

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

**CWP No.19979 of 2014
Date of Decision.21.04.2017**

Sh. P.C. Sood s/o late Sh. Ram DassPetitioner
Vs

The State of Haryana and othersRespondents

Present: Mr. Sachin Mittal, Advocate
for the petitioner.

Mr. Rajbir Singh, AAG, Haryana.

Mr. Puneet Jindal, Senior Advocate with
Mr. Varun Goyal, Advocate
respondent Nos.2 to 4.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The petitioner-consumer is aggrieved of the impugned order dated 23.05.2014 (Annexure P-2) i.e. the final order of assessment and order dated 06.08.2014 (Annexure P-5) whereby the appeal preferred under Section 127 of the Indian Electricity Act, 2003 against the final order of assessment has been dismissed.

Mr. Sachin Mittal, learned counsel appearing on behalf of the petitioner submits that the petitioner had been running a workshop for repairing and servicing of Hero motorcycle and obtained electric connection of LT Industrial Supply Category. The department on inspection of the premises found that the petitioner could have availed the connection of NDS, being commercial, as the aforementioned activity does not fall under the category “industrial activity” and in this regard, raised demand of ₹4,02,871/-. The petitioner did not know the intricacies of the aforementioned demand and had been using the electric connection under

the bona fide, resulting into passing of the final assessment order (Annexure P-2). The same was assailed and having not succeeded to, approached this Court.

Mr. Puneet Jindal, learned Senior Counsel assisted by Mr. Varun Goyal, Advocate appearing on behalf of respondent Nos.2 to 4 submits that the aforementioned plea of the petitioner cannot find weight in the mind of the Court as the consumer cannot plead lack of knowledge about the same as held in the judgment of this Court in *M/s Capital Auto Rubber Industries Vs. Punjab State Power Corporation Limited and another 2016(1) RCR (Civil) 46*. Moreover, the petitioner has failed to file objection with regard to provisional assessment order, resulting into passing of the final assessment order and therefore, the orders assailed are perfectly legal and justified, as in accordance with the Circular No.29/2013 (Annexure R-1), the workshop can be treated only as “Non Domestic Supply”.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is no dispute to the ratio decidendi culled out in the judgment cited by Mr. Jindal but the fact remains that keeping in view the peculiar facts and circumstances of the case, it will be appropriate if one more opportunity is granted to the petitioner to approach the concerned authority with regard to reduction in quantum, for, the entire amount as raised is stated to have been deposited, under the bona fide belief of not obtaining the correct electric connection i.e. NDS instead of LT Industrial Connection. According to the petitioner, the activity as noticed above, could have fallen under the expression “industrial activity”.

Be that as it may be. The fact remains that the petitioner,

though not filed objections to the provisional assessment but it was under the bona fide belief of obtaining correct electric connection and I deem it appropriate to give one more opportunity to the petitioner to represent before the concerned authority for reduction in the demand raised. However, this will not give a fresh cause of action to the petitioner and as well as the respondents to pass fresh order of provisional assessment and assail the matter again.

Resultantly, the writ petition stands disposed of in the above terms. The petitioner shall approach the concerned authority-respondent No.4 i.e. Executive Engineer/Operation City Division, DHBVN, Gurgaon within a period of one month from the date of receipt of certified copy of the order and thereafter, he shall decide the same in accordance with law within a period of two months thereafter. It is expected that the concerned officer shall consider the case of the petitioner in a most objective, pragmatic and sympathetic manner.

(AMIT RAWAL)
JUDGE

April 21, 2017
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No