BEFORE THE ELECTRICITY OMBUDSMAN, HARYANA
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(Regd. Post)

Appeal No. : 24 of 2025
Registered on : 02.06.2025
Date of Order : 25.09.2025

In the matter of: -

Appeal against the order dated 21.05.2025 passed by CGRF, DHBVN Gurugram in case No 4849/2025 – M/s Aura Residents Welfare Association ("RWA") Gurugram – 122017.

Aura Residents Welfare Association ("RWA") (Through its President Mr. S. S. Gill) Mahindra Aura, Sector -110A, New Palam Vihar – III,Gurugram 122017

Appellant

Versus

1. The XEN/OP, City Division, DHBVN, Gurugram
2. SDO, Op. Sub Division, New Palam Vihar, DHBVN

Respondent

Before:
Shri Rakesh Kumar Khanna, Electricity Ombudsman

Present on behalf of Appellant:
Shri S.S. Gill, Appellant
Shri Atul Goyal, Advocate
Shri Varun Goyal, Advocate

Present on behalf of Respondents:
Shri Vikram Singh, SDO
Shri Raghav Kakkar, Advocate
Shri Shivpartap Singh Thakur, Advocate
Shri Shubhkaran Singh, Advocate
Shri Mani, Advocate

ORDER

A. Aura Residents Welfare Association has filed an appeal against the order dated 21.05.2025 passed by CGRF, DHBVNL, Gurugram in case No. 4849 of 2025. The appellant has submitted as under:

1. That the Appellant is filing this appeal/complaint against the Respondents U/s 111 read with section 42 of the Electricity Act, 2003 against the impugned order passed by the Hon'ble Consumer Grievance, Dakshin Haryana Bijli Vitran Nigam Limited, HETRI, Sector -16, IDC Area, Gurugram -122 016, dated 21st May, 2025 (A copy of which is also enclosed and marked as ANNEXURE A-1) without hearing the matter on merits. Rather, the next date given in the matter to the appellant was 28th May, 2025, whereas the matter has been decided on 21.05.2025. Furthermore, after 09.05.2025 no proceedings were undertaken and yet the reply from respondent no.2 to 4 were taken on 19.05.2025 and the impugned order was passed on 21.05.2025, without affording an opportunity of raising any oral arguments. The aforesaid Order is passed against the principle of natural justice and without following the prescribed process for providing the opportunities to

hear and even without recording the reasons of passing the order in hurry and closing the case on the simple ground that Mr. Rajesh Kumar Arora is not a customer of DHBVN and hence have no locus standi whereas the application on which the impugned orders are passed, was under section 94 of the Electricity Act, 2003 that too on behalf of the AURA Residential Welfare Association through its General Secretary Mr. Rajesh Arora and not in his individual capacity.

2. That the AURA Residential Welfare Association is a society registered under relevant provision of Society Registration Act, 1860 with the Deputy Registrar, Firms & Societies, Gurugram as a non-profit organization and acting through its President and/ or General Secretary pursuant to Section 77 of the Haryana Registration & Regulation of Societies Act, 2012 (HRRS Act) and rules made thereunder. That copy of certificate issued by Department of Industries & Commerce, Haryana dated 13.09.2024 thereby approving the list of Governing body of Society is being annexed herewith as ANNEXURE A-2.

3. That the Appellant is filing this appeal against the Respondents to invoke your Powers to remove difficulties and revoke the order passed by the CGRF, Gurugram dated 21.05.2025. The Society has an electricity connection vide Account No. 1042311000 under HERC Single Point Supply Regulations, having 4000 KW which of course is in the name of Mahindra Lifespace Developer Limited (MLDL/Developer) who after selling out all the flats and incorporation of the AURA, handed over the project to AURA RWA on 31.12.2017 itself. A copy of the handing over of all the documents by Mahindra Lifespace Developers Ltd. to AURA RWA is enclosed and marked as ANNEXURE A-3 to this appeal. The Appellant is the successor in interest to the Developer and has stepped into his shoes. Respondent No. 2 has been accepting all payment made by AURA RWA and hence fully aware that it is RWA which is the customer now. Hence, the objection raised by the Respondents as well as the basis on which the CGRG, Gurugram have passed the impugned order stands nullified.

4. That the Society has an electricity connection vide Account No. 1042311000 under HERC Single Point Supply Regulations, having 4000 KW under NDS (Non-Domestic Supply) category.

5. That the DHBVN through its SDO (OP), New Palam Vihar, Gurugram sent a Demand Notice vide Memo No. 4245 dated 12.12.2024 for Rs. 2,03,43,858/- for charging of NDS Load as per Sales Circular No D-17/2020 dated 16.08.2022, Clause No – 6(VIII) and D-4/2013 dated 19.01.2013 & D-44/2014 dated 14.11.2014, which has subsequently withdrawn by Office Memo No. 4524 dated 24.01.2025 and vide Memo No. 4541 dated 28.01.2025, a new Demand Notice of Rs. 47,89,641/- has been raised. Copy of Notice dated 28.01.2025 along-with calculation sheet supplied with the

notice is being annexed herewith as ANNEXURE A-4. The notice dated 28.01.2025 was issued to M/s Mahindra AURA for NDS Load mentioning that 104 KW NDS Load & 139 Common Aera Load and calculation is given with the aforesaid Memo since 05.09.2016 onward, which is unlawful pursuant to Section 56(2) of the Electricity Act, 2003 reproduced hereunder for ready reference:-

Section 56 (2): Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.

Further, a perusal of impugned Demand Notice would show that it is mentioned that the premises of the appellant was checked by checking team vide LL-1 no. 24328/17 dated 27.11.2024 and on the basis of the same the alleged demand of Rs. 47,89,641/- has been raised.

6. That further, kind attention of the Hon'ble Commission is drawn on Sales Circular No. D-45/2023 dated 10.09.2013 para (iii) reproduced hereunder for your ready reference:-

(iii) The arrears of electricity charges should be regularly and continually indicated in the bills. It may be clarified that under the EA 2003 Section 56 state that no sum due from any customer, shall be recoverable after a period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrears of charges for electricity supplied.

7. That it is pertinent to mention that no amount was shown as outstanding in the last one years' bills for NDS load at all for AURA. Secondly, as far as NDS Load for shops are concerned, the AURA RWA has no problem of DHBVN charging on commercial rate, however the same should not be more than two years as the ownership of those shops have been changed many times by now. As far as Club is concerned, time and again, AURA RWA kept on explaining to the DHBVN Officials that the same is nothing but a Recreation Centre/Community Centre for the Residents of AURA Complex and AURA RWA is not charging any amount from the residents for its usage except for maintenance charges.

8. That the case of the respondent authorities is that upon inspection some alleged unauthorized use of electricity was found at the spot. In-fact inspection dated 27.11.2024 is the entire basis for the impugned notice and in case if any such unauthorised use of electricity is alleged to have been found then in such eventuality the detailed procedure as prescribed under section 126 of Electricity Act, 2003 was bound to be followed, wherein firstly

an assessment notice has to be issued showing the nature of violation and thereafter the consumer is afforded an opportunity to file a reply and upon giving an opportunity of hearing, they are bound to pass a final order. Whereas in the present case no such procedure has been followed and straightaway an amount of Rs. 47,89,641/- has been demanded from the Society with a further direction to deposit the same within 15 days, otherwise to face the consequences of disconnection of electricity.

Even bare perusal of the said alleged checking report the allegation raised by the respondent is totally false. In the said checking report dated 27.11.2025, one club house is mention which is using 51 KW which is totally wrong. There is no such club available is the society but there is community building which is being used for the residents of society but no such commercial activity is being used there in. Apart from this it also pertinent to mention here that there is 40 Kw solar panel installed on the said community complex which itself is sufficient to fulfil the electricity requirement of same. The same are also attached with Annexure A-4.

A part from the said fact is also mentioned in the said checking report that 25 KW load is also shown to EV charges and the charges have been included for EV charging stations and that too from the year 2016 onwards which is totally incorrect. The contract with the Sharify Services Pvt. Ltd. and Mahindra Aura Residential Welfare Association was taken place on 25.07.2022. In fact those charges station even never energized because such contract with the Sharify Services Pvt. Ltd. and Mahindra Aura Residential Welfare Association was never fulfilled.

