06-02-2026
3-4 AKG
Ct. 15

WPA 15778 of 2025
Swapan Das
Vs.
CESC Limited & Anr.
With
WPA 14147 of 2025
Abhishek Daw
Vs.
CESC Limited & Anr.

Mr. Bidyut Kr. Halder,
Mr. Indranil Halder

…for the Petitioner

Mr. Subir Sanyal,
Mr. Debanjan Mukherjee,
Ms. Iram Hassan,
Mr. Himanshu Bhanusingha,
Ms. Yukti Agarwal

…for CESC in WPA 15778 of 2025

Mr. Subir Sanyal,
Mr. Debanjan Mukherjee,
Ms. Iram Hassan,
Ms. Yukti Agarwal

…for CESC in WPA 14147 of 2025

Mr. Raja Saha,
Mr. Ritwik Pattanayak

…for WBERC in WPA 14147 of 2025

Mr. Raja Saha,
Mr. Sanjoy Mukherjee

…for WBERC in WPA 15778 of 2025

Though an appellate forum is available to consumers under Section 127 of the Electricity Act, 2003 for challenging a final order of assessment passed under Section 126 of the said Act by electricity distribution licensee companies such as West Bengal State Electricity Distribution Company Limited (in short, "WBSEDCL") and CESC Limited (formerly Calcutta Electric Supply

Corporation) (in short, “CESC”), a considerable number of writ petitions continue to be filed before this Court invoking its jurisdiction under Article 226 of the Constitution of India to assail such assessment orders.

Under the statutory framework, the prescribed period of limitation for preferring an appeal under Section 127 of the Electricity Act, 2003 is thirty days from the date of the order. The said period of limitation has been declared to be mandatory by a Special Bench of this Court. [**See: WP No.84 of 2019 (*Sudipta Koley v. Smt. M Bhowmick and anr.*]**.

Consequently, a consumer who fails to prefer an appeal within the stipulated period of thirty days—even for reasons which may otherwise appear to be justified—is effectively deprived of the statutory appellate remedy.

In such circumstances, the only recourse left to the consumer is to invoke the writ jurisdiction of this Court under Article 226 of the Constitution of India to challenge the final order of assessment. It is well settled that while exercising powers of judicial review under Article 226, a writ court does not function as an appellate authority over administrative or quasi-judicial determinations based on factual findings. Ordinarily, the scope of interference in writ jurisdiction remains confined to examining whether the impugned order suffers from jurisdictional infirmities, procedural irregularities, arbitrariness, or violation of the principles of natural justice.

However, having regard to the nature of the assessment orders that have been placed before this Court in several matters concerning allegations of unauthorized use of electricity, this Court considered it necessary to examine the structure and content of such assessment orders with a greater degree of scrutiny.

For this purpose, the final assessment order passed by CESC in WPA No. 15778 of 2025 has been considered as a representative sample. It has also been noticed that WBSEDCL issues assessment orders which, though occasionally differing in form, are substantially similar in their essential structure and methodology.

The relevant particulars of the final assessment order passed by CESC indicate that the assessment amount was computed by applying the formula P = A + B – C, where the components of the calculation include the assessed units, applicable energy charges, electricity duty, fixed or demand charges, and the electricity charges already billed during the relevant period.

The final assessment order passed by CESC is quoted below :

Meter Tariff	Higher of Contractual or Inspected Load		Load Factor		Period in hours as mention in Sub-Section (5) Of Section 126 Of Electricity Act, 2003 as amended up– to-date				Assessed Unit	Assd Unit X (Applicable Energy Charge as per prevailing Tariff Order) X 2 (Rs)	Electricity duty at applicable rate for A1 (Rs)	Assd unit X (applicable energy charge as per prevailing Tariff Order) x 2 including Electricity Duty (Rs)	Fixed charge /Demand Charge during the period as per prevailing Tariff x 2 (Rs)	Electricity Duty at applicable rate for B1 (Rs)	Fixed charge /Demand Charge during the period as per prevailing Tariff X 2 including Electricity Duty (Rs)	Electricity charges already billed including Electricity Duty during the period (Rs)	Charges payable for Unauthorized use of electricity during the period (Rs)
	(KW)				No of days		Hrs/ day		(KWH)	(A1)	(A2)	(A=A1+A2)	(B1)	(B2)	(B=B1+B	(c)	(P=A+B-C)
G	2.90	X	0.50	X	345	X	24	=	12006	222509.2	11124.98	233634.18	1321.39	66.07	1387.46	8189.47	226832.00
																	TOTAL; 226832.00

