

AD-17
Ct No.09
28.11.2022
TN

WPA No. 25948 of 2022

Rahaman Sekh
Vs.
The WBSEDCL and another

Mr. Bidyut Kr. Halder,
Mr. Indranil Halder

.... for the petitioner

Dr. Madhusudan Saha Roy

.... for the WBSEDCL

Learned counsel for the petitioner submits that on March 22, 2018, a provisional assessment bill was raised against the petitioner on the allegation of pilferage.

A final assessment bill, however, was raised on the same date, as annexed at page-17 of the writ petition. It is submitted that the law envisages that a right of hearing has to be given to the petitioner, which was not given in the present case.

It is further contended that the petitioner took a new electricity connection only about a month back before the allegation was levelled. As such, the calculation in the provisional and final orders of assessment, both of which were taken on the basis of the act of alleged pilferage having continued for 365 days, are patently perverse.

Learned counsel appearing for the WBSEDCL submits that an opportunity of hearing was given to the petitioner, which is evident from the date of the final assessment communication, annexed at page-16 of the writ petition, which is dated November 09, 2021.

Moreover, the date on the right hand top corner of the final assessment order being March 22, 2018 is apparently an inadvertent error, since the signature of the Assessing Officer has been put on the said bill on November 09, 2021 itself.

It is submitted that adequate hearing was actually given to the petitioner.

That apart, learned counsel for the WBSEDCL contends that the pilferage alleged against the petitioner was going on in respect of a different electricity connection for a submersible pump, than the electricity connection taken a month back by the petitioner. As such, as per the extant law, 365 days had to be taken as a basis of estimating the dues.

It is seen *ex facie* from the assessment bills annexed to the writ petition that both the provisional and final orders of assessment were dated March 22, 2018. Although there is scope of doubt as to whether such mentioning of date was erroneous, in view of the discrepancy of the said date with the dates given in

the final assessment communication and at the bottom of the final assessment bill, which is November 9, 2021, it is inevitable that the said final assessment bill has to be set aside.

That apart, the question of whether the petitioner was given any hearing or not on the provisional assessment becomes redundant in view of the dates shown on the provisional and final orders of assessment bills being the same.

Be that as it may, the petitioner has to be given an opportunity of hearing within the contemplation of Section 126 of the Electricity Act, 2003, to approach the Assessing Officer and challenge the provisional assessment bill, if the petitioner so intends. Hence, the final assessment bill annexed at page-17 of the writ petition, dated March 22, 2018 but signed on November 9, 2021, is set aside.

WPA No. 25948 of 2022 is, accordingly, disposed of by directing the WBSEDCL to give a fresh hearing to the petitioner, even if given previously, on the provisional assessment bill dated March 22, 2018. Upon giving such hearing to the petitioner, the WBSEDCL will, in due course of law, pass a final order of assessment.

In the event the petitioner has a grievance against such final order, it will be open to the

petitioner to challenge the same before the appellate forum under Section 127 of the Electricity Act, 2003.

It is expected that the WBSEDCL shall take expeditious steps for completing the hearing of the petitioner on the provisional assessment bill and to pass a final order thereon.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)