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

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**CWP-24840-2021 (O&M).**
**Date of Decision: 17.09.2024.**

**M/S SIDHARTH EXPORTERS, MOHKAM ARRIAN ROAD, JALALABAD.**

... Petitioner(s)

Versus

**THE PUNJAB STATE POWER CORPORATION LIMITED AND OTHERS**

... Respondent(s)

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

Present: Mr. Abhishek Khullar, Advocate,
for the petitioner.

Mr. Rohit Duggal, Advocate, for
Mr. Karan Kaushal, Advocate,
for respondents No.1, 3 and 4.

**VINOD S. BHARDWAJ, J. (ORAL)**

Challenge in the present writ petition is to the order dated 23.07.2021 (Annexure P-5) passed by the Consumer Grievances Redressal Forum (hereinafter referred to as 'CGRF') dismissing the claim of the petitioner as well as to the subsequent dismissal of the appeal by the Electricity Ombudsman vide order dated 07.09.2021 (Annexure P-7) passed in Appeal No.65 of 2021.

2 Learned counsel for the petitioner contends that the petitioner firm is running a rice mill at Jalalabad with large supply electricity connection bearing Account No.3000855886. It is submitted that during the scrutiny and audit of its own electricity account in the month of March 2021, the petitioner-firm realized that the respondent Distribution Licensee had not complied with some of its own policies and orders and resultantly, the petitioner-firm was deprived of the benefit of threshold scheme for the year 2014-15 and 2015-16. The respondent-Corporation had allowed a rebate of Rs.1 per unit plus other relevant charges for the consumption exceeding threshold limit as per Commercial Circular No.49 of 2014 for the year 2014-15 which was also extended to the year 2015-16 vide tariff order dated 05.05.2015. However, the respondent Distribution Licensee did not adjust the benefit of threshold scheme for the year 2014-15 which amounted to Rs.2,57,563/- and also for the year 2015-16 which amounted to Rs.12,82,482/-. Accordingly, the claim was filed by the petitioner firm before the CGRF. Vide order dated 23.07.2021, the claim of the petitioner was declined on the ground of limitation. The petitioner-firm preferred an Appeal No.65 of 2021 but the same was also dismissed vide order dated 07.09.2021 by the Electricity Ombudsman. Hence, the present petition.

3 Learned counsel appearing on behalf of the petitioner has argued that the respondents were under an obligation to extend the concession of the rebate and in not doing so, they have illegally and arbitrarily deprived the petitioner firm of the benefit admissible to it. He submits that the petitioner firm derived knowledge on the audit of the

account of the firm in the month of March 2021 and accordingly, approached the CGRF within limitation on coming to know about the lapse. The CGRF as well as the Electricity Ombudsman were thus in error in dismissing the application on the ground that the claim was time barred,.

4 Learned counsel appearing on behalf of respondents No.1, 3 and 4, on the other hand, contends that the submissions advanced on behalf of the petitioner-firm are factually incorrect since the representative of the petitioner firm had himself admitted about being aware of the threshold rebate during the year 2016-17, at the time of hearing dated 07.09.2021. He refers to the operative part of the analysis and findings recorded by the Electricity Ombudsman, Punjab which is reproduced hereinbelow:-

> ***"5. Analysis and Findings***
>
> *xxx xxx xxx*
>
> *(viii) Moreover, the Appellant's Representative admitted during hearing on 07.09.2021 that he was aware about threshold rebate during the year 2016-17 onwards. It is not understood why the Appellant failed to represent about threshold rebate within two years of cause of action?*
>
> *(ix) It is concluded that there is no truth in the averments of the Appellant. As such, any rebate on account of consumption of electricity above Threshold Units by the Appellant during the years 2014-15 & 2015-16 is not considerable for decision now because the issue is more than two years old from the date of cause of action."*

5 Referring to the above, it has been contended that despite the petitioner firm acknowledging that they were in knowledge of the admissible rebate in the year 2016-17, yet, the application was preferred by the petitioner firm before the CGRF only in the year 2021 without tendering any satisfactory explanation for the delay in preferring the said petition. He further submits that the lapse on the part of the petitioner in conducting an audit of its records annually cannot be relied upon for grant of benefit. The same would amount to taking premium of its own lapse.

6 No other argument has been raised.

7 I have heard learned counsel appearing for the respective parties and have also gone through the documents appended along with the present petition with their able assistance.

8 Even though the issue with respect to alleged admissibility of rebate in favour of the petitioner is not a subject matter of dispute, however, the admissible benefit of the rebate fell due at the end of the financial year and the same had to be claimed within the period prescribed by law. Undisputedly, the petitioner firm did not approach the CGRF within the time prescribed in law, hence, the claim was declined in view of the clause 2.27 of the PSERC (Forum and Ombudsman) Regulation, 2016. The operative part of the order passed by the CGRF is extracted as under:-

> *"The clause No. 2.27 of PSERC (Forum & Ombudsman) Regulation, 2016 stipulates that the forum may reject the grievance at any stage through a speaking order where the grievance has been submitted two years after the date on which*

*the cause of action has arisen after giving an opportunity of being heard to the complainant.*

*After giving due consideration to the facts brought out in the petition and during proceedings by the PR and respondent, forum decides that the issues of providing Threshold rebate to the Petitioner for the FYs 2014-15 & 2015-16 and subsequent interest on the same are not considerable for decision now being time barred in view of clause no. 2.27 of PSERC (Forum & Ombudsman) Regulation, 2016*

*In view of the above, the case is closed as disposed off."*

9 Further, the electricity Ombudsman has also noticed the said fact and has buttressed his conclusions by relying on the admissions on the part of the representative of the petitioner firm of being aware of the admissible rebate to them on 07.09.2021 w.e.f. 2016-17.

10 It is settled position in law that the law of limitation takes away the remedy through which a person may stake claim. The claim admittedly having been lodged after a considerable delay, a mere explanation by the petitioner of the audit of the accounts conducted thereafter and on expiry of the period of five years, cannot come to the aid of the petitioner firm to seek an extension of limitation especially when the requirement was to get the audit conducted annually.

11 Under the given circumstances, there is no illegality, perversity or impropriety in the order dated 23.07.2021 (Annexure P-5) passed by the Consumer Grievances Redressal Forum as well as the subsequent order

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dated 07.09.2021 (Annexure P-7) passed by the Electricity Ombudsman in Appeal No.65 of 2021 dismissing the appeal. The present writ petition is accordingly dismissed.

**September 17, 2024.** **(VINOD S. BHARDWAJ)**
**raj arora** **JUDGE**

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