

**BEFORE THE ELECTRICITY OMBUDSMAN**  
**(For the State of Goa and Union Territories)**  
**Under Section 42 (6) of the Electricity Act, 2003**  
**3<sup>rd</sup> Floor, Plot No. 55-56, Udyog Vihar - Phase IV, Sector 18,**  
**Gurugram (Haryana) 122015,**  
**Phone No.:0124-4684708, Email ID: [ombudsman.jercuts@gov.in](mailto:ombudsman.jercuts@gov.in)**

**Appeal No.164 of 2022**

**Date of hearing: 13.06.2022**

**Date of Order: 16.06.2022**

Shri Bhartendu Sood  
Chandigarh

**.... Appellant**

**Versus**

The Superintending Engineer,  
Electricity Department,  
Chandigarh and others

**.... Respondents**

**Parties present:**

Appellant(s)

1. Shri Bhartendu Sood

Respondent(s)

1. Shri Rohit Kumar Sekhri  
Executive Engineer
2. Shri Arvind Yadav  
Assistant Engineer



**Date of Order: 16.06.2022**

The Appellant has preferred an Appeal against the order of the Learned CGRF- Chandigarh in C-143/2022 dated-17.02.2022. The Appeal was admitted on 23.05.2022 as Appeal No.164 of 2022. Copy of the Appeal as received was forwarded to the Respondents with a direction to submit their remarks/ counter reply on each of the points. A copy of counter reply was supplied to the Appellant.

**Settlement by Mutual Agreement**

Both the parties appeared before the Electricity Ombudsman in hearing at Chandigarh, as scheduled on 13.06.2022 and were heard. Efforts were made to reach a settlement between the parties through the process of conciliation and mediation. However, no settlement mutually agreeable could be reached. The hearing therefore, continued to provide reasonable opportunity to both the parties to put forth their pleading on the matter.

**(A) Submissions by the Appellant:**

**Appellant submitted the brief facts as under: -**

**1. FACTS OF THE CASE**

- 1) I, a Senior Citizen, age 70, paid the October 2021 Bill for Rs.2957 online on 22.10.2021 from my SBI account No 65005856735 which otherwise was due on 28.10.2021.
- 2) Transaction was successful as there was no revert of money paid within 48 hours.
- 3) However on 27.10.2021 I received the Refund of this amount of Rs. 2957 in my above referred account. In this situation, I thought that the Electricity Department had made a refund on account of some prior adjustments or tariff changes etc.
- 4) It was on 5<sup>th</sup> November, when I casually checked the E-Sampark site that I came to know that Bill with surcharge was standing against my name and immediately I wrote to e-Sampark with a copy to Executive Engineer. E-mail address: - [chairmancgrf@gmail.com](mailto:chairmancgrf@gmail.com).
- 5) In his response dated 12.11.2021, he admitted that for any unsuccessful transaction the money paid online comes back to the payee's account within 48 hours which was clearly not the case here. Though he admitted that the deficiency in service had occurred at his end, but, he went on to suggest that I should have made a second attempt.
- 6) I replied back on 12<sup>th</sup> November itself that instead of expecting the client to make another attempt, he should investigate at his end why the deficiency in service had occurred. Further, why the CONSUMER should be expected to over perform his duties and move an extra mile for deficient service at the SERVICE PROVIDER's end, which was not fair, just and pro-consumer.

7) DECISION of the Consumer Grievance Redressal Forum is that since the refund had reflected in Consumer's Bank account on 27.10.2021 and the last date was 28.10.2021, he could have made another attempt.

8) Ground to agitate the decision of the Forum:-

It is evident that the Forum is not interested in investigating the deficiency that occurred at their own end, though it admits that deficiency had occurred. Refund was made after 120 hours, whereas if the transaction is not successful, the money returns back to the payee's account within 48 hours. Clearly it is a case of deficient service at the SERVICE Provider's end for which he should bear the penalty but he is passing on the buck to the Consumer by saying that he could have made another attempt.

9) Prayer:-

(1) In line with the well settled principles when the Service provider is at fault and had indulged in the act of deficient service he should be penalized and the CONSUMER should be compensated for the mental agony he underwent because of the Service Provider's act of deficient service.

