

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9948 OF 2015

M/s. Multisoft Technologies Pvt. Ltd. .. Petitioner
Through the Representative Jyoti Mehra
vs.
The Appellate Authority
The Chief Inspector (Electrical)
PWD Industry Energy & Labour Department
and ors. .. Respondents

Mr. Tushar Sonawane for the Petitioner.
Mr. Rahul Sinha i/b D.S.K. Legal for Respondent No.2.
Ms V.S. Nimbalkar, AGP for Respondent No.3.

CORAM : M. S. SONAK, J.
DATE : 08 OCTOBER 2015.

P.C. :-

- 1] Not on board. Upon production, taken on board.
- 2] Rule. With the consent of and at the request of learned counsel for the parties, Rule is made returnable forthwith.
- 3] In this petition, the challenge is to the order dated 6 August 2015, by which the Appellate Authority under Section 127 of Electricity Act, 2003 (said Act), has rejected the Petitioner's appeal against the order dated 20 March 2015 on the following grounds:
 - (a) That the appeal was instituted beyond the prescribed period of 30 days as provided under Section 127(1) of the said Act; and

(b) That 2 percent Court-fee has not been deposited with the State Government.

4] In this case, the Petitioner had made a clear statement that the Court-fee has been deposited and necessary details with regard to such details were also set out in the memo of appeal. Besides, the Petitioner has, alongwith this Petition, produced receipts with regard to deposit of Court-fee. Therefore, the reason for rejection of the appeal on the ground that the Court-fee was not deposited is unsustainable.

5] Insofar as the issue of limitation is concerned, reference is required to be made to the assessment order dated 20 March 2015, which itself sets out that in case the Petitioner is not satisfied with the assessment order, the Petitioner may file appeal to the Appellate Authority under Section 127 of the said Act within thirty days from the date of receipt of this order after depositing 50 percent amount of the final assessment order with this office.

6] In this case, the records reveal that the final assessment order dated 20 March 2015 was hand delivered to the Petitioner on 25

March 2015 and this was followed by post and courier on 27 March 2015. The appeal in the present case has been instituted on 24 April 2015. In fact, the records make the position very clear that at the earliest point of time on which the final assessment order was served upon the Petitioner is 25 March 2015. The learned counsel for Respondent No.2 has not been able to dispute this position. On this short ground, the impugned order is required to be set aside and is hereby set aside. The matter is remanded to the Appellate Authority, which shall decide the appeal in accordance with law and on its own merits. The Appellate Authority is also at liberty to decide the question as to whether the period of limitation commenced from the date of receipt of final assessment order.

7] It is made clear that this Court has not examined the matter on merits and therefore, it shall be open to the Appellate Authority to decide all contentions of all parties as may be raised. However, until the Petitioner's application for interim relief is considered by the Appellate Authority, there shall be a restraint upon disconnection. The Appellate Authority to consider the Petitioner's application for interim relief as expeditiously as possible and in any case within a period of four weeks from the date of such application

is made. The learned counsel for the Petitioner states that such application for interim relief will be filed on or before 19 October 2015.

8] Parties to appear before the Appellate Authority on 19 October 2015 at 11.00 a.m. and produce the authenticated copy of this order.

9] Rule is made absolute to the aforesaid extent. There shall, however, be no order as to costs.

10] All concerned to act on the basis of authenticated copy of this order.

(M. S. SONAK, J.)

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