BEFORE THE ADJUDICATING OFFICER APPOINTED UNDER SECTION 21 OF THE ENERGY CONSERVATION ACT, 2001 (MEMBER) HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION SHIMLA

Petition No: 29 of 2026
Date of Institution: 21.11.2025
Arguments Heard on: 23.01.2026
Decided on: 28.02.2026

In the matter of:-

The Bureau of Energy Efficiency
through Secretary 4th Floor, Sewa Bhawan,
Rama Krishana Puram, New Delhi,
Delhi- 110066.

………Petitioner

Versus

The Power Star Electric LLP. (Previously M/s Power Star,
Proprietor: Mr. Pitamber Saini) Village Khur, Manpura, 1228,
Solan Himachal Pradesh -173203.

……….Respondent.

Petition under section 27 of the Energy Conservation Act, 2001 for adjudication of the penalty under section 26 of the Energy Conservation Act, 2001 by the Adjudicating Officer against M/s Power Star Electric LLP.

Present:-

Sh. Kartikey Nayyar, Ld. Counsel for the Petitioner
alongwith Sh. Rajendra Sharma, Sector Expert.
Sh. Vikas Chauhan, Ld. Counsel vice Sh. Shriyek Sharda
Advocate for the Respondent.

ORDER

This Petition has been filed by the Bureau of Energy Efficiency (BEE) (the Petitioner for short) through its Secretary, under section 27 of the Energy Conservation Act, 2001 (Act for short) against the Respondent Power Star Electric LLP for adjudging the penalty of Rs. Sixty Lakhs proposed to be imposed under section 26 of the Act. The Petitioner is a statutory body set up by the Government of India under the provisions of the Act, having its registered office at New Delhi.

2. M/s Power Star Electric LLP (previously M/s Power Star, Proprietor: Pitamber Saini) (Respondent for short) is manufacturer of 200 KVA transformers of the relevant Model, as per the provisions of the Standards and Labeling Scheme (S&L Scheme for short), introduced by the Central Government under sections 13 and 14 of the Act, with the intention to prescribe the minimum energy performance standards for each of the notified equipment/appliances and to display the energy performance labels known as “Star Labels” on such marked appliances, equipments. Under the said S&L Scheme, the equipment/appliances are categorized into two broad classifications, i.e., ‘mandatory products’ and ‘voluntary products’. According to the Petitioner, it is compulsory for the manufacturer of any mandatory product(s) to apply for registration of their product(s) with the Petitioner for affixing the star label on their respective equipment/appliance to be commercially sold in the market.

3. The Central Government, vide Notification dated 12.01.2009 (Annexure P-2), has notified ‘distribution transformers’ as ‘mandatory product’ under the Act. Resultantly, it becomes mandatory for the

manufacturers of such distribution transformers to get registered under the S&L Scheme with the Petitioner and to ensure that each unit must be affixed with a 'BEE Star Label' and the said manufacturer must have a valid BEE Certificate to demonstrate that the product meets the minimum energy efficiency standards.

4. Pursuant to the notification dated 12.01.2009 (Annexure P-2), the Petitioner with the approval of the union of India and in exercise of powers conferred by section 58 read with section 13 of the Act, has notified "the Bureau of Energy Efficiency (Particulars & Manner of their Display on Labels of Distribution Transformers) Regulations, 2009 (Regulations, 2009 for short), vide Notification dated 06th July 2009 and subsequent amendment Regulations dated 05.01.2010 (Annexure P-3 Colly).

5. The Petitioner has filed this petition for holding an enquiry for the purpose of adjudging the penalty for non-compliance of the said Regulations, 2009 read with section 14 (2) of the Act by the Respondent as per section 26 of the Act.

6. According to the provisions of the Regulations, 2009, the manufacturer of distribution transformers shall make an application under section 6 of the Act seeking registration for affixation of Star Labels on their products. Accordingly, the Petitioner upon an application made by the Respondent, granted permission to the Respondent to

supply 200 KVA distribution transformers bearing serial No. PS/200/5223 and Model No. PS/200/L3 (hereinafter referred to as the “Product”). The said permission was granted to the Respondent vide approval letter dated 05.01.2021 (Annexure P-4) which was valid from 30.12.2020 to 31.12.2022. According to Regulation 7 read with Regulation 4 of the Regulations, 2009, the Respondent is required to ensure that a label containing the specified particulars is displayed on every distribution transformer. However, it came to the notice of the Power Department, Government of Sikkim, that the Respondent, in complete violation of the mandatory provisions of the Act and Regulations, had sold the Product without affixing the BEE Star Label to a buyer named Mr. Rahul Bajaj. Pursuantly, the Power Department, Government of Sikkim issued a communication (Annexure P-5) to the Petitioner apprising about such non-compliance committed by the Respondent. In pursuant to the communication (Annexure P-5), the Petitioner issued a notice dated 24.06.2024 (Annexure P-6) (first Notice for short) to the Respondent seeking clarification regarding the reported violations of the Regulations concerning the product. Further, in the same notice, the Petitioner cautioned the Respondent that failure to furnish a satisfactory explanation would attract penal consequences under the applicable provisions of law.

