



**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. : 33/2024**  
**Registered on : 01.10.2024**  
**Date of Order : 21.11.2024**

**In the matter of:**

**Appeal against the order dated 20.08.2024 passed by CGRF DHBVN Gurugram in complaint no. 4683/2024.**

Smt. Sunita Sharma, Opp. Prem Palace, Near BJP Office Tosham, **Appellant**  
Hansi Bypass, Bhiwani

Versus

1. The Executive Engineer Operation, DHBVN, City Division, Bhiwani
2. The SDO Operation, DHBVN, Sub Urban No. 2, Bhiwani **Respondent**

**Before:**

Shri Virendra Singh, Electricity Ombudsman

**Present on behalf of Appellant:**

Shri Anil Kumar representative of Smt. Sunita Sharma

**Present on behalf of Respondents:**

Shri Rajnish Kumar, SDO Operation, DHBVN, Sub Urban No. 2, Bhiwani

**ORDER**

- A.** Smt. Sunita Sharma has filed an appeal against the order dated 20.08.2024 passed by CGRF, DHBVNL, Gurugram in complaint No. DH/ CGRF 4683/2024. The appellant has requested the following relief: -

The present appeal is filed by me under section 42 (6) of the Electricity Act, 2003 ("the Act") read with Regulation 3.16 Of HERC (Forum & Ombudsman) Regulations, 2020 against the order dated 20.08.2024 passed by Corporate CGRF DHBVN Gurgaon ("CGRF") in case No. DH/CGRF- 4683/GGN/2024 ("Impugned Order").

2. CGRF vide impugned order has erroneously held against the provisions of Haryana Electricity Regulatory Commission (Duty to supply electricity on request, Power to recover expenditure incurred in providing supply and Power to require security Regulations) 2016 that the difference of actual cost and Service Connection Charges for releasing LT connection (30 KW in the present case) is payable by the consumer as the connection has been released by extending the HT line as there was no nearby LT line.
3. The Impugned Order dated 20.08.2024 was communicated to me on dated 30.08.2024 through mail. It is submitted that I have not filed any other proceedings before any other court in respect of the same subject cited

matter and no other proceedings are pending before any other court in respect of the same subject matter.

**Facts of the Case: -**

1. It is respectfully submitted that I had applied for a new connection under LT category for 30 KW load at Opp. Prem Palace, Near BJP Office, Tosham Hansi Bye Pass, Bhiwani-127021 vide application no. B12-623-215 online. The processing fee, ACD, Service Connection Charges and other charges amounting to Rs. 97,012/- comprising of Service Connection Charges (i.e. Rs. 60,000/-) as prescribed was deposited through online mode on dated 12.06.2023.
2. Subsequently, a demand notice dated 18.07.2023 was raised by SDO S/U No. 2, DHBVN, Bhiwani whereby it was requested to deposit the cost of estimate amounting to Rs. 3,09,610/- for release of connection pertaining to my application number: - B12-623-215, LT Industry (30 KW Load).
3. In this context, it is intimated that demand raised by SDO S/U No. 2 vide ibid letter was in contravention to the Haryana Electricity Regulatory Commission (Duty to supply electricity on request, Power to recover expenditure incurred in providing supply and Power to require security Regulations) 2016 and its subsequent amendments notified by Hon'ble Commission from time to time. As per ibid regulation, the difference of actual cost and Service Connection Charges for releasing the connection is chargeable only in case the connection is released on voltage level of 11 KV & above whereas in the present case the connection was to be released on LT level. The relevant provisions of said Regulations are placed as under: -

*“(41) “Service Connection charges” means expenditure, the licensee is authorized to recover from the applicant, on account of Extension of Distribution System for giving supply of electricity to the premises and calculated in accordance with these Regulations;*

*4.6 The cost of extension of distribution main and/or its up-gradation up to the point of supply for meeting the demand of a consumer, whether new or existing, and any strengthening /augmentation /up-gradation in the system starting from the feeding substation for giving supply to that consumer, shall be payable by the consumer or any collective body of such consumers as per these Regulations.*

*4.8.1 The service connection charges/cost of extension of distribution system to be carried out by the licensee for release of new*

connection/extension of load, calculated in accordance with these Regulations shall be payable by the applicant.

**Calculation of Service Connection Charges/Cost of Extension of Distribution System:**

**(1) For New Connection**

The applicant shall bear the Service Connection Charges/Cost as prescribed hereunder:

<b>Sr. No.</b>	<b>Category</b>	<b>Service Connection Charges (in Rs.) per kW of the connected load or part thereof.</b>
1	Single phase Domestic Supply upto 2 KW connected load	Rs. 200/-
2	Single phase Domestic Supply above 2 KW connected load	Rs.500/-
3	Three phase Domestic Supply	Rs.1000/-
4	Single phase Non-Domestic Supply	Rs.1000/-
5	Three phase Non Domestic Supply	Rs.2000/-
6	Bulk supply & L.T. Industrial Supply	Rs.2000/-
7	H.T Industrial Supply	Rs.2000/- per kVA of the contract demand or part thereof
8	AP Supply	Actual expenditure to be incurred for release of connection which shall include cost of LT/HT line and that of distribution transformer. In case more than one consumer are released connections from the same transformer, the cost of distribution transformer shall be shared on prorata basis corresponding to the load of each consumer.
9	Street light	Actual cost as per deposit work estimate.
10	Other Consumers	Service connection charges as applicable for LT/HT Industrial supply.

