

137 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-4047-2015

Date of Decision: 9.3.2015

M/s Narendera Cold Storage

....Petitioner

vs.

UHBVNL and others

....Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Madan Gupta, Advocate
 for the petitioner.

AUGUSTINE GEORGE MASIH J.(Oral)

It is the contention of the learned counsel for the petitioner that all the proceedings and exercise which have been undertaken by the petitioners have returned the finding that they did not have the jurisdiction or authority to decide the matter.

The petitioner has been acquitted in a criminal case which was initiated against him vide a judgment dated 8.4.2008 (Annexure P-10) by the Judicial Magistrate 1st Class, Yamuna Nagar. Therefore, it cannot be said that any theft has been committed by the petitioner. He further contended that as per Section 126 of Electricity Act, 2003 (Section 24 of Electricity Act, 1910) an advance notice was required to be given to the petitioner which has not been complied with though it is a mandatory provisions rendering the assessment order unsustainable. He has placed reliance upon the judgment passed by this Court in ***CWP No. 3843 of 2012 M/s Chandermani Stone Crusher vs. UHBVN Ltd. and others*** decided by this Court vide order dated 20.11.2013 where penalty amount was held to

be imposed illegally and refund was ordered. Relying upon the said judgment petitioner has served legal notice dated 28.8.2014 (Annexure P-11) upon the respondents but till date no decision has been taken.

Counsel for the petitioner contends that at this stage petitioner shall be satisfied that if the petition is disposed of with a direction to respondent No. 1 to consider and decide the legal notice within some specified time.

Prayer made by the counsel for the petitioner is accepted and accordingly, the present petition is disposed of with directions to the Managing Director UHBVNL-respondent No. 1 to consider and decide the legal notice dated 28.8.2014 (Annexure P-11) within a period of 2 months from the date of receipt of certified copy of order. The decision so taken be conveyed to the petitioner forthwith. In case, the claim of the petitioner is accepted as has been projected by him in the legal notice dated 28.8.2014 (Annexure P-11), the consequential benefits be released to him within further period of 4 weeks.

March 09, 2015
Ishant

(AUGUSTINE GEORGE MASIH)
JUDGE