



**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. : 49/2023**  
**Registered on : 10.05.2023**  
**Date of order : 12.09.2023**

**In the matter of: -**

Appeal against the order dated 20.03.2023 passed by CGRF, DHBVN, Gurugram in complaint No. 4391/2022 through Counsel Shri Akshay Gupta, Advocate.

Shri Sunil Kumar & Others, Charkhi Dadri

**Appellant**

Versus

Dakshin Haryana Bijli Vitran Nigam Limited

**Respondents**

**Before:**

Sh. Virendra Singh, Electricity Ombudsman

**Present on behalf of Appellant:**

Shri Akshay Gupta, Advocate

**Present on behalf of Respondents:**

Shri Amit Kamboj, XEN, Op. Division, Charkhi Dadri

Shri Manoj Gahalawat, SDO City Sub Division, Charkhi Dadri

**ORDER**

**A.** Shri Sunil Kumar & Others, Charkhi Dadri has filed an Appeal through advocate Akshay Gupta against the order dated 20.03.2023 passed by CGRF, DHBVN, Gurugram in complaint No. 4391/2022, Advocate. The appellant request for following relief as under: -

- Complaint petitioners filed the case in the CGRF for common policy matter cause and similar matter already decided by Hon'ble Ombudsman, reference of the same also given the Plaintiff.
- Case was registered on 2.11.2022 and matter heard in Dec and Jan hearing respondent tendered his reply attached here as 'Letter 11111' and on page number 7,8 and 9 he has given the calculation of refundable amount Two issues i.e. FSA and Fix charge, this calculation comes to be

more than 6 lac rupees and the calculation of interest of ACD was not given by the respondent which also comes to be more than 10 lac rupees.

- But Ld. CGRF in its order directed the complaint to file the Case in Zonal Forum without considering the reply submitted by the respondent and without giving the opportunity to argue to the complainant. This case does not fall in the Jurisdiction of Zonal Forum since the disputed amount is more than 3 lacs.
  - Here the issues need to be argued in depth for redressal of genuine grievance of the consumers and as per Regulation 2.47 of Haryana Electricity Regulatory Commission (Forum and Ombudsman) Regulations, 2020 requires the Ld. CGRF to pass a reasoned order in complaint. But Ld. CGRF has failed to adhere to the rule of law while passing the impugned order dated 20.03.2023.
- B.** The appeal was registered on 10.05.2023 as an appeal No. 49/2023 and accordingly, notice of motion to the Appellant and the Respondents was issued for hearing the matter on 15.06.2023.
- C.** The respondent SDO vides email dated 09.06.2023 has submitted reply which is as under:

In this connection is it submitted that the subject cited case was under consideration in the Hon'ble Forum for Consumer Grievances Redressal, DHBVN, Gurugram. The reply of the same was submitted by this office vide memo no. 154 dated 23.01.2023 along with the calculation sheet of difference of excess Fix Charges and the excess FSA wrongly charged after 30.07.2021 for adjustment in the bills of the consumers. It was also requested to impart the necessary direction of the CBO, DHBVN, Hisar to far adjustment of ACD interest during the bills for the m/o April of the coming financial year.

The Forum observed that as per regulations of HERC (1<sup>st</sup> Amendment) Regulations, 2022 dated 06.04.2022 which read as 2.8.1- The Corporate Forum shall have the jurisdiction to dispose off all the monetary disputes of an amount exceeding Rs. 300000/- (Rs. Three Lakhs) in each case, provided the compliant / representation is made within two years from the dated of cause of action". The Forum dispose off the case with the direction to the complaint to file his case before the Chairman, Zonal CGRF as the case falls under his jurisdiction.

- D.** The respondent Executive Engineer vides email dated 15.06.2023 has submitted reply which is as under:

This is in continuation to this office memo no. 1693 dated 09/06/2023 vide which reply in respect of subject cited appeal has been sent. Now as per telephonic discussion held with Deputy Secretary O/o the Electricity Ombudsman, HERC, Panchkula it has to provide some additional information regarding providing interest on ACD.

In this regard, the details/information containing amount of interest refunded (along with date of refund) is attached. It is also pertinent to mention here that the interest on ACD amount is being refunded on integrated basis for DHBVNL as whole by the R-APDRP wing of DHBVN.

As such, Hon'ble forum is hereby requested to direct the Appellant to take up matter with concerned office/wing in the instant case i.e. regarding refund of interest on ACD, please.

