IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2573 OF 2026

Sopan Haribhau Athshere
Age : 53 years, Occ : Business,
Residing at Angangaon, Tq. Yeola,
Dist. Nashik. ..Petitioner

Versus

1. The Superintendent Engineer
Maharashtra State Electricity
Distribution Company Ltd.,
Malegaon Circle, Tq. Malegaon,
Dist. Nashik.

2. The Executive Engineer
Maharashtra State Electricity
Distribution Company Ltd.,
Rural Division, Manmad,
Tq. Nandgaon, Dist. Nashik.

3. Deputy Executive Engineer,
Maharashtra State Electricity
Distribution Company Ltd.,
Flying Squad, Kalyan Rural
Division, Kalyan, Tq. Kalyan,
Dist. Thane.

4. Deputy Executive Engineer,
Maharashtra State Electricity
Distribution Company Ltd.,
Yeola, Sub Division Yeola,
Tq. Yeola, Dist. Nashik.

5. The State of Maharashtra
Through G.P., High Court of Bombay.
...Respondents

SAINATH SANJAY BODKHE
Digitally signed by SAINATH SANJAY BODKHE
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Mr. Sanjay P Shinde, for the Petitioner.

Ms. Nikita Jacob, i/b K P Law Associates LLP, for Respondent Nos. 1 to 4 – MSEDCL.

Mr. Hamid Mulla, AGP for Respondent No.5 - State.

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CORAM : N. J. JAMADAR, J.

RESERVED ON : 26th OCTOBER 2026

PRONOUNCED ON : 03rd NOVEMBER 2026

JUDGMENT:

1. Rule. Rule made returnable forthwith, and, with the consent of the learned Counsel for the parties, heard finally.

2. By this petition under Article 227 of the Constitution of India, the petitioner takes exception to an order dated 29th January, 2026, passed by the learned District Judge-1, Yeola on an application for interim relief to restore or reconnect the electric supply, which has been disconnected in the wake of allegations of the theft of electricity, detected in the inspection conducted on 18th December, 2024.

3. The background facts leading to this petition, can be summarized as under :-

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3.1 The petitioner runs a stone crusher at Savargaon, Tq. Yeola, Dist. Nashik. Two electric meters being Consumer Nos. 061548005271 and 061540803624 were installed to supply electricity for the said stone crusher plant ("the subject plant").

3.2 On 18th December, 2024, a flying squad of the Maharashtra State Electricity Distribution Company Limited, the licencee (R-3) inspected the subject plant. The inspection revealed that, a Kit-Kat fuse/cut-out provided before the meter had been removed and the outgoing supply was diverted directly to another meter's incoming terminal, thereby bypassing the metering equipment for connection bearing Consumer No. 061548005271. A spot inspection report was prepared.

3.3 A report was submitted to the Additional Executive Engineer, MSEDCL on 23rd December, 2024 to assess the theft of units of electricity under Section 135 of the Electricity Act, 2003. The Respondent No. 3 reported that, the period of theft was of 22 months i.e. between February, 2023 and November, 2024 and the net assessed units were 1,23,855, after deducting the billed units of 16,978. On the basis of said report, Assistant Deputy Executive Engineer, MSEDCL, Yeola Sub-Division (R-4), issued a bill on 27th December, 2024 in the sum of Rs.

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22,93,410/- (Rupees Twenty Two Lakhs Ninety Three Thousand Four Hundred and Ten only) towards the theft of energy. Another bill in the sum of Rs. 7,50,000/- (Rupees Seven Lakhs Fifty Thousand only) was raised towards the compounding charges.

3.4 As the petitioner did not deposit the aforesaid electricity charges and compounding charges, the electric supply to both the electric meters came to be disconnected. Eventually, on 07th February, 2025, the Respondent No. 3 lodged a report for an offence punishable under Section 135 of the Electricity Act, 2003, against the petitioner.

