



CWP-22508-2023 and connected cases

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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(I)

CWP-22508-2023

Reserved on: April 30, 2025

Pronounced on: July 29, 2025

JINDAL STAINLESS LTD.

-PETITIONER

V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS

(II)

CWP-23121-2023

HISAR METAL INDUSTRIES LTD.

-PETITIONER

V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS

(III)

CWP-24998-2023

DCM TEXTILE (A UNIT OF DCM NOUVELLE LTD.)

-PETITIONER

V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS

(IV)

CWP-25969-2023

M/S BSL CASTING PVT. LTD.

-PETITIONER

V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS

(V)

CWP-25981-2023

M/S PUNJAB GENERAL INDUSTRIES PVT. LTD.

-PETITIONER

V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS



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(VI) CWP-26484-2023

M/S HINDUSTHAN NATIONAL GLASS AND INDUSTRIES LTD.

-PETITIONER

V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS

(VII) CWP-26596-2023

M/S ASAHI INDIA GLASS LTD.

-PETITIONER

V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS

(VIII) CWP-26820-2023

M/S MAHAVIR DIE CASTERS PVT. LTD.

-PETITIONER

V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS

(IX) CWP-26833-2023

M/S OSWAL GLOBAL PVT. LTD.

-PETITIONER

V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS

(X) CWP-27625-2023

M/S RICO AUTO INDUSTRIES LTD.

-PETITIONER

V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS

(XI) CWP-27855-2023

M/S JBM AUTO LIMITED



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-PETITIONER
V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS

(XII) CWP-27875-2023

M/S NEEL METAL PRODUCTS LTD.

-PETITIONER
V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS

(XIII) CWP-27950-2023

M/S JBM INDUSTRIES LIMITED

-PETITIONER
V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS

(XIV) CWP-27964-2023

M/S POOJA FORGE LIMITED

-PETITIONER
V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS

(XV) CWP-27965-2023

M/S POOJA FORGE LIMITED

-PETITIONER
V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS

(XVI) CWP-27968-2023

M/S UNIVERSAL PRECISION SCREWS

-PETITIONER
V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS



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(XVII) CWP-28238-2023

M/S NEW ALLENBERY WORKS

-PETITIONER

V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS

(XVIII) CWP-26691-2023

M/S STAR WIRE (INDIA) LIMITED

-PETITIONER

V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS

(XIX) CWP-26708-2023

SOMANY CERAMICS LTD.

-PETITIONER

V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS

(XX) CWP-26732-2023

M/S STAR WIRE (INDIA) LIMITED

-PETITIONER

V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS

(XXI) CWP-152-2024

M/S JAI BHARAT MARUTI LIMITED

-PETITIONER

V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS

(XXII) CWP-155-2024

M/S JAI BHARAT MARUTI LIMITED

-PETITIONER



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V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS

(XXIII) CWP-212-2024

M/S MUNJAL KIRIU INDUSTRIES PVT. LTD.

-PETITIONER

V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS

(XXIV) CWP-29043-2023

M/S SADHU FORGING LIMITED

-PETITIONER

V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS

(XXV) CWP-2984-2024

M/S ESCORTS KUBOTA LTD.

-PETITIONER

V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS

(XXVI) CWP-3048-2024

M/S ESCORTS KUBOTA LTD.

-PETITIONER

V/S

STATE OF HARYANA AND OTHERS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Chetan Mittal, Sr. Advocate with
 Mr. Himanshu Gupta, Advocate
 Mr. Rose Gupta, Advocate
 Mr. Prateek Garg, Advocate
 Ms. Nitika Singla, Advocate
 Ms. Neha Anand Mahajan, Advocate
 Ms. Sheenam Banchta, Advocate and



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Mr. Drupad Sangwan, Advocate
for the petitioner(s) (in CWP Nos.22508, 23121 and 24998
of 2023).

Mr. Ashwani Talwar, Advocate with
Mr. Nikhil Sehrawat, Advocate and
Mr. Deepak Goyat, Advocate
for the petitioner(s) (in CWP Nos.25969, 25981, 26484,
26596, 26820, 26833, 27625, 27855, 27875, 27950, 27964,
27965, 27968, 28238, 26691, 26708, 26732 and 29043 of
2023 and CWP Nos.152, 155, 212 of 2024).

