

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

CWP No.11792 of 2014
Date of Decision:-07.11.2016

M/s Knitwell Apparels Pvt. Ltd.

..... Petitioner

Vs.

Divisional Commissioner Patiala Division and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Vivek Chauhan, Advocate,
for the petitioner.

Mr.Vinod S. Bhardwaj, Addl. A.G., Haryana.

RAKESH KUMAR JAIN, J. (ORAL)

This petition is directed against the orders dated 29.11.2013 and 22.11.2012 passed under the Electricity Act, 2003 [for short 'the Act'].

Shorn of unnecessary details, the petitioner is an industrial unit, The petitioner has installed LS connection having sanctioned load of 310 KVA bearing account No.FP-69/684. The premises of the petitioner was inspected by the staff of the respondents and found unauthorized use of electricity by way of extension to its another premises by laying down 75 meter electricity cable of 4-C-35 mm capacity. On the basis of the inspection, provisional assessment of the unauthorized consumption of electricity was made and a notice was served upon the petitioner providing it an opportunity to file objections. The petitioner filed objections and ultimately final assessment order was passed on 22.11.2012 in terms of Section 126 of the Act. Aggrieved

against the said order, the petitioner availed the remedy of appeal before the Commissioner Division, Patiala in terms of Section 127 of the Act. The appeal was dismissed and hence, the present petition has been filed.

The only argument raised before this Court by the petitioner is that the respondents have not applied the LDHF formula at the time of assessment of the recoverable amount.

On the other hand, learned counsel for the respondents has submitted that the assessment has been made on the basis of the actual meter reading for which the LDHF formula was not required.

In this regard he has referred to Clause 36(1)(a)(ii) of the Electricity Supply Code, 2007, which reads as under: -

“if, the consumption of electricity cannot be computed on the basis of meter reading, then the same will be computed on the basis of the LDHF formula as detailed in para 4 below.”

It is also submitted by counsel for the respondents that a specific averment has been made in the reply that *“the amount charged to the petitioner is based on the reading and consumption actually covered by the meter and not on the basis of LDHF formula as alleged by the consumer on 100% load factor. The LDHF formula is applicable only, in case, where the meter is not recording energy accurately or the energy consumption is not available”*.

No rejoinder to the reply is filed.

Be that as it may, it is also pertinent to mention that the plea which is being sought to be taken before this Court has never been taken even

in the objection filed in the provisional assessment and in appeal filed against the final assessment order. A new issue cannot be permitted to be raised in the absence of its foundation and hence, the Court has to believe the statement made by the respondents, which is also reflected from the reading of Annexure P-16 in which the actual reading and the consumption charges have been recorded.

In view thereof, I do not find any merit in the present petition and the same is hereby dismissed.

07.11.2016
Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No