9. That further a bare perusal of impugned notice would show that no opportunity of any reply or personal hearing was afforded to the Society in any manner. Rather a straight order has been passed and now even the connection has been disconnected.

10. That it is also a matter of record that the impugned notice nowhere states any kind of violation which has been carried out by the appellant Society. No details of any such violation are forthcoming from the impugned Demand Notice.

11. That the Appellant RWA, aggrieved by the aforesaid demand letter, again met the concerned official and submitted a letter dated 4th February, 2025 for re-assessment of the Facilities of Mahindra AURA Complex. A copy of the letter dated 04.02.2025 is enclosed and marked as ANNEXURE A-5.

12. But, despite requests and a personal visit, no one from DHBVN visited our premises to carry out re-assessment.

13. That the Appellant RWA was shocked to see the DHBVNL Electricity Bill for the month of February, 2025 on 9th March, 2025 wherein a demand of Rs.

47,95,961.75 wherein the commercial charges as Sundry Charges/Allowances of Rs. 47,95,961.75 are added to the monthly bill with a due date 18.03.2025 without considering the reassessment of facilities vide its letter dated 30th January, 2025. A copy of the Bill generated on 9th March, 2025 is enclosed herewith and marked as ANNEXURE A-6.

14. That it is a matter of record that respondents had never raised any demand prior to impugned notice dated 28.01.2025 during the period of September, 2016 to January, 2025 except vide notice dated 12.12.2024 which was also based on wrong calculations and was based on wrong assumptions and presumptions and hence the same was duly withdrawn.

15. That it is a matter of record that the Respondents disconnected the electricity of the Appellant without notice putting 940 families to inconvenience during the examination of the students, even before the expiry of permitted period for payment of Bill.

16. That it is also a matter of record that all the possible efforts within its rights through best possible means were made by the Appellant to get its electricity connection restored by meeting all the concerned officials of DHBVN. The Appellant in fact knocked on all the doors available before approaching the Hon'ble CGRF. However, they were adamant of their illegal demand of NDS Load without serving any notice upon the Appellant and did never respond in appropriate manner to our representations.

17. That the Appellant faced hardship because of the illegal action of the DHBVN and it has become financial hardship for the not-for-profit organization/the Appellant to recover and ask for its residents to pay such huge amount without any explanation.

18. That it is matter of record that the respondent had earlier disconnected the electricity of AURA Complex on 19.03.2025, and thereafter appellant had approached Hon'ble High Court vide CWP no. 8017 of 2025 and vide order dated 20.03.2025, the Hon'ble Punjab and Haryana High Court was pleased to observe that appellant was ready to deposit 50% of the amount on the said date, and subject to the payment of Rs. 15 Lacs on 21.03.2025 the electricity of the Complex shall be restored and further remaining payment of Rs. 16,63,535/- would be paid within a period of 10 days and CGRF was also directed to conclude the matter within 2 months from the receipt of certified copy of the order. Copy of the order dated 20.03.2025 is being annexed herewith as ANNEXURE A-7.

19. That before approaching the Hon'ble Punjab and Haryana High Court, appellant had approached respondent no.1 by filing a petition u/s 94 of the Act, however the first date of hearing was scheduled for 27.03.2025 and therefore the appellant as an interim measure had to approach the Hon'ble High Court. The copy of the petition filed before respondent no.1. i.e.

Consumer Grievance Redressal Commission, Dakshin Haryana Bijli Vitran Nigam Limited, HETRI, Sector -16, IDC Area, Gurugram – 122 016, on 16.03.2025, a copy of the same with all its annexures is enclosed and marked as ANNEXURE A-8.

20. That pursuant to filing of the petition, the matter was taken up for the first time on 27.03.2025 and on the said date SDO who was present on behalf of respondent no.2 to 4 did not file reply and matter was adjourned for 07.04.2025.

21. That on 07.04.2025 once again time was sought to file reply by respondent no.2 to 4 and the matter was adjourned for 25.04.2025.

22. That the response/reply was filed by respondent no.2 to 4 through their advocate on 25.04.2025 during the course of hearing. A copy of the reply dated 25.04.2025 is enclosed and marked as ANNEXURE A-9. On 25.04.2025, matter was adjourned to 09.05.2025 for filing of rejoined by present appellant.

23. That on 09.05.2025 appellant filed rejoinder during the course of hearing and the matter was adjourned for 19.05.2025. Copy of the rejoinder dated 09.05.2025 is being annexed herewith as ANNEXURE A-10. In the rejoinder filed by AURA RWA, the appellant categorically mentioned that it is wrong and denied that any notice is even served upon the Developer i.e. Mahindra Lifespace Developers Limited.

24. That on 19.05.2025, no representative of respondent came forward and rather a reply to rejoinder was sent through an email thereby stating to consider their reply dated 25.04.2025 only. Further an objection was raised that appellant have no locus standi to file the matter as the connection is in the name of the Developer. Accordingly, the matter was adjourned to 28.05.2025 and the said date was given to the appellants, however surprisingly without keeping the matter for arguments and without giving an opportunity to raise any oral or written arguments, the impugned order has been passed by CGRF on 21.05.2025. In-fact the said order seems to have been passed on 21.05.2025 in order to show compliance of order of Hon'ble Punjab and Haryana High Court which was passed on 20.03.2025 thereby directing to decide the matter within two months, whereas it is a matter of fact that the matter was otherwise kept pending for 28.05.2025.

25. That it is surprising to see that the impugned order was passed without hearing the matter, arbitrarily on 21st May, 2025 whereas the date of hearing in the said matter was given as 28th May, 2025 which is against the well settled process of providing the opportunities to be heard and against the principle of natural justice.

26. That in any case the impugned order is liable to be set aside as the Hon'ble Form assumed that as if the petition was filed by an individual, whereas it was filed by AURA RWA. The impugned order has been passed on the flimsy ground that applicant is not having a locus standi and that too without hearing the matter on its merits.

27. That it is further pertinent to mention here that all impugned notices have been issued in the name of M/s Mahindra Aura. Mahindra Aura is the name of residential complex (Project), which is being managed by appellant i.e. Aura Residents Welfare Association, whereas the name of the builder is M/s Mahindra Lifespaces Develoeprs Ltd. Therefore, it establishes that the notices are being issued to Mahindra Aura which is managed and controlled by appellant only. No notice to Developer has been issued, hence respondent no.1 was incorrect in holding in the impugned order that appellant do not have locus standi to file the complaint.

28. That it is pertinent to mention that even the Hon'ble Punjab & Haryana High Court in the aforesaid CWP, while passing the order, acknowledged that AURA RWA is having the locus standi but the CGRF, Gurugram has taken a contradictory stand and on that exclusive basis, has passed the order that too without providing the opportunity of hearing. It is apparent that impugned order seems to have been passed in a haste manner to show compliance of the order of Hon'ble Punjab and Haryana High Court without giving proper opportunity of hearing.

29. That even the latest electricity bills have been paid by the RWA from their account, which is apparent from the Demand Draft/Cheques issued by the appellant. Copy of the Bills for the month of January and April 2025 as well as copies of Demand Drafts are being annexed herewith as ANNEXURE A-11.

30. The Hon'ble CGRF passed the order dated 21.05.2025 without hearing the matter which is against the set process of deciding any case and that too prior to the date on which the matter is listed i.e. 28.05.2025, which is arbitrary and without application of mind on the flimsy ground that Mr. Rajesh Kumar Arora as well as Appellant is not having any locus standi as the connection of DHBVN is not provided in his name and as such he is not a customer whereas the application under Section 94 of the Electricity Act, 2003 was filed by AURA RWA through its President/General Secretary who were duly authorized in this regard, hence the impugned order passed is completely wrong and complete regard to principle of natural justice.

31. That moreover in identical situations where the connections are issued in favour of the Developer, however ultimately petitions filed by RWA have been duly accepted by respondent no.1. Copy of order passed by respondent no.1 in a complaint bearing no. 4509-R/2024 titled as 'M/s Raisina Residency Welfare Association vs XEN/OP Sohana Division, DHBVN Gurugram' decided on 24.09.2024 is being annexed herewith as ANNEXURE A-12.

32. That in any case the impugned order has been passed without any application of judicial mind. The order is passed on the basis of surmises and conjectures. In the impugned notice, the charges have been included for EV charging stations and that too from the year 2016 onwards, whereas the contract with the Sharify Services Pvt. Ltd. and Mahindra Aura Residential Welfare Association was taken place on 25.07.2022. Hence seeking demand from year 2016 onwards is bad in law on these grounds as well, as the same has been raised without considering these facts. Copy of the contract dated 25.07.2022 is being annexed herewith as ANNEXURE A-13.