3.5 After availing the remedies before the Civil Court and Consumer Disputes Redressal Forum unsuccessfully, the petitioner filed an application, being Civil Miscellaneous Application No. 05/2025 before the Special Court, in which the prosecution was lodged, for determination of the civil liability under the provisions of Section 154(5) of the Electricity Act, 2003 and for ancillary reliefs. In the said application, the petitioner filed an application (Exh. 24) seeking the appointment of an Electrical Inspector to submit a report in regard to the

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correctness of the assessment of the electricity charges for the alleged theft of electricity and compounding charges.

3.6 By an order dated 08th April, 2025, the learned District Judge was persuaded to allow the application, and appointed the Electrical Inspector to visit subject plant and submit a report about the assessment of the electricity charges. The learned District Judge was of the view that, the appointment of an Electrical Inspector would assist the Court in determining the application for determination of the civil liability.

3.7 On 01st July, 2025, the Electrical Inspector, Industrial Energy Labour and Mines Department, Nashik submitted a report to the effect that, the period of theft was to be reckoned as 6 months as the actual period of theft was not clearly established. By that token, the Electrical Inspector arrived at the net assessed units (16,591) after deducting the billed units (13,552) from the assessed consumption (30,413).

3.8 In view of the aforesaid report of the Electrical Inspector, the petitioner filed an application for interim relief to restore the electric supply. By an order dated 11th August, 2025, the learned District Judge rejected the application observing *inter alia* that, the civil liability under Section 154(5) of the Electricity Act,

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2003 can be determined only after the parties adduce evidence. The above-referred report submitted by the Electrical Inspector cannot be construed as conclusive as the said assessment was subject to the cross examination on behalf of the licencee and, thus, at that stage, the contents of the assessment report submitted by the said Electrical Inspector could not be relied upon. Moreover, as the grant of interim relief of restoration of electric supply would amount to granting final relief in the main application, the learned District Judge declined to grant the interim relief.

3.9 Being aggrieved, the petitioner preferred Writ Petition No. 12666/2025. By an order dated 25th November, 2025, this Court permitted the petitioner to withdraw the petition with liberty to file a fresh application seeking determination of the amount to be deposited by the petitioner in terms of the purported assessment of the civil liability.

3.10 In the second round, the petitioner *inter alia* asserted that, the net assessed units as assessed by the Electrical Inspector were 16,591 and the petitioner was ready to deposit sum of Rs. 03,07,213/- (Rupees Three Lakhs Seven Thousand Two Hundred and Thirteen only) computed at the rate of 18.51 per unit, which

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formed the basis of raising of electricity bill for the alleged theft of electricity to the tune of Rs. 22,93,410/- (Rupees Twenty Two Lakhs Ninety Three Thousand Four Hundred and Ten only).

3.11 The learned District Judge was again persuaded to reject the application opining that, no question of grant of interim relief arose till the civil liability was finally determined under Section 154(5) of the Electricity Act, 2003. The parties were thus directed to adduce evidence.

3.12 Being further aggrieved, the petitioner has again invoked the writ jurisdiction of this Court.

4. An affidavit-in-reply has been filed on behalf of Respondent Nos. 1 to 4. The substance of resistance put forth by the Respondents No. 1 to 4 is that, an open and shut case of theft of electricity has been made out. In such cases, in view of the provisions contained in the third proviso to sub-section (1A) of Section 135 of the Electricity Act, 2003, the electricity connection cannot be restored till the entire assessed amount or electricity charges are paid. It was also contended that, the Electrical Inspector who had submitted the report dated 01st July, 2025, was not the officer authorized to assess the theft of electricity. Even otherwise, restricting the assessment period to

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six months only by the said Electrical Inspector, was in the teeth of the actual detected period for which the electricity was dishonestly extracted. The Respondents No. 1 to 4 also contended that, the assessment under Sections 126 and 127 of the Electricity Act, 2003 is materially distinct from an assessment under Section 135 of the Electricity Act, 2003. The Electrical Inspector had thus no authority to assess the electricity charges in case of theft.

5. In the backdrop of the aforesaid facts and pleadings, I have heard Mr. Sanjay Shinde, the learned Counsel for the Petitioner, and Ms. Nikita Jacob, the learned Counsel for Respondent Nos.1 to 4. The learned Counsel for the parties took the Court through the pleadings and material on record.

6. Mr. Sanjay Shinde, the learned Counsel for the petitioner submitted that, the learned District Judge was clearly in error in observing that, the Special Court had no power to determine the civil liability at an interim stage and pass an order for restoration of electric supply. The power of the Special Court to determine the civil liability under Section 154 of the Electricity Act, 2003, is not trammelled by the provisions contained in Sections 126 and 127 of the Electricity Act, 2003. To buttress

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this submissions, Mr. Shinde, placed a very strong reliance upon a judgment of a learned Single Judge of this Court in the case of ***Samadhan Arun Doifode Vs. Maharashtra State Electricity Distribution Company Ltd., & anr.***[1], wherein this Court enunciated that, there was a clear distinction between the cases that would fall under Sections 126 and 135 of the Electricity Act, 2003. Those two provisions operate in different and distinct fields and and there was no commonality. Thus, it was permissible for the Special Court to determine the civil liability under Section 154 of the Electricity Act, 2003 and it was not necessary for the Special Court to wait till the conclusion of the trial.

7. Secondly, Mr. Shinde submitted that, the report of the Electrical Inspector dated 01st July, 2025 makes it explicitly clear that, the precise period of alleged theft could not be established and, therefore, the assessment period was required to be confined to six months. The Electrical Inspector has, upon proper analysis, arrived at the conclusion that, the net assessment could be for 16,591 units. When the petitioner was ready and willing to deposit the amount of the electricity charges so assessed on the basis of the said report, the learned

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1 2018 SCC OnLine Bom 2771

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District Judge could not have declined to restore the electric supply upon payment of the amount so assessed, submitted Mr. Shinde.

8. Mr. Shinde made a strenuous effort to drive home the point that, the assessment made by the said Electrical Inspector was in conformity with the Maharashtra Electricity Regulatory Commission (Electric Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021, ("the Regulations, 2021") and the circulars issued by the Electricity Regulatory Commission.

9. In opposition to this, Ms. Nikita Jacob, the learned Counsel for Respondent Nos. 1 to 4, submitted with tenacity that, the electric supply cannot be restored until the entire bill raised by the licencee for theft of electricity was deposited. Banking upon the Regulations, 2021, Ms. Jacob submitted that, the Regulations, 2021 mandate that, the electric supply can be restored only upon payment of the assessed amount. To lend support to this submission, Ms. Jacob, placed a strong reliance on a Division Bench judgment of this Court in the case of

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Bhavani Polymers Industries Vs. Maharashtra State Electricity Distribution Company Ltd.[2].

10. Ms. Jacob submitted that, the material on record does indicate that, it was a case of blatant theft of electricity by tampering with the electricity cables and bypassing the electric meters. In such cases, a direction for restoration of the electricity supply on deposit of a small portion of the electricity bill cannot be countenanced. It would cause grave prejudice to the licencee and also jeopardize the public interest.

11. Ms. Jacob would urge that, the reliance on the report dated 01st July, 2025 submitted by the Electrical Inspector is completely misplaced as the said officer had candidly stated that, he had no authority to carry out the assessment of the theft of electricity. In any event, the assessment period could not have been truncated to 6 months in the face of material to justify the assessment for the theft for a period of 22 months. In these circumstances, Ms. Jacob would urge, the learned District Judge was justified in rejecting the application. The Special Court may thus be directed to expeditiously decide the aspect of the determination of the civil liability, submitted Ms. Jacob.

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2 WP/1591/2023 dt. 03/04/2023

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12. I have given careful consideration to the aforesaid rival submissions.

13. To begin with, the uncontroverted facts. First, the jural relationship between the petitioner and Respondent Nos. 1 to 4 as a consumer and licencee, is not in dispute. Nor the fact that the flying squad led by Respondent No. 3 had conducted an inspection at the subject plant on 18th December, 2024, is in contest. Evidently, on the basis of the spot inspection report, the Respondent No. 4 had made a demand of electricity charges for the theft of electricity as well as compounding charges by raising bills dated 27th December, 2024.