(2) The surcharge of Rs 112/- levied on the Consumer should be withdrawn as his intentions were to make the payment much before the due date and he acted accordingly. He can't be faulted if the deficient service occurred at the Service provider's end.

**(B) Submissions by the Respondents:**

Shri Rohit Kumar Sekhri, Executive Engineer on behalf Respondents/Electricity Department-Chandigarh, submitted the counter reply as under: -

1. That the deponent is working as Executive Engineer, *Electy. 'OP' Divn. No. 4* and is authorized by the Electricity Wing of Engineering Department, UT, Chandigarh, being Deemed Licensee vide letter No.8539 dated: 29.10.2010 to file the reply and represent on behalf of Electricity Wing of Engineering Department, UT, Chd. in the present case of Sh. Bhartendu Sood v/s S.E., *Electy. 'OP' Circle, UT, Chd.* and others.
2. That the deponent is filing the counter reply point wise in the present appeal which is as under:-
  - (i) That in reply to para no 1, as per record of this office, the electricity connection of house No. 231 Sector 45 exists in the name of Smt. Poonam Singh bearing electricity account no 4541/023100Q, meter no. CHEP70199 for sanctioned load of 6.600 KW under DS category. Rest of the para is denied for want of knowledge.
  - (ii) That the contents of para no 2 are denied for want of knowledge. However, the online payment of Rs.2957.00 made by the Appellant on dated 22.10.2021 is not shown in the payment statement downloaded from the website of E-Sampark Centre.



- (iii) That the contents of para no. 3 are denied for want of knowledge. It is further submitted that as per payment record of the above said electricity account which is available on the website of E-Sampark center, the consumer has not made payment of the electricity bill for the period 20.06.2021 to 20.08.2021 amounting to Rs.2957/- which was due on 28.10.2021 and the payment made as claimed by the consumer on dated: 22.10.2021 is not shown in the payment statement. It is matter of investigation for finding the reason of rejection of payment made by the applicant on dated: 22.10.2021 and the same may kindly be asked from the E-Sampark center, Axis Bank and applicants' bank.
- (iv) That the Appellant has admitted in para no. 3 that the refund of Rs. 2957.00 was received back in his bank account on dated 27.10.2021 due to failure of the payment made by the appellant on dated 22.10.2021 against the electricity bill which was pertaining to the period 20.06.21 to 20.08.21. Due to failure of the payment dated 22.10.21, the electricity bill in question with surcharge reflected online on the E-Sampark App.
- (v) That it is admitted record that the appellant had filed the complaint dated 27.12.21 before the Hon'ble CGRF vide complaint No. C-143/2021 and the respondents had filed the reply before the Hon'ble CGRF vide Memo No. 270 dated 12.01.2022. Finally the Hon'ble CGRF vide order dated 17.02.2022, had decided the case against the appellant with the directions that **“money was refunded back by the SBI on dated 27.10.21 i.e. one day before the last date of the depositing electricity bill which was 28.10.2021. So, no benefit of waiving off of surcharge can be given to the appellant as the appellant had enough time to deposit the bill before last date i.e. 28.10.2021.”** The photocopy of complaint dated 25.12.21 filed by the appellant, reply of the respondent submitted before the Hon'ble CGRF, Copy of decision dated 17.02.2022 passed by the Hon'ble CGRF are attached herewith as Annexure R-1 to R-3.
- (vi) That in reply to para No. 6, it is submitted that as per payment record of the electricity account of the appellant which is available on the website of E-Sampark Center, the appellant has not made the payment of the electricity bill for the period 20.06.2021 to 20.08.2021 amounting to Rs. 2957/- which was due on 28.10.2021 and the payment made as claimed by the appellant on dated 22.10.2021 through online mode is not showing in the payment statement. Hence, as per rules and regulation notified by the Hon'ble JERC, late payment surcharge is leviable from the consumer if the payment of the electricity bill is not received by the department within due date.

### **Ground to agitate the decision of the Forum**

That it is a matter of investigation for finding the reason of decline of the payment of Rs. 2957/- made by the appellant on dated 22.10.21 and refund was made to the appellant after 120 hours by the



appellant's bank. It may be asked from the E-Sampark center, Axis bank and appellant's bank for finding the deficiency in service in the present case.