7. The Respondent failed to furnish reply to the said first notice. Resultantly Petitioner issued another notice dated 26.07.2024 (Annexure P-7) (Second Notice for short) granting 15 days additional time to submit its reply and failure to submit the reply within the extended period would lead to the initiation of appropriate legal proceedings in accordance with the Regulations.

8. According to the Petitioner, the Respondent submitted its response dated 24.07.2024 (Annexure P-8) acknowledging that the Star Label for the Product had expired and clarified that the renewal for the same had been initiated. The Respondent further assured the Petitioner that the lapse would not be repeated.

9. According to sub-regulation (4) of Regulation 7 of the Regulations, 2009, an application for renewal of permission is required to be made at least three months before its expiry. Failure to comply with the provisions of Regulation 7(4) of the Regulations, 2009, constitute a clear violation of the Regulations.

10. The Petitioner, on scrutiny of reply of the Respondent (Annexure P-8), came to a conclusion that there was a willful non-compliance of the statutory provisions and thereupon Petitioner issued a communication dated 06.09.2024 (Annexure P-9) to the Director of Energy, HP (DOE for short) informing of the violation made by the Respondent and requesting the DOE to initiate the legal proceedings against the Respondent for not

affixing the BEE Star Label on mandatory appliances, thereby, resulting in the non-compliance of the provisions of the Act and the Regulations. Furthermore, the Petitioner directed the DoE to appoint an Inspection Officer ("hereinafter referred to as the ***"IO"***) to conduct an inspection of the distribution transformers manufactured by the Respondent at the location of the Complainant/ various authorized distributors/ traders/ retailers. Additionally, the State Designated Agency, HP (SDA for short) was directed to initiate legal proceedings if the alleged Star Label violation by the Respondent were found to be true, as the said violation falls under Non-Compliance Category Grade II and Grade IV as per *the Handbook for Implementation of Provisions of the Energy Conservation Act, 2001* (hereinafter referred to as the ***"Handbook"***). The corresponding table of the Handbook has been reproduced as under:-

S. No.	**Compliance Requirement by Manufacturer/ Permittee/Trader/Seller under S&L Scheme**	**Relevant Provisions of EC Act**	**Relevant S&L Regulation**
NON-COMPLIANCE CATEGORY GRADE II			
Time and Manner of Display			
5	Labels shall be affixed on all the appliances manufactured by the Permittee within a period specified in Regulation 4 of respective appliances, after notification of such Regulation by the Bureau.	If not fulfilled shall result into Non-Compliance 2 (NC-11) – Grade II	Initiation of Adjudication before SERC
6	Shall ensure that the labels shall not be affixed on the equipment/appliances after the expiry of the permission granted by BEE for that model/brand.	If not fulfilled shall result into Non-Compliance 2 (NC-11) – Grade II	Initiation of Adjudication before SERC
NON-COMPLIANCE CATEGORY GRADE IV			
Label Content (Particular) – Verification & Check Verification of Performance			
10	Shall be registered with BEE for selling	If not fulfilled	Initiation of

	mandatory equipment/appliances	shall result into Non-Compliance 4 (NC-13) – Grade IV	Adjudication before SERC
11	Shall ensure that all mandatory equipment/ appliances displayed at the point of sale shall always have a label affixed as per Regulations specified by BEE for each of the equipment/appliances	If not fulfilled shall result into Non-Compliance 4 (NC-13) – Grade IV	Initiation of Adjudication before SERC
12	Shall ensure that no model/brand of mandatory equipment/ appliances shall be sold with labels without obtaining prior permission from BEE and shall also ensure that separate permission for each model/brand of the Permittee falling under mandatory equipment/ appliances is obtained. Shall not sell the old brand/model of the manufacturer with the labels which are approved for his new brand/model	If not fulfilled shall result into Non-Compliance 4 (NC-13) – Grade IV	Initiation of Adjudication before SERC

11. The Petitioner vide letter dated 01.10.2024 (Annexure P-10) informed the Power Department, Government of Sikkim that necessary instructions have been issued to the SDA in relation to the violations committed by the Respondent and in the meantime, the IO appointed by the SDA submitted his Report dated 13.03.2025 (Annexure P-11) which corroborated the reported violation by the Respondent regarding the sale of 200 kVA transformers to the buyer without affixing the BEE Star Label thereby transgressing the mandatory compliance requirements. From the said Investigation Report, it was apparent that the Respondent had sold the said Product to Mr. Rahul Bajaj on 22nd April 2024 i.e. when the permission under the Regulations 2009, granted to the Respondent had already expired. It was also apparent from the report that the

Respondent further breached the Regulations as it failed to renew the certificate before the expiry of the date as per the provisions of the Act and the Regulations. Consequently, the Respondent has been found in clear violation of the provisions of the Energy Conservation Act, 2001 and the relevant Regulations, having failed to comply with the mandatory labeling requirements stipulated therein.