14. It is not in dispute that, on account of the failure on the part of the petitioner to make the deposit, a report for an offence punishable under Section 135 of the Electricity Act, 2003, has been lodged. Indisputably, the petitioner had filed an application for determination of the civil liability under Section 154(5) of the Electricity Act, 2003 before the Special Court. It would be appropriate to immediately notice that, though the Electrical Inspector appointed by the Special Court as a Commissioner has submitted that a report on 21st June, 2025, determining the net assessed units at 16,591 units and confining the period of

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theft of electricity to 6 months on the premise that, the material on record did not establish the exact period of theft of electricity, the Special Court was not inclined to place implicit reliance on the said report as the correctness thereof was to be evaluated at the final adjudication of the application for determination of the civil liability. Restoration of the electric supply at an interim stage upon deposit of the amount as assessed by the Electrical Inspector was also held to be legally impermissible.

15. With the aforesaid clarity on facts, it may be apposite to note few provisions of the Electricity Act, 2003, especially the interplay between the provisions contained in Sections 126 and 127 of the Electricity Act, 2003, on the one part, and Sections 135 and 154 of the Electricity Act, 2003, on the other part. The expression “unathorized use of electricity” is defined under the explanation to Section 126 of the Electricity Act, 2003. The expression “theft of electricity” is defined under Section 135 of the Electricity Act, 2003.

16. To correctly appreciate the interplay between these provisions, it may be apposite to extract the provisions contained in Sections 126 and 127, and Sections 135 and 154 of the Electricity Act, 2003. They ready as under :-

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"126. Assessment

(1) If on an inspection of any place or premises or after inspection of the equipments, gadgets, machines, devices found connected or used, or after inspection of records maintained by any person, the assessing officer comes to the conclusion that such person is indulging in unauthorised use of electricity, he shall provisionally assess to the best of his judgment the electricity charges payable by such person or by any other person benefited by such use.

(2) The order of provisional assessment shall be served upon the person in occupation or possession or in charge of the place or premises in such manner as may be prescribed.

(3) The person, on whom an order has been served under sub-section (2), shall be entitled to file objections, if any, against the provisional assessment before the assessing officer, who shall, after affording a reasonable opportunity of hearing to such person, pass a final order of assessment within thirty days from the date of service of such order of provisional assessment, of the electricity charges payable by such person.]

(4) Any person served with the order of provisional assessment may, accept such assessment and deposit the assessed amount with the licensee within seven days of service of such provisional assessment order upon him:

[x x x]

[(5) If the assessing officer reaches to the conclusion that unauthorised use of electricity has taken place, the assessment shall be made for the entire period during which such unauthorised use of electricity has taken place and if, however, the period during which such

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unauthorised use of electricity has taken place cannot be ascertained, such period shall be limited to a period of twelve months immediately preceding the date of inspection.]

(6) The assessment under this section shall be made at a rate equal to [twice] the tariff rates applicable for the relevant category of services specified in sub-section (5).

Explanation : For the purposes of this section,–

(a) "assessing officer" means an officer of a State Government or Board or licensee, as the case may be, designated as such by the State Government;

(b) "unauthorised use of electricity" means the usage of electricity– (i) by any artificial means; or(ii)by a means not authorised by the concerned person or authority or licensee; or

(iii) through a tampered meter; or

[(iv) for the purpose other than for which the usage of electricity was authorised; or

(v) for the premises or areas other than those for which the supply of electricity was authorised.]

127. Appeal to appellate authority

(1) Any person aggrieved by the final order made under section 126 may, within thirty days of the said order, prefer an appeal in such form, verified in such manner and be accompanied by such fee as may be specified by the State Commission, to an appellate authority as may be prescribed.

(2) No appeal against an order of assessment under sub-section (1) shall be entertained unless an amount equal to half of the assessed amount is deposited in cash or by way

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of bank draft with the licensee and documentary evidence of such deposit has been enclosed along with the appeal.

(3) The appellate authority referred to in sub-section (1) shall dispose of the appeal after hearing the parties and pass appropriate order and send copy of the order to the assessing officer and the appellant.

