

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11807 OF 2018

Maharashtra State Electricity
Distribution Co. Ltd.

....Petitioner

V/s.

M/s. Wada Alums & Acids Pvt.
Ltd.

....Respondent

Mr. Rahul Sinha, Mr. Soham Bhaleraon i/by. DSK Legal, for the
Petitioner.

Mr. Akshay Patil i/by. Ms. Shabnam Latiwala, for the Respondent.

CORAM : SANDEEP V. MARNE, J.

Dated : 19 October 2023.

P.C.:

1. The challenge in the present petition is to the order dated 23 January 2018 passed by the Appellate Authority under Section 127 of the Electricity Act, 2003. The Petitioner had issued notice to the Respondent under the provisions of Section 126 of the Act on 8 June 2016 making provisional assessment of Rs.1,06,03,420/-. After hearing the Respondent, the Petitioner passed final order under the provisions of Section 126 holding the Respondent liable to pay the amount of Rs.1,06,03,420/- which was earlier provisionally assessed.

Aggrieved by the Final Assessment Order dated 12 July 2016, the Respondent preferred Appeal before the Appellate Authority under Section 127 of the Act. By order dated 23 January 2018, the Appellate Authority has proceeded to reject the Appeal.

2. I have heard the learned counsel appearing for the Petitioner and learned counsel appearing for the Respondent.

3. After having considered the submissions advanced by the learned counsels for the parties and after having gone through the impugned order passed by the Appellate Authority, it seems that the Appellate Authority has recorded a specific finding that the Respondent-Company had merged with the other Company by name, Bharat Fertilizers. The Appellate Authority has also taken into consideration the fact that while the Respondent-Company had applied for grant of additional loan, the Petitioner Company approved and granted the additional loan in the name of Bharat Fertilizers. The Appellate Authority has also taken into consideration the fact that officials of the Petitioner-Company had inspected the premises of the Respondent from time to time for recording the consumption. It is on the basis of the above factual position that the Appellate Authority has arrived at the conclusion that use of electric supply at the premises of Bharat Fertilizers (which has merged into Respondent-Company) was with full knowledge of the Petitioner-Company. The merger of Respondent-Company with Bharat Fertilizers is yet another vital aspect which is taken into consideration by the Appellate Authority

for the purpose of rejecting the claim of the Petitioner-Company that usage of the electricity was for the premises other than for which the supply of the electricity was authorised.

4. I do not find any infirmity in the order of the Appellate Authority for this Court to interfere under Article 227 of the Constitution of India. The Writ Petition being devoid of merits is rejected. Since the petition is rejected, the Respondents shall be at liberty to withdraw the amount deposited in this Court in pursuance of order dated 13 March 2019.

**NEETA
SHAILESH
SAWANT**

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NEETA SHAILESH
SAWANT

Date: 2023.10.26
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SANDEEP V. MARNE, J.