**E.** Hearing was held on 15.06.2023, as scheduled. At the outset, the counsel for the appellant submitted that no reply has been received from the respondent. Respondent SDO requested for 15 days' time being joined recently. Acceding to his request, the matter was adjourned for 04.07.2023. The respondent SDO was directed to submit point wise reply through concerned XEN operation with a copy to appellant. Concerned XEN operation was also directed to remain present on the next date of hearing.

**F.** The respondent SDO vide email dated 03.07.2023 has submitted reply which is as under:

1. That the present appeal is nothing but an abuse of the process of law and as such, the same is liable to be dismissed on this ground alone.
2. That the present appeal is also liable to be dismissed with regard to conduct of the appellant who has mischievously and dishonestly and fraudulently tried to mislead this Hon'ble Court by making several false averments.
3. That the present appeal is liable to be dismissed on the ground that as per record available and after thoroughly going through the data it is found that interest of ACD for the FY 2010-11 & 2011-12 has been calculated vide SC & AR No. 249/107 and adjusted in consumer's bill issued in January, 2013. The interest on ACD for the period 2012-13 & 2013-14 been adjusted vide SC & AR item no. 26 dated 10.03.2014 and adjusted in consumer's bill issued in the month of march, 2014 and copy of sundry and consumer accounts ledger are attached as Annexure R-1. Thereafter the interest on ACD for the FY 2014-15 & 2015-16 calculated

vide SC&AR no. 133/130 & 187/130 and same stands also adjusted in consumers bills issued in the month of March, 2016 & March, 2017. The interest on ACD from FY 2016-17 & onwards calculated and refundable amount as well as interest on delayed payment is tabulated hereunder: -

Sr. No.	NAME	Old Ac no.	Ac no.	Amount of interest on delayed payment @18% of interest	Refundable amount in lieu of less interest paid
1	OP COTTON SH RAJ KUMAR	CRHT0001	9361970000	40506	162302
2	GOBIND RAM	CRHT0002	2307080000	4237	66362
3	SH RAJ KUMAR S/O	CRHT0003	5030180000	237	7900
4	AMIT KUMAR	CRHT0005	1447470000	3672	19807
5	MAA SANTOSHI OIL MILL	CRHT0006	0422970000	385	12825
6	KRISHAN KUMAR MAKRANIA	CRHT0007	2447470000	1931	39903
7	SH SUNIL KUMAR S/O	CRHT0008	6030180000	5987	47029
8	SH RAJINDER KUMAR	CRHT0009	3307080000	2948	20593
9	AJAY GOYAL	CRHT0011	4307080000	0	-60
10	SANJAY KUMAR	CRHT0012	1422970000	0	-18098
11	M/S SUSHILA INDUSTRIES	CTHT0001	9541380000	403	13446
12	SH SANJAY KUMAR	GRHT0003	2422970000	8	280
13	SHIV SHANKAR	New	1435429692	155	5156
14	AJAY GOYAL	New	2484235587	26	613

The detailed calculation sheet containing the amount of ACD, year wise interest adjusted in consumer's account and the same has been sent to appellant and will be adjusted through sundry after reconciliation from appellant.

4. That the present appeal is liable to be dismissed on the ground that the consumers account has been gone through and difference of fix charges calculated and same will be adjusted in the consumer's account in next billing cycle. Calculation of same is tabulated hereunder: -

Sr. No.	NAME	Ac no.	CD	Fix charges levelled	Actual Fix Charges @165/KVA	Refundable amount
1	OP COTTON SH RAJ KUMAR	9361970000	330	225014	221430	3584
2	GOBIND RAM	2307080000	683	465712.25	458293	7419.25
3	SH RAJ KUMAR S/O	5030180000	572	492327	484484	3921.5
4	AMIT KUMAR	1447470000	350	238651	234850	3801
5	MAA SANTOSHI OIL MILL	0422970000	345	241027	237187.5	3839.5
6	KRISHAN KUMAR MAKRANIA	2447470000	380	321074	319770	1304
7	SH SUNIL KUMAR S/O	6030180000	444	382229	378510	3719
8	SH RAJINDER KUMAR S/O	3307080000	500	340931	335500	5431
9	AJAY GOYAL	4307080000	342	233197	229482	3715
10	SANJAY KUMAR	1422970000	555	378434	372405	6029

11	M/S SUSHILA INDUSTRIES	9541380000	311	212059	208681	3378
12	SH SANJAY KUMAR S/O	2422970000	144	98188	96624	1564
13	SHIV SHANKAR	1435429692	335	228424	224785	3639
14	AJAY GOYAL	2484235587	368	307245	309672	-2427

Reply on merits:

