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

**RSA No.848 of 1995 (O&M)**
**Reserved on : 22.07.2024**
**Date of Decision: 21.08.2024**

Punjab State Electricity Board & Anr. ....Appellants

VERSUS

M/s Modern Packaging Industries ....Respondent

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Ms. Sukriti Gupta, Advocate for the appellants.

Mr. N. C. Sahni, Advocate and
Mr. Abhay Karan Khanna, Advocate for the respondent.

**ALKA SARIN, J.**

1. This is an appeal by the defendant-appellant against the judgement and decree dated 13.12.1994 passed by the First Appellate Court decreeing the suit of the plaintiff-respondent. The Trial Court had vide judgement and decree dated 06.10.1993 dismissed the suit.

2. The facts in brief are that the plaintiff-respondent filed a suit for permanent injunction averring that it was engaged in the business of manufacturing corrugated sheets from the very beginning and had got an electric connection for its premises in September 1987 and was being charged for small power tariff and the upto date bill stood paid. However, the plaintiff-respondent received the bill in question amounting to ₹45,667/- on the basis that the plaintiff-respondent was running a printing press. As per the plaintiff-respondent it is not doing any business of running a printing press and therefore it could not be charged commercial tariff. It was also

averred that at the time of obtaining the electricity connection the plaintiff-respondent executed an agreement with the defendant-appellant in which there was a term that the plaintiff-respondent would be charged for small power tariff and not for commercial tariff. Since the defendant-appellant threatened to disconnect the electricity connection, the present suit for permanent injunction was filed. The defendant-appellant in it's written statement raised preliminary objections of maintainability, court fee, valuation, etc. On merits it was stated that the plaintiff-respondent had been making payment of small power tariff as per instructions of the defendant-appellant, but it came within the ambit of commercial tariff because of the nature of its activity. It was also stated that the plaintiff-respondent was using the electricity connection for printing purposes and for that it had also deposited load surcharge for unauthorized use of energy on 10.07.1989. The account of the plaintiff-respondent was overhauled on the report of the A.O. Field during the course of audit and the consumer was billed for the difference of the amount of energy from small power tariff to commercial tariff. The defendant-appellant was well within its right to categorize a particular consumer for charging tariff and grant of certificate by the Director of Industries had no bearing on it. The plaintiff-respondent filed a replication denying the contents of the written statement and reiterating the contents of the plaint.

3. On the basis of the pleadings of the parties the Trial Court framed the following issues :

1. Whether the impugned demand made by the defendant is illegal, void and liable to be set aside ? OPP
2. Whether the suit has been properly valued for the purposes of court fee and jurisdiction ? OPP
3. Relief.

4. The Trial Court vide judgement and decree dated 06.10.1993 dismissed the suit of the plaintiff-respondent. However, the First Appellate Court vide judgement and decree dated 13.12.1994 accepted the appeal of the plaintiff-respondent and decreed it's suit. Hence, the present regular second appeal by the defendant-appellant.

5. Learned counsel for the defendant-appellant has contended that the First Appellate Court has erroneously and illegally decreed the suit of the plaintiff-respondent. It is argued that the plaintiff-respondent was running a printing press and was therefore charged the commercial tariff. According to counsel the circular No.54/87 has been misread by the First Appellate Court. Per contra, learned counsel for the plaintiff-respondent has submitted that usage of a printing press by a concern manufacturing carton would not make it liable to pay commercial tariff as had been clarified by the defendant-appellant itself.

6. I have heard learned counsel for the parties.

7. The First Appellate Court has examined the contents of circular No.54/87 and concluded that the running of the printing press by the plaintiff-respondent would not make it a commercial unit. Paras 3 and 4 of circular no.54/87 reads as under :

*"3. It appears that for applying the NRS Tariff only first part of the first of this clause listing the names of the appliances is being taken into consideration without regard being given either to the place of installation or the purpose of installation. You will appreciate that the applicability cannot be decided only on the basis of part of clause. The clause has to be taken into consideration in totality.*

*4. It is, therefore, clarified that NRS Tariff is to be applied in case the appliances mentioned in the above clause are installed in non-residential premises such as business houses (i.e. shops), cinemas, clubs, public offices, hospitals, hotels, motels, departmental stores, guest houses, restaurants, offices, indoor stadium etc. The NRS Tariff is not to be applied in case of bonafide industrial premises even if the appliances listed in the above clause under Schedule NRS are installed in the premises. It is also clarified that the term business houses does not include the industrial premises and also the term 'small motors' used in para one of earlier notification should be read to mean only 'small loads' normally utilized by petty shopkeepers and artisans etc."*

8. The First Appellate Court found that the plaintiff-respondent was registered as a small scale industrial unit (Ex.P1) for manufacturing

corrugated sheets and cartons and for this purpose a printing press was installed in the premises and this by itself was not sufficient to classify the plaintiff-respondent for being billed as per the commercial tariff. Learned counsel for the defendant-appellant has not been able to show anything on the record to prove that the business of the plaintiff-respondent was of printing. Merely using a printing press for printing on the corrugated sheets and cartons would not change the activity of the plaintiff-respondent. The defendant-appellant was, therefore, not justified in charging the commercial tariff from the plaintiff-respondent. No other point was argued.

9. In view of the above, I do not find any merits in the present appeal. No question of law, much less any substantial question of law, arises in the present case. The appeal, being devoid of any merits, is accordingly dismissed. Pending applications, if any, also stand disposed off. Bank guarantee be released to the plaintiff-respondent, if not already released.

**(ALKA SARIN)**
**21.08.2024** **JUDGE**
*Aman Jain*

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