IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP-13099-2023 (O&M)
Date of decision: 08.08.2024

M/s. Vijay Kumar Ice Factory ...Petitioner

VERSUS

Punjab State Power Corporation Ltd and others ...Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. J.S. Jaidka, Advocate and
Mr. Abhishek Khullar, Advocate for the petitioner.

Ms. Eknoor Kaur Sara, Advocate for respondents-PSPCL.

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VINOD S. BHARDWAJ, J. (Oral)

1. Challenge in the present petition is to the order dated 21.03.2023 passed by the Corporate Consumer Grievance Redressal Forum (hereinafter referred to as '**the Forum**') and the subsequent order of dismissal dated 02.05.2023 passed by the Electricity Ombudsman. A further challenge has also been raised to the notice dated 08.05.2023 whereby the petitioner has been communicated of the outstanding liability on account of overhauling of his electricity account.

2. Without going into much details, the point in law which has been raised before this Court by the petitioner is that the respondents have overhauled his account by applying wrong multiplication factor for the period from 29.09.2011 to 22.07.2016 and that as per the provisions of Section 56 (2) of the Electricity Act, 2003, the respondent-Electricity Department would not be entitled to make a demand for a period beyond two years. He further contends that the respondent-Distribution Licensee has

raised a demand but has not given the break-up as to how the above said demand has been calculated and as to what is the interest component in the said demand.

3. Learned counsel appearing on behalf of the respondent-Distribution Licensee contends that the present petition is liable to be dismissed as the orders of the Forum as well as the Electricity Ombudsman have been passed strictly in accordance with the provisions of the Electricity Act, 2003 read with the Regulation 21.5.1 of the Electricity Supply Code, 2014. She contends that as per instruction No.58.1 of the ESIM-2018, the energy account can be overhauled from the date of application of the wrong multiplication factor. The overhauling has been done against the actual units consumed by the petitioner but not billed and for the duration during which such error continued and un-detected. As per the calculation sheet issued to the petitioner to pay the amount, the interest has been levied on the basis of general conditions of tariff LPSC (Late Payment Surcharge) levied @ 1.5% per month on gross unpaid amount. Her reliance is on the note to Regulation 21.5.1 which reads thus:

> "***Note : Where accuracy of meter is not involved and it is case of application of wrong multiplication factor, the accounts shall be overhauled for the period this mistake continued***."

4. I have heard the learned counsel appearing on behalf of the respective parties and have gone through the documents available on record.

5. So far as the contention of the learned counsel for the petitioner as regards the applicability of Section 56(2) of The Electricity Act, 2003 is

concerned, this Court has already dealt with the same in **CWP-13285-2016** titled as '**Punjab State Power Corporation Ltd. Vs. Vinay Gupta and another**' and other connected case decided on 02.04.2024. It was specifically held that the restriction of two years under Section 56(2) of The Electricity Act, 2003 would not come into play when an account is being overhauled for the entire period, after a mistake is detected and within a period of 02 years of detection of such mistake as the amount in question becomes due only after the error is detected.

6. Learned counsel for the petitioner is not in a situation to rebut the applicability of above judgment to the issue involved in the present case.

7. Further, in so far as the contention of the petitioner about not having been supplied with the break-up of the interest is concerned, it is evident from the reply of the respondents that the assessment of interest has been done as per the approved Late Payment Surcharge @ 1.5% per month on gross unpaid amount(s). Hence, the details with respect to the mode of calculation and the assessed amount have already been supplied. Nonetheless, in the event the petitioner has any dispute in relation to the computation of interest, he may, file an appropriate petition for seeking such rectification.

8. The present writ petition is **accordingly disposed** of at this juncture with the liberty as aforesaid.

(VINOD S. BHARDWAJ)
JUDGE

08.08.2024
Mangal Singh

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No