

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.218

Case No.: RSA 2763 of 2014 (O&M)

Date of Decision : July 20, 2023

Dakshini Haryana Bijli Vitran Nigam Ltd.

and others

.... Appellants

vs.

M/s Sirsa Solvent Industries,

Dabwali Road, Sirsa

.... Respondent

**CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.**

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Present : Mr. Rattan Singh Longia, Advocate  
for the appellants.

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**GURBIR SINGH, J. :**

1. **CM-6535-C-2014** : This is application under Section 151 CPC for condonation of delay of 142 days beyond 40 days in re-filing the appeal. For the reasons mentioned in the application, the same is allowed and delay in re-filing the appeal is condoned.

2. **CM-6537-C-2014** : This is application under Section 151 CPC for condonation of delay of 164 days in filing the appeal. For the reasons mentioned in the application, the same is allowed and delay in filing the appeal is condoned.

3. The present Regular Second Appeal has been filed against the judgment and decree dated 05.03.2013 passed by learned Additional District Judge, Sirsa, dismissing the appeal against the judgment and decree dated 03.09.2010, passed by learned Additional Civil Judge (Senior Division),

4. The plaintiff M/s Sirsa Solvent Industries (respondent herein) filed a suit for declaration to the effect that plaintiff is not liable to make payment of Rs.5,11,445/-, as claimed in the revised bill payable on 15/16.02.2005 in respect of Industrial Electric connection bearing No.LS.82 in the name of the plaintiff-firm as the demand is contrary to rules and regulations. The learned Trial Court decreed the suit. The First Appellate Court dismissed the appeal.

5. Learned counsel for the appellants has submitted that as per the checking report Ex.D-1, the meter of the plaintiff was found running slow by 33.3%. Learned Courts below failed to appreciate that the plaintiff-respondent did not avail the departmental remedy of filing objections against the provisional assessment.

6. Heard.

7. As per circular Ex.P-Y, applicable at the time of checking, it is mandatory for the senior officers of the appellant-Nigam to have checked the meter at the interval of three months in case of industries which have been running during the season. It is not the case of the appellants that seals of MCB and seals of TC, TTB, MDI, OP and MCS etc. were tampered with. It is also not the case of the appellants that the respondent applied fraudulent means or used devices to ensure slow-running of the meter.

8. Learned Courts below have rightly held that even if the claim of the appellants is admitted that the meter was found to be running slow, even then the respondent/plaintiff could not be blamed for the same. Reliance in this regard has been placed on **Bombay Electricity Supply Transport**

**Undertaking vs. Laffans India Pvt. Ltd.** reported as **2005(2) RCR (Civil)**

SC 587, wherein it has been held that the Electricity Board can not be permitted to take advantage of its own wrong and send revised bills for the period, when the meter was not correct as there was nothing on record to show that meter was running slow due to fraud or a device used for slow-running of the meter. It is further held that it is for Electric Inspector to determine the fact of slow-running of meter and to find extent of error by applying scientific method of investigation. In the case in hand, it is even not the case of appellants that any such investigation was conducted.

9. In view of the aforesaid, I find no merit in the instant second appeal. The concurrent finding recorded by both the Courts below is based on proper appreciation of evidence and does not suffer from any perversity or illegality. No question of law, much less substantial question of law, arises for determination in the instant second appeal. The appeal is without any merit and is accordingly dismissed in limine.

10. Pending applications, if any, shall stand disposed of along with this judgment.

July 20, 2023  
monika

(GURBIR SINGH)  
JUDGE

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|-----------------------------|---------|
| Whether speaking/reasoned ? | Yes/No. |
| Whether reportable ?        | Yes/No. |