



In the matter of:

Complaint No. 09/2024

**M/S Cement Corporation of India Ltd. Rajban Cement Factory,
Tehsil Paonta Sahib, Distt. Sirmour, H.P.- 173029**

-Complainant

Vs

- 1. The Executive Director (Pers.), HPSEBL, Vidyut Bhawan, Shimla-171004.**
- 2. The Superintending Engineer, Operation Circle, HPSEBL Nahan Distt. Sirmour, H.P.-173001**
- 3. The Sr. Executive Engineer, Electrical Division HPSEBL, Gondpur, Paonta Sahib, Distt. Sirmour, H.P.-173025**
- 4. The Assistant Engineer, Electrical Sub-Division, HPSEBL Sataun, Distt. Sirmour, H.P.- 173029**

- Respondent

Complaint No. 09/2024 (Registered on 20/11/2024)

(Orders reserved on 30/12/2024, Issued on 02/01/2025)

Counsel for:

The Complainant: -Sh. Shekhar Badola, Advocate

-Sh. Ravinder Singh, Officer (Legal)

The Respondents: 1.Sh. Kamlesh Saklani (Under Sectt. Law)

2.Er. Ravishankar Chauhan, AE, ESD. Sataun

3. Sh. Pramod Kumar, Sr. Astt. ESD. Sataun,



CORAM

Er. Deepak Uppal

HP Electricity Ombudsman



Order

1. M/S Cement Corporation of India Ltd. Rajban Cement Factory, Tehsil Paonta Sahib, Distt. Sirmour, H.P.-173029 bearing Consumer ID 100012001540 is a Large Industrial Power Supply (LIPS) Consumer of Respondent HPSEBL with permanent sanctioned contract demand of 5000 KVA.
2. The case was registered and received on 20/11/2024, 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 30/09/2024 passed by the Consumer Grievance Redressal Forum at Kasumpti in Complaint No. 1523/202401/01. The case was listed for admission hearing on 23/11/2024.
3. Case called; the matter was heard for admissions on 23/11/2024 to the extent of proceedings. After giving due opportunity to both the parties, the following prayers were granted.
 - a. *For restraining the Respondent from realizing & recovering during the pendency of complaint in terms of an application filed for Interim directions under Regulation 36 read of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013.*
 - b. *The delay was condoned after listening both the parties and arriving at due consensus in terms of an Application filed by the Complainant under Section 5 of Limitation Act Read with Section 151 of CPC for Condonation of delay.*
4. The Complainant also confirmed having deposited 50% of the disputed amount with the Respondents as required under the provisions of Regulation 33 (1) (g) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013



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in the court in the presence of parties. However, the Sr. Assistant appeared as a respondent, in the court room informed that but for system software design, by default, the amount of Rs.7,20,000/- again stands credited back to the Complainant's accounts which was earlier deposited on 20.11.2024. Accordingly, the counsel for complainant was directed to confirm the deposit of differential amount within weeks' time.

5. The Respondent Board was directed to submit a reply on or before 05/12/2024 and rejoinder if any, by the Complainant immediately thereafter the submission of the reply by the Respondent Board.
6. Case called; the matter was heard on 09/12/2024.
 - a. The counsel for complainant confirmed the deposit of remaining balance amount of Rs.7,20,000/- against the deposit of 50% of the disputed amount through receipt dt.05/12/2024 in the court room in compliance to this court order dt.23/11/2024 which was taken on record as confirmation to having deposited 50% of the disputed amount with the Respondents under the provisions of Regulation 33 (1) (g) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 in the presence of parties.
 - b. The Respondent submitted reply through e-mail on dt. 04/12/2024 and hard copy of the reply in the court room in compliance to this court order dt. 23/11/2024 which was taken on record.
 - c. The Sr. Counsel Sh. Shekhar Badola, Advocate for complainant prayed for adjournment for fifteen days through application under prevalent provisions on account of urgent piece of work and made his junior Advocate Sh. Ropesh Kumar to attend the court. Prayer granted. However, in the meantime the counsel for Complainant appeared in the court was directed to submit rejoinder if any within two weeks.



Counsel



- d. Some preliminary arguments were carried out in the said matter and during arguments, the Assistant Engineer for Respondents pointed out clerical mistakes occurred in the letter dt.03/07/2023 in respect of date of deposit of processing fee which according to him be read as 01.02.2020 in place of 19.01.2020 and the letter dt.03/07/2023 was also attached as Annexure-6 with the representation filed by the Complainant. This date being of vital concern with adjudication point of view, he was directed to submit corrections on duly attested affidavit within weeks' time in the interest of justice and ensure on the affidavit that no such payment amounting to Rs.7500/- was deposited by the said Complainant on dt.19/01/2020 towards processing fee of similar nature.
7. Accordingly, the case was listed and heard for final arguments on 30/12/2024. The Assistant Engineer concerned submitted an affidavit in the court room in compliance to this court order dt. 09/12/2024 which was taken on record. The relevant points of affidavit are reiterated as below:
- "2. That the Respondent Board has sent a letter dt. 03/07/2023 to the Complainant i.e. M/s CCI but due to clerical/bonafide mistake, the date has wrongly been mentioned as 19.01.2020 instead of 01.02.2020 which is actual date of deposit of the processing fee for temporary reduction of contract demand. On 19.01.2020, the Respondent Board has not received any payment from complainant i.e M/s CCI.*
- 3. That the Complainant, i.e. M/s CCI Rajban has deposited the processing fee on 01.02.2020 for a temporary reduction in contract demand.*
- 4. That the Complainant has not deposited any processing fee for permanent reduction in contract demand"*
8. Both Ld. Counsel for Respondent Board, Assistant Engineer representing Respondent Board and Ld. Counsel for the Complainant advanced their arguments in detail and after listening to both the parties at length, the arguments were concluded and order reserved.

A-Brief Facts of the Case:

1. The Complainant in December 2019 temporarily revised/ reduced its contract demand to 4700 kVA which was affected by the Respondent in January

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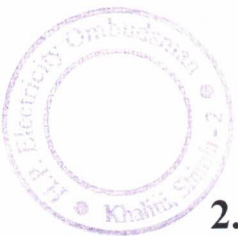
2020. Subsequent application by Complainant for permanent reduction of contract demand was submitted in May 2020 but was not pursued by the Complainant and was also not sanctioned by the Respondent.

2. The Complainant contends that the action by the Respondent to raise monetary demand of Rs 43,20,000/- vide Demand letter / Notice dated 03.07.2023, further raised as sundry in electricity Bill dated 05.12.2023 being unjust, illegal, arbitrary and contrary to principles of natural justice, deserves to be quashed and set aside. The said monetary demand is for the period 01.04.2020 to 31.07.2023 (40 months)
3. On the other hand it is the case of the Respondent that it has raised the said monetary demand pursuant to amended regulation 3.10 of the HP Supply Code, 2009 (2nd Amendment) framed by the HP Electricity Regulatory Commission (or the HPERC) and that it being a distribution licensee is entitled to recover past dues of arrears in accordance with law laid down by the Hon'ble Apex court and that the Complainant is bound to pay charges of statutory nature.
2. The detailed facts of the case stand placed under the heading "**The Complainant's Submission**", hence for the sake of brevity, the same are not reiterated again.

B-The Complainant's Submission:

BRIEF FACTS OF THE CASE:

1. The Complainant submits that the present appeal is being filed by the Appellant through its Sr. Manager (Elect.), Sh. Achin Bansal S/o Sh. Arvind Kumar Bansal, Aged about 40, R/o Quarter No. B-5, CCI Colony Rajban, Tehsil Paonta Sahib, Distt. Sirmour, H.P.
2. The Complainant submits that the Appellant applied for a temporary contract demand reduction for the 33 KV RB6 connection from 5000

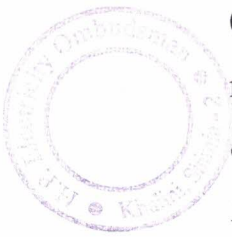


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KVA to 4700 KVA on 05/12/2019 and deposited the fee as per the payment receipt dated 01.02.2020, annexed herewith as **Annexure A-2**.

