

RSA No.3303 of 2017 (O&M)

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

RSA No.3303 of 2017 (O&M)

Date of decision:26.3.2019

M/s Aggarwal Udyog

... Appellant

Vs.

Dakshin Haryana Bijli Vitran Nigam Limited and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Ashok Arora, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

C.M.No.8043-C-2017

For the reasons stated in the application which is duly supported by an affidavit, delay of 3 days in filing the appeal is condoned.

C.M. stands allowed.

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The present appeal is directed at the instance of the appellant-plaintiff against the concurrent findings of fact and law, whereby the suit claiming declaration challenging the memo bearing No.536 dated 22.02.2003, imposing the penalty of ₹4,98,345/-, has been dismissed on the ground that as per the provisions of Section 145 of the Electricity Act, 2003 (in short 'the 2003 Act'), the Civil Court did not have jurisdiction. For the sake of brevity, the provisions of Section 145 of the 2003 Act read as under:-

"145. Civil court not to have jurisdiction.- No civil court shall have jurisdiction to entertain any suit or proceeding in respect

of any matter which an assessing officer referred to in section 126 or an appellate authority referred to in section 127 or the adjudicating officer appointed under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act."

During the course of arguments, Mr. Ashok Arora, learned counsel for the appellant submits that instead of arguing on merits of the case, he may be granted liberty to avail the remedy as per the provisions of the 2003 Act.

I am in full agreement with the aforementioned request of Mr. Arora and would deem it appropriate that in case any application challenging the aforementioned demand is filed within a period of one month from today, accompanied by an application for condonation of delay by taking the benefit of Section 14 of the Limitation Act, the competent authority shall decide the application by taking into consideration the bona fides of the appellant.

In view of the aforementioned observations, the regular second appeal is disposed of with the liberty granted above as the Civil Court was not having jurisdiction to try and entertain the relief sought in the suit.

(AMIT RAWAL)
JUDGE

March 26, 2019

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Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No