

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

**CWP No. 994 of 2014
Date of decision: September 15, 2015**

M/s M.B. Malls Pvt. Ltd. ...Petitioner

Versus

Dakshin Haryana Bijli Vitran Nigam Ltd. , Panchkula and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr. Yash Dev Kaushik, Advocate
for the petitioner.

Mr. P.S. Poonia, Advocate for
the respondents.

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HARINDER SINGH SIDHU, J.

The petitioner is having an electrical connection in the L.S. (Large Supply) Category from the respondent Nigam with sanctioned load of 199.970KW existing in the name of M/s Gokhimal and Hukam Chand.

The petitioner is aggrieved of memo No.985 dated 27.06.2013 (Annexure P-5) wherein the petitioner has been asked to pay an amount of Rs.29,97,007/-.

Learned counsel for the petitioner has placed reliance on section 56(2) of Electricity Act, 2003 as per which 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 arrears of

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charges for electricity supplied and the licensee shall not cut off the supply of the electricity.

In the written statement filed on behalf of respondents No.1 to 3, it has been admitted that the impugned demand has been raised after overhauling of the consumer account for the period from 03.02.2010 to 10.06.2013 by charging difference of tariff.

In an effort to get over the limitation imposed by Section 56(2) of the Act, it has been stated that though the demand relates to the period from 03.02.2010 to 10.06.2013 but the same has become due only on the issuance of letter dated 26.06.2013 itself. So, there is no violation of Section 56(2) of the Electricity Act.

The above stand of the respondents, obviously cannot sustain. On a plain reading of section 56(2) of the Electricity Act, it is clear that 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 arrears of charges for electricity supplied.

Evidently an amount would become due once the energy has been consumed, and the bill in respect thereof becomes payable. It could not be said to have become due on the issuance of letter (Annexure P-5). Hence, there is no merit in the stand of the respondent that this case is not covered by Section 56(2) of the Act.

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Accordingly notice (Annexure P-5) raising demand of payment from the petitioner is quashed. However, the respondents would be at liberty to raise a fresh demand for the period as permissible under section 56(2) of the Electricity Act.

(Harinder Singh Sidhu)
Judge

15.09.2015
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