3. The Complainant submits that upon acceptance of this application, Respondent No. 2 approved the reduction of contract demand from 5000 KVA to 4700 KVA, which was implemented in the electricity bill effective from January 2020.
4. The Complainant submits that it is pertinent to mention that following the approval for temporary contract demand reduction from 5000 KVA to 4700 KVA, the revised electricity bill reflecting the reduced load of 4700 KVA was generated from January 2020, as evident from the bill annexed as **Annexure A-3**.
5. The Complainant submits that after the reduction to 4700 KVA, the Appellant applied for a permanent contract demand reduction vide application dated 04.05.2020 duly received by Dispatcher of HPSEBL, annexed herewith as **Annexure A-4**.
6. The Complainant submits that despite consistent follow-ups and repeated requests to Respondent No. 2, the Appellant has not received the Revised Load Sanction Letter. Consequently, the Appellant sent a Letter Dated 13/05/2023, annexed as **Annexure A-5**, again requesting Respondent No. 2 to issue the revised load sanction letter.
7. The Complainant submits that, to the Appellant's utter surprise, Respondent No. 3 issued a letter dated 03/07/2023, assessing a shortfall in demand charges amounting to Rs.43,20,000/- for the period from 01/04/2020 to 31/07/2023, as per **Annexure A-6**. This notice also reveals that a processing fee of Rs. 7500/- for the temporary reduction of contract demand from 5000 KVA to 4700 KVA was deposited by the Appellant on 19/01/2020.
8. The Complainant submits that at no point did the Respondents



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communicate any rejection of the Appellant's application for contract demand reduction, nor did they respond to any communications from the Appellant prior to the letter dated 03/07/2023.

9. The Complainant submits that the Appellant responded to the letter dated 03/07/2023, requesting a resolution to the issue, but received no positive outcome. Respondent No. 3 further claimed that their office had never received the Appellant's application for reduction in contract demand. Due to the failure on the part of Respondent Nos. 2 and 3 to communicate or forward the Appellant's applications to the competent authorities within the stipulated period, the Appellant cannot be made to suffer.
10. The Complainant submits that it is also relevant to note that as per the letter dated 03/07/2023 (Annexure A-6), Respondent No. 3 stated that the short assessment of Rs. 43,20,000/- came to light only after an audit conducted for the period from 01/04/2020 to 31/07/2023. Subsequently, Respondent No. 3 has also requested a fresh application for permanent contract demand reduction, subjecting the Appellant to undue harassment due to failures on the Respondents' part.
11. The Complainant submits that effective from September 2023, the Respondents reverted the contract demand of the Appellant from 4700 KVA back to 5000 KVA, and in the bill for November 2023, the short assessment demand charges amounting to Rs. 43,20,000/- were added as Sundry Charges, attached herewith as **Annexure A-7**.
12. The Complainant submits that the impugned acts of omission and commission by the Respondents and the impugned letter dated 03/07/2023 (Annexure A-6) are arbitrary, unjust, illegal, and contrary to the principles of natural justice, thereby meriting quashing and setting aside.



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13. The Complainant submits that the complaint was filed by Appellant, bearing Consumer ID. 100012001540 accompanied with application for Interim Relief before the Ld. Forum.
14. The Complainant submits that in terms of the Ld. Forum's Interim Order dated 17.01.2024, the Appellant deposited the 1/3rd amount equal to Rs. 14,40,000/- of the total disputed amount i.e. Rs. 43,20,000/- in the Office of Assistant Engineer, Electrical Sub-Division Sataun vide payment receipt dated 24.01.2024, attached herewith as **Annexure A-8**.
15. The Complainant submits that the Ld. Forum below after hearing the parties dismissed the complaint of the appellant vide impugned order dated 30.09.2024 (**Annexure A-1**).
16. The Complainant submits that Feeling aggrieved and dissatisfied with the impugned order dated 30.09.2024 passed by the Ld. Forum in complaint No. 1523/202401/01, the appellant assails the same inter-alia on the following grounds:

GROUND OF REPRESENTATION:

17. A) The Complainant submits that the impugned order dated 30.09.2024 passed in Complaint No. 1523/20240/01 by the Ld. CGRF is unjust, illegal, unsustainable, unreasonable, and arbitrary.
18. B) The Complainant submits that the Ld. Forum below has failed to appreciate that the Appellant applied for a temporary contract demand reduction from 5000 KVA to 4700 KVA on 05/12/2019, which was duly approved by the Respondent No. 2, with the reduced contract demand implemented in the electricity bill effective from January 2020. The impugned order, however, disregards this approval and unjustly holds the Appellant liable for an arbitrary demand.
19. C) The Complainant submits that the Ld. Forum below has failed to appreciate that despite the Appellant's regular follow-ups and requests,



no revised load sanction letter for permanent reduction in contract demand was issued by Respondent No. 2, forcing the Appellant to repeatedly request compliance from the Respondent No. 2, including a formal letter dated 13/05/2023 (Annexure A-5). The Respondents' continued non-responsiveness in this matter has resulted in significant inconvenience and delay to the Appellant.

20. D) The Complainant submits that the Ld. Forum has overlooked that on 03/07/2023, Respondent No. 3 issued a notice demanding Rs. 43,20,000/- as a short assessment of demand charges for the period 01/04/2020 to 31/07/2023 (Annexure A-6). This demand was arbitrary and unreasonable, as the Appellant had already deposited the processing fee of Rs. 7500/- for the temporary reduction to 4700 KVA on 19/01/2020. No rejection of the contract demand reduction application was communicated to the Appellant, nor were they given an opportunity to contest the amount prior to this sudden demand.

21. E) The Complainant submits that the Ld. Forum below failed to consider the Respondents' failure in communication, as Respondent Nos. 2 and 3 claimed they never received any application for permanent reduction in contract demand. Despite the Appellant's proper application and payment, Respondent Nos. 2 and 3 failed to forward or communicate necessary information within the stipulated period, which has resulted in undue hardship for the Appellant.

22. F) The Complainant submits that the Ld. Forum below further failed to appreciate that, according to Respondent No. 3's own admission in their letter dated 03/07/2023, the short assessment of Rs. 43,20,000/- only came to their knowledge after an audit for the period from 01/04/2020 to 31/07/2023. Instead of acknowledging their own failure in timely action, Respondent No.3 has further subjected the Appellant to

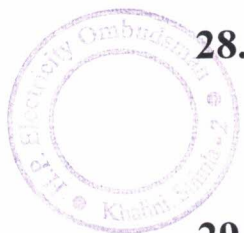


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harassment by requiring a fresh application for permanent reduction in contract demand. This indicates an arbitrary exercise of power by the Respondents.

- 23. G)** The Complainant submits that the Ld. Forum below has also failed to appreciate that as of September 2023, the Respondents unilaterally reverted the contract demand from 4700 KVA to 5000 KVA without any proper notification to the Appellant. The short assessment demand charges of Rs. 43,20,000/- were also added as Sundry Charges in the November 2023 bill (Annexure A-7), which is unjust and arbitrary.
- 24. 16)** The Complainant submits that the impugned actions of the Respondents, including the issuance of the letter dated 03/07/2023, are in violation of principles of natural justice. The Appellant was neither given an opportunity to be heard nor provided with a legitimate explanation for the sudden demand, making the impugned order arbitrary and liable to be set aside.
- 25. 17)** The Complainant submits that there is no other representation by the Appellant company in respect of the same grievances pending in any other proceeding before any court, tribunal, arbitrator, or other authority.
- 26. 18)** The Complainant submits that no prior representation was made before this Hon'ble Authority in respect of the same subject matter.
- 27. 19)** The Complainant submits that the Appellant is not satisfied with the redressal of grievances by the Ld. Forum below, as the reliefs prayed for in the complaint were not granted in favour of the present Appellant.
- 28. 20)** The Complainant submits that the present Appeal/Representation is within the statutory period of limitation, as the Certified copy of the impugned order was received by the Appellant company on 16.10.2024.
- 29. 23)** Nature of Relief Sought from the Ombudsman



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- a. The Complainant submits that the Respondent be restrained from recovering the Short Assessment Demand Charges amounting to Rs. 43,20,000/- for the period from 01.04.2020 to 31.07.2023, as the demand is illegal and arbitrary under the facts and circumstances of the present case, and may kindly be set aside and quashed.
- b. The Complainant submits that any other consequential relief which the Hon'ble Court deems fit may also be passed in favour of the appellant company and against Opposite parties.