The above service connection charges shall be applicable where the length of new line to be provided is upto 150 meters. Where this length exceeds 150 meters, the applicant shall be required to pay additional charges of Rs. 175 per meter for load upto 50 kW and Rs. 250 per meter for loads in excess of 50 kW.

(2) In case, the proposed connection is to be released on voltage level of 11 kV, the actual cost involved for releasing the connection would also be worked out as per Standard Cost Data Book and the amount recoverable shall be the higher of the following: -

(a) Actual cost

(b) *Total service connection charges applicable to the respective category.”*

4. A bare perusal of the above provisions implies that Service Connection Charges are nothing but the charges which are to be paid by a consumer on account of Extension of Distribution System (irrespective of the fact that LT line is extended or HT line) for providing supply of electricity to its premises and a licensee is authorized to recover such expenditure from the consumer for cost of extension of distribution main up to the point of supply as per clause 4.6, 4.7 & 4.8 of said regulation which were already paid by me in the name of “Service Connection Charges” (i.e. Rs. 60,000/-) in the present case. While difference of the actual cost of extension of the distribution system & Service Connection Charges are payable as per the said regulation only in case when the connection is to be released on 11 KV & above, whereas in the present case the connection was to be released on LT level. The provisions of *ibid* regulations are clear & explicit. If difference of the actual cost of extension of the distribution system & Service Connection Charges is charged in release of LT connection, the meaning of “Service Connection Charges” and provisions (1) & (2) of of said Regulations shall become otiose.
5. In the conjunction to the aforesaid, it is germane to mention that the provisions/clauses of the regulations cannot be read in isolation but instead are to be read in toto. A comprehensive and harmonious perusal of the provisions/clauses of *ibid* regulation in totality clearly demonstrates that the difference of the actual cost of estimate & service connection charges was not payable by me.
6. All the aforementioned provisions of the regulations were apprised to SDO S/U no.2, DHBVN, Bhiwani and requested to withdraw the demand notice & release the connection at the earliest possible. However, the connection was not released by concerned SDO despite being aware of the law/regulations in vogue. Thereafter, I was left with no other option but to deposit the amount of Rs. 3,09,610/- in order to get my LT connection released as it was causing considerable monetary loses every day which would certainly have been played a role of a colossal setback for me. So there had been only one option but to pay. Therefore, the said amount was deposited by me on dated 31.07.2023 under protest (UTR no.

PUNBR52023073120417375). Subsequently, the LT connection was released on dated 01.09.2023.

7. After the release of connection, a letter dated 30.09.2023 was written to the SDO S/U no.2, DHBVN, Bhiwani requesting to refund the differential amount with applicable interest in light of law/regulations in vogue.
8. However, no response was received from the office of concerned SDO.
9. A letter dated 17.11.2023 was also written to Executive Engineer, City Bhiwani, DHBVN requesting to refund of the amount. The matter was also discussed with the concerned officials, however, the same could not be resolved.
10. Despite the expanse of time traversed, there still remains an egregious absence of acknowledgement towards my application pertaining to the said differential amount. As the matter was not resolved at the level of XEN/SDO, I filed an application bearing no. DH/CGRF- 4683/GGN/2024 before Corporate CGRF DHBVN Gurgaon for redressal of grievance. Rejoinder dated 19.07.2024 was filed by Applicant to the reply dated 27.05.2024 of SDO S/U No. 2, DHBVN, Bhiwani. Reply dated 29.07.2024 filed by SDO S/U No. 2, DHBVN, Bhiwani in response to rejoinder.
11. During the course of hearing, concerned SDO relied on the letter dated 17.08.2022 issued by SE/Commercial, DHBVN, Hisar. In this context, it is submitted that as the same is not relevant in the present case as SE/Commercial, DHBVN, Hisar vide ibid letter has issued clarification to the certain points pertaining to when applicants stress for release of connection from RDS feeder instead of nearest feeder. It is stipulated that while applying for the LT connection, I did not stress for release of connection from distant source of supply instead of nearest feeder.
12. Corporate CGRF DHBVN Gurgaon vide the impugned order held as under:

“xxxxx

*The Forum observed after considering the reply of SDO as well as complainant that the complainant has applied for 30 KW connection under LT category where the estimate was prepared by S/Divn of amount Rs. 3,09,610/-. The connection was released from the nearest 11 KV feeder for providing the supply to the consumer by extending HT line and a demand notice was issued to the complainant. The amount charged against difference of estimate and service connection charges as per the standing instructions of the Nigam was deposited by the consumer.*

*The complainant was aware of the same and he had deposited the cost as per intimated by S/Divn. The case no. DH/CGRF-1776/2017 dated 13.07.2017 attached for release is different from the present case as in the present case the connection has been released by extending the HT line as there was no nearby LT line. So, the Forum decided that the amount deposited by the complainant is correct as per standing instructions of the Nigam. The case is closed. No cost to either side.*

