Electricity Act, 2003 has already been laid down and notified by the HP Electricity Commission and the Central Electricity Authority (CEA) by way of the HP Electricity Supply Code, 2009 and the CEA (Installation and Operation of meters) Regulations respectively, then this Sales Manual in the opinion of the Forum does not supersede the said prevailing statute and thus cannot help the Forum in determining the instant complaint, which has to be based upon the prevailing statute. Forum after placing reliance on the statute notified under the Act, proceeds to determine the instant complaint”

30. On further examining the contentions of the Complainant, it has been observed that the Complainant under **para-9** of their representation here referred under **para-4(j)** above has contended





that the Appellant concern submitted case for enhancement of power load in November, 2023, with respect to which respondents issued letter dated 30.1.2024 which was duly replied, but respondents have failed to take final decision on the same and it was informed that file is in the department channels and further added that had the said application been considered in time, having been filed in November, 2023, the position totally ought to have been different.

31. After going through the above averments of the complainant, this authority is astonished to observe that the Complainant is showing his innocence on unawareness on the different steps taken both by the Complainant & Respondents before achieving enhancement status such as PAC, infrastructure development, approval of competent authority to the rank of Chief Electrical Inspector, thereafter submission of application for availing enhanced load.
32. Here, apparent to the record submitted by the Complainant read with the subsequent reply submitted by the Respondents, it has been observed that the following correspondence was exchanged before the sanction of load enhancement:

- a. The Complainant applied for enhancement of load: 03.10.2023(RA-7Colly)
- b. The Respondent apprised procedure: 06.10.2023(RA-7Colly)
- c. Demand notice issued towards advance cost share for Infra Structure Development Charges by the Respondents: 30.01.2024
- d. Advance cost deposited: 17.02.2024
- e. Issuance of PAC by the Respondent: 26.03.2024(RA-1Colly)
- f. Initiation of correspondence with Chief Electrical Inspector: 20.06.2024
- g. Transformer procured /Installed by the Firm: 27.06.2024 (RA-9)



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h. Submission of final Application for load enhancement 01.07.2024(RA-1 Colly)
(Online Application)

i. Load Sanctioned letter: 06.07.2024(RA-1 Colly)

j. Load was finally released: 31.07.2024 (RA-1)

k. Approval accorded by Chief Electrical Inspector: 05.08.2024

33. Surprisingly, the Complainant has not Annexed above correspondence with his representation and without conceiving the above steps taken by the Respondent in continuous succession as per record, contends in a very vague manners that *"had the said application been considered in time, having been filed in November, 2023, the position totally ought to have been different."* which is not appealing one when the matter remained under continuous process of approval and even the Transformer, supposed to be one of the major equipments had been procured and Installed by the firm on 27.06.2024.

34. In view of above steps taken for enhancement of load by the Respondent Board in hierarchy, this authority is not convinced with the above quote mentioned herein the averments by the Complainant as the instant issue commences from Sept,2023 to May,2024 after the replacement of 'CT/PT combined' unit on dt.03.08.2023 on the behest of M&T, with Contract demand Violation visualized from Jan.24 onwards as per MRI data when the new MF of 3.33 was applied in place of old MF of 1.66 whereas in actual the load was enhanced from 320KW/320KVA to 949KW/832KVA & released only on 31.07.2024 after passing through above exhaustive steps. Hence, does not qualify for waving of CDVC.



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35. Now while analyzing the prime issue it has been observed that the Complainant has never denied the consumption of power as well as over-drawl of demand. It has also been observed that the Complainant has not challenged the replacement of CT/PT combined unit and subsequent application of new Multiplication factor (MF) of 3.33.
36. It has been further observed that the Complainant has simply contended that when it is the mistake of the Respondent to not apply the correct MF in the past or not sanction its enhancement of load in time, then the action of the Respondent to raise the impugned demand by application of new multiplication factor at a later stage and for charging contract demand violation charges (CDVC), is against the principles of legitimate expectations;
37. This authority after in depth scrutiny of contentions further deduces that the grounds taken by the Complainant in his prayer to set aside the order dt.04.06.2025 of Id.CGRF does not carry any sufficient substance which may prompt for dismissal of order. The contentions are reiterated for analysis as under:
- a. That the impugned order dated 25.5.2024 Annexure P-1 and Annexure P-3 dated 04.06.2025 may kindly be quashed and set aside **with directions to the respondents not to recover demand as made in the said demand notice from the Appellant concern.**



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- b. That respondents may further kindly be restrained from charging any interest from the Appellant concern on the amount of demand notice.
- c. That the subsequent bills till the date of the order of the CGRF having been issued in consonance of demand notice annexure p1 may kindly be set aside along with withdrawal the penalty imposed to the tune of **Rs. 4,29,468** and **subsequent penalty on the new bills in the interest of law and justice completely without any redetermination afresh.**

38. However, on the part of Respondents, it has been observed that the Respondents showed reliance on the Judgement passed by the Hon'ble Apex Court in a similar matter of application of incorrect MF and in cognizance to the Section 56 of the Act along with CDVC in line with Tariff Orders passed by the Hon'ble HPERC, raised the monetary demand for the past period arrears by applying correct MF of 3.33.

