

CWP No.15323 of 2017

[1]

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

**CWP No.15323 of 2017
Date of decision:17.07.2017**

M/s Vardhman Special Steels Ltd.

...Petitioner

Versus

Punjab State Power Corporation Ltd. and others

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Tajender K. Joshi, Advocate,
for the petitioner.

Rakesh Kumar Jain, J.

The petitioner has prayed for the issuance of a writ in the nature of *certiorari* for quashing the demand notice dated 21.01.2013 issued by respondent no.1.

In short, the petitioner is the manufacturer of Special & Alloy Steel at its plant at Ludhiana. It obtained the electricity connection under LS category from respondents no.1 and 2 with initial load of 10354 KW in October, 1982, which was increased from time to time and in the month of October, 2011, the petitioner was having sanctioned load of 30430.641 KW/28000 KVA on contract demand. It is alleged that the petitioner was being fed from 66 KV independent Vardhman Special Steel Feeder emanating from 220 KV BBMB, Jamalpur Sub Station, for which the petitioner had allegedly paid the cost but it required further load for extension and, thus, deposited the earnest money and applied for extension of load, making it a total

load of 34800 KW and CD of 34800 KVA. It is alleged that the petitioner was informed on 17.12.2012 about the feasibility clearance for the extension of load. The petitioner submitted fresh A&A form and deposited the balance Advance Consumption Deposit (ACD) of ₹91,80,000/- and, thereafter, it was served with a notice to deposit the service connection charges of ₹1,37,43,634/-. It is alleged that the petitioner sent a letter to the respondents that since there was no augmentation of line for catering the increase/extension in contract demand, therefore, the levy of service connection charges are not justified. Since the respondents did not desist from asking the service connection charges, therefore, the petitioner filed a complaint dated 09.12.2014 to the Forum for Redressal of Grievances of Consumers, Patiala (hereinafter referred to as the "Forum") and challenged the demand after depositing the amount claimed under protest. The said complaint of the petitioner was dismissed by the Forum on 05.05.2015. This led to the filing of an appeal to the Ombudsman, Electricity, Punjab but its appeal was also dismissed on 23.09.2015.

Counsel for the petitioner has submitted that the respondents cannot raise the demand under the delegated legislation. The Ombudsman, while dismissing the appeal of the petitioner, made the following observations:-

"I have gone through all the relevant Regulations referred in the case by both parties and the decision adjudicated by the CGRF (Forum) in case no:CG-21 of 2015, wherein I find that the Forum has rightly held that CC no:25/2012 dated 22.08.2012 was issued by PSPCL in implementation of Commission's notification dated 13.08.2012 amending Supply Code Regulation 9.1.2 (i) (c) which provides that the charges for additional load should not be less than those computed on per KW/KVA basis for the total load less

already paid for the existing load against the payment of only proportionate cost of main and feeding substation and backup/common line including bay for the period prior to this amendment. In its observations, the Forum had provided a detail of calculations of the disputed amount of Rs.1,37,43,634/- on the basis of data supplied by the respondents, which seems to be correct as no ambiguity has been found in it. The Forum has also further elaborated the relevant clause of CC 25 / 2012 which clearly provides for charging the SCC which shall not be less than those computed on per KW/KVA basis. Accordingly, I find merit in the arguments of Respondents that the Petitioner is liable to pay SCC for his additional load which should not be less than those as computed on per KW/KVA basis for total load less already paid by him under the amended Regulations, as applicable at that time. The Forum has thus rightly held that the arguments of the Petitioner for refund on the basis of provisions of Supply Code – 2014 are not maintainable in the present case. I also find merit in the arguments of Respondents that the raising of issue of non-adjustment of Rs.1036478/- is beyond jurisdiction as the issue is under litigation in a Civil Court and can be solved only after decision by the Civil Court.

7. In view of the above discussions, it is held that the disputed demand of Rs.1,37,43,634/- raised by the Respondents is justified and in accordance with the Regulations, as applicable at that time and accordingly the Petitioners are not entitled to any refund/relief on this account. Therefore, order dated 15.05.2015 of the Grievances Redressal Forum (Forum) in case no.CG-21 of 2015 is upheld.

Accordingly, the amount excess/short, after adjustment, if any, may be recovered/refunded from/to the petitioner with interest under the provisions of ESIM-114.

8. The appeal is dismissed.”

The argument raised by the petitioner that the demand cannot be raised as it has not been raised under the Regulations is totally misplaced as it is provided in the proviso to Section 43 of the Electricity Act, 2003 (hereinafter referred to as the “Act”) that the petitioner has to pay the amount, as

determined by the Appropriate Commission, and Section 46 of the Act further provides that the State Commission may, by regulations, authorize a distribution licensee to charge from a person, requiring a supply of electricity in pursuance of Section 43 of the Act, any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply.

Thus, the powers to charge for the supply of electricity is very much provided in the Act but it only says that the expenses have to be reasonably incurred and it is not the case of the petitioner that the respondents have charged unreasonably, rather it is their case that it cannot be charged.

In view of the above, I do not find any merit in the present petition and hence, the same is hereby dismissed, though without any order as to costs.

July 17, 2017
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No