*xxxxxxx”*

13. In this regard, it is submitted that impugned order passed by Ld. CGRG is completely erroneous, baseless, illegal & dehors the law/regulations in vogue. 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 20.08.2024 and has acted in violation of Regulation 2.47 mentioned above and thus the impugned order is liable to be set aside.
14. It is respectfully submitted that provisions in Haryana Electricity Regulatory Commission (Duty to supply electricity on request, Power to recover expenditure incurred in providing supply and Power to require security Regulations) 2016 explicitly provides the term as “*proposed connection is to be released*”. This clearly establishes that while releasing a connection, voltage level at the metering side of the consumer is to be seen. It is submitted that the proposed 30 KW connection has been released at the LT level in my case and it has nothing to do with which distribution system line (HT or LT) has been extended by concerned SDO while releasing the connection.
15. In this regard, reliance is placed on the definition of distribution system provided under section 2 (19) of the Electricity Act 2003 which states that distribution system is the system of wires and associated facilities between delivery points on the transmission lines or the generating station and the point of connection to the consumers. Relevant excerpt of Section 2 (19) is reproduced here as under:  
  
*"distribution system" means the system of wires and associated facilities between the delivery points on the transmission lines or the generating station connection and the point of connection to the installation of the consumers,*

16. Definition 2.3 (21) of HERC (Duty to supply electricity on request, Power to recover expenditure incurred in providing supply and Power to require security Regulations) 2016 provides as under: -

*(21) "Extension of Distribution System" means the system of wires and associated facilities, required to be erected and/or extended for giving supply to the applicant, between the delivery points on the transmission lines or the generating station connection and the points of connection to the installation of the applicant;*

17. In view of the above, any system of wires & associated facilities between the transmission lines/generating station and point of connection to the consumer are the part of the distribution system.

18. Further, the definition of Distribution System as provided in Electricity Rules, 2005 categorically includes high pressure cables.

*"4. Distribution System. - The distribution system of a distribution licensee in terms of sub-section (19) of section 2 of the Act shall also include electric line, sub-station and electrical plant that are primarily maintained for the purpose of distributing electricity in the area of supply of such distribution licensee notwithstanding that such line, substation or electrical plant are high pressure cables or overhead lines or associated with such high pressure cables or overhead lines; or used incidentally for the purposes of transmitting electricity for others"*

19. From the perusal of above along with provisions of Act and HERC Regulation, it can be safely concluded that Service Connection Charges are payable by a consumer on account of Extension of Distribution System for giving supply of electricity to its premises and all the lines (including HT line) are part of distribution system. For the purpose of calculation of Service Connection Charges/cost of Extension of Distribution System and supply of power to a LT consumer, the regulation does not provide distinction within the distribution system in terms of HT distribution system and LT distribution system.

20. It is submitted that it is the duty of concerned SDO to make necessary arrangements for releasing of the connection as per law/regulations. Applicant is only bound to pay legitimate charges on account of Extension of Distribution System (irrespective of the fact that the line is HT or LT) in order to get its connection released which are Service Connection Charges in case of a LT connection (Service Connection Charges @ Rs. 2000/KW up to the distance of 150 meters and thereafter additional charges Rs. 175 per meter up to the load of 50 KW). The difference of actual cost & service

connection charges is payable only in the case when the proposed connection is to be released at a Voltage level of 11 KV & above as per provisions (2) & (3) in said regulations. Pertinent to mention that the length on new line for releasing the connection is within the limit of 150 meters.

21. If the contention of SDO is to be construed true, then different consumers shall have to pay different charges based on the existing nearest line (HT or LT) which is contrary to the provisions of regulation. Further, it is quite strange to reckon that a consumer should be aware of distribution system of a sub divisional office. As such, the question of awareness of Applicant about any existent nearby line (HT or LT) does not arise as the same falls under the jurisdiction of concerned SDO and it is concerned SDO who should be aware of its existing distribution system for supply power to its consumers, not the consumer.
22. Without prejudice to above submissions, it is submitted that release of proposed 30 KW LT connection from 11KV line was never apprised to me. The demand notice dated 18.07.2023 issued by SDO does not mention anything about release of the LT connection from 11 KV line. Even otherwise, the onus of release of a connection to a consumer rests upon concerned SDO and it is the concerned SDO who has to look after from which source the supply is to be provided to the consumer. The contents of para no. 14 to 19 are re-iterated.
23. It is worthwhile to bring to kind notice of Hon'ble Ombudsman that this practice of seeking charges i.e. "higher of actual cost & Service Connection Charges" in case of LT connection is not prevalent in whole area of jurisdiction of UHBVN. Even, in the jurisdiction area of DHBVN, some field offices do not charge the same.

Prayer

In view of the foregoing, it is most humbly prayed that the present representation may kindly be allowed and impugned order dated 20.08.2024 passed by the Ld. CGRF may be set aside and the appeal be accepted and directing the respondents to refund the differential amount of Rs. 3,09,610/-

- B.** The appeal was registered on 01.10.2024 as an appeal No. 33/2024 and accordingly, notice of motion to the Appellant and the Respondents was issued for hearing the matter on 29.10.2024.



