



**BEFORE THE ELECTRICITY OMBUDSMAN, HARYANA**  
**Haryana Electricity Regulatory Commission**  
**Bays No. 33 - 36, Sector – 4, Panchkula-134109**  
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**(Regd. Post)**

**Appeal No. : 36/2021**  
**Received on : 14.12.2021**  
**Registered on : 28.12.2021**  
**Date of order : 22.03.2022**

**In the matter of: -**

Appeal against the order dated 25.11.2021 passed by CGRF, UHBVN, Kurukshetra in case No.181/2021.

Sh. Sandeep Dewan, C/o M/s B.M Plywood Pvt. Ltd., Khajuri Road, Yamuna Nagar.

**Appellant/Complainant**

Versus

UHBVNL

**Respondents**

**Before:**

Sh. Virendra Singh, Electricity Ombudsman

**Present on behalf of Appellant:**

Adv. Neeraj Khanna, Counsel for the appellant

**Present on behalf of Respondents:**

Sh. Sumit, SDO S/D No. I., Yamuna Nagar

**ORDER**

1. Sh. Sandeep Dewan, C/o M/s B.M Plywood Pvt. Ltd., Khajuri Road, Yamuna Nagar has filed an appeal against the order dated 25.11.2021 passed by CGRF, UHBVN, Kurukshetra in case No.181/2021. The Appellant submitted as under: -

1.1 *That this is an appeal against the order passed by Consumer Grievances Redressal Forum, Utri Haryana Bijli Vitran Nigam, Vidyut Sadan, Sector-8, near Zimkhana Club, Kurukshetra in Complaint no. UH/CGRF- 181/2021, whereby the Forum has declined the relief of the appellant for extending benefit of Surcharge Waival Scheme and has disposed of the complaint of the appellant.*

1.2 *That the brief facts of the case are the appellant-complainant is having a factory on the mentioned above address and electricity connection bearing account no.2712180000. The said electricity disconnected permanently (PDCO) due to non-payment of arrears of consumption charges amounting to Rs.11,86,269/- on 23.04.2021. Subsequently a scheme known as "Sampuran Surcharge Mafi Yojna" was launched by the govt., wherein exemption of surcharge on the arrears was to be given in the event of payment of arrears. Thereafter the appellant the+ approached the SDO, Sub Division no.1 in this regard but SDO refused to give the benefit to the appellant of the scheme known as "Sampuran Surcharge Mafi Yojna".*

- 1.3 That the appellant filed the complaint before The Consumer Grievances Redressal Forum however he was asked to file the complaint to XEN. OP. Sub Division No.1. But the respondents forwarded the complaint to SDO, Sub Division No.1 on 14.10.2021 vide memo no.3649 and the appellant was sent to SDO office. Again, the officials of SDO office informed the appellant-complainant that the case has again been sent to XEN. office vide memo no.3413. However there also no action or order was passed. Then the appellant-complainant filed the complaint to the C.G.R.F. to intervene and extend the benefit to the appellant-complainant.
- 1.4 That on 15.11.2021 Consumer Grievances Redressal Forum send a letter to the appellant that the complaint is acceptable and is admitted for further proceedings. However thereafter no notice to the appellant-complainant ever issued to the appellant. The appellant thereafter was surprised and shocked to receive the order dated 25.11.2021 which was passed in collusion with the respondents and in the absence of the appellant-complainant.
- 1.5 That the order passed by passed by Consumer Grievances Redressal Forum, Utri Haryana Bijli Vitran Nigam is wrong in law and on facts and is liable to be set aside on the following grounds: -
- 1.) That the Forum has violated the principles of natural justice and has passed the impugned order arbitrarily in collusion with the respondents. It is pertinent to mention here that Forum despite the complaint of the appellant never issued any notice for hearing to the appellant and simply proceeded with the officials of the respondents in his absence. The copy of the order sent to the appellant through Whatapp only. From the order it was revealed that replies of respondents were taken twice and ultimately a favourable decision was passed in favour of respondents. No opportunity of hearing ever afforded to the appellant.
  - 2.) That the Forum has erred in not taking into consideration the fact that PDCO no.97/3 dated 23.04.2021 was issued due to arrears of electricity consumption charges amounting to Rs.11, 86,269/- and subsequently as per records, there is zero consumption of electricity in the factory premises of appellant-complainant connection after PDCO on 23.04.2021, but inspite the same, available benefit under the Surcharge Waival Scheme has not extended. It is pertinent to mention here that the SDO, in his reply has accepted the aspect that PDCO was issued on the said date i.e. 23.04.2021 with defaulting amount of Rs.11, 86,269/-. But due to negligence of one Karam Singh Line man the actual PDCO could not be affected. However, he has also admitted the fact that there was no further consumption of electricity in the factory premises of the appellant under connection. Once it was the case, appellant-complainant could not say the be penalized by the respondents for the negligence of act of their employee. As per the SDO after coming to the knowledge of the said aspect, PDCO has been affected on 14.10.12021, which in itself does not absolve the respondent from extending benefit of the scheme to the appellant /complainant. Rather the respondents are estopped from burdening the appellant due to their own negligence and fault. Although while passing the impugned order in the operative part, the Forum has clearly observed the negligence of the employees of the nigam and has recommended disciplinary action, but no relief has been extended to the appellant on frivolous grounds.
  - 3.) That it is relevant to mention here that the appellant had deposited a sum of Rs.1,00,000/- on 03.08.2021, but there is nothing, which debars the appellant from availing the benefit of the scheme.

