



BEFORE THE ELECTRICITY OMBUDSMAN, HARYANA

Bays No. 33-36, Ground Floor, Sector-4, Panchkula-134109

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(Regd. Post)

Appeal No. : 25/2024
Registered on : 20.08.2024
Date of Order : 13.02.2025

In the matter of:

Appeal against the order dated 19.06.2024 passed by CGRF DHBVN Gurugram in complaint no. 4643/2024.

Shri Sanjay Kumar, M/s Chandu Lal Sanjay Kumar, Geeta Colony, Barwala **Appellant**

Versus

1. The Executive Engineer Operation DHBVN, Sub Division-II, Hisar
2. The SDO Operation, DHBVN, Barwala **Respondent**

Before:

Shri Rakesh Kumar Khanna, Electricity Ombudsman

Present on behalf of Appellant:

Shri Akshay Gupta, Advocate

Present on behalf of Respondents:

Shri Jojo Taneja, SDO/Operation, DHBVN, Barwala

ORDER

A. Shri Sanjay Kumar, M/s Chandu Lal Sanjay Kumar, Barwala has filed an appeal against the order dated 19.06.2024 passed by CGRF, DHBVNL, Gurugram in complaint No. DH/ CGRF 4643/2024. The appellant has requested the following relief: -

That the present appeal is filed under Section 42(6) of the Electricity Act, 2003 read with Regulation 3.16 of Haryana Electricity Regulatory Commission (Forum and Ombudsman) Regulations, 2020 by the Appellant against the order dated 19.06.2024 passed by the Ld. CGRF, DHBVN in Case No. 4643/2024, wherein without going through the case records and appreciating the merits of the case, the Ld. CGRF disposed of the case and passed an unreasoned order.

Brief facts:

1. That Mr. Sanjay Kumar (herein after may be referred as appellant petitioner) is a law-abiding citizen and Prop of M/s Chandu Lal Sanjay Kumar, Geeta Colony Barwala and a consumer of Dakshin Haryana Bijli Vitran Nigam, Barwala bearing account no. 8370482898 under the jurisdiction of SDO (OP) S/Divn, DHBVN, Barwala.
2. That the connection of the complainant petitioner falls in D block (as per the category of block defined by the industry department).

3. That as per the promotion policy 2020 and gazette notification issued by the Government of Haryana.

Below are the major points of the policy.

- i. All existing and new enterprises situated in 'C' and 'D' category blocks of the State having connected load of 40 kW in 'D' category blocks and 30 kW in 'C' category blocks or less will get the benefit of Power Tariff Subsidy.
 - ii. That the scheme will be applicable with effect from 01.01.2021 and would be in operation till it is superseded by the government.
 - iii. That enterprises will not be required to apply for availing the benefit. The Power Companies/Utilities i.e. Uttar Haryana Bijli Vitran Nigam and Dakshin Haryana Bijli Vitran Nigam (UHBVN / DHBVN) will provide this benefit by deducting the subsidy amount in the electricity bills. As per policy the Director/Director General, Micro, Small and Medium Enterprises will be the competent authority for sanction of funds to UHBVN / DHBVN. The amount of Power Tariff subsidy granted by UHBVN / DHBVN will be reimbursed by the Micro, Small and Medium Enterprises (MSME) Department from its allocated budget.
4. That as per the Government notification the respondent should allow the power subsidy @ 2/unit from 01.01.2021 but respondent failed to adjust the same.
5. That 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.

6. That the respondent violates the instructions of HERC and charged the FSA on electricity bill issued in the month of Aug/2021 and Sep-21.
7. That as per the Sales Circular D-9/2016 issued by DHBVN and as per the directive issued by the HERC under clause 5.8.1 & 5.8.2 of Regulation No 34/2016 i.e. The Haryana Electricity Regulatory Commission (Duty to supply electricity on request, Power to require security) Regulation 2016, the respondents were required to pay interest in the month of April of each year but respondents failed to make the payment of the interest in the month of April each year. If the respondents failed to pay the interest in the April of following year, they are required to make the payment of interest along with penal interest at the rate of 18% per annum. The relevant para is reiterated as below: -

“5.8.1: The licensee shall pay interest to the consumer at the Bank rate as determined by the Reserve Bank of India on 1st April of each year or more as specified by the commission payable annually on the consumer security deposit. The interest accrued during the year shall be adjusted in the consumer’s bill for the first billing cycle of the ensuing financial year.

