

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

4 WRIT PETITION NO.11784 OF 2023

KUSUM BIOTECH ENTERPRISES
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS MINISTRY OF INDUSTRIES
ENERGY AND LABOUR AND OTHERS

...
Advocate for Petitioner : Mr. K.F. Shingare
AGP for Respondent/State : Mr. K.B. Jadhavar
Advocate for Respondent 3 : Mr. A.S. Shelke

...
CORAM : ARUN R. PEDNEKER, J.
DATED : 25/09/2023

PER COURT :

1. Heard the learned counsel for the respective parties.
2. It is apparent from the impugned order that final assessment order under section 126 of the Electricity Act is passed on 4.8.2023 and the petitioner has deposited 50% of the final assessment amount in terms of the order and has filed appeal under section 127 on 30.8.2023. However, the appellate authority in the impugned order has held that the petitioner has filed appeal belatedly and that order impugned before the appellate authority is dated 31.7.2023.
3. However, the record indicates that the order impugned before the appellate authority is dated 4.8.2023. In view of the same, the appeal is within limitation and there is no dispute that the appeal is filed within 30 days after 4.8.2023 and is within limitation as contemplated under section 127 of the Act.
4. In view of the same, the impugned order dated 4.9.2023 is set aside and the appeal is remitted back to the appellate authority for deciding the same in accordance with law. The Writ petition is disposed of accordingly.
5. The petitioner would be entitled to make prayer of interim relief before the appellate authority as the appellant has already deposited 50% amount quantified in the assessment order.

[ARUN R. PEDNEKER J.]