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28-07-2021  
Court No. 8  
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**WPA 6978 of 2020**  
**With**  
**IA No: CAN 1 of 2020**

**Indorama India Private Limited**  
**-Vs-**  
**The State of West Bengal & Ors.**

Mr. Sagar Bandhopadhyay  
Mr. Amit Kumar Nag  
Mr. Swarajit Dey  
Mr. Abhishek Nag  
.....for the petitioner

Mr. Lokenath Chatterjee  
Mr. Jaydeb Ghorai  
Mr. Saugata Banerjee  
Mr. Diptesh Ghorai  
.....for the respondent no.5  
Mr. S. Chakraborty  
...for the State

The decision of the authorities exercising jurisdiction under the provisions of the Bengal Electricity Duty Act, 1935 read with Bengal Electricity Rules, 1935 is under challenge in the present writ petition.

Learned advocate appearing for the petitioner submits that the impugned order is unreasoned without jurisdiction and contrary to the statute.

Learned advocate for the petitioner draws the attention of the Court of the fact that by a notice, the authorities invoked the provision by Section 3A of the Bengal Electricity Duty Act, 1935. According to him, Section 3A of the Act, 1935 allows the authorities to assess the electricity duty payable for

three preceding years. In the present case, he draws the attention of the Court that the calculation is from 1999 onwards. He submits that the petitioner wanted from the authorities the method of assessment and the calculation which were not provided. The authorities relied upon Rule 9B of the Bengal Electricity Rules, 1935. He submits that the Rule 9B also does not allow the authority to assess the duty for electricity supply in the manner as sought to be done.

Learned advocate appearing for the respondent nos. 1 to 4 relies on the affidavit in opposition. He draws the attention of the Court Annexure R-3 in the affidavit in opposition. He submits that the details of the calculation arrived at and the liability of the petitioner appears therefrom. Therefore, it cannot be said that the impugned order is unreasoned.

As noted above, an order of assessment is under challenge in the present writ petition. There are provisions of appeal against the order. However, the petitioner is before the Writ Court on the ground of the impugned order suffering from breach of principles of natural justice and being without jurisdiction, amongst others.

Existence of statutory alternative remedy is not a complete bar to the maintainability of a writ petition under Article 226 of the Constitution of India. Notwithstanding the existence of statutory

alternative remedy, a writ petition is maintainable against a decision, even if, exercised by a statutory authority, in the event, it is substantiated that the impugned decision suffers from the breach of natural justice or is without jurisdiction or infringes the fundamental right of the petitioner or is perverse.

In the present case, the impugned decision is unreasoned. The impugned decision is at pages 42 and 43 of the writ petition. Page 42 of the writ petition refers to an enclosure. Page 43 is the enclosure to page 42. In both the writings at pages 42 and 43 of the writ petition, the contents demonstrate that the authorities assessed a sum of Rs. 86,39,880.43/- as the liability of the petitioner to pay on account of electricity duty on consumption of electrical energy. That was the conclusion. The manner and method of calculation to arrive at the figure and the reason why such manner and method were applied is singularly absent in the impugned decision. The conclusion was informed to the petitioner by the writings at pages 42 and 43 of the writ petition. The reasons from the same are absent even after conclusion of affidavits. The two pages are unreasoned.

Pages 23, 24 of the affidavit in opposition is a note sheet in the order. It is dated September 27, 2019. The note sheet is not a part of the impugned

order. The note sheet was not made over to the petitioners.

Learned advocate appearing for the respondent nos. 1 to 4 relying upon the communication dated November 7, 2019 which was in response to the request of the petitioner for particulars contends that it constitute reasons for the impugned order. Again, the note sheet at pages 23, 24 was not share with the petitioner. The letter dated November 7, 2019 cannot be read to supply the reasons for the impugned order. In the facts of the present case, the impugned order being unreasoned as appearing at pages 42, 43 of the writ petition, I am of the view that such impugned order cannot be sustained.

Under the principles of natural justice, reasons for a decision are an in extricable part of the decision that may be taken by a statutory authority. Absence of reason vitiates the decision as the same breaches the principles of natural justice.

In such circumstances, the impugned decision dated September 27, 2019 is quashed. This order will, however, not prevent the parties from proceeding against the petitioner in accordance with law. Other points raised by the parties are kept open.

WPA 6978 of 2020 is disposed of accordingly.

IA CAN 1 of 2020 is disposed of by taking the writ petition for consideration.

A copy of the affidavit in opposition on behalf of the respondent nos. 1 to 4 is taken on record, as the original, thereof, is not found in the record.

Pursuant to the subsisting interim order, the petitioner deposited a sum of Rs. 10 lakhs. The authorities are at liberty to adjust the sum of Rs. 10 lakhs against the dues of the petitioner in accordance with law.

The bank guarantee furnished may be released. Such release be made within four weeks from this date.

**(Debangsu Basak, J.)**