33. That on 27.05.2025 again one impugned notice bearing no. 5450 dated 27.05.2025 has been sent to appellant whereby appellant is directed to pay the aforesaid amount within 7 days failing which the electricity connection of the appellant Society would be disconnected and same has to addressed to present appellant society. Copy of the impugned notice is also attached as Annexure A-14.

34. That no such or similar petition/appeal has been filed by appellant before this Hon'ble Forum or any other court of law in India. In respect of same grievance, no other proceedings are pending before any Court, Tribunal or Arbitrator or any other authority. Neither any decree nor any award nor any final order has been passed by any Court, Tribunal, Arbitrator or Authority.

35. That vide resolution dated 09.03.2025, appellant RWA has authorized its President namely Sh. S.S. Gill to petition any judicial authority regarding the Demand Notice and further proceedings arising therefrom as challenged in the present appeal. The Appellant Society has 940 apartments, all of which are occupied. Sh. S.S. Gill, the Appellant's president and resident, owns Flat J-704 in the very same Complex. Copy of the resolution dated 09.03.2025 is being annexed herewith as ANNEXURE A-15.

36. That moreover there is no club in the Mahindra Aura Complex, however there is only a community building which is run on non-profit basis and only for the welfare of residents of Mahindra Aura Complex only and no profit making business is being carried out at the said place, which is rather clear from the perusal of Annexure A-3 already placed on record.

37. That the Hon'ble Supreme Court in Civil Appeal No. 7235 of 2009 dated 05.10.2021 with case titled as M/s. Prem Cottex V/s. UHBVN & Others. Important observations made by the Hon'ble Supreme Court are reproduced below:-

"Para 13. '....this Court came to the conclusion that what is barred under Section 56 (2) is only disconnection of supply of electricity. In other words, it was held by this Court in the penultimate paragraph that the licensee may take recourse to any remedy available in law for recovery of the additional demand but is barred from taking recourse to disconnection of supply under Section 56(2).'

Para 14: But a careful reading of Section 56 (2) would show that the bar contained therein is not merely with respect to disconnection of supply but also with respect to recovery.

Para 15: ' ..... However, section 56(2) bars not merely the normal remedy of recovery but also bars the remedy of disconnection' This is why we think that the second part of Section 56(2) is an exception to the law of limitation.'

Para 16: ' ..... then the question of allowing licensee to recover the amount by any other mode but not take recourse to disconnection of supply would not arise. But Rahamatullah Khan says in the penultimate paragraph that "the licensee may take recourse to any remedy available in law for recovery of the additional demand, but barred from taking recourse to disconnection of supply under sub-section (2) of Section 56 of the Act".

It is therefore most humbly prayed that this Learned Forum may graciously be pleased to take cognizance of the act of the DHBVN Officials particularly Respondent No. 2 & 3 which emerging out of conduct of Respondents by not adhering to certain aspects of Single Point Supply Regulation, 2013 and other orders, instructions, circulars and procedures issued by the HER Commission, and pass necessary orders:

(i) Stay the operation of the impugned order dated 21.05.2025;
(ii) Restraining the Respondents to take any coercive action of disconnection of electricity of AURA Complex;
(iii) Interest in justice and equity to declare the demand as null and void;
(iv) Allowing the Appellant to make payment of monthly bill only;
(v) Pass appropriate orders for re-assessment of our facilities;
(vi) Not initiate any coercive steps to recover the unlawful demand;
(vii) Pass appropriate orders to cancel the demand of the said amount of Rs.47,89,641; and
(viii) Operation of the impugned notice bearing no. 5450 dated 27.05.2025 is ordered to be stayed.
(ix) Be pleased to pass such other order or orders that your Hon'ble Forum may think fit and proper in the interest of justice.

B. The appeal was registered on 02.06.2025 as an appeal No. 24 of 2025 and accordingly, notice of motion to the Appellant and the Respondents was issued for hearing the matter on 04.06.2025.

C. Hearing was held on 04.06.2025. Both the parties were present through Video Conferencing. During the hearing, the Respondent SDO informed that they have recently engaged legal counsel to represent them in the matter and requested additional time to file a reply to the appeal submitted by the Appellant. The Counsel for the Appellant submitted that approximately 900 families reside in the colony, which are connected through single-point metering. It was further requested that the electricity supply to the residents not be disconnected, as a partial payment of

Rs 15 lakhs has already been made against the total outstanding dues of Rs. 47.89 lakhs.

After considering the submissions, Appellant was directed to deposit 50% of the outstanding amount within 10 days to avoid disconnection of the electricity supply. The Respondent SDO was accordingly directed not to disconnect the supply to the colony upon confirmation of the 50% deposit by the Appellant and till the pendency of the appeal.

Furthermore, Respondent was directed to file a reply to the appeal within 15 days, with an advance copy to be served on the Appellant. Appellant shall submit a rejoinder, if any, within 7 days from the date of receipt of the Respondent reply, with a copy to be provided to the Respondent.

Acceding to the request of respondent, the matter is adjourned and shall now be heard on 09.07.2025.

D. The respondent SDO vide email dated 07.07.2025 has submitted reply, which is as under:-

1. That, the present Reply is being filed by XEN/OP, City Division, Dakshin Haryana Bijli Vitran Nigam, Gurugram (the "Respondent No. 1"), and SDO, Op. Sub Division New Palam Vihar (the "Respondent No. 2") having office at New Palam Vihar Sub-Division, Gurugram, (collectively the "Respondents") to the Appeal filled before the Electricity Ombudsman Haryana bearing Appeal No. 24/2025 (the "Appeal").

2. That, it is most respectfully submitted that no averments, statements, submissions, grounds, contentions, or allegations made by the Appellant in the Appeal shall be admitted or deemed to be admitted for reason of non-traverse or otherwise save and except these are expressly admitted herein.

3. That, it is respectfully submitted that the present Appeal cannot be allowed in favour of the Appellant hereto (reasons for which are explained in detail hereunder) as the Appeal in itself, is devoid of any substance and merit and is made with the mala-fide intention to mislead, misguide and misrepresent this Hon'ble Ombudsman.

4. That, the Appellant has raised two-fold objections in the Appeal against the Respondent. Firstly, that new Demand Notice dated 28.01.2025 of Rs. 47,89,641/- (Forty-Seven Lakh Eighty-Nine Thousand Six Hundred Forty-one) was raised erroneously against M/s Mahindra Aura bearing A/c no. 1043211000 having sanctioned load of 4000 KW under NDS Load category.

5. That, the Appellant has contended that the Appellant is being erroneously charged for 104 KW NDS Load & 139 KW Common Area Load which was found connected in addition to the main supply after the checking team of the Respondents inspected the premises of the Appellant prepared a Report LL-1 No. 24328/17 dated November 27, 2024.

6. That, the Appellant has raised the second objection that the Respondent has erroneously calculated the electricity bill for electric vehicle chargers and have taken the load of 28 KW into consideration while calculating the pending electricity dues.

7. That, both the objections raised by the Appellant are false and baseless and are specifically denied on the basis of following facts and objections:

A. THE APPELLANT CANNOT ESCAPE THE LIABILITY TO PAY THE ELECTRICITY DUES FOR THE UNITS CONSUMED UNDER THE NDS CATEGORY AS FOUND IN THE INSPECTION REPORT

8. That, the Appellant has raised baseless contention that the Respondent cannot recover the pending electricity dues from the Appellant according to the new Demand Notice dated January 28, 2025 based on the inspection report LL-1 No. 24328/17 dated November 27, 2024, whereby, it was found that 104 KW NDS Load & 139 KW Common Area Load was also connected. Consequently, the Respondent in compliance of the sale circular D-17 of 2020 dated August 06, 2020 raised a fresh demand notice of Rs. 47,89,641/- (Forty-Seven Lakh Eighty-Nine Thousand Six Hundred Forty-one). A copy of the Inspection Report LL-1 No. 24328/17 dated November 27, 2024 is annexed hereto and marked as Annexure R-1.