It is therefore, respectfully prayed that the present appeal may kindly be dismissed in view of the above stated facts please.

**(C) CGRF- Chandigarh Order in C-143/2022 dated-17.02.2022, preferred for Appeal:**

(i) Ld. CGRF-Chandigarh has passed the following order in the complaint no-C-143/2022 dated-17.02.2022: -

**Order**

**“Proceedings of Hearing/ Decision.**

1. The hearing in the case was fixed for 08.02.2022. The case was adjourned for the next date of hearing. The next date of hearing was fixed for 17.02.2022. The case was heard in detail. Sh. Varinder Kumar, RA appeared on behalf of CED and Sh. Bhartendu Sood himself talked on phone call as he was not able to come to Forum physically. As per reply submitted by CED and statement of SBI submitted by complainant it is clear that money was refunded back by SBI on 27.10.2021 i.e. one day before the last date of depositing electricity bill, which was 28.10.2021. So no benefit of waiving off of surcharge can be given to complainant as the complainant had enough time to deposit bill before last date i.e. 28.10.2021. So the case is closed.

**Decision**

2. The case is closed with above observation / directions and the Complainant, if aggrieved, by non-redressal of his grievance by the Forum may make a representation/appeal against this order, before the Electricity Ombudsman for JERC for the State of Goa and UTs, within one month from the date of receipt of this order.”

**(D) Deliberations during hearing on 13.06.2022:**

**Appellant's Submission:**

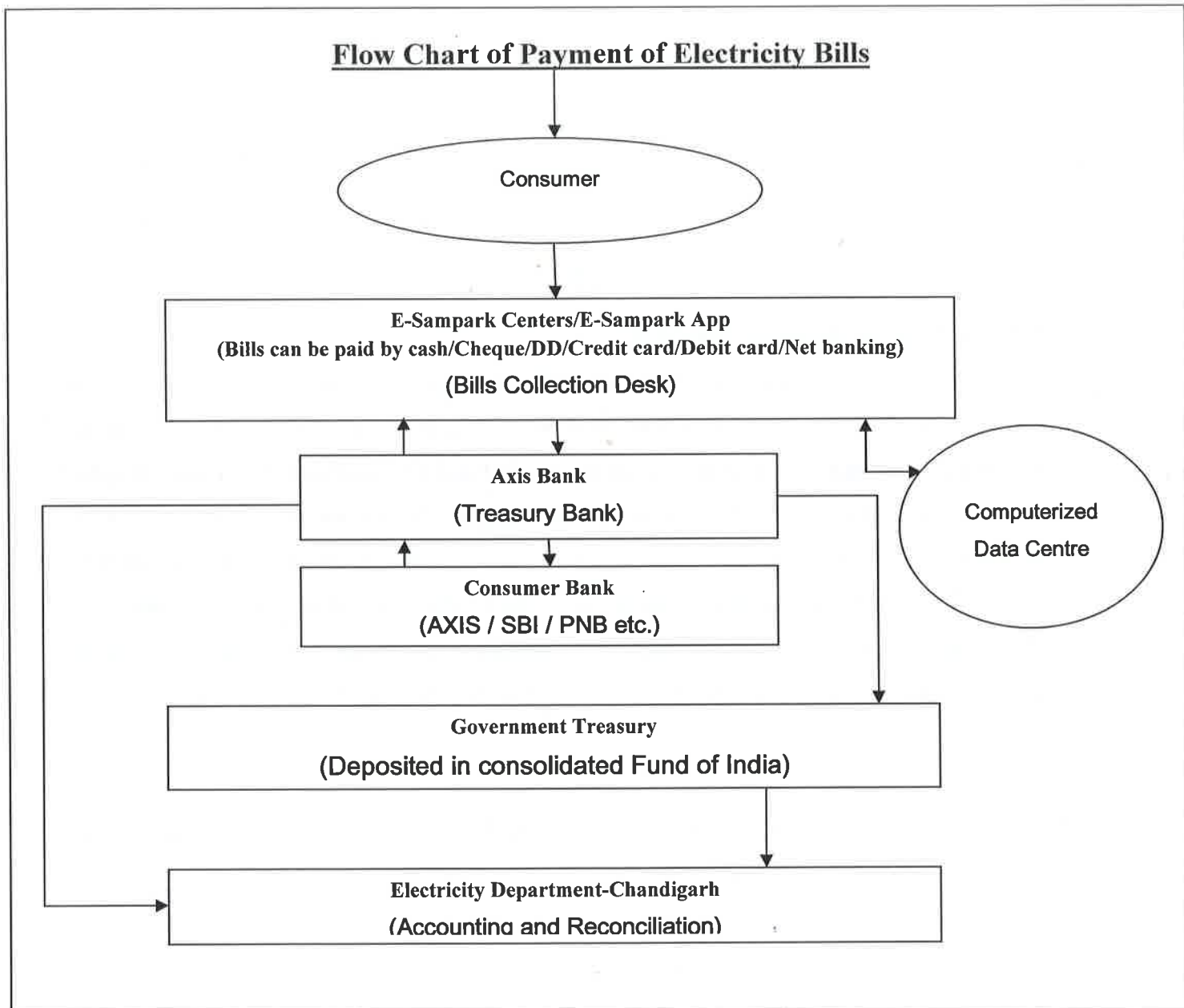
- a. Shri Bhartendu Sood-Appellant reiterated his version as submitted in the Appeal and Rejoinder.
- b. He further submitted there is deficiency on the part of service provider and accordingly surcharge be refunded and compensation be awarded.
- c. He further clarified that the CGRF decision was conveyed to him vide CGRF letter-272-74 dated-15.03.2022 received by him on 20.03.2022 and he has appealed the order on 14.04.2022, so there is no delay.

