

Court No. - 40

Case :- WRIT - C No. - 35248 of 2023

Petitioner :- Idrish

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Mohd. Ayub

Counsel for Respondent :- C.S.C.,Abhishek Srivastava

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard learned counsel for the petitioner; Sri Ambrish Shukla, learned Additional Chief Standing Counsel appearing for State-respondent no. 1 and Sri Abhishek Srivastava, learned counsel appearing for respondent nos. 2 and 3/Electricity Department.

2. By means of present writ petition, the petitioner has questioned the validity of the impugned final assessment made by the electricity department.

3. At the very outset, learned counsel for the respondent raised an objection regarding maintainability of the writ petition on the ground that in view of the provisions contained under Section 126 of the Electricity Act 2003, an inspection had been carried out and the petitioner was found using the electricity unauthorisedly. Accordingly, provisional assessment was made and the notice was also served upon to the occupier/petitioner. Even though, in terms of Section 126(3) of the Act 2003, the person on whom an order has been served under sub-section (2), shall be entitled to file objections, if any, against the provisional assessment before the assessing officer, who shall, after affording a reasonable opportunity of hearing to such person, pass a final order of assessment within thirty days from the date of service of such order of provisional assessment. In the present matter final assessment order has also been passed wayback, which is under challenge, therefore, in view of the provisional assessment, the petitioner has to deposit the entire outstanding amount. He further submits that even against the final assessment, the petitioner has got efficacious remedy to prefer an appeal under Section 127 of the Act 2003 before the appellate authority. Once, the efficacious remedy is available to the petitioner, at this stage, the writ petition is liable to be dismissed.

4. We have occasion to peruse the record and we have also taken note of the objection of the respondent's counsel to the extent once the

efficacious alternative remedy is provided therein under the Electricity Act 2003, there is no reason or occasion to bypass the statutory forum.

5. Consequently, the writ petition stands dismissed on the ground of statutory alternative remedy.

Order Date :- 21.11.2023

Prajapati