Upon examining the said assessment order, this Court finds that while the assessment purports to follow the formula prescribed under the applicable regulatory framework, the assessing officer does not disclose certain crucial tariff components separately in the assessment bill. In particular, the following elements are not transparently specified:

A) the applicable energy charge (A1);

B) the electricity duty corresponding to the applicable energy charge (A2);

C) the fixed charge or demand charge (B1); and

D) the electricity duty corresponding to the fixed charge or demand charge (B2).

The absence of such disclosure significantly affects the transparency of the assessment order. When a consumer is required to discharge a financial liability arising out of an assessment for alleged unauthorized use of electricity, it is essential that the basis of calculation be clearly disclosed. Without specifying the tariff components that constitute the foundation of the assessment, the consumer is effectively deprived of the opportunity to verify the correctness of the computation.

Apart from the issue of transparency in the assessment bills, another matter that required closer scrutiny concerns the practice adopted by distribution licensee companies within the State of West Bengal—namely WBSEDCL and CESC—of uniformly taking the "hour factor" to be twenty-four hours in all cases while calculating the assessed units for unauthorized use of electricity.

It has been noticed by this Court that such uniform application of a twenty-four-hour factor is followed irrespective of the category of consumer involved. However, none of the regulations placed before this Court mandate that the hour factor must necessarily be taken as twenty-four hours in every case.

In this context, the order dated October 31, 2025 passed in WPA No. 15778 of 2025 assumes significance. In the said order, this Court recorded that Mr. Raja Saha, learned Advocate appearing on behalf of the West Bengal Electricity Regulatory Commission, had produced regulations of certain other States pertaining to the calculation of units in cases of unauthorized electricity consumption, as well as guidelines prescribed by the Forum of Regulators.

The said regulations were furnished to the learned advocates appearing for CESC as well as for the petitioners in order to facilitate further consideration of the issue.

It was noted that the regulations framed by the Delhi Electricity Regulatory Commission adopt a differentiated approach while determining the hour factor depending upon the category of consumer. For instance, in the case of domestic connections the hour factor is taken as eight hours. For establishments such as hotels, hospitals, and nursing homes the hour factor is considered to be twenty hours, while for non-domestic establishments including restaurants it has been fixed at eleven hours.

In light of such regulatory practices, this Court had prima facie observed that the hour factor could not automatically be taken as twenty-four hours in every case, particularly having regard to the statutory scheme embodied in Section 126(5) of the Electricity Act, 2003.

Accordingly, this Court directed the West Bengal Electricity Regulatory Commission to file an affidavit clarifying whether the hour factor should be considered as twenty-four hours in all cases, including domestic connections, and also to explain the rationale behind prescribing a load factor of fifty per cent in the case of domestic consumers.

After exchange of affidavits and upon hearing the submissions of the parties, this Court is satisfied with the explanation advanced on behalf of CESC that although Section 126(5) of the Electricity Act does not require an assessing officer to invariably assume a period of 365 days with twenty-four hours of consumption in every case of unauthorized use of electricity, the regulatory framework introduced under the West Bengal Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2013, (In short, West Bengal Supply Code, 2013) has sought to strike a reasonable balance.

The formula introduced by the West Bengal Supply Code, 2013 is quoted below:

> "5.1. Provisional assessment under sub-section (1) of section 126 of the Act shall be made as per the following method.
>
> (a) Where the unauthorized use is found due to abstraction or consumption or use of electricity or attempt to consume or attempt to abstract or attempt to use of electricity by any artificial means or through tampered meter or any other method which is covered in terms of clause (a), (b), (c) and (d) of sub-section (1) of section 135 of the Electricity Act, 2003, the applicable provisional amount (P) under sub-section (1) of section 126 of the Act shall be as follows:
>
> P=A+B-C
>
> Where-

P	= The charges payable by the person for unauthorized use of electricity during a period
A	= Total collected load in Kilowatt (KW) at the time of inspection or the contract load in KW, whichever is higher x Load Factor x period in hours as mentioned n sub-section (5) of section 126 of the Act x Applicable energy charge for the purpose for which the energy is consumed during the period concerned as per prevailing tariff order x 2;
B	= Total connected load at the time of inspection in Kilo Volt Ampere (KVA) or contract load in KVA whichever is higher x number of month of such unauthorized use of electricity (in case of any fraction, one full month shall be considered) or twelve months as applicable in terms of sub-section (5) of section 126 of the Act x applicable demand charge or fixed charge for the purpose for which the energy is consumed during the period concerned, as the case may be, as per prevailing tariff order x 2;

C	=The electricity charges already paid by the person, if any, for the period for which the assessment is made under section 126 of the Act.