12. Aggrieved by the Respondent's fraudulent behavior and persistent delay in complying with the Regulations, Petitioner was compelled to invoke the penalty provisions as prescribed under section 26 of the Act, and the penalty corresponding to the estimated production data proposed to be computed as follows:-

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Period	Quantity of Appliance(s)	Compliance	Penalty (max) (in ₹)	Additional Penalty @ ₹5000/ Appliance	Total (in ₹)
01st January 2023 – 30th October 2025	1000**	Non – Compliance due to absence of valid permission	10,00,000/-	50,00,000/-	60,00,000/-
TOTAL PENALTY AMOUNT (Rupees Sixty Lakh Only)					**60,00,000/-**

**Quantity of Appliances as per the estimation of Bureau of Energy Efficiency, Ministry of Power. However, the Respondent may submit the actual data of production during the said period duly certified by the Goods and Services Tax Council/ Department of Trade and Taxes, Himachal Pradesh.”

13. Accordingly, the Petitioner has filed the present petition under section 27 of the Act for adjudging the penalty based on the estimated

production data for the relevant timeline, to be imposed upon the Respondent under section 26 of the Act for the non-compliance of the Regulations, as notified by the Petitioner. Section 27 of the Act is reproduced as under:-

"27. Power to Adjudicate.-

(1) For the purpose of adjudging under section 26, the State Commission shall appoint any of its members to be an adjudicating officer for holding an inquiry in such manner as may be prescribed by the Central Government, after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty. -(1) For the purpose of adjudging under section 26, the State Commission shall appoint any of its members to be an adjudicating officer for holding an inquiry in such manner as may be prescribed by the Central Government, after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry, and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the clauses of the sections specified in section 26, he may impose such penalty as he thinks fit in accordance with the provisions of any of those clauses of that section: Provided that where a State Commission has not been established in a State, the Government of that State shall appoint any of its officers not below the rank equivalent to a Secretary dealing with legal affairs in that State to be an adjudicating officer for the purposes of this section and such officer shall cease to be an adjudicating officer immediately on the appointment of an adjudicating officer by the State Commission on its establishment in that State: Provided further that where an adjudicating officer appointed by a State Government ceased to be an adjudicating officer, he shall transfer to the adjudicating officer appointed by the State Commission all matters being adjudicated by him and thereafter the adjudicating officer appointed by the State Commission shall adjudicate the penalties on such matters."

14. The Petitioner has prayed the following relief:-

"(a) Direct the Adjudicating Officer for holding an enquiry for the purpose of adjudging the penalty under section 26 of the Energy Conservation Act, 2001 for non-compliance of the Regulations by the Respondent;

(b) Direct the Respondent to make payment of penalty as adjudicated by the Adjudicating Officer;

(c) Pass any such other and further orders as are deemed to fit and proper in facts and circumstances of the case."

Reply of the Respondent.

15. While resisting the Petition, the Respondent in its reply has raised preliminary submissions that the Petitioner has treated an alleged isolated lapse, if any, mechanically and seeks to impose an exorbitant penalty of Rs. 60,00,000/- (sixty lac Rupees) on the basis of a purely estimated production figures of 1000 units without any verified or certified production/ sale data. The Respondent has alleged that petitioner has not produced any cogent proof that 1000 units of the concerned level were manufactured and sold during the alleged period without valid permission or without BEE Star levels or the Respondent failed to apply for renewal within permissible time. The Respondent has further claimed that even assuming any lapse, in relation to a particular consignment, the

same is at best technical inadvertent and without any demonstrable adverse impact on the consumers, grid or energy efficiency objectives, and therefore, cannot justify extreme and disproportionate penalty.

16. According to the Respondent, the Petitioner has ignored the settled principles of proportionality, mens rea, mitigating circumstances and the statutory requirement that adjudication under sections 26 and 27 involves judicial discretion having regard to all relevant facts, including bonafide conduct and cooperation. Further, according to the Respondent, petition relies heavily on an Inspection Report dated 13.03.2025 (Annexure P-11) and Internal handbook classification (Grade II and Grade IV), yet does not share the complete factual matrix or underlying data relied upon for categorizing the alleged non-compliance or computing the penalty, thereby causing serious prejudice to the Respondent's right of effective defence.

17. On merits, the contents of the petition have been denied. The Respondent has emphatically denied that it has treated the S&L Scheme casually or has indulged in any deliberate attempt to undermine energy efficiency norms. The Respondent has submitted that it has never disputed the applicability of the S&L Scheme which distinguishes between "mandatory" and "voluntary products" and that distribution transformers, once notified as mandatory, require registration and a fixation of star labels prior to sale as per the S&L Scheme. According to

the Respondent, it has obtained the requisite approval from the Petitioner for 200 KV transformer of relevant Model and has further claimed that its conduct has consistently being in the nature of the complaint manufacturer seeking to work within regulatory framework and not that of a habitual violator.

18. The Respondent has not disputed the notification dated 12.01.2009 (Annexure P-2) specifying distribution transformers as a mandatory product under clauses (b) and (d) of section 14 of the Act, however, it has contested the claim of the petitioner to use the notification as a springboard to allege systemic 'non-compliance' without laying a proper factual nexus between the legal mandate and the specific conduct attributed to the Respondent and the petitioner must show clear factual non- compliance.

