

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

CWP No. 26835 of 2015

Date of Decision: 25.07.2018

PUNJAB STATE POWER CORPORATION LTD. AND ANOTHER

..... Petitioners

V/s.

***APPELLATE AUTHORITY UNDER ELECTRICITY ACT AND
ANOTHER***

....Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.

Present: Mr. Praveen Chander Goyal, Advocate
for the petitioners.

Mr. H.S. Sitta, AAG, Punjab.

Mr. Parminder Singh Kanwar, Advocate,
for the respondent No. 2

RAKESH KUMAR JAIN, J. (Oral)

This petition is directed against the order dated 17.03.2015 passed in an appeal filed by respondent No. 2, under Section 127 of the Electricity Act, 2003 (hereinafter referred to as “the Act”) against the order of final assessment passed under Section 126 of the Act.

In brief, learned counsel for the petitioners has submitted that respondent No. 2 obtained an electricity connection for running an Oil Press (*Kohlu*) with the sanctioned load of 18.94 KW. Later on, he started a *Karyana* Shop and increased the load on his own without obtaining sanction from the competent authority. The premises of the respondent No. 2 was checked on 03.06.2014 and a show cause notice dated 19.06.2014 was given to him in which total load of 43.20 KW was found in the Meter Demand

Indicator. In the final order of assessment, respondent No. 2 was asked to pay ₹ 69,593/- towards power charges, ₹ 9,372/- towards excise duty and ₹14,917/- towards load charges. Aggrieved against the said order, respondent No. 2 filed an appeal which has been allowed by the learned appellate authority only on the ground that appellant-respondent No. 2 cannot be penalized for the entire load of 43.20 KW rather he can be asked to pay the amount regarding the difference between the sanctioned load and the load actually used by him. The appellate Court, however, has observed that the amount of ₹47,101/-, half of the assessed amount, deposited by appellant-respondent No. 2 at the time of filing of an appeal, shall be adjusted in the future bills. Meaning thereby, he has been totally absolved.

Learned counsel for the petitioners has submitted that in any case respondent No. 2 is liable to pay that much amount of the electricity which he has consumed without sanction. In this regard it is submitted that the amount i.e. ₹ 47,101/- which has already been deposited by respondent No. 2 may be ordered to be retained by the petitioner and may not be adjusted in the future bills as directed by the appellate Court vide impugned order.

In this regard, learned counsel for respondent No. 2 has submitted that if respondent No. 2 has to pay the amount of difference, then the matter may be remanded back to the appellate Court to decide it again.

After taking into consideration the aforesaid facts and circumstances, the present petition is allowed. As a consequence, the impugned order dated 17.03.2015 is hereby set aside and the matter is remanded back to the appellate Court to decide afresh as to how much actual

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amount respondent No. 2 has to pay with regard to difference between the sanctioned load and the load which has been found to be used by him.

Parties are directed to appear before the appellate authority on 27.08.2018.

July 25, 2018

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(RAKESH KUMAR JAIN)
JUDGE

	✓		
Whether speaking / reasoned :	Yes	/	No
Whether Reportable :	Yes	/	No