- 4.) *That further it is relevant to mention here that the waiver scheme available to the consumers, whose PDCOS been issued before 30.06.2021 and the benefit has been denied the appellant. entire interpretation is and is biased act part of C.G.R.F favour the respondent. It was admitted fact that PDCO has been issued 23.04.2021 and thus the case of the appellant squarely falls in the ambit of Surcharge Waival Scheme 37/2021 and minimum charge should not be charged after the PDCO dated 23.04.2021.*
  - 5.) *That is settled preposition of that person can be allowed to take advantage his wrong doings and once it proved case that their negligence on the part the officials the respondent in implementing the already issued PDCO the benefit cannot be denied to the appellant.*
  - 6.) *That the order passed by Consumer Grievances Redressal Forum of the Tribunal suffers from patent illegalities and as such liable to be set aside.*
- 1.6 *That the appeal is being filed within limitation (order received on 25.11.2021 vide whatapp.) and is being submitted before this Commission in time.*

*It is, therefore, prayed that appeal may kindly be accepted and complaint of the appellant-complainant may kindly be allowed and Surcharge Waival Scheme 37/2021 may kindly be extended to the appellant-complainant pertaining to their connection and minimum charges should not be charged after PDCO dated 23.04.2021, as prayed in the complaint in the interest of justice.*

2. The appeal was registered on 28.12.2021 as an appeal No. 36/2021 and accordingly, notice of motion to the Appellant and the Respondents was issued on 28.12.2021 for hearing the matter on 18.01.2022.
3. Hearing was held on 18.01.2022, as scheduled. At the outset, the counsel for the Respondents submitted that he needed some time to submit reply and requested to fix another date of hearing. Acceding to his request, the matter is adjourned and shall be heard on 01.02.2022
4. SDO S/D No. I., Yamuna Nagar vide his email on 01.02.2022 has submitted the reply to the appeal as under: -

**PRELIMINARY OBJECTION: -**

- 4.1 That the present appeal is in fructuous and is liable to be summarily dismissed because as per sub para (viii) of para 3 of Sales Circular Usws-37/2021, any consumer whose matter is under litigation will not be covered under Surcharge Waiver Scheme 2021. Sub para (viii) of para 3 of Sales Circular Usws-37/2021 is reproduced as under: -

*“The consumer whose cases are at present in Court, will not covered under this scheme. However, if the consumer withdraws the case, this scheme will be applicable. It is made clear here that all such litigation cases that stand decided in the favour of Nigam, shall not be covered under this scheme”.*

- 4.2 That the appeal filed by the appellant is nothing but a blatant abuse of the process of law and same has been filed with ulterior motives to harass and humiliate the respondent. As per the Sales Circular No.Usws- 37/2021 the scheme shall be applicable to only those consumers falling in the aforesaid categories who were disconnected (PDCO) as on 30-06-2021 (sub para (i) of para 3) whereas this PDCO was effected on 14-10-2021 (Decision para at page 6 of CGRF order).

