

**HIGH COURT OF TRIPURA
AGARTALA**

**IA No.03/2026 in WA No.99 of 2025
WA No.99 of 2025**

1. Dilkhusa Tea Company Ltd., a company incorporated under provisions of Companies Act, 2013 having its registered office at 3, Wood Street, Kolkata 700016 and inter alia, carrying on business at its different gardens, running the Murticherrra Tea Estate at P.O. Sadhnashram, North Tripura-799277

2. The Manager, Murticherra Tea Estate, KLS, P.O. Sadhanasram, Kailashahar, District- Unakoti, Tripura-799277

.....Applicant/Appellant(s);

Versus

1. Tripura State Electricity Corporation Limited, to be represented by the Managing Director, TSECL, Bidyut Bhavan, North Banamalipur, Agartala, West Tripura

2. The Managing Director, Tripura State Electricity Corporation Limited (TSECL), Bidyut Bhavan, North Banamalipur, Agartala, West Tripura

3. The General Manager (Technical), Tripura State Electricity Corporation Limited (TSECL), Bidyut Bhavan, North Banamalipur, Agartala, West Tripura

4. M/s. Sai Computer Ltd., a Franchise of TSECL, Kailashahar, Unakoti, Tripura-799277, to be represented by its Authorized Signatory

5. The Project Manager, M/S SAI Computers Ltd, Kailashahar Electrical Division, Unakoti, Tripura

.....Respondent(s)

For Applicant/Appellant(s) : Mr. Pawansree Agarwal, Advocate,
Ms. Papiya Goswami, Advocate,
Mr. Soham Acharya, Advocate.

For Respondent(s) : Mr. Sankar Deb, Sr. Advocate,
Mr. Asutosh De, Advocate,
Mr. Kushal Deb, Advocate,
Mr. Robel Hossain, Advocate.

**HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE BISWAJIT PALIT**

Order

31/03/2026

IA No.03/2026 in WA No.99 of 2025

The instant interlocutory application is allowed, and the proposed party is impleaded as appellant No.2 in the Writ Appeal.

The amended memo of parties filed along with IA No.03/2026, is taken on record.

WA No.99 of 2025

Heard learned counsel Mr. Pawansree Agarwal assisted by learned counsel Ms. Papiya Goswami for the appellants as well as Mr. Kushal Deb, learned counsel for respondents No.1 & 2, and Mr. Sankar Deb, learned senior counsel for respondents No.3 & 4.

2. In this Writ Appeal, the judgment dt.31.07.2025 of the learned Single Judge in WP(C) No.393/2025 is challenged by the writ petitioner.

3. The matter relates to disconnection of electricity connection to Murticherra Tea Estate, and the said electricity connections were in the name of the Manager of the said estate.

4. By oversight, the said Manager was not impleaded in the Writ Petition, but an Interlocutory Application being IA No.03/2026 was filed in the instant Writ Appeal to implead the said Manager, which has been ordered today, unopposed.

5. In the Writ Petition, there was a challenge to a letter dt.18.06.2025 issued by the fourth respondent, claiming alleged electricity theft by the second appellant, and straightaway imposing an assessment and penalty of Rs.9,66,340/- and Rs.9,66,340/- respectively, and directing the second appellant to pay the same within seven days after receipt of the said letter. It appears electricity was also disconnected to Estate shortly thereafter for non-payment of said amount.

6. On 25.06.2025, the second appellant wrote a letter to the agency operated by the respondents, to indicate the basis of assessment of the said amounts indicated.

7. Thereafter the respondents furnished to the second appellant a calculation of the said amount on 26.06.2025.

8. Challenging the letter dt.18.06.2025, WP(C) No.393/2025 was filed seeking restoration of power connection which had been disconnected, contending that there is no provisional assessment done as mandated by Section 126 of the Electricity Act, 2003 [“the Act”, *for short*], and that straightaway a final assessment has been made contrary to the provisions of the Act.

9. The learned Single Judge however dismissed the Writ Petition stating that there are disputed questions of fact as to whether the appellants committed the theft or not, what the electricity bills are and how much it comes to, and they can only be decided by the concerned authority, and in the jurisdiction of this Court under Article 226 of the Constitution of India, these disputed questions of fact, cannot be gone into.