5.8.2: In case the interest accrued during the year is not adjusted in the consumer’s bill for 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.”
8. That the respondent never paid the interest on the ACD in the first billing cycle of financial year since connection.
9. That since the Appellant was aggrieved with the actions of the Respondents, filed a complaint with the Hon’ble CGRF, DHBVN seeking allowing power subsidy @ 2/unit from 01.01.2021, along with refund of FSA charged in bill issued on after 30.07.2021 and difference of fix charges charged from April-2021 to June-2021 with cost of mental harassment and agony.
10. That after filing the complaint the same was forwarded to the concerned SDO Op Subdivision DHBVN Barwala.
11. That the respondent submitted his reply on 08.04.2024.
12. That the complainant submitted written arguments on 06.05.2024.
13. That the CGRF dispose off the case on 19.06.2024. The order of CGRF held as “A copy of reply was given to the representative of complainant. The representative agreed upon point no 1 to 4. After considering the reply of both the complainant and SDO and submission made by them in

hearing, the forum observed that subsidy is allowed (for load above 20 KW) @ 2/unit as per Haryana Government Gazette Extraordinary published by Authority Haryana Govt Industries & Commerce dept dated 29.07.2021 but no circular in this regard is made by DHBVN till date and decision is pending on the part of new policy formation by DHBVN, thus power subsidy Rs. @ 2/unit is not payable to complainant. The forum directs the SDO (op) Barwala, DHBVN Gurugram to provide the benefit of power subsidy whenever policy regarding the same is made by DHBVN SDO Op. Barwala, DHBVN, Hisar directed to give other benefits to complainant if not paid.”

14. That it is stated that the Hon’ble CRGF wrongly held that the “The forum directs the SDO Op. Barwala DHBVN, Gurugram to provide the benefit of power subsidy whenever the policy regarding the same is made by DHBVN. It is relevant to the Government made the policy with the clear direction that “The enterprises will not be required to apply for availing the benefit. The Power Companies/Utilities i.e. Uttar Haryana Bijli Vitran Nigam and Dakshin Haryana Bijli Vitran Nigam will provide this benefit by deducting the subsidy amount in the electricity bills.”

Grounds:

15. That the present appeal is filed on the following grounds:
- i. Because the impugned Order is passed in a mechanical manner and against the principles of natural justice and settled principles of law.
 - ii. Because the Hon’ble CGRF has wrongly held “The forum directs the SDO Op. Barwala DHBVN, Gurugram to provide the benefit of power subsidy whenever the policy regarding the same is made by DHBVN. It is relevant to the Government made the policy with the clear direction that “The enterprises will not be required to apply for availing the benefit. The Power Companies/Utilities i.e. Uttar Haryana Bijli Vitran Nigam and Dakshin Haryana Bijli Vitran Nigam will provide this benefit by deducting the subsidy amount in the electricity bills.”
 - iii. Because the order passed by the CGRF is not reasoned one.
16. That no similar appeal has been filed against the Impugned Order.

17. That there is a delay of ___ days in filing the appeal however, the same is not intentional or deliberate.

Prayer

In view of the facts and circumstances as stated above, it is most humbly submitted and prayed that this Hon'ble Forum be pleased to:

- a) Allow the appeal in favor of the Appellant and set aside the Impugned Order dated 24.06.2024 passed by the Ld. CGRF, DHBVN in Case No. 4643/2024.
 - b) Direct the Respondents to allow/refund power tariff subsidy @ 2 /unit from 01.01.2021.
 - c) Direct the Respondents to pay Rs.1,00,000/- towards cost of mental agony and harassment;
 - d) Pass any such other order(s) as this Hon'ble Forum may deem fit in the interest of justice.
- B.** The appeal was registered on 20.08.2024 as an appeal No. 25/2024 and accordingly, notice of motion to the Appellant and the Respondents was issued for hearing the matter on 03.09.2024.
- C.** The respondent SDO vide email dated 03.09.2024 has submitted reply, which is reproduced as under:
- In this connection, it is intimated that the complainant has filed the present complaint stating that his connection falls in DHBVN D Block. The para wise comments / reply are as under:
1. Exemption of FSA on electricity bill issued on or after 30.07.2021, in this regard this office has already been refunded / adjusted the FSA Rs. 1161/- month of 10/2021 as per Sale Circular D-35/2021.
 2. Replay already mentioned as point no. 1.
 3. ACD interest has already been adjusted in consumer's account as per Nigam instructions in every FY.
 4. Reply already mentioned as point No. 3.
 5. As per Nigam Sale Circular D-43/2021, the benefit of power subsidy was given only below 20 kW, but the calculation of power subsidy @ 2 / unit has been prepared by this office and sent to the SE / CBO & the SE/ Commercial, Vidyut Sadan, Hisar for discussion / approval after that your good self will be informed (ref. vide memo no. 175/78 dated 05.04.2024).

So your good self is requested to accept the para wise reply of this case on behalf of Nigam.

D. Hearing was held on 03.09.2024, as scheduled. Both the parties were present during the hearing through video conferencing. At the outset, the counsel for the appellant submitted that no reply has been received. The respondent SDO is directed to provide the copy of reply to the appellant within 2 days. The appellant may submit the rejoinder if any within 10 days on the receipt of the reply, with a copy to the respondent. The matter was adjourned for hearing on 08.10.2024.

