

16.06.2021
Item No.16
Court No.11
KB.

**MAT 433 of 2021
with
I.A. No. CAN 1 of 2021**

(Via Video Conference)

**M/s. U.B. Industries & others.
-Vs-
The West Bengal State Electricity Distribution
Company Limited and others.**

Mr. Biplab Ghosh
Mr. Sumitava Chakraborti
.... For the appellants.

Mr. Sujit Sankar Koley
.... For the Distribution Company.

This intra Court appeal has arisen out of the order dated 9th March, 2021 passed by the learned Single Judge on a writ petition wherein the learned Single Judge refused to entertain the writ petition upon consideration of the fact that in terms of the relevant provisions of the law, there is availability of alternative remedy.

The learned Single Judge also held that in view of the existence of the alternative remedy, the prayer as made on behalf of the writ petitioners/appellants for consideration of representation in view of the assessment made *vide* order dated 31st July, 2019 is not permissible and accordingly, the writ petition was dismissed.

The writ petitioners/appellants being aggrieved by the said order of the learned Single Judge has preferred the present appeal and we have heard Mr. Ghosh, learned Advocate representing the petitioners/appellants as well as Mr. Sujit Sankar Koley, learned Advocate representing the Distribution Company.

The subject matter of challenge is the order dated 31st July, 2019 issued by the Assessing Officer and Station Manager, Mogra C.C. Centre whereby an assessment was made to the tune of Rs. 14,88,978/- (Rupees Fourteen Lacs Eighty Eight Thousand Nine Hundred Seventy Eight) only requiring the petitioners/appellants to pay the said amount on the basis of final assessment and there was an allegation of unauthorised use of electricity by the writ petitioners/appellants.

During the course of hearing on behalf of the writ petitioners/appellants, it has been submitted that if they are allowed to put in the finally assessed sum in equal instalments in favour of the Distribution Company in that event they are willing to make necessary payments which is opposed by the learned Advocate representing the Distribution Company.

Considering the ongoing pandemic situation due to COVID-19 it is efficacious to restore the business of the appellants upon payment of dues; we find it proper to permit them to make payments of the assessed sum as

made *vide* the said order dated 31st July, 2019 in instalments.

However, we make it clear that allegation of unauthorised use of electricity as made by the Distribution Company is not gone into by us in the present appeal. The appropriate proceeding can be initiated with regard to such allegation in accordance with law, if so advised.

Accordingly, we direct the appellants to pay Rs. 4,00,000/- (Rupees four lacs) only being the first instalment within 7th of July, 2021 to the respondent/Distribution Company.

The rest of the assessed amount of Rs. 14,88,978/-(Fourteen Lacs Eighty Eight Thousand Nine Hundred Seventy Eight) only to be paid in two equal instalments within 7th day of each succeeding calendar month i.e. August, 2021 and September, 2021.

It is further directed that upon payment of the first instalment of Rs. 4,00,000/- (Rupees four lacs) only within 7th of July, 2021, the concerned Authority of the Distribution Company is directed to restore the supply of electricity to the appellants'/petitioners' factory upon payment of necessary reconnection charges and other necessary charges, if any, and upon completion of all other formalities, within forty eight hours thereafter.

However, we make it clear that in default of making payment as directed above, this order shall stand vacated.

With the consent of the parties, both the appeal and application are treated as on the day's list and disposed of by common order.

MAT 433 of 2021 with CAN 1 of 2021 stand disposed of and the impugned order of the learned Single Bench is set aside.

Affidavit of Service filed in Court today be retained with the record.

All parties shall act in terms of the copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Saugata Bhattacharyya, J.)

(Subrata Talukdar, J.)