**Respondent's Submission:**





- a. Sh. Rohit Kumar Sekhri-Executive Engineer, reiterated his version as submitted in reply to the appeal.
- b. On being asked to explain the process/flow chart regarding payment of bills in Chandigarh. He explained the flow chart as under: -



**(E) Findings & Analysis: -**

1. I have perused the documents on record, CGRF orders and pleadings of the parties.
2. The documents submitted by the parties have been believed to be true and if any party submitted a fake/forged document, and then they are liable to be prosecuted under relevant Indian Penal Code/Rules/Regulations.
3. The issues which have arisen for considerations in the present Appeal are as under: -

*[Handwritten Signature]*

- i. Whether the Appellant is entitled to refund/compensation for charging late payment surcharge of the bill for the period 20.06.2021 to 20.08.2021 as claimed?
  - ii. Whether the present agreement with Electricity Department is valid?
4. Regarding issue no 3(i) as above, as whether the Appellant is entitled to refund/compensation for charging late payment surcharge of bill for the period 20.06.2021 to 20.08.2021 as claimed?

(a) Following provisions have been provided in the Supply Code Regulations, 2018, notified by the Hon'ble Commission: -

### **Payment of Bills**

7.30 *Consumer may pay the bill by cash (up to Rs. 5,000), Cheque, Demand Draft or Debit / Credit Card, banker's cheque, Electronic Clearing System, net banking, drop boxes, etc. Cheques and Demand Drafts shall be payable at any branch of a scheduled commercial bank that is a member of the clearing house for the area where the concerned Sub Divisional Office is located. The date of depositing of the cheque by the consumer shall be deemed to be the date on which the payment is received in the Licensee's account.*

7.31 *The payment may be made*

- (1) *In person at the designated collection offices of the Licensee during specified times; or*
- (2) *By post or courier; or*
- (3) *by deposit in the drop-boxes maintained by the Licensee at designated locations; or*
- (4) *By bank transfer through the internet; or*
- (5) *By any other scheme accepted by the Licensee for acceptance of bill payment.*

7.32 *The Licensee shall establish sufficient number of collections centres at suitable locations with necessary facilities where consumer can deposit the bill amount with ease and without undue congestion. Wherever necessary, separate collection counter should be provided for senior citizens, physically challenged person and women, preferably at the ground floor.*

7.33 *The Licensee may issue a disconnection notice in writing, as per Section 56 of the Act, to any consumer who defaults on his payment of dues, after giving him a notice period of 15 clear days to pay the dues.*

