



In the matter of:

Complaint No. 04/2024

M/S Amba Shakti Ispat Ltd, Plot No. 6 and 6A, Industrial Area, Kala Amb, Distt. Sirmaur-173230.

-Appellant

Vs

1. Executive Director (Personal), HPSEB Ltd, Vidyut Bhawan, Shimla-171004
2. The Sr Executive Engineer, Electrical Division, HPSEB Ltd, Nahan, District Sirmour, HP-173001
3. The Assistant Executive Engineer (E), Electrical Sub-Division, HPSEBL, Kala Amb, District Sirmour, HP-173030

- Respondent

Complaint No. 04/2024 (Registered on 19/09/2024)

Last heard: 30/09/2024

Final Order issued on: 04/10/2024

Counsel for:

The Complainant: 1.Sh. Rakesh Bansal, the authorized Representative
2. Sh. Manik Seth, Advocate

The Respondents: 1. Sh. Kamlesh Sekhlani, Under Sectt. Law
2. Sh. Rajesh Kashyap, Advocate
3. Er. Virender Kumar, A.E., ESD Kala Amb.
4. Sh. Manish Kumar, JOA (IT)

CORAM

Er. Deepak Uppal

HP Electricity Ombudsman



Order

1. M/S Amba Shakti Ispat Ltd, Plot No. 6 and 6A, Industrial Area, Kala Amb, Distt. Sirmaur-173230 bearing Consumer ID 100012002331 is a Large Industrial Power Supply (LIPS) Consumer of Respondent HPSEBL with supply voltage at 33kV, have filed an Application under Regulation 28, of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 against the final Order dated 03.09.2024 passed by the Consumer Grievance Redressal Forum at Kasumpti in Complaint No. 1515/202404/07 which was received and registered on 19.09.2024,.

2. Brief Facts of the Case:

- a. The Complainant contends that the complainant is being supplied at 33kV supply voltage before and after the increase of the load from 3550KW/3944kVA to 13500 kW/13000 kVA of contract demand. The respondent levied Low Voltage Supply Surcharge (LVSS) because the standard supply voltage in the complainant's case works out to 132 kV as his contract demand was above 12000 kVA in terms of clause 2.1.6.1(A) of the Supply Code, 2009 being 12MW/10 MVA.
- b. The respondents continued to levy the energy rates that were applicable to 33 kV even after the increase of contract demand to a level beyond the maximum limit (12000 kVA) set by Supply Code, 2009. The energy tariff for 33 kV and 132 KV differs by 10 paise per kVAh for the consumption during non-peak hours, while the demand charges also differ by Rs. 25 per Kva.



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c. The complainant contends that the grievance of the complainant is exactly similar to the matters already decided by the Ld. Ombudsman. The matter falls within the ambit of Regulation 33(1)(d) as similar matters have already been settled and dealt on merits by the Hon'ble Ombudsman in the case of other consumers some of which are mentioned below:

- i) Case No. 11 of 2023 in the matter of Vardhman Ispat Udyog;
- ii) Case No. 25 of 2023 in the matter of Kundlas Loh Udyog;
- iii) Case No. 22 of 2023 in the matter of Aggarwal Steel Industries Pvt. Ltd.

d. The complainant also contends that in a recent decision in an identical matter in the case of Vardhman Ispat Udyog in Case No. 11 /2023, similar relief has been ordered as in the present complaint. The review filed by the respondents in Case No. 22 of 2023 before the Ombudsman has also been dismissed by the Ombudsman vide his orders dated 08.04.2024. Thereafter, the Ld. Ombudsman further disposed two more cases where the same issue was under contention in Case No. 22 and 25 of 2023.

3. The case was called for admission hearing on dt. 30.09.2024. The authorized representative for Complainant Sh. Rakesh Bansal read out the representation in the court room and brought out key points of the contentions before everyone present in the court room. Also, convinced this court on the similarity status of instant case with reference to above mentioned cases under para 2(c) i.e 11/2023,22/2023,25/2023 and it was observed that in principal all these cases were of the same cause of action.

Himachal Pradesh Electricity Ombudsman
Khafini, Shimla



4. The Ld. counsel for complainant Sh. Manik Seth confined his pleadings to the extent **“Pre-conditions/Limitations for entertaining complainant’s representation”** in terms of Regulation 33(1)(d) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 and focused his submissions on subsequent paras 1.5 & 4.2.11 of the representation that stand reproduced above under para 2(c) and 2(d) which were an indicative of similar cases with same cause of action such as 22/2023 & 25/2023 dealt earlier and disposed at the time of admission hearing after having consensus of both the parties, with directions to Respondent Board to make settlement in line with order dt.03.06.2023 issued by that Ombudsman in earlier complaint No.11/2023 in the matter of **“M/s Vardhman Ispat Udyog versus HPSEBL”**.
5. The relevant provision of said Regulation 33(1)(d) was also read out by the Ld. counsels for both Complainant and Respondents which is reproduced for the sake of clarity and reference as under:

