

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 20461 OF 2022

M/s. Maa Mangala Stone Crusher, Petitioner
Khordha

Mr. Falguni Rajguru Mohapatra, Advocate
-versus-

Executive Engineer (Electrical), Opp. Parties
TPCODL, Khordha Electrical Division
and another

Mr. Bijaya Kumar Dash, Advocate

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
22.09.2022

Order No.

3.
 1. This matter is taken up through hybrid mode.
 2. The Petitioner in this writ petition prays for a direction to the Opposite Party No.2 to admit the appeal memo and decide the same on merit giving opportunity of hearing to the parties concerned.
 3. Mr. Mohapatra, learned counsel submits that the Petitioner had earlier approached this Court in W.P.(C) No. 24993 of 2014 assailing the final assessment order, which was disposed of on 23rd December, 2014 with the following direction:

“Considering the submissions, the writ petition is disposed of directing that in case the Petitioner files appeal assailing final assessment order under Annexure-4 along with certified copy of this order and a copy of the writ petition within a period of ten days from today in accordance with law, petitioner’s electricity connection shall be restored subject to payment of current dues till disposal of the appeal.”

Pursuant to the direction of this Court, although the Petitioner had already filed an appeal but the same is not yet

admitted as the Petitioner could not deposit 50% of the final assessment amount.

4. It is submitted by learned counsel for the Petitioner that since the crusher unit has already been closed due to want of NOC of the Pollution Control Board, the Petitioner is not in a position to deposit the statutory amount. Hence, he prays for a direction to the appellate Authority to exempt the pre-deposit required for hearing of the appeal on merit.

5. Mr. Dash, learned counsel appearing for the TPCODL vehemently objects to the submission made by learned counsel for the Petitioner and contends that since in earlier writ petition, a direction has been made to file the appeal within a period of ten days and no direction for exemption of the pre-deposit was made, the present writ petition is not maintainable.

6. In view of the rival contentions of the parties, this Court is of the considered opinion that while disposing of the earlier writ petition (W.P.(C) No. 24993 of 2014), this Court did not make any observation with regard to exemption of statutory deposit for filing of the appeal, as no such prayer was probably made by the Petitioner. Hence, the prayer of the Petitioner in this writ petition cannot be entertained.

7. Accordingly, the writ petition being devoid of any merit stands dismissed.

8. However, the Petitioner, if so advised, may pursue his remedy before leaned appellate Court in accordance with law.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge