

26.04.2023
Ct. No.1
Item No.8
PG/KS

M.A.T.350 of 2023
With
I.A. No. C.A.N. 1 of 2023
Amit Ghosh @ Srikanta Ghosh
-Vs.-
Calcutta Electric Supply Corporation Limited & Ors.

Md. Faizan Yakub

.....For the Appellant

Dr. Madhusudan Saha Roy

.....For the C.E.S.C.

1. This intra-Court appeal is directed against the order dated 24th January, 2023 in W.P.A. No.25365 of 2022.
2. After we have elaborately heard the learned advocates for the parties, the issue which is the subject-matter of dispute is an assessment made on the appellant by the respondents/Calcutta Electric Supply Corporation Limited on the ground of unauthorized use of electricity.
3. According to the respondents/Calcutta Electric Supply Corporation Limited, the appellant is a habitual offender. Be that as it may, the final assessment order was passed on 7th December, 2022. That was during the pendency of the writ petition before the learned Single Bench. It

is stated that there was a direction to complete the final assessment. It is not in dispute that as against the provisional assessment, the appellant had filed his objections and thereafter final assessment order has been passed. Since the final assessment order was passed during the pendency of the writ petition and ultimately the writ petition was dismissed only on 24th January, 2023, we are of the view that the appellant should not be left remediless.

4. Therefore, we are inclined to grant liberty to the appellant to challenge the final assessment order dated 7th December, 2022 before the appropriate appellate authority who should decide the matter on merits and not reject the same on the ground limitation.
5. Accordingly, the appeal is allowed in part and a direction is issued to the appellant to file an appeal under Section 127 of the Electricity Act, 2003 before the appropriate appellate authority challenging the correctness of the final assessment order dated 7th December, 2022 and if such appeal is filed within 30 days from the date of receipt of server copy of this order, the said appellate authority shall consider the appeal on merits and in accordance with law

without rejecting the same on the ground of limitation.

6. There shall be no order as to costs.
7. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T. S. SIVAGNANAM)
ACTING CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)