E. The respondent SDO vide email dated 08.10.2024 has submitted reply, which is reproduced as under:

In this connection, it is intimated that the complainant has filed the present complaint stating that his connection falls in DHBVN D Block. The para wise comments / reply are as under:

1. Exemption of FSA on electricity bill issued on or after 30.07.2021, in this regard this office has already been refunded / adjusted the FSA Rs. 1161/- month of 10/2021 as per Sale Circular D-35/2021.

It is also intimated that the bill of 08/2021 was generated as per the consumption of month 07/2021.

2. Replay already mentioned as point no. 1.

3. ACD interest has already been adjusted in consumer's account as per Nigam instructions in every FY.

4. Reply already mentioned as point No. 3.

5. As per Nigam Sale Circular D-43/2021, the benefit of power subsidy was given only below 20 kW, in this matter no any instruction / circular is circulated by the Nigam till now.

So your good self is requested to accept the para wise reply of this case on behalf of Nigam.

F. Hearing was held on 08.10.2024, as scheduled. Both the parties were present during the hearing through video conferencing. At the outset, the counsel for the appellant, reiterating contents of the appeal, submitted that as per Industrial and Commercial Department Notification dated 26th July, 2021, all existing and new Industrial Enterprises situated in 'C' and 'D' category blocks of the state having connected load of 40 KW in 'D' category blocks and 30 KW in 'C' category blocks or less shall get benefit of power tariff subsidy w.e.f. from 01.01.2021. But

DISCOM is not extending benefit of subsidy to the appellant. Per contra the respondent SDO submitted that as per Nigam Sales circular D-43/2021 dated 10.12.2021, the benefit of power tariff subsidy is given only to the connections having load below 20 KW and not for load above 20 KW for want of any instruction from commercial wing of Nigam. Upon hearing both parties, the respondent SDO is directed to seek clarification in writing from the CE Commercial DHBVN Hisar regarding stand of DHBVN on the ibid notification issued by Government of Haryana (Industrial and Commercial Department) and submit the same within 15 days of the order. The matter was adjourned for hearing on 05.11.2024.

G. The respondent SDO vide email dated 04.11.2024 has submitted parawise comments/ reply which is reproduced as under:

The para wise comments / reply are as under:

1. Exemption of FSA on electricity bill issued on or after 30.07.2021, in this regard this office has already been refunded / adjusted the FSA Rs. 1161/- month of 10/2021 as per Sale Circular D-32/2021.
2. Reply already mentioned as point no. 1.
3. ACD interest has already been adjusted in consumers account as per Nigam instructions in every FY.
4. Reply already mentioned as point no. 3.

As per Nigam Sale Circular D-43/2021, the benefit of power subsidy was given only below 20 kW, but the calculation of power subsidy @ 2/-unit has been prepared by this office and sent to the SE/CBO & SE/Commercial, Vidyut Sadan, Hisar (vide this office memo no. 175/78/ dated 05.04.2024) for discussion / approval. Now advice has been received from the O/o the SE/Commercial, DHBVN, Hisar vide memo no. Ch-12/SE/C/45/2010/Vol-3 (Part-I) on dated 23.10.2024. So, you are requested to please close the case.

H. Hearing was held on 05.11.2024, as scheduled. Both the parties were present during the hearing through video conferencing. At the outset, the counsel for the appellant submitted that reply has been received yesterday and he required time to file rejoinder. The appellant is directed to submit rejoinder within 10 days with an advance copy to the respondents. The respondent may also file response to the rejoinder within five days thereafter. The matter was adjourned for hearing on 03.12.2024.

- I.** Hearing was held on 03.12.2024, as scheduled. Both the parties were present during the hearing through video conferencing. At the outset, the counsel for the appellant requested for short adjournment to file response. Acceding the request of the appellant, the matter is adjourned and shall now be heard on 31.12.2024.
- J.** Hearing was held on 31.12.2024, as scheduled. Both the parties were present during the hearing through video conferencing. At the outset, the counsel for the appellant requested for adjournment to file response owing to his ill health. Acceding the request of the appellant, the matter is adjourned and shall now be heard on 04.02.2025 at 2:30 P.M. through video-conferencing. No further adjournment shall be allowed.
- K.** The counsel for the appellant vide email dated 03.02.2025 has submitted reply, which is reproduced as under:
1. The contents of the appeal filed by me are reaffirmed and reiterated to be correct and I rely upon the same in the present submission. The same is to be read as part and parcel of this submission and the same is not being repeated for the sake of brevity. I deny and dispute the contents, averments, and statements made by SDO Op City Sub Division DHBVN Narnaul in the reply to the present case which are contrary to or inconsistent with what has been stated hereinafter.
 2. That the present rejoinder is submitted in response to the reply filed by the respondent SDO vide his office memo number 4906 dated 04-11-2024.
 3. That at the outset it is submitted that unless hereinafter specifically admitted, each averment in the reply of respondents shall be deemed to have been denied in its entirety as though herein specifically set forth and traversed. A bare perusal of the reply dated 04-11-2024 makes it clear that it is nothing but an abuse of the process of law and without any merits.
 4. That the Complainant reserves the right to file additional evidence, including, but not limited to, additional documents and witnesses as well as the expert opinion, should the same become inevitable at any stage of the proceedings and/or arising out of the further submissions made by the respondents.
 5. That a bare perusal of the reply filed by the respondents would show that their submissions are totally vague, full of baseless denials and without

any specific answers to the issues raised in the complaint. The respondents have only presented a concocted story and have miserably failed to answer the points of substance of the dispute in hand. It is evident that the respondents are only trying to escape from their liability by false, vague and baseless denials.

6. The respondent in his reply tried to misleading the Hon'ble Ombudsman by referring two letters, one is sent to SE Op Hisar from the office of SE Commercial Hisar and another one is the Minutes of Meeting held on 4th September 2024 at 12 noon under the kind chairmanship of worthy Chief Secretary, Govt of Haryana at Chief Secretary Committee Room, Civil Secretariat Chandigarh for discussing the issue of non-release of power tariff subsidy by MSME Department.
7. A bare perusal of the letter attached by respondent having subject "Regarding complaint of Sh. Sanjay Kumar M/s Chandu Lal Sanjay Kumar, Geeta Colony Barwala, Account Number 8370482898, under sub division Barwala, which was sent by SE Commercial DHBVN Hisar to SE Op Circle DHBVN Hisar vide his office memo number Ch-12/SE/C/45/2010/Vol-3 (Part-1)."

The SE Commercial DHBVN Hisar failed to understand the main issue involve here and tried to escape out by quoting the Minutes of Meeting held under the chairmanship of Worthy Chief Secretary Haryana on dated 04.09.2024.

The SE Commercial DHBVN Hisar in his above referred letter mentioned "As per minutes of meeting (copy enclosed) of ibid meeting, it was directed to Industries & Commerce Department to initiate proposal for reconsidering the clause 4.19 of HEEP Policy 2020 which facilitates the MSME a power tariff subsidy of INR 2/- Unit upto load of 30 KW in C Category blocks and 40 KW in D category blocks. Meanwhile the power tariff subsidy for loads upto 20 KW in C & D Category blocks as per Sales Circular D 43-2021 is in operation"

The submission by the SE Commercial DHBVN is incomplete and doesn't absolve him from his duties towards the adoption of government policy made by government of Haryana through gazette notification.

8. The Government of Haryana Power Department vide its notification number 23/24/2018 -3P dated 21.12.2018 issued the directions as per

Section 108, sub section (1) of Electricity Act-2003 regarding power subsidy scheme of the State Government for all industrial connection in C & D category blocks of the state with a connected load of 20 KW or less.

9. In continuation with the directions given by the State Government the DHBVN issued the Sales Circular D7-2019 and decided to grant the power subsidy @ 2/unit to all the consumer of having load 20 Kw or less in C & D blocks from 01.11.2018 onwards.
10. The State Government of Haryana notified the Haryana Enterprises & Employment Policy 2020 issued vide Gazette No 25/05/2020-41B-1 dated 29.12.2020, and as per Annexure 4 “Incentive to Micro, Small and Medium Enterprises “4.19 Power Tariff Subsidy was introduced”

As per the ibid gazette notification “ Inr 2 per unit up to a connected load of 40 KW in “D” Category blocks and 30 KW in “ C” Category blocks at source only for Micro and Small Enterprises. The funds shall be provided by the Government to UHBVN/ DHBVN for DBT of subsidy amount.

11. In continuation with the above-mentioned policy the industries and commerce department of Haryana issued a gazette notification vide notification number 25/05/2020-41B-1 dated 29th July-2021.

This is issued in pursuance to the provision under Chapter 14 of Haryana Enterprises & Employment Policy -2020 notified in gazette vide No 25/05/2020 -41 B-1 dated 29.12.2020, the Governor of Haryana is pleased to notify the “Power Tariff Subsidy” scheme with an objective to provide affordable power suppl to the enterprises located in the state with the provision given thereinunder.