“33. Pre-conditions/Limitations for entertaining complainant’s representation:

(1) The representation may be entertained by the Ombudsman only if all of the following conditions are satisfied that: -

(d) the representation is not in respect of same cause of action which was settled or dealt with on merits by the Ombudsman in any previous proceedings whether or not received from the



same complainant or along with one or more complainants or one or more parties concerned with the cause of action;”

6. While listening to the deliberations of counsel for Complainant on the contents of above-mentioned para 2(d) which originally appears as para 4.2.11 in Complainant's representation, certain corrections warranted wherein it was observed that Complainant had erred in mentioning correct No. of review petition filed by the Respondents and date of order issued by this Ombudsman which was in actual on dt. 02.04.2024 in place of order dt.08.04.2024 and Review application No. 18/2023 against Original Complainant No.11/2023 in place of case No. 22/2023.
7. The above mentioned order dt.02.04.2024 in Review application No. 18/2023 in the matter of HPSEBL V/S M/s Vardhman Ispat Udyog was passed in compliance to Hon'ble High Court order dt.27/03/2024 in CMPMO No. 449 of 2023 and specific to para 47 of the said order which says **“Not only this, it would be noticed that the grounds taken in the review petition could at best be grounds for appeal, but do not qualify for being termed as “sufficient grounds for a review” given the limited scope under 37(8)(i) of the Regulations, accordingly the review Application No.18/2023 filed by the Applicant/Respondent Board against final order dated 03/06/2023 passed on merits by that Ombudsman in case no. 11/2023 in the matter of M/s Vardhman Ispat Udyog versus HPSEBL, was disposed as dismissed.**
8. The counsel for respondents during averments presented provisions of Tariff order Fy-18-19 and also read the provisions with other subsequent



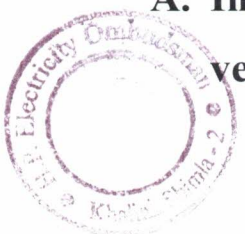
orders passed by the Hon'ble HPERC. During discussions, he also agreed in principle to a very important point that the instant case is also of similar type of cases as mentioned above under para-2(c) that stands dealt by this authority in earlier pleadings. After listening to such conscious views, the further pace of adjudication could not be continued in the presence of prevalent provisions in terms of Regulation 33(1)(d) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013.

9. After listening to both the parties at length and referring to the documents placed on record, this court was convinced with the averments made by the Ld. counsel for complainant in terms of Regulation 33(1)(d) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, the relevant extract stands reproduced at para 5 above and for the sake of brevity, the same is not reiterated again.

10. In the interest of justice before exercising the provisions under Regulation 33(1)(d), this authority feels it legitimate to have an overview of all these cases as mentioned by the complainant inclusive of instant case whether all had same cause of action even after arriving at above consensus, dealt earlier and resorts to the following analysis and scrutiny thereof:

A. In case No.11/2023 in the matter of M/s Vardhman Ispat Udyog versus HPSEBL:

- a. The Complainant had sanctioned Contract Demand of 15000 kW at 33 kV with 14000 kVA Contract Demand since June



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2021. Earlier the Connected Load was 5997.40 kVA and the Contract Demand was 6653 kVA which was further enhanced to 14000 kW Connected Load and 12000 kVA Contract Demand in January 2021.

- b. Initially when the Connected Load of the Complainant was up to 12 MW and with Contract Demand 10 MVA his standard supply voltage was 33 kV and was being fed through dedicated feeder. After his load was increased to 15 MW and 14 MVA, his standard supply voltage changed to 132 kV whereas supply voltage remained at 33 kV joint dedicated feeder (With M/S Pritika Auto Cast) and LVSS is being charged @ 2% (Half of 4% due to joint dedicated feeder).

B. In case No.22/2023 in the matter of M/S Aggarwal Steel Industries Pvt. Ltd., v/s HPSEBL:

- a. In Nov.2021 the complainant purchased a sick unit through NCLT and restarted the unit with 22000 kW of sanctioned connected load with sanctioned contract demand of 16000 kVA at 66 KV supply voltage. The maximum limit of load at 66 KV notified in the clause 2.1.6.1(A) of the Supply Code, 2009 being 14MW/12 MVA, the respondent levied Low Voltage Supply Surcharge (LVSS) because the standard supply voltage in the complainant's case worked out to 132 kV.



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- b. From Nov.2021 till now, the respondents categorized the complainant into EHT voltage of Large Industrial Power Supply and levied the tariff as applicable to 66 kV even though the sanctioned contract demand was at the level of 132 kV.
- c. The complainant is of the view that since his sanctioned contract demand determines his standard supply voltage as 132 KV, the tariff notified for 132 kV should be levied in the energy bills.