9. That, the Appellant is baselessly contending that the Respondent has falsely charged the Appellant for 139 KW for Common Area load. The sale circular D-17 of 2020 dated August 16, 2022 expressly defines the meaning of Common Area/Facilities which The definition of Common Area is reproduced hereunder:

"(4) "Common Facilities" means the common recreational facilities/services such as common room, society office, street lighting. sewerage treatment plant, ventilation system, common/parking areas, excluding club, school, convenience stores/shops etc. for the residents of a Housing Society/Colony/Complexes."

A copy of the sale circular D-17 of 2020 dated August 16, 2022 is annexed hereto as Annexure R-2.

10. That, the Appellant has expressly admitted the presence of common area in the society in para 7 of the Appeal wherein the Appellant has admitted that

the common area is being used for recreational purpose. The relevant extract of the Appeal is reproduced hereunder for ready reference:

7. That it is pertinent to mention that no amount was shown as outstanding in the last one years' bills for NDS load at all for AURA. Secondly, as far as NDS Load for shops are concerned, the AURA RWA has no problem of DHBVN charging on commercial rate, however the same should not be more than two years as the ownership of those shops have been changed many times by now. As far as Club is concerned, time and again, AURA RWA kept on explaining to the DHBVN Officials that the same is nothing but a Recreation Centre/Community Centre for the Residents of AURA Complex and AURA RWA is not charging any amount from the residents for its usage except for maintenance charges.

11. That, the Appellant through its letter dated February 04, 2025 has clearly mentioned that the common area is being used for the recreation purpose of the Residents and has also referred the common area as Club, which the Appellant is denying the existence of any Club. The relevant extract of the letter dated February 04, 2025 annexed as Annexure A-5 at page no. 51 of the Appeal is reproduced hereunder for ready reference:

"1. The Club is being used for residents only and No Commercial Activities whatsoever being done in that. It is in fact a Recreation Centre/Communicity Centre that too only for the Residents of AURA Complex. The small amount being charges for it's Hall Booking is also towards meeting the Maintenance Cost. Secondly, the Club has the Solar Panel installed on its roof which is good enough to take care of the electricity consumption of the aforesaid Club/Recreation Centre. As of now, it is getting repaired and would be up within 30 days' time. Hence, it cannot be considered as being used for Commercial Purposes by any stretch of interpretation."

Therefore, it is evident that the Appellant is using the common area for recreational purpose and this fact cannot be denied by the Appellant in the Appeal as the Appellant has expressly admitted the presence of Club/Recreation Centre.

B. THE RESPONDENT HAS FOLLOWED THE DUE PROCEDURE FOR MAKING RECOVERY OF ELECTRICITY DUES FROM THE RESPONDENT

12. That, the Appellant has raised vague and baseless contention that the Appellant ought to have followed the procedure as specified the under Section 126 of the Electricity Act, 2003 for raising the demand for utilisation of electricity under NDS and common area. This objection of the Appellant is completely false and misconceived hence specifically denied. The procedure mentioned under Section 126 of the Electricity Act, 2003 is for unauthorised

use of electricity by the consumer. The definition of unauthorised use is clearly given under Section 126 and is reproduced hereunder for ready reference:

"unauthorised use of electricity" means the usage of electricity - (1)

(ii) by any artificial means; or

(iii) by a means not authorised by the concerned person or

2((iv) authority or licensee; or through a tampered meter;

(v) or for the purpose other than for which the usage of electricity was authorised; or for the premises or areas other than those for which the supply of electricity was authorized."]

13. That, none of the aforementioned acts are applicable in the present matter. The Respondent has already issued sale circular D-17 of 2020 wherein the Respondent has categorically mentioned and described the procedure to be followed for calculating the load under the NDS category in case of housing societies. The relevant extract of the sales circular is reproduced hereunder for ready reference:

"In case an office complex or other non-domestic loads are also existing within the GHS/Colony, the apportionment of energy (after allowing the rebate) and combined maximum demand for billing under Bulk Supply (Domestic) category and NDS category shall be as detailed in the Annexure-2." M

C. THE APPELLANT HAS FAILED TO PROVE THAT THE ELECTRIC VEHICLE CHARGERS WERE INSTALLED IN YEAR 2022

14. That, the Appellant has raised objection that the Respondent has erroneously calculated the electricity bill for electric vehicle chargers and have taken the load of 25 KW into consideration while calculating the pending electricity dues. The Appellant has further contended that the Appellant has purchased the EV Chargers only in the year 2022 as they had entered into the contract on July 25, 2022. Hence, the Respondent should not have calculated the load of 25 KW from the year of 2016 while raising the new Demand Notice dated January 28, 2025. However, both the objections raised by the Appellant are false and baseless and are specifically denied.

15. That, the Appellant has failed to provide any proof regarding the installation of EV Charges in the society. The Appellant has contended that the Appellant got the EV Chargers installed in 2022 only and these EV Chargers were no existing prior to year 2022 in the society and Respondent should not have included the 25 KW load while calculating fresh demand vide Notice dated January 28, 2025. It is pertinent to mention here that the Respondent has always considered the plea of the Appellant, however, the Appellant has failed

to furnish any document/bills regarding the installation of EV Chargers in year 2022. Therefore, the in the absence of any documentary proof no benefit can be given to the Appellant.

D. THE APPELLANT HAS RAISED BASELESS OBJECTION THAT THE RESPONDENT CANNOT RECOVER THE DUES FROM THE APPELLANT FOR PERIOD MORE THAN 2 YEARS

16. That, Appellant has raised the baseless objection that the Respondent cannot recover the dues from the Appellant for period beyond two years. It pertinent to mention here that the Appellant has been using the electricity under Bulk Domestic Supply. However, during the inspection carried out by the Respondent it was found out that there was additional104 KW NDS Load & 139 KW Common Area Load was also connected. Consequently, the Respondent in compliance of the sale circular D-17 of 2020 dated August 06, 2020 raised fresh demand of Rs. 47,89,641/- (Forty-Seven Lakh Eighty-Nine Thousand Six Hundred Forty-one).

17. That, in the Appeal no. 19/2021 filed by Sh. Sanjay Sethi, Manager, Sanjay Public School, Sector-12, Panchkula vide Order dated June 28, 2021 has held that the Licencee can recover its legitimate dues even after two years. The relevant extract of the Order is reproduced hereunder for ready reference:

> "In view of the foregoing facts and circumstance, it has come forth that the Licensee may recover its legitimate dues even after the period of two years from the date of discovery of mistake by taking resource to any remedy available in for recovery, but is barred from taking recourse to disconnection of supply of electricity under sub section (2) of Section 56 of the Electricity Act. Therefore, the net sundry charges of Rs. 381547/ is rightly recoverable from the consumer. Hence, I find no merit to interference with the order under appeal."

E. THE OTHER RESIDENT ASSOCIATIONS HAVE PAID THE ELECTRICITY DUES CALCULATED AFTER CARRYING OUT THE INSPECTION BY THE RESPONDENTS

18. That, the Appellant wants escape its liability to pay the due amount raised by the Respondent vide Demand Notice dated January 28, 2025 sent by the Respondent by raising baseless objection to the inspection report made by the Respondent. However, the other resident association have already deposited the due amount calculated on the basis of the inspection report made by the Respondent in compliance of the Sales Circular D-17 of 2020.