19. According to the Respondent, it has ascertained that it has complied with the requirement by obtaining BEE Approval for its 200 kVA distribution transformers and has alleged that the petitioner has forcefully dragged the Respondent into a controversy especially in order to harass and create hindrances in the business and the lapse, if any, was neither deliberate nor reflective of a pattern of disregard for the law. Any isolated instance, if established, must be adjudged in the backdrop of an otherwise compliant track record and cannot be magnified to justify an exorbitant penalty on estimated quantities.

20. The Respondent has admitted the validity of the Regulations 2009 and its subsequent amendments, however, it has been submitted that these Regulations are to be applied with due regard to factual realities, proportionality and the doctrine of mens rea where civil penalties are concerned. The petition, by contrast, treats every alleged deviation—whether technical or inadvertent—as if it were a grave, conscious and large-scale breach, which is neither borne out by the evidence nor consistent with the proper application of the regulatory framework.

21. The Respondent has emphatically denied the allegation that the Respondent has engaged in 'non- compliance' of Regulations, 2009 and the provisions of section 14(2) of the Act, in a manner that calls for adjudication under section 26 of the Act. The Respondent has claimed that the petitioner does not identify a sustained pattern of unlawful conduct and instead, it has relied upon a single complaint, followed by inspection, and based on the same has characterized the Respondent's behaviour as warranting maximum penalty on an estimated 1000 units. The Respondent has submitted that such a leap from isolated allegations to a sweeping claim of 'non compliance' is legally untenable and factually unsustainable. The Respondent has denied that it has sold the product to Mr. Rahul Bajaj without affixing the 'BEE Star Label' and in 'complete violation' of mandatory provisions of the Act and Regulations. According to the Respondent, the Petitioner granted

approval vide Document No. BEE/POW/03/00872 dated 05.01.2021 for 200 kVA distribution transformers of model PS/200/L3, valid from 30.12.2020 to 31.12.2022 (Annexure P-4). This approval demonstrates that the Respondent is an authorized manufacturer operating within the S&L architecture and not an unregistered or clandestine operator. The petitioner's attempt to turn the expiry of this approval into a presumption of large-scale non-compliance, without first examining the renewal process, correspondence, and actual production/sales behaviour after expiry, is misconceived and prejudicial. The Respondent has strongly disputed the allegation that the Respondent 'in complete violation' of mandatory provisions has sold the product without affixing the BEE star label to Mr. Rahul Bajaj and that the communication from the Power Department, Government of Sikkim, conclusively proves a serious breach. The Respondent submits that a single communication, without contemporaneous photographic evidence, seizure reports, or independent technical verification, cannot be treated as conclusive proof either of absence of label or of wilful intent.

22. The Respondent has further submitted that the actual invoice data demonstrates that in the relevant period, only one 200 kVA transformer was sold to Mr. Rahul Bajaj (Invoice No. PS/24-25/048 dated 22.04.2024), along with other limited sales to various buyers, totalling far

fewer than the 1000 units assumed by the petitioner. This objective data contradicts the insinuation of large-scale, repeated unlabelled sales.

23. The Respondent has admitted the issuance of the first notice dated 24.06.2024 (Annexure P-6), however, averred that the Respondent was 'cautioned' that failure to furnish a 'satisfactory' explanation would attract penal consequences which displays a pre-judgment even before the Respondent's response and supporting documents. Further, the Respondent has also admitted the issuance of the second notice dated 26.07.2024 (Annexure P-7) granting additional 15 days time to submit its response. The Respondent has categorically denied the allegation that it has "failed to furnish any response" to the First Notice and that BEE was thereby "constrained" to issue the Second Notice. The Respondent maintains that it engaged in correspondence and provided an explanation, culminating in the reply dated 24.07.2024 (Annexure P-8). To portray the Respondent as non-responsive is factually incorrect and attempts to create a narrative of deliberate disregard, which is not supported by the record. The Respondent, in order to counter the claim of the Petitioner that there was large scale non-compliance by the Respondent, has submitted the invoice data which includes Tax Invoice (E-Invoice), eWay Bill, Goods and Service Tax Form (GSTR-1) generated from the online portal of the Respondent (Annexure R-1 (Colly). According to the Respondent, the aforesaid hard

data clearly contradicts the petitioner's narrative of large-scale non-compliance and demonstrates that the allegation of assumption of 1000 non-compliant units is wholly unfounded. The Respondent has denied that there is any factual basis for the petitioner's assumption of 1000 units for the purpose of computing penalty.

