IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.996 of 2016 (O&M)
Decided on : 13.02.2019

Punjab State Power Corporation Ltd. & ors. ...... Appellants

Versus

M/s Super Ispat Udyog Pvt. Ltd. ...... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Adarsh Malik, Advocate
for the appellants.

Mr. Jagmohan Bansal, Advocate
for the respondent.

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Manjari Nehru Kaul, J.

CM-2055-LPA-2016

This application has been filed under Section 5 of the Limitation Act, 1963 for condonation of delay of 48 days in filing the appeal. The application is duly supported by an affidavit of the officer concerned.

For the reasons mentioned in the application, delay of 48 days in filing the appeal is condoned.

CM stands disposed of.

LPA-996-2016

The instant intra appeal filed under Clause X of Letters Patent assails the order dated 16.02.2016 passed by learned Single Judge..

2. The case of the appellants is that on a raid conducted by the

appellants upon respondent-firm on 28.08.2012, it was found that the respondent-firm, which had been sanctioned connection bearing Account No.W-11EST-1-236 in the category of Large Supply having sanctioned load of 1399.977 KW with contract demand of 1590 KVA, was unauthorisedly using electricity supply. The checking officers found that one Induction furnace of the capacity of 570 volt output 350 KW was running from 500 KVA T/F in addition to the general industrial load (cold steel rolling mill). The respondent filed an appeal under Section 127 of the Electricity Act, 2003 (hereinafter referred as 'the Act') against the final order of assessment dated 06.11.2012 (Annexure P-5) passed by Chief Engineer/Op-cum-Assessing Authority, Ludhiana, which was partly allowed by Divisional Commissioner, Patiala Division, Patiala with the order to charge UUE amount for the period from 02.05.2012 (the date of purchase of induction furnace) to 28.08.2012 (date of checking). It was also ordered that the amount to the tune of 50% of the total amount in dispute, which had already been deposited by the respondent, if after recalculation was found to be less by the respondent as UUE then the balance amount so deposited by the respondent-firm would be returned immediately.

3. Learned Single Judge dismissed the writ petition filed by the appellant by concluding that the period from 02.05.2012 to 28.08.2012 was rightly considered for charging unauthorised use of electricity and accordingly, the amount was charged from the respondent-firm.

4. Learned counsel for the appellants contends that learned Single Judge had erred in not appreciating the fact that the induction furnace was a second hand furnace as there was a dispute regarding the date of purchase of

said furnace. He further contends that the letter of District Excise and Taxation Commissioner, Ludhiana relates only to Tax and hence, could not be relied upon.

5. We have heard learned counsel for the parties and perused the material available on record with their assistance.

6. We are in agreement with the findings recorded by learned Single Judge. It is a matter of record that the Induction Furnace was purchased by the respondent-firm on 02.05.2012 vide invoice No.21, which was genuine. It is also a matter of record that the date of checking was 28.08.2012 i.e. 3 months after the date of purchase of the aforesaid furnace. In our considered opinion, the date of invoice being 02.05.2012 and in the absence of any credible material, otherwise, the question of the same having been put into operation/use before the said date could not have arisen.

7. Keeping in view the discussion made above, we do not find any infirmity or illegality in the order passed by the learned Single Judge and affirm the same.

8. Accordingly, the present appeal is dismissed.

(AJAY KUMAR MITTAL)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

13.02.2019
sonia

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No