It is very well mentioned in that gazette that

- a. Quantum of Power Tariff Subsidy: - INR 2/unit up to connected load of 40 KW in ‘D’ Category blocks and 30 KW in “C” Category blocks at source only for Micro and Small Enterprises.”
- b. Commencement and applicability: The scheme shall be applicable w.e.f. 1.1.2021 and shall remain in operation till it is superseded by the government.
- c. XXXX

- d. Procedure: “the enterprise will not be required to apply for availing the benefit. The power utilities i.e. UHBVN/ DHBVN shall provide the benefit by deducting the subsidy amount in electricity bills.
12. That in continuation with the above said policy the DHBVN has issued the Sales Circular D 43-2021

Para 3 of the Sales Circular D 43-2021 which may be ready as

In this context, the latest notification of Industries & Commerce Department, Haryana bearing No 25/05/2020-41B-I. dated 29.12.2020 notifying the Haryana Enterprises & Employment Policy -2020 (which will effect from 1.1.2021) mentioning updated ‘C’ & ‘D’ blocks in the State is enclosed herewith for meticulous compliance of the instructions as per the notification No 23/24/2018-3P dated 21.12.2018 to ensure that the subsidy benefit is given to only eligible consumers.

From perusal of above it is clear that the above said circular was issued in continuation of the Gazette Notification No 25/05/2020-41B-I dated 29th July-2021.

13. The main law points here involve is:
- i. Whether the Nigam adopted the Policy of State Government?
 - ii. When is the policy of State Government adopted by the Nigam?
 - iii. Is there any prerequisite that consumer required to follow?
 - iv. Does the complainant have the Udyam Registration Certificate?
14. The respondent here referred the Minutes of meeting held on 4th September under the kind Chairmanship of worthy Chief Secretary Haryana, on perusal of

This it has been observed that the agenda of this meeting was “Non-Release of Power Tariff subsidy by MSME department as per preexisting power tariff subsidy scheme EPP 2015 policy “Not as per the policy issued in 2020.

In third para of the meeting it was mentioned “it was informed that presently under existing power tariff subsidy scheme of HEEP 2020 (effective from 1.4.2021) the subsidy of Rs 2/unit was revised to connected load of 40 KW in D category and 30 KW in C category at source only for Micro & Small Enterprises. However, discoms are allowing the subsidy @

2/unit to the C & D category having load of 20 KW as per the notification issued by Energy Department on 21st December, 2018

Further In para 4 of the meeting “Chief Secretary, Haryana enquired that what is the mechanism to identify Micro and Small Industries, MSME authorities informed that the same is based on voluntary disclosure by the unit in the term of URC (Udyam Registration Certificate)

15. That as per the doctrine of promissory estoppel the respondent cannot deny the power subsidy @ 2/unit in any such condition which is not in Nigam’s Sales Circular.

In the present case, learned counsel for the petitioner has referred to the judgment passed by the High Court of Himachal Pradesh at Shimla in CWP No.4599 of 2013 along with connected matters, case titled as ‘M/s Jaiprakash Associates Ltd. vs. State of H.P. and others’, decided on 04.12.2023; M/s Pawan Alloys and Casting Pvt. Ltd. Meerut etc. vs. U.P. State Electricity Board and others 1997 AIR (Supreme Court) 3910; and Pournami Oil Mills vs. State of Kerala and another 1987 AIR (Supreme Court) 590 on the proposition that once an incentive has been granted and acted upon by the petitioner, the incentive cannot be withdrawn with retrospective effect. The rule of estoppels will operate against the authorities on the ground that there is legitimate expectation from the Government Departments to grant the benefit.

Complainant is placing reliance on similar matter the Supreme Court in the case M/s Pawan Alloys and Casting Pvt. Ltd. (supra). The Supreme Court was examining a case where the U.P. State Electricity Board had granted incentives to set up new industries for a particular period. Subsequently, this benefit was withdrawn by the Board. The Supreme Court examined and held that the withdrawal was made on account of any public interest and hence it was held that it was barred by promissory estoppels and the Board had granted the benefit for a period of three years and the benefit could not be withdrawn before three years. The units had already been set up. Relevant paragraph 38 of the said judgment reads as under: -

“38. We fail to appreciate how the aforesaid decision can advance the case of respondent- Board in the peculiar facts of this group of

matters. As we have noted earlier here is a converse position where the Board presumably appears to have accepted the guidelines and the directions given by the State of U.P. under Section 78A of the Act and it adopted the scheme of incentive rebates for new industries by promulgating its own tariffs in exercise of its powers under Section 49 read with Section 78A of the Act and it was the Board itself which had given such a promise and held out such representations to the newcomer industries by the first three notifications as seen above. Once that was so the question of compelling the Board to promulgate such policy would not survive for consideration in the present cases. It is obvious that if the Board had not promulgated such policy the Court could not have compelled the Board to give such concessions. Here the question is having itself promulgated such a policy whether the Board can go back upon it prematurely. The aforesaid decision of this Court had no occasion to consider this aspect of the matter.”