- C. The respondent SDO vide email dated 26.10.2024 has submitted reply, which is reproduced as under:

In this connection, it is submitted that Smt. Sunita Sharma has filed appeal no. 33 against the order passed by CGRF Gurugram order no. 4683/GGN/204 for refund of Rs. 309610/- along with applicable interest i.e. difference of service connection charges & estimate cost against the application no. B12-623-215 (LT industry 30 KW). Reply of above appeal is as under: -

1. Smt. Sunita Sharma Rio Tosham Hansi Bypass, Bhiwani has applied for LT connection (30 KW) vide App. No. B12-623-215. ACD (30000) & SCC (60000) deposited by applicant on dated 13-06-23.
2. After checking of site, it was found that there was no underload LT infrastructure exists near applicant's premises. Only 11 KV Lajpat Nagar & 33 KV Bapora-2 line exists near applicant's premises. So, the deposit estimate was framed for release of connection amounting Rs. 369610/-. Demand notice was issued to applicant on dated 18-07-23 amounting to Rs. 309610/- (Total estimate cost- SCC deposited by applicant). The same was deposited by applicant on dated 31-07-23. Thereafter connection was released by this office on dated 01-09-23.
3. The demand notice was issued as per HERC & Nigam's standing instructions. If there would have been any underload LT infrastructure exists near applicant's premises, then connection would have been released from existing underload LT system. Applicant was also aware about the same. So, the deposit estimate was framed for installation of separate 63 KVA T/F for release of LT connection having load 30KW by tapping on 11 KV Lajpat Nagar feeder.
4. As per HERC instructions 4.6' The cost of extension of distribution main and/or its up-gradation up to point of supply for meeting the demand of a consumer whether new or existing, and any strengthening / augmentation/ up-gradation in the system starting from the feeding substation for giving supply to that consumer shall be payable by consumer or any collective body of such consumers as per these Regulations. So, as per above instructions, the HT line has been extended for release of this connection, so the cost for extending the HT infrastructure will be borne by applicant.
5. Further as per HERC regulations 4.8 Cost of service connection charge/cost of extension of distribution system

1. For new connections: The application shall bear the service connection charge/cost as prescribed in the table of category wise service connection charge (in Rs) per KW of the connected load or part there of the above service connection charges shall be applicable where the length of new line to be provided is up to 150 Mtr. Where, this length exceeds 150 mtr, the applicant shall be required to pay additional charge of Rs. 175/- Per meter for loads upto 50 KW & Rs. 250/- per meter for load in excess of 50 KW.
2. In case the proposed connection is to be released on voltage level of 11 KV, the actual cost involved for releasing the connection would also be worked out as per data book and the amount recoverable shall be the higher of the following: -
  - a) Actual cost.
  - b) Total service connection charge applicable to the respective category.

Note: - The actual cost of the individual service line only calculated as per long data book. In case the service line is to emanate from the feeding substation. The applicant shall bear the entire expenditure including cost of the breaker. However, creation of new sub/station or augmentation of existing substation shall be carried out by the license at its own cost as per provision under regulation 4.4.4.5 44.7.

So, it is mentioned that if connection will be released at 11 KV voltage level, cost of extending the infrastructure, difference of estimate cost & service connection charges, whichever is higher will be borne by applicant & in this case LT connection was released by tapping on voltage level of 11 KV.

6. SE/Commercial DHBVN Hisar had issued clarification regarding release of NDS/LT/HT connections vide his office memo no. Ch. 64/5E/C/341/2005 dated 17-08-22. Thereafter meeting was held in the chamber of SE 'Op' Circle Bhiwani & it was decided to release NDS/LT/HT connection by framing deposit estimate de cost will be recovered from applicant.
7. After release of connection, applicant filed complaint on CM window as well as in the office of XEN 'Op' City Division Bhiwani. The CM window complaint was closed after submission of reply along with relevant facts.

So, consumer's complaint was attended as per standing instructions & intimation was also given to applicant telephonically.

8. Thereafter applicant filed case in CGRF Gurugram. Hon'ble Forum decided the case in favour of Nigam after reviewing HERC Instructions & reply submitted by this office.
9. However, the situation arises due to misinterpretations of HERC instructions It is further added that this office has asked clarification regarding sales circular No. D-12/20 & D-29/16 vide this office memo no. 1083 dated 16-05-24 & 202 dated 25-10-24 for proper clarity in this matter & noting file for clarification has been forwarded by SE 'Op' Circle Bhiwani to SE commercial on dated 25-10-24 which shall be clarified shortly as per telephonically conversations with commercial wing.
10. In view of the above narrated facts of each point the amount charged in the tune of difference of estimate cost and service connection charges are correct as per Nigam's instructions.

The reply against the appeal is hereby submitted for kind information please Further Hon'ble Commission may pass any further order as deemed fit in the case in the best interest of justice.

**D.** Hearing was held on 29.10.2024, as scheduled. Both the parties were present during the hearing through video conferencing. At the outset, representative of the appellant sought 15 days' time to file response on reply provided by the respondent on 28.10.2024. The appellant is allowed to file rejoinder within 10 days with an advance copy to the respondent. The matter was adjourned hearing on 21.11.2024.

**E.** The appellant vide email dated 08.11.2024 has submitted rejoinder to the reply dated 25.10.2024 filed by SDO S/U S/D No. II, DHBVN Bhiwani, which is reproduced as under:

This is in reference to the reply dated 25.10.2024 filed by SDO S/U S/D No. II, DHBVN Bhiwani, to the subject cited appeal filed by me. All submissions herein are made in the alternative and without prejudice to each other. Nothing submitted herein shall be deemed to be admitted unless the same has been admitted thereto specifically.

2. The contents of the appeal filed by me are reaffirmed and reiterated to be correct and I rely upon the same in the present Rejoinder. The same is to be read as part and parcel of this rejoinder and the same

is not being repeated for the sake of brevity. I deny and dispute the contents, averments, and statements made by SDO S/U S/D No. II, DHBVN Bhiwani in the reply to the appeal which are contrary to or inconsistent with what has been stated hereinafter.

