



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

205

RSA-2335-1995 (O&M)
Date of Decision : 21.10.2024

PUNJAB STATE ELECTRICITY BOARD AND ORS Appellants
VERSUS

AMAR NATH KOCHAR Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Gagneshwar Walia, Advocate for the appellants.
Mr. Sandeep Arora, Advocate for the respondent.

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by the defendant-appellants challenging the judgments and decrees dated 06.04.1992 and 24.05.1995 passed by the Trial Court and the First Appellate Court, respectively.
2. Brief facts relevant to the present *lis* are that the plaintiff-respondent herein is a consumer of the defendant-appellants at Jaitu and his account number is No.LS-8. It was averred in the plaint that the plaintiff-respondent is running an ice factory along with cotton ginning factory and the said factory falls within the definition of 'General Industry' as categorized by the defendant-appellants. The ice factory has specifically been stated to be non-seasonal but cotton ginning is a seasonal factory. It was further averred that there is no definition of both the factories when combined but factory of the plaintiff-respondent has been treated as non-

seasonal factory since its inception. The plaintiff-respondent never took benefit of seasonal factory. On 10.08.1990 the defendant-appellants increased the tariff of seasonal factory from ₹55 K.V.A. to ₹165 K.V.A. The tariff was changed as minimum charges by the defendant-appellants. The plaintiff-respondent had paid the bills according to the charges of general category of mill i.e. non-seasonal. It was further averred that the defendant-appellants had sent two bills, one for ₹3,953 vide bill No.1 as difference of minimum charges and second bill No.24 for payment of minimum charges at new rates for the month of September. It was averred that the factory is non-seasonal and falls within the category of general mill and hence not liable to pay the new rates. Hence the present suit by the plaintiff-respondent for permanent injunction restraining the defendant-appellants from disconnecting the electricity.

3. The suit was contested by the defendant-appellants wherein it was pleaded that the factory of the plaintiff-respondent did not fall under the definition of general industry and rather the factory fell within the definition of seasonal industry w.e.f. 10.08.1990 as per the Notification No.8 dated 09.08.1990. It was further pleaded that previously the factory of the plaintiff-respondent was considered as general industry under clause 'General Industry', however, after the said Notification it was to be treated as seasonal industry. Replication was filed denying the averments made in the written statement and reiterating those of the plaint.

4. On the basis of the pleadings of the parties the following issues were framed :

- 1) Whether the factory run by the plaintiff is of a non-seasonal category. If so, its effect ? OPP
- 2) Whether the claim made by the defendant is illegal etc. etc. ? OPP
- 3) Whether the plaintiff is entitled to the decree for permanent injunction as prayed for ? OPP
- 4) Relief.

5. The Trial Court decreed the suit vide judgment and decree dated 06.04.1992. Aggrieved by the same an appeal was preferred by the defendant-appellants which appeal was dismissed by the First Appellate Court vide judgment and decree dated 24.05.1995. Hence, the present regular second appeal by the defendant-appellants.

6. Learned counsel for the defendant-appellants would contend that circular clearly distinguished between non-seasonal and general industry and that the cotton ginning mill fell within the definition of seasonal industry and hence a different tariff rate was to be applied.

7. *Per contra*, the learned counsel for the plaintiff-respondent would contend that the connection was granted to the plaintiff-respondent 30 years prior to the filing of the present suit and at no point of time was the Notification No.8 dated 09.08.1990 ever brought to the notice of the plaintiff-respondent. Infact, the tariff was changed *suo motu* without any intimation to the plaintiff-respondent.

8. Heard.

9. In the present case the bills, which are the subject matter of challenge in the present suit, were sent to the plaintiff-respondent on the basis of a Notification No.8 dated 09.08.1990 wherein the tariff for seasonal industry was changed and it was further stated in the said Notification that there would be a revised tariff from 10.08.1990 for seasonal industry. Learned counsel for the defendant-appellants has not been able to convince this Court that any notice was given qua the change in tariff to the plaintiff-respondent. Further still, a perusal of the Notification No.8 dated 09.08.1990 reveals that the seasonal benefits in respect of seasonal industry were to be admissible only if the connection existed in a totally independent premises properly separated and partitioned from other non-seasonal industry. In the present case, admittedly, there was a common connection and the premises was also common. That being so, there would be no applicability of the above said circular in the present case.

10. In view of the above, I do not find any merit in the present appeal. No question of law, much less any substantial question of law, arises in the present case which requires determination by this Court. The appeal, being devoid of any merits, is accordingly dismissed. Pending applications, if any, also stand disposed off.

21.10.2024
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No