The amount received from various other RWA is shown in tabular form hereinbelow:

Sr. No.	ACCOUNT No.	CONSUMER NAME	SANCTIONED LOAD	CONTRACT DEMAND	SUPPLY VOLTAG	TARIFF TYP	AMOUNT CHARGE	AMOUNT REALZED
1	4551733779	M/S ALMOND INFRABUILD PRIVATE LIMITED C/O	2970.32	3300.06	33	BLDS	796036	796036
2.	9779833445	CHINTELS INDIA LTD	1000	1000	11	BLDS	538741	538741
3.	1951929918	M/s Experio Developers Pvt Ltd (HART SONG)	6573.25	7303.6	33	BLDS	565827	565827
4.	2030864423	JMK HOLDINGS PVT LTD	4195.3	4661	33	BLDS	103064	103064
5.	2285939179	M/S SIGNATURE BUILDER PVT LTD	3419	3798.88	33	BLDS	1096990	1096990
6.	2873960542	M/S FLORENTINE ESTATES	1000	1000	11	BLDS	2899142	2899142
7.	4039296144	M/SCOGENT REALTORS PVT LTD	5389.78	5988.64	33	BLDS	489135	489135
8.	6546927190	GREAT VALUE HPL INFRATECH PVT LTD	500	0	11	BLDS	416919	416919
9.	8323689030	SOBHA LIMITED	1800	2000	33	BLDS	174786	174786
10.	1280770105	DELURIS BURLDTECH INDIA PRIVATE LIMITED	450	500	11	BLDS	41379	41379
11.	5483761480	M/S PERFECT BUILDWELL PVT LTD.	950	1056	11	BLDS	1218422	1218422
12.	3708839594	Athea infrasatructrue LTD	900	900	11	BLDS	4018520	4018520
13.	1539929359	Magic Info Solution PVT Ltd.	4490	4959	11	BLDS	2770379	2770379
14.	7881077548	M/s CS.N Estate	2000	1000	11	BLDS	2319493	2319493
15.	906942389	Brisk infrastructure and Dev	1000	1000	11	BLDS	740172	740172
16.	7595761348	Puri costruction P Ltd.	2000	2000	11	BLDS	4922477	4922477

A copy of the aforementioned table and their inspection report is annexed hereto and marked as Annexure R-3 (colly)

Therefore, the Respondent rightly issued the Demand Notice dated January 28, 2025 on the basis of inspection report made by the Respondent.

PRAYER:

In the light of the aforementioned facts and objections this Hon'ble Commission may be please to:

a) Dismiss the Appeal of Appellant as it is devoid of any merit and has been filed only to usurp the public money.

b) Direct the Appellant to deposit the electricity dues in accordance with the Demand Notice dated January 28, 2025.

c) Pass any Order in the interest of justice.

E. Hearing was held on 09.07.2025, as scheduled. Both the parties were present through Video Conferencing. During the hearing, appellant counsel intimated that

since the reply has been filed by the Respondent counsel on 07.07.2025 and needs time to file rejoinder to the reply. Appellant counsel was directed to send the rejoinder within 7 days with a copy to respondent counsel and respondent counsel is also directed to send his comments, if any, within 7 days after the receiving the rejoinder from the appellant counsel.

Accordingly, the matter is adjourned and shall now be heard on 30.07.2025.

F. Vide email dated 28.07.2025 counsel of appellant has submitted rejoinder to the reply filed by respondents counsel which is as under:-

1. That in the written reply filed on behalf of the Respondents, since, the Respondents have not denied the contents of the documents annexed to the Appeal, which are placed on the records of this Hon'ble Forum by the Appellant, the content of the same are deemed to be admitted.
2. That the Respondent No. 1 to 2 have miserably failed to rebut the case of the Appellant as to how and why the petition/Application cum Petition
3. under Section 111 read with Section 42 of the Electricity Act, 2003 against the impugned order of the CGRF, Gurugram, is not maintainable.
4. That unless otherwise mentioned in this rejoinder, the contents of the reply filed on behalf of the Respondents should be treated as denied in its totality.
5. That as stated also in the appeal, the notice issued by the respondent are baseless and without the actual provision of Electricity Act. Bare perusal of the demand notice dated 28.01.2025 (Annexure A-4), it is quite clear that same has been issued in cyclostyle manner without mentioning the provision of Electricity Act. Further the calculation sheet appended with the said notice dated 28.01.2025 is also wrong, illegal and against the procedure, mentioned in the Haryana Electricity Supply code, 2014.
6. That there are two provisions mentioned in the act which deals such kind of situation i.e. Section 126 (Unauthorized use of Electricity), Section 135 (theft of Electricity) of the Act, 2003. If the allegations leveled by respondents are presumes to be true, then at the most same falls under section 126 of the Act read with clause 8 of the Haryana Electricity Supply Code and related matter regulations 2014.

   Section 126 of electricity Act:

   126. Assessment.–

   (1) If on an inspection of any place or premises or after inspection of the equipments, gadgets, machines, devices found connected or used, or after inspection of records maintained by any person, the assessing officer comes to the conclusion that such person is indulging in unauthorised use of electricity, he shall provisionally assess to the best of his judgment the electricity charges payable by such person or by any other person benefited by such use.

(2) The order of provisional assessment shall be served upon the person in occupation or possession or in charge of the place or premises in such manner as may be prescribed.

(3) The person, on whom an order has been served under sub-section (2), shall be entitled to file objections, if any, against the provisional assessment before the assessing officer, who shall, after affording a reasonable opportunity of hearing to such person, pass a final order of assessment within thirty days from the date of service of such order of provisional assessment, of the electricity charges payable by such person.

(4) Any person served with the order of provisional assessment may, accept such assessment and deposit the assessed amount with the licensee within seven days of service of such provisional assessment order upon him:

(5) If the assessing officer reaches to the conclusion that unauthorised use of electricity has taken place, the assessment shall be made for the entire period during which such unauthorised use of electricity has taken place and if, however, the period during which such unauthorised use of electricity has taken place cannot be ascertained, such period shall be limited to a period of twelve months immediately preceding the date of inspection.

(6) The assessment under this section shall be made at a rate equal to twice the tariff rates applicable for the relevant category of services specified in sub-section (5).

Explanation.–For the purposes of this section,–

(a) "assessing officer" means an officer of a State Government or Board or licensee, as the case may be, designated as such by the State Government;

(b) "unauthorised use of electricity" means the usage of electricity–

(i) by any artificial means; or

(ii) by a means not authorised by the concerned person or authority or licensee; or

(iii) through a tampered meter;

(iv) for the purpose other than for which the usage of electricitywas authorised;or

(v) for the premises or areas other than those for which the supply of electricity was authorised.

Bare perusal of the above extracted and as per alleged allegation leveled by the respondents, at the most the present case falls under the b (iv) & (v) of the Act because respondents are alleging that NDS (Non Domestic Supply) load was found running on the BLDS (Bulk load domestic supply). In such situation, said notice should have been issued under section 126 of Act.

7. That neither the said impugned notice dated 28.01.2025 (Annexure P-4) is not maintainable nor the said calculation sheet appended with notice issued as per the procedure prescribed under the Electricity Supply Code and related matter regulations 2014 (Upto 7th amendment). There is detail procedure prescribes under clause 8 of the Haryana Electricity supply code, 2014 for charging the amount if there is case of unauthorized use of Electricity found and same is also mention below for ready reference of this Court:

8. UNAUTHORIZED USE OF ELECTRICTY UNDER SECCTION 126 OF THE ACT

8.1 Procedure for booking a case of unauthorized use of Electricity

8.1.1 The State Government shall designate the assessing officers of the licensee as per Section 126 of the Act.

8.1.2 The licensee shall display the list of such assessing officers in all its offices and put on its website. The photo identity cards shall be issued to such officers.

8.1.3 An assessing officer designated as such by the State Govt. under Section 126(6) of the Act, shall on receipt of reliable information regarding "unauthorized use of electricity" as in explanation 126(6)(b) of the said Section, promptly inspect such premises.

8.1.4 The members of the inspection team of the licensee shall carry along with them their visiting cards and Photo Identity Cards (Photo Identity Card should indicate that he is an authorized assessing officer of licensee under section 126 of the Act). Photo Identity Cards should be shown and visiting cards handed over to the owner of the premises or his representative before entering the premises.

8.1.5 If on inspection of any place or premises or after inspection of the equipment, gadgets, machines, devices found connected or used, or after inspection of records maintained by any person, the assessing officer comes to the conclusion that such person is indulging in unauthorized use of electricity then an inspection report inter-alia indicating connected load for unauthorized use of electricity, condition of meter and its seals and also details of evidence as laid down in explanation (b) of sub-section (6) of Section 126 of the Act, substantiating the unauthorized use of electricity shall be prepared on the prescribed format. The event would invariably be photographed or video graphed with cameras having facility for recording date and time of event.

Provided that in a case where the device utilized for the purpose of unauthorized use of electricity happens to be a tampered meter, such meter shall be confiscated and supply shall be disconnected till a new meter is installed.

8.1.6 The inspection report shall clearly indicate whether sufficient evidence substantiating the unauthorized use of electricity was found or not. The material/device utilized for the purpose of such unauthorized use

shall be confiscated and kept as a proof along with photographs/video graph of the premises. All documents prepared should be legible.

8.1.7 The assessing officer shall sign the inspection report. The person present at site may also sign the inspection report. A copy of the same shall be handed over to the owner/occupier or his representative present at site under proper receipt.

