

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY**  
(Appellate Jurisdiction)

**APPEAL No.215 OF 2020**

Dated : 21.02.2025

Present: Hon'ble Mr. Sandesh Kumar Sharma, Technical Member  
Hon'ble Mr. Virender Bhat, Judicial Member

**In the matter of:**

**Punjab State Power Company Limited**

The Mall, PSEB Head Office,  
Baradari, Patiala,  
Punjab – 147001

*(Through its Authorised Representative)*

... Appellant

*Versus*

**1. Punjab State Electricity Regulatory Commission**

Site No. 3, Sector-18A,  
Madhya Marg, Chandigarh – 160017  
*(Through the Secretary)*

**2. M/s Singhania International Ltd.**

C-25, Phase-1,  
Focal Point, Ludhiana,  
Punjab – 141010  
*(Through its Managing Director)*

... Respondent (s)

Counsel for the Appellant(s) : Tanisha Lunia  
Sakya Singha Chaudhuri for App. 1

Counsel for the Respondent(s) : Gargi Kumar for Res. 1

Ankit Sharma  
Avneesh Arputham  
Ankur Kumar Sharma for Res. 2

## **J U D G M E N T**

### **PER HON'BLE MR. VIRENDER BHAT, JUDICIAL MEMBER**

1. The appellant is aggrieved by the order dated 26.06.2019 passed by the 1<sup>st</sup> respondent Punjab State Electricity Regulatory Commission (in short “the Commission” or “PSERC”) whereby the Commission, while holding the appellant entitled to recover tariff from the 2<sup>nd</sup> respondent under Power Intensive Unit (PIU) Category, has held that the 2<sup>nd</sup> respondent shall be considered as a PIU with effect from the date of the said order and has accordingly quashed the Memo No.802 dated 31.05.2017 issued by the appellant vide which it had demanded differential tariff from the 2<sup>nd</sup> respondent for the past period also.

2. The appellant has challenged the impugned order only to the limited extent in as much as it has disallowed the appellant from recovering the differential tariff between PIU Category and General Category from the 2<sup>nd</sup> respondent for the past period.

3. The appellant, Punjab State Power Corporation Limited (in short “PSPCL”) is a wholly owned company of the Government of Punjab and responsible for distribution of electricity in the State of Punjab.

4. The 2<sup>nd</sup> respondent, M/s Singhania International Limited is a manufacturing unit mainly involved in the production of stainless steel, nonferrous alloys and other chemicals. It is an industrial consumer having Large Supply (LS) Category connection bearing account No.3002809198 issued on 01.10.2013. It was granted electricity connection by the appellant under General Tariff Category.

5. In order to understand the controversy between the parties, we feel it pertinent to extract hereunder a list of important dates and events which have lead to filing of the instant appeal.

Date	Event
28.10.2013	The State Commission passed an order dated 28.10.2013 in Petition No. 3 of 2012 dealing with

categorization of processes/industries as Power Intensive Units (PIU) and inter-alia held as under:

*“21(v) The Commission accepts the comments of PSPCL given vide letter no. 6225 dated 05.09.2013 and decides that all LS consumers where the Induction Billet Heaters/Surface Hardening Machines are installed shall be treated under PIU category. This Order of the Commission will be applicable with effect from 01.02.2014. The respondent PSPCL shall issue a public notice in leading newspapers having wide circulation in the State for wide publicity to the Order of the Commission and its impact. The requisite formalities, if any, required for implementing this decision by PSPCL be completed before 01.01.2014.”*

01.01.2014	Respondent No. 2 applied for an extension of its load from 89.83kW to 490kW, which included 255kW for an electric bell furnace. The said connection was sanctioned under the general industrial tariff on this date.
29.05.2014	<p>PSPCL came out with Commercial Circular (CC) No. 27 of 2014 on the subject of Billet Heater Load. In terms of the above stated order dated 28.10.2013 issued by the State Commission, the Appellant in CC No. 27 of 2014 stated as under:</p> <p><b><u>“In view of PSERC order dated 28.10.2013 in petition no. 3 of 2012, all LS consumers where the induction Billet Heaters/Surface Hardening Machines are installed shall be treated under PIU category w.e.f. 1/1/2014. This circular supersedes commercial circular no. 28/2012 dated 6/9/12.</u></b></p>

	<i>Meticulous compliance of the above instructions may please be ensured.”</i>
27.02.2015	The Respondent No.2 applied for an extension of load from 490KW to 1190KW vide Application No. 27.02.2015. The Respondent No. 2 declared that it was using two Electrical Bell Furnace (for Annealing) of 490KW in the power load details. The Respondent No. 2 was granted connection under the General Tariff category by the Appellant/PSPCL.
02.12.2015	The Respondent No. 2 applied for status of continuous industry in November 2015. The Appellant asked the Respondent No. 2 to submit a fresh application/forms vide PSPCL memo no. 4522 dated 02.12.2015 as the Respondent No.2's connection was sanctioned under general tariff category.