***In case a cheque is dishonoured, the Licensee shall inform the consumer and require him to pay the bill within 7 days in cash. The consumer shall be liable to pay the late payment surcharge, as applicable, as well as a charge on account of the dishonour of the cheque/non-realization of the draft. If there are two instances of dishonour of cheques/draft of a consumer in a financial year, the consumer shall be required to make all payments through net banking till the end of the following financial year. In addition, the Licensee may have the option to initiate action against the consumer as per the legal provisions of the Negotiable Instruments Act.***

- 7.34 In addition to the mode of payments specified in Regulation 0 of this Supply Code, 2018, the Licensee may notify schemes for acceptance of bill payment through Electronic Clearing System or at designated counters of a bank or through credit/debit cards or through any other means in a specified area and/or for a specified category of consumers, after due notice is given to consumers. However, any change in the mode of payment shall be consumer friendly.
- 7.35 Where the due date indicated for payment on the bill falls on a Sunday or a public holiday, the payment shall become due on the next working day.

### Receipt of bill payment

- 7.36 Receipt shall be given to the consumer for payment of bills made in person. In all cases, payments shall be acknowledged in the next bill.

### Late Payment Surcharge

- 7.38 Surcharge for delayed payment shall be levied as per the prevailing Tariff Order.

- (b) Following instructions have been printed on the Electricity bill for the period 20.06.2021 to 20.08.2021:-

<b>Chandigarh Electricity Department</b> <b>Bill-Cum-Notice</b>	
Due date by Cash	28.10.2021
Due date by Cheque / P.O/ D.D. / Credit/Debit Card	26.10.2021

Further following instructions here been printed on the back page of the bill cum Notice.

### Directions relating to the payment of Electricity Bill

7. "The payment of electricity bill can also be paid online through Debit Card/ Credit Card, Net Banking. For any inconvenience during paying bill online, consumer can contact toll free number 1800-180-1725 during 08:00 AM to 08:00 PM and also contact at e-mail ID sampark.epayment@gmail.com

9. If payments are made by Cheque, the receipt will be considered as provisional until the cheque is encashed. Further, if the cheque of the consumer gets bounced, his bill amount will not be accepted by the cheque for one year."

- (c) As deliberated by the Respondents in the hearing at Chandigarh, according to the Flow chart for payment of bills, the Appellant has paid the bill through e-Sampark App and accordingly a receipt was generated by the App. Sampark Centre/ Bill Collection Desk forwarded the transaction details to the Treasury bank (Axis Bank) for realization of payment. The Axis bank forwarded the transaction details to the consumer bank (SBI in this case as per consumer) who in turn did not clear the transaction to Axis Bank within the timelines fixed by the Reserve Bank of India. Accordingly, a reverse entry of the payment was made in the Computerized Data Centre.

The payment through all instruments like Cheque/Draft/Credit Card/Debit Card etc. except the cash are subject to realization. That is why, the due dates for payment through these instruments were kept as 26.10.2021, i.e. few days earlier than the due date of payment by cash (28.10.2021 in this case). This makes it abundantly clear that all such digital payments





are subject to realization. Therefore, it is incumbent upon the Appellant to watch for all payments made through such instruments like Cheque/Draft/Credit Card/Debit Card etc to ascertain whether the payments are made in time or not. There is no deficiency on the part of the Electricity Department and the onus lies with the Appellant to ensure that his payment reaches the Electricity Department well before the due date, through whatsoever mode of payment (except cash) he wishes to choose.

- (d) In my considered opinion the Electricity Department -Chandigarh has followed the said provisions of the Regulations and in view of the above discussions, I do not find any merit in the contention of the Appellant.

5. Regarding issue no 3(ii) as above, as whether the present agreement with Electricity Department is valid?

- (a) The Appellant has admitted that meter is in the name of Poonam Singh, as she is the owner of the house on papers and he had purchased the dwelling on Power of attorney and his case for transfer is under the process. Since 1995, he has been making all payments to the Electricity department.
- (b) Following provisions have been provided in the Supply Code Regulations, 2018, notified by the Hon'ble Commission: -

**“Transfer of Connection**

5.85 *The consumer shall not without prior consent in writing of the Distribution Licensee assign, transfer or part with the benefit of the Agreement executed with the Distribution Licensee nor shall part with or create any partial or separate interest there under in any manner.*

