(2013) 08 P&H CK 0354

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 19095 of 2012 (O and M)

Union of India — APPELLANT

Vs

Assistant Executive Engineer, Punjab State Power Corporation Ltd. and Another — RESPONDENT

Date of Decision : 21-08-2013

Acts Referred:
Constitution of India, 1950 — Article 226, 227, 287, 288

Citation : (2014) 173 PLR 545

Hon'ble Judges : Sanjay Kishan Kaul, C.J;Augustine George Masih, J

Bench : Division Bench

Advocate : Naveen Chopra, for the Appellant; Ashok Aggarwal and Ms. Meena Bansal, for the Respondent

Judgement

Sanjay Kishan Kaul, C.J.—The petitioner/Union of India seeks, by way of present writ petition under Articles 226 and 227 of the Constitution of India, to assail the notification dated 24.05.2010 issued by the Punjab State Electricity Regulatory Commission amending the Punjab State Electricity Regulatory Commission (Electricity Supply Code and Related Matter), Regulations 2007, inter-alia, to the following effect:-

Reg. 15 security (Consumption)

15.1 Different categories of consumers will maintain security (consumption) as below:-

15.1.1 Consumers other than large supply Industrial consumer will maintain as security with the licensee an amount equivalent to consumption charge (i.e. Fixed and variable charges as applicable) for two and a half months where bimonthly billing is applicable and one and a half in case of monthly billing, during the period of agreement for supply of electricity.

Learned counsel for the petitioner has also drawn our attention to the calculation-sheet of advance consumption deposit (Annexure P-4) to contend that what is sought to be recovered by the respondents is actually taxation, as deposit is stated to be kept equivalent to one and a half years consumption charges. This is stated to be impermissible in view of Articles 287 and 288 of the Constitution of India.

2. In order to appreciate the controversy, it is necessary to appreciate the provisions of Articles 287 and 288, which provide that no law of a State can impose, or authorise imposition of tax on the consumption or sale of electricity save insofar as the Parliament may by law otherwise provide. However, in the present case, there is no taxation, which is sought to be levied and, thus, the reliance placed on the Division Bench judgment of this Court in Civil Writ Petition No. 13361 of 2006 (Union of India Versus Punjab State Electricity Board and others), decided on 23.2.2010 is misplaced as that was for octroi charges of electricity consumed by Ministry of Railways. In the present case, what is sought to be done is that in case of large supply industrial consumer, where electricity would be sold on credit, if no security was taken, the security amount equivalent to one and a half months consumption charges in case of monthly billing is to be maintained. In the present case, the billing is monthly. It is not a billing for one and a half years, but only for one and a half months and that is apparent from the calculation sheet (Annexure P-4).

3. We, thus, fail to appreciate the grievance being made out by the petitioner in the present petition as it is only actual consumption charges which will be recoverable from the petitioner and equivalent to one and a half months charges are to be paid in advance for future consumption. Dismissed.