

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4226 OF 2020

MADHAV KRG LIMITED APPELLANT(S)

VERSUS

PUNJAB STATE POWER CORPORATION RESPONDENT(S)
LIMITED & ANR.

with

CIVIL APPEAL NO. 713 OF 2021

and

CIVIL APPEAL NO. 491 OF 2021

O R D E R

A short issue which arises for our consideration relates to the payment of interest on the security (consumption) deposit in terms of Regulation 17 of the Punjab State Electricity Regulatory Commission (Electricity Supply Code and Related Matters) Regulations, 2007¹.

Regulations 14, 15 and 17 of the 2007 Regulations read as under: -

"14. Initial security

14.1 The applicant seeking supply of electricity as per Regulation 5 of these Regulations will be required to pay to the Licensee an amount as specified in the Schedule of General Charges approved by the Commission,

1 "2007 Regulations", for short.

as initial security towards supply of electricity.

14.2 The initial security will after release of connection be adjusted against Security (consumption) required to be deposited in accordance with Regulation 15.1.

14.3 The applicant seeking sanction of additional load/demand will be required to deposit initial security computed only for the additional load/demand.

15. Security (consumption)

15.1 Consumers will maintain with the Licensee an amount equivalent to consumption charges (i.e. fixed charges and variable charges as applicable) for three months where bi-monthly billing is applicable and two months in case of monthly billing as security during the period of agreement for supply of electricity. Consumption charges will be worked out on the basis of average monthly consumption of an existing consumer over a period of twelve months immediately before coming into force of these Regulations.

15.2 The Licensee will not be entitled to demand Security (consumption) from any consumer requiring supply of electricity through a prepayment meter as and when such a facility is provided.

Provided that in the case of an existing consumer who opts for supply of electricity through a pre-payment meter, the Licensee will refund the Security (consumption) of such consumer by adjustment against any outstanding dues and/or any amount becoming due to the Licensee immediately thereafter.

15.3 Whenever spot billing is introduced for any category of consumers in any area of operation of the Licensee, the Security (consumption) will be maintained

on the basis of consumption charges for two months for bimonthly billing and one month for monthly billing categories.

Excess amount of Security (consumption) in respect of existing consumers will be refunded by the Licensee by adjustment against any outstanding dues and/or any amount becoming due to the Licensee immediately thereafter.

xxx

xxx

xxx

17. Interest on Security (consumption)

17.1 The Licensee will pay interest on Security (consumption) at the SBI's Long Term PLR prevalent on first of April of the relevant year, provided that the Commission may at any time by notification in official Gazette of the State specify a higher rate of interest.

17.2 The Licensee will indicate the amount becoming due to a consumer towards interest on the Security (consumption) in the first bill raised after thirtieth of April every year.

17.3 The interest will be credited to the account of a consumer annually on first day of April each year and will be adjusted on first May of every year against the outstanding dues and/or any amount becoming due to the Licensee thereafter.

17.4 In the event of delay in effecting adjustments due to the consumer as per Regulation 17.3, the Licensee will for the actual period of delay pay interest at twice the SBI's Short Term PLR prevalent on first of April of the relevant year.

As per Regulation 14, any applicant seeking supply of electricity is required to pay to the Licensee the amount as specified in the Schedule of General Charges towards initial

security. Regulation 14.2 states that this initial security after the release of connection will be adjusted against the security (consumption), which is required to be deposited in accordance with Regulation 15.1.

Regulation 15, which deals with security (consumption), as per sub-regulation (1) states that consumers will maintain with the Licensee an amount equivalent to consumption charges, i.e., fixed charges and variable charges as applicable, for three months where bi-monthly billing is applicable, and two months in case of monthly billing, towards security during the period of agreement for supply of electricity. The latter part of sub-regulation (1) in Regulation 15 postulates consumption charges being worked out as per average monthly consumption as stipulated in the Regulation. We are not concerned with the other parts of Regulation 15 for the controversy in question, which, as noticed above, relates to payment of interest in terms of Regulation 17.

