

AD-10
Ct No.09
17.11.2022
TN

WPA No. 22553 of 2022

Manoj Kumar Das alias
Manoj Kishore Das and others
Vs.
CESC Limited and others

Mr. Dipanjan Datta,
Ms. Rituparna Saha,
Ms. Reshma Chatterjee

.... for the petitioners

Mr. Om Narayan Rai,
Mr. Anirban Tarafder

.... for the CESC Limited

Learned counsel for the petitioners contends that the petitioners were acquitted from a criminal case levied under Sections 135 and 138 of the Electricity Act, 2003 on the allegation of pilferage of electricity. As such, the provisional order of assessment and subsequently the final order of assessment, made by the Assessing Officer, ought to be set aside.

However, upon hearing learned counsel for the parties and examining the extant law and judicial opinion on the subject, it is evident that mere acquittal in a criminal proceeding under Section 135 does not *ipso facto* absolve the accused person of the liability to pay the charges as per the final assessment

made by the Assessing Officer. Apart from the standards of proof being different in cases of civil liability and criminal cases, it was observed by the Additional Sessions Judge in the ordering portion of acquittal, that the pilferage amount, if any, paid by the accused shall not be refunded to him covered under civil liability.

Be that as it may, since a final order of assessment has been served on the petitioners, learned counsel for the petitioners, in his usual fairness, submits that the petitioners be permitted to prefer a statutory appeal against the final order of assessment.

As such, upon hearing learned counsel, WPA No. 22553 of 2022 is disposed of with liberty to the petitioners to challenge the final order of assessment arrived at by the CESC Limited in a statutory appeal under Section 127 of the Electricity Act, 2003 subject to compliance of all formalities in law and in accordance with law.

If such an appeal is filed, the appellate authority shall decide the same in accordance with law upon giving opportunity of hearing to all concerned as expeditiously as possible, preferably within eight weeks from the date of preferring such appeal.

It is made clear that the merits of the respective contentions of the parties have not been entered into by this court.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)