3. At the outset, attention is drawn to remarks of XEN (Operation) City, Bhiwani which are reproduced as under: -

*“As the case relates to refund of estimate amount of this instant Appellant for which after defending the case in CGRF the case was decided in favour of nigam further the CGRF has mentioned in the order that the complainant is at liberty to make appeal before the electricity Ombudsman HERC, sector-4, Panchkula in case he is not satisfied with order of CGRF.*

*In view of this the complainant has file an appeal now before Ombudsman, HERC for refund of estimate cost. Thus, challenging the CGRF order.*

*It is pertinent to mention here that in release of similar nature of electricity connection some operation circle is depositing full cost of estimate from the consumer and some operation circle are only adhering for deposition of only service connection charges. So, to make parity in framework of release of electricity connection a specific guideline be issued so that this case can be defended in Ombudsman court, HERC, Panchkula so as to avoid any revenue loss to Nigam further.*

4. It is submitted that I had highlighted the similar issue in my appeal (Ref: Para 23) that sub-divisional offices under the jurisdiction area of DHBVN are arbitrarily charging the higher of the actual cost and total service connection charges for release of a LT connection. The same fact highlighted by me in the ibid appeal has been asserted by the above remarks of XEN (Operation) City, Bhiwani and it has been admitted by XEN (Operation) City, Bhiwani that in release of similar nature of electricity connection (LT connection), different charges are being recovered by various operation circles. It is further to intimate that this practice of seeking higher of the actual cost and total service connection charges for release of a LT connection is not prevalent in whole area of jurisdiction of UHBVN.
5. SDO S/U S/D No. II, DHBVN Bhiwani vide its reply dated 25.10.2024 has made following submissions to the subject cited appeal: -

- i. Only 11KV & 33 KV line existed near the applicant's premises and no underload LT infrastructure existed near the applicant's premises, applicant was aware of same so the deposit estimate was framed.
  - ii. The proposed connection was released on 11 KV level by tapping 11 KV Lajpat Nagar feeder so as per clause 4.6 of HERC (Duty to supply electricity on request, Power to recover expenditure incurred in providing supply and Power to require security Regulations) 2016, higher of the actual cost and total service connection charges shall be payable by a LT consumer.
6. In rejoinder to the aforementioned preliminary submissions of the SDO, it is respectfully submitted as follows: -
  - i. It is submitted that SDO S/U S/D No. II, DHBVN Bhiwani is making his own interpretation which are contrary to provisions of HERC (Duty to supply electricity on request, Power to recover expenditure incurred in providing supply and Power to require security Regulations) 2016. It is mentioned here that words of clause 4.6 read with the definition of "Service Connection Charges", provisions (1) & (2) of Annexure-I of ibid HERC Regulations are plain and clear to the effect that higher of the actual cost and total service connection charges for release of a LT connection are not be borne by consumer.

It is a rule of construction of statutes that in the first instance the grammatical sense of the word is to be adhered to. The words of a statute must prima facie be given their ordinary meaning. Where the grammatical construction is clear and manifest and without doubt, that construction ought to prevail unless there be some strong and obvious reason to the contrary. In other words, the best possible interpretation of a statute would be to give its plain meaning. When the language of the statute is clear and unambiguous it is not necessary to look into the legislative intent or object of the Act. Reliance in this regard is placed on recent

judgement dated 05.11.2024 of Hon'ble Supreme Court wherein Hon'ble Supreme Court has inter alia adjudicated as under: -

*“41. The golden rule of interpretation is that the words of a contract should be construed in their grammatical and ordinary sense, except to the extent that some modification is necessary in order to avoid absurdity, inconsistency or repugnancy. (See para 5.01 Kim Lewison, The interpretation of Contracts, 3rd Edition). Similarly, any invocation of the business efficacy test as canvassed would arise only if the terms of the contract are not explicit and clear. The business efficacy test cannot contradict any express term of the contract and is invoked only if by a plain and literal interpretation of the term in the agreement or the contract, it is not possible to achieve the result or the consequence intended by the parties acting as prudent businessmen. [See Nabha Power Limited (NPL) vs. Punjab State Power Corporation Limited (PSPCL) and Another, (2018) 11 SCC 508, (para 49) and Adani Power (Mundra) Limited vs. Gujarat Electricity Regulatory Commission and Others, (2019) 19 SCC 9 (para 24).”*

The submissions of SDO are in contravention to clause 4.2.1 of Electricity Supply Code 2014 which is placed as under: -

*“4.2.1 The licensee is responsible for ensuring that its distribution system is upgraded, extended and strengthened to meet the demand for electricity in its area of supply including the growth of such demand.”*

The submission of SDO is denied in totality in light of above provision of Electricity Supply Code as it is the duty of concerned SDO & Discom to make necessary arrangements for releasing of the connection as per law/regulations. Applicant is only bound to pay legitimate charges on account of Extension of Distribution System (irrespective of the nearby existing infrastructure HT or LT) in order to get its connection released which are Service Connection Charges in case of a LT connection (Service Connection Charges @ Rs. 2000/KW up to the distance of 150 meters and thereafter additional charges Rs. 175 per meter up to the load of 50 KW).