1. That the contents of para no. 1 of the appeal are a matter of record. However, the complainant may be put to strict proof to prove the averments mentioned in this para.
2. That the contents of para no. 2 of the appeal are a matter of record. However, the complainant may be put to strict proof to prove the averments mentioned in this para. It is pertinent to mention here that the consumers accounts have been gone through and FSA charged in the bills issued after 30.07.2021 has been calculated as under: -

Sr. No.	NAME	Ac no.	Amount of FSA wrongly charged
1	OP COTTON SH RAJ KUMAR	9361970000	24423.54
2	GOBIND RAM	2307080000	94777.39
3	SH RAJ KUMAR S/O	5030180000	63752.85
4	AMIT KUMAR	1447470000	2145
5	MAA SANTOSHI OIL MILL	0422970000	30582.1
6	KRISHAN KUMAR MAKRANIA	2447470000	73579.04
7	SH SUNIL KUMAR S/O	6030180000	22453.82
8	SH RAJINDER KUMAR S/O	3307080000	27115
9	AJAY GOYAL	4307080000	2711.98
10	SANJAY KUMAR	1422970000	51988
11	M/S SUSHILA INDUSTRIES	9541380000	31223
12	SH SANJAY KUMAR S/O	2422970000	23925
13	SHIV SHANKAR	1435429692	250.3
14	AJAY GOYAL	2484235587	3329.4

Above amount of refundable FSA has been calculated on the basis of Available official record and same will be refunded through Sundry Allowance shortly.

3. That the contents of para no. 3 are wrong and denied. It is relevant to mention here that the consumer account ledger as well as ACD record of the consumers have been gone through and found that interest of ACD for the FY 2010-11 & 2011-12 has been calculated vide SC & AR No. 249/107 and adjusted in consumer's bill issued in January, 2013. The interest on ACD for the period 2012-13 & 2013-14 has been adjusted vide SC & AR item no. 26 dated 10.03.2014 and adjusted in consumer's bill issued in the month of march, 2014. Thereafter the interest on ACD for the FY 2014-25 & 2015-16 calculated vide SC&AR no. 133/130 &

187/130 and same also stands adjusted in consumers bills issued in the month of March, 2016 & March, 2017 respectively. The interest on ACD from FY 2016-17 & onwards calculated and refundable amount as well as interest on delayed payment is tabulated hereunder: -

Sr. No.	NAME	Old Ac no.	Ac no.	Amount of interest @18% on delayed payment of interest	Refundable amount in lieu of less interest paid
1	OP COTTON SH RAJ KUMAR	CRHT0001	9361970000	40506	162302
2	GOBIND RAM	CRHT0002	2307080000	4237	66362
3	SH RAJ KUMAR S/O	CRHT0003	5030180000	237	7900
4	AMIT KUMAR	CRHT0005	1447470000	3672	19807
5	MAA SANTOSHI OIL MILL	CRHT0006	0422970000	385	12825
6	KRISHAN KUMAR MAKRANIA	CRHT0007	2447470000	1931	39903
7	SH SUNIL KUMAR S/O	CRHT0008	6030180000	5987	47029
8	SH RAJINDER KUMAR	CRHT0009	3307080000	2948	20593
9	AJAY GOYAL	CRHT0011	4307080000	0	-60
10	SANJAY KUMAR	CRHT0012	1422970000	0	-18098
11	M/S SUSHILA INDUSTRIES	CTHT0001	9541380000	403	13446
12	SH SANJAY KUMAR	GRHT0003	2422970000	8	280
13	SHIV SHANKAR	New	1435429692	155	5156
14	AJAY GOYAL	New	2484235587	26	613

Copy of the detailed calculation sheet containing the amount of ACD, year wise interest adjusted in consumer's account has been sent to appellant and will be adjusted through sundry after reconciliation from appellant.

4. That in reply to the contents of para no. 4 it is stated that the consumers account has been gone through and difference of fix charges calculated and same will be adjusted in the consumer's account in next billing cycle.

