

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

CWP No. 24455 of 2011

Date of decision : 21.07.2017

M/s Didar Steel Complex (P) Ltd.

....Petitioner

V/s

Punjab State Power Corporation & ors.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Sanjiv Thakur, Advocate for the petitioner.

Mr. Arun Kaundal, Advocate for the respondents.

RAJAN GUPTA J.

Only grievance of the petitioner is that his representation, Annexure P-9 dated 11.11.2011 has not been decided till now. Thus, a direction be issued to decide the same. It appears that petitioner earlier approached this court by way of writ petition seeking quashing of demand raised by the Board in lieu of voltage surcharge. His writ petition was dismissed. On a LPA (LPA No. 605 of 2009) being preferred before the Division Bench a detailed judgment was rendered. Operative part thereof reads as under:-

“However, we find merit in the arguments raised by the appellants that the surcharge is being claimed from 01.04.2004 though the tariff order for the year 2004-05 was made effective from 1.10.2004. In view of the said fact, we are of the opinion that such surcharge can be claimed from the power intensive units such as the appellants from 01.10.2004 alone in terms of the tariff order Annexure P-21 and not from any date earlier than the date notified by the Commission. Therefore, the appeals are allowed to the limited extent that the surcharge at

the rate of 10% from units having sanctioned contract demand of 2500 kVA to 4000 kVA and at the rate of 17.5% from the units having contract demand of more than 4000 kVA shall be applicable from 01.10.2004.

Another argument raised by learned counsel for the appellants, common to both set of cases, is that in terms of Section 56 of the Act the Board can claim arrears of the electricity charges for a period of two years alone. It is contended that the bills for the supply of electricity were issued between the months of March to October, 2008 but with effect from 01.04.2004 i.e. for the period exceeding two years. Therefore, such recovery is not tenable. We find that in the writ petitions, no such assertion based upon Section 56 of the Act has been made. Even otherwise, we find that Section 56 of the Act deals with power of disconnection of supply in default of payment of the electricity charges without prejudice to the rights of the Licensee in a suit. The bar under sub-section 2 of Section 56 of the Act is in respect of the action under the aforesaid Section. Therefore, Section 56 of the Act is a provision which gives right to the Board to recover the arrears of electricity on the threat of disconnection of the supply. Such arrears are restricted for a period of two years, but it does not wipe off the recovery of arrears for more than two years. The right to recover arrears by way of suit has been specifically protected. Therefore, whether the electric supply can be disconnected in terms of Section 56 on the basis of arrears claimed, require verification of the facts. Therefore, we give liberty to the consumers to submit representation, if so advised, in respect of claim of arrears for a period exceeding two years. As and when such representations are filed, the Board shall consider the same and initiate appropriate proceedings for recovery either in terms of Section 56 of the Act or in other manner authorized by law.”

Learned counsel appearing for the Corporation at the outset submits that aforesaid order shall be complied with in letter and spirit.

In view of above, this petition is disposed of. Needless to observe that in case representation, Annexure P-9 has been received in the office of respondent no. 3, same be decided forthwith.

July 21, 2017

Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No