(4) The order of the appellate authority referred to in sub-section (1) passed under sub-section (3) shall be final.

(5) No appeal shall lie to the appellate authority referred to in sub-section (1) against the final order made with the consent of the parties.

(6) When a person defaults in making payment of assessed amount, he, in addition to the assessed amount shall be liable to pay, on the expiry of thirty days from the date of order of assessment, an amount of interest at the rate of sixteen per cent. per annum compounded every six months.

135. Theft of electricity

[(1) Whoever, dishonestly,–

(a) taps, makes or causes to be made any connection with overhead, underground or under water lines or cables, or service wires, or service facilities of a licensee or supplier, as the case may be; or

(b) tampers a meter, installs or uses a tampered meter, current reversing transformer, loop connection or any other device or method which interferes with accurate or proper registration, calibration or metering of electric current or otherwise results in a manner whereby electricity is stolen or wasted; or

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(c) damages or destroys an electric meter, apparatus, equipment, or wire or causes or allows any of them to be so damaged or destroyed as to interfere with the proper or accurate metering of electricity; or

(d) uses electricity through a tampered meter; or

(e) uses electricity for the purpose other than for which the usage of electricity was authorised,

so as to abstract or consume or use electricity shall be punishable with imprisonment for a term which may extend to three years or with fine or with both:

PROVIDED that in a case where the load abstracted, consumed, or used or attempted abstraction or attempted consumption or attempted use –

(i) does not exceed 10 kilowatt, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction the fine imposed shall not be less than six times the financial gain on account of such theft of electricity;

(ii) exceeds 10 kilowatt, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction, the sentence shall be imprisonment for a term not less than six months, but which may extend to five years and with fine not less than six times the financial gain on account of such theft of electricity:

PROVIDED FURTHER that in the event of second and subsequent conviction of a person where the load abstracted, consumed, or used or attempted abstraction or

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attempted consumption or attempted use exceeds 10 kilowatt, such person shall also be debarred from getting any supply of electricity for a period which shall not be less than three months but may extend to two years and shall also be debarred from getting supply of electricity for that period from any other source or generating station:

PROVIDED ALSO that if it is proved that any artificial means or means not authorised by the Board or licensee or supplier, as the case may be, exist for the abstraction, consumption or use of electricity by the consumer, it shall be presumed, until the contrary is proved, that any abstraction, consumption or use of electricity has been dishonestly caused by such consumer.

(1A) Without prejudice to the provisions of this Act, the licensee or supplier, as the case may be, may, upon detection of such theft of electricity, immediately disconnect the supply of electricity:

PROVIDED that only such officer of the licensee or supplier, as authorised for the purpose by the Appropriate Commission or any other officer of the licensee or supplier, as the case may be, of the rank higher than the rank so authorised shall disconnect the supply line of electricity:

PROVIDED FURTHER that such officer of the licensee or supplier, as the case may be, shall lodge a complaint in writing relating to the commission of such offence in police station having jurisdiction within twenty-four hours from the time of such disconnection:

PROVIDED ALSO that the licensee or supplier, as the case may be, on deposit or payment of the assessed amount or electricity charges in accordance with the provisions of this Act, shall, without prejudice to the obligation to lodge the

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complaint as referred to in the second proviso to this clause, restore the supply line of electricity within forty-eight hours of such deposit or payment.]

(2) [Any officer of the licensee or supplier as the case may be, authorised in this behalf by the State Government may-

(a) enter, inspect, break open and search any place or premises in which he has reason to believe that electricity has been or is being, used unauthorisedly:

(b) search, seize and remove all such devices, instruments, wires and any other facilitator or article which has been, or is being, used for unauthorised use of electricity;

(c) examine or seize any books of account or documents which in his opinion shall be useful for or relevant to, any proceedings in respect of the offence under sub-section (1) and allow the person from whose custody such books of account or documents are seized to make copies thereof or take extracts therefrom in his presence.