Calculation of same is tabulated hereunder: -

Sr. No.	NAME	Ac no.	CD	Fix charges levelled	Actual Charges @165/KVA	Fix Refundable amount
1	OP COTTON SH RAJ KUMAR	9361970000	330	225014	221430	3584
2	GOBIND RAM	2307080000	683	465712.25	458293	7419.25
3	SH RAJ KUMAR S/O	5030180000	572	492327	484484	3921.5
4	AMIT KUMAR	1447470000	350	238651	234850	3801
5	MAA SANTOSHI OIL MILL	0422970000	345	241027	237187.5	3839.5
6	KRISHAN KUMAR MAKRANIA	2447470000	380	321074	319770	1304
7	SH SUNIL KUMAR S/O	6030180000	444	382229	378510	3719
8	SH RAJINDER KUMAR S/O	3307080000	500	340931	335500	5431

9	AJAY GOYAL	4307080000	342	233197	229482	3715
10	SANJAY KUMAR	1422970000	555	378434	372405	6029
11	M/S SUSHILA INDUSTRIES	9541380000	311	212059	208681	3378
12	SH SANJAY KUMAR S/O	2422970000	144	98188	96624	1564
13	SHIV SHANKAR	1435429692	335	228424	224785	3639
14	AJAY GOYAL	2484235587	368	307245	309672	-2427

5. That the contents of para no. 5 are wrong and denied. It is pertinent to mention here that the bills/interest on ACD charged has been deducted and adjusted in their respective accounts after going through their accounts as per the rules, regulations, terms, notifications and provisions of the law. However, the reply to the contents of the preliminary objections and of the contents of the above paras on merit may be read as part and parcel to the reply to the contents of this para.
6. That the contents of para no. 5 are wrong and denied. It is imperative to mention here that appellants/consumer account ledger as well as ACD record of the appellants/consumers have been gone through and found that interest of ACD of the abovementioned financial years have been adjusted towards the bills of the appellants. However, the reply to the contents of the preliminary objections and of the contents of the above paras on merit may be read as part and parcel to the reply to the contents of this para.
7. That the contents of para no. 7 are wrong and denied. It is pertinent to mention here that the bills have charged as per the terms, rules, regulations, notifications and provisions of law. However, the reply to the contents of the preliminary objections and of the contents of the above paras on merit may be read as part and parcel to the reply to the contents of this para.

It is therefore most respectfully prayed that the present complaint being devoid of any merit is liable to be dismissed with heavy cost.

- G.** Hearing was held on 04.07.2023, as scheduled. At the outset, the counsel for the appellant submitted that reply was received yesterday only without any annexures. Accordingly, the respondent SDO was directed to provide the copy of reply along with annexures within two days. The appellant may file rejoinder, if any, within two days thereafter with an advance copy to the respondent SDO. The matter was adjourned for 27.07.2023.
- H.** The appellant vides email dated 07.07.2023 has submitted the rejoinder, which is as under:

1. No details prior to 2010 are given.
2. Pls provide the details/ copy of SC & AR No 249/107.
3. Annexure R-2 is incomplete bills for only 3 out of 14 consumers for the year 2017 and 4 out of 14 consumers for the year 2016 is given, Need the copy of bills of all 14 consumers where the amount of interest on ACD has been adjusted as per your statement.
4. In annexure R-3 (Calculation sheet,) it's not mentioned that in which month the amount of interest on ACD has been adjusted moreover no ROI/ Nigam's instruction for interest on ACD mentioned, Pls give the month in which the interest on ACD given and also the ROI and Nigam's instruction on which amount has been calculated. pls attach the copy of bills in which the interest on ACD is adjusted.

Pls provide the above complete annexures as mentioned above by tomorrow so that the rejoinder can be submitted.

- I.** Hearing was held on 27.07.2023, as scheduled. At the outset, the counsel for the appellant submitted that FSA and fixed charges details given in reply of the respondent differ from that were supplied in the reply before CGRF. Also, there is difference in calculations of interest. The respondent SDO assured to check calculations again. Also, both the parties agree for reconciliation on 05.08.2023. The respondent SDO is directed to submit the reply after the reconciliation. The matter was adjourned for 10.08.2023.
- J.** The respondent SDO vides email dated 09.08.2023 has submitted report in respect of interim order dated 27.07.2023, which is reproduced as under:

In compliance the same Advocate Sh. Akshay Gupta counsel for petitioner visited the office of undersigned, whereas for the Respondent undersigned & Sh. Manoj Kumar, CA were present in the office of undersigned. During the meeting the counsel for respondents raised the following observation and status of attending thereof is given hereunder: -