08.12.2015	The Respondent No.2 submitted fresh application/form. As per load details submitted along with the form the Respondent No.2 declared that it had now installed 3 number of Electrical Bell Furnaces (for Annealing) of 690KW.
05.02.2016	PSPCL sanctioned the connection vide letter No. 7874 dated 05.02.2016 with change of category as PIU (Power Intensive Unit) Industry.
31.05.2017	During inspection of record of PSPCL, it was discovered by PSPCL that Respondent No. 2's load had been sanctioned under PIU category but it was being billed under the general category. PSPCL raised demand notice for difference in tariff between PIU Category and General Category with retrospective effect from 16.09.2014 for an amount of Rs.7,55,886/- and Rs.2,13,760/- towards difference between PIU Category and General Category security deposit.

08.01.2019	<p>The State Commission referred the matter to Administrative Staff College of India (<b>ASCI</b>), Hyderabad. ASCI submitted its report on 08.01.2019 and inter-alia stated as under:</p> <p><b><i>“4) As per existing instructions, Arc Furnaces including induction Furnaces, Chloro-Alkaline Units, Billet Heaters, Surface Hardening Machines &amp; Electrolytic Process industries are considered PIU. Even though the Electric Bell Furnaces for annealing purposes are not mentioned in the above listed PIUs categories, however in view of the observations made above, particularly due to fact that level of harmonics generated by it are much higher, the Electric Bell Furnaces for annealing installed at M/s. Singhania International Limited industry should also be considered as Power Intensive Unit (PIU).”</i></b></p>
------------	---



26.06.2019	The State Commission passed the impugned order.
------------	---

6. The final decision of the Commission as contained in the impugned order is extracted hereinbelow: -

- “1. The Commission's interim Order dated 27.11.2017 stating that the notice issued vide memo No. 802 dated 31.05.2017 by PSPCL is not in order, is confirmed. As such, the notice issued is set aside.*
- 2. In view of the findings/recommendations of Administrative Staff College of India (ASCI, Hyderabad), all Electric Bell Furnaces for Annealing including that of the petitioner shall be considered as Power Intensive Unit (PIU), with effect from the date of issue of this Order.*
- 3. PSPCL is also directed not to charge any industry as PIU which is not included in the list of declared PIU industries. However, as the technology is changing fast, there may be some new/existing Large Supply Industrial connection applicants/ consumers whose process/technology may be similar to PIU but with different name than that declared as PIU by the*

*Commission. Licensee may file petition with the Commission to include such processes under PIU category. Such industries shall be charged general tariff with the undertaking from the applicant that it will be charged applicable tariff from the date of release of connection / extension in load as per the decision of the Commission in this regard.*

*The petition is disposed off accordingly.”*

7. Thus, the Commission declared the 2<sup>nd</sup> respondent as a PIU but with effect from the date of the impugned order and accordingly disallowed the appellant from recovering differential tariff between PIU tariff and General Category tariff from the 2<sup>nd</sup> respondent for the past period.

8. We have heard learned counsel for the appellant and learned counsel for the 2<sup>nd</sup> respondent. We have also perused the impinged order, pleadings of the parties and written submissions filed by appellant's counsel.

9. Learned counsel for the appellant submitted that the 2<sup>nd</sup> respondent was categorized as PIU as early as in February, 2016 while granting approval to it as a continuous process industry, and since the 2<sup>nd</sup> respondent did not

challenge such approval, and in fact, took benefit of the same, it is now precluded to challenge its categorization as PIU with effect from February, 2016. It is the submission of the learned counsel that in these facts and circumstances of the case, revision of bill in the name of 2<sup>nd</sup> respondent with retrospective effect is legally valid. He would submit that the revision in tariff for 2<sup>nd</sup> respondent became necessary upon discovery that the load of 2<sup>nd</sup> respondent has been categorized as PIU but it came to be erroneously billed under the General Industrial Tariff Category. Relying on the judgment of Hon'ble Delhi High Court in Jingle Bell Amusement Park P. Ltd. v. North Delhi Power Limited 2011 SCC OnLine DL1808, learned counsel submitted that escaped billing due to inadvertent error or misclassification can be retrospectively recovered.

10. It is further argued by the learned counsel that the Commission has wrongly opined that the appellant has to approach it for approval of including any industry under PIU Category and in this regard referred to clause 4.4 of PSERC (Supply Code) Regulations, 2014. According to the learned counsel, in view of the said clause of 2014 Regulations, there is no requirement for the

appellant to get approval of the Commission for classifying or reclassifying any consumer in any tariff category. He argued that the said Regulation is binding on the Commission as these have the force of law and the impugned order reflects breach of these Regulations on the part of the Commission.

11. On the contrary, learned counsel for the 2<sup>nd</sup> respondent entirely supported the impugned order of the Commission saying that it does not suffer from any error or legal infirmity.

