



BEFORE THE ELECTRICITY OMBUDSMAN, HARYANA
Haryana Electricity Regulatory Commission
Bays No. 33 - 36, Sector – 4, Panchkula-134109
Telephone No. 0172-2572299; Website: - herc.nic.in
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(Regd. Post)

Appeal No. : 19/2022
Registered on : 07.07.2022
Date of order : 29.07.2022

In the matter of: -

Appeal against the order dated 03.06.2022 passed by CGRF, DHBVN, Gurugram in case No. DH/CGRF-4030/2022.

Sh. Pankaj Bhalotia, Flat No.1104, Gracious Tower, Imperial Estate, Sector 82, Faridabad.

Appellant

Versus

DHBVN

Respondents

Before:

Sh. Virendra Singh, Electricity Ombudsman

Present on behalf of Appellant:

Sh. Pankaj Bhalotia

Present on behalf of Respondents:

Sh. Vikas Yadav, SDO (OP), Sub Division, Kheri Kalan, Faridabad

ORDER

1. Sh. Pankaj Bhalotia, Flat No.1104, Gracious Tower, Imperial Estate, Sector 82, Faridabad has filed an Appeal against the order dated 03.06.2022 passed by CGRF, DHBVN, Gurugram in case No. DH/CGRF-4030/2022. The Appellant submitted as under: -

1.1 I am a consumer of DHBVN under the provisions of Regulation 5.3 of the Single Point Supply Regulation 2020 and eligible to make this representation under the provisions of the Regulation 1.5(d) of the Haryana Electricity Regulatory Commission (Forum and Ombudsman) Regulations, 2020.

1.2 The Electricity Account Number is 2202690000 for the housing society "Imperial Estate, Sector: 82, Faridabad – 121007, Haryana".

1.3 Based on the direction given by HERC vide its Memo No. 1631-32 HERC/Tariff/SV/FSA/2021 dated: 30.07.2021 for withdrawing the levy of FSA @37 paisa per unit from the Electricity Bill of the Consumers, I had a grievance related to short refund of FSA of Rs. 157,987.46 being through Electricity Bills issued on or after 30.07.2021 and accordingly filed a complaint dated: 27-02-

2022 before the Forum for Redressal of Consumer Grievances, DHBVN, Gurugram, Haryana for redressal of grievance and the complaint was registered as case number DH/CGRF- 4030/2022.

- 1.4 HERC vide its Memo No. 1631-32 HERC/Tariff/SV/FSA/2021 dated: 30.07.2021 gave direction to both the Distribution Licensee viz. UHBVN and DHBVN to discontinue Levy of FSA @ 37 paisa per unit from the Electricity Bill of the Consumers to be issued on or after 30.07.2021. So, the direction of HERC was very much clear and evident that No FSA @37 paisa /unit shall be charged through an Electricity bill if that Electricity bill has been issued on or after 30.07.2021. Nowhere HERC linked the withdrawal of levy of FSA @37 paisa /unit in its direction with the billing period of Electricity bill to be issued on or after 30.07.2021. HERC direction was simple and straight forward that current recovery of FSA @37 paisa /unit shall be stopped from levy through an Electricity bill being issued on or after 30.07.2021 by the Distribution Licensee viz. UHBVN and DHBVN.
- 1.5 DHBVN, however, had a different view and stand on it and as per them even if an Electricity Bill has been issued on or after 30.07.2021, the billing period of such electricity bills was very much relevant for withdrawing the levy of FSA @ 37 paisa per unit. So, if an Electricity Bill has been issued on or after 30.07.2021, the charge and recovery of FSA @ 37 paisa /unit was applicable till 29.07.2021 and only from 30.07.2021 onwards it was not applicable. So DHBVN linked the discontinue of levy of FSA @37 paisa /unit to the billing period of an Electricity bill, whereas there was no such direction given by HERC to link the discontinue of levy of FSA @37 paisa/unit to the billing period of electricity bill issued on or after 30.07.2021. Based on stand taken by DHBVN, out of total recovered FSA of Rs. 216,355.30 being charged @37 paisa /unit through electricity bills issued on or after 30.07.2021, an amount of Rs. 58,367.84 ONLY was refunded by DHBVN thus leaving a short refund of FSA of Rs. 157,987.46 from it. A wrong and incorrect stand taken by DHBVN, with respect of linking the discontinue levy of FSA to the Billing Period of Electricity Bill, whereas there was no such direction from HERC to discontinue the levy of FSA @37 paisa /unit.
- 1.6 CGRF DHBVN upheld the view of DHBVN and consequently I am not happy and satisfied with the decision and redressal of grievances by CGRF – DHBVN and now approaching to The Electricity Ombudsman, Haryana to hear and decide the grievance in my favour.
- 1.7 I would like the Electricity Ombudsman to declare the impugned order of the CGRF - DHBVN dated: 03.06.2022 as null and void and set aside the same and pass the judgement in my favour for redressal and resolution of the grievances.