<b>Sr. No.</b>	<b>Observation raised by the Counsel for petitioner</b>	<b>Remarks of Respondent SDO</b>
1.	Interest on ACD for the FY 2013-14 is to be given @ 9% instead of 6%.	Calculation for FY 2013-14 has been made @8.5% as prescribed by HERC.
2.	Interest @18% for delayed payment of interest on ACD amount for FY 2014-15.	Interest for FY 2014-15 has been paid in Mar, 2016 whereas provision of interest @18% was firstly introduced on 25.11.2016. As such claim is not maintainable.
3.	TDS on ACD Interest has been deducted but not deposited in concerned department.	Calculation of TDS deduction will be carried out and submitted before Hon'ble Ombudsman HERC Haryana before next date of hearing i.e. 10.08.2023 and same will be deposited in



		concerned department after following due procedure.
4.	Interest for FY 2015-16 was given in March, 2017.	Accordingly, the interest @18% for delayed payment for the period 25/11/2016 to 31/03/2017 has been added to calculation sheet.
5.	Interest for FY 2016-17 was given in Aug, 2017.	The interest @18% for delayed payment till 31/03/2017 has been added to calculation sheet.
6.	Bills for the month of March, 2017 & Aug, 2017.	Supplied through E-mail.
7.	ACD of Sh. Ajay Goyal was deposited much prior to release of connection.	Interest on ACD amount has already been calculated from the actual dated of deposition of amount.
8.	Interest of M/s Balaji Oil mill has not been given for FY 2012-13 & 2013-14.	As the connection of consumer was released after March-2014.
9.	ACD amount of M/s OP Cotton has been received in 2018 but updated in 2020.	Interest on ACD in respect of the same has been added in calculation sheet from actual date of deposition of amount i.e. 06/02/2018.
10.	Negative amount of Fix Charges in respect of Sh. Ajay Goyal.	Total amount of Fix charges levied in the bill in the month of May,2021 & Sept,2021 is 307245/- (same is evident from the energy bill) whereas actual surcharge @165/KVA/Month is 309672. As such an amount Rs. 2427 found chargeable.

After attending the above observations raised by counsel for respondent a fresh calculation sheet of interest on ACD, difference of Fix charges & FSA and abstract of total adjustable amount has been made.

**K.** The counsel for the appellant vides email dated 09.08.2023 has submitted report in respect of interim order dated 27.07.2023, which is reproduced as under:

In compliance the same I, Advocate Sh. Akshay Gupta counsel for petitioner visited the office of undersigned, whereas for the Respondent undersigned & Sh. Manoj Kumar, CA were present in the office of undersigned. During the meeting the I the following observation and status of attending thereof is given hereunder: -

Sr. No.	Observation raised by the Counsel for petitioner	Remarks of Respondent SDO	Remark by Counsel dated 9-Aug-2023
1	Interest for the period 2010-2011 and 2011-2012 given late and No penal interest for this delayed period calculated. counsel seek details of interest prior to 2010 given.		No reply given by the respondent
2.	Interest on ACD for the FY 2013-14 is to be given @ 9% instead of 6%.	Calculation for FY 2013-14 has been made @8.5% as prescribed by HERC.	As the interest on ACD paid @ 6% instead of 8.5 %, then the penal interest should be given on this difference amount
3.	Interest @18% for delayed payment of interest on ACD amount for FY 2014-15.	Interest for FY 2014-15 has been paid in Mar, 2016 whereas provision of interest @18% was firstly introduced on 25.11.2016. As such	HERC regulation No 12/2005 dated 26 - July - 2005, DUTY TO SUPPLY ELECTRICITY ON REQUEST, POWER TO RECOVER EXPENDITURE INCURRED IN PROVIDING SUPPLY & POWER TO REQUIRE SECURITY Para 5.7 Interest on Consumption Security

