

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

**CWP NO. 75 OF 2014 (O&M)
DATE OF DECISION : 30.04.2019**

M/s Saruchi Labels

...Petitioner

versus

**Punjab State Power Corporation Limited
and others**

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Sandeep Jain, Advocate and
Mr. Sachin Jain, Advocate,
for the petitioner.

Mr. Vishal Chaudhri, Advocate,
for respondents No.1, 3 and 4.

ARUN MONGA, J. (ORAL)

1. The petitioner seeks quashing of the appellate order dated 19.09.2013 (Annexure P-3) passed by respondent No.2 upholding the Final Assessment Order dated 05.12.2012 (Annexure P-1) passed by respondent No.4 under Section 126 of the Electricity Act, 2003. As a consequence thereof, further seeks appropriate orders for refund of amount of ₹1,10,078/- deposited by the petitioner at the time of filing the appeal and also refund of ₹1,84,302/- which was later deposited by the petitioner on 23.12.2013.

2. Short controversy is that whether the consumer of electricity can provide electricity to his tenants by providing sub-

meter, without seeking appropriate sanction from the power distribution company i.e Punjab State Power Corporation Limited (hereinafter referred to as "the PSPCL") under Section 126 (5) of the Electricity Act, 2003 (hereinafter referred to as "the Act"). For ready reference, the said Section is reproduced herein below:

"126 (5) If the assessing officer reaches to the conclusion that unauthorised use of electricity has taken place, the assessment shall be made for the entire period during which such unauthorised use of electricity has taken place and if, however, the period during which such unauthorised use of electricity has taken place cannot be ascertained, such period shall be limited to a period of twelve months immediately preceding the date of inspection."

3. I have heard learned counsels for the parties and gone through the respective pleadings.

4. Learned counsel for the petitioner heavily relies on the fact that connection was taken by the petitioner for supply of power to a building consisting of one big hall and the same was never used outside the area of the said hall. Petitioner had created two sub halls and rented out the same to two different persons/tenants who are provided sub-meters for consumption of electricity. Sanctioned load of the connection was 20 KW and the consumption of the electricity was within sanctioned limit of load.

5. Upon a surprise inspection carried out by the officials of respondent-PSPCL, a provisional order was passed. However, subsequently vide impugned assessment order dated 05.12.2012

(Annexure P-1), the petitioner was asked to deposit an amount of ₹2,20,356/- for unauthorized use/distribution of the power, without seeking requisite permission to install sub meters as envisaged under Section 126(5) of the Act.

6. Argument of learned counsel for the petitioner that the connection is being utilized within the area of the halls and therefore, it does not matter whether further sub-meters have been provided to the tenants in both halls as long as power is being consumed within the area of original premises, is not tenable. If accepted, that would give rise to anomalous situation where a consumer will take a connection in single hall and sub-divide it into multiple cabins and start charging from the tenants by becoming a power distributor without appropriate sanction.

7. Per contra, learned counsel for the respondent relies on instructions dated 09.07.2012 (Annexure R-2), the relevant whereof is reproduced herein below :

"Clause 5 :

If any consumer gives his connection for some period (on temporary basis) to any other party for utilization, in the very same complex due to some essential reasons, such case will not accepted as UUE. But necessary approval for it shall have to be surely taken according to the instructions duly issued by the concerned office of PSPCL.

Xxxx

Clause 8 :

If any consumer gives the electricity to any other complex from his own duly allotted connection and

then action may be taken against him under the UUE instructions."

8. Learned counsel for the petitioner further relies on Clause 6.5 of Electricity Supply Code and Related Matters Regulations 2014 (up to 4th amendment), particularly Clause 6.5.2 therein, which is extracted herein below :

"6.5 One Connection in One Premises

6.5.1 A consumer shall be treated as a distinct entity and deemed to be an independent establishment, if

a) it is a separate unit in duly partitioned premises owned or taken on lease/rent

b) it is registered as a separate entity/firm under the relevant law ;

c) it holds a separate Sales Tax/VAT number and is independently assessed to Income Tax.

6.5.2 The applicant shall give an undertaking that no connection exists in the premises for which a connection is applied. However domestic supply consumer may get more than one domestic supply connection in the same premises where family members/occupants living in a house have separate cooking arrangements. In case a tenant requires a separate connection in the same premises, he shall furnish an undertaking from the landlord in the form of an affidavit duly attested by Notary Public that the landlord shall clear all the liabilities in case the tenant leaves the premises without paying the distribution licensee's dues."

9. A perusal of the above instructions read with Clause 6.5, *ibid*, shows that no illegality has been committed while raising the impugned demand on the consumer/petitioner and therefore, no interference is called for.

10. In view of my above discussion and the reasoning contained therein, the writ petition is dismissed. No order as to costs.

(ARUN MONGA)
JUDGE

APRIL 30, 2019
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No