Grounds of the Representation

- As per table below, A total of **Rs. 2,16,355.30** as FSA @ 37 paisa /unit was charged and recovered by DHBVN from Electricity Account No. 2202690000 through Electricity Bills issued on or after 30.07.2021:

Electricity Account No.	Electricity Bill No.	Bill Issue Date	FSA charged (Rs.)	Remarks
2202690000	220260642117	02/08/2021	1,74,914.69	Bill issue date is on or after 30.07.2021
2202690000	220260090844	06/09/2021	41,440.61	Bill issue date is on or after 30.07.2021
Total FSA Charged through Electricity bills being issued on or after 30.07.2021			2,16,355.30	
2202690000	220266528668	02/11/2021	58,367.84	FSA Refunded
Short refund of FSA			1,57,987.46	

- However, DHBVN refunded only Rs. 58,367.84 out of total FSA collected of Rs. 216,355.30 thus leaving a short refund of FSA of Rs. 1,57,987.46 from it. DHBVN linked the discontinue of levy of FSA @37 paisa /unit with billing period and said that even if an Electricity bill has been issued on or after 30.07.2021, the billing period of such electricity bills was very much relevant for withdrawing the levy of FSA @ 37 paisa per unit and has accordingly considered that FSA @ 37 paisa per unit was applicable till 29.07.2021 and only from 30.07.2021 onwards it was not applicable and accordingly it has refunded Rs. 58,367.84 ONLY from the total collected FSA of Rs. 2,16,355.30, thus leaving a short refund of FSA of Rs. 1,57,987.46 from it.
- The Haryana Electricity Regulatory Commission (HERC) vide its Memo No. 1631-32 HERC/Tariff/SV/FSA/2021 dated: 30.07.2021 directed both Distribution Licensee viz. UHBVN and DHBVN to discontinue levy of FSA @ 37 per unit from an Electricity Bill to be issued on or after 30.07.2021. refer 8 (i) of the HERC Memo which says that-

“The FSA @37paisa /unit being charged by Distribution Licensee viz. UHBVN and DHBVN, from the Electricity Consumers, other than AP Tube-well consumers, shall be discontinued from the electricity bills for sale of power to be issued henceforth.”
- It is clear from the direction of HERC that both the Distribution Licensee viz. UHBVN and DHBVN was to discontinue Levy of FSA @ 37 paisa per unit from the Electricity Bill of the Consumers to be issued on or after 30.07.2021. Nowhere HERC in its direction linked the withdrawal of levy of FSA @37 paisa /unit with respect to the billing period of Electricity bill to be issued on or after 30.07.2021. HERC direction was simple and straight forward that irrespective of billing period of electricity bill issued on or after 30.07.2021, the current recovery of FSA @37 paisa /unit shall be discontinued to levy from all such Electricity bills of the Distribution Licensee viz. UHBVN and DHBVN.
- DHBVN, however, had a different view and stand on it and as per them even if an Electricity Bill has been issued on or after 30.07.2021, the billing period of such electricity bills was very much relevant for withdrawing the levy of FSA @ 37 paisa per unit. So, if an Electricity Bill has been issued on or after 30.07.2021, the charge and recovery of FSA @ 37 paisa /unit was applicable till