In a recent judgment given by the Himachal Pradesh High Court on 4th of December, 2023 in CWP No.4599 of 2013 (supra), the Court was examining the industrial policy of 2004 and which was aimed to attract the entrepreneurs to set up the projects in the backward areas of the State and in return, promised off-setting to some extent capital cost for setting up the units in remote and difficult areas due to locational disadvantages in form of tax concessions. The units acted upon the promise extended to them by the State for investing in the backward panchayats of the State categorized as Tax Free Zones. The promise exempted from payment of VAT/CST for a period of ten years from the date of commencement of production. The State Government cannot be permitted to assert that it was entitled to withdraw the tax concessions and direct the industrial units to pay VAT/CST merely because in the subsequent years, the Panchayats where the petitioner’s units were set up and de-notified and no longer carried the backward status. The doctrine estoppels was applicable and the State was bound to follow the Industrial Policy, 2004 and the Rules framed thereunder. The action of the respondent in withdrawing the tax concessions granted to the petitioner units held to be not in consonance with law. It was held that the notification withdrawing the backward area status of the concerned Panchayat has only

prospective effect. It will be applicable to industries being set-up after the date of withdrawal of notifications. They cannot be applied retrospectively to the petitioner units which had already come into production by the time the backward areas status was withdrawn from such Panchayats. The writ petition was allowed and the notices asking the petitioner to deposit the tax were quashed and set aside. The petitioners were held entitled to tax exemptions in terms of the Industrial Policy, 2004, Incentives Rules 2004 and the statutory exemptions notifications dated 30th of March 2005 (GST and CST) and 19.01.2006 (VAT) till coming into force of GST regime in the year 2017.

The ratio of all two abovesaid judgments is directly applicable to the facts to the present case.

Prayer

In view of the facts and circumstances as stated above, it is most humbly submitted and prayed that this Hon'ble Forum be pleased to:

- a) Allow the appeal in favor of the Appellant and set aside the Impugned Order dated 19.06.2024 passed by the Ld. CGRF, DHBVN in Case No. 4642/2024
 - b) Direct the Respondents to allow/refund power tariff subsidy @ 2 /unit from 01.01.2021.
 - c) Direct the Respondents to pay Rs.1,00,000/- towards cost of mental agony and harassment.
 - d) Pass any such other order(s) as this Hon'ble Forum may deem fit in the interest of justice.
- L.** Hearing was held on 04.02.2025, as scheduled. Both the parties were present during the hearing through video conferencing. At the outset, the counsel for the appellant briefed the appeal and submitted to allow / refund power tariff subsidy @ 2 /unit w.e.f. 01.01.2021. Per contra, the respondent SDO submitted that copy of reply dated 03.02.2025 not received and requested to provide the reply. The appellant is directed to provide the copy of reply to the respondent and respondent is directed to submit point wise reply within 5 days with an advance copy to the appellant. Acceding the request of the appellant, the matter is adjourned for hearing on 11.02.2025.
- M.** The respondent SDO vide email dated 10.02.2025 has submitted reply in compliance of interim order dated 04.02.2025, which is reproduced as under:

That the respondent is already submitted reply on the behalf of Nigam vide this office Memo No. 4906 on dated 04.11.2024 with the advice of Nigam Management.

It is respectfully submitted that the complainant/Appellant holds a Low Tension (LT) category connection with a sanctioned load of 40 KW. The Appellant is seeking subsidy benefits as outlined in the Haryana Government Gazette Extraordinary, published by the Authority of the Haryana Government, Industries and Commerce Department, under Notification No. 25.05.2020-41B-1, dated 29th July 2021. The Appellant refers to the eligibility criteria outlined in Point No. 3 and the procedure mentioned in Point No. 4 of the said notification.

However, according to Nigam Sales Circular No. 43/2021, the power subsidy benefits for industrial connections have been limited to connections with a connected load of below 20 KW in C and D category blocks. Upon consultation with the commercial wing, and as per Point No. 3 of the aforementioned circular, the updated 'C' and 'D' blocks in the state have been specified in accordance with the latest notification from the Industries and Commerce Department, Haryana, bearing No. 25/05/2020-418-1 dated 29.12.2020 (effective from 01.01.2021). It should be noted that the subsidy is currently governed by the instructions detailed in Notification No. 23/24/2018-3P, dated 21.12.2018.

Additionally, this office has received advice from the office of the SE Commercial, DHBVN, Hisar, through Memo No. Ch-12/SE/C/45/2010/Vol-III (Part-1), dated 10.02.2024, which further clarifies the issue and provides clear cut justification.

Further, as per the minutes of the meeting (MOM) held on 4th September 2024, under the chairmanship of the Worthy Chief Secretary, Government of Haryana, regarding the non-release of power tariff subsidies by the MSME Department, it was mentioned in the decisions section that the amended scheme should include provisions for advance payments also as per section 65 of the Electricity Act, with quarterly reconciliation.