Definition of Distribution System provided under section 2 (19) of the Electricity Act 2003 states that distribution system is the system of wires and associated facilities between delivery points on the transmission lines or the generating station and the point of connection to the consumers. Relevant excerpt of Section 2 (19) is reproduced here as under:

*"distribution system" means the system of wires and associated facilities between the delivery points on the transmission lines or the generating station connection and the point of connection to the installation of the consumers,*

Definition 2.3 (21) of HERC (Duty to supply electricity on request, Power to recover expenditure incurred in providing supply and Power to require security Regulations) 2016 provides as under:

*(21) "Extension of Distribution System" means the system of wires and associated facilities, required to be erected and/or extended for giving supply to the applicant, between the delivery points on the transmission lines or the generating station connection and the points of connection to the installation of the applicant;*

In view of the above, any system of wires (HT or LT) & associated facilities between the transmission lines/generating station and point of connection to the consumer are the part of the distribution system and while releasing a connection it is not be seen whether HT distribution system or LT distribution system is existent nearby as both are part of distribution system and Electricity Act 2003, Electricity Rules 2005 & HERC Regulations does not provide distinction within the distribution system in terms of HT distribution system and LT distribution system for purpose of calculation of cost of extension of distribution system/Service Connection Charges and supply of power to a LT consumer.

If the contention of SDO is be construed true, then different consumers shall have to pay different charges based on the existing nearest line (HT or LT) and the same shall discriminate the consumers based on their locations which is contrary to law. Further, it is quite strange to reckon that a consumer should be aware of distribution system of a sub divisional office. As such,

the question of awareness of Applicant about any existent nearby line (HT or LT) does not arise as the same falls under the jurisdiction of concerned SDO and it is concerned SDO who should be aware of its existing distribution system for supply power to its consumers, not the consumer.

- ii. It has been wrongly presumed by SDO that the connection has been released on 11KV voltage level. It is well settled principle that while releasing a connection, voltage level at the metering side of the consumer is to be seen irrespective of the fact that which line (HT or LT) has been extended. Reference is invited to clause 3.2 of Haryana Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2014 which provides as follows: -

*“3.2 Classification of Supply*

- (a) *Supply shall generally be given at the following voltages on the basis of contracted load:*

<i>Category</i>	<i>System of Supply</i>
<i>Low Tension</i>	
<i>Contracted load upto 5 kW</i>	<i>Single phase at 230 V</i>
<i>Contracted load above 5 kW and up to 50 kW</i>	<i>3 Phase 4 wire at 400 V</i>
<i>High Tension</i>	
<i>Contracted load exceeding 50 KW and up to 5000kVA</i>	<i>3 Phase at 11 kV</i>
<i>Contracted load exceeding 2000 kVA and up to 25000 kVA</i>	<i>3 Phase at 33 kV</i>
<i>Contracted load exceeding 5000 kVA and up to 75000 kVA</i>	<i>3 Phase at 66 kV</i>
<i>Contracted load exceeding 25000 kVA and upto 100000 kVA</i>	<i>3 Phase at 132 kV</i>
<i>Contracted load exceeding 75000 kVA and upto 320000 kVA</i>	<i>3 Phase at 220 kV</i>
<i>Contracted load exceeding 320000 kVA</i>	<i>3 Phase at 400 kV</i>

As per above table, it is evident that a Low Tension connection is to be released at a voltage level of 230 V (up to 5 KW) and 400 V (above 5 KW and up to 50 KW). As such, it is submitted that the connection in my case (30 KW) has been released at the voltage level of 400 V (i.e. Low Tension), therefore as per Annexure-I of HERC (Duty to supply electricity on request, Power to recover expenditure incurred in providing supply and Power to require



security Regulations) 2016, only service connection charges are to be paid by me.

Further, SDO has placed its reliance on clause 4.6 of ibid regulations which provides as under: -

*“4.6 The cost of extension of distribution main and/or its up-gradation up to the point of supply for meeting the demand of a consumer, whether new or existing, and any strengthening /augmentation /up-gradation in the system starting from the feeding substation for giving supply to that consumer, shall be payable by the consumer or any collective body of such consumers as per these Regulations.*

In this context, it is submitted that the cost of extension of distribution system has been deposited by me (Rs. 60,000 as Service Connection Charges) as per Annexure-I of HERC (Duty to supply electricity on request, Power to recover expenditure incurred in providing supply and Power to require security Regulations) 2016. However, higher of actual cost and service connection charges shall be deposited only when the connection is to be released at 11 KV & above.

The reliance of SDO on clause 4.6 of ibid regulation for depositing higher of the actual cost and service connection charges for release of a LT connection is misplaced. It is submitted that SDO is reading the clause 4.6 in isolation and has turned blind eye to the rest of provisions of HERC regulations. It is trite law that the provisions/clauses of the regulations cannot be read in isolation but instead are to be read in toto. Reliance in this regard is placed on Hon'ble Supreme Court order dated 02.08.2004 in *Godawat Pan Masala Products I.P. Ltd. vs Union of India & Ors.* The relevant excerpt of the order is placed as under for ready reference: -

*“.....The court must ascertain the intention of the legislature by directing its attention not merely to the clauses to be construed, but to the scheme of the entire statute. The attempt must be to eliminate conflict and to harmonize the different parts of the statute for it cannot be assumed that Parliament had given by one hand what it took away by the other. [See in this connection*