Mr. Bhupender Singh, D.A.G., Haryana.

Mr. Puneet Jindal, Sr. Advocate with
Mr. Vivek Saini, Advocate and
Mr. Rahul Bansal, Advocate
for the respondent(s) – DHBVNL, HVPNL and UHBVNL
(in CWP Nos. 27855, 26596, 27625, 27964, 26732, 27950,
28238, 27965, 26833, 26820, 25981, 25969, 27875, 26596,
26708, 27968, 26484, 23121, 22508, 26691, 29043 of 2023
and CWP Nos. 152, 155, 212 of 2024).

Mr. R.K. Doon, Advocate
for the respondent No.2 (in CWP-22508-2023).

Mr. Sanjeev Kaushik, Advocate with
Ms. Manreet Kaur, Advocates, for respondent(s)-HERC.

KULDEEP TIWARI, J.

1. All these writ petitions are amenable for being decided through a common verdict, on account of theirs enveloping common question(s) of law and common grievance(s).
2. To be precise, the petitioners are basically aggrieved by demand notice(s) served by the distribution licensee. The genesis of such demand notice(s) can be traced to various orders drawn by the Haryana Electricity Regulatory Commission (hereinafter referred to as the “H.E.R.C.”) and the Appellate Tribunal for Electricity at New Delhi (hereinafter referred to as the ‘Appellate Tribunal’). For the sake of

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brevity and convenience, the facts are being extracted from CWP-22508-2023.

3. The challenge enclosed in this writ petition is to the order dated 22.10.2019, corrigendum dated 20.11.2019 and the order dated 13.09.2021, whereby, the respondent No.2-H.E.R.C. has allowed the four review petitions filed by the distribution licensee. Moreover, challenge is also thrown to the notice dated 11.09.2023, whereby, recovery of ₹ 21,74,98,969/- is sought to be effected for the financial years 2016-2017 to 2019-2020.

4. Succinctly stated, the petitioner is a large industrial consumer of electricity in the State of Haryana with a sanctioned contract demand of 130 MVA and a sanctioned connected load of 125 MW. The petitioner purchases electricity sourced through the open access system, wherein electricity generated outside the State of Haryana is purchased, and this is termed “Interstate Collective Transaction”. The distribution licensee filed a True-up petition for the financial year 2014-2015, annual performance review for the financial year 2015-16, and transmission tariff and SLDC charges for the financial year 2016-17. A public notice was duly served, and thereupon, vide order dated 31.03.2016, the H.E.R.C. fixed the Short Term Open Access charges (hereinafter referred to as ‘STOA charges’) @ ₹ 0.33/kWh for the financial year 2015-2016. Subsequently, the distribution licensee filed a review petition seeking a revision of the STOA charges to ₹ 0.43/kWh for the financial year 2015-2016, instead of ₹ 0.33/kWh. However, this review petition was rejected vide order dated 08.11.2016, which caused grievance to the distribution licensee and

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triggered it to institute an appeal before the Appellate Tribunal. The Appellate Tribunal, through its drawing the order dated 28.08.2019, remanded the matter to the H.E.R.C. for decision afresh. Accordingly, the H.E.R.C., vide order dated 22.10.2019, redetermined the STOA charges @ ₹ 0.43/kWh for the financial year 2015-2016. Subsequently, a corrigendum was issued on 20.11.2019, clarifying that, owing to an inadvertent error, the redetermined STOA charges were noted as being for the financial year 2015-2016, whereas they were actually for the financial year 2016-2017.

5. It is apposite to note that, in the meanwhile, the distribution licensee preferred subsequent true-up petitions, whereupon, the STOA charges for the financial years 2017-2018, 2018-2019 and 2019-2020 were fixed respectively as ₹ 0.36/kWh, ₹ 0.36/kWh and ₹ 0.27/kWh. The distribution licence preferred three review petitions seeking re-determination of the STOA charges fixed for the financial years (supra). These review petitions were allowed vide a common order dated 13.09.2021 and the STOA charges were enhanced.

6. It is also apposite to record that, pending adjudication of the above review petitions, the distribution licensee served upon the petitioner a recovery notice dated 26.07.2021 and raised demand of ₹ 6,49,53,420/-. Subsequently, the distribution licensee served upon the petitioner the impugned notice dated 11.09.2023, thereby making intimation that a sum of ₹ 21,74,98,969/- is charged as per direction by AO/CBO, for SE/CBO DHBVN, Hisar, vide memo No.212/16/SE/CBO/OA dated 08.09.2023.

7. The orders dated 22.10.2019 and 13.09.2021, along with the



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demand notice dated 11.09.2023, caused pain to the petitioner and propelled it to challenge them by instituting this writ petition.

8. The principal submission made by the learned senior counsel for the petitioner is that, the impugned orders drawn by the H.E.R.C. are totally against the Conduct of Business Regulations, as framed in exercise of the powers conferred under sub-section (1) of Section 92 read with Section 181(2)(zl) of the Electricity Act, 2003, sub-section (2) of Section 9, Section 56 of the Electricity Act, 2003, and Section 54 of the Haryana Electricity Reform Act, 1997.

9. The learned senior counsel for the distribution licensee has been opposing this writ petition primarily on the ground of maintainability, specifically in view of Section 111 of the Electricity Act, inasmuch as this Section clearly prescribes the statutory remedy of appeal against the impugned orders.

10. Consequently, this Court, vide order dated 21.04.2025, had directed the learned counsel for the petitioner to first address arguments on the issue of maintainability. The relevant portion of the order dated 21.04.2025 is reproduced hereunder:-

“The preliminary argument raised by the learned counsel for the distribution licensee is with regard to the maintainability of the instant petition(s), as the order, which is impugned before this Court, is appealable.

Learned senior counsel for the petitioner(s) in CWP Nos.22508, 23121 and 24998 of 2023, seeks an adjournment to address the arguments on this issue.

The asked for request is accepted.

Purely in the interest of justice, the case is adjourned to 30.04.2025, for arguments.

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To be shown in the urgent list.

Interim order to continue till the next date of hearing.”

11. Accordingly, the learned senior counsel for the petitioner would submit that, at the time when the H.E.R.C. passed the order(s) under review, no notice was served upon the petitioner. Moreover, even when the subsequent three review petitions were filed, which were finally disposed of through a common order dated 13.09.2021, the petitioner was not put to notice. Therefore, the impugned orders have been passed in gross violation of the principles of natural justice, hence the same can be assailed by directly filing writ petition before this Court.

12. The learned senior counsel for the petitioner further submits that, in fact, the order(s) passed in review petitions is beyond the jurisdiction of the H.E.R.C. Therefore also, the petitioner has a remedy to assail such patently illegal order(s) by filing writ petition before this Court.

13. Proceeding further, the learned senior counsel for the petitioner draws the attention of this Court to the verdicts rendered in ***“Asit Kumar Kar V. State of West Bengal & Ors.”, (2009) 2 SCC 703,*** and, ***“Godrej Sara Lee V. Excise and Taxation Officer cum Assessing Authority & Ors.”, (2023) 109 GSTR 402,*** and submits that merely because an alternative remedy is available, this writ petition cannot be dismissed solely on that ground. In this writ petition, the impugned orders have been passed in gross violation of the principles of natural justice, hence they are amenable to being assailed through this writ petition.

14. The submissions advanced by the learned senior counsel for

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the petitioner have been vociferously opposed by the learned senior counsel for the distribution licensee, not only on legal aspects, but also on factual aspects. He submits that, the impugned orders have been passed by the H.E.R.C. under the provisions of the Electricity Act, 2003. Therefore, if anyone is aggrieved by the said orders, he may file an appeal before the Appellate Tribunal as per Part XI of the Electricity Act, 2003. Without availing the statutory remedy of appeal, the petitioner has straightforwardly invoked the writ jurisdiction of this Court, which is not sustainable.

15. Elaborating his submissions, he further submits that, on the limited point of change of methodology for calculating STOA charges, review petition was filed by the distribution licensee, which was rejected by the H.E.R.C. vide order dated 08.11.2016. Resultantly, an appeal was filed before the Appellate Tribunal, which was decided on 28.08.2019 with the observations that the action, i.e. methodology of H.E.R.C., is faulty. Therefore, directions were given to H.E.R.C. to re-determine the STOA charges in accordance with the apposite Regulations.