8.1.8 In case of refusal to accept the report, a copy of the inspection report shall be pasted at a conspicuous place outside the premises and photographed. Simultaneously another copy of the same report shall be sent under registered post/speed post on the same day or next day of the inspection.

8.2 Notice to the Consumer:

8.2.1 If the assessing officer comes to be conclusion that unauthorized use of electricity has taken place, he shall provisionally assess to the best of his judgment the electricity charges payable by such person or by any other person benefited by such use and shall serve, within seven days of Inspection, the provisional assessment order along with a notice to the person for showing cause as to why a case of unauthorized use of clectricity should not be made against him. While doing so the assessing officer shall compute the amount payable by the person benefited by unauthorized use of electricity as per provision laid down in Sub-Section 5 read with Sub-Section 6 of Section 126 of the Act and as per procedure specified in Annexure II to these Regulations. The show cause notice should clearly state the time and date by which the reply has to be submitted and the designation and address of the person to whom it should be addressed.

8.2.2 If the person served with the order of provisional assessment accepts such assessment, the provisional assessment shall be treated as final assessment. The person shall then deposit the assessed amount with the Licensee within seven days of service of such provisional assessment order upon him and the matter shall be closed.

8.2.3 If the person does not accept the show cause notice/provisional assessment, he shall be entitled to file objections against the show cause notice/ provisional assessment before the assessing officer within seven (7) days.

8.3 Personal Hearing

8.3.1 Within four (4) days of the receipt of objections from the person, the assessing officer shall arrange a personal hearing with such person.

8.3.2 If during the personal hearing, the assessing officer and the person arrive at a consensus, then the assessing officer shall pass a final speaking order based upon such consensus. If no such consensus is arrived at during the personal hearing, the assessing officer shall give due consideration to the facts submitted by the person and pass,

within fifteen (15) days, a speaking order as to whether the case of unauthorized use of electricity is established or not. Speaking order shall contain the brief of inspection report, submissions made by the person in his written reply and oral submissions made during personal hearing and reasons for acceptance or rejection of the same and shall contain final assessment.

8.3.3 In the final assessment order issued under section 126(3) of the Act, it shall be clearly mentioned that the order is challengeable before the appellate authority (name, designation and address to be mentioned) under section 127 of the Act, within 30 days of the said order.

8.3.4 In case unauthorized use of electricity is not established, further proceedings shall be discontinued and case of unauthorized use of electricity shall be dropped immediately and the person concerned shall be informed accordingly.

8.3.5 The person served with the final order of assessment may accept such assessment and deposit the assessed amount with the licensee within seven (7) days of the service of the order on him.

8.3.6 In case the person served with the final order of assessment is not satisfied with the assessment, he may file an appeal before the appellate authority designated by the State Govt. under Section 127 of the Act.

8.3.7 In case the person neither files the appeal nor deposits the assessed amount, within the period prescribed, his connection shall be disconnected.

8.4 Appeal to Appellate Authority

(1) Any person aggrieved by the final order made under Section 126 of the Act may, within thirty days of the said order, prefer an appeal in such form, verified in such manner and be accompanied by such fee as specified by the Commission, to an appellate authority as prescribed.

(2) No appeal against an order of assessment under sub-section (1) of Section 127 of the Act shall be entertained unless an amount equal to half (1/2) of the assessed amount is deposited in cash or by way of bank draft with the licensee and documentary evidence of such deposit has been enclosed along with the appeal.

(3) The appellate authority referred to in sub-section (1) of Section 127 of the Act shall dispose of the appeal after hearing the parties and pass appropriate order and send copy of the order to the assessing officer and the appellant.

(4) The order of the appellate authority referred to in sub-section (1) of Section 127 of the Act passed under sub-section (3) of Section 127 of the Act shall be final.

(5) No appeal shall lie to the appellate authority referred to in sub-section (1) of Section 127 of the Act against the final order made with the consent of the parties.

8.4.1 In case the appellate authority holds that no case of unauthorized use of electricity is established, no further proceedings will be initiated oy the licensee and the amount deposited by the appellant shall be refunded along with interest at the saving bank rate of State Bank of India.

8.4.2 In case the amount payable as determined by the appellate authority is less than the amount already deposited by the person, the excess amount will be refunded by adjustment in the bills of the immediately succeeding months along with interest at the saving bank rate of State Bank of India from the date of such excess deposit till the date of actual adjustment.

8.5 Default in payment of amount assessedWhen a person defaults in making payment of assessed amount, the supply shall be disconnected forthwith. Further, in addition to the assessed amount, he shall be liable to pay, on the expiry of thirty days from the date of order of assessment, an amount of interest at the rate of sixteen (16) percent per annum compounded every six months.

8.6 General

2) Unauthorized extension of load shall not be considered as unauthorized use of electricity. It shall, however, attract penalty as prescribed under Regulation 9.

3) In the cases where consumer has been paying electricity charges for higher tariff category but using electricity for lower tariff category and no other irregularity is found, no case of unauthorized use of electricity shall be booked. The licensee shall take action forthwith to put the consumer in appropriate category.

4) In the case of change in tariff category either due to tariff order of the Commission or any other order, Regulation or statutory provision, it shall be incumbent upon the licensee to identify such cases and give them opportunity by servicing an advance notice to get their tariff category changed accordingly and till then no case of unauthorized use of electricity shall be booked in such cases.

5) During the checking of a premises, if the load is found running in a category for which the tariff is lower than the one under which the connection had been applied and released, then no penalty shall be charged on account of load having been found in a category other than the one for which the connection had been applied and released.

6) In case telescopic tariff is applicable to one category of usage, total bill amount of preceding one year shall be calculated under the applicable category and if the billing already made is in excess to the amount so calculated; no case of unauthorized use of electricity shall be booked in such cases.

7) In the cases where the consumer has not concealed the category of usage of supply while applying for the connection but the load was sanctioned under a wrong category by the sanctioning authority, only the difference of the tariff from the date of connection shall be charged and no case of unauthorized use of supply or theft of electricity shall be made. The future billing, however, shall be made on the applicable category.

8) During the first checking of any premises, if any load is found running in a category for which the tariff is higher than the one under which the connection had been applied and released, the penalty will be charged under Section-126 of Electricity Act 2003. While calculating the penalty amount in such cases, only the load found running in the unauthorized category shall be considered. In such an event a notice will be served to the consumer giving detailed calculation of the penalty amount with a specific mention therein asking the consumer to remove such load found in the unauthorized category within 15 working days of the date of service of the notice and to submit an affidavit on Non Judicial Stamp Paper of 10/- duly attested by Notary Public, clearly stating therein that the load found under unauthorized category during checking has been removed.

9) In case, the load found running under unauthorized category is not removed and/or compliance of the notice served by the licensee is not made by the consumer within the stipulated period or where after making the compliance of notice; during the subsequent checking's the load is again found running in an unauthorized category having a tariff higher than the one in which it is being currently charged, the penalty shall be charged under Section-135(e) of the Electricity Act 2003 considering it as a dishonest use of electricity in an unauthorized category.

10) If during checking, load is found running in a category having two-part tariff i.e. energy charges and fixed charges, the fixed charges being applicable on the sanctioned load/contract demand, whichever is applicable, the energy charges plus fixed charges shall be the criteria to determine whether the load found in unauthorized category has a tariff higher or lower than the one under which the connection had been applied and released.

8. That further detail procedure has laid down regrading imposing the penalty upon the consumer.

9.3.1 In case of Domestic Supply connections/bulk domestic supply connections.

In cases where the billing has been on minimum monthly charges for three consecutive billing cycles, if on physical checking or through MDI reading, the connected load is detected to be exceeding by more than 10% of the sanctioned load, a onetime penalty @ 400 per KW or as amended by the Commission from time to time shall be levied on excess load including 10%. The licensee shall issue a notice to the consumer intimating that he has exceeded his sanctioned load and his load is being enhanced based on physical checking. The consumer shall be given 30 days period to deposit the penalty amount and enhanced security deposit for such increase in sanctioned load. If the consumer fails to do so, the amount of penalty and enhanced security deposit shall be included in the next bill, indicating the reasons for such inclusion in the bill. The load of the consumer shall be considered as enhanced from the successive billing.

In all other cases where billing has not been on minimum monthly charges for three consecutive billing cycles there shall be no penalty if the load exceeds the sanctioned load and only the procedure under Regulation 9.2.1 (b) shall be followed.