**C. In case No.25/2023 in the matter of M/S Kundlas Loh Udyog.,
v/s HPSEBL:**

- a. In June, 2022, the complainant increased his load from 13400 kW with 11400 kVA of contract demand to 18000 kW of connected load with 14000 kVA of contract demand. The complainant is being supplied at 66kV supply voltage before and after the increase of the above said load. The maximum limit of load at 66 KV notified in the clause 2.1.6.1(A) of the Supply Code, 2009 being 14MW/12 MVA, the respondent levied Low Voltage Supply Surcharge (LVSS) because the standard supply voltage in the complainant's case works out to 132 kV.
- b. In Nov, 2021 to now the respondents continued to levy the energy rates that were applicable to 66 kV even after the increase of contract demand to a level beyond the maximum limit (12000 kVA) set by Supply Code, 2009. The energy



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tariff for 66 kV and 132 KV differs by 5 paise per kVAh for the consumption during non-peak hours.

- c. In May 2023, the complainant further increased his load from 18000 kW/ 14000 kVA to 20000 kW/ 16000 kVA.
- d. In July 2023, the complaint further increased the contract demand to 17600 kVA.
- e. The complainant is aggrieved by the fact that the energy rates of 132 kV are not being charged from him. The energy bills issued to the complainant mentions the standard supply voltage as 132 kV and the actual supply voltage as 66 kV.

D. In case No.04/2024 in the matter M/S Amba Shakti Ispat Ltd v/s HPSEBL:

The complainant contends that the respondent has levied Low Voltage Supply Surcharge (LVSS) because the standard supply voltage in the complainant's case works out to 132 kV as his contract demand was above 12000 kVA in terms of clause 2.1.6.1(A) of the Supply Code, 2009 being 12MW/10 MVA and the respondents continued to levy the energy rates that were applicable to 33 kV even after the increase of contract demand to a level beyond the maximum limit (12000 kVA) set by Supply Code, 2009. The energy tariff for 33 kV and 132 KV differs by 10 paise per kVAh for the consumption during non-peak hours, while the demand charges also differ by Rs. 25 per kVA.

- 11.** After having above analysis and listening to both the parties at length, this authority without any doubt conceives & concludes that all the above cases inclusive of instant case are similar in principle and having same



cause of action which was settled on merits by that Ombudsman in case No. No.11/2023 in the matter of “M/s Vardhman Ispat Udyog versus HPSEBL” and as per record the order was issued on 03.06.2023 after detailed adjudications during the process of proceedings by that Ombudsman . For the sake of future reference and to facilitate necessary action by the concerned, the order dt.03.06.2023 of that Ombudsman is reiterated as under:

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



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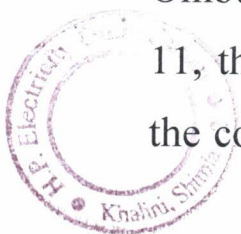


Regulation 37 (6) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 for appropriate action by the Commission under the provisions of the Act.

- 6. The Complaint filed by M/S Vardhman Ispat Udyog, Village Bathri, Tehsil Haroli, Near Tahliwala, District Una, HP-174301 is hereby disposed off.*
- 7. No cost to litigation”*

12. With above averments of both the parties and common views on similarity in principle & same cause of action in the instant case No.04/2024, this authority deduces that the instant case No. 04/2024 in the said matter does not qualify the mandate of **Pre-conditions/Limitations for entertaining complainant’s representation** in terms of Regulation 33(1) (d) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, hence not reasonable for admission in the present circumstances when the case related to similar cause of action stands dealt by that Ombudsman in case No. 11/2023 as mentioned above.

13. In consonance with the deliberations made at length and common consensus arrived at in principle on “similarity & same cause of action” in the instant case with reference to the earlier dealt case No.11/2023 by that Ombudsman on merit and annotations of this authority under paras 9 to 11, the present case No. 04/2024 is not tenable for admission and hence the complaint filed by **M/S Amba Shakti Ispat Ltd, Plot No. 6 and 6A,**



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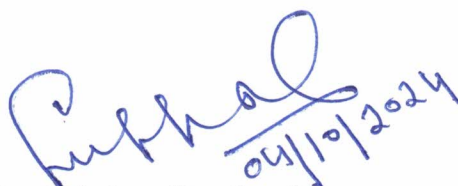
Industrial Area, Kala Amb, Distt. Sirmaur-173230 is here by disposed of.

14. The Respondent Board is directed to make settlement in the instant case No.04/2024 after ascertaining the computation, in line with order dt.03.06.2023 (refer at para - 11) issued by that Ombudsman in earlier complaint No.11/2023 in the matter of “M/s Vardhman Ispat Udyog versus HPSEBL” adhering to timeline as per provisions to avoid further accumulation of amount and also all the relevant provisions in respect of refund and interest be taken care of while overhauling the account to avoid aggregation of litigation .
15. The Respondent Board is further directed to avert intervention of Regulation 37 (6) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 for appropriate action by the Commission under the provisions of the Electricity Act, 2003 and onus on individuals.
16. The order is placed at site and conveyed telephonically for the convenience of reference.

Given under my hand and seal of this office.

Dated: 04/10/2024

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Electricity Ombudsman