24. Further, the Respondent in its reply 24.07.2024 (Annexure P-8) has explained that the star label approval had expired and that renewal had been initiated, alongwith a clear assurance that any lapse would not recur. It is strongly denied that the respondent in its reply has "acknowledged" a violation which justifies maximum penalty or constitutes an admission of "continued non-compliance." The reply was a candid and bona fide attempt to appraise the Petitioner of the status of renewal and to assure future compliance, and not an admission of deliberate or fraudulent conduct. It is averred that regulatory renewal process often involves internal processing and some time-lag and the mere fact that documentary proof of the renewal application or processing was not annexed at that stage cannot automatically be equated with a wilful decision to operate without permission, much less with the massive scale suggested in the penalty computation. Any assessment of violation must be based on complete records, including the Respondent's subsequent efforts and the relatively small number of units actually sold in the relevant period. As per the Respondent, the

existence of the Handbook and its categorization of certain types of non-compliance as Grade II or Grade IV is not disputed, however, the Respondent denies the mechanical application of these categories to the facts of this case. The Respondent has claimed that the Handbook is intended as an internal implementation guide and does not have the status of a statutory regulation and cannot override or amend the Act or the Regulations, 2009. The Respondent has further submitted that even if a theoretical classification is assumed, the consequence in terms of penalty must still be tempered by proof, proportionality, and consideration of mitigating factors such as responsive conduct, early correction, and the relatively modest number of units involved.

25. The Respondent in its reply has not disputed letter dated 01.10.2024 (Annexure P-10) issued by the Petitioner to the Power Department Sikkim, however, it has been claimed that it does not involve the participation of the Respondent and cannot be treated as an adjudicatory finding and relying upon the same without parallel disclosure of the Respondent’s rebuttals amounts to a one-sided presentation of facts.

26. The Respondent has emphatically disputed the conclusions drawn in the Inspection Report dated 13.03.2025 (Annexure P-11), observations made therein, its methodology, scope, sample size, and reliance on third-party statements without any scrutiny. It is also denied

that the report conclusively establishes “manufacturing and sale” of 200 kVA transformers without star labels or that it proves that such sales occurred after expiry of approval in a manner warranting imposition of maximum penalty on a presumptive quantity. The Respondent has further emphasised that the Inspection Report must be read in conjunction with actual production and sales data, which show only a small number of 200 kVA units sold in the relevant period, including one to Mr. Rahul Bajaj. Without reconciling the report with this objective data and giving the Respondent a chance to cross-examine or rebut the inspectors, the report cannot be elevated to conclusive proof of systemic non-compliance. Further the Respondent has categorically denied the levelling of the conduct of the Respondent as “fraudulent behaviour” and the characterisation of its actions as “persistent delay” as being unfounded and excessive. Further, the penalty table candidly acknowledges that the quantity of appliances (1000 units) is based solely on “estimation” by the Petitioner rather than on verified production, sales or GST-certified data. The alleged estimation is fatal to the petitioner’s claim, because penalty under section 26 of the Act must be proportionate to actual non-compliant units, not to speculative figures. Even if, some issue is found regarding labelling in respect of any one or more of these units, the notion that 1000 units should be presumed for penalty is entirely unjustified. The penalty not merely disproportionate but also disconnected from the actual. It is averred that reliance by the Petitioner on sub-sections (1) and (2) of section 26 of the Act and its assertion that the Respondent's conduct "attracts" a penalty of ₹ 60 lakh is misconceived. Section 26 of the Act confers a discretion upon the Adjudicating Officer to impose "such penalty as he thinks fit" upon being satisfied, after inquiry of failure to comply with specified provisions. It does not mandate the implementation of the maximum penalty in every case. The Respondent has submitted that given the modest number of units actually involved, the existence of prior approvals, the expressed willingness to renew and comply, and the absence of any evidence of deliberate mislabelling to mislead consumers, it is not a case where a high or near maximum penalty is justified. The Respondent has further claimed that petitioner's attempt to pre-fix a penalty on assumed quantities effectively seeks to convert the adjudication into a formality, contrary to the statutory requirement of a full and fair inquiry.

Rejoinder.

27. In rejoinder, the contents of the reply have been denied and those of the Petition have been reaffirmed.

Submission of the Counsel for the parties.

28. I have heard Sh. Kartikey Nayyar, Ld. Counsel for the Petitioner and Sh. Vikas Chauhan, Ld. Counsel vice Sh. Shriyek Sharda Ld. Counsel for the Respondent.

29. Sh. Katikey Nayyar Ld. Counsel for the Petitioner has submitted that the Respondent was granted permission by the Petitioner vide approval letter dated 05.01.2021 (Annexure P-4) which was valid from 30.12.2020 to 31.12.2022 for the manufacture and sale of said product. According to him, the Power Department, Government of Sikkim noticed that Respondent had sold the product without affixing the BEE Star Label to a buyer named Mr. Rahul Bajaj on 22.04.2024 and reported the matter to the petitioner apprising about non-compliance of mandatory provisions of the Act and the Regulations, 2009 by the Respondent. He has also submitted that on receipt of communication of non-compliance, the Petitioner issued multiple communications to the Respondent seeking clarifications regarding the reported violation of the Regulations concerning the 200 MVA distribution transformers and the Respondent in reply to the notices issued by the Petitioner submitted its response dated 24.01.2024 (Annexure P-8) admitting that the Star Labels for the product had expired and clarified that the Renewal for the same has been initiated and that Respondent had discontinued supplying the 200 KVA distribution transformers since long period to the consumers. Ld. Counsel for the petitioner further submitted that it was duly established from the invoices submitted by the Respondent (Annexure R-1) that it had sold large number of 200 KVA distribution transformers during the period from 01.01.2023 to 13.01.2025 when it was not having valid

approval/permission of the Petitioner in this regard. He has further submitted that Respondent has consciously sold unlabeled non-compliant production to unsuspected consumers as reflected in the production data provided by him in its reply, while callously failing to renew its expired registration since 31.12.2022, thereby flouting the very foundation of the Act and the Regulations, 2009.