*Commissioner of Income Tax v. Hindustan Bulk Carriers and C.I.T. Central, Calcutta v. National Taj Traders.] This Court in O.P. Singla and Anr. v. Union of India and Ors. (vide para 17), said: "However, it is well recognised that, when a rule or a section is a part of an integral scheme, it should not be considered or construed in isolation. One must have regard to the scheme of the fasciculus of the relevant rules or sections in order to determine the true meaning of any one or more of them. An isolated consideration of a provision leads to the risk of some other inter-related provision becoming otiose or devoid of meaning."*

In conjunction to the aforesaid, I would like to draw your kind attention towards the doctrine of "Ex Visceribus Actus" which has been affirmed by the Hon'ble Supreme Court of India in myriad of judgements. The principle of "Ex Visceribus Actus, derived from Latin and meaning "from the bowels of the Act," emphasizes that each provision or section of a statute must be understood within the context of the entire document. This doctrine stresses that no part of the law should be interpreted in isolation; rather, its meaning must be drawn from the overarching legislative intent expressed throughout the statute as a whole. In legal practice, courts often encounter provisions that seem ambiguous or contradictory when considered individually. Ex Visceribus Actus requires judges to interpret these provisions in light of the statute's complete structure and purpose, ensuring a coherent and unified understanding. In India, where the judicial system is deeply rooted in the rule of law, statutes serve as the foundation of governance. The application of this principle is crucial in preventing selective or fragmented interpretations of the law, which could lead to misapplication or even misuse. By interpreting provisions in the context of the entire Act, Ex Visceribus Actus promotes a more accurate and just application of the law, ensuring that statutory intentions are upheld in their entirety.

In view of the aforementioned Order dated 02.08.2004 of the Hon'ble Supreme Court in in Godawat Pan Masala Products I.P. Ltd. vs Union of India & Ors., it is submitted that if clause 4.6 of HERC regulations only is to be considered, then the meaning of

“Service Connection Charges” and provisions (1) & (2) of Annexure-I of said Regulations shall become otiose.

7. Further, SDO S/U S/D No. II, DHBVN Bhiwani vide letter dated 22.10.2024 has sought following clarification for implementation of the HERC (Duty to supply electricity on request, Power to recover expenditure incurred in providing supply and Power to require security Regulations) 2016: -

*“What amount shall be recoverable for new connections with load up to 50 kW. It is required to clarify that service connection charge shall be applicable is up to 150 Mtr, if exceeds 150 Mtr then Rs. 175 per Mtr is applicable or the amount recoverable shall be the higher of the actual cost and total service connection charge is applicable (to the respective category). Whereas in point No. 02 it is clearly mentioned that difference of actual cost and total service connection charge shall be applicable where proposed connection is to be released on voltage level of 11 KV i.e. load above 50 KW.”*

8. The action of concerned SDO is itself contradictory in nature. One side, concerned SDO has issued Demand Notice for deposition of the charges on the consumer while on the other side, he has sought clarification of implementation of the ibid regulations of HERC. It is clarified that in case of releasing a LT connection (i.e. up to 50 KW), only service connection charges as specified in Annexure-I of ibid regulations shall be applicable where length of new line is upto 150 meters and where length exceeds 150 meters, additional charges of Rs. 175 per meter for load up to 50 kW shall be deposited by consumer. However, it is further clarified that higher of the actual cost and service connection charges for release of a LT connection shall still not be deposited by consumer as the same shall be paid only when the connection is released on voltage level of 11 KV & above (i.e. for load exceeding 50 KW).
9. It is submitted that the concerned SDO has tried to provide its own interpretation of the provisions of HERC Regulations. While A comprehensive and harmonious perusal of the provisions/clauses

of HERC regulation in totality clearly demonstrates that the difference of the actual cost of estimate & service connection charges are not payable by a LT consumer. It is an established rule of construction that when the words of the statute are clear and unambiguous the court must give effect to it and no one has the right to extend its operation in order to carry out the real or supposed intention of the legislature.

10. In view of the above, it is most humbly prayed that the present appeal may kindly be allowed and impugned order dated 20.08.2024 passed by the Ld. CGRF may be set aside and directing the differential amount of Rs. 3,09,610/ be refunded to me along with applicable interest.

**F.** The respondent SDO vide email dated 21.11.2024 has submitted reply to the rejoinder filed by Smt. Sunita Sharma on dated 08.11.2024, which is reproduced as under:

This is in reference to the rejoinder filed on dated 08.11.2024 by Smt. Sunita Sharma, to the appeal no. 33 of 2024. All submissions herein are made in the alternative and without prejudice to each other. Nothing submitted herein shall be deemed to be admitted unless the same has been admitted thereto specifically.

2. The contents of the reply submitted by me in the case of Smt. Sunita Sharma are reaffirmed and reiterated to be correct and I rely upon the same in the present reply. The same is to be read as part and parcel of this reply and the same is not being repeated for the sake of brevity. I deny and dispute the contents, averments, and statements made by Smt. Sunita Sharma in the rejoinder of appeal no. 33 of 2024 which are contrary to or inconsistent with what has been stated hereinafter.

3. It is submitted that the clarification has been asked by SDO S/U S/Divn No. 2, Xen Op City Divn, Bhiwani and SE Op Circle, Bhiwani regarding 4.8 as submitted in previous reply for having more clarity in the matter whether to be difference of cost of service connection and estimate charges are chargeable or not for releasing LT Connection or similar issues as the circular (D-12/2020) issued by SE Commercial is interpreted differently by different Circle. So, the clarification has been asked for the favour of

the Nigam to avoid revenue loss. As in Bhiwani Circle for releasing LT and NDS Connections, difference of cost of service connection and estimate value whichever is higher is charged from concerned applicant after the clarification issued by SE Commercial to SE Jind.

