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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION No. 9875 OF 2013

Idea Cellular Ltd. & Anr. ... Petitioners
Vs.
Maharashtra State Electricity
Distribution Company Ltd. ... Respondents

Mr. Pradeep Sancheti, Sr. Counsel with Jayesh Desai, Shanik Bhat &
H. Desai i/b Singh & Co., for the Petitioners.

CORAM : V. M. KANADE, &
S. C. GUPTE, JJ.

DATE : OCTOBER 22, 2013

PC.

1. Heard the learned counsel appearing on behalf of the Petitioners. None appears on behalf of the Respondents though they are served. Petitioner has filed affidavit of service dated 21.10.2013. Petitioners are aggrieved by the order dated 8.10.2013 passed by the Superintending Engineer, Maharashtra State Electricity Distribution Company Ltd., which was served on them on the same day. By the said order, the Superintending Engineer has informed the Petitioners that a Flying Squad of Pune (R) had inspected their company premises on 3.7.2013 and the said Flying Squad had given a report that there was no industrial activity in their existing system and that it is purely a Data Storage Centre. It is further stated in the impugned order that Respondent No. 1 has, therefore, changed their tariff from industrial to

commercial from the month of July 2013. Petitioner, therefore, was directed to pay amount of difference as per the sheet enclosed to the said notice, which comes to Rs. 11.45 Crores.

2. Learned senior counsel appearing for the Petitioner has submitted that under Section 45 of the Electricity Act, 2003, the tariff order is passed as per the directions given by MERC. He submitted that by the impugned order Petitioner was put under the category of industrial user and since 2006 they have been paying the charges under the said head. He submitted that on the basis of the alleged inspection report of the Flying Squad, Respondent No. 1 has changed the said category from industrial to commercial. It is submitted that Respondent No. 1 came to the conclusion that since it is not having ITES registration in the State, it is not entitled to get the category of Industrial User. He, therefore, submitted that the said notice dated 8.10.2013 which has been issued, is illegal and contrary to the provisions of the said Act. Though the Respondents are served, none appeared on their behalf, in our view, notice will have to be issued to them and to file reply to the averments made in the petition. Issue notice to the Respondents returnable on 26.11.2013. In our view, however, since prima facie case is made out by the Petitioners, in the meantime ad-interim relief is granted in terms of prayer clauses (G) and (H).

Sd/-
[S. C. GUPTE, J.]

Sd/-
[V. M. KANADE, J.]