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

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CWP No. 4190 of 2015

Date of Decision: March 11, 2015

Uttar Haryana Bijli Vitran Nigam Ltd.

...Petitioner

Versus

The Electricity Ombudsman Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

Present: Mr. Mohnish Sharma, Advocate,
for Mr. Pardeep Singh Poonia, Advocate,
for the petitioner.

**AUGUSTINE GEORGE MASIH, J. (ORAL)**

It is the contention of the counsel for the petitioner that the impugned order dated 19.05.2014 (Annexure P-12) passed by the Electricity Ombudsman is not in accordance with the circular issued by the petitioner-Nigam. He contends that the period, for which the petitioner has been held disentitled from claiming the peak load exemption charges, was not covered by the instructions/circular issued by the petitioner-Nigam, and, therefore, the order deserves to be set aside.

I have considered the submissions made by the counsel for the petitioner and have gone through the records of the case.

On perusal of the impugned order dated 19.05.2014 passed by the Electricity Ombudsman, I do not find any illegality in the said order as a well-reasoned, detailed and well-explained order has been passed dealing with all the contentions raised not only by the petitioner but respondent No. 2. The operative part of the order, which is disputed by the petitioner, reads as follows:-

> " The disputed period from April, 2007 to January, 2008 during which the appellant company has consumed power during peak load hours can be divided into two parts one before 29.10.2007, the date when they applied for special dispensation and 2nd after 29.10.2007 till January, 2008. From April, 2007 to 29.10.2007 the appellant company has not sought special dispensation but were entitled for consumption during peak load hours equivalent to 10% of the contract demand @ ₹ 2/- per unit extra. Beyond 10% should have been treated as violation of PRM and supply disconnected. To be precise the appellant company could use units equivalent to 10% of CD i.e. 924 KVAx0.1x0.9 p.fx6 hrsx30 days=14969 units.
>
> The appellant has been consuming much more than 10% consumption but the respondent Nigam failed to take any action viz-a-viz disconnection of supply. Otherwise the appellant is liable to pay ₹ 2/- per unit extra for consumption up to 10% and beyond that face disconnection. The respondent Nigam has failed to

impose PRMs properly.

The contention of the appellant company is that they have run the factory only on specific instruction of the department. On going through the record of special messages from the substation of the respondent Nigam to the appellant company it is found that during December, 2007 only one message has been given but consumption recorded is more than 16600 units which is not possible meaning thereby that the appellant company has been running their factory during peak load hours without any specific messages also, hence their contention that they have run the factory during PLH only on the asking of the Nigam is not corroborated from the statements submitted by them.

Regarding abolishing of PLEC for morning peak load hours the contention of the appellant cannot be accepted as the HERC order dated 04.10.2010 do not provide for any adjustment retrospectively.

For the period from 29.10.2007 till Jaunary, 2008 the appellant company is liable to pay full PLEC as agreed to by them also.

Keeping in view the forgoing discussions, material on record, pleadings and arguments by both the parties following is ordered.

i. The order dated 16.01.2014 of the Ld. Forum is set aside as the same has not been passed on merits.

ii. Notice for short assessment raised by the respondent Nigam on 12.02.2008 is modified to the extent given in the following paras.

iii. Following PLEC is directed to be charged from the appellant Company i.e. M/s Bharat Rasayan Ltd. Village Mokhra, Rohtak by the respondent Nigam.

a. For the period May, 2007 to October, 2007

PLEC may be charged @ ₹ 2/- per unit for consumption equivalent to 10% of the contract demand for six hours PLH as notified in Sales Circular No. U-36/2007. No charges shall be levied beyond 10% of CD consumption during PLH.

b. For the period November, 2007 to January, 2008

PLEC may be charged @ ₹ 2/- per unit for consumption equivalent to 10% of the contract demand for six hours PLH as notified in Sales Circular No. U-36/2007. All consumption during PLH beyond 10%, shall be charged @ ₹ 4/- per unit extra.

iv. No relief in respect of interest claimed by the appellant company."

In view of the above, finding no merit in the present writ petition, the same stands dismissed.

March 11, 2015 **(AUGUSTINE GEORGE MASIH)**
pj **JUDGE**