

**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH.**

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**CWP-4391-2020 (O&M).
Date of Decision: 15.02.2024.**

JARNAIL SINGH BAJWA

... Petitioner(s)

Versus

APPELLATE AUTHORITY, PSTCL, AND OTHERS

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Piyush Aggarwal, Advocate,
for the petitioner.

Mr. H.S. Sitta, Advocate, for the respondents No.2 and 3.

VINOD S. BHARDWAJ, J. (ORAL)

CM-13559-CWP-2020

Present misc. application has been filed under Section 151 of the Code of Civil Procedure, 1908, for placing on record replication to the reply of respondent No.3.

The application is allowed subject to all just exceptions.

Replication is taken on record.

The Registry is directed to tag the same at an appropriate place in the paper book.

Main case

Challenge in the present writ petition is to the proceedings initiated by the respondents against the petitioner under Section 126 of the Electricity Act, 2003 and consequent dismissal of the appeal filed by the petitioner under Section 127 of the Electricity Act, 2003 only on the ground of limitation.

Learned counsel for the petitioner contends that the final order of assessment was passed against the petitioner on 21.11.2019. Aggrieved against the final order passed, the petitioner preferred an appeal before the Appellate Authority on 03.01.2020 after depositing 50% of the charge levied i.e. Rs.13,40,000/- on 31.12.2019 as per the requirement under Section 127 of the Electricity Act, 2003 and in order to show his bona fide. The matter was listed on 08.01.2020 on which such date, it was dismissed on account of same having been filed beyond the period of 30 days. The Appellate Authority recorded that it does not have power of condonation of delay.

Learned counsel for the petitioner contends that, at this juncture, he would be satisfied in case the order passed by the Appellate Authority on 08.01.2020 is set aside and the petitioner is afforded an opportunity of hearing and of establishing his case before the Authority. He places reliance upon the **judgment dated 05.04.2013 passed in the matter of Surinder Mahajan Vs. Debts Recovery Appellate Tribunal and others bearing CWP No.22567-2011** wherein the Division Bench of this Court has held that in the absence of any provision under the Act excluding the applicability of the Limitation Act to the proceedings before the Debt

Recovery Tribunal, the same would be considered as an application and the delay can be condoned under Section 5 of the Limitation Act.

Learned counsel for the respondents No.2 and 3 does not dispute the above said aspect and the dates pointed out by the learned counsel for the petitioner.

Without commenting any further on the merits of the present case and noticing the factual chronology as extracted above, I deem it appropriate to allow the present writ petition.

Accordingly, the present writ petition is allowed. The order dated 08.01.2020, passed by the Appellate Authority under Section 127 of the Electricity Act, 2003 in Appeal No.03 of 03.01.2020 against the final order of assessment (AFO) No.3004 of 21.11.2019 is set aside and the appeal is ordered to be restored at its original number.

The parties are directed to appear before the Appellate Authority on 20.03.2024, whereupon further proceedings in accordance with law shall be initiated and a decision shall be taken in a time bound manner.

February 15, 2024
raj arora

(VINOD S. BHARDWAJ
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No