The consumer premises were disconnected Temporarily (TDCO) from outside of H-Pole Structure in the month of May 2021. Whereas appellant has claimed in para 1 of Brief Facts of his appeal that the connection was disconnected permanently on 23-04-2021 for nonpayment of arrears of consumption charges amounting to Rs. 11,86,269/-. And moreover, the appellant paid Rs. 1,00,000/- on 03-08-2021 which was deposited after the

date of 30-06-2021, which shows that the connection was continuing after the date of 30-06-2021. As per Sales Circular No. Usws-37/2021 the benefit of Surcharge Waival Scheme has to be given only to those consumers who were disconnected (PDCO) as on 30-06-2021. Therefore, the appellant is not entitled to avail benefit of Surcharge Waival Scheme.

4.3 That regarding temporary disconnection it is pertinent to mention here that as per Sales Circular No. U-39/2013, under the head of recovery of arrear for defaulting consumer, in the first instance the disconnection should be made on temporary basis. So, there is no negligence of the employees of the Nigam. Last para of page 2 of Sales Circular No. U-39/2013 is reproduced as under:

*“Normally in the first instance the disconnection should be made on temporary basis i.e. the energy meter should be allowed to remain in position, but if the consumer does not care to get his premises reconnected within a reasonable time, say 30 days, by paying off the dues of the Nigam or if there is any apprehension of theft of energy, or there are strong reasons to believe that the reconnection would not be sought for, the disconnection should be effected permanently.”*

So, the appeal is not maintainable in the eyes of law and same is liable to be summarily dismissed.

**PARA WISE REPLY: -**

- That the contents of first para of appeal is matter of record.
- That the contents of Relief Claimed is wrong and incorrect, hence it is denied.

**REPLY OF BRIEF FACTS: -**

➤ That the contents of para no. 1 are matter of record to some extent but rest of the contents are incorrect and wrong, hence the reply of the rest of the contents of this para has already been given above in the para 2 of preliminary objection which be read as part and parcel to the reply of this para.

And further it is submitted that Hon'ble CGRF has fulfilled its duty and responsibility. The contents of para 1 of brief facts regarding to the Hon'ble CGRF are totally wrong and denied. The Learned Forum applied its mind with open eyes while adjudicating the complaints and reply submitted before Ld. Forum by both the parties and they have not traveled beyond their jurisdiction and evidence recorded before them. Thus, the decision of CGRF UHBVN in complaint no. 181/2021 is lawful and valid.

➤ That the contents of para 2 is denied being wrong and incorrect.

**REPLY OF GROUNDS OF APPEAL: -**

- That the contents of para no. 1 are denied being wrong and incorrect.
- That the reply of the contents of para 2 has already been given above in para 2 of preliminary objection which be read as part and parcel to the reply of this para.
- That the reply of the contents of para 3 has already been given above in the Preliminary objection of para 2 which be read as part and parcel to the reply of this para.
- That the contents of para 4 is denied being wrong and incorrect.
- That the contents of para 5 is wrong hence denied.
- That the contents of para 6 is incorrect hence denied.
- That the contents of para 7 is legal.
- That the contents of prayer clause are wrong and incorrect, hence not admitted.

It is, therefore, prayed that the appeal of the appellant may kindly be dismissed with cost as appellant is not coming under Surcharge Waiver Scheme

