

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No.1343 of 2015 (O&M).

Date of Decision: August 27, 2018

M/s Narendera Cold Storage and Ice FactoryAppellant
versus
UHBVN Limited and othersRespondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE SUDIP AHLUWALIA.**

Present: Mr.Aayush Gupta, Advocate, for the appellant.
Mr.R.S.Dadwal, Advocate for
Mr.Hitesh Pandit, Advocate, for the respondents.

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Surya Kant, J. (Oral)

This letters patent appeal is directed against the order dated 12.08.2015 whereby the learned Single Judge has declined to interfere with the orders passed by the Consumer Grievances Redressal Forum and the Electricity Ombudsman, Haryana of Haryana Electricity Regulatory Commission, declining the appellant's claim for the refund of penalty and charging amount of Rs.9,38,473/- towards theft of electricity detected in the year 2001.

[2] The allegations are that the premises of the appellant-Cold Storage was inspected by the Checking Party comprising three Engineers, on 06.12.2001. The checking report L.L.1 was prepared at the spot which was duly signed by brother of the appellant's partner. The Checking Party found that the seals of MCB and CT/PT Chamber were fictitious and MCB was removed. The connected load was found 78.930 KW/93 KVA.

[3] Having found that a case of theft of electricity was made out, show cause notice was issued and reply given by the appellant was duly considered. Thereafter, the aforesaid charges alongwith penalty, totaling Rs.9,38,473/- were levied on the appellant. In addition, the authorities also

got registered an FIR against partners of the appellant-Cold Storage at P.S.Bilaspur, District Yamuna Nagar. It is a fact that the partners of the appellant were acquitted by the Judicial Magistrate, 1st Class vide judgment dated 08.04.2008 by extending the benefit of doubt.

[4] As regard to recovery of penalty and electricity charges, the appellant filed complaint before the District Consumer Disputes Redressal Forum, Yamuna Nagar which was initially allowed but on appeal by the respondent-Corporation, the decision of the District Consumer Disputes Redressal Forum was set-aside and the appellant's claim was rejected being not maintainable. National Consumer Disputes Redressal Commission vide order dated 13.03.2014, however, granted liberty to the appellant to seek remedy before the appropriate Forum. It was thereafter that the appellant approached the Consumer Grievances Redressal Forum which dismissed its claim for the refund of the amount, vide order dated 20.05.2014. The Forum observed and rightly so that it was not a case of acquittal under Sections 135-139 of the Electricity Act, 2003, on the basis of which refund claim could be maintainable. The appeal, challenging that order before the Electricity Ombudsman, Haryana, was also dismissed vide a self-speaking order dated 21.07.2014.

[5] The relentless appellant filed CWP No.4047 of 2015 which was disposed of by this Court vide order dated 09.03.2015 directing the authorities to decide its claim as contained in the legal notice, by way of a reasoned order. The Managing Director of the respondent-Corporation turned down that claim vide order dated 04.06.2015 (P-13).

[6] Still aggrieved, the appellant approached this Court by way of CWP No.15259 of 2015 and the learned Single Judge vide order under

appeal has dismissed the writ petition.

[7] A perusal of the order passed by learned Single Judge reveals that the only contention raised was that the partner of the appellant-Cold Storage having been acquitted in criminal case, no civil liability can be fastened. That argument was turned down by learned Single Judge and rightly so keeping in view the standards applicable in a case of establishing commission of an offence beyond any reasonable doubt under criminal law viz-a-viz civil liability which can be determined on its own merit.

[8] We have heard learned counsel for the appellant at a considerable length and gone through the record.

[9] In the absence of any allegation of malafide against multi-members Committee of the respondent-Corporation who found the theft of electricity and eventually levied the penalty and electricity charges, which order has been duly upheld by the Consumer Grievances Redressal Forum and the Electricity Ombudsman, Haryana of Haryana Electricity Regulatory Commission, we find no reason to interfere with the order under appeal merely because the partners of the appellant have been acquitted in the criminal case.

[10] No case to interfere with the order under appeal is made out.

[11] Dismissed.

**[SURYA KANT]
JUDGE**

August 27, 2018

mohinder

**(SUDIP AHLUWALIA)
JUDGE**

Whether speaking/reasoned

:

Yes/No

Whether Reportable

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Yes/No