29.07.2021 and only from 30.07.2021 onwards it was not applicable. So DHBVN linked the discontinue of levy of FSA @37 paisa /unit to the billing period of an Electricity bill, whereas there was no such direction given by HERC to link the discontinue of levy of FSA @37 paisa/unit to the billing period of electricity bill issued on or after 30.07.2021. Based on stand taken by DHBVN, out of total recovered FSA of Rs. 2,16,355.30 being charged @37 paisa /unit through electricity bills issued on or after 30.07.2021, an amount of Rs. 58,367.84 ONLY was refunded by DHBVN thus leaving a short refund of FSA of Rs. 1,57,987.46 from it. A wrong and incorrect stand taken by DHBVN, with respect of linking the discontinue levy of FSA to the Billing Period of Electricity Bill, whereas there was no such direction from HERC to discontinue the levy of FSA @37 paisa /unit.

- Also, as noted by the HERC in Serial No. 8 of its Memo No. 1631-32 HERC/Tariff/SV/FSA/2021 dated: 30.07.2021, that there was already an excess recovery of FSA of Rs. 2263.14 crore made from the Consumers of the State at the time of giving direction and HERC did not want any further recovery of FSA to continue anymore and that is why HERC direction was to stop recovery of FSA immediately from the consumers of the State due to an already excess recovered amount of FSA of Rs. 2263.14 crore outstanding in books of accounts.

Prayer and Relief Sought from the Electricity Ombudsman

- The representation, in its present form, may kindly be taken on record.
- Condone any inadvertent omissions/shortcomings and permit the Complainant to add/change/modify/alter and make further submissions as may be required at a future date.
- To set aside the order dated 03.06.2022 passed by CGRF DHBVN with respect to my grievance.
- To review and examine the grievances as brought in through this representation and as discussed above in foregoing paragraphs and pass appropriate Order in accordance with the provisions of the Regulation of the Haryana Electricity Regulatory Commission (Forum and Ombudsman) Regulations, 2020 for redressal and complete satisfaction of the Grievances.
- To instruct DHBVN to refund FSA of Rs.1,57,987.46 immediately with applicable interest and penalty.
- To award cost and compensation to me for the time and money spent by me on it.
- Pass any such other order/s and/or direction/s, which the Electricity Ombudsman may deem fit and proper in the facts and circumstances of the case.

2. The appeal was registered on 07.07.2022 as an appeal No. 19/2022 and accordingly, notice of motion to the Appellant and the Respondents was issued on 08.07.2022 for hearing the matter on 28.07.2022.
3. SDO (OP), Sub Division, Kheri Kalan, Faridabad vide email dated 22.07.2022 has submitted reply, which is as under: -

Grounds of the Representation

- Under Point No. 2
“DHBVN refunded only Rs. 58,367.84 out of total FSA collected of Rs. 2,16,355.30 thus leaving a short refund of FSA of Rs. 1,57,987.46 from it. DHBVN linked the discontinue of levy of FSA @37 paisa /unit with billing period and said that even if an Electricity bill has been issued on or after 30.07.2021, the billing period of such electricity bills was very much relevant for withdrawing the levy of FSA @ 37 paisa per unit and has accordingly considered that FSA @ 37 paisa per unit was applicable till 29.07.2021 and only from 30.07.2021 onwards it was not applicable and accordingly it has refunded Rs. 58,367.84 only from the total collected FSA of Rs. 2,16,355.30, thus leaving a short refund of FSA of Rs. 1,57,987.46 from it”
- In the Case No. DH/CGRF/4030/2022 this office already submitted a reply in Hon’ble forum CGRF in which it is mentioned that: -

“As per complaint filed under this point it is mentioned that short and less refund of FSA given to the consumer, whereas, as per Nigam Sales Circular No-D-35/2021 dated 01.09.2021 Hon’ble HERC notification circulated vide memo no 1631-32/HERC/Tariff/SV/FSA/2021 dated 30/07/2021 opted on which it is clearly mentioned and is reiterated as under: -