(3) The occupant of the place of search or any person on his behalf shall remain present during the search and a list of all things seized in the course of such search shall be prepared and delivered to such occupant or person who shall sign the list:

PROVIDED that no inspection, search and seizure of any domestic places or domestic premises shall be carried out between sunset and sunrise except in the presence of an adult male member occupying such premises.

(4) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to search and seizure shall apply, as far as may be, to searches and seizure under this Act.

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154. Procedure and power of Special Court

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence punishable under sections 135 to 140 and section 150 shall be triable only by the Special Court within whose jurisdiction such offence has been committed.

(2) Where it appears to any court in the course of any inquiry or trial that an offence punishable under [sections 135 to 140 and section 150] in respect of any offence that the case is one which is triable by a Special Court constituted under this Act for the area in which such case has arisen, it shall transfer such case to such Special Court, and thereupon such case shall be tried and disposed of by such Special Court in accordance with the provisions of this Act:

PROVIDED that it shall be lawful for such Special Court to act on the evidence, if any, recorded by any court in the case of presence of the accused before the transfer of the case to any Special Court:

PROVIDED FURTHER that if such Special Court is of opinion that further examination, cross-examination and re-examination of any of the witnesses whose evidence has already been recorded, is required in the interest of justice, it may re-summon any such witness and after such further examination, cross-examination or re-examination, if any, as it may permit, the witness shall be discharged.

(3) The Special Court may, notwithstanding anything contained in sub-section (1) of section 260 or section 262 of the Code of Criminal Procedure, 1973 (2 of 1974), try the offence referred to in sections 135 to 140 and section 150

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in a summary way in accordance with the procedure prescribed in the said Code and the provisions of sections 263 to 265 of the said Code shall, so far as may be, apply to such trial:

PROVIDED that where in the course of a summary trial under this subsection, it appears to the Special Court that the nature of the case is such that it is undesirable to try such case in summary way, the Special Court shall recall any witness who may have been examined and proceed to re-hear the case in the manner provided by the provisions of the said Code for the trial of such offence:

PROVIDED FURTHER that in the case of any conviction in a summary trial under this section, it shall be lawful for a Special Court to pass a sentence of imprisonment for a term not exceeding five years.

(4) A Special Court may, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to, any offence tender pardon to such person on condition of his making a full and true disclosure of the circumstances within his knowledge relating to the offence and to every other person concerned whether as principal or abettor in the commission thereof, and any pardon so tendered shall, for the purposes of section 308 of the Code of Criminal Procedure, 1973 (2 of 1974), be deemed to have been tendered under section 307 thereof.

(5) The Special Court [shall] determine the civil liability against a consumer or a person in terms of money for theft of energy which shall not be less than an amount equivalent to two times of the tariff rate applicable for a period of twelve months preceding the date of detection of

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theft of energy or the exact period of theft if determined whichever is less and the amount of civil liability so determined shall be recovered as if it were a decree of civil court.

(6) In case the civil liability so determined finally by the Special Court is less than the amount deposited by the consumer or the person, the excess amount so deposited by the consumer or the person, to the Board or licensee or the concerned person, as the case may be, shall be refunded by the Board or licensee or the concerned person, as the case may be, within a fortnight from the date of communication of the order of the Special Court together with interest at the prevailing Reserve Bank of India prime lending rate for the period from the date of such deposit till the date of payment.

Explanation : For the purposes of this section, "civil liability" means loss or damage incurred by the Board or licensee or the concerned person, as the case may be, due to the commission of an offence referred to in [sections 135 to 140 and section 150.]

17. On a plain textual reading it emerges that, Section 126 of the Electricity Act, 2003 deals with the cases of unauthorized use of electricity. The assessment proceedings thereunder have their genesis in the inspection of the subject premises by the Assessing Officer and the satisfaction and findings to be recorded by the Assessing Officer that, the consumer is indulging in an "unauthorized use of electricity". In a sense,

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Sections 126 and 127 of the Electricity Act, 2003 constitute a complete code. Under the scheme of Sections 126 and 127 of the Electricity Act, 2003, the Assessing Officer has to provisionally assess the electricity charges payable by the consumer on account of purported