

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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RSA No.3577 of 2017 (O&M)

Date of decision: 26.09.2018

Punjab State Electricity Board now
Punjab State Power Corporation Ltd.

..... Appellant

Versus

Municipal Council, Moga and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Ms. Reeta Kohli, Sr. Advocate with
Mr. Kirat Pal Dhaliwal, Advocate
for the appellant.

ANIL KSHETARPAL, J. (ORAL)

CM-8625-C-2017

Application is allowed and the delay is condoned.

Main Case

Plaintiff-appellant is in the regular second appeal against the concurrent finding of fact arrived at by the Courts below dismissing its suit for recovery of Rs.3,15,237/-, a wrongly charged octroi on the electricity consumption recording meters. It is unfortunate that two public authorities are fighting in the Courts rather than resolving the dispute by sitting across the table. Punjab State Electricity Board claims that no octroi is payable on the goods which were brought in within the municipal limits for re-export. On the other hand, Municipal Council, Moga has claimed the amount, which of course has been paid, on the ground that requirements of Rule 13, 15 and 32-A of the Municipal Account Code, 1930 has not been fulfilled.

It is not disputed that before the Courts below, Punjab State Electricity Board did not fulfill the required documents which were

necessary for claiming exemption from payment of the octroi. It is undisputed that when the goods sought to be brought in at the octroi post, a declaration was required to be made but no declaration was made that the goods are meant for re-export. Still further, the charges as required namely security deposit of Rs.10,000/- was also not deposited. In fact, the official of the Electricity Board has admitted that the appellant-Board was not aware of the rules. To similar effect is the statement of Harvel Singh, Senior Executive Engineer who has appeared as PW-4.

By way of application for additional evidence, the appellant wishes to produce on file Annexure A-1 and A-2, two communications exchanged between the parties. Admittedly, the aforesaid communications were in the control and custody of the appellant but at appropriate time, these communications were not produced. Further, fundamental requirement i.e. declaration at the octroi post is still missing. The rules framed by the public authority is required to be known to everybody and no one can claim that he does not know the rules. Once the officials of the appellant-Board were bringing in the goods in the area of municipality, they were required to know but what were the requirement of the rules. Once the procedure prescribed under the rules had admittedly not be followed, this Court does not find any good ground to interfere with the concurrent finding of fact arrived at by the Courts below.

Appeal as well as application for additional evidence are dismissed.

26.09.2018

Dinesh Bansal

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No