Every consumer shall have the option to get the energy meter with MDI facility installed for his electrical connection.

9. That the above mention provisions of the Act as well as supply Code will applying while determine the actual assessment amount but said notice failed to disclosed any such procedure adopted by the respondent which clearly shows that same has been issued wrongly, illegally and in arbitrary manner and hence same is liable to be quashed accordingly.

10. That moreover the said impugned notice dated 28.01.2025 (Annexure A-5) is liable to be quashed/ set-aside on the ground that no opportunity of hearing was granted to appellant in present case. Bare perusal of the said notice, it is quite clear that straightaway the alleged demand has been raised from the appellants. Neither any opportunity of filing any reply/ objection has been given nor any opportunity of hearing has been granted to appellants in present case. It is settled law that no person should be condemn unheard. On this ground alone the said impugned notice (Annexure A-5) is liable to be quashed.

WITHOUT PREJUDICE TO THE ABOVE, PARA-WISE REJOINDER TO THE PRELIMINARY OBJECTIONS AND SUBMISSIONS ARE AS UNDER:

1-7. That the averments made by the Respondents in para 1 to 7 of the reply filed on behalf of the Respondents are made for the sake of reply only and does not provide the basis as to why present appeal should not have been filed by the Appellant. Further, the contents of para 1 to 7 of the reply filed on behalf of the Respondents are baseless and without any merits, hence, does not require any specific reply other than that the Appellant has already filed enough evidence/proof on record while filing the present appeal in support of its averments. Firstly, the respondents sent a Demand Notice vide Memo No. 4245 dated 12.12.2024 for Rs. 2,03,43,858/- for charging of NDS Load as per Sales Circular No. D-17/2020 dated 16.08.2022, Clause No. 6(VIII) and D-4/2013 dated 19.01.2013 & D-44/2014 dated 14.11.2014 which was subsequently withdrawn by Office Memo No. 4524 dated 24.01.2025.

Thereafter vide Memo No. 4541 dated 28.01.2025, a new Demand Notice of Rs. 47,89,641/- has been raised which itself created doubt about the correctness of the demand.

It is pertinent to note that there was no second visit before reducing the demand of Rs. 2,03,43,858/- to Rs. 47,89,641/- which clearly shows and admitted fact that the first demand was wrongly and arbitrary raised based on wrong calculations of the respondents.

8. That content of this para are totally wrong and hence denied. Moreover, the alleged inspection dated 27.11.2024 is totally wrong and against the statuary provisions of of the electricity supply Code amended upto date. The said clause puts mandatory requirement upon the inspecting authority that photographs as well as videography of such unauthorized use shall be done by the assessing officer. The same is also reproduced below for ready reference of this Hon'ble Court:

8.1.5 If on inspection of any place or premises or after inspection of the equipment, gadgets, machines, devices found connected or used, or after inspection of records maintained by any person, the assessing officer comes to the conclusion that such person is indulging in unauthorized use of electricity then an inspection report inter-alia indicating connected load for unauthorized use of electricity, condition of meter and its seals and also details of evidence as laid down in explanation (b) of sub-section (6) of Section 126 of the Act, substantiating the unauthorized use of electricity shall be prepared on the prescribed format. The event would invariably be photographed or video graphed with cameras having facility for recording date and time of event.

But in present case no such procedure has been followed by the concerned authority. Once the alleged inspection had not carried out iN accordance with law and statuary provisions of the code then question of raising any amount does not arise at all in present case. The copy of code is also attached as Annexure A-16.

9 & 10. The contents of this para are wrong and denied. Rather the definition as mentioned in this para clearly supports the case of appellant. The respondents. From the beginning, the appellant is trying to explain to the respondents that there is no Club available in the society rather it is community building which is only available for the personal use of member of society. The appellant also shows and try to submit the one occupation certification which is issued by Director General, Town and Country planning Department, Haryana, Chandigarh in which the said alleged club is mentioned as Community Building. The said document dated 28.09.2016 is government document which the respondent refuse to take it in their record after seen it. copy of same is also attached as Annexure A-17.

A part from this, appellant is appending the internal photographs of society in which some sign boards is being shown. Bare perusal of these photographs we can clearly see that there is no reference of any club is there but on each and every board community building is mentioned. Copy of photographs are also attached as Annexure A-18.

11. That contents of this para are totally wrong and denied to the extent that appellant is mentioned the community building as club. The appellant further explained in the next line that it is community centre where no commercial activity is being done. The said centre is only available for the member of society. Moreover, when the office of Town and Country planning office, Haryana has admitted the said building as community centre then allegation regarding club upon said building is totally baseless because occupation certification only issued by the concerned authority after physical verification of any premises.

It is pertinent to mention here that there is 40 KW Solar Power in installed at the community centre which load is itself sufficient for the centre but Existence of Solar System was not taken into account by the respondent. The photographs showing the installation of solar panel is attached as Annexure -19.

12. That in submissions made in the foregoing pargraph no. 1 to 7 may kindly be considered as reply to this para.

13. That contents of this para are totally wrong and denied as the alleged circular as mention by respondents is not applicable in present case.

14 & 15. That contents of this para are totally wrong and denied. As far as electric vehicle charging stations are concerned, the copy of the agreement signed with concerned party vide dated 25.07.2022 is placed on record with the Appeal and marked as Annexure A-13 (Page No. 115-120). Bare perusal of the same it is quite clear that the same agreement was never executed meaning thereby the said EV charging stations never energized.

It is pertinent to mention here that one Shrify Services Pvt Ltd. (Statiq) had approached to appellant on 28.06.2022 and apprised about them that they are engaged in the business of installation of EV charging Station. The said company approached the appellant 1st time on 28.06.2022. In this regard

they have sent their introduction mail to appellant. Copy of same is attached as Annexure A- 20. After the agreement was executed with the said company and appellant on 25.07.2022 but same could not be executed till date. In proof of that the appellant is also appending the latest e-mail sending by the said company on 07.09.2025 in which they are still giving the assurance that the EV charging station would by energized within in 1 week but on ground reality they are not working/ energized as on today. The copy of e-mail dated 07.09.2025 is also attached as Annexure A-21.

Hence it is proved beyond doubt that the respondents erroneously calculated the electricity bill for electric vehicle chargers and have taken the load of 28 KW into consideration while calculated the pending electricity dues.

16. That the content of para is wrong and denied. The foregoing paragraphs may kindly be treated as reply to this para.

17. That the content of para is wrong and denied.

18. That the contents of para is denied to the extent that appellant is wants to escape from its liability. As mentioned above the alleged demand is totally wrong and against the statuary provisions of Act as well as Code. Rest of the contents of this para are denied for want of knowledge.

PRAYER

It is therefore most humbly prayed that this Learned Forum may graciously be pleased to take cognizance of the act of the DHBVN Officials particularly Respondent No. 1 & 2 which emerging out of conduct of Respondents by not adhering to certain aspects of Single Point Supply Regulation, 2013 and other orders, instructions, circulars and procedures issued by the HER Commission, and pass necessary orders:

1. Allowing the appellant to make payment of monthly bill only;
2. Pass appropriate orders for re-assessment of our facilities.
3. Not initiate any coercive steps to recover the unlawful demand;
4. Pass appropriate orders to cancel/ set-aside the demand of the said amount of Rs.47,89,641; and
5. Be pleased to pass such other order or orders that your Hon'ble Forum may think fit and proper in the interest of justice.

G. Hearing was held on 30.07.2025, as scheduled. Both the parties were present through Video Conferencing. During the hearing, respondent counsel has requested for some time to file the written arguments against the rejoinder submitted by appellant counsel through email on 28.07.2025. Further appellant counsel also requested physical hearing for final arguments.

Accordingly, the matter is adjourned and shall now be heard on 25.08.2025.

H. Hearing was held on 25.08.2025, as scheduled. Both the parties were present through Video Conferencing. A request for adjournment through respondent counsel was received vide email dated 25.08.2025. During the hearing, both the parties were agreed for adjournment.

Accordingly, the matter is adjourned and shall now be heard on 12.09.2025.

