

**BEFORE THE COURT OF ELECTRICITY OMBUDSMAN, JHARKHAND
4th floor, Bhagirathi Complex, Karamtoli Road, Ranchi – 834001**

Case No. EOJ/02/2019

M/s Shanti Cement (P) Ltd.

Vrs.

JUVNL & Ors.

Extract Copy of Order

12.04.2019 Order on the point of admission and condonation of delay

This appeal has been preferred, against the impugned order dated 05-09-2015, passed in case no.02/2013 by learned VUSNF Chaibasa along with certified copy of the order passed by the Hon'ble Jharkhand High court on 07-01-2019 in WPC No.3685 of 2016.

One petition, supported with an affidavit dated 11-04-2019 has also been filed seeking the condonation of delay of three years and six month.

The learned counsel appearing on behalf of the Appellant has submitted that in terms of the Act and Rules framed thereunder , the present appeal ought to have been filed on or before 05-10-2015 or 05-11-2015 since a limitation of 30 /60 days have been prescribed for presenting appeal but it has been filed beyond period of 30/60 days for the reasons that the appellant had preferred one civil Writ Petition No. 3685 of 2016 for quashing of order dated 06-07-2009, passed by Electrical Superintendent Engineer, Chaibasa, which was pending and the same has been disposed, vide order dated 07-01-2019, resulting thereof the present appeal could not filed within prescribed time but as per direction of the Hon'ble High Court, the instant appeal was filed on 29-01-2019, hence for the reasons mentioned above the appellant could not file the same for the bonafide reason,

therefore, if the instant application for condonation of delay is not allowed, the appellant shall suffer irreparable loss and injury. Moreover, no prejudice shall be caused to the Jharkhand Urja Sanchar Nigam LTD and others.

Heard and perused the materials available on the record. I do find that W.P. (C) No.3685 of 2016 was filed by the appellant before the Hon'ble High Court for quashing the calculation dated 06-07-2009 by Electrical Superintendent Engineer Chaibasa to the extent it relates to levy of KVA charges at two times the tariff rate in a proceeding initiated u/s 135 of the Electricity Act, 2003 as also to the extent the number of days for levying penalty. Whereas the Appellant filed case no 02/13 before the learned VUSNF, Chaibasa for Redressal of the grievances relating to energy bill for the month of feb.2009 and onwards after deleting D.P.S. charges, served upon him and also for interest on security deposit.

I would like to mention at very outset that in course of hearing of the W.P.(c) 3685 of 2016, before the Hon'ble High Court, a reference in this respect was made of the case law, reported in (2012) 2 SCC 108, Executive Engineer, southern Electricity Supply company of Orissa and others Vs Sri Seetaram Rice Mill, the learned counsel for the petitioner seeks permission to withdraw the writ application with liberty to invoke the jurisdiction of the appellate authority as per provision under the supply code applicable in the State of Jharkhand . The learned counsel has further submitted before the Hon'ble High Court that the appellate authority may be directed to consider the question of limitation. After hearing the submissions advanced on behalf of the both the sides, the Hon'ble High court has passed the order *"In view of such submission s this writ petition is permitted to be withdrawn with*

liberty to the petitioner to approach before the appellate forum, if so wishes. The point of limitation may be considered in accordance with law.”

Thus, taking in to consideration of the order passed by the Hon’ble High Court, this forum being appellate authority has to consider the limitation in accordance with law.

As per clause 14, GUIDELINES FOR ESTABLISHMENT OF FORUM FOR REDRESSAL OF GRIEVANCES OF THE CONSUMERS AND ELECTRICITY OMBUDSMAN, REGULATION 2011, prescribed only 30 days for preferring an appeal from the date of receipt of the order. **Provided further that the Electricity Ombudsman may entertain an appeal after the expiry of the said period of thirty days, *if sufficient cause* is shown for not filing the appeal within that period but not exceeding a maximum period of 60 days from the date of receipt of the order.**

Therefore, taking into consideration of the direction of the Hon’ble High Court and clause 14 of Regulation 2011, as stated above, this forum is not empowered to entertain this appeal at this belated stage. This appeal is hopelessly barred by limitation. Thus, the petition for condonation of delay is hereby rejected and this appeal is also dismissed due to barred by limitation.

Let a copy of this order be served upon the appellants.

Sd/-
Electricity Ombudsman