39. After going through the order dt. 04.06.2025 of Id. CGRF under para (35) to (40), this authority agrees with the detailed analysis done by the Id. CGRF and does not feel further to adjudicate more on the above contentions to understand the gravity of the issues and upholds the findings under said paras with reiteration of relevant extract as under:

- a. "(35)----- it is established that in view of the settled position of law laid by the Hon'ble Apex Court in the matter titled as Assistant Engineer (D1) Ajmer Vidyut Vitaran Nigam Ltd and Anr Vs Rahamutullah Khan alias Rahamjula in Civil Appeal No



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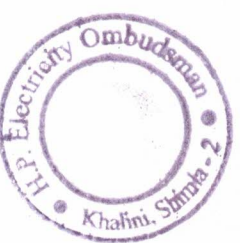
Phone: 0177-2624525, email: ombudsmanelectricity.2014@gmail.com

1672/2020 decided on 18.02.2020 and M/s Prem Cottex Vs Uttar Haryana Viji Vitran Ltd in Civil Appeal No7235 of 2009 decided on October 5, 2021, which is also referred to by the Respondent, the issue of recovery of past dues of arrears by the DISCOM is no more res-integra;

- b. (36)** In the *ibid* Judgment of the Hon'ble Supreme Court dated 18.02.2020, which refers to other Judgments as well, electricity has been held to be 'goods' by a constitution bench of the Hon'ble Apex Court in a case titled *State of Andhra Pradesh Vs National Thermal Power Corporation Ltd*. Further, as also referred to in the Judgment *ibid*, under the Sale of Goods Act, 1930, a purchaser of goods is liable to pay for it at the time of purchase or consumption and that the quantum and time of payment may be ascertained post facto either by way of an agreement or the relevant statute;
- c. (40)** In the matter, this Forum concludes that the Respondent HPSEBL did make a bona-fide mistake / error in the past by missing to raise statutory amounts in the original electricity bill arising out of less recording of consumption due to error or mistake of wrong application of multiplication factor (MF) of 1.66 instead of 3.33, which resulted in less consumption being billed to the Complainant in the past and which went unnoticed for some time. **The Complainant has actually consumed electricity which is more than that which was originally billed** and this fact is not in dispute by the Complainant. From perusal of statute, Forum finds that the Respondent is certainly within its legal rights to replace defective metering equipment in accordance with the said CEA Metering Regulations and the Electricity Supply Code notified by the CEA and the HPERC respectively and **further to recover the statutory charges towards the actual consumption made by the Complainant by raising monetary demand towards past arrears or dues of statutory nature, not raised earlier due to any mistake as has been held in Hon'ble Apex Court Judgment dated 18.02.2020 in Civil Appeal 1672/2020 while interpreting section 56(2) of the Electricity Act, 2003.** However, onus would still lie on the Complainant to show that such arrears have been calculated wrongly;
- d. (48)** Complainant has no-where denied that it was not consuming electricity. Forum is aware that consumption of electricity results in demand (in kVA). For demand not exceeding contract demand, Forum is also aware that the Complainant is charged normal demand charges (Rs) at the rates specified by the Ld HPERC. However, when Complainant is not at fault while there is a bona-fide error on the part of the Respondent, Forum holds that Complainant cannot be held to be at fault or in violation under the typical circumstances confronted by the Complainant. **Here equitable treatment necessitates that when the Complainant is not at fault while there is a bona-fide error on the part of the Respondent, then for the months for which the CDVC has been raised by the Respondent at a higher rate on the part of demand (in kVA) in excess of the Contract Demand (in kVA), then the Complainant is certainly entitled to relief under the presumption that there is no violation.** However, as prayed by the Complainant, Forum cannot accept complete waiver of the CDVC. Under the facts and circumstances of the instant matter, **Forum further holds that the Complainant's part of demand (in kVA) in excess of the Contract Demand (in kVA) has also to now be charged at normal rates of demand charges (Rs/kVA) and CDVC to be revised accordingly;**

40. This authority is aware of that the Id. CGRF, only after understanding the austerity of the contentions had passed order dt. 04.06.2025 by allowing CDVC on normal rates instead of special

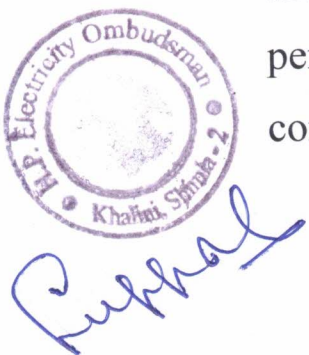
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rates and did not wave off as contended which was corrected during arguments. Surprisingly, the legitimate demand prayed to be set aside was raised by the Respondents on the behest of M&T after changing CT/PT unit resulting a new MF 3.33 in place of old MF 1.66 which was not refuted by the Complainant and also could not reflect in the billing due to SAP problem as informed by the Assistant Engineer during arguments and which was raised thereafter on the intimation given by M&T vide letter dt.16.05.2024 after their visit for periodical testing.