4. In response to the clarification asked by Bhiwani Circle, vide memo. No. Ch-166 dated 22/10/2024, a letter has been issued by SE Commercial on dated 05/11/2024 vide Memo. No. Ch-04/SE/C/Lose/8/2001, in which it is intimated that a petition has been approved by Nigam Management for filing before HERC regarding "Recovery of appropriate cost for creation of transmission and distribution system for unapproved and remote areas for grant of electricity to the individual applicant from distribution system" on the similar issues and has been further forwarded to the O/o LR, HPU Panchkula for engagement of the counsel for filing & defending the ibid petition in the Hon'ble HERC on behalf of the Nigam.
5. Further reply submitted by me on dated 25/10/2024 is true in all respect according to 4.6 of HERC (Duty to supply electricity on request, power to recover expenditure incurred in providing supply and power to require security Regulations) 2016, higher of the actual cost and total service connection charges shall be payable by a LT Consumer.
6. The clause 4.2.1 of electricity supply code 2014 which is placed as under:  
*"4.2.1 The licensee is responsible for ensuring that its distribution system is upgraded, extended and strengthened to meet the demand for electricity in its area of supply including the growth of such demand"- This clause is for the already existing connections not for new connection and for releasing of new connection clause 4.6 of HERC duty to supply code i.e. D-12/2020 will be applied.*

In view of the above fact the corporate CGRF passed order in favor of Nigam after going through to the all contents of the case. However, the reply against the rejoinder is hereby submitted for kind information please Further Hon'ble Ombudsman may pass any further order as deemed fit in the case in the best interest of justice.

- G.** Hearing was held today, as scheduled. Both the parties were present through video conferencing. The respondent SDO, reiterating his written submissions, submitted that the clarification through SE OP Circle Bhiwani was sought in the matter whether difference of cost of service connection and estimate charges are

chargeable or not for releasing LT Connection. In response to this SE Commercial vide Memo. No. Ch-04/SE/C/Loose/8/2001 dated 05/11/2024 has intimated that a petition has been approved by Nigam Management for filing before HERC regarding "Recovery of appropriate cost for creation of transmission and distribution system for unapproved and remote areas for grant of electricity to the individual applicant from distribution system" on the similar issues and has been further forwarded to the O/O LR, HPU Panchkula for engagement of the counsel for filing & defending the ibid petition in the Hon'ble HERC on behalf of the Nigam. Further as per clause 4.6 of Duty to supply Electricity Regulations, 2016 higher of the actual cost and total cost service connection charges shall be payable by LT consumer. Further, confirmed that the connection has been released by extending the HT line by the nearby feeder without any preference.

**H.** The appellant submitted that the clarification being sought by SE Commercial has no bearing on the HERC. Further, the outcome of the petition will be prospectively not retrospectively. The guidelines should be read in toto not in isolation as the respondent SDO is just reeling on Clause 4.6 of Duty to Supply Regulation whereas Clause 4.8 is specifically reading Service Connection Charges to be Charged for release of different category of Connections. The appellant further submitted that in para no. 3 of the XEN Op City Bhiwani noting attached with reply of the respondent SDO read as "*It is pertinent to mentioned here that in release of similar nature electricity connection some operation circles are depositing full cost of estimate from the consumer and some operation circles are adhering for deposition of only service connection charges*". It shows that the respondents are not clear how much service connection charges are to be paid. Further, clarification should have been sought prior to deposition of amount.

The appellant further submitted that in case of releasing a LT connection (i.e. up to 50 KW), only service connection charges as specified in Annexure-I of ibid regulations shall be applicable where length of new line is upto 150 meters and where length exceeds 150 meters, additional charges of Rs. 175 per meter for load up to 50 kW shall be deposited by consumer. However, it is further clarified that higher of the actual cost and service connection charges for release of a LT connection shall still not be deposited by consumer as the same shall be paid only when the connection is released on voltage level of 11 KV & above (i.e. for load exceeding 50 KW). The appellant prayed to set aside impugned order dated

20.08.2024 passed by the CGRF to direct the respondent differential amount.

- I.** After hearing both the parties and going through the record made available on file, I am of the considered view that in this case only service connection charges for a load of 30 KW (LT) as per Annexure 1 of the HERC (Duty to supply Electricity on request, Power to recover expenditure incurred in providing supply and Power to require security) regulations, 2005 notified on 11.07.2016 are payable by the appellant, instead of estimated cost for erection of distribution system. The order dated 20.08.2024 passed by CGRF, Gurugram is set aside and it is decided that the excess amount recovered over and above the service connection charges are liable to be refunded immediately.

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 21<sup>st</sup> November, 2024.

Sd/-

**(Virendra Singh)**

**Electricity Ombudsman, Haryana**

**Dated: 21.11.2024**

**CC-**

**Memo. No. 4054-61/HERC/EO/Appeal No. 33/2024      Dated: 22.11.2024**

1. Smt. Sunita Sharma, Opp. Prem Palace, Near BJP Office Tosham, Hansi Bypass, Bhiwani
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 SE Operation, DHBVN, Bhiwani
6. The Executive Engineer Operation, DHBVN, City Division, Bhiwani
7. The SDO Operation, DHBVN, Sub Urban No. 2, Bhiwani