

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8803 OF 2014

Agarwal Fasteners Pvt. Ltd.,
Gala Nos.13/14, Kaveri, Tungar Industrial
Complex, Vasai (E), Dist. Thane .. Petitioner
vs.

Maharashtra State Electricity
Distribution Co. Ltd. and ors. .. Respondents

Mr. Anil D'Souza for the Petitioner.

Mr. Kiran Gandhi a/w. Ms Divya Jain i/b M/s. Little and Co. for
Respondent No.1.

CORAM : M. S. SONAK, J.

DATE : 05 FEBRUARY , 2015

P.C. :-

1] Rule. With the consent of and at the request of learned counsel for the parties, Rule is made returnable forthwith.

2] This petition takes exception to the impugned order/communication dated 8 July 2014 made by the Appellate Authority under Section 127 of the Electricity Act, 2003 (said Act).

3] By the impugned order/communication dated 8 July 2014, the Appellate Authority has declined to hear the petitioner's appeal on the ground that the same is not filed as per the procedure laid under Section 127 of the said Act.

4] There is no dispute that before making of the impugned order/communication, the petitioner was not afforded any

opportunity of hearing, with a view to specify that there was no infirmity in the matter of presentation and prosecution of the appeal. In the facts and circumstances of the present case, particularly since the petitioner claims that the entire amount in dispute has already been deposited by it with respondent No.1, such opportunity of hearing ought to have been afforded to the petitioner.

5] On this short ground, the impugned order/communication dated 8 July 2014 is set aside. The matter is remanded to the Appellate Authority for fresh decision, in accordance with law. Before taking any decision, however, the Appellate Authority shall afford an opportunity of the hearing to the petitioner as also respondent No.1.

6] The petitioner to appear before the Appellate Authority alongwith an authenticated copy of this order on 23 February 2015 at 3.00 p.m., in order to obtain directions from the Appellate Authority.

7] It is made clear that this Court has not gone into any merits or de-merits of the respective parties. All the contentions, including in particular the contentions with regard to the maintainability of the appeal as well as limitation are kept open.

8] Rule is made absolute to the aforesaid extent only. There shall be no order as to costs.

9] Parties to act upon an authenticated copy of this order.

(M. S. SONAK, J.)