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14.07.2022
TN

WPA No.20967 of 2009
IA No: CAN 1 of 2010
(Old No: CAN 126 of 2010)

C.E.S.C. Limited and another
Vs.
The Appellate Authority and another

Mr. Subir Sanyal,
Ms. Sumouli Sarkar

.... for the petitioners

Mr. Sujit Sankar Koley

.... for the WBSEDCL

Mr. Meghajit Mukherjee

.... for the respondent no.2

From a plain reading of the impugned order of the Appellate Authority, it transpires that the order of the Appellate Authority was vitiated primarily for the reason that the order recorded that the CESC Limited could have made an attempt with the help of civil administration to seize the questioned meter for testing the same by third party institutional laboratory for finding the fault in the meter.

On such ground, the CESC Limited was directed to cancel the order of Provisional Assessment and Final Order and to refund Rs.1,94,907/- as paid by M/s. Auto Distributors Ltd., that is, the respondent no.2, within one month from the date of issue of the order.

Learned counsel appearing for the writ petitioner, that is, the CESC Limited and another, submits that in order to avoid unnecessary prolonged litigation, which will arise in the event the matter is remanded again for a *de novo* trial, the CESC Limited is agreeable to retain the amount of Rs.1,94,907/-, which was deposited as fifty per cent of the final order of assessment by the private respondent, in full and final settlement of the claim of the CESC Limited.

Learned counsel for the respondent, in his usual fairness, submits that the private respondent shall have no qualms with such an order.

In view of such fair stand having been taken by learned counsel for the parties, WPA No.20967 of 2009 along with IA No: CAN 1 of 2010 (Old No: CAN 126 of 2010) are disposed of on recording the consent of the parties that the amount already deposited by the respondent no.2, that is, Rs.1,94,907/- is accepted by the present writ petitioners in full and final settlement of the claim of the writ petitioners against the respondent no. 2.

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.)