Note:

i) For conversion of contract load from KW to KVA or vice versa, power factor shall be considered as 0.85.

ii) In case the contract load is in Horse Power (HP), such contract load in HP shall be converted into contract load in KW considering 1 HP=0.746 KW.

iii) Load Factor may be such as given in the table below:

Voltage	Consumer category	Load Factor
LV & MV	Domestic	50%
LV & MV	Non-domestic	75%
LV & MV	Agriculture	75%
HV & EHV	All	85%

The formula introduced under Clause 5.1 of the said West Bengal Supply Code, 2013, prescribes the methodology for provisional assessment under Section 126 of the Act. Under the said formula, the assessment amount is determined on the basis of the higher of the connected load or contract load, multiplied by the load factor, the period in hours as mentioned in Section 126(5), and the applicable tariff charges, subject to the adjustments provided in the formula.

A careful reading of the said provisions reveals that the West Bengal Supply Code, 2013, incorporates a calibrated approach by prescribing different load factors depending upon the category of consumer. For instance, domestic consumers are assigned a load factor of fifty per cent, non-domestic and agricultural consumers seventy-five per cent, and high-voltage consumers eighty-five per cent.

In the opinion of this Court, by prescribing such reduced load factors depending upon the category of consumers, the regulatory framework substantially mitigates the possibility of excessive assessments which might otherwise arise if the calculation were based strictly upon a continuous twenty-four-hour consumption assumption.

This Court is therefore satisfied that the regulatory scheme introduced by the Commission adequately addresses the concern regarding possible over-assessment in cases involving unauthorized use of electricity.

Nevertheless, an important issue still remains to be addressed. That issue concerns the requirement that assessment orders issued by distribution licensee companies must be fair, intelligible, and transparent.

From the materials placed before this Court it appears that although CESC has broadly followed the formula prescribed by the West Bengal Supply Code, 2013, it has omitted to disclose the applicable tariff components forming the basis of the calculation. No satisfactory explanation has been offered by the licensee company for such non-disclosure.

This Court has also noticed that the present case is not an isolated instance. In a large number of assessment bills issued by both CESC and WBSEDCL, the relevant tariff components are not separately disclosed.

It is significant in this context to note that Clause 3.2 of the West Bengal Supply Code, 2013 explicitly mandates that electricity bills must be prepared in a transparent manner so as to enable the consumer to know and understand how much he is paying and what he is paying for.

The West Bengal Supply Code, 2013 explicitly requires a licensee company to provide the following particulars. Clause 3.2 of the West Bengal Supply Code, 2013, is quoted below:-

> "3.2 **Bill particulars where the bills are postpaid:**
>
> 3.2.1 The bills shall be so transparent as to enable the consumer to know and understand how much he is paying and what he is paying for.
>
> 3.2.2 The bill shall contain the following minimum details,
>
> i) Meter number;
>
> ii) Consumer number, name, address and category;
>
> iii) Bill number or any other relevant particular by which the bill can be distinguished and is accounted by the licensee;
>
> iv) Issue date (which may be called as bill date also)

v) Applicable tariff category on the date of billing, in brief;

vi) Contract load;

vii) Meter reading date – present and the previous;

vii) Consumption Period (month/s);

ix) Meter reading – present and the previous;

x) Units consumed;

xi) Credit (if applicable) i.e., any balance amount accrued due to rounding off of billed amount in previous bill;

xii) Fixed charge, if any;

xiii) Demand charge, if any;

xiv) Minimum charge, if any;

xv) Power Factor / Load Factor and related rebate / surcharge, if any;

xvi) Rentals – for meter and other equipments (wherever applicable);

xvii) Details of Current Cycle Charges – Supply of power, Fuel & Power Purchase Cost Adjustment, Monthly Variable Cost Adjustment (MVCA), Electricity Duty, and adjustment due to Annual Performance Review, wherever applicable, etc. Separately;

