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

**CWP-2831-2023
Reserved on : 17.02.2025
Pronounced on : 09.05.2025**

Gurminder Pal Singh …Petitioner

Versus

Punjab State Power Corporation Ltd. and others ...Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Rakesh Bhatia, Advocate
for the petitioner.

Mr. Anmol Puri, Advocate
for respondents No.1 to 3.

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KULDEEP TIWARI, J.(ORAL)

1. Fetching grievance from the final assessment orders, as issued by the respondent/Corporation, on account of unauthorized use of electricity, propelled the petitioner to file the instant writ petition, under Articles 226/227 of the Constitution of India, seeking quashing of provisional assessment order dated 20.11.2020 (Annexure P-1), final assessment order dated 14.01.2021 (Annexure P-2), passed by the respondent/Corporation, under the Electricity Act, 2003 (for short 'the Act of 2003'), and order dated 02.12.2022 (Annexure P-3), passed by the learned Appellate Authority concerned, wherethrough, the statutory appeal preferred by the petitioner was dismissed.

2. The short question, as involved in the instant writ petition, is that as to whether, the petitioner by supplying the electricity to its tenants, by installing sub-meter, in the same premises, as the petitioner without prior permission of the respondent/Corporation, would tantamount to unauthorized use of the electricity or not.

3. Succinctly, the petitioner is having plot No.722, Sherpur Kalan, near Preet Coal Depot, Ludhiana, and has an electricity connection of 89.96 KW, under MS category connection, with a sanctioned load of 89.960 KW/ 99.960 KVA. The supply from the abovesaid electricity connection was being used for industrial purposes. On dated 11.11.2020, the premises of the petitioner was checked, and it was found that the petitioner has accommodated two tenants in the same premises, and two different sub-meters have also been installed. In view of the above reports, again the SR. XEN/Operations, Focal Point (Spl.) Division, Ludhiana (Assessing Officer), checked the premises of the petitioner, and during the second checking, it was found that the premises of the petitioner consists of two numbers of floors, and on the each floor, there are two separate tenants, and their electricity billing is through two sub-meters, being raised by the petitioner.

4. The connected load on the first floor of the said premises, for the use of Hosiery unit, was reported as 22.290 KW, whereas, the connected load for the ground floor, was reported as 8.307 KW. The respondent/Corporation reported the said act of the petitioner, to be an unauthorized use of the electricity, and served the petitioner with a provisional order of assessment dated 20.11.2020 (Annexure P-1). Thereupon, the petitioner filed the objections. However, the same was rejected, and the final assessment order dated 14.01.2021 (Annexure P-2), was served upon the petitioner, and he was directed to deposit Rs.5,41,307/-, calculated as per the procedure mentioned in Chapter-VIII of the Supply Code Regulation, 2014, within thirty days of issuance of notice, with the office of AEE Commercial Focal Point Division.

5. Aggrieved with the final assessment order dated 14.01.2021 (Annexure P-2), the statutory appeal, under Section 127 of the Act of 2003,

was preferred by the petitioner, before the learned Appellate Authority, Ludhiana. The said appeal was partially allowed, as the case of the petitioner was found to be covered within the ambits of unauthorized use of the electricity. However, the respondent/Corporation was directed to re-calculate the assessed amount and the order of assessment, was partially interfered. Thereupon, vide Memo No.14 dated 05.01.2023, revised calculation was made by the respondent/Corporation, and the petitioner was charged with an amount of Rs.73,482/- (1,46,965 – 73,483 already deposited), and the petitioner was directed to deposit the same within a period of 15 days, from the issuance of the notice.

6. Learned counsel for the petitioner, in an attempt to assail the final assessment order dated 14.01.2021 (Annexure P-2), and the order dated 02.12.2022 (Annexure P-3), as passed by the learned Appellate Authority concerned, submits that the instant matter is not a case of an unauthorized use of the electricity. He further submits that the petitioner is well within his rights to install sub-meters for its tenants, for the purpose of ascertaining the real time consumption of electricity by them, and not for the purpose of selling of electricity. Learned counsel for the petitioner has placed reliance upon the Regulation 36 of the Supply Code, 2014, to submit that, by any imagination in the act, does not fall under the ambits of unauthorized use of electricity connection. He has also placed reliance upon the Regulation 8.8.2 of the Supply Code, 2014, which defines "resale of electricity", according to which, if a consumer supplies electricity to any other person of different premises, only then, it would tantamount to resale, which is not the case of the respondent/Corporation.