16. The learned senior counsel for the distribution licensee submits that, the filing of appeal and its decision were all conducted in public hearing and all the orders of the Appellate Tribunal are available on its official website for every person, because the very nature of the tariff order is 'judgment in rem' and not 'judgment in persona'. In these circumstances, the H.E.R.C. was bound to correct the mistake of adopting a wrong methodology not only for the financial year 2016-2017, but also for the subsequent financial years 2017-2018 and 2019-2020.

17. While joining the issue of infraction of the principles of



natural justice, as raised by the petitioner's counsel, the learned senior counsel for the distribution licensee submits that, a detailed public notice under Section 64(2) of the Electricity Act was issued, however, no objection thereto was submitted by any petitioner. Therefore, the petitioner does not have any locus to state that individual consumer should have been given notice of these proceedings. Moreover, despite even remand too, the petitioner did not again raise any objection before the H.E.R.C.

18. Although the respondent(s) did join issue on merits, this Court is not inclined to record those submissions, as this Court is considering only the preliminary issue with regard to maintainability.

19. This Court has heard the submissions advanced by the learned counsels for the parties and has also made a studied survey of the record. There is no wrangle that, the availability of an alternative remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution of India. However, such powers cannot be exercised as a routine practice. This issue has been considered by the Hon'ble Supreme Court in a catena of judgments. In a recent judgment passed by the Hon'ble Supreme Court in "***M/s Radha Krishan Industries V. State of Himachal Pradesh & Ors.***", 2021(4) PLR 738, the basic principles regarding the maintainability of a writ petition before the High Court, in cases where a statutory remedy is available, have been set down. The relevant paragraph of the judgment is reproduced hereunder:-

"27. The principles of law which emerge are that :

(i) The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental



rights, but for any other purpose as well;

- (ii) The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person;*
- (iii) Exceptions to the rule of alternate remedy arise where*
 - (a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution;*
 - (b) there has been a violation of the principles of natural justice;* (c) *the order or proceedings are wholly without jurisdiction;* or (d) *the vires of a legislation is challenged;*
- (iv) An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law;*
- (v) When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion; and*
- (vi) In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with.*

28. *These principles have been consistently upheld by this Court in Seth Chand Ratan v Pandit Durga Prasad, (2003) 5 SCC 399, Babubhai Muljibhai Patel v Nandlal Khodidas Barot, (1974) 2 SCC 706 and Rajasthan SEB v. Union of India, (2008) 5 SCC 632 among other decisions.”*

20. In “*Punjab National Bank V. O.C.Krishnan*”, (2001) 6 SCC



569, the Hon'ble Supreme Court considered the question whether a petition under Article 227 of the Constitution was maintainable against an order passed by the Tribunal under Section 19 of the DRT Act and observed as under:-

"6. The Act has been enacted with a view to provide a special procedure for recovery of debts due to the banks and the financial institutions. There is a hierarchy of appeal provided in the Act, namely, filing of an appeal under Section 20 and this fast-track procedure cannot be allowed to be derailed either by taking recourse to proceedings under Articles 226 and 227 of the Constitution or by filing a civil suit, which is expressly barred. Even though a provision under an Act cannot expressly oust the jurisdiction of the Court under Articles 226 and 227 of the Constitution, nevertheless, when there is an alternative remedy available, judicial prudence demands that the court refrains from exercising its jurisdiction under the said constitutional provisions. This was a case where the High Court should not have entertained the petition under Article 227 of the Constitution and should have directed the respondent to take recourse to the appeal mechanism provided by the Act."

21. In “**U.P. State Spinning Co. Ltd. V. R.S. Pandey and Anr.**” 2005(4) S.C.T. 430, the Supreme Court held that, if somebody approached the High Court without availing the alternative remedy provided, the High Court should ensure that he has made out a strong case or that there exist good grounds to invoke the extra-ordinary jurisdiction.