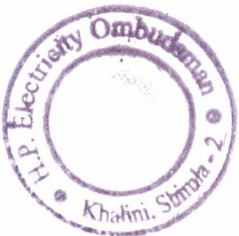
41. In view of foregoing discussions and after perceiving the essence of relevant extracts of the order dt. 04.06.2025 of Id. CGRF as recapped under **para-39(a to d)** above, this authority draws considered opinion that the contentions raised by the Complainant in the instant representation are replica of all those contentions which had been adjudicated to the brim diligently by the Id. CGRF before issuance of said order dt. 04.06.2025 and hence, does not carry any sufficient material to peruse further adjudication and since, it has been confirmed that the power was consumed irrespective of correspondence, for which the differential demand was raised after the application of new MF of 3.33 by the Respondents, construes, the demand raised as legitimate and cannot absolve the complainant from the liability unless paid. It is not the penalty/punishment as contended, but it is legitimate onus on consumer of the liability which he had enjoyed full to the





requirements by paying less and needs to be recovered in terms of above judgements of Hon'ble Apex courts in the public interest.

42. On the issue of interest to be charged from the Complainant as contended by the Respondent, this authority opines that unless the matter falls within the ambit of Section-126 which has been ruled out under para-20 of this order as well as under para-44 of the order dt. 04.06.2025 of Id.CGRF, the instant matter does not qualify for levy of interest from consumer and also clause 5.7.3 of supply code does not mandate to charge any interest from consumer. Hence, does not sustain and in terms of this, the Respondent is liable to recover the amount noticed due to defective metering in later stage which could not be billed earlier due to bonafide mistake of the Respondent Board but the Complainant is not liable to pay interest on the amount raised through respective demand notes thereof.
43. In view of above findings, this authority draws considered opinion that the relief allowed by the Id. CGRF to the extent of charging CDVC on normal rates is a prudent step of settlement on equitable basis as such this authority is inclined to hold the order dt.04.06.2025 and subsequently, the revised demand note dt. 18.06.2025 issued by the Respondent Board which is sustained in principal subject to any further adjustment of amount deposited by the Complainant towards advance payment and deletion of any interest if included. Accordingly, the order is issued as under.

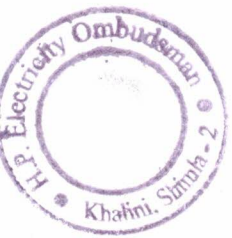


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44. Order:

1. The order passed by the Consumer Grievance Redressal Forum at Kasumpti on dated 04/06/2025 in Complaint No. 3157/202407/20 is upheld.
2. The revised Demand note dt.18.06.2025 amounting to Rs. 14,83,218/- for the period September,23 to May,24 raised by the Respondent Board is sustained in principle, however, in monetary terms, the Respondent Board is directed to follow the following mandates:
 - a. Account for amount deposited by the Complainant towards advance payment if any.
 - b. Delete, if any amount stands added on account of interest, as the said case is not falling within the purview of Section-126 in terms of findings under para-20&42 of this order as well as under para-44 of the Order dt.04.06.2025 of Id. CGRF.
 - c. Compute CDVC on normal demand charges in consonance with the Order dt.04.06.2025 of Id. CGRF.
3. The Complainant is directed to pay the requisite outstanding amount within 15 days excluding holidays from the date of issue of this order.
4. The Respondent board is further directed not to take any coercive action till the expiry of above period.
5. Under the powers drawn in terms 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 respectively are directed to keep awareness of the status of power being received / supplied to avoid such litigation in future.
6. In case of refund the Respondent, Board is further directed to avert intervention of Regulation 37 (6) of Himachal Pradesh Electricity



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Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 for appropriate action by the Commission under the provisions of the Electricity Act, 2003 and onus on individuals.

- 7. All stays imposed by this Authority under Regulation 36(1) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 are hereby vacated.**
- 8. The Respondent Board is also at liberty to adjust in the ensuing bills in terms of prevalent provisions and amendments thereof.**
- 9. The Complaint filed by M/s Classic Engineering Works, Plot No.104, Phase-III, Industrial Area, Sansarpur Terrace, Tehsil Jaswan, District Kangra (HP) is hereby disposed off.**
- 10. No cost to litigation.**
- 11. The order is also placed at site and conveyed telephonically for the convenience of reference.**

Given under my hand and seal of this office.

Dated: 31/07/2025

Shimla




Electricity Ombudsman