7. While continuing with his arguments, learned counsel for the petitioner further submits, that there is no misuse of the electricity, as the respondent-PSPCL, had not issued any circular, to the effect that "an owner cannot rent out his premises, fully or partly". In the absence of any such restrictions, the respondent/Corporation cannot conclude that the present case is a case of unauthorized use of the electricity. He, in addition, submits that the assessing authority has not proved that the petitioner had purchased the electricity at per unit, and sold at different rate per unit, rather, different sub-meters were installed only to divide the energy bills received from the respondent/PSPCL. No energy bill were issued to the tenants, so as to collect a higher amount from them, as fixed by PSPCL/PSERC. Before serving the notice under Section 126 of the Act of 2003, the respondent/Corporation is required to enquire into, and thereupon, prove that it is the case of resale of the electricity.

8. The contentions, as raised by the learned counsel for the petitioner has been vociferously opposed by the learned counsel for the respondent/Corporation. He submits that the resale of the electricity has been defined under Regulation 8.8.2 of the Supply Code, 2014, and in case, any person unauthorisingly supplies the electricity to any other person, or other premises, unless he has been permitted to do so, would fall within the ambit of resale of electricity, and therefore, as per the Regulation 36 of the Supply Code, 2014, the act of the present petitioner, does fall under the ambits of unauthorized use of the electricity.

9. This Court has considered the rival submissions, as made by the learned counsel for the parties concerned, and has gone through the entire case file, and the available record, and is of the considered opinion that

there is no merit in the instant writ petition, and the same is required to be **dismissed**, for the reasons extracted hereinafter:-

(i) Regulation 36 of the Supply Code, 2014, defines unauthorized use of the electricity. The same is extracted hereinafter :-

> ***"36. UNAUTHORIZED USE OF ELECTRICITY***
>
> *Under Section 126 of the Act, the unauthorized use of electricity means usage of electricity:-*
> *(a) by any artificial means; or*
> *(b) by a means not authorized by the concerned person or authority or licensee; or*
> *(c) through a tampered meter; or*
> *(d) for the purpose other than for which the usage of electricity was authorized; or*
> *(e) for the premises or areas other than those for which the supply of electricity was authorized."*

(ii) As per Regulation 36 (d) *ibid*, the unauthorized use of the electricity means usage of the electricity, for the purpose other than for which the use of electricity was authorized (**emphasized specifically**). The term "resale of electricity" has been defined under Regulation 8.8.2 of the Supply Code, 2014, and the same is extracted hereinafter :-

> ***"8.8.2 RESALE OF ELECTRICITY:***
> *The consumer shall not supply any electricity supplied to him by the licensee to another person or other premises unless he has been permitted to do so under the Act or holds licence for distribution or sale of electricity granted by the Commission/State government or has been declared deemed licensee or has been exempted from obtaining the licence or has been appointed as franchisee."*

(iii) Perusal of the above clearly elucidates that there is a complete restriction upon the consumer to further supply electricity, supplied to him by the licensee, to **any other person**, or premises, unless he has been permitted to do so under the Act of 2003, or holds the license for distribution, or sale of electricity granted by the Commission/State Government.

10. In the instant case, there is no wrangle that the present petitioner was further supplying the electricity to his tenants, and for the said act, the petitioner had no authorized permission by the respondent/Corporation, therefore, it is a clear cut case of violation of Regulation 8.8.2 of the Supply Code of 2014. Further, from the record, it is reflected that the petitioner himself was not running any manufacturing unit, for which, he took the electricity connection from the respondent/PSPCL, therefore, it is a clear cut case of resale of electricity, in terms of the Regulation 8.8.2 (supra).

11. Learned counsel for the petitioner has placed reliance upon the Commercial Circular No.41 of 2024, along with Chapter-VIII of the Supply Code of 2014, and as per the Regulation 49 thereof, which prescribes the unauthorized use of the electricity, and as per proviso (v), sub-clause (2) of Regulation 49, the use of supply by the tenant(s)/occupier(s), in the same premises and for the same purpose for which the usage of electricity was authorized by the distribution licensee, by installation of sub-meter for the purpose of accounting of energy shall not be considered as resale.

12. This Court has also considered the above submission, as made by the learned counsel for the petitioner. The perusal of the Commercial Circular No.41 of 2024, reflects that the said Regulation came into force w.e.f. 14.11.2024. This Court has put a specific query to learned counsel for the petitioner, as to how the said Regulation can be applied retrospectively, to which, he is unable to answer.

13. No other argument was made by the learned counsel for the petitioner.

14. Considering the facts and circumstance of the case, and the reasons extracted hereinabove, this Court does not find any illegality or perversity in the provisional assessment order dated 20.11.2020 (Annexure P-1), final assessment order dated 14.01.2021 (Annexure P-2), as well as the order dated 02.12.2022 (Annexure P-3), passed by the learned Appellate Authority concerned. Consequently, the instant writ petition is **dismissed**, being devoid of merits.

(KULDEEP TIWARI)
JUDGE

Pronounced on : May 09, 2025
Manpreet

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