xviii) Arrears, if any, including period. (in case the recovery is in instalments the present instalment number and the total instalments is to be indicated);

xix) Total charges (rounded off to the nearest rupee or to lower multiple of rupees ten whichever may be convenient to the licensee);

xx) Due date for payment;

xxi) Amount payable by due date (rounded off to the nearest rupee or to lower multiple of rupees ten whichever may be convenient to the licensee);

xxii) Amount payable after due date (rounded off to the nearest rupee or to lower multiple of rupees ten whichever may be convenient to the licensee);

xxiii) Rate at which delayed payment surcharge, if any, shall be levied if payment is made after due date;

xxiv) The authority in whose favour check/bank draft is to be issued, if payment is not made by cash;

xxv) The amount outstanding on account of non-payment of bill, if any, along with relevant details;

xxvi) Name and official logo of the licensee shall be printed at the top of the bill.

3.2.3 **Additional information, particulars etc.:**

If licensee desires it can provide additional information and particulars. On additional information and particulars following guidelines are applicable:

i) The bill may contain additional information, such as existing deposited amount of security deposit, amount of deposit to be made to maintain security deposits in pursuance to Miscellaneous Regulations, etc. if any, in respect of consumers;

ii) Part of the information , which cannot be accommodated on the front of the bill, may be shown on the reverse of the bill;

iii) In case of computer-generated bill, no signature is required. For manual bill, signature of the issuing authority is to be given;

iv) Name and address of issuing authority is to be given;

v) Website address of the licensee where all consumer related matters will be available shall be mentioned in the bill.

vi) Expected meter reading date of next billing cycle and date of last payment with amount."

Although the aforesaid provisions prescribe detailed particulars that must be included in regular electricity bills, it is an admitted position before this Court that no corresponding regulation presently exists which prescribes the mandatory particulars to be disclosed in provisional or final assessment orders issued under Section 126 of the Electricity Act.

This Court has already indicated the necessity of ensuring that assessment orders are prepared in a fair and transparent manner. When the applicable tariffs constitute the fundamental components for determining the amount payable under an assessment order, the non-disclosure of such tariff components renders it extremely difficult for a consumer to effectively challenge the assessment before the appellate authority.

In the considered view of this Court, failure to disclose the applicable tariffs in provisional or final assessment bills results in a clear violation of the principles of natural justice.

It must be recorded that Mr. Raja Saha, learned Advocate appearing on behalf of the West Bengal Electricity Regulatory Commission, has fairly submitted before this Court that the Commission is willing to introduce appropriate regulations requiring distribution licensee companies to provide necessary particulars in assessment bills so as to ensure greater transparency.

This Court does not consider it appropriate to prescribe in this judgment an exhaustive list of particulars that must necessarily be included in such assessment orders. The determination of such regulatory details appropriately falls within the domain of the Commission, which may undertake the exercise after consulting the relevant stakeholders including the distribution licensee companies.

Accordingly, this Court directs the West Bengal Electricity Regulatory Commission to frame appropriate regulations requiring distribution licensees to mandatorily disclose all relevant particulars—including the applicable tariffs—in provisional as well as final assessment bills issued under Section 126 of the Electricity Act, 2003. Such disclosure will ensure that a consumer, upon being served with a provisional or final order of assessment, is in a position to meaningfully examine the basis of the assessment and, where necessary, challenge the same before the appropriate forum.

It is expected that after following the necessary consultative and procedural requirements, the Commission shall frame the appropriate regulation preferably within a period of six months from the date of communication of this order.

The writ petitions must now be taken to their logical conclusion.

From the records it appears that in both the matters the petitioners have already deposited fifty per cent of the final assessment amount raised by CESC, pursuant to which their electricity connections have been restored.

In view of the aforesaid circumstances, liberty is granted to the petitioners in both matters to prefer statutory appeals under Section 127 of the Electricity Act, 2003 within a period of two weeks from the date of this order against the respective final assessment orders.

The petitioners shall comply with such further payment obligations, if any, as may be determined by the appellate authority in accordance with law.

Needless to mention, failure on the part of the petitioners to comply with the directions of the appellate authority shall entitle CESC to disconnect the electricity connections of the petitioners in accordance with law.

(Kausik Chanda, J.)