**Our Analysis:**

12. We find that the controversy involved in this appeal revolves around the correct interpretation of clause 4.4 of the PSERC (Supply Code) Regulations, 2014 which is quoted hereinbelow: -

*“Distribution licensee shall classify and re-classify consumers into various tariff categories from time to time as approved by the Commission. No additional category other than approved by the Commission shall be created by the distribution licensee.”*

13. This provision in the Regulation empowers a distribution licensee to classify or reclassify a consumer into appropriate tariff category in order to ensure accurate and fair categorization based on consumer load and operational characteristics. It appears that the Commission has interpreted the said clause of the PSERC Regulations, 2014 as providing that for classifying / reclassifying a consumer into a tariff category, the distribution licensee has to seek approval from the Commission. We are unable to accept such interpretation of the said clause.

14. It is manifest from the bare reading of said clause that the words “as approved by the Commission” relate to the tariff categories and not to the words “classify” and “reclassify”. The literal and meaningful interpretation of the said clause would be that a distribution licensee has been permitted to classify / reclassify consumers into various tariff categories which have been approved by the Commission. This becomes clear from the second sentence of the clause which states that the distribution licensee shall not create any additional tariff category other than that approved by the Commission. So, it is only the creation of any additional tariff category of consumers which would

require approval of the commission and not the classification / reclassification of the consumers into various tariff categories already approved by the Commission.

15. Our interpretation of the said clause 4.4 of PSERC (Supply Code) Regulation 2014 is fortified by the judgment of Hon'ble Bombay High Court in Bharat Sanchar Nigam Limited v. Maharashtra State Electricity Distribution Company Limited and Anr 2024 SCC OnLine 1105. In that case, the court was interpreting Regulation 13 of Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations 2005, which is *para materia* with clause 4.4 of PSERC (Supply Code) Regulations, 2014. It was held in that case as under: -

*"16. Regulation No.13 of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulation, 2005 specifies that the Distribution Licensee may classify or reclassify a consumer into various Commission approved tariff categories based on the purpose of usage of supply by such consumer. In the*

*instant case, the MERC has approved introduction of new category HT-II commercial and therefore, Respondent No.1 is justified in charging the Petitioner under the said new category based on the purpose of usage of supply by the Petitioner. What is required to be approved by the Respondent No. 1 from MERC is "tariff" under each category. Thereafter which consumer falls under which category is left exclusively to the Respondent No. 1."*

16. Thus, it is for the distribution licensee to classify or reclassify consumers into various tariff categories already approved by the Commission and such classification / reclassification of consumers does not need approval of the Commission.

17. In the impugned order, the Commission has arrived at a definite finding that the electric furnaces in the factory of the 2<sup>nd</sup> respondent shall be considered as PIU. In fact, the same had been classified as PIU by the appellant in the letter dated 05.02.2016 vide which sanctioned load of the 2<sup>nd</sup> respondent was enhanced from 490kW to 1190kW. It appears that despite

being categorized as PIU, the appellant continued to bill the 2<sup>nd</sup> respondent under the General Industrial Tariff Category and error in this regard was discovered later on based on which the revised bill was issued to the 2<sup>nd</sup> respondent vide notice No.802 dated 31.05.2017, which had been assailed by the 2<sup>nd</sup> respondent before the Commission. It is well settled principle that escaped billing due to inadvertent errors or misclassification can be retrospectively recovered (in view of the judgment of Delhi High Court in Jingle Bell case supra). In that case, it was emphasized that the retrospective recovery of dues does not violate principle of equity provided that the billing reflects actual consumption or load characteristics.

18. In the instant case, it is manifest that the revised bills issued vide notice no.802 dated 31.05.2017 to the 2<sup>nd</sup> respondent reflect the actual consumption and actual load characteristics as well as the actual tariff category and therefore, does not suffer from any legal lacuna, even though it relates to past period also.

19. Hence, we are unable to sustain the impugned order in so far as it states that the 2<sup>nd</sup> respondent shall be considered as PIU with effect from the date



of issue of the order and has disallowed the Appellant from recovering the differential of tariff for the past period. We hold and clarify that the 2<sup>nd</sup> respondent shall be considered as PIU with effect from 05.02.2016 i.e. the date on which it was categorized as PIU by the appellant. Consequently, no legal lacuna is found in the revised bill issued by the appellant to the 2<sup>nd</sup> respondent vide notice no.802 dated 31.05.2017. The appellant is entitled to the amount reflected in the same. The 2<sup>nd</sup> respondent shall now clear the outstanding amount reflected in the said notice within one month from the date of this judgement.

20. Accordingly, the impugned order stands set aside and the Appeal stands allowed to the extent indicated herein above.

Pronounced in open court on this the 21<sup>st</sup> day of February, 2025

(Virender Bhat)  
Judicial Member

(Sandesh Kumar Sharma)  
Technical Member (Electricity)

√  
*REPORTABLE / NON-REPORTABLE*

*tp*