2021. Any other relief to which this Hon'ble Commission deems just and proper may also be awarded, in the interest of justice.
5. Hearing was held on 01.02.2022, as scheduled. The counsels for both the parties were present through video conferencing. The counsel for the respondents submitted that the reply has been submitted by them, per contra the counsel for the appellant stated that he has not received the copy of the reply as yet. The respondents were directed to provide the copy of reply to the appellant within two days positively. The matter was adjourned on 22.02.2022.
  6. Hearing was held on 22.02.2022, as scheduled. At the outset, counsel for the appellant stated that although, he has received the reply but could not go through it due to some exigency of work and requested to allow some time to respond. Acceding to his request, the matter was adjourned on 08.03.2022.
  7. The counsel for the appellant vide his email dated 07.03.2022 has submitted the rejoinder to the reply filed by Respondents as under: -
    - *That the contents of para no. 1 of the preliminary objection of reply are wrong and hence denied. It is specifically mentioned here that sub para (viii) of para 3 of Sales Circular Usws-37/2021 is not applicable to the appellant as no litigation is pending against the appellant at the time when the appellant approached the SDO, Sub Division no.1 to give the benefit to the appellant of the scheme known as "Sampuran Surcharge Mafi Yojna". It is only when the SDO refused to give benefit to the appellant that the appellant approached The Consumer Grievances Redressal Forum for his grievance.*
    - *That the contents of para no. 2 of the preliminary objection of reply are wrong and hence denied. However it is correct that as per the Sales Circular No.Usws-37/2021 the scheme shall be applicable to only those consumers falling in the aforesaid categories who were PDCO as on 30-06-2021 (sub para (i) of para 3) and the PDCO of the premises of the appellant was done on 23.04.2021 due to non-payment of arrears of consumption charges amounting to Rs.11,86,269/-. Copy of PDCO is already attached with the appeal. Further the SDO, in his reply already accepted the aspect that PDCO was issued on the said date i.e. 23.04.2021 with defaulting amount of Rs.11, 86,269/-. He also accepted the negligence of Karam Singh Line man for PDCO. In view of this the appellant squarely falls in the ambit of Surcharge Waival Scheme 37/2021 and minimum charge should not be charged after the PDCO dated 23.04.2021. Further with regard to the fact that the appellant has deposited Rs 1,00,000/- on 03.08.2021, it nowhere shows that the connection was continuing. This was the amount which the appellant had deposited on account of bill which was issued for amounting to Rs 11,86,269/-.*
    - *That the contents of para no. 3 of the preliminary objection of reply are wrong and hence denied. As already stated above the PDCO of the premises of the appellant was done on 23.04.2021 due to non-payment of arrears of consumption charges amounting to Rs.11,86,269/-. There is no question of temporary disconnection as PDCO was already issued on 23.04.2021.*
    - *That the contents of rest of the reply are hereby specifically denied.*
  8. Hearing was held on 08.03.2022, as scheduled. The counsel for the appellant was present through video conferencing, but the counsel for respondent via email requested to adjourn the hearing due to some exigency of the work to him. Acceding to the request the matter was adjourned to 10.03.2022.
  9. Hearing was held on 10.03.2022, as scheduled. At the outset the counsel for the appellant briefed the matter and submitted that the PDCO was issued on 23.04.2021 to area in charge on account of defaulting amount of Rs. 11,68,269/-. There is zero consumption after 23.04.2021 but the benefit under surcharge waiver scheme of the Nigam has not extended. The respondent SDO in his reply has accepted that the PDCO was issued on 23.04.2021 and also admitted that due to

negligence of Sh. Karam Singh Line Man it could not be affected. The appellant had deposited a sum of Rs. 1,00,000/- on 03.08.2021, but there is nothing which debars the appellant from availing the benefit of the scheme. The same was available to the consumers whose PDCOs were issued before 30.06.2021. Mr. Khanna requested to direct the respondent to extent the benefit of the scheme to the appellant.

Per contra Sh. Sanjay Bansal counsel appearing on the behalf of the respondents has argued that as per para (viii) of para 3 of the sales Circular Usws-37/2021, any consumer whose matter is under litigation will not be covered under Surcharge Waiver Scheme 2021 and all such litigation cases that stand decided in favour of the Nigam, shall not be covered under this scheme. Since the matter has been decided by the CGRF in favour of the respondents, no benefit of the scheme can be allowed to the appellant. Secondly, as per Sales Circular No. U-39/2013, normally in first instance the disconnection should be made temporary basis. It is therefore the consumer premises was disconnected from outside in the month of May 2021 and permanently disconnected on 14.10.2021 and benefit of surcharge Waiver Scheme has to be given only to those consumers who were disconnected permanently as on 30.06.2021.

The respondent SDO was directed to submit the following record before the next date of hearing: -

- i) Copy of the PDCOs/SJOs issued in April, 2021 and afterwards.
  - ii) Copy load survey report of the meter of the appellant, taken on 14.10.2021.
  - iii) Copies of the M&P checking report (MT-1) from April, 2021 to October, 2021.
- The matter was adjourned to 22.03.2022.

