

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

**CWP NO. 13813 OF 2015
DECIDED ON : 22.04.2019**

Indus Towers Limited

...Petitioner

versus

**Dakshin Haryana Bijli Vitran Nigam Limited
and others**

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Vishal Gupta, Advocate,
for the petitioner.

Mr. P. K. Dwivedi, Advocate,
for the respondents.

ARUN MONGA, J. (ORAL)

1. The present writ petition has been filed, inter-alia, seeking issuance of a writ in the nature of certiorari for quashing the assessment order issued vide Memo No. G/35/2015/38 dated 14.03.2015 (Annexure P-3) and notice issued vide Memo No. G/35/2015/39 dated 14.03.2015 (Annexure P-4) issued by the respondents, whereby a sum of ₹8,00,358/- has been demanded from the petitioner on account of theft of energy and a sum of ₹1,20,000/- as compounding charges, being illegal and unjust, against the provisions of Electricity Act, 2005.

2. Learned counsel for the petitioner has drawn my attention to the instructions dated 20.07.2007 (Annexure P-6) issued by respondent-DHBNL and particularly Clause 13

thereof, which is extracted hereinbelow, for ready reference:-

“Assessing Officer :- The following officers are authorized for making assessment for the cases of theft of electricity as per Haryana Govt. Gazette Notification No. 1/12/2003-1 Power dated 9th December 2003.

Type of Connection	Officers authorized to make assessment
1	2
Domestic (<30 KW)	Concerned SDO 'Operations'
Domestic (> 30 KW)	Concerned XEN 'Operations'
Non-Domestic	Concerned XEN 'Operations'
Agriculture	Concerned SDO 'Operations'
L.T. Industrial Supply	Concerned XEN 'Operations'
H.T. Industrial Supply/Bulk Supply/HT NDS	Concerned XEN 'Operations'
Public Lighting and rest of the categories	Concerned XEN 'Operations'

Note : The officer in higher rank shall also be authorized for making the assessment”.

3. A perusal of the above leaves no matter of doubt that assessment qua the electricity connection of the petitioner, being a non-domestic, was to be carried out by XEN (Operations) or an officer higher than his rank.
4. In the present case, the impugned assessment order dated 14.03.2015 (Annexure P-3) has been passed by the SDO and the same, therefore, does not stand the judicial scrutiny and is liable to be set-aside.

5. In the premise, the writ petition is disposed of and the impugned order dated 14.03.2015 (Annexure P-3) is set-aside, with liberty to the respondent-DHBVNL to pass fresh orders in accordance with law.

(ARUN MONGA)
JUDGE

APRIL 22, 2019
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No