Approval for the payment of subsidies to be disbursed to DISCOMs from April 1,2021 onwards uptill the policy/scheme amendment may also be sought retrospectively.

Furthermore, the latest directive, DO No. 09/SE/C/LUOSC/45/10-IV, issued by the Worthy Managing Director of DHBVN on 7th January 2025, discusses the reimbursement of pending subsidies and seeking the approval of

amendments to Clause 4.19 of the HEEP 2020 for the ease of doing business and framework of earlier policy.

It is important to note that this office does not have the authority to impose or adjust any subsidy without prior approval from higher authorities. As soon as Nigam adopts the amendments in accordance with the Haryana Government Gazette No. 25/05/2020-41B-1, the relevant subsidy amount will be adjusted in the bill. Therefore, it is respectfully requested that the case be dismissed.

N. The counsel for the appellant vide email dated has submitted written arguments, which is reproduced as under:

1. That respondent in his reply submitted that “However, according to Nigam Sales Circular No. 43/2021, the power subsidy benefits for industrial connections have been limited to connections with a connected load of below 20 KW in C and D category blocks. Upon consultation with the commercial wing and as per Point No. 3 of the aforementioned circular, the updated ‘C’ and ‘D’ blocks in the state have been specified in accordance with the latest notification from the Industries and Commerce Department, Haryana bearing no. 25/05/2020-41B dated 29.12.2020 (effective from 01.01.2021). It should be noted that the subsidy is currently governed by the instructions detailed in Notification No. 23/24/2018-3P dated 21.12.2018.
 - The above submission of respondent is wrong, misleading the sales circular D 43 2021 superseded the previous sales circular D-23/2021 (which superseded sales circular D-7/2019, the sales circular restricted with 20 KW load).
 - As per sales circular D-43/2021, the subsidy is to be given to ‘eligible consumer’.
 - The complainant is the 'eligible' consumer having URC certificate and falls under the MSME category.
 - It's nowhere mentioned in the sales circular D 43-2021, that subsidy is restricted up to 20 KW, the respondent is just making their own perceptions.
2. Respondent in his reply submitted a copy of letter which was sent by Worthy Managing Director DHBVN to Director General MSME GOH, with

the subject Reimbursement of pending subsidies and amendment in power tariff subsidy scheme for industrial unit in C& D category of Blocks.

- In this letter only two points were raised with the MD DHBVN, first one is related to reimbursement of pending subsidy amount and second one is amendment to coverage.
 - A detailed submission has already been submitted by us covering both these, in the reply submitted by us on 31 Jan/2025 and 3rd Feb-2025.
 - Here the amendment to subsidy coverage is only related to the industries which are not having the URC (Udyam Registration Certificate), moreover the point of amendment arises due to the difficulty in differentiating the category of industries raised by the discom.
 - The complainant already has the URC and amendment in the policy is not affect his eligibility.
 - That the State Government of Haryana notified the Haryana Enterprises & Employment Policy 2020 issued vide Gazette No 25/05/2020-41B-1 dated 29.12.2020, and as per Annexure 4 "Incentive to Micro, Small and Medium Enterprises "4.19" Power Tariff Subsidy was introduced"
 - As per the ibid gazette notification Inr 2 per unit up to a connected load of 40 KW in "D" Category blocks and 30 KW in " C" Category blocks at source only for Micro and Small Enterprises. The funds shall be provided by the Government to UHBVN/DHBVN for DBT of subsidy amount
 - This policy is exclusively for the MSME industries up to a load 30Kw in C block and 40 KW in D block.
3. As per set principle and procedure the policy issued by the Haryana government in 2020 superseded the earlier promotion policy issued in 2015, vide which the subsidy @ 2/unit was given upto 20 Kw load in C & D category.

When Government issued a new policy and as per the framework of the new policy the subsidy is to be given "only" to MSME units having load 30KW in C category and 40 KW in D Category.

But the DHBVN is causing financial loss to the Government by allowing and giving the subsidy to all the consumers (un-eligible) having load 20 KW in C & D Category and causing un-necessary harassment to the eligible consumers having URC and falls under the MSME category and are eligible for power subsidy,

And the reason shared by the DHBVN in the meeting held under the chairmanship of worthy Chief Secretary Haryana is nothing merely an excuse to deprived the eligible consumer for his legitimate right. In that meeting DHBVN said "they further informed that the department has no separate mechanism to cross check the claims made in URC. Energy department officials informed that subsidy is released on the basis of connected load and geographical location under C & D blocks, they also have no separate wherewithal to verify their micro or small status"

The above reply is self-explanatory the DHBVN express their difficulty in "wherewithal to verify the micro or small status"

The complainant is having the MSME/ URC certificate and in this case no separate mechanism required to verify his entitlement for power subsidy as per Haryana Government notification no 25/05/2020-418-1.