C- The Respondent's Submission:

Preliminary Submissions: -

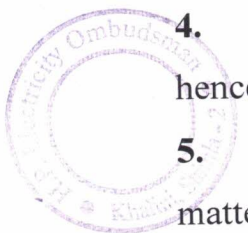
1. The Respondent submits that the Representation as preferred by the complainant is not maintainable in the eyes of the law as there is no infirmity or illegality in the order passed by the Ld. CGRF, Shimla, H.P. therefore the same deserves dismissal.
2. The Respondent submits that the reliefs sought by the complainant are not tenable in the eyes of law, as the Ld. Forum below has correctly passed the order dated 30.9.2024 after thoroughly examining the case records. Ld. Forum's decision is based on a thorough review arguments presented by both the parties, on the pleadings of the parties and the Ld. Forum has categorically appreciated the applicable provisions of the H.P Electricity Supply Code, 2009 in the impugned order thus there is no such infirmity or illegality in the order passed by the Ld. Forum thus the representation is liable to be dismissed.
3. The Respondent submits that the Ld. Forum below rightly decided that the monetary demand raised by the respondents is in accordance with the amended provisions of the Supply Code. It also affirmed that the respondents' interpretation and application of Clause 3.10 of the Supply Code 2009 and its 2nd Amendment



are correct and Bonafide. Therefore, the contentions and reliefs sought by the complainant are not sustainable. It is further added that the demand raised against M/s Cement Corporation of India is statutory in nature, and failure to pay will result in the disconnection of electricity supply. The demand is neither illegal nor contrary to the law. The supplementary demand was issued after detecting a bona fide error, based on actual consumption. The distribution licensee has the right to recover past dues, as upheld by the Hon'ble Supreme Court in *Assistant Engineer (D1) Ajmer Vidyut Nigam Limited vs. Rahamutullah* (2020) 4 SCC 650 and *M/S Prem Cottex vs. Haryana Vijli Vitaran Nigam Ltd.* (2021). The Ld. Forum has rightly acknowledged the respondents' contention that the demand is statutory and can be recovered at a later stage. Therefore, the representation is without merit, in accordance with the settled legal position.

Reply on Merits:

1. The Respondent submits that the content of Para No.1 is matter of record, hence anything contrary to the record is specifically denied. It is further submitted that as submission made in Para supra the Ld. Forum below has correctly passed the order dated 30.9.2024 after thoroughly examining the case records, pleading of the parties and applicable provisions of The Electricity Supply Code 2009. Therefore, the order of Ld. Forum below warrants no interference of this Hon'ble Court.
2. The Respondent submits that the content of Para No.2 is matter of record, hence anything contrary to the record is specifically denied.
3. The Respondent submits that the content of Para No.3 is matter of record, hence anything contrary to the record is specifically denied.
4. The Respondent submits that the content of Para No.4 is matter of record, hence anything contrary to the record is specifically denied.
5. The Respondent submits that the content of Para No. 5, insofar as it is a matter of record, is admitted. However, the rest of the content of the paragraph is



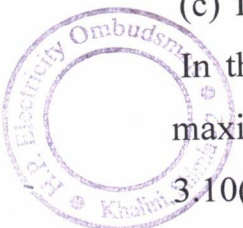
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wrong, incorrect, and hence denied. It is further submitted before this Hon'ble Court that the consumer applied for a temporary reduction in contract demand from 5000 KVA to 4700 KVA in December 2019, and the statutory fees were deposited by the complainant on 01.02.2020. Consequently, the reduction was reflected in the consumer's bill. It is further stated that although the complainant applied for a permanent reduction in contract demand on 04.05.2020, but it could not be implemented because the complainant failed to deposit the statutory processing fees. It is pertinent to note that the complainant admitted before the Ld. Forum that, although they wrongly submitted that the requisite fees were paid on 01.02.2020 for the permanent reduction of contract demand, the fees were actually for the temporary reduction of contract demand. Therefore, this material fact is vital in the adjudication of these issues as per the applicable and amended provisions of the Supply Code. Additionally, it is worthwhile to mention here that as per instruction dated 25.10.2018 for the proper implementation of revised Clause 3.10(a) of the H.P. State Electricity Supply Code, 2009, 2nd Amendment, the consumer willing to revise his contract demand is permitted to do so twice in a year subject to the condition the minimum time gap between two successive revisions is not less than three months. Once the consumer has temporarily revised their contract demand, the billing will be based on the revised contract demand for three months. Moreover, after three months, the consumer shall have three options: -

- (a) To further revise the contract demand to a value other than the original sanctioned contract demand (OSD),
- (b) To change the contract demand to the original sanctioned contract demand, or
- (c) To continue with the revised contract demand.

In this case consumer shall have the option to continue with revised CD for a maximum period of 3 months i.e. 4th, 5th & 6th months. As per revised Clause 3.10(a), if consumer does not revise CD then after 6th month the billing shall be

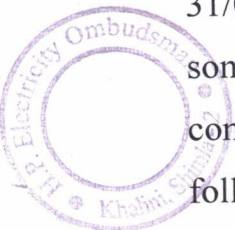


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done on the basis of original Sanctioned Contract Demand only. It is further submitted that after three months the complainant did not bother to choose any of afore mentioned options at any point of time. Therefore the contention of the complainant is wrong, incorrect; consequently the representation filed by the complainant deserves to be dismissed in limine.

6. The Respondent submits that the contents of Para No. 6 of the representation are wrong, incorrect and vehemently denied. The fact of the matter remains that the complainant was made aware of the fact that Temporary reduction is applicable till 31.03.2020 as financial year closed on 31.03.2020 as per instruction No.HPSEBL/CF(Comm)/Serc-23/2018-10/23-1 3/2018-10/23-155 dated 25.10.2018 reduction is valid only for Financial Year and as per instructions dated 25/10/2018 for proper implementation of revised clause 3.10 (a) of HP State Electricity Supply Code, 2009 the consumer willing to temporary revise his contract demand is permitted to do so twice in a year subject to the condition that minimum time gap between two successive revisions shall not be less than three months. Once consumer has temporarily revised his contract demand, the billing shall be done on the basis of revised Contract Demand for three months. The complainant has failed to adhere to the notification dated 25/10/2018 and did not bother to choose any of the afore options at any point of time as mentioned in condition 3.10(a) of Supply Code. Therefore, the replying respondents have rightly issued the Demand Notice of Rs. 43, 20,000/- from the complainant as it was in the knowledge of the complainant that its CD could not be processed as it has failed to adhere to the Sales Manual instructions regarding revision in Contract Demand. Moreover, the reduction was allowed till 31/03/2023 i.e. for three months and thereafter, it could not be changed due to some complication in SAP billing and further could not be revoked to its original contract demand. It is also denied that the complainant has made any regular follow ups and made the request to the filed units.



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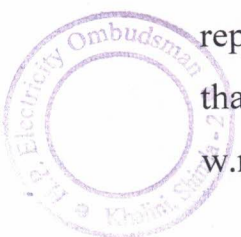
7. The Respondent submits that the contents of Para No. 7 of the representation are matter of record, hence calls for no reply.

8. The Respondent submits that the contents of Para No. 8 of the representation are vehemently denied. It is submitted that a Communication has been made with the representative HOD of the Department of CCI Rajban by the respondents telephonically and informed them that the reduction of CD temporary has not been sanctioned till date but the complainant claimed that reduction of temporary as well as permanently has been approved. However, the complainant has failed to produce any sanctioned letter issued by the replying respondents with respect to reduction in CD.