I. Hearing was held 12.09.2025, as scheduled. Both the parties were physically present. At the outset appellant counsel raised the issue that respondent did not proceed under section 126 for charging penalty for unauthorized use of electricity of the Electricity Act, 2003. The appellant counsel further apprised that though LL-1 dated 27.11.2024 was filled and subsequently penalty was imposed as per the clause no. 6.8 of the sale circular no. D-17/2020 of DHBVN which is not the relevant provision for imposing the penalty as it pertains to back up of the DG set. The counsel further contended that had that the penalty being considered under clause no. 6.4 for the billing of the single point supply there is no mention on the penalty being imposed on the basis of LL-1. Furthermore, the counsel emphasized that the acts of the DHBVNL are in gross violation to the Supply code 8.1 and 8.1.5 which is used for unauthorized use of electricity under section 126 of the Electricity Act.

The appellant counsel further emphasized that as per their rejoinder 9.3.1 clause the load being found during the physical checking was 243 KW as per LL-1 Number 24328 dated 27.11.2024 including 28 KW for EV charging which is less than 10% of the sanctioned load (400 KW). Hence, the load didn't exceed the 10% limit for imposing the penalty. In addition to above, the 28 KW load i.e. being used for the EV charging station was not operational on the date of checking and the word club with load of 51KW is basically not a club but a community center as per the documents and photographs annexed with their reply wherein instead of club community building nomenclature is required to be used for calculation of the load under the bulk (DS) category. The counsel of the appellant further referred that the sequence in which the proceedings were made by the corporate CGRF DHBVN are ambiguous as on the one hand they were given the next date of hearing as 28th May, 2025 whereas the same forum pronounced its order on dated 21.05.2025, on the basis of the reply of the SDO operation concerned dated 19.05.2025 wherein RWA has not been referred as a consumer. It has been stated that the connection has been released in the name of the builder i.e. Mahindra Life and concluded his arguments.

The respondents counsel rebutted the claims made by the appellant counsel with the following facts.

It was clarified that as per the section 61(D) and section 181 of the Electricity Act, 2003 HERC has the powers to frame the regulations to safeguard the interest of the consumer and the recovery of the dues. As far as section 126 of Electricity Act were concerned fallacious arguments has been made by the appellant counsel. As in the instant case tariff difference has been charged as per sales circular no. D-17/2020 dated 16.08.2022, Clause No. 6 (VIII) and Sales Circular No. D-4/2023 dated 19.01.2023 & Sales Circular No. D-44/2014 dated 14.11.2014) mentioned in the notice memo no. 4541 dated 28.01.2025 served to the appellant by SDO/Operation concerned.

Further, there has been mention in clause no. 6.4 of the sales circular no. D-17/2020 that: -

In case of office complex or other non-domestic load are also existing within GHS/Colony, the apportionment of energy (after allowing the rebate) and combined maximum demand for billing under Bulk Supply (Domestic) category and NDS category shall be as detailed in the Annexure A-2.
In case of Single Point Supply to category covered under the definition of appropriate government, Users Association and Group Cluster of Industries, the tariff as applicable to bulk supply/NDS Industries shall be chargeable respectively.

As per circular D-17/2020 under the heading definition section (4) common facilities means
The common recreational facilities/services such as common room, society office, street lighting, sewerage treatment plant ventilation system, common/parking areas, excluding club, school, convenience stores/shop etc. for the residents of a Housing Society/Colony/Complexes.

Furthermore, the respondent counsel pointed out that as per page no. 51 of the appeal annexure A-5 para 1 appellant himself has used the word club instead of word community area/building. During the course of argument, the president of RWA admitted that the activities being under taken in the club are carried uptill 22:00 hours. Thus, the contentions of respondent for naming the building as "club" seems justified. It was led during the argument by the respondent counsel that the clause no. 6.8 has been clerically/typographically mentioned instead of clause no. 6.4 in the notice memo no. 4541 dated 28.01.2025 and as per the judgment pronounced by the Hon'ble Apex court titled "Prem Cottex vs. UHBVN", limitation clause does not come as a bar for the recovery of the dues covered under para no. 11 to para no. 13 of the judgment. Thus, the calculation amount has been rightly charged from the year 2016.

The respondent SDO provided a sample sheet of calculation for the charging difference of tariff as per annexure A-2 of the DHBVN sale circular D-17/2020. Further, respondent SDO admitted during hearing that the charging for the EV station done from the year 2016 will be corrected as per the record "made available by the appellant". SDO respondent was directed to supply month wise calculation sheet to this forum with a copy to appellant alongwith detailed calculation for the EV charging load to be taken into account on the basis of record submitted by appellant. The date of deposit of 50% amount as per the order of Hon'ble Punjab and Haryana High Court be also intimated.
Arguments in the main matter have been led by both the parties. Decision in the matter will be issued through a separate order after receipt of the requisite information from the SDO respondent within **one week**.

Decision

In pursuant in the information desired vide interim order dated 15.09.2025 and information received vide email dated 18.09.2025. it has been observed that amount of Rs. 47,89,641/- for difference of tariff has been charged by the respondent SDO w.e.f. November 2016. Out of total charged amount Rs. 7,11,532/- has been adjusted against the account no. 1042311000 by the respondent SDO after considering the date of installation of EV charging station w.e.f. 1st September 2022 as per the details submitted by appellant counsel. Furthermore, it has been

intimated that the appellant has deposited an amount of Rs. 23,94,818/- in compliance to the direction of the Hon'ble High Court before approaching to this office.

After going through the available record on file and deliberations held on the matter thereof, it has been observed that Respondent Sub-Divisional Officer (SDO) is hereby directed to recalculate the outstanding amount payable by the Appellant as follows:

(a) The Respondent, Sub-Divisional Officer (SDO), Operations, Palam Vihar, shall recalculate the appellant's consumption for the Domestic Supply (DS) category by deducting the units billed under the Non-Domestic Supply (NDS) category from the total billed units. The revised consumption shall be assessed in accordance with the applicable bulk domestic tariff as per the prevailing tariff order. The appellant shall be granted the appropriate tariff benefit for the slab wise DS category, ensuring that the corrected billing reflects only the units attributable to the DS category, and any overcharges resulting from the application of the NDS tariff shall be adjusted in favor of the appellant.

(b) Deduct the charges attributable to the EV station amounting to Rs. 7,11,532/- being wrongly charged.

(c) Adjust the amounts already deposited by the Appellant amounting to Rs.16,63,535/- dated 28.03.2025 and Rs. 7,31,283 dated 10.06.2025.

(d) Thereafter, Compute the balance amount, including applicable surcharge thereon (in view of the Appellant's failure to comply fully with the order of the Hon'ble High Court) after accounting for amount of Rs.7,11,532/- which was otherwise not applicable to the appellant.

However, no surcharge should be levied on the Appellant for the period during which the appeal was pending before this Forum, commencing from 02.06.2025 until the date of this decision, and extending for an additional one month from the date of issuance of the revised bill, on account of the matter being under litigation.

Upon completion of the aforesaid recalculation, the Respondent SDO shall issue a notice to the Appellant Society, specifying the recalculated amount payable and direction to deposit of the same within one month from the date of issuance of such notice. In the event of non-deposit within the stipulated period, surcharge may thereafter be imposed in accordance with the instructions of the Nigam. For the avoidance of doubt, any amounts previously deposited by the Appellant shall be duly adjusted in the recalculation.

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 25th September, 2025.

Sd/-
(Rakesh Kumar Khanna)
Electricity Ombudsman, Haryana

Dated:25.09.2025

CC-

Memo. No.1512-1518/HERC/EO/Appeal No. 24/2025 Dated: 25.09.2025

To

1. Aura Residents Welfare Association ("RWA") (Through its President Mr. S.S.Gill) Mahindra Aura, Sector -110A, New Palam Vihar – III, Gurugram 122017. (Email vari.goyal@gmail.com)
2. The Managing Director, DHBVN, Hisar (Email md@dhbvn.org.in).
3. Legal Remembrancer, Haryana Power Utilities, Panchkula (Email lr@hvpn.org.in).
4. The Chief Engineer Operation, DHBVN, Delhi (Email ceopdelhi@dhbvn.org.in).
5. The SE/OP, Circle, Gurugram-I, DHBVN, Gurugram (Email seop1gurugram@dhbvn.org.in)
6. The XEN/OP, City Division, DHBVN, Gurugram (Email xenopcitygurugram@dhbvn.org.in)
7. SDO, Op. Sub Division, New Palam Vihar, DHBVN (Email sdoopnewpalamvihar@dhbvn.org.in)