

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION (ST.) NO.10192 OF 2018

Dynamics Logistics Private Limited .. Petitioner
Versus
Appellate Authority &
Chief Electrical Inspector & Anr. .. Respondents

Mr.Atul Damle, Senior Advocate a/w Mr.Amit Singh i/by M/s.Abhay
Nevagi & Associates for the petitioners.
Mr.Nirav Shah a/w Mr.Anuj Jaiswal i/by M/s.Little & Co. for the
respondent no.2.

CORAM : R.D. DHANUKA, J.
DATE : 6th April 2018

P.C.:

. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 4th January 2018 passed by the Appellate Authority, corrected assessment bill dated 13th March 2018 and the order dated 26th March 2018 passed by the Appellate Authority rejecting the appeal (239 of 2016) filed by the petitioner on the ground that the appellate authority has no power to review the earlier order dated 4th January 2018 passed by the Appellate Authority.

2. By the said order dated 4th January 2018, the respondent no.1 was directed to revise and serve a final assessment order on the petitioner under Section 126(6) of the Electricity Act, 2003 read with Rules thereunder. Pursuant to the said order, the respondent no.1 issued a revised assessment order and after giving credit of the pre-deposit of 50% amount in the sum of Rs.1,12,72,517.50, has called upon the petitioner to pay the balance amount of Rs.62,58,629/-.

3. Being aggrieved by this fresh assessment order, the petitioner preferred an appeal annexed at Exhibit I-(Colly) to the petition. This appeal however is not accepted by the Appellate Authority on the ground that the Appellate Authority has no power to review.

4. In my view, the fresh assessment order passed by the respondent no.1 pursuant to the earlier order passed by the Appellate Authority would give fresh cause of action to file an appeal. The appeal could not have been rejected by the Appellate Authority on the ground that the Appellate Authority has no power to review. In the fresh appeal, the petitioner was not seeking any review of the earlier order and had challenged the fresh assessment order.

5. Mr.Damle, learned senior counsel for the petitioner, on instructions, states that the petitioner would comply with the mandatory requirements of deposit in the said appeal before the said appeal is heard on its own merits. Statement is accepted.

5. I therefore pass the following order :-

- (i) The impugned order dated 26th March 2018 is set aside.
- (ii) Appeal filed by the petitioner under Section 127 of the Electricity Act, 2003 is restored to file.
- (iii) The Appellate Authority shall hear the said appeal on its own merits after pre-condition deposit is made by the petitioner and without being influenced by the observations made by the Appellate Authority while rejecting the appeal on the ground that the Appellate Authority has no power to review.

- (iv) The respondent no.2 is directed to restore the electricity connection given to the petitioner upon the petitioner depositing the mandatory amount of pre-deposit of 50% amount of the disputed bill within two days from the date of deposit.
- (v) Writ petition is disposed of in aforesaid terms.
- (vi) There shall be no order as to costs.
- (vii) Parties to act on the authenticated copy of this order.

R.D. DHANUKA, J.