Temporary reduction case has been forwarded to competent authority (Copy of letter enclosed) although order of reduction not received but reduction has been implemented during 02.02.2020 that is in compliance to instruction regarding reduction of CD. Moreover, the Process of reduction in CD permanently could not process as consumer has not deposited the processing fee. It is pertinent to mention here that CD was temporarily revised from 5000Kva to 4700kva till 31.03.2020 but energy bill was wrongly issued for 4700kva instead of 5000kva till 08/2023 and in the Month of September, 2023 CD has been revoked at its original C.D i.e. 5000KVA and short assessment demand charges notice of Rs 43, 20,000 was detected on a/c of D.C for the period 01.04.2020 to 31.07.2023.

9. The Respondent submits that the contents of Para No. 9 are vehemently denied being false, incorrect and submissions made in Para supra may kindly be read as part of brevity.

10. The Respondent submits that the contents of Para No. 10 of the representation being a matter of record calls for no reply. However, it is submitted that the complainant never made any correspondence with the replying respondent w.r.t reduction in Contract Demand even after three months as per



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instructions/notification dated 25/10/2018. The rest of the contents is denied being false and wrong.

11. The Respondent submits that the content of Para No. 11 of the representation being a matter of record calls for no reply. It is further submitted that as amount was not assessed in regular bills issued to the complainant therefore, the complainant has been requested to deposit Short assessment demand charges of Rs. 43, 20,000/-hence recovery is justified.

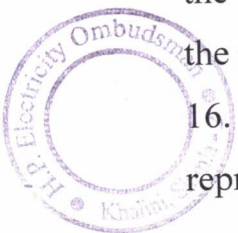
12. The Respondent submits that the contents of this Para No. 12 of the representation are vehemently denied on submissions made in Para Supra.

13. The Respondent submits that the content of Para No. 13 is matter of record, hence anything contrary to the record is specifically denied.

14. The Respondent submits that the content of Para No. 14 is matter of record, hence anything contrary to the record is specifically denied.

15. The Respondent submits that the content of Paragraph No. 15 and sub-paragraphs (A) to (G) are incorrect and are hereby denied. It is further submitted that, in addition to the submissions made in Para supra, the order passed by the Learned Consumer Grievance Redressal Forum on dated 30.09.2024 is in accordance with well-established legal principles. Therefore, the representation filed by the complainant is without merit and should be dismissed. In view of the above submissions, it is respectfully stated the demands raised by the respondent are lawful, and the consumer is obligated to make payment of the same. Further, since the demands are statutory in nature, failure by the consumer to settle the dues will result in the enforcement of the statutory provision for disconnection of the electricity supply. The electricity charges in question are statutory dues, and the consumer cannot avoid the obligation to pay them.

16. The Respondent submits that the contents of this Para No. 16 of the representation are vehemently denied.





17. That the contents of this Para No. 17 of the representation being formal in nature call for no reply.
18. The Respondent submits that the contents of Para No. 18 of the representation being formal in nature call for no reply.
19. The Respondent submits that in response to the contents of this Para it is submitted that the Ld. Forum did not find anything on record which may substantiate or support the grievances of the complainant to be based on any valid legal or factual ground, therefore, the Ld. Forum has rightly rejected the claim of complainant being baseless.
20. The Respondent submits that the contents of this Para No. 20 of the Representation are denied as the representation has not been filed within a period of statutory limitation.
21. The Respondent submits that the contents of Para No. 21 of the Representation being formal in nature call for no reply.
22. The Respondent submits that the contents of Para No. of the Representation being formal in nature call for no reply.

Relief:

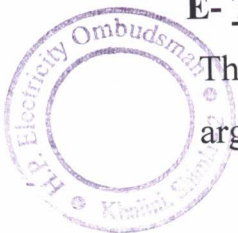
23. The Respondent submits that it is, therefore, prayed that the Representation being devoid of any merit deserves to be dismissed with cost throughout and the complainant is not entitled for any relief as claimed in the prayer clause.

D- The Complainant's written Arguments:

The Complainant did not submit any Rejoinder/Written arguments, instead preferred oral arguments.

E- The Respondent's written Arguments:

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



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F- The Final Arguments of both during proceedings :

The final arguments were conducted on 30/12/2024 and both the parties were given opportunity to argue their contentions to the edge.

1. The Counsel for Complainant contented that the Appellant applied for a temporary contract demand reduction from 5000 KVA to 4700 KVA on 05/12/2019 and deposited the fee as per the payment receipt dated 01.02.2020.
2. He further added that the Respondent No. 3 issued a letter dated 03/07/2023, assessing a shortfall in demand charges amounting to Rs.43,20,000/- for the period from 01/04/2020 to 31/07/2023, on the behest of Audit. He also made an indicative averment that the above notice reveals that a processing fee of Rs. 7500/- for the temporary reduction of contract demand from 5000 KVA to 4700 KVA was deposited by the Appellant on 19/01/2020.
3. The Ld. Counsel for Respondent Board and Assistant Engineer during arguments, cleared their stand through affidavit that clerical mistake occurred in the letter dt.03/07/2023 in respect of date of deposit of processing fee which was 01.02.2020 in place of 19.01.2020 and further ensured that no such payment amounting to Rs.7500/- was deposited by the said Complainant on dt.19/01/2020 towards processing fee of similar nature. They further added that the Ld. Counsel for Complainant had already agreed this mistake as inadvertent error in front of Ld. Consumer Grievance Redressal Forum at Kasumpti during pleadings. Both the parties finally arrived at same understanding that the date of payment for temporary reduction was 01/02/2020 not 19/01/2020.
4. The Counsel for Complainant put forth one more point for arguments that after the reduction to 4700 KVA, the Appellant applied for a permanent



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

contract demand reduction vide application dated 04.05.2020 duly received by Dispatcher of HPSEBL and stressed that despite consistent follow-ups and repeated requests to Respondent No. 2, the Appellant has not received the Revised Load Sanction Letter. Consequently, the Appellant sent a Letter Dated 13/05/2023 again requesting Respondent No. 2 to issue the revised load sanction letter.

5. The Ld. Counsel for Respondent and Assistant Engineer in response to the above arguments of the Complainant brought in their arguments that although the complainant applied for a permanent reduction in contract demand on 04.05.2020, but it could not be implemented because the complainant failed to deposit the statutory processing fees. It is appreciable that the Respondent did not deny the receipt of said application dt.04.05.2020.
6. During arguments the Ld. Counsel for Complainant also added that they had not received any demand note for making requisite processing fee. Similarly, the Respondents could not produce any demand notice or document to substantiate which this court asserted to be very vital for judicious settlement
7. However, the Assistant Engineer appeared in the court also apprised that due to corona regime in peak during those days and transfer of officers, could be and further added that he joined this sub-division in a very belated stage, appeared convincing for giving benefit of doubt to these inevitable events to certain extent.
8. However, the state of contention of Complainant on demand note dt. 03/07/2023, assessing a shortfall in demand charges amounting to Rs.43,20,000/- for the period from 01/04/2020 to 31/07/2023, on the behest of Audit, is a subject matter of validation of record before quashing the contentions and this authority shall issue certain directions to the



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Respondent Board in this order for legitimate and prudent settlement without prejudice to natural law of justice.