		<p>claim is not maintainable.</p>	<p>and Meter Security the Licensee shall pay interest on Consumption Security and meter security deposited by the consumer at the Saving Bank rate notified by State Bank of India or such higher rate as the Commission may fix, from time to time. The interest accruing to the credit of the consumer shall be adjusted in energy bills of April or May of every year or in the final bill if permanent disconnection is sought by the consumer during the year., further the same is clarified in HARYANA ELECTRICITY REGULATORY COMMISSION, PANCHKULA Notification The 9th September, 2009 Regulation No. HERC/12/2005/1st Amendment, 2009: - 2. Amendment to clause no. 5.7 (Interest on Consumption Security and Meter Security). Clause no. 5.7 of the regulation shall be substituted by the following provisions: - The licensee shall pay interest on consumption security and meter security deposited by the consumer equivalent to the Bank Rate as determined by the Reserve Bank of India on 1st April of each year or such higher rate as the Commission may fix from time to time. The interest accruing to the consumer shall be adjusted in energy bill of April or May of every year calculated on annual basis or in the final bill if permanent disconnection is sought by the consumer during the year.</p> <p>And the same if further clarified in HERC Regulation-34/2016 dated 11 July 2016 2 In case the interest accrued during the year is not adjusted in the consumer's bill for the first billing cycle of the ensuing financial year, the licensee shall be liable to pay interest at the rate of 18% for the period for which the payment of interest accrued is delayed.</p> <p>From the all above Regulations quoted it is clear that if interest on ACD is not paid in first billing cycle of Financial year then the licensee shall be liable to pay interest at the rate of 18% for the period for which the payment of interest accrued is delayed. There are number of orders passed by Hon'ble Ombudsman and Hon'ble HERC in the similar matter. Moreover, an action against the respondent should be taken for not following the statutory provisions as per Section 142 Rw Section 146 of Electricity Act-2003.</p>
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4.	TDS on ACD Interest has been deducted but not deposited in concerned department.	Calculation of TDS deduction will be carried out and submitted before Hon'ble Ombudsman HERC Haryana before next date of hearing i.e. 10.08.2023 and same will be deposited in concerned department after following due procedure.	TDS on interest deducted as per Section 194 A of Income Tax Act and same is to be deposited with the concerned department. Here the respondent deducted the TDS @ 10%, which means that the respondent is having the Pan Card/ Number/ Details of the petitioners but not deposited the deducted TDS to the concerned department. As per Section 271 C of Income Tax Act 1971 penalty should be imposed on respondent for non-depositing the TDS and the respondent may be directed to deposit the TDS deducted so far so that the petitioners can claim the same in ITR.
5.	Interest for FY 2015-16 was given in March, 2017.	Accordingly, the interest @18% for delayed payment for the period 25/11/2016 to 31/03/2017 has been added to calculation sheet.	Same as per Para 3
6.	Interest for FY 2016-17 was given in Aug, 2017.	The interest @18% for delayed payment till 31/03/2017 has been added to calculation sheet.	Same as per Para 3
7.	Bills for the month of March, 2017 & Aug, 2017.	Supplied through E-mail.	Received but the copy of sundry not given, since the interest on ACD adjusted through Sundry so it is highly possible that the sundries made for some other refund entry along with interest on ACD.
8.	ACD of Sh. Ajay Goyal was deposited much prior to release of connection.	Interest on ACD amount has already been calculated from the actual dated of deposition of amount.	ok
9.	Interest of M/s Balaji Oil mill has not been given for FY 2012-13 & 2013-14.	As the connection of consumer was released after March-2014.	As I have seen in so many cases that the connection released after a year or two of depositing the ACD, but the interest on ACD paid from DOC, the interest on ACD should be from date of deposit of ACD (BA_16).
10.	ACD amount of M/s OP Cotton has been received in 2018 but updated in 2020.	Interest on ACD in respect of the same has been added in calculation sheet from actual date of deposition of amount i.e. 06/02/2018.	Ok,
11.	Negative amount of Fix Charges in respect of Sh. Ajay Goyal.	Total amount of Fix charges levied in the bill in the month of May, 2021 & Sept,2021 is 307245/- (same is evident from the energy bill) whereas actual surcharge @165/KVA/Month is	Earlier a detailed calculation given by the then CA and SDO, now a new calculation given by the respondent without any supportive document, my grievance was simple that the Tariff 12/2021, Fixed Charges for Ht connection reduced to 165/ Kva instead of 170/ Kva, and respondent charged @ 170/Kva for a period

		309672. As such an amount Rs. 2427 found chargeable.	I have attached a detailed calculation for one consumer for better understanding.
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This reconciliation report is submitted to Hon'ble Ombudsman for reference and further directions.

**L.** Hearing was held on 10.08.2023, as scheduled. At the outset, counsel for the appellant submitted that TDS is being deducted on payment of interest on ACD but they are not being provided any intimation regarding deposition of TDS in the Income Tax Department. The respondent SDO stated that no such information is available in his office as this record is to be maintained in the office DDO/XEN. Accordingly, the respondent SDO shall provide details of the connections to the XEN office within two days in this regard and the concerned XEN will submit its response within week time. The respondent SDO is directed to supply details of adjustment for FSA, Fixed charges and ACD interest and delay payment interest along with copy of sundry of each item. The respondent XEN "op" is also directed to be present personally on the next date of hearing along with the details of the TDS deducted and deposited with the income tax department. The matter was adjourned for 31.08.2023.

