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2023:PHHC:064028

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

CWP No. 8748 of 2023

Date of decision : May 04, 2023

Chadha Sugars and Industries Pvt. Ltd.

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :-Mr. Puneet Bali, Senior Advocate with
Mr. Sangram Saron, Advocate
for the petitioner.

Mr. Aman Dhir, DAG., Punjab.

Mr. Alok Mittal, Advocate
for the respondent-Corporation.

PANKAJ JAIN, J. (ORAL)

1. The present writ petition arises out of a dispute between a generating Company that is the petitioner and the licensee under the Electricity Act, 2003 (hereinafter referred to as 'the 2003 Act') that is the respondent-Corporation. The relationship between the parties is governed by PP Agreement dated 10.09.2012 (Annexure P-6) and infact as per the covenants contained therein the same have been approved by the State Commission as defined under Section 2(64) of the 2003 Act.

2. The dispute between the parties has stemmed out of notice dated 24.01.2023 (Annexure P-13) whereby the licensee-respondent corporation has invoked covenant contained in Clause 2.1.1 of PPA to the effect that the petitioner having availed accelerated depreciation is required to refund .18 paise per unit and on the basis thereof a demand of Rs. 7,28,31,387/- and interest amount of Rs. 5,97,15,154/- has been raised. The petitioner responded to the said notice. The parties did meet as well. However the corporation reiterated its stand as per Annexure P-13.

3. Mr. Bali, learned Senior Counsel assisted by Mr. Saron, Advocate would submit that merely by raising a demand notice dated 24.01.2023 (Annexure P-13) the respondent-corporation cannot withhold arrears of around Rs. 32 crores which it owes to the petitioner.

4. At this stage, Mr. Mittal, learned counsel appearing on behalf of the respondent-Corporation submits that he has instructions to submit that the corporation is in the process of remitting the amount beyond the disputed amount as raised in demand notice dated 24.01.2023 (Annexure P-13).

5. Mr. Bali, learned Senior counsel appearing on behalf of the petitioner assisted by Mr. Saron could not dispute that the petitioner has a remedy under Section 86 (1) (f) against Annexure P-13 and the same has been recognized under the agreement itself.

6. In view of the above, the present writ petition is disposed off with a

direction to the respondents to clear the arrears of the petitioner (beyond the disputed amount as claimed in Demand Notice dated 24.01.2023(Annexure P- 13) within a period of four weeks from the date of receipt of certified copy of this order.

7. Disposed off accordingly.

(PANKAJ JAIN)
JUDGE

May 04, 2023
archana

Whether speaking/reasoned	Yes
Whether Reportable :	No