9. Thereafter, listening to both the parties at length, the arguments were concluded and order reserved.

G- Order dt. 30/09/2024 of Consumer Grievance Redressal Forum in Complaint No. 1523/202401/01:

BRIEF FACTS OF THE CASE

ORDER

1. (19) Forum has examined the relevant provisions of the Electricity Act, 2003, various relevant Regulations framed by the HP Electricity Regulatory Commission (or the HPERC) including relevant provisions of HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 and the HP Electricity Supply Code, 2009 (or the Supply Code, 2009 or the Supply Code) including amendments thereto, record and facts along-with pleadings of the parties. We have heard the parties at length. The considered opinion of the Forum has been gathered after examining and analyzing fair facts, evidences and correspondence placed on record and arguments adduced by both the parties;
2. (20) Forum observes that the Complainant in its complaint has not raised any legal basis to dispute the monetary demand of Rs 43,20,000/= raised on 03.07.2023 (Annexure C5) by the Respondent for the period 01.04.2020 to 31.07.2023 (40 months), which the Respondent states that this monetary demand for past dues is in terms of code 3.10 of the Supply Code, 2009 and this being of statutory nature is recoverable as permitted to it under the law;
3. (21) Complainant has merely stated that acts of omission and commission by Respondent and impugned letter dated 03.07.2023 (Annexure C5) are unjust, illegal, arbitrary and contrary to principles of natural justice;



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4. (22) Forum also observes that the Complainant has wrongly submitted on record that it had paid the requisite fees on 01.02.2020 for applied permanent reduction of contract demand to 4700 kVA. During the hearing in the matter, the Counsel for the Complainant admitted that this was an inadvertent mistake.
5. (23) Thus, in the complaint the fact remains that the stated fees was deposited by the Complainant for reduction of Temporary Contract Demand only and not for Permanent reduction of Contract Demand. Fact also remains that the Complainant did not pursue its Application for Permanent Contract Demand submitted in May 2020 Complaint No 1523/202401/01 and neither did it deposit the requisite fees for the consideration of its case by Respondent. It is only on 13.05.2023 (Annexure C5) that the Complainant had written a letter in this regard to the Respondent but still did not deposit the requisite fees.
6. (24) In short, with regard to the complaint and this Order, fact remains that apart from Temporary revision of Complainant's Contract Demand in January 2020, there is no other revision of Contract Demand, Temporary or Permanent;
7. (25) This Forum also observes that the Respondent has cited Code 3.10 of the HP Supply Code, 2009 as the statutory basis for raising the impugned demand. While the Respondent has raised contention that it is within its legal right to recover arrears of past dues however, it is not the case of the Complainant that past dues of arrears cannot be recovered by the Respondent. The matter can therefore be decided squarely on the basis of ibid Code 3.10 and thus at the outset the Forum proceeds to discuss in detail the HP Supply Code, 2009 including Code 3.10 therein –
8. (26) The Supply Code, 2009 was notified by the HPERC on 26th May, 2009. Later Amendments were carried out from time to time. We mainly



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refer to amendments pertinent in the instant matter with regard to 'Temporary' revision of Contract Demand. The said amendments were first introduced by the HP Electricity Regulatory Commission (or the HPERC) vide Himachal Pradesh Electricity Supply Code (First Amendment) Regulations, 2014 notified on 11th June, 2014. In this amendment Code 3.10 was first inserted. Thereafter, amendment to this Code 3.10 was carried out by the HPERC vide the Himachal Pradesh Electricity Supply Code (Second Amendment) Regulations, 2018 notified on 31.07.2018. For the sake of clarity, relevant extracts of these amendments are reproduced here-in-under:

-

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

Quote

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

"3.10 Temporary revision of contract demand. –

The consumers to whom two-part tariff is applicable shall be entitled to revise their contract demand within the total sanctioned contract demand without surrendering their lien of the total sanctioned contract demand, subject to the following condition- 10

- (a) that the consumer shall not reduce the contract demand to lesser than 50% of the total sanctioned contract demand subject to a further condition that the contract demand shall not be reduced below the lowest limit of contract demand as per the tariff category (or any subcategory thereof) applicable to him;*
- (b) that the consumer shall not be entitled to revise the contract demand more than twice a year subject to the condition that the*



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time gap between two successive revisions shall not be less than 3 months;

(c) that the consumer shall give a notice of at least one month to the licensee before revising the contract demand under this mechanism. Even though the consumer shall not be required to obtain any sanction from the licensee for change in contract demand under this mechanism, he, so as to avoid the disputes, shall ensure that the notice(s) for such revision are duly served by him upon the licensee through registered post or through courier service or is delivered by hand against signed receipt therefor;

(d) that in cases where the contract demand is reduced under this mechanism, such reduced contract demand shall be applicable for billing purposes; and

(e) that in cases where the consumer gets his contract demand reduced permanently, the limit under clause (a) shall be considered with respect to such reduced contract demand, but such reduction shall not be considered to have been made under this mechanism and the time gap of 3 months as per clause (b) shall be reckoned from the date from which the demand was last revised under this mechanism.

Illustration. - *If a consumer who is having sanctioned contract demand of 10 MVA temporarily revises the contract demand to 6 MVA w.e.f. 01.08.2014 under this mechanism but gets his sanctioned contract demand permanently reduced to 8 MVA w.e.f. 01.09.2014, he shall have to pay charges based on 6 MVA contract demand till 31.10.2014 (i.e. till the expiry of 3 months period from the date at which the contract demand was last revised i.e. from 01.08.2014). However, if the contract demand is*



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to be reduced permanently to lesser than 6 MVA (say 4 MVA as on 01.09.2014), the demand charges would have been based on a contract demand of 4 MVA during the period upto 31.10.2014."

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

Quote

3.Amendment of para 3.10: - For the sign “;” occurring after clause (a) of para 3.10 of the said Code, the sign “:” shall be substituted and thereafter the following provisos shall be inserted, namely: -

“Provided that the consumer shall not be eligible for temporary revision of contract demand to a value other than the full sanctioned contract demand for a total period of more than six months in one financial year: Provided further that in cases involving part period of a year e.g. if a consumer takes the connection, or the consumer gets his permanent sanctioned contract demand revised, during the middle of a year, the adjustments shall be made on pro-rata basis.

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

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9. 27) On perusal of the ibid HP Supply Code, 2009, the Forum finds that the concept of Temporary Contract Demand was first introduced by way of first (1st) amendment to Supply Code vide HP Electricity Supply Code (First Amendment) Regulations, 2014, notified by the HP Electricity Regulatory Commission on 11.06.2014. Thus, it becomes evident that before the notification of this amendment, the Contract Demand and its revisions were of Permanent nature;
10. (28) Before proceeding to determine the grievance raised by the Complainant, this Forum considers it necessary to briefly delve into the working of the Contract Demand (in KVA/ or MVA) –
11. (29) From the Supply Code, it becomes apparent that the Contract Demand, Permanent or Temporary, is a provision of the Electricity Supply Code and the Tariff Orders. It is a Demand (in KVA/ or MVA) contracted at the discretion of the consumer at the time of its original application for connection, which is also subjected to permissible revisions during the life of the connection, strictly in accordance with the provisions of the Supply Code, 2009. This Contract Demand is an option exercised and applied for by the consumer and sanctioned by the licensee, inter-alia with the Complaint No 1523/202401/01 underlying purposes of billing of the consumer, for determining the Standard Supply Voltages at the time of connection etc. The original Contract Demand is of ‘Permanent’ nature and the subsequent revisions at the option of the consumer may be of ‘Permanent’ or of ‘Temporary’ nature which are also regulated in accordance with the provisions of the Supply Code. This Contract Demand (in KVA or MVA) serves as a reference vis-à-vis the actual maximum Demand (in KVA or MVA) recorded on the meter during the times of electricity consumption. When the Supply Code regulates the revision of Contract Demand (in kVA or MVA), which is an option



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exercised by the consumer, then the concerned consumer is expected to keep a vigil at all times for the purpose of applying for or revising or managing its Contract Demand (in kVA or MVA), while simultaneously also keeping a vigil on its electricity consumption patterns by managing the peaks of its maximum Demands (in KVA or MVA), so as to keep both the contracted as well as the actual contract demand in synchronization and consequently the optimization of its electricity bills. Thus, it becomes clear to the Forum that the Contract Demand (in kVA) is a lever given in the hands of the consumers to manage their bills and Maximum Demand (in kVA) and consequently optimize their consumption patterns and electricity bills;

12. (30) On further perusal of the ibid Supply Code, Forum finds that the Supply Code First (1 st) Amendment dated 11.06.2014, stipulated various conditions for Temporary revision of Contract Demand (in KVA or MVA) and these were first introduced therein by insertion of Code - '3.10 Temporary revision of contract demand'. This Code was later amended vide Supply Code amendment dated 31.07.2018, when certain Provisos were added to it;
13. (31) The First (1st) amendment, 2014 provided for permissible number of revisions in a year as two (2) with gap between successive revisions Complaint No 1523/202401/01 as three (3) months. The subsequent amendment of Supply Code (ie Supply Code 2nd Amendment) notified on 31.07.2018 introduced therein certain 'Provisos' to the said Code 3.10. The Provisos specifically provided for total period of Temporary contract demand (in KVA or MVA) as six (6) months in a 'Financial Year'. This 2nd amendment came into force from 01.04.2019 and is thus of relevance in the present matter;



