07.05.2025
Item No.03
Ct. No. 15
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WPA 10268 of 2025

Kamal Dutta
Vs.
CESC Limited & Anr.

Mr. Bidyut Kumar Halder
Mr. Indranil Halder
... for the petitioner

Dr. Madhusudan Saha Roy
Mr. Debanjan Chatterjee
... for the CESC

Although a writ petition was initially filed challenging the provisional order of assessment, during the course of the hearing, it emerged that a final order of assessment had been passed on September 19, 2024. It further appears that the petitioner participated in the proceedings leading to the issuance of the final order of assessment.

Learned counsel appearing on behalf of the petitioner now seeks to challenge the final order of assessment before the Appellate Authority. This prayer is vehemently opposed by learned counsel representing the Calcutta Electric Supply Corporation (CESC) Limited.

Reliance has been placed upon the judgment reported in **2011 (1) CHN (CAL) 182 (*Calcutta Electric Supply Corporation Ltd. vs. Kalavanti Doshi Trust*); FMA 197 of 2022 (Santosh Agarwal**

vs. CESC Limited and Others); W.P. No. 84 of 2019 (Sudipta Koley vs. Smt. M. Bhowmick and Another); and WPA 514 of 2021 (Imtiyaj Ahammad vs. CESC Limited and Another), to contend that a time-barred remedy cannot be sustained by filing a writ petition. Additional precedents have also been cited to argue that no sufficient cause has been demonstrated to justify the petitioner's failure to avail of the alternative statutory remedy within the prescribed time.

On the basis of these submissions, learned counsel for CESC Limited contends that the petitioner is not entitled to prefer an appeal.

From the documents produced by learned counsel for CESC Limited, it appears that the final order of assessment was dispatched on September 19, 2024, to the address: 17 Rajendra Nath Sarkhel School Road, LP-131/15, Kolkata–700065. However, learned counsel for the petitioner has drawn the attention of this Court to the address stated in the cause title of the petition. It does not appear from the postal records produced, that the final order was addressed correctly to the petitioner.

Clause 27 of the General Clauses Act, 1897, merely creates a rebuttable presumption regarding service of notice, provided the address is correctly furnished. In the present case, it does not appear from the available documents that the final order of assessment was sent to the petitioner's proper address. Furthermore, learned counsel for the petitioner has consistently denied any receipt of, or knowledge about, the final order of assessment.

In light of the above circumstances, the presumption of proper service is rebutted.

Accordingly, liberty is granted to the petitioner to prefer an appeal before the appellate authority within a period of thirty (30) days from the date of this order. If such an appeal is filed within the stipulated time, the appellate authority shall consider and dispose of the same on its merits.

With respect to the outstanding amount of ₹1,08,737/-, the petitioner is permitted to deposit 50% of the finally assessed amount, along with reconnection and meter charges, within a period of two weeks from the date of this order. Upon such deposit, CESC Limited shall restore the petitioner's electricity connection. The balance amount may be paid in four equal monthly installments, falling due in the first week of July, August, September, and October of 2025, respectively.

Needless to mention, the petitioner shall continue to pay the current electricity bills regularly. In the event of any default in payment, CESC Limited shall be at liberty to disconnect the electricity supply.

It is further clarified that depending on the outcome of this appeal, the appellate authority shall be at liberty to modify this order accordingly.

Accordingly, **WPA 10268 of 2025** is disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)