Regulation 17 of the 2007 Regulations states that interest will be payable by the Licensee on the security (consumption). The rate of interest is specified to be State Bank of India's Long-Term PLR prevalent on the first of April of the relevant year. The Commission, that is, the Electricity Regulatory Commission, however, has the power to notify a higher rate of interest in the official gazette. Regulation 17.2 states that the Licensee will indicate the amount becoming due to a consumer towards interest on the security (consumption) in the first bill raised after thirtieth of April every year. Regulation 17.3 states that the interest will

be credited to the account of the consumer annually on the first day of April each year and will be adjusted on first May of every year against the outstanding dues and/or any amount becoming due to the Licensee thereafter. Regulation 17.4 comes into play in the event of delay in effecting adjustments due to the consumer as per Regulation 17.3.

In our opinion, it is lucid and clear that the initial security deposit becomes part and parcel of the security (consumption). This is so because the initial security deposit is to be made when one applies for a connection and once a connection is given, it is subsumed in the security (consumption). That being the position, we are unable to sustain the observations and findings in the impugned order dated 19.05.2020, holding that the interest under Regulation 17 will only be payable on the security (consumption) and not on the initial security. The amount deposited as initial security does not stand forfeited but becomes part of the security (consumption). It ceases to have any independent existence once a connection is given.

Accordingly, we set aside the impugned order(s) of the Appellate Tribunal for Electricity, New Delhi, and allow the present appeals, holding that interest would be payable, post the grant of a connection, even on the amount which was deposited towards initial security. The interest will be payable in terms of Regulation 17 of the 2007 Regulations on the amount standing to the credit of the consumer under the head "security (consumption)", which would include the initial security deposit.

We are informed that, earlier, the distribution supply companies were paying interest on the entire security (consumption), including the initial security, but pursuant to an audit objection, the amount was recovered from the consumers. In our opinion, the audit objection was clearly wrong and contrary to the statutory regulations and this has led to unnecessary litigation up to this Court. It will be open to the respondent, Punjab State Power Corporation Limited, to point out the flaw in the reasoning in the audit objection to the Audit Department.

The amount of interest due and payable, which includes the interest which was earlier paid and recovered, will be adjusted by the respondent, Punjab State Power Corporation Limited on a *pro rata* basis in the next six bills from the date they are served with a copy of this order.

We clarify that we have not examined and gone into the second issue decided in the impugned order, pertaining to the question of jurisdiction.

Pending application(s), if any, shall stand disposed of.

.....CJI.
(SANJIV KHANNA)

.....J.
(SANJAY KUMAR)

NEW DELHI;
DECEMBER 02, 2024.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGSCIVIL APPEAL NO. 4226 OF 2020

MADHAV KRG LIMITED APPELLANT(S)

VERSUS

PUNJAB STATE POWER CORPORATION RESPONDENT(S)
LIMITED & ANR.

(IA No. 130759/2024 - EARLY HEARING APPLICATION, IA No. 135636/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 24551/2021 - EXEMPTION FROM FILING O.T., IA No. 135637/2020 - EXEMPTION FROM FILING O.T. and IA No. 24549/2021 - STAY APPLICATION)

WITH

C.A. No. 713/2021 (XVII)
(FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA 29250/2021)

C.A. No. 491/2021 (XVII)
(IA No. 21197/2021 - STAY APPLICATION)

Date : 02-12-2024 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJAY KUMAR

For Appellant(s)

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For Respondent(s)

Mr. Ajay Pal, AOR

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Ms. Astha Sharma, Adv.

Ms. Ritika Singhal, Adv.

Ms. Neha Das, Adv.

Ms. Tanisha Lunia, Adv.

Ms. Sunieta Ojha, AOR

Ms. Gargi Kumar, Adv.

**UPON hearing the counsel the Court made the following
O R D E R**

The appeals are allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

**(DEEPAK GUGLANI)
AR-cum-PS**

**(R.S. NARAYANAN)
ASSISTANT REGISTRAR**

(signed order is placed on the file)