**M.** The respondent Executive Engineer vides email dated 29.08.2023(Memo. No. 2420 dated 29.08.2023) has submitted reply, which is as reproduced as under:

In compliance of the interim order dated 10/08/2023 the adjustment of FSA, difference of fix charges and interest along with interest @18% on the delayed payment of interest on ACD stands adjusted vide SC&AR item no. 361/163 and the details of same is tabulated hereunder: -

Sr. No.	NAME	Ac no.	Refundable amount of Fix Charges	Amount of FSA wrongly charged	Total amount int. & Penal interest	TDS @ 10%	Net refundable amount of int. & Penal Interest	Total Adjustable amount
			A	B			C	A+B+C
1	OP COTTON SH RAJ KUMAR	9361970000	3584	24424	224118	22412	201706	229714
2	GOBIND RAM	2307080000	7419	94777	86543	8654	77889	180085
3	SH RAJ KUMAR S/O	5030180000	7843	63753	52614	5261	47353	118949
4	AMIT KUMAR	1447470000	3801	2145	12073	1207	10865	16811
5	MAA SANTOSHI OIL MILL	0422970000	3840	30582	39720	3972	35748	70170
6	KRISHAN KUMAR MAKRANIA	2447470000	1304	73579	73328	7333	65996	140879
7	SH SUNIL KUMAR S/O	6030180000	3719	50889	73843	7384	66458	121066

8	SH RAJINDER KUMAR S/O	330708000 0	5431	27115	43059	4306	38753	<b>71299</b>
9	AJAY GOYAL	430708000 0	3715	2712	3823	382	3441	<b>9868</b>
10	SANJAY KUMAR	142297000 0	6029	51988	23701	2370	21331	<b>79348</b>
11	M/S SUSHILA INDUSTRIES	954138000 0	3378	31223	17792	1779	16012	<b>50613</b>
12	SH SANJAY KUMAR S/O	242297000 0	1564	23925	5691	569	5122	<b>30611</b>
13	SHIV SHANKAR	143542969 2	3639	250	5753	575	5178	<b>9067</b>
14	AJAY GOYAL	248423558 7	-2427	3329	3610	361	3249	<b>4152</b>

In respect of the above adjustments, the counsel for the petitioner raised some observations during the last date of hearing and in response to the same clarification along with supportive documents is also explained hereunder: -

1. Difference of fix charges: -

The total fix charges levied in the consumer's bill for the period of - Apr,2021 to July, 2021 has been calculated and thereafter fix charges @165/- per month calculated and difference of the same has been adjusted. However, the duration of one month is being considered as 30 days in the billing system of DHBVN as well as UHBVN.

2. Interest @18% on delayed payment of interest on ACD w.e.f. date of connection: -

The provision for the interest @18% on delayed payment of interest on ACD was firstly introduced vide sales instruction no. 09/2016 circulated vide the SE/Commercial DHBVN Hisar memo no. Ch-9/SE/Comml. /R-17/357/2005/Vol-I dated 25/11/2016 and same stands adjusted w.e.f 25/11/2016, whereas counsel for petitioner claiming the same w.e.f date of connection, which is not maintainable.

Whereas the deposition of TDS with the concerned department is concerned, the calculation sheet of TDS deduction has been prepared. In this regard, it is further submitted that PAN details of the consumer involved in the instant case are not available in this office. Accordingly, the same was conveyed to the counsel for petitioners and requested to supply the same. As the same stands supplied today i.e. 29.08.2023 and same will be deposited with concerned department at the soon.

**N.** Hearing was held on 31.08.2023, as scheduled. At the outset, counsel for the appellant submitted that reply was received today. He further requested for short adjournment to respond. The respondent XEN 'Op.' vide interim order dated

10.08.2023 was directed to attend the hearing personally but he did not attend the hearing. Accordingly, the respondent XEN is again directed to attend next date of hearing. The matter was adjourned for 12.09.2023.

- O. The respondent Executive Engineer vide email dated 11.09.2023 (Memo. No. 2522 dated 29.08.2023) has submitted 2<sup>nd</sup> reply, which is as reproduced as under:

In compliance of the interim order dated 31/08/2023 counsel for the petitioner visited the office of undersigned and raised his observations regarding providing of interest @18% on the delayed payment on interest w.e.f. 11.07.2016. Accordingly, the fresh calculation in this regard has been carried out and tabulated hereunder: -

