

THE ELECTRICITY OMBUDSMAN, UTTARAKHAND

M/s Sushil Frozen Agro Processing Pvt. Ltd.
Khet No. 19/1/1 & 19/1/2
Village Nayagaon, Julfkaar,
Block Kaladungi, Distt. Nainital,
Uttarakhand.

Vs

The Executive Engineer,
Electricity Distribution Division,
Uttarakhand Power Corporation Ltd.
Ramnagar, Distt. Nainital, Uttarakhand

Representation No. 16/2021

Order

Dated: 10.09.2021

Being aggrieved with the Consumer Grievance Redressal Forum's, Kumaon zone (hereinafter referred to as Forum) order dated 17.04.2021 in their complaint no. 04/2021 before the said Forum against Uttarakhand Power Corporation Ltd. through its Executive Engineer, Electricity Distribution Division, Ramnagar Distt. Nainital (hereinafter referred to as respondent), the petitioner, M/s Sushil Frozen Agro Processing Pvt. Ltd. Khet No. 19/1/1 and 19/1/2 Village Nayagaon, Julfkaar, Block Kotabaag, Tehsil Kaladungi, Distt. Nainital has preferred this appeal for corrections of the impugned bill based on MRI.

2. The petitioner has submitted that they have a seasonal industrial connection no. 20540 for their industry under EDD, Ramnagar. They have averred that they consumed electricity on 31.12.2020 only for 1 hour for trial run on which the respondent division EDD, Ramnagar has imposed a surcharge of Rs. 8,06,000.00 on their firm. A complaint was lodged before the Forum against the said surcharge bill which was registered as complaint no. 04/2021. The Forum has not decided the case in their favour. They have sustained huge loss due to covid and faced a lot of problem during the entire period even for making payment of the salary of their staff due to covid. They have requested that if they have committed some mistake, the penalty bill based

on MRI be issued only to the extent, the electricity was consumed so that they may be able to pay it off. They have further stated that surcharge amounting to Rs. 3,26,566.00 was paid on 28.01.2021 as asked for by the respondents. A copy of the receipt has also been enclosed and they have requested that the additional surcharge amounting to Rs. 8,06,000.00 imposed by the respondent on them be ordered to be waived off. It is further requested that supply may not be disconnected till disposal of their petition.

3. The Forum after perusal of the records and hearing arguments from both parties have observed that the complainant have acceded the maximum demand in the month of December 2020 and have thus violated the provisions of tariff as applicable during off season in respect of a seasonal industry and the disputed bill amounting to Rs. 8,06,000.00 raised by the opposite party is genuine demand in view of tariff provisions and is therefore payable by the complainant. And thus they have dismissed the complaint.
4. The respondent, Executive Engineer has submitted his written statement vide letter dated 15.07.2021 wherein he has submitted that the petitioner M/s Sushil Frozen Agro Processing Pvt. Ltd., Nayagaon Julfikaar, Block Kotabaag, Tehsil Kaladungi, Distt. Nainital is a consumer of UPCL for 500 KVA contracted load with connection no. RRO-K000-020540. The respondent has stated that consequent upon application of the petitioner dated nil for allowing off season rebate from April 2020 to December 2020, the same was granted vide his office order number 1242 dated 22.04.2020 for granting off season rebate from April 2020 to December 2020, copy of petitioner's application and aforesaid office order are enclosed with written statement as annexure 1 & 2 respectively .
5. From MRI report of December 2020 it was noted that maximum recorded demand in the month of December 2020 has been 302.50 KVA (50.4168 KVA x MF 6) maximum demand in the bill of December 2020 has however been mentioned as 308.46 KVA, which is in excess of the maximum permissible demand of 150 KVA for off-season (30% of contracted load 500 KVA). Therefore in accordance with provisions relating to off season concession in tariff order dated 18.04.2020 (for the period 2020-21) as applicable to category RTS 5 (LT and HT industries) regarding billing in off season as reproduced in the written statement, which is as follows:

“During “Off-season period the maximum allowable demand will be 30% of the contracted demand and the consumers whose actual demand exceeds 30% of the contracted demand in any month of the “Off-season” will be denied the above benefit of reduced contracted demand during that season. In addition, a surcharge at the rate of 10% of the demand charge shall also be payable for the entire “Off-season” period.”

A copy of MRI report and aforesaid tariff provision are enclosed with written statement as Annexure 3 and Annexure 4 respectively. Accordingly a sum of Rs. 8,06,000.00 were added in the bill for the month of December 2020 on account of violation of tariff provision, month wise calculations of the aforesaid amount imposed in the bill of 12/2020 has also been given in the written statement.

6. In view of his above submissions regarding the case the respondent has requested that appeal may kindly be dismissed.
7. A rejoinder dated 05.08.2021 has been submitted by the petitioner along with affidavit. No new facts or documentary evidence in his favour has been adduced in the rejoinder except the submissions made by him in his petition.
8. Hearing was fixed for 16.08.2021 which was subsequently shifted to 20.08.2021 and finally for 23.08.2021 on the request of the parties. Both parties, the petitioner himself and Shri Vivek Kandpal, Executive Engineer appeared on the scheduled date 23.08.2021 and argued their respective cases. The petitioner informed that full payment of Rs. 8,06,000.00 has already been made by him in the division under protest and the same has also been confirmed by the respondent Executive Engineer. Hearing was concluded with mutual consent and order was reserved for 10.09.2021.
9. Documents available on file have been perused and arguments from both parties were heard. Relevant provision relating to off season rebate to the seasonal industry as provided in UERC Tariff order dated 18.04.2020 has also been perused. It is clear from the records available on file that the petitioner had applied for off season period from 01.04.2020 to 31.12.2020. In their application they have also clearly mentioned that they have worked from 01.01.2020 to 22.03.2020 as a season and the respondent in consideration of petitioner’s application has granted off season period from April 2020 to December 2020 vide office order no. 1242 dated 22.04.2020. Tariff

provisions applicable for off season period have also been mentioned in the said office order which provides that the contracted demand in the off season period shall be reduced 30%. The said office order also provides that in accordance with UPCL's order no. 3796 dated 22.10.2011 if maximum demand in the off season exceeds the permissible demand, the rebate for off season shall stand withdrawn automatically. The same provision has also been provided in tariff order dated 18.04.2020 applicable for the year 2020-21 relating to seasonal industries.

10. Since the maximum recorded demand being 302.5 KVA as on 30.12.2020 as per MRI is in excess of the permissible demand of 150 KVA (30% of the contracted load 500 KVA), as per tariff provisions the facility of off season shall not be available and demand has to be billed as per tariff provisions on the full contracted load of 500 KVA. In addition penalty @ 10% of the demand charges shall also be payable for the entire off season period. A sum of Rs. 8,06,000.00 levied in the bill for the month of 12/2020 (Rs. 6,94,400.00 difference of the demand charges + 1,11,600.00 penalty @ 10%) is the genuine demand raised by the respondents being in accordance with applicable tariff provisions and is therefore payable by the petitioner. No relief therefore can be granted. The aforesaid sum has admittedly been paid by the petitioner so no sum on account of this demand is further payable. Forum order is upheld. Petition is dismissed.

Dated: 10.09.2021

(Subhash Kumar)
Ombudsman