

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

114

**RSA No. 5779 of 2019 (O & M)
Date of decision : 3.3.2020**

Dakshin Haryana Bijli Vitran Nigam Ltd. and others Appellants

Vs.

M/s Pashupati Spinning and Weaving Mills Ltd. Respondents

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. R.S. Longia, Advocate, for the appellants

Rajbir Sehrawat, J. (Oral)

This is the defendants' second appeal; challenging the concurrent judgments and decrees passed by the Courts below, whereby the suit filed by the plaintiff has been decreed; and the amount of penalty, which he was compelled to pay to the defendants, has been ordered to be refunded by the defendants to the plaintiff.

For the convenience, the parties hereinafter are referred to as the plaintiff and the defendants, as they were mentioned in the original suit.

Shorn of the unnecessary details, the facts involved in this case are that the plaintiff company was an industrial establishment engaged in manufacturing of the thread. It was having electricity meter; of which sanctioned load capacity was 1200 kv. On 17.4.2006, the premises of the company was checked by the Electricity Department officials and it was found that the MDI (Minimum Demand Indicator) of the meter was increased.

However, that was not re-set by the officials of the Electricity Department. As

a result, in the month of October 2006, when the meter was again checked, the increased MDI was shown. Due to this negligent increased MDI, the appellant/defendants had raised a demand of Rs.2,41,330/-from the plaintiff. Under protest, the same was deposited by the plaintiff because the defendant/appellants had threatened to disconnect the electricity connection. Still further, despite the amount of penalty having been paid, the electricity bill of the plaintiff again was showing this amount to be added in the bill for the month of January 2009. It was pleaded that the consumer is, by no means, responsible for increase in MDI. This fact was even admitted by the defendant Department that during the checking if the MDI increase is detected, then consumer is not responsible for the same and penalty cannot be imposed upon him. Therefore, the plaintiff had requested the Department to refund the said amount and to correct the bill. However, the appellant/defendants had not corrected the bill. The defendants again included the penalty amount in the bill for March 2010. The plaintiff again approached the defendants Department to correct the bill. However, they refused to do the same. Thereafter, although the plaintiff had approached the District Consumer Disputes Redressal Forum. However, that complaint was withdrawn by the plaintiff. Thereafter, the instant suit was filed.

In reply, it was averred by the appellants that site of the plaintiff was checked by the lab officials of the Department. At the time of checking, MDI was found in excess of connected load, so the penalty for the excess load was added in the bill of the plaintiff. The amount was correctly charged from the plaintiff. Still further, it was asserted that part of the penalty, which was not

deposited by the plaintiff, was rightly added in the bill served upon it.

To prove their respective assertions, the parties led their evidence. After hearing the parties and appreciating the evidence, the trial Court decreed the suit. Aggrieved against that, the appellant/defendants preferred appeal before the lower Appellate Court. However, the lower Appellate Court has also dismissed the appeal filed by the appellant/defendants. Hence, the present appeal has been preferred.

While arguing the case, learned counsel for the appellants/defendants has submitted that the Courts below have committed perversity in appreciation of the evidence. The penalty was rightly imposed upon the plaintiff, which is based upon the increased MDI, found by the checking team. Hence, the consumer/plaintiff was liable to pay the same as per the regulations of the Electricity Department. Only that much amount was charged from it.

Having heard learned counsel for the appellants and having perused the case file, this Court does not find any substance in the arguments of learned counsel for the appellants. It has come in evidence that even the witness of the appellants has admitted that the penalty was wrongly imposed upon the plaintiff. He has also admitted in cross-examination that after the first checking, the checking team had not set the MDI to zero, which resulted in excessive reading; when it was again checked in October. Hence, the findings recorded by the Courts below are based upon the evidence of the defendant/appellants itself, besides being based upon the evidence of the plaintiff. Otherwise also, this is concurrent finding of fact recorded by both the Courts below. This Court does not find any ground to interfere with the

concurrent findings of the Courts below.

In view of the above, finding no merit in the appeal, the same is dismissed.

(RAJBIR SEHRAWAT)
JUDGE

3.3.2020
Ashwani

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No