

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

CWP No.22034 of 2011
Date of decision : 29.03.2017

M/s Switch Craft Pvt. Ltd.

...Petitioner

Versus

Ombudsman Electricity Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. Mannu K. Bhandari, Advocate for the petitioner.

Mr. Bhupesh Dogra, Advocate for
Mr. Amit Aggarwal, Advocate for respondent Nos.2 and 3.

AMIT RAWAL, J. (Oral)

The petitioner-M/s Switch Craft Pvt. Ltd. has approached this Court for issuance of writ thereby quashing the orders dated 29.11.2010 (Annexure P-12) of the respondent No.4, 08.07.2011 (Annexure P-16) by respondent No.3 and 20.10.2011 (Annexure P-19) by respondent No.1 and further restraining the respondents from disconnecting the electricity supply to the petitioner during the pendency of the present writ petition and also praying for staying the operation of order dated 17.11.2011 (Annexure P-20).

According to the averments made in the writ petition and submission of Mr. Mannu K. Bhandari, learned counsel appearing on behalf of petitioner-M/s Switch Craft Pvt. Ltd., an application was submitted on

23.11.2004 i.e. for shifting over of the connection issued in the name of M/s Switch Craft Pvt. Ltd. in favour of M/s Abrol Engineering Company Pvt. Ltd. as M/s Switch Craft Pvt. Ltd. was essentially closed down and was flabbergasted to receive a notice (Annexure P-9) raising a demand of ₹2,10,162/- to be paid within a period of seven days as account of the petitioner was overhauled on the basis of the alleged checking done on 05.03.2009. Vide letter dated 26.06.2010 (Annexure P-10), the petitioner sent a cheque No.0044346 dated 25.06.2010 of ₹1,29,880/- drawn on SBI, Kapurthala towards security deposit for change in the name of electricity meter connection of M/s Switch Craft Pvt. Ltd.. Without adhering to the aforementioned fact, Authorities kept on insisting on the same. The petitioner approached the Dispute Settlement Committee, whereby it ordered for overhauling of the account and dismissed the same. The matter was taken before Zonal Level Dispute Settlement Committee, which, vide order dated 29.11.2010 asked for rehauling vide letter dated 05.01.2011 (Annexure P-13) and petitioner was directed to deposit the amount of ₹4,26,982/-, in essence, submitted, that earlier demand had burgeoned to almost double. The matter was taken before the Electricity Grievances Redressal Forum, Patiala vide Annexure P-14, but the same was also dismissed. He further submits that there has not been any adherence to ESR (Electricity Sales Regulation) No.167.06.01, and despite relied emphatically referred to at page No.20 of the paper book which envisage that in case existing consumer approaches for clubbing of the connection, Advanced Consumer Deposit (ACD) is not required to be deposited as what has already been deposited shall be adjusted towards newly clubbed account

number.

Per Contra, Mr. Bhupesh Dogra, learned counsel appearing on behalf of respondents No.2 and 3 submits that in pursuance to the order of the Zonal Committee, the overhauled account also contained element of penalty. The petitioner vide letter dated 07.09.2005 (Annexure P-2) was asked to submit requisite A&A Form/Test Reports for the purpose of clubbing. Having failed to do so, checking was done and resultantly overhauling was done. The said demand of the petitioner was not complied with, therefore, estopped to challenge the orders and urges this Court for dismissal of the present writ petition.

I have heard learned counsel for the parties and appraised the paper book.

Before I could dictate the order, Mr. Mannu K. Bhandari, Advocate informed the Court that against the alleged demand, the petitioner had already deposited a sum of ₹1,16,236/-. Be that as it may, but the fact remains that contents of letter (Annexure P-10), which reads as under:-

*“Abrol Engineering Company Private Limited
AN ISO 9002 Certified Company
Ref. AECO/2010/L-S-F/514 June 26, 2010
The SDO
Punjab State Power Corporation Ltd.
Kapurthala
Sub:- Change of name Connection. LS-15 from Switch
Craft Pvt. Ltd. Kapurthala to Abrol Engg. Co. Pvt.
Ltd. Indl. Area, Kapurthala.
Dear Sir,
Enclosed, please find herewith Chq. No.044346 dt.
25.06.2010 for Rs.1,29,880/- of SBI, Kapurthala towards*

Security Deposit for the change in the name of electricity meter connection from M/s Switch Craft Pvt. Ltd. to M/s Abrol Engg. Co. Pvt. Ltd., Indl. Area, Kapurthala.

Thanking You,

Yours Faithfully

For Abrol Engg. Co. Pvt. Ltd.

Sd/- Director

Encl: A copy of memo 769 Dt. 13.03.08”

has not been denied in the written statement, much less, encashment.

Once the petitioner had already deposited the security deposit, no explanation has come forth by the Electricity Department, much less, has not been adverted to by the authorities. There is bona fide act on the part of the petitioner for the purpose of switching over the connection from one unit to another despite that being hauled up for misusing of the electric connection issued in favour of petitioner but the authorities have not taken any connection thereon.

Instead of advertng to the switching connection and overhauled account charged the consumption charges, in my view, demand was not sustainable in the eyes of law. Authorities were required to go into the aforementioned aspect, much less, ESR as referred above, which reads as under:-

“where the existing consumer(s) comes for clubbing of the connection, the ACD as already deposited may be accepted as against newly clubbed account number”

The Authorities at the helm of affairs should not be stubborn, rather should be courageous and helpful to the consumers in sensitizing the

provision or the regulations and the requirements. In my view, such an act is not less than an act of shylock.

Resultantly, orders under challenge are set aside.

Writ petition is disposed of with direction to the respondent(s) to take into consideration the amount of ₹1,29,880/- as deposited vide cheque No.0044346 dated 25.06.2010 that immediately a day after when the alleged demand vide Memo No.230 dated 25.06.2010 (Annexure P-9) was received and take a decision thereon. Amount already deposited by the petitioner shall be adjusted towards the future consumption charges.

Let this exercise be done within a period of two months from the date of receipt of certified copy of the order.

With the aforementioned observations, present writ petition stands disposed of.

29.03.2017

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**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No