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14. (32) Forum finds that in the said provisos of the Supply Code 2nd amendment, the word or expression 'financial year' is the key in context of the instant complaint. When the financial year starts from 01st of April and ends on 31st of March, which is undisputed, it becomes clear from the said 2 nd amendment that on 31st March of each financial year, the 'Temporary Contract Demand', as existing previously shall expire. The distinction between the Temporary and the Permanent (or sanctioned) Contract Demand is created here. From the 1st of April of the subsequent financial year, i.e when the financial year starts, the Contract Demand would get reset to the Permanent Contract Demand (in KVA or MVA) unless a fresh Temporary Contract Demand is re-applied by the consumer. It thus becomes the right of the Complainant to decide and exercise the option or discretion on the period of six (6) months in a financial year when the Complainant would desire a revision in its Contract Demand (in kVA or MVA) on temporary basis i.e Temporary Contract Demand (in kVA or MVA);
15. (33) Therefore, in our considered view, a consumer would be required to apply afresh for the Temporary Contract Demand (in KVA or MVA) or for its re-revision in any new financial year, else the previously existing Temporary Contract Demand (sanctioned or deemed sanctioned) shall automatically get dissolved and cease to remain effective. Consequently, the last sanctioned Permanent Contract Complaint No 1523/202401/01 Demand (in KVA or MVA) shall automatically stand and become effective;
16. (34) From the foregoing implications of express provisions of Code – '3.10 Temporary revision of contract demand' (or Temporary Contract Demand) (in KVA or MVA) as prescribed in the Supply Code 2nd Amendment, 2018, this Forum holds and safely sums up and concludes



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that from 01.04.2019, i.e when the financial year starts or whenever any financial year starts, then any monetary demand (in Rs) raised by the Respondent HPSEBL on a consumer based on a Temporary Contract Demand (in KVA or MVA) existing prior to 01.04.2019, can only be with regard to electricity consumption done prior to 01.04.2019. For electricity consumption occurring after 01.04.2019, such monetary demand (in Rs) shall necessarily have to be based on Temporary Contract Demand (in KVA or MVA), and that is if such is applied or reapplied after 01.04.2019 by the consumer. In absence of such application or reapplication for Temporary Contract Demand, this monetary demand shall automatically get based upon Permanent sanctioned Contract Demand which was last applied by the consumer. This process shall follow for each / new financial year. This is the essence of ibid Code 3.10 of the Supply Code 2nd Amendment;

17. (35) Coming to the instant complaint, it is without dispute that financial year is from 01st April to 31st March and the Permanent sanctioned Contract Demand of the Complainant is 5000 kVA;
18. (36) It is observed by this Forum that the Complainant has admitted on record that it had temporarily revised its Contract Demand to 4700 kVA in Financial Year 2019-20. Thereafter, Complainant failed to revise or apply afresh even in or after the start of the new financial year 2020-21. Consequently, for the Financial Years 2020-21, 2021- 22 and up to July of Financial Year 2022-23, the Respondent HPSEBL based on the Permanent (or sanctioned or original) Contract Demand of the Complainant, 2018, raised the impugned Complaint No 1523/202401/01 monetary demand on 03.07.2023 (Annexure C5) followed by this amount being raised as sundry in electricity Bill dated 05.12.2023 (Annexure C6). This was done at the behest of the provisions of the Supply Code;



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19. (37) In accordance with the Supply Code 2nd Amendment, the end of the financial year which is signified by the date 31st March of the year, on this end date the 'Temporary Contract Demand' of the Complainant as existing, expired and ceased to exist. Thus, from the start of the next financial year i.e 01st April 2020, the Complainant was expected to apply afresh for the Temporary Contract Demand (in KVA or MVA), if it so intended. It was the choice of the Complainant to choose its Temporary Contract Demand as well as the six (6) months of Temporary Contract Demand, either continuous or in the case of continual, then its period and duration, in the respective financial year. In the instant complaint, the Complainant had failed to get its Permanent Contract Demand revised and also failed to apply afresh for the 'Temporary Contract Demand' from 01.04.2020 onwards, ie the start of financial year 2020-21 and was thus liable to be billed for the impugned period from 01.04.2020 onwards on the basis of sanctioned Permanent Contract Demand;
20. (38) From foregoing discussion, it can safely be concluded by the Forum, that it is Complainant's own fault of not re-applying for a fresh 'Temporary Contract Demand beyond 01.04.2020 ie after the start of the financial year and it is the Complainant's failure to not have pursued its Application for reduction of Permanent Contract Demand in the subsequent years or even applied afresh for this. Because the Complainant failed to re-apply afresh for Temporary Contract Demand beyond 01.04.2020 and failed to revise its Permanent Contract Demand even after the start of the new financial year, which was an option to be exercised by the Complainant, then Complaint No 1523/202401/01 the Complainant is bound to be charged on the basis of its original sanctioned Permanent Contract Demand which is 5000 kVA. Thus the submissions and



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arguments on record made by the Complainant are found to be grossly lacking;

- 21.** (39) In view of foregoing discussion, the Forum does not find anything on record that may substantiate or support the grievance of the Complainant to be based on any valid legal or factual ground. The Forum clearly finds the submissions on record raised by the Complainant as baseless;
- 22.** (40) No fault is seen by the Forum in the action of the Respondent to raise monetary demand in accordance with the Regulations / Code. These demands are of statutory nature which can be recovered at later stages as well in accordance with law as cited by the Respondent. The Forum holds that the Respondent is correct in its interpretation and application of the provisions of ibid Code 3.10 of the Supply Code 2nd Amendment. Monetary demands based upon Statutes, Regulations/ Codes notified by the HPERC and on Tariff Orders passed by the Ld HPERC, cannot be held to be illegal. The Forum does not find any illegality in the impugned monetary demand dated 03.07.2023 (Annexure C5) / sundry in Bill dated 05.12.2023 (Annexure C6) for Rs 43,20,000/= raised by the Respondent HPSEBL, which this Forum observes as having been issued in terms of the amended provisions of the Supply Code, 2009 i.e Code 3.10 notified on 01.07.2018. Thus, on this score alone the complaint deserves to be dismissed as being without any legal basis;
- 23.** On aforesaid terms, the impugned monetary demand dated 03.07.2023 (Annexure C5) / sundry in Bill dated 05.12.2023 (Annexure C6) for Rs 43,20,000/=, raised by the Respondent HPSEBL is accordingly upheld. The Respondent is within its legal rights to recover statutory levies and the Complainant is liable to pay the same. Prayer as made by Complainant for directions to Respondent is accordingly rejected;





24. The Complainant is directed to pay the unpaid amount of monetary demand dated 03.07.2023 (Annexure C5) / sundry in Bill dated 05.12.2023 (Annexure C6) for Rs 43,20,000/= within a period of 10 days from this Order. On non-payment of the said ibid amount, the Respondent shall be at liberty to take action as per extant Regulations / Rules / law. The complaint is accordingly decided on merits in favour of Respondent HPSEBL and is disposed as Dismissed.

H-Analysis of the Complaint:

1. The case file bearing Complaint No. 1523/202401/01 and orders passed on dated 30/09/2024 by the Consumer Grievance Redressal Forum Kasumpti, Shimla-171009 have been requisitioned and gone through.
2. In the interest of justice, the relevant extract of said order of CGRF has been reproduced to arrive at legitimate conclusion.
3. The submissions made by the Complainant and reply submitted by the Respondents have also been incorporated in entirety in this order to have a composite view of the entire case.
4. The documents annexed and placed on record, arguments made by both the parties have also been gone through in depth.
5. The relevant Acts, Supply Codes, Tarif Orders have been referred to for the sake of clarity.
6. M/S Cement Corporation of India Ltd. Rajban Cement Factory, Tehsil Paonta Sahib, Distt. Sirmour, H.P.- 173029 bearing Consumer ID 100012001540 is a Large Industrial Power Supply (LIPS) Consumer of Respondent HPSEBL with permanent sanctioned contract demand of 5000 KVA.
7. The contentions of both Complainant and Respondents have not been repeated again and for the sake of reference, can be seen under para "B & C" of this order respectively.



