IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.3013 of 2016

Date of Order: 16.02.2016

Punjab State Power Corporation Ltd and Ors.

....Petitioners

Versus

M/s Super Ispat Udyog Pvt Ltd

...Respondent

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr. Adarsh Malik, Advocate for the petitioners.

RAKESH KUMAR JAIN, J

This petition is filed to challenge the order dated 30.3.2015 passed by the Divisional Commissioner, Patiala Division by which appeal filed by the respondent was partly accepted.

The respondent-firm is holding a connection bearing Account No.W-11EST-1-236 in the category of Large Supply having sanctioned load of 1399.977 KW with contract demand of 1590 KVA. The respondent is using manufacturing unit and the said connection is sanctioned under General category in large supply tariff. A raid was conducted by the petitioners on 28.8.2012 and it was found that the respondent has been unauthorizedly using electricity supply. It was reported by the checking officers that one number Induction furnace of the capacity of 570 volt output 350 KW was running from 500 KVA T/F in addition to the general industrial load (cold steel rolling mill). The appeal filed by the respondent was allowed vide the impugned order with the following observations:

> *"It is an established case of unauthorized use of Electricity as defined under Section 126 of the Electricity Act, 2003 and the department has raised the demand for overhauling the account for the period of 12 months. I have noticed that the assessing officer has erred in asserting the UUE Compensation period. I am of view that the overhauling of account can only be done for a maximum period of 12 months, if the exact date of this unauthorized use could not be ascertained. In the present case the purchase invoice no.21 dated 2.5.12 is genuine to be accepted for ascertaining the exact UUE Period. Moreso, the District Excise and Taxation Commissioner, Ludhiana has submitted to this court vide his letter no.1760/ET/Ddated 9.1.2015 that Invoice No.21 dated 2.5.2012 issued by M/s Sai Enterprises B-XXIII/2440/A, Indl Area-A Extn., Sherpur Kalan, Ludhiana Holding Tin No.03292043247 issued to M/s Super Ispat Udyog Pvt Ltd. Indl Area-C, Vill Kanganwal, P.O Jugiana, Ludhiana has been verified from VAT returns of both the parties and found to be genuine and the Vat liability has been adjusted against Input credit.*
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> *Keeping in view the above, the present appeal is hereby partly accepted and it is hereby ordered to charge UUE amount for the period starting from 2.5.2012 (i.e date of purchase of furnace) to 28.8.2012 (i.e date of checking). The appellant*

> *has already deposited 50% (i.e Rs.25,40,200/-) of total amount in dispute (i.e Rs.50,80,330/-) and after re-calculation, if the amount liable to be paid by the appellant as UUE comes less than the amount already deposited by the appellant, then the balance amount be returned to the appellant with immediate effect."*

Learned counsel for the petitioners has submitted that the learned Appellate Authority has erred in relying upon the letter of the District Excise and Taxation Commissioner as it was related to the Tax.

I have heard learned counsel for the petitioners and after examining the available record, it is apparent that the furnace was purchased vide Invoice No.21 on 02.5.2012 whereas the date of checking is 28.8.2012 and the aforesaid period starting from 02.5.2012 (i.e date of purchase of furnace) to 28.8.2012 (i.e date of checking) has been considered for the purpose of charging unauthorized use of electricity and the amount has been ordered to be charged for this period. According to this Court, there is no error in the order of the Appellate Authority, hence the present petition is hereby dismissed.

February 16, 2016 **(RAKESH KUMAR JAIN)**
manoj **JUDGE**