30. Ld. Counsel for the petitioner has further submitted that the conduct of the Respondent was found non-cooperative in providing the actual production data of 200 KVA distribution transformers sold to the consumers during the expired period of approval from 01.01.2023 to 13.01.2025 and therefore, the petitioner, on presumptive basis has taken the productions and sale of 1000 units for imposition of penalty under section 26 of the Act by the Hon'ble Commission. As per him, the Respondent has persistently and deliberately flouted the statutory provisions of the Act and the Regulations, 2009 and S&L Scheme compelling the petitioner to propose the penalty of Rupees Sixty Lakhs and to file the present petition before the Adjudication Officer under the Act. The Ld. Counsel for the petitioner has also submitted that 1000 units of the 200 KVA distributions transformers may be considered appropriate for imposition of penalty for deliberate non-compliance of the mandatory provisions of the Act and the Regulations, 2009 and for

hiding actual production data of the product during non-compliant period from 01.01.2023 to 13.01.2025.

31. Sh. Vikas Chauhan, Ld. Counsel for Respondent on the other hand has submitted that petitioner has treated alleged isolated lapse, if any, mechanically and seeks to impose exorbitant penalty of Rs. 60,00,000/- (Sixty lacs only) on the basis of a purely estimated productions of 1000 units without any verified or certified production/sale data. He has further argued that the Petitioner has failed to produce any cogent proof that 1000 units of concerned labels were manufactured and sold during the alleged period without permission or without BEE Star Labels or that Respondent has failed to apply for renewal of approval within the permissible time. He has further submitted that even assuming any lapse in relation to a particular consignment, the same is at best technical inadvertent and without any adverse impact on the consumers, grid or energy efficiency objectives, and therefore, cannot justify extreme and disproportionate penalty. Ld. Counsel for the Respondent has also submitted that petitioner has ignored settled principles of proportionality, mens rea, mitigating circumstances and statutory requirements and that the petitioner has relied heavily on the inspection report (Annexure P-11) and internal Handbook classification (grade II and grade IV) but not shared the complete matrix or data relied upon for categorizing the alleged non-compliance or computing the penalty. Ld. Counsel for the

Respondent has further submitted that Respondent has never disputed the applicability of S&L Scheme which distinguishes between “Mandatory” and “Voluntary products” and the distribution transformers once notified as mandatory, require registration and affixation of star Labels prior to sale. He has further submitted that Respondent has obtained the requisite approval from the Petitioner for manufacture and sale of 200 KVA transformers of relevant model and that its conduct has consistently been in the nature compliant manufacturer seeking to work within regulatory framework and not that of a habitual violator. He has further submitted that the Petitioner has forcefully dragged the Respondent into a controversy with a view to harass and create hindrance in the business, and lapse, if any, was neither deliberate nor reflective of a pattern of disregard to law and that any isolated single instance cannot be adjudged and magnified to justify exorbitant penalty on presumptive quantities. Ld. Counsel for the Respondent has further submitted that petitioner has not identified a sustained pattern of unlawful conduct and has solely relied upon a single complaint followed by an inspection report and characterizing the Respondent’s behaviour for warranting maximum penalty on an estimated 1000 units which is legally untenable and factually unsustainable.

32. Ld. Counsel for the Respondent has further submitted that petitioner has granted approval vide letter dated 05.01.2021 (Annexure

P-4) for 200 KVA distribution transformers of Model PS/200/L3, valid from 30.12.2020 to 31.12.2022, which demonstrates that Respondent is a authorized manufacturer operating within the S&L Scheme and not an unregistered operator. He has also submitted that petitioner has attempted to turn the expiry of approval into a presumption of large scale non-compliance and that a single instance without documentary evidence, seizure report or independent technical verification cannot be treated as conclusive proof of absence of label or of willful intent. He also submitted that Respondent has responded to the notices issued by the petitioner well in time vide reply dated 24.07.2024 (Annexure P-8) which was a bonafide attempt to apprise the petitioner of the status of renewal and to assure further compliance and not an admission of the deliberate or fraudulent conduct. He has also submitted that conclusion drawn in the inspection report dated 13.03.2025 (Annexure P-11) is not correct for the reason that its methodology, scope, sample size and reliance on third party statements has not been transparently placed on record for scrutiny and that the inspection report must be read in conjunction with actual production and sale data, which shows only a small number of 200 KVA units sold in the relevant period.

Points for determination.