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8. The contentions of the Complainant detailed under para-B, response of Respondent Board detailed under para-C and arguments conducted at length & placed at para-F, gathers considered opinion to originate the following issues and for the sake of brevity, the detailed analysis has been done along with findings of the issues.

I-Issues in Hand:

Issue No-1:

Whether the instant representation is maintainable?

Issue No-2:

Illusion on whether the processing fee was paid on dt. 1.02.2020 or on dt. 19.01.2020 or two NO. processing fees were paid on the said dates respectively by the Complainant towards reduction of contract demand from 5000 kVA to 4700 kVA on temporary basis or on permanent basis thereof?

Issue No-3:

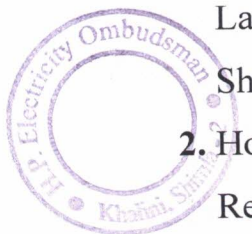
Legitimacy in Application dt.04/05/2020 for permanent reduction of contract demand from 5000 kVA to 4700 kVA and its austerity in acceptance.

J-Findings on the Issues:

Issue No-1:

1. While going through the reply submitted by the Respondents, it has been observed that in a very vague manners it has been mentioned that the representation as preferred by Complainant is not maintainable in the eyes of Law, as there is no infirmity or illegality in the order passed by the Ld. CGRF, Shimla, H.P. therefore the same deserves dismissal.

2. However, no such averments were cited even during arguments by the Respondents which could have substantiated their contentions and drawn



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attention of this authority towards maintainability. Also, during pleadings conducted with CGRF, no such question arose on maintainability.

3. In view of above and exercising the provisions in terms of regulation 33(2,3) read with 36(2) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 where the Ombudsman is guided by the principle of natural law of justice, this authority feels judicious to give opportunity of being heard to such contentions which are raising many questions in itself and unless adjudicated, the essence of contentions cannot be recognized which may be reasonable in the interest of justice, the complaint is held maintainable for adjudications of grievances in the public interest to avert such litigation in future.

This closes the findings on issue-1

Issue No-2:

1. After referring to the documents placed on record, detailed arguments advanced on the contentions, the relevant tariff orders, Acts, Supply codes, this authority was under constraint to proceed further until delving on misapprehensions under Issue No.-2 which were of vital concern being integral to justice and warrants clarity while exercising the provisions under intrinsic clause 3.10 of Himachal Pradesh Electricity Supply Code (Second Amendment) Regulations, 2018
2. It is observed that under para-6 of representation, the Complainant contented that the Appellant applied for a temporary contract demand reduction for the 33 KV RB 6 connection from 5000 KVA to 4700 KVA on 05/12/2019 and deposited the fee as per the payment receipt dated 01.02.2020, annexed herewith as **Annexure A-2**.
3. It was further observed that the Complainant also contented under para -7 of submissions that to the Appellant's utter surprise, Respondent No. 3



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issued a letter dated 03/07/2023, assessing a shortfall in demand charges amounting to Rs.43,20,000/- for the period from 01/04/2020 to 31/07/2023, as per **Annexure A-6**. This notice also reveals that a processing fee of Rs. 7500/- for the temporary reduction of contract demand from 5000 KVA to 4700 KVA was deposited by the Appellant on 19/01/2020.

4. However, referring to the order dt.30.09.2024 of Consumer Grievance Redressal Forum at Kasumpti , it was observed that under para-22 the *Complainant admitted as inadvertent mistake* . For the sake of reference and clarity, the relevant extract of para-22&23 of the said order dt.30.09.2024 are **reproduced as under:**

“(22) Forum also observes that the Complainant has wrongly submitted on record that it had paid the requisite fees on 01.02.2020 for applied permanent reduction of contract demand to 4700 kVA. During the hearing in the matter, the Counsel for the Complainant admitted that this was an inadvertent mistake.

(23) Thus, in the complaint the fact remains that the stated fees was deposited by the Complainant for reduction of Temporary Contract Demand only and not for Permanent reduction of Contract Demand”.

5. It was also deduced under para-5 of the reply submitted by the Respondent, the relevant extract of the same is reiterated in the interest of justice which says that *“It is further submitted before this Hon'ble Court that the consumer applied for a temporary reduction in contract demand from 5000 KVA to 4700 KVA in December 2019, and the statutory fees were deposited by the complainant on 01.02.2020”*

6. Further scrutiny and submissions of the Respondent Board on affidavit in compliance to this court's order dt.09/12/2024 regarding dates of payments, brought clarity in the interest of justice and substantiated the contentions of individuals . The relevant extract is reproduced as under;

“2. That the Respondent Board has sent a letter dt. 03/07/2023 to the Complainant i.e. M/s CCI but due to clerical/bonafide mistake, the date has wrongly been



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mentioned as 19.01.2020 instead of 01.02.2020 which is actual date of deposit of the processing fee for temporary reduction of contract demand. On 19.01.2020, the Respondent Board has not received any payment from complainant i.e M/s CCI.

- 3. That the Complainant, i.e. M/s CCI Rajban has deposited the processing fee on 01.02.2020 for a temporary reduction in contract demand.*
- 4. That the Complainant has not deposited any processing fee for permanent reduction in contract demand”*
7. The Ld. Counsel for Complainant also agreed in consonance with contents of above affidavit and all wrong contentions on these delusions of the complainant were set a side and finally for adjudication point of view it was agreed by both the parties that the payment for temporary reduction of Contract demand was made by the Complainant on dt. 01.02.2020 and not on dt.19.01.2020.
8. After detailed deliberations of Ld. Counsels and concerned staff of both the parties, arriving at above accord on the said illusion in the court room during the course of final arguments, this authority fetched precedence over the contentions with clear understanding that the payment for temporary reduction of Contract demand was made by the Complainant only on dt. 01.02.2020 and not on dt.19.01.2020 and hence cleared the pave for further legitimate findings.

This closes the findings on issue-2

Issue No-3:

1. After closing the findings on Issue-2, this authority felt comfortable to examine the contentions under Issue-3 and conceived the essence of crux that this issue being intricate in nature and backbone of the case, warrants deep attention.



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2. While examining the documents placed on record and detailed arguments conducted, it was observed that the Complainant contended under **para-5** of representation that after the reduction to 4700 KVA, the Appellant applied for a permanent contract demand reduction vide application dated 04.05.2020 duly received by Dispatcher of HPSEBL, annexed as **Annexure A-4**.
3. It was observed that under **para-6**, Complainant also contended that despite consistent follow-ups and repeated requests to Respondent No. 2, the Appellant has not received the Revised Load Sanction Letter. Consequently, the Appellant sent a Letter Dated 13/05/2023, annexed as **Annexure A-5**, again requesting Respondent No. 2 to issue the revised load sanction letter.
4. It was further observed that the Complainant also contended under para -7 of submissions that to the Appellant's utter surprise, Respondent No. 3 issued a letter dated 03/07/2023, assessing a shortfall in demand charges amounting to Rs.43,20,000/- for the period from 01/04/2020 to 31/07/2023, as per **Annexure A-6**.
5. On further examining the reply submitted by the Respondents, it was observed that the Respondent in response to the above contentions of the Complainant contended under para-5 that although the complainant applied for a permanent reduction in contract demand on 04.05.2020, but it could not be implemented because the complainant failed to deposit the statutory processing fees.
6. After referring to the documents placed on record, detailed arguments conducted on the contentions, referring to the relevant tariff orders, Acts, Supply codes, this authority fails to understand as to why the communication gap occurred between Complainant and Respondent Board after submission of Application on dt. 04/05/2020 for permanent reduction of contract demand when there is an amply clear mandate in terms of clause 3.1 of Himachal Pradesh Electricity Supply Code 2009 under the Chapter III and subsequent



