(2014) 01 P&H CK 0156

In the Punjab And Haryana At Chandigarh

Case No : Civil Misc. No. 18207 of 2013 and Civil Writ Petition No. 16335 of 2013

Vikas Nayyar APPELLANT

Vs

Punjab State Power Corporation Ltd. RESPONDENT

Date of Decision : 10-01-2014

Acts Referred:

Citation : (2014) 175 PLR 39

Hon'ble Judges : Ritu Bahri, J

Bench : Single Bench

Advocate : Diya Sodhi, Advocate for the Appellant; Vikas Chatrath, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Ritu Bahri, J.—With the consent of the learned counsel for the parties, the main case is preponed and taken up today itself. This petition u/s 226 of the Constitution of India is for issuance of a writ in the nature of certiorari for quashing the bill-cum-assessment order dated 27.04.2013 (Annexure P/2) and order dated 17.05.2013 (Annexure P/6), vide which, the petitioner has been assessed for payment of Rs. 19,67,518/- for electricity theft by wrongly calculating the electricity consumption from the premises, owned by the petitioner, which has been rented out to M/s. S.R. Industries.

2. On notice, reply has been filed by the respondents, wherein they have stated that on inspection, a fake seat was found over the meter in question, as per the checking report. The Enforcement Checking Report dated 26.04.2013 (Annexure R-3/2) bears the signature of petitioner''s representative (tenant). The meter was sent to ME Lab on 26.04.2013 and as per the report of ME Lab (Annexure R-3/1), the consumer was found concealing the original energy being consumed by him by tempering with circuit plate in an illegal manner. Therefore, a case of theft was found. After inspection, charges of theft were calculated in terms of LDHF formula (Annexure R-3/3). While applying this formula, ''L'' is the sanctioned load, ''D'' is number of working days per month, ''H'' is use of supply

hours per day, which has been taken in case of non continuous process industry (day/night) and ''F'' demand factor is 60% in case of theft as per Regulation 2007. After calculation, it comes to 11322 Units per month and the electricity charges were assessed at Rs. 19,67,518/-, which are recoverable from the petitioner.

3. Learned counsel for the petitioner states that while passing the order dated 17.05.2013 (Annexure P/6) it has been observed that the Labour Inspector had clarified that meter was working for 8 hours. The calculation has been done by taking the industry as ''non continuous industry'' for 20 hours.

4. This aspect has not been dealt with while making the assessment, therefore, it is a non-speaking order. Learned counsel for the petitioner states that the electricity has been disconnected from April, 2013 and the petitioner is ready to make payment of 50% of the assessed amount 7. Keeping in view that the calculation of theft of electricity has been made by adopting the formula of LDHF while treating the industry to be working as ''non continuous process industry'' of 24 hours, whereas the industry as per Labour Inspector was working as ''single shift industry'', the orders dated 27.04.2013 (Annexure P/2) and 17.05.2013 (Annexure P/6) are set aside and the matter is remitted back to the concerned department for framing fresh assessment in accordance with law. In the meantime, in case the petitioner deposits 50% of the amount due within two weeks from the receipt of certified copy of this order, the respondents shall renew/restore his electricity connection.

Disposed of in the above terms.