33. I have carefully considered the submissions of the Ld. Counsel for the Petitioner and the Respondent including written submissions of the

Ld. Counsel of the petitioner and have perused the entire record carefully. The following points arise for determination in the present petition:-

Point No. 1. whether the Respondent has manufactured and sold the 200 KVA distribution transformers without affixing star label to Sh. Rahul Bajaj and other consumer during the said period and has violated the mandatory provisions of section 14 of the Act and Regulations 2009 and thereby has attracted penalty under section 26 of the Act ?

Point No.2. whether the proposed penalty of Rs. 60,00000/- is commensurate to the violation of the provisions of the Act and the Regulations ?

Point No. 3. Final Order.

For the reasons to be recorded herein after in writing, point wise finding is as under:-

Point No. 1: Yes.

Point No. 2: Partly yes.

Point No. 3: The petition partly allowed as per operative part of the Order.

Reasons for Findings.

Point No.1 & 2.

34. Both these points being interlinked and interconnected are being taken up together for adjudication.

35. Undisputedly, the petitioner has granted the approval in favour of the Respondent vide letter dated 05.01.2021 (Annexure P-4) valid from 30.12.2020 to 31.12.2022 under the provisions of Regulation 7 of the Regulations, 2009, as amended from time to time, for supplying 200 KVA distribution transformers bearing serial No. PS/200/5223 and model No. PS/200/L3 (product for short). According to Regulation 7 read with regulation 4 of the Regulations, 2009, the Respondent is required to ensure that a label containing a specified particulars is displayed on every distribution transformers.

36. It is evident from the record that the approval of BEE Star Level had expired on 31.12.2022 and the Respondent failed to obtain the permission and renew his approval, which was mandatory under the provisions of sub-regulation (4) of Regulation 7 of the Regulations, 2009, as amended from time to time. It is also evident from record that Respondent continued his business of manufacture of 200 KVA distribution transformers and sale thereof even after the expiry of his approval/permission on 31.12.2022 without having applied for renewal under the said Regulations, 2009.

37. It is also evident from the record that the Petitioner, in discharge of his statutory obligations, initiated inquiry against the Respondent on the basis of a complaint of reported violation of the Act and the Regulations, by the Power Department, Government of Sikkim received vide communication dated 30.05.2024 (Annexure P-5). In the complaint, the Power Department, Government of Sikkim pointed out that Respondent has sold one 200 KVA distribution transformer to one Sh. Rahul Bajaj on 22.04.2024 without affixing the BEE Star Label in violation of mandatory provisions of the Act and the Regulations, 2009. In furtherance to the said communication, the notices dated 24.06.2024 and 26.07.2024 (Annexures P-6 and P-7) were issued respectively to the Respondent to explain his position which are undisputed.

38. The record suggests that the Respondent vide his response dated 24.07.2024 (Annexure P-8) conveyed the petitioner that Respondent had BEE Star rating certificate for 200 KVA transformer and for a long period, the Respondent has not supplied the transformers with above rating to consumers and in the meanwhile, the existing BEE certification for 200 KVA distribution transformers got expired. It was further mentioned by the Respondent in reply that the Respondent has already initiated the process for the renewal of the same and will get the revised certificate as soon as possible and assured the petitioner that the same

mistake will not happen in future and Respondent will keep the BEE Certificate updated.

39. It is also evident on record that the petitioner vide letter dated 06.09.2024 (Annexure P-9) directed the State Designated Agency of HP(DoE, H.P. for short) to appoint an Inspection Officer (IO) to conduct inspection of distribution transformers manufactured by the Power Star Respondent at location of the Complainant/various authorized distributors/traders/retailers. The petitioner further directed the DoE, H.P. to initiate adjudication against the Respondent for not affixing the Star Label on the mandatory appliance resulting in non-compliance of the provisions of the Act and the Rules and Regulations made thereunder. Furthermore, upon receiving the inspection report from the IO, if Respondent is found non-compliant of the provisions of the Act and Regulations framed thereunder, a petition is to be filed by the DoE, H.P. before the Himachal Pradesh Electricity Regulatory Commission. The record also suggests that the Petitioner informed Power Department, Sikkim vide letter dated 01.10.2024 (Annexure P-10) that necessary instructions have been issued to the DoE, H.P. in relation to the violations committed by the Respondent.

40. As evident from the record, the investigating officer, appointed by the DoE, H.P. submitted his report dated 13.03.2025 (Annexure P-11) corroborating the reported violations by the Respondent. As per

inspection report, the Respondent supplied 200 KVA, 11 KVA transformers to its buyer after 31.12.2022 without affixing rating of Star Label duly authenticated by the Petitioner. Therefore, the Respondent has violated the provisions of the Act and has failed to adhere to the mandatory requirement or the provisions of the Act, which certainly constitute violation of the provisions of the Act and regulations framed thereunder. On the basis of observations made by the Inspecting Officer in his report, the Petitioner invoked the penalty provisions of section 26(2) of the Act and computed the penalty amount of Rs. 60,00000/- on estimation basis as per table reproduced under para 9 of this order.

