

COURT-II
Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)

Appeal No. 157 of 2015

Dated: **16th February, 2016**

Present: **Hon'ble Mr. Justice Surendra Kumar, Judicial Member**
Hon'ble Mr. T. Munikrishnaiah, Technical Member

In the matter of:-

The Assam Electricity Grid Corporation Ltd. Appellant (s)

Versus

The Assam Electricity Regulatory Commission Respondent (s)

Counsel for the Appellant(s) : Mr. Avijit Roy,
Ms. Barnali Das, Ms. Deepika Ghatowar

Counsel for the Respondent(s) : Mr. Buddy A. Ranganadhan
Mr. Raghuvamsy for R-1

ORDER

There is an objection by the Respondent/State Commission to the maintainability of the instant appeal. This is an appeal against the review order when the review has partly been allowed by the State Commission. No appeal has been filed against the main tariff order/impugned order of the State Commission.

2. The main objection of Mr. Buddy A. Ranganadhan, learned counsel appearing for the State Commission is that since, the instant appeal is against the review order where review has been partly allowed, this appeal is not maintainable because Order XLVII of CPC requires the appeal to be filed against the main order as well as one more appeal against the review order where review petition has been partly allowed because partly allowed part to the review petition merges with the main impugned order and, hence, the law requires the main order to be challenged in appeal.

3. Mr. Avijit Roy, learned counsel appearing for the Appellant taking us through the provisions of section 111 of the Electricity Act, 2003 and distinguished the provisions of section 94 of the Electricity Act, 2003 submits that the appeal is competent and fully maintainable.

4. We prefer at this stage not to pass any order on the maintainability and we shall decide this point of maintainability while passing the judgment in the main appeal on merits because we do not want to waste enough time for the exercise on maintainability.

5. This is the first appeal which is based on the facts as well as on law. The point of maintainability, in this matter, clearly relates to the facts which are to be discussed and analyzed. Both the parties are directed to argue in the appeal on merits.

6. The learned counsel for the Appellant, candidly, submits that though the rejoinder affidavit is ready but could not be filed within time allowed by this Appellate Tribunal. He prays to take the same on record because the copy of the same has already been furnished to the other side. The Appellant may file his rejoinder affidavit today itself in the Registry.

7. Mr. Avijit Roy, learned counsel appearing for the Appellant, a Government Transmission Licensee, has been heard at length and his arguments in the matter are complete.

Post the matter for arguments of the sole Respondent/State Commission as well as rejoinder submission on 29th February, 2016.

In the meantime, both the parties may file their respective written submissions in the matter, if they so desire, after serving copy on the other side.

(T. Munikrishnaiah)
Technical Member

(Justice Surendra Kumar)
Judicial Member

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