“the FSA @.37Paisa/units being charged by the Distribution Licensees viz UHBVNL and DHBVNL from the electricity consumers other than AP Tube-well consumers, shall be discontinued from the electricity bills for sale of power to be issued hence forth”
- Hence as the circular issued on dated 30/07/2021, the amount already charged up to 29/07/2021 has already been refunded in the billing month Nov--2021 dated 02/11/2021 of Rs 58367.84 (through retro implemented by RAPDRP cell).
- It is further submitted that clarification regarding this was sought from the office of Chief Commercial Hisar, in which clarification received vide their office memo no. Ch-39/SE/C-19/2006-Vol-III Dated 1205.2022 on which it is clearly mentioned that “FSA is to be discontinued from the electricity bills for sale of power to be issued henceforth i.e. 30.07.2021 (date of issue of the letter) and not from the date of generation of bill”
- So, the grounds taken in the representation by the applicant are not in order as the clarified by the office of Chief Commercial Hisar vide their office memo no. Ch-39/SE/C-19/2006-Vol-III Dated 1205.2022.

4. The hearing was held on 28.07.2022, as scheduled. Both the parties were present during hearing through video conferencing. At the outset the appellant briefed the appeal and submitted that, even if an Electricity bill of account no. 2202690000, which was issued on 02.08.2021 i.e. after 30.07.2021, the billing period of such electricity bills was very much relevant for withdrawing the levy of FSA @ 37 paisa per unit but FSA @ 37 paisa per has been charged till 29.07.2021 and waived off only from 30.07.2021 onwards. Per contra the respondent SDO submitted that FSA is to be discontinued from the electricity bills for sale of power to be issued henceforth i.e. 30.07.2021 (date of issue of the letter) and not from the date of generation of bill. CE commercial DHBVN Hisar also clarified the same. The amount of Rs 58367.84/- charged up to 29/07/2021 has already been refunded in the billing month Nov- 2021 dated 02/11/2021.
5. After hearing both the parties and going through the record, it is observed that:
- The HERC decided vide memo no. 1631-32/HERC /Tariff/SV/FSA/2021 dated 30.07.2021, that FSA @ 37 Paisa per unit being charged by the distribution licensees viz UHBVN and DHBVN from their electricity consumers other than AP Tube well consumers shall be discontinued from the electricity bill for Sale of Power to be issued henceforth.
 - Subsequently, Hon'ble Commission vide memo no. 2467 -68 / HERC /Tariff/558/3 dated 21.09.2021 has inter alia observed *"it is pertinent to note that levy of FSA should have been discontinued in all the bills of consumers for sale of power issued by the Discoms after 30.07.2021. However, in quite a few cases, FSA is still levied."*
 - In view of the above, the contention of the appellant regarding refund of FSA levied on the bills issued after 30.07.2021 is admissible and therefore, no FSA is changeable in Bill no. 220260642117 issued on 02.08.2021.
 - Hence, CGRF order dated 03.06.2022 is set aside and the respondents are directed to refund the balance amount of FSA charged in afore said bill within 15 days of this order.
 - In above terms the present appeal is disposed off.

Both the parties to bear their own costs. File may be consigned to record.
Given under my hand on 29th July, 2022.

Dated: 29th July, 2022

(Virendra Singh)
Electricity Ombudsman, Haryana

CC-

Memo. No. HERC/EO/Appeal No.19/2022/

Dated: -

1. Sh. Pankaj Bhalotia, Flat No.1104, Gracious Tower, Imperial Estate, Sector 82, Faridabad.
2. The Managing Director, DHBVNL, Vidyut Sadan, Vidyut Nagar, Hisar .125005 (E-Mail: - cmd@dhbvn.org.in)
3. L R, HPU, Shakti Bhawan, Sector -6, Panchkula
4. The Chief Engineer 'Op.', DHBVNL. Shakur Basti, Punjab Bagh, New Delhi.110035. (E-Mail: - ceopdelhi@dhbvn.org.in)
5. The Superintending Engineer 'Op' Circle, Sector – 23, DHBVN, Faridabad
6. The Executive Engineer (Operations), XEN/OP, Greater Faridabad.
7. The SDO (OP), Sub Division, Kheri Kalan, DHBVN, Faridabad (sdoopkherikalan@dhbvn.org.in)