41. The petitioner has placed on record the copies of the Approval Letter issued to the Respondent, communication of the Department of Power, Government of Sikkim and the Inspection Report, which clearly establish that approval granted by the Petitioner to the Respondent stood expired on 31.12.2022 and the Petitioner had no approval till 13.01.2025. Thus the Respondent was not legally authorized to manufacture and sell 200 KVA distribution transformers to the consumers without having a valid Star Label rating certificate. It is established on record that the Respondent supplied/sold one distribution transformer of 200 KVA to Mr. Rahul Bajaj on 22.04.2024 and to other limited buyers, fewer than 1000 units. In its reply to the notice, the Respondent has clearly admitted that his certificate has since expired

and he is taking steps for renewal thereof. However, the Respondent has failed to place on record any documentary evidence which may prove that he has actually applied for renewal of certificate or had the requisite certificate on 22.04.2024 on the contrary, he has assured in his reply to the notice that he will not repeat such violation in future and will keep updated his certificate. Further, the documentary evidence i.e. Tax invoice (E-invoice), GSTR Form generated from the online portal of the Respondent (Annexure R-1) submitted by the Respondent with his reply to the petition clearly establish that Respondent had manufactured and sold the product to the consumers during the period from 01.01.2023 to 13.01.2025 when he was not having a valid certificate. It is relevant to mention that the details of data shown under para 12 of his reply do not match with the data shown in the Tax Invoice, e-way Bill etc. (Annexure R-1) annexed with the Reply which shows that Respondent has tried to conceal the actual production/sale data of the said period to escape the liability.

42. In view of the above and taking into consideration the documentary evidence placed on record, I am of the considered view that Respondent has failed to adhere to the mandatory provisions of the Act and Regulations, 2009 and continued his business in contravention of the provisions of Act, Rules and Regulations made thereunder. Thus, the petitioner has established that the Respondent has violated the

mandatory provisions of the Act and the Regulations, as alleged by the Petitioner and has proposed a penalty of Rs. 60,00000/- for violating the provisions of the Act and the Regulations.

43. Now the question arises as to whether the proposed penalty of Rs. 60,00000/- is in commensuration to the violation committed by the Respondent. According to the provisions of section 26 of the Act, it is not in the domain of the Petitioner to decide or adjudicate the quantum of penalty for any violation of the Act or the Rules and Regulations made thereunder. Therefore, in order to determine the penalty, the nature and gravity of the offence and the relevant facts and circumstances has also to be taken into consideration by the Adjudicating Officer.

44. In the present case, it is proved on record that Respondent has committed violation of the statutory provisions of the Act and the Regulations, 2009, but for the purpose of determination of penalty, presumptive figures of the manufactured products cannot be legally taken into consideration as proposed by the Petitioner in the petition. On the other hand, Respondent in his reply has submitted the details of the manufactured product during the alleged non-compliant period supported by documentary evidence (Annexure R-1) which cannot be overlooked though the details of the production data do not match with the data reflected in Annexure R-1. Therefore, for the purpose of determination of penalty for non-compliance of the provisions of the Act

and the Regulations framed thereunder, the penalty is to be determined keeping in mind the gravity of the offence and the actual production data (Annexure R-1). Undisputedly, the proposed penalty of Rs. 60,00000/- is based on estimation of 1000 units against the reported violation of only one unit sold to Mr. Rahul Bajaj on 22.04.2024, as reported by the Department of Power, Government of Sikkim. Therefore, the proposed penalty of Rs. 60,00000/- does not appear to be commensurate to the violation committed by the Respondent. In the circumstances, rules of justice will meet in case the Respondent is imposed penalty of the 1,00,000/- (Rupees one lakh only). Further he shall be liable to an additional penalty of Rs. 50,000/- (Rupees fifty thousand only) for continued failure in obtaining the certification/approval during the period from 01.01.2023 to 13.01.2025 and further penalty of Rs. 500/- per day in case of default in depositing the above penalty within 30 days. Point No. 1 is accordingly decided in favour of the Petitioner and against the Respondent. Point No. 2 on the other hand is decided partly in favour of the petitioner and partly against it.

Final Order.

45. In view of the above detailed discussions and findings, Petition allowed partly. The penalty amount is adjudged to be Rs. 1,00,000/- for the violations committed by the Respondent and the Respondent shall pay the same within a period of 30 days from the order. In addition, the

Respondent is also held liable for penalty of Rs. 50,000/- for the breach of the Regulations, 2009 for not obtaining the approval w.e.f. 01.01.2023 to 13.01.2025 which is also ordered to be deposited within 30 days from the date of the order. In case of default in depositing the penalty amount, within a period of 30 days from the date of order, the Respondent shall be liable to pay further penalty of Rs. 500/- per day till the deposit of penalty. The Respondent is also warned to be careful and vigilant and not to commit such violations in future. The petition is disposed off in view of the above terms.

Let a copy of the order be supplied to the parties forthwith.

The file after needful be consigned to the records.

Announced.
28.02.2026

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(Shashi Kant Joshi)
Adjudicating Officer
Member
HPERC, Shimla-09.