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amendments from time to time, may be referred to if required which are more stringent with follow up point of view. The very specific and relevant part of said code is reiterated below for reference and clarity for legitimate judgement:

3.1 Duty of licensee to supply electricity on request and procedure thereof: -

*“3.1.4 The licensee shall, after receipt and scrutiny of the Application form, inform the applicant through a Demand Notice issued under the Himachal Pradesh Electricity Regulatory Commission (Licensee’s Duty for Supply of Electricity on Request) Regulation, 2004, -----
-----and amount of charges required to be deposited by the applicant as per Himachal Pradesh Electricity Regulatory Commission (Security Deposit) Regulation, 2005; requirement of other supporting documents as per para 3.1.2 and/or discrepancies observed, if any, and acceptance, in writing, of the additional terms as per para 3.7 of this code.”*

10. After exploring the documents placed on record by both the parties, listening to the detailed arguments and read the contentions with the relevant tariff orders, Acts, Supply codes, it was observed that the Respondent neither anywhere in the reply submitted nor during arguments could place any document on record which could have at least convinced the court to the extent that above directives of respective Supply codes and Regulations were followed. However, the Assistant Engineer appeared in the court apprised that due to corona regime in peak during those days and transfer of officers, could be and further added that he joined this sub-division in a very belated stage, appeared



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convincing for giving benefit of doubt to these inevitable events to certain extent.

7. This court observed that no demand notice was placed on record during arguments which was mandatory in terms of above provisions on the part of Respondents to apprise Complainant for further action and no correspondence indicating rejection of the said application.
8. It was further conceded that the Complainant showed his follow up action and substantiated through letter dt.13/05/2023 asking status regarding issuance of sanction which apparent to the record not complied.
9. In due cognizance to above provisions and giving benefit of doubt to corona regime being inevitable events, this authority asserts that the legitimacy of this application dt.04.05.2020 exists for permanent reduction of contract demand and be considered with effect from the month of June, 20 i.e one month after the date of submission of application, adhering to time lines as per the prevalent provisions with due consideration to codal formalities i.e payment of processing fee etc.
10. On foregoing above proposition, this authority concludes that although Respondent is within its legal rights to align contracts as per provisions and to raise past arrears, but in the instant case when the matter is based on the facts, it cannot be said that aligning of contracts or raising of past arrears on the behest of Audit where the hierarchy of procedure followed for the said application in question was not brought to the notice of Audit, lacks substance in the present adjudication and convinces this authority to direct respondents to overhaul the accounts of the Complainant for the period from 01/04/2020 to 31/07/2023 in terms of clause 3.10 Himachal Pradesh Electricity Supply Code (Second Amendment) Regulations, 2018 dated 31.07.2018 by issuing Revised Load Sanction Letter on account of Application dt. 04.05.2020 w.e.f the date as admissible as per provisions and



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setting a side demand notice dt.03/07/2023 of Rs. Rs.43,20,000/- to avoid such unwarranted litigation.

11. In view of above intricacy involved while resorting to findings under **Issue-1 to Issue-3**, this authority in the interest of justice shall issue certain directions in the order under heading “**K- Order**” for legitimate settlement in monetary terms to avoid such type of litigations in future.

This closes the findings on issue -3

K-Order:

- 1. The order passed by the Consumer Grievance Redressal Forum (CGRF) at Kasumpti Shimla on dated 30.09.2024 in Complaint No. 1523/202401/01 is upheld partially.**
- 2. The impugned monetary demand dated 03.07.2023 / sundry in Bill dated 05.12.2023 for Rs 43,20,000/- for the period 01/04/2020 to 31/07/2023 is sustained in principle with the following directives for legitimate overhauling and settlement in monetary terms:**
 - a. To constitute a committee on Division level with one representative from Complainant side must, for prudent validation and settlement of ambiguity without prejudice.**
 - b. The committee shall only validate not adjudicate, in the presence of Complainant's representative from the record whether any letter stands issued by the Respondent conveying rejection of said application dt.04/05/2020.**
 - c. The committee shall also validate from the record whether any demand notice for deposit of processing fee in terms of clause 3.1 of Himachal Pradesh Electricity Supply Code 2009, stands issued after the submission of Application dt.04/05/2020 for permanent reduction of Contract Demand from 5000 kVA to 4700 kVA.**



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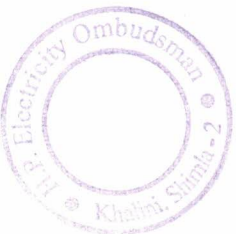
- d. The Committee to finalize the validation process within 15 days excluding holidays from the date of issue of this order to the satisfaction of the Complainant to avert intervention of Regulation 37 (6) of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 for appropriate action by the Commission under the provisions of the Electricity Act, 2003 and brunt on individuals in case of non-compliance.
3. In case the committee finds from the record that a letter of rejection for said Application was issued or the demand notice for deposit of processing fee was issued but not complied by the Complainant, the demand raised vide above demand note dt. 03/07/2023 amounting to Rs.43,20,000/- for the period 01/04/2020 to 31/07/2023 and subsequent sundry bill raised on the behest of audit, shall be considered upheld and the Complainant shall be liable to make whole payment within a period of 15 days from the date of completion of validation by the committee.
4. In case the committee finds from the record that no letter of rejection for the said Application was issued or no demand notice for deposit of processing fee was issued, the Application dt. 04/05/2020 for permanent reduction of Contract Demand from 5000 kVA to 4700 kVA shall be considered sustained and demand note dt. 03/07/2023 amounting to Rs.43,20,000/- for the period 01/04/2020 to 31/07/2023 and subsequent sundry bill raised on the behest of audit shall be considered quashed and the Respondent Board shall issue fresh demand note alongwith Revised Load Sanction Letter in terms of findings under Issue-3 in line with the following directives:



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- a. For the period ending 31.03.2020, compute on the basis of 4700 kVA temporary Contract demand the effect of which ceases to exist on dt. 31.03.2020 in terms of clause 3.10 Himachal Pradesh Electricity Supply Code (Second Amendment) Regulations, 2018 dated 31.07.2018 if not applied further for continuation.
 - b. For the period 01.04.2020 to 30.05.2020 compute on the basis of 5000 kVA Sanctioned Contract Demand in line with findings under Issue-3 and in terms of clause 3.10 Himachal Pradesh Electricity Supply Code (Second Amendment) Regulations, 2018 dated 31.07.2018 which provides automatic switching on of temporary contract demand to Sanctioned Contract Demand if not applied afresh for continuation.
 - c. For the period 01.06.2020 onwards till date compute on the basis of 4700 kVA Permanent Contract Demand in line with Application dt. 04/05/2020 after completing all codal formalities. However, selection of reference date 01.06.2020 be considered in consonance with prevalent provisions strictly adhere to the timelines.
5. Accordingly, the complainant shall make payment within 15 days adhering to all prevalent provisions from the date of issuance of fresh demand note in terms of above directives.
 6. All stays imposed by this Authority under Regulation 36 of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013 shall be considered vacated immediately after the completion of findings of the committee on validation of record and issuance of fresh demand note if required.
 7. The parties are at liberty to avail remedies as permissible under law.



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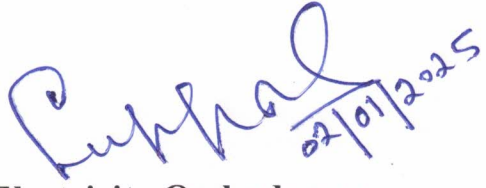
HIMACHAL PRADESH ELECTRICITY OMBUDSMAN
SHARMA SADAN, BEHIND KEONTHAL COMPLEX, SHIMLA-171002
Phone: 0177-2624525, email: ombudsmanelectricity.2014@gmail.com

8. No cost to litigation.
9. In terms of above findings, the Complaint filed by M/S Cement Corporation of India Ltd. Rajban Cement Factory, Tehsil Paonta Sahib, Distt. Sirmour, H.P.- 173029 is hereby disposed of.
10. 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: 02/01/2025

Shimla


Electricity Ombudsman