10. The learned Single Judge gave liberty to the writ petitioner to approach the appropriate appellate authority ventilating his grievance, and directed the concerned appellate authority to decide the matter at the earliest.

11. Challenging the same, this appeal is filed.

12. Section 126 of the Act states as under:

“**126. Assessment.** --- (1) If on an inspection of any place or premises or after inspection of the equipments, gadgets, machines, devices found connected or used, or after inspection of records maintained by any person, the assessing officer comes to the

conclusion that such person is indulging in unauthorized use of electricity, he shall provisionally assess to the best of his judgment the electricity charges payable by such person or by any other person benefited by such use.

(2) The order of provisional assessment shall be served upon the person in occupation or possession or in charge of the place or premises in such manner as may be prescribed.

[(3) The person, on whom an order has been served under sub- section (2) shall be entitled to file objections, if any, against the provisional assessment before the assessing officer, who shall, after affording a reasonable opportunity of hearing to such person, pass a final order of assessment within thirty days from the date of service of such order of provisional assessment of the electricity charges payable by such person.]

(4) Any person served with the order of provisional assessment, may, accept such assessment and deposit the assessed amount with the licensee within seven days of service of such provisional assessment order upon him.

[(5) If the assessing officer reaches to the conclusion that unauthorised use of electricity has taken place, the assessment shall be made for the entire period during which such unauthorized use of electricity has taken place and if, however, the period during which such unauthorised use of electricity has taken place cannot be ascertained, such period shall be limited to a period of twelve months immediately preceding the date of inspection.]

(6) The assessment under this section shall be made at a rate equal to [twice] the tariff rates applicable for the relevant category of services specified in sub-section (5).

Explanation.- For the purposes of this section,-

(a) “assessing officer” means an officer of a State Government or Board or licensee, as the case may be, designated as such by the State Government;

(b) “unauthorised use of electricity” means the usage of electricity –

(i) by any artificial means; or

(ii) by a means not authorised by the concerned person or authority or licensee; or

(iii) through a tampered meter; or

[(iv) for the purpose other than for which the usage of electricity was authorised; or

(v) for the premises or areas other than those for which the supply of electricity was authorized.]”

13. Section 127 of the Act provides for an appeal to an appellate authority against any order passed under Section 126 of the Act.

14. As can be seen from a reading of Section 126 of the Act, sub-section (2) of Section 126 requires an order of provisional assessment to be served upon the appellants, and the appellants under sub-section (3) thereof, are entitled to file objections thereto against such provisional assessment before the assessing officer, and the assessing officer, after affording a reasonable opportunity of hearing to the appellants, has to pass a final order of assessment within thirty days from the date of service of such order of provisional assessment of the electricity charges payable by the appellants.

15. Sub-section (4) provides that any person served with the order of provisional assessment may, accept such assessment and deposit the assessed amount with the licensee within seven days of service of such provisional assessment order upon him.

16. Sub-section (6) provides that the assessment under this section shall be made at a rate equal to twice the tariff applicable for the relevant category of services specified in sub-section (5).

17. There is no dispute that this procedure of making a provisional assessment, serving the copy thereof on the appellants, affording opportunity of hearing to the appellants, and then passing a final order of assessment, has

not been complied with by the fourth respondent. This vitiates the order of the fourth respondent dt.18.06.2025.

18. The learned Single Judge unfortunately ignored this aspect of the matter while asking the first appellant to approach the appellate authority under Section 127 of the Act.

19. Therefore the judgment of the learned Single Judge is set aside; the letter dt.18.06.2025 is also set aside; the respondents are directed to restore the electricity supply to the appellants forthwith; the respondents are given liberty to initiate fresh proceedings under Section 126 of the Act in strict compliance with the said provision in all respects, and then pass a final order of assessment, and communicate it to the appellants.

20. In view of the setting aside of the order dt.18.06.2025 by this Court, all consequential proceedings are also set aside.

21. Writ Appeal is allowed to the above extent. Pending application(s), if any, shall also stand disposed of. No costs.

(BISWAJIT PALIT, J)

(M.S. RAMACHANDRA RAO, CJ)

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