5.86 *A connection may be transferred in the name of another person upon death of the consumer or in case of transfer of the ownership or occupancy of the premises, upon filing an application form in the prescribed format given in either **Annexure IV or V** (as applicable) for change of name by the new owner or occupier:*

*Provided that such change of name shall not entitle the applicant to require shifting of the connection from the present location.*

5.87 *The Licensee shall deal with applications relating to change of consumer's name due to change in ownership/occupancy of property in accordance with the procedure detailed below.*

(1) *The applicant shall apply for change of consumer's name in the format prescribed in **Annexure IV** to this Supply Code, 2018, along with a copy of the latest bill duly paid. The request for transfer of connection shall not be accepted unless all dues recoverable against the concerned connection are settled. The application form shall be accepted on showing proof of ownership/occupancy of property. A “No Objection Certificate” from the registered consumer/ authorized person/ previous occupant of the premises shall be required for cases involving transfer of security deposit in the name of applicant. The Licensee shall process the application form in accordance with Regulations of this Supply Code, 2018.*

(2) *In case the No Objection Certificate from the registered consumer/ authorized person / previous occupant is not submitted, an application form for change of name shall be entertained only if security deposit as stipulated in this Supply Code, 2018 is paid afresh. However, the original security deposit shall be refunded to the claimant as and when a claim is preferred by the concerned person.*

(3) *Change of consumer's name shall be in effect within two billing cycles after acceptance of*

application form.

5.88 The Licensee shall deal with applications relating to transfer of consumer's name to legal heir in accordance with the procedure detailed below:.....

(c). Hon'ble Delhi High Court in *Tata Power Delhi Distribution vs. Neeraj Gulati* has observed as under in para-18, which is reproduced as under: -

"18. It appears that the petitioner therein relied upon the judgment of the Supreme Court in the case of *Isha Marbles case v. Bihar State electricity Board* (1995) 2 SCC 618. The Division Bench insofar as *Isha Marbles (supra)* is concerned, was of the view that in the said decision the facts were the previous owner of the premises in question had mortgaged/hypothecated the premises to secure a loan from the State Financial Corporation. Since the loan was not repaid, the property was auctioned/sold under Section 29 of the State Financial Corporation Act. The auction purchaser applied for reconnecting of the electricity supply to the premises, which had been disconnected for nonpayment of dues by the previous owner. The question arose, whether the auction purchaser had to pay the electricity dues of the previous owner to get restoration of the electricity connection. **The Supreme Court held that the Electricity Board had no charge over the property and the Board could not seek enforcement of the contractual liability against the third party.** The Division Bench also held that the aforesaid view of *Isha Marbles (supra)* was repeated by the Supreme Court in *Ahmadabad Electricity Company Ltd. (supra)*."

(c) In view of above discussions, I am of the considered view that since the Appellant has purchased the premises in 1995, he should have got the electricity connection transferred in his name, rather than consuming the electricity in the name of a third party. The present agreement has become null and void.

## **(F) DECISION**

- (i) For the reasons discussed above, the appeal of the Appellant is dismissed being devoid of merit.
- (ii) The order in Complaint No-C-143/2022 dated-17.02.2022 passed by Learned CGRF-Chandigarh is upheld.
- (iii) Since the existing agreement has become null and void, the Electricity Department-Chandigarh/Deemed Distribution Licensee is directed to issue notice to the Appellant to get the existing connection transferred in his name within 30 days. If the Appellant fails to file an application as per Supply Code Regulations-2018, this electricity connection be disconnected and action be taken to recover the pending dues. If Appellant applies for Transfer of connection/Change of name or a new connection as Owner/Occupier as per provisions of Supply Code Regulations-2018, the same be expedited as per said Regulations.
- (iv) In case, the Appellant or the Respondents are not satisfied with the above decision, they are at liberty to seek appropriate remedy against this order from the appropriate bodies in accordance with Regulation 37(7) of the Joint Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2019.



- (v) The Electricity Department/Licensee should submit a compliance report to the office of Electricity Ombudsman on the action taken in this regard within **45 days** from the issuance of this Order by email.
- (vi) The appeal is disposed of accordingly.



16/06/22

(M.P. Singh Wasal)  
Electricity Ombudsman  
For Goa & UTs (except Delhi)

Dated 16.06.2022

