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ITEM NO.43

COURT NO.13

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).22495/2008

(From the judgement and order dated 10/04/2008 in RP No.355/2004 of The
NATIONAL CONSUMERS DISPUTES REDRESSAL COMMISSION, NEW DELHI)

ACCOUNTS OFFR.JH.STATE ELECT.BD. & ANR. Petitioner(s)

VERSUS

ANWAR ALI Respondent(s)

(With office report)

Date: 03/02/2014 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA
HON'BLE MR. JUSTICE KURIAN JOSEPH

For Petitioner(s) Mr.Manish Kumar Saran,Adv.
Mr. Satya Prakash Sharan, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following
O R D E R

Leave granted.
The appeal is allowed in terms of the Signed Order.

[RAJNI MUKHI]
SR. P.A.

[USHA SHARMA]
COURT MASTER

(signed Order is placed on the file)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1813 OF 2014
(arising out of SLP) No. 22495 of 2008)

ACCOUNTS OFFR.JH.STATE ELECT.BD. & ANR. APPELLANTS

VERSUS

ANWAR ALI RESPONDENT

O R D E R

Leave granted.

This appeal has been filed by appellants against the impugned Judgment dated 10th April, 2008, passed by the National Consumer Disputes Redressal Commission, New Delhi (hereinafter referred to as the 'National Commission'). By the impugned majority judgment (presided by one Member), the National Commission held that in case of a final assessment order passed under Section 126 of the Electricity Act, if a consumer is aggrieved he can file a complaint under the Consumer Protection Act. In case a final order is passed by the Appellate Authority under Section 127 of the Electricity Act, no complaint can be entertained by the Consumer Fora.

Notice was issued to the respondent and served. In spite of service of notice, they have not appeared to contest the case.

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The same very impugned judgment dated 10th April, 2008 was challenged before this Court in the case of Uttar Pradesh Power Corporation Ltd. and Ors. Vs. Anis Ahmed [2013 (8) SCC 491]. In the said case, this Court had set aside the order passed by the National Commission with the following observations:

"60. In view of the observation made above, we hold that:

60.1. In case of inconsistency between the Electricity Act, 2003 and the Consumer Protection Act, 1986, the provisions of Consumer Protection Act will prevail, but ipso facto it will not vest the Consumer Forum with the power to redress any dispute with regard to the matters which do not come within the meaning of "service" as defined under Section 2(1)(o) or "complaint" as defined under Section 2(1)(c) of the Consumer Protection Act, 1986.

60.2. A "complaint" against the assessment made by assessing officer under Section 126 or against the offences committed under Sections 135 to 140 of the Electricity Act, 2003 is not maintainable before a Consumer Forum.

60.3 The Electricity Act, 2003 and the Consumer Protection Act, 1986 runs parallel for giving redressal to any person, who falls within the meaning of "consumer" under Section 2(1)(d) of the Consumer Protection Act, 1986 or the Central Government or the State Government or association of consumers but it is limited to the dispute relating to "unfair trade practice" or a "restrictive trade practice adopted by the service provider"; or "if the consumer suffers from deficiency in service"; or "hazardous service"; or "the service provider has charged a price in excess of the price fixed by or under any law".

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The present appeal is also covered by the afore-stated judgment. The appeal is allowed in terms of the judgment in Uttar Pradesh Corporation Ltd. (Supra) and the impugned judgment is set aside.

(SUDHANSU JYOTI MUKHOPADHAYA)

.....J.

.....J.

(KURIAN JOSEPH)
NEW DELHI ;
FEBRUARY 03,2014