- . Hearing was held today, as scheduled. Both the parties were present through video conferencing. During the hearing, counsel for the appellant briefed the appeal and submitted that Sale Circular No. D-43/2021 also allows power tariff subsidy @ ₹ 2 per unit up to connected load of 40 kW in 'D' category blocks and 30 kW in 'C' category blocks at source for Micro and Small enterprise but discoms allowing the subsidy @ 2/unit to the C & D category having load of 20 kW only as per the notification issued by Energy Department on 21.12.2018. Further submitted that firm covered under MSME and have Udyam Registration Certificate (URC). The counsel for the appellant further submitted that respondent cannot deny the power subsidy @ ₹ 2/unit in any such condition which is not in Nigam's Sales Circular.

Per contra, the respondent SDO submitted that subsidy is allowed (for load above 20 kW) @ 2 unit as per Haryana Govt. Industries & Commerce Deptt. dt. 29th July, 2021 but no policy in this regard is made by DHBVN till date for load beyond 20 kW and decision is pending on the part of new policy formation by DHBVN, power subsidy Rs. @ 2 unit is not payable to consumer.

- P.** The operative part of order dated 20.06.2024 issued by CGRF DHBVN Gurugram is reproduced as under:

After considering the reply of both the complainant and SDO and submissions made by them in the hearing. The Forum observed that subsidy is allowed (for load above 20 kW) @ 2 unit as per Haryana Govt. Gazette Extraordinary published by Authority Haryana Govt. Industries & Commerce Deptt. dt. 29th July, 2021 but no policy in this regard is made by DHBVN till date for load beyond 20 kW and decision is pending on the part of new policy formation by DHBVN, thus power subsidy Rs. @ 2 unit is not payable to complainant. Further, the SDO (OP) City Narnaul is directed to adjust / refund the ACD penal interest amount of Rs. 117/- as per his office memo no. 712 dt. 07.06.2024. The Forum decided to close the matter. The case is closed. No cost on either side.

- Q.** After hearing both the parties and going through the record made available on file, it is concluded that as per Haryana Government Gazette Extraordinary notification published by Authority Haryana Government Industries & Commerce Department dated 29th July, 2021 subsidy of ₹ 2 per unit for industrial units with connected loads of up to 40 kW in 'D' category blocks and up to 30 kW in 'C' category blocks will be allowed as per point no. 3 (i) but as per Managing Director, DHBVN vide DO No. 09/SE/C/LUOSC/45/10-IV dated 07.01.2025 addressed to Director General MSME, Government of Haryana at point no. 2 of the same is as under:

"2. Amendment to Subsidy Coverage: As per the consensus reached during meeting dated 04.09.2024, the Clause 4.19 of the HEEP 2020 is required to be approved to align with ease of business and the framework of the earlier policy dated 21.12.2018".

Now subsidy of ₹ 2 per unit for industrial units with connected loads of up to 40 kW in 'D' category blocks and up to 30 kW in 'C' category blocks will be allowed after according approval to align with ease of business and the framework of the earlier policy Director General MSME, Government of Haryana (Gazette Notification No. 23/24/2018-3P dated 21/12/2018).

- R.** In view of the above, policy to allow subsidy of ₹ 2 per unit for industrial units with connected load up to 40 kW in 'D' Category blocks and up to 30 kW in 'C' Category blocks yet to be finalized and the Managing Director, DHBVN vide its letter dated 07.01.2025 has already written to the Director General MSME,

Government of Haryana to expedite the matter. Therefore, the decision of Corporate Forum for Redressal of Consumer Grievances, DHBVN, Gurugram in Case number DH/CGRF- 4643/2024 dated 19.06.2024 is here by upheld. The instant appeal is disposed of accordingly.

Both the parties to bear their own costs. File may be consigned to record.

Given under my hand on 13th February, 2025.

Sd/-

(Rakesh Kumar Khanna)
Electricity Ombudsman, Haryana

Dated: 13.02.2025

CC:

Memo. No. 5056/HERC/EO/Appeal No. 25/2024 Dated: 14.02.2025

1. Shri Sanjay Kumar, M/s Chandu Lal Sanjay Kumar, Geeta Colony, Barwala, Hisar.
2. The Managing Director, DHBVN, Vidyut Sadan, Vidyut Nagar, Hisar.
3. Legal Remembrancer, Haryana Power Utilities, Sec- 6, Panchkula.
4. The Chief Engineer 'Operation', DHBVN, Hisar.
5. The Superintending Engineer/ Operation Circle, DHBVN, Hisar
6. The Executive Engineer/ Operation, Division-II, DHBVN, Hisar.
7. The SDO/ Operation, DHBVN, Barwala.