

(2022-3)207 PLR 503
 PUNJAB AND HARYANA HIGH COURT
Before: Mr. Justice Raj Mohan Singh.
 PARDUMAN SINGH and others - Petitioners,
Versus

PUNJAB STATE POWER CORPORATION LTD. and others - Respondents.
 CM-1163-CWP-2022 in/and CWP-13129-2017

Electricity Act, 2003 (36 Of 2003) Section 127 - Appeal - Case was remanded back to the assessing authority to pass fresh order of assessment in accordance with law - A perusal of the order would show that the assessing authority/respondent no. 3 has not adverted to observe anything as per remand order - Uncommissioned or installed machines at the time of first checking were not counted while computing the total work load - In any case, the aforesaid pleas rest under factual domain for which the case was remanded to the assessing authority to assess the work load a fresh on the basis of the material available on record - Case remanded.

*Mr. Sunil Chadha, Sr. Advocate with Mr. Lakshay Bector, for the petitioners.
 Mr. Abhilaksh Grover, for the respondents.*

**Raj Mohan Singh J. (Oral) - (21st April, 2022) -
 CM-1163-CWP-2022**

With the concurrence of the parties, the date of hearing is pre-poned and the main case is taken up today for hearing.

Application stands disposed of.
 CWP-13129-2017

1. Petitioners have assailed the notice dated 13.12.2013, which is consequential notice in pursuance of the order dated 29.11.2013 passed by the Addl. Superintending Engineer(s), Phagwara Division, Phagwara, for recovery of an amount of Rs.14,44,121/-. Petitioner has already challenged the order dated 23.02.2017 passed by the Appellate Authority dismissing the appeal thereby upholding the order dated 29.11.2013 passed by the Addl. Superintending Engineer(s)/respondent no.5.

2. Learned counsel of the petitioners submits that the final order of assessment was passed under Section 126 of the Electricity Act, 2003 (for short 'the Act') by the Assistant Executive Engineer/respondent no.3 on the basis of first inspection dated 07.01.2011. The assessed amount was computed to the tune of Rs.12,68,410/- to be paid by the petitioners within a specified period of 7 days.

3. Feeling aggrieved against the aforesaid final assessment, petitioner no.1 filed an appeal under Section 127 of the Act before respondent no.4. Respondent no.4 on the basis of material on record found that the respondents have not given any reply in respect of contention of learned counsel of the petitioners that the load was calculated for the installed machines or for all those machines lying in the premises uninstalled.

4. Contention of learned counsel for the petitioners was that the load of uninstalled machines was also added while computing the total load in illegal manner. The respondents also failed to reply whether demand was raised in accordance with the provisions of Section 125 and 126 of the Act. The case was remanded back to the assessing authority to pass fresh order of assessment in accordance with law vide order dated 30.07.2013.

5. Thereafter, second inspection was done by the respondents-Corporation. In this inspection as against sanctioned load of 83.400 KW, the actual load was found to be 83.050 KW. In compliance of the order of remand dated 30.07.2013, assessing authority/respondent no.3 reiterated the earlier stand without adhering to the remand

order.

6. A perusal of the order dated 29.11.2013 would show that the assessing authority/respondent no.3 has not adverted to observe anything as per remand order. The petitioner remained unsuccessful even in appeal against the order dated 29.11.2013. The appellate authority has also dismissed the appeal vide order dated 23.02.2017 without adverting to the remand order. Both the orders passed by the assessing authority as well as the appellate authority dated 29.07.2013 and 23.02.2017 respectively are being challenged in the present writ petition.

7. A perusal of the aforesaid orders would show that the authorities have not recorded any finding in respect of uncommissioned machines and other observations forming part of order dated 30.07.2013 passed by respondent no.4.

8. Learned counsel for respondents submits that in fact checking was done in the presence of the parties.

9. Uncommissioned or installed machines at the time of first checking were not counted while computing the total work load. In any case, the aforesaid pleas rest under factual domain for which the case was remanded to the assessing authority to assess the work load afresh on the basis of the material available on record.

10. In view of the above, it would be just and appropriate to remand the case back to the assessing authority who would strictly adhere to the remand order dated 30.07.2013 and thereafter pass an appropriate order of assessment afresh in accordance with law.

11. Consequently, the impugned orders Annexures P-8 and P-10 are set aside. Normal consequences to follow.

R.M.S. - Case remanded