
(2015) 01 UK CK 0034

In the Uttarakhand High Court

Case No : Writ Petition No. 692 (MS) of 2009

Chairman and Managing Director and Others

APPELLANT

Vs

Bharat Electronics Ltd.

RESPONDENT

Date of Decision : 09-01-2015

Acts Referred:

Citation : (2015) 01 UK CK 0034

Hon'ble Judges : Alok Singh, J

Bench : Single Bench

Advocate : N.S. Negi, for the Appellant; Jitendra Chaudhary, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Alok Singh, J.

1. Present petition is filed assailing the order dated 16.03.2009 passed by Electricity, Ombudsman, Uttarakhand, whereby penalty imposed on the consumer/respondent, herein, for violating the peak hour restriction, was set aside. Brief facts of the present case, inter alia, are that UPCL approached the State Electricity Regulatory Commission with its proposal for regulating the supply of electricity to the consumers during 05.00 p.m. to 10 p.m. from January to March, 2007; Regulatory Commission vide order dated 09.01.2007 was pleased to approve the proposal of the UPCL with effect from 10.01.2007 to 15.03.2007; thereafter, on 19.01.2007, UPCL again approached the Regulatory Commission with the proposal that all the industries in the State may be permitted to use 15% of their sanctioned load daily during the peak hours; Regulatory Commission approved that restriction on 25.01.2007; although as per approval granted by Regulatory Commission, all industries were permitted to use only 15% of their sanctioned load daily during the peak hours; however, consumer respondent, herein, was granted exemption from the peak hours restrictions by CMD of UPCL vide order dated 21.01.2007, thereafter, CMD himself under his signature sent a letter dated 26.03.2007 informing the

consumer/respondent, herein, that exemption granted on 21.01.2007 was to be withdrawn with effect from 01.04.2007; believing the exemption granted by the CMD, UPCL, consumer/respondent, herein, used the entire sanctioned load during the peak hours; thereafter, UPCL assessed the penalty and issued bill to the consumer/respondent to pay the amount of penalty for using the complete load during the peak hours restriction. Feeling aggrieved, consumer/respondent, herein, approached the Consumer Grievance Redressal Forum, however, complaint filed by the consumer/respondent, herein, was dismissed. Thereafter, consumer/respondent, herein, approached the Electricity Ombudsman, Uttarakhand by way of representation No. 09 of 2008. Representation so moved by the consumer/respondent was allowed by the Ombudsman vide order dated 16.03.2009 setting aside the order of imposition of penalty. Feeling aggrieved, UPCL has approached this Court by way of present writ petition.

2. I have heard Mr. N.S. Negi, Advocate for the petitioner and Mr. Jitendra Chaudhary, Advocate for respondent and have carefully perused the record.

3. There is no doubt that as per the approval granted by the State Electricity Regulatory Commission, Electricity Department was permitted to impose peak hour restriction with the condition that all the industries would be entitled to use only 15% of the sanctioned load daily between 05.00 p.m. to 10.00 p.m. during 10.01.2007 to 15.03.2007. However, facts remain that despite restrictions, CMD himself had granted exemption of peak hours to the consumer respondent. Meaning thereby consumer was permitted to use entire sanctioned load, during the peak hours restriction. Believing the CMD, consumer/respondent, herein, used the sanctioned load during the peak hours restriction. Since, consumer/respondent, herein, used entire sanctioned load during peak hours too believing the authority of the CMD, UPCL, therefore, consumer/respondent, herein, cannot be said to be unauthorized user of electricity during peak hours restrictions. UPCL never informed the consumer/respondent that CMD of UPCL was not authorized to grant exemption. After the restriction of peak hours was discontinued, UPCL has issued disputed bills demanding penalty for using electricity during peak hours. In my considered opinion, UPCL is estopped to contend contrary to their own CMD. Moreover, consumer/respondent is also Central Government undertaking therefore, no mala fide can be attributed on the part of consumer/respondent. Consequently, I do not find any error in the impugned order. Writ petition fails and is dismissed.