10. Hearing was held on 22.03.2022, as scheduled. During the hearing, both the parties were present through video conferencing. The respondent SDO vide email dated 21.03.22 submitted the record in compliance with interim order dated 10.03.2022 and same has been taken on record. When asked, the respondent SDO stated that no supply was used by the consumer after April, 2022 as it was disconnected from the outside of the consumer premises, however, no entry was made on PDCO as consumer had requested not to disconnect through verbal conversation. The counsel for the appellant rebutted the contention of the SDO.
11. After going through the record placed on file and hearing both parties, it is observed that the PDCO No. 97/3 dated 23.04.2021 was issued to Sh. Karam Singh L/M Area In Charge and as it is precedent in Nigam that before removing CT/PT and meter their accuracy is checked by AEE M&P but the SDO office did not take up the matter with XEN M&P in this regard. The supply of consumer was disconnected by Area In Charge from H pole. In reference to tampers recorded in the meter, AEE/M&P visited the connection on 29.04.2021 and remarked in the checking report "Connection under TDCO + PL due to defaulting amount". The connection was checked by AEE/M&P again on 31.05.2021 and the meter was found running slow by 33.1% due to R&B phase CT saturation. Vide SJO NO. 84/17 dated 18.06.2021, the existing CTs were replaced by new CTs, which were supplied by the consumer. As per load survey report, the supply of the appellant was disconnected on 27.04.2021 between 10.30 AM to 11.00 AM and no consumption recorded by the meter after that except at the time of the checking by Nigam.
12. The respondent SDO again issued PDCO No. 27/2 dated 01.10.2021 and removed the metering equipment after checking of M&P on 14.10.2021.
13. Now the question arises if connection was disconnected permanently, why the consumer supplied the CTs for testing and replacement of saturated CTs detected during checking by M&P on 31.05.2021. The CTs were supplied by consumer and were installed on 18.06.2021 which clearly established that PDCO was not effected and metering equipment were not removed in the interest of consumer. Although SDO OP is responsible for non effecting of PDCO in 4/2021, on 31.05.2021 and

18.06.2021 despite issue of PDCO due to defaulting amount yet no benefit can accrue to consumer as it established that PDCO was not effected prior to 10/21 in connivance with consumer.

14. In view of the above facts and discussions, I am of considered view that no benefit of Surcharge Waiver Scheme, 2021, which is launched by UHBVN vide Sales Circular No. USWS-37/2021 dated 29.09.2021 and is applicable to those consumers who had been disconnected as on 30.06.2021, can be extended to the appellant. The then SDO OP and the Area In Charge are responsible for not effecting PDCO in time, resulting into accumulation of defaulting amount and disciplinary action is recommended to be initiated against the delinquent officials.

The appeal is disposed of in above terms.

Both the parties to bear their own costs. File may be consigned to record.  
Given under my hand on this day of 22<sup>nd</sup> March, 2022

**Dated: 22<sup>nd</sup> March, 2022**

**(Virendra Singh)**  
**Electricity Ombudsman, Haryana**

**Endst. No. HERC/EO/Appeal No.36/2021/**

**Dated: -**

1. Sh.Sandeep Dewan, C/o M/s B.M Plywood Pvt.Ltd., Khajuri Road, Yamuna Nagar. ([suvidha181@gmail.com](mailto:suvidha181@gmail.com)) ([neeraj\\_advocate@yahoo.com](mailto:neeraj_advocate@yahoo.com))
2. The Managing Director, UHBVN, VidhutSadana, C-16, Sector - 6, Panchkula - 134109.
3. The Chief Engineer "Op", UHBVN, SCO 89, Sector-5, Panchkula.
4. The Superintending Engineer 'Op' Circle, UHBVNL, Kanhya Chowk, Yamuna Nagar.
5. The Executive Engineer (Operations), 66KV S/Stn., Saharanpur Road, Yamuna Nagar.
6. SDO S/D No. I., 66KV S/Stn., Saharanpur Road, Yamuna Nagar. ([sdoopnolynr@uhbvn.org.in](mailto:sdoopnolynr@uhbvn.org.in))