The relevant observations are extracted hereinafter:-

“11. Except for a period when Article 226 was amended by the Constitution (42nd Amendment) Act, 1976, the power relating to alternative remedy has been considered to be a rule of self imposed limitation. It is essentially a rule of policy, convenience and discretion and never a rule of law. Despite the existence of an alternative remedy it is within the jurisdiction of discretion of the



High Court to grant relief under Article 226 of the Constitution. At the same time, it cannot be lost sight of that though the matter relating to an alternative remedy has nothing to do with the jurisdiction of the case, normally the High Court should not interfere if there is an adequate efficacious alternative remedy. If somebody approached the High Court without availing the alternative remedy provided the High Court should ensure that he has made out a strong case or that there exist good grounds to invoke the extra-ordinary jurisdiction.”

22. On the anvil of the above legal propositions, this Court has examined the issue of maintainability of these writ petitions, and is of the view that, the issue of infraction of the principles of natural justice, in the present cases, is itself a disputed questions of fact, especially when a public notice under Section 64(2) of the Electricity Act was issued, and the entire proceedings before the Appellate Tribunal were also conducted in public hearing. Therefore, the petitioner cannot take shelter under the non issuance of notice to each and every consumer. Moreover, there are specific provisions with regard to conducting of public proceedings and public hearing. Reference in this regard can be made to Para 2.1.1 and 2.2 of the order drawn by the H.E.R.C. on 31.03.2016 and the same is extracted hereinafter:-

“2.1.1 Public Proceedings

In accordance with the provisions of Section 64 (2) of the Electricity Act, 2003 HVPNL published its petition in abridged form to invite comments / objections from the stakeholders / general public. The Public Notice was issued by the HVPNL in The Tribune (English) dated 29.11.2015 and Dainik Tribune (Hindi) dated 28.11.2015 inviting objections/ suggestions/ comments from the stakeholders and general public. Additionally, the Commission also issued Public Notice in the Hindustan Times (English) and Dainik Jagran (Hindi) on 12.1.2016 inviting



comments / objections from the stakeholders/general public. However, in response to the Public Notice(s) inviting objections/comments on the Petition filed by the HVPNL no objections/ comments were filed by any party including the Distribution Licensees in Haryana.

2.2 PUBLIC HEARING

The Commission proceeded to hold public hearing on the petition filed by HVPNL after intimating the date of public hearing in the newspapers. The date of public hearing was also posted on the website of the Commission under the heading 'Schedule of Hearing'.

The public hearing was held on 15.2.2016 in the Conference Hall of the Commission. The Petitioner made a presentation in the hearing and also responded to the queries of the Commission.”

23. In view of the disputed questions of fact, this Court refrains from deciding the issue “*whether the impugned order(s) were passed without complying with the principles of natural justice*”, leaving it for the Appellate Tribunal to examine the same on the basis of the available record.

24. Insofar as the submission of the learned senior counsel for the petitioner is concerned, that a substantial demand has been raised through the impugned notice, which would have significant financial repercussions and adversely affect the petitioner’s fiscal health, and therefore the petitioner has rightly instituted the present writ petition instead of availing the statutory remedy, this Court is of the considered view that such a submission cannot come to the petitioner’s rescue. The issue regarding STOA charges can very well be examined by the Appellate Tribunal, which is, in fact, the expert body in such matters.

25. Consequently, this Court has no hesitation in holding that,

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these writ petitions are not maintainable and the same are accordingly **dismissed**. However, liberty is reserved to the petitioners to raise all such pleas and claims, as raised before this Court, including the plea of violation of the principles of natural justice (if any), before the Appellate Tribunal by availing the statutory remedy.

26. Before parting, it is important to observe that if the petitioners, within 30 days from today, file the statutory appeal(s) along with application(s) for condonation of delay before the Appellate Tribunal, the latter shall consider the delay application sympathetically, especially considering the fact that the petitioners had bonafidely been agitating their claim by filing a misconceived motion before this Court.

27. Moreover, the interim relief granted by this Court shall remain in force only for the next 30 days or until the interim prayer is decided by the Appellate Tribunal, whichever is earlier.

28. A photocopy of this order be placed on file of each connected case.

(KULDEEP TIWARI)**JUDGE****July 29, 2025**
devinder

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No