

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9948 OF 2025

Aurus Tech Pvt Ltd

...Petitioner

Versus

Industry, Energy, Labour and Mining
Department and anr.

...Respondents

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Mr. Shaunak Kothekar, (through VC) a/w Harshal Tupe, for
the Petitioner.

Mr. Rahul Sinha, a/w Soham Bhalerao and Harshit Tyagi,
i/b DSK Legal, for Respondent No.2 – MSEDCL.

CORAM: N. J. JAMADAR, J.

DATED: 22nd SEPTEMBER, 2025

Order:-

1. This petition under Articles 226 and 227 of the Constitution of India assails the legality, propriety and correctness of an order dated 5th June, 2025, whereby the Appellate Authority dismissed the appeal preferred by the petitioner under Section 127 of the Electricity Act, 2003 on the ground that it was barred by limitation.

2. Shorn of superfluities, the background facts can be stated as under:

2.1 The petitioner is a Private Limited Company incorporated under the Companies Act, 2013. Respondent No.2 is an Electricity Distribution Company. The petitioner is

an electricity consumer. On 23rd April, 2025, respondent No.2, through its Assessment Officer, passed a final assessment order under Section 126(6) of the Electricity Act, 2003, directing the petitioner to pay an amount of Rs.2,07,21,658.60 for the alleged unauthorized consumption of electricity. The said order was communicated to the petitioner on 24th April, 2025.

2.2 The petitioner preferred an appeal under Section 127(1) of the Electricity Act, 2003 assailing the aforesaid final assessment before the Appellate Authority (R2). An acknowledgment of Demand Draft drawn for half of the assessed amount was annexed to the appeal to comply with the requirement of pre-deposit under Section 127(2) of the Electricity Act, 2003.

2.3 On 5th June, 2025, the petitioner was notified by respondent No.2 that the Demand Draft had “bounced”, due to Listing Error.

2.4 Simultaneously, respondent No.1 passed the impugned order dismissing the appeal on the ground that the appeal was filed beyond the stipulated period of 30 days prescribed under Section 127(1) of the Electricity Act, 2003. It was noted, there was delay of one day.

3. When the petition was listed before this Court on 30th July, 2025, this Court had passed, *iner alia*, the following order:

“2. An arguable question, as to whether the appeal was not barred by limitation arises for consideration, as the order passed by the Assessment Officer *prima facie* appears to have communicated to the petitioner on 24th April, 2025 and the appeal alongwith Demand Draft of 50% of the amount was filed on 23rd May, 2025.

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6. The learned Counsel for the petitioner submits that the respondents have discontinued the electric supply to the petitioner and thereby the operations of the petitioner have been brought to a standstill.

7. The learned Counsel for the petitioner submits that the petitioner will deposit the amount of Rs.1,03,60,829/- by tomorrow with respondent No.2.

8. In the event the petitioner deposits the amount of Rs.1,03,60,829/- with respondent No.2 by tomorrow, by way of ad-interim relief, the respondents shall restore the electric supply to the petitioner.”

4. In compliance with the aforesaid directions, the petitioner has deposited the sum of Rs.1,03,60,829/- which constitutes half of the assessed amount.

5. The impugned order is wholly unsustainable. Incontrovertibly, though the final assessment order was passed on 23rd April, 2025, it was communicated to the petitioner vide e-mail dated 24th April, 2025. The appeal filed on 23rd May, 2025 was clearly within the stipulated period of limitation of 30 days from the said communication.

6. Mr. Sinha, the learned Counsel for respondent No.2 – MSEDCL, submitted that though the appeal can be said to have been preferred within 30 days, yet, there was non-

compliance of the requirement of pre-deposit as the Demand Draft could not be encashed.

7. On facts, the submission does not carry much conviction as the Demand Draft could not be encashed on account of the Listing Error. In law, it is not peremptory that the pre-deposit must also be made within a period of 30 days from the final assessment order.

8. A Division Bench of this Court in the case of ***FCA India Automobiles Private Limited vs. Maharashtra State Electricity Distribution Co. Ltd. and ors.***¹, has enunciated that on a bare perusal of sub-section (1) of Section 127, the limitation, which has been prescribed for a person aggrieved by the final order, to file an appeal, which is of 30 days, cannot be *ipso facto* applied to the requirement of sub-section (2) namely of a deposit of 50% of the assessed amount. Unless the pre-deposit is made, the Appellate Authority would not have jurisdiction to proceed and decide the appeal, is the necessary fall out of sub-section (2). Any other interpretation of a conjoint reading of sub-section (1) and sub-section (2) of Section 127, would result in harsh consequences to the person aggrieved, so as to result in even a small delay, in the

1 Writ Petition No.17120/2024 dtd.6/2/2025.

deposit of the amount, sufficient to non-suit the aggrieved person, who would be deprived of a remedy of an appeal, which the law would provide.

9. As noted above, the petitioner has made the pre-deposit of the half of the assessed amount in terms of the order passed by this Court on 30th July, 2025. Resultantly, the impugned order deserves to be quashed and set aside.

10. Hence, the following order:

: O R D E R :

- (i) The petition stands allowed.
 - (ii) The impugned order stands quashed and set aside.
 - (iii) The appeal preferred by the petitioner stands restored to the file of respondent No.1.
 - (ii) Respondent No.1 shall hear and decide the appeal in accordance with law.
 - (iii) The deposit of half of the assessed amount pursuant to the order passed by this Court on 30th July, 2025 shall be construed as a pre-deposit under Section 127(2) of the Electricity Act, 2003.
- Petition stands disposed.
- No costs.

[N. J. JAMADAR, J.]