Sr. No	NAME	Old Ac no.	Ac no.	Refundable amount of Fix Charges	Amount of FSA wrongly charged	ACD total amount int. & Penal interest	TDS @ 10%	Net refundable amount of int. & Penal Interest	Total Adjustable amount after deduction of TDS	TDS deducted so far but not deposited to concerned department
1	OP COTTON SH RAJ KUMAR	CRHT 0001	936197 0000	3584	24424	225048	22505	202544	230551	59700
2	GOBIND RAM	CRHT 0002	230708 0000	7419	94777	87269	8727	78542	180739	67494
3	SH RAJ KUMAR S/O	CRHT 0003	503018 0000	7843	63753	53912	5391	48521	120117	39344
4	AMIT KUMAR	CRHT 0005	144747 0000	3801	2145	13303	1332	11991	17937	24146
5	MAA SANTOSHI OIL MILL	CRHT 0006	042297 0000	3840	30582	40470	4047	36423	70844	23570
6	KRISHAN KUMAR MAKRANIA	CRHT 0007	244747 0000	1304	73579	75073	7507	67566	142449	51215
7	SH SUNIL KUMAR S/O	CRHT 0008	603018 0000	3719	50889	74905	7490	67414	122022	44655
8	SH RAJINDER KUMAR S/O	CRHT 0009	330708 0000	5431	27115	44282	4428	39854	72400	19023
9	AJAY GOYAL	CRHT 0011	430708 0000	3715	2712	4678	468	4210	10637	25030
10	SANJAY KUMAR	CRHT 0012	142297 0000	6029	51988	24492	2449	22043	80060	19396
11	M/S SUSHILA INDUSTRIES	CTHT 0001	954138 0000	3378	31223	17877	1778	16089	50690	18927
12	SH SANJAY KUMAR S/O	GRHT 0003	242297 0000	1564	23925	6139	614	5525	31014	18091
13	SHIV SHANKAR	New	143542 9692	3639	250	5753	575	5178	9067	8340
14	AJAY GOYAL	New	248423 5587	2427	3329	3610	361	3249	4152	13896

Further, the counsel for the petitioner agreed with the calculation of FSA but did not agree with the calculation of fixed charges.

Regarding difference of fixed charges following submissions are hereby being made by this office:

The total fix charges levied in the consumer's bill for the period of -Apr, 2021 to July, 2021 has been calculated and thereafter fix charges @ 165/- per

month calculated and difference of the same has been adjusted. As the fixed charges in DHBVN as well as UHBVN are being calculated on the basis of days and duration of one month is being considered as 30 days.

Whereas the deposition of TDS with the concerned department is concerned, the amount of TDS deduction has been calculated and mentioned in the above table and same will be deposited in respect PAN account in concerned department, once counsel for the petitioner submit PAN details of remaining consumers two numbers pending to be submitted against 14 accounts as same are not available in this office are required to be supplied by the counsel for the petitioner.

It is therefore, hon'ble Ombudsman is requested to disposed off the case as counsel for petitioner is agreed with the calculation FSA, ACD interest and interest @ 18 on delayed payment on interest and passed further order / directions regarding calculation of fixed charges whereas counsel for petitioner is not agreed with the calculation of difference of fixed charges, please.

**P.** Hearing was held on 12.09.2023, as scheduled. Both the parties were present during the hearing through video conferencing. At the outset, the respondent XEN submitted that all calculations of FSA, ACD interest, interest on delay payment and TDS have been reviewed as per rules and regulations in vogue and shared with Counsel of the appellant, who is agreed with the calculations. The counsel for the appellant also expressed his satisfaction with the reply of the respondent XEN but he requested to direct the respondent that the refund/adjustment should reflect in the next bill. Accordingly, the respondent SDO is directed to ensure that the refund/adjustment of the consumers is reflected in the bill of next billing cycle. The appeal is disposed off, accordingly. Both the parties to bear their own costs. File may be consigned to record.

Given under my hand on 12<sup>th</sup> September, 2023.

Sd/-

**(Virendra Singh)**

**Electricity Ombudsman, Haryana**

**Dated: - 12.09.2023**

**CC-**

**Memo. No. HERC/EO/Appeal No. 49/2023/ 2464-2470**

**Dated: 13.09.2023**

1. Shri Sunil Kumar & Others, Charkhi Dadri through Counsel Shri Akshay Gupta, Advocate (Email [akshay.gupta786@gmail.com](mailto:akshay.gupta786@gmail.com)).
2. The Managing Director, Dakshin Haryana Bijli Vitran Nigam Limited, Head Office: Vidyut Sadan, Vidyut Nagar, Hisar -125005 (Email [md@dhbvn.org.in](mailto:md@dhbvn.org.in)).

3. Legal Remembrancer, Haryana Power Utilities, Shakti Bhawan, Sector- 6, Panchkula – 134109 (Email [lr@hvpn.org.in](mailto:lr@hvpn.org.in)).
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7. The SDO 'Op' City S/D Dadri (Email [sdocitydadri@dhbvn.org.in](mailto:sdocitydadri@dhbvn.org.in)).

Appeal No. 49/2023/EO