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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-2448-2013

Date of decision : 16.01.2017

M/s TDK Carbonics

... Petitioner

Versus

The Ombudsman, Electricity Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Kunal Dawar, Advocate
for the petitioner.

Mr. Arihant Goyal, Advocate
for respondent No.1.

Brig. B.S. Tounque, Advocate
for respondent Nos.2 to 4.

AMIT RAWAL, J. (ORAL)

The petitioner is aggrieved of the impugned order dated 11.06.2012 (Annexure P-10), whereby the petition, of the petitioner, has been, after noticing the contentions of the Electricity Board by holding as under, dismissed:-

“It was vehemently argued on behalf of the petitioner that year wise consumption data clearly indicates that the meter was running fast and recording higher consumption. The following year wise data was submitted:-

Year 2010		Year 2011		Year 2012	
Month	Consumption	Month	Consumption	Month	Consumption
January	81345	January	138932	January	124358
February	93153	February	139692	February	93290
March	99566	March	124760	March	125728
April	58767	April	143340	March	108899

May	103481	May	149688		
June	81751	June	98880		
July	118080	July	139312		
August	98826	August	164532		
September	129612	September	133248		
October	108138	October	128832		
November	121778	November	116772		
December	114080	December	63880		

It was pointed out that the consumption started increasing from February onwards, after replacement of the meter. During the month of August, 2011, it was 164532 units as against 98826 units during 2010. On perusal of the above data, it is noted that there is fluctuation in the consumption pattern from month to month. Whereas it is a fact that consumption for the month of August 2011 is higher than of the comparable month of the previous year, it is also a fact that the same meter, before its replacement on 30.12.2011, recorded consumption of 116772 units for November, 2011 as against consumption of 121778 units for the corresponding period of the previous year. The consumption during the year 2012 is also higher as compared to consumption during the corresponding months of the year 2010. As already pointed out above, the accuracy of the challenged meter was found within the permissible limit on checking in the M.E. Lab and there is no evidence available that meter was recording higher consumption. Change in consumption pattern alone cannot be made basis of presuming inaccuracy in the meter.

In this petition, bill for 164532 units for the month of August 2011 has been challenged. The above consumption data shows that consumption during the month of August, 2011, is the highest during the entire period. After analyzing all the facts and circumstances of the case and allowing benefit of doubt to the petitioner in view of total deficiency of service on the part of the respondents, I consider it fair and reasonable to restrict the consumption for the month of August 2011 to the highest recorded in any of the three years which is 149688 units in

May, 2011. This direction is only for the month of August, 2011 and has to bearing on the accuracy of the challenged meter for other months because the meter was found to be within permissible limits of accuracy in the M.E. Lab. It is directed that bill for the month of August, 2011 be revised in view of this direction and accordingly, the excess/short deposits, if any, after adjustment, shall be refunded/recover with interest under the provisions of ESR-147.

7. The appeal is partly allowed.”

The aforementioned order was sought to be reviewed vide order dated 11.10.2012, but the same met with the same fate.

Mr. Kunal Dawar, learned counsel appearing on behalf of the petitioner submits that the electric meter was replaced from the unit of the petitioner in the month of November 2010. The Bill of 23.09.2011 was to the tune of ₹ 10,02,470/- which was assailed as the previous readings i.e. prior to the replacement of the meter was on a lesser side. This aspect had been, though, appreciated by The Ombudsman, Electricity Punjab by holding the Electricity Board to be deficient in service and therefore, benefit of one month's adjustment of the Bill has been given, whereas it should have been qua overhauling of the meter for six months. It is, in this aspect of the matter, the review was sought, but the same has erroneously been dismissed.

Per contra, Brig. B.S. Tounque, learned counsel appearing on behalf of respondent Nos.2 to 4 submits that on replacement of the meter in November 2010, the average consumption was almost commensurating with each other except for June 2011, whereas the disputed consumption is/was of August 2011, raised in September 2011. No sufficient material had been placed on record to belie the previous consumption and therefore, the

demand was according to the actual consumption, thus, the order under challenge is perfectly legal and justified, though, even the adjustment of one month was not required.

I have heard the learned counsel for the parties and appraised the paper book and of the view that on perusal of the extracted portion of the order, it is clear that the consumption after replacement of the meter in November 2010, is almost commensurating with each other i.e. for January-138932, February-139692, March-124760 and so on and so forth. For August, it was 164532. The petitioner has not been able to justify the consumption of more units. The inspection of the meter and the consumption of the units has not been disputed. Having failed to lead any evidence, I am of the view that the findings rendered by the Ombudsman Electricity Punjab, are perfectly legal and justified. No ground for interference is made out.

Accordingly, the present writ petition is dismissed.

16.01.2017

Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

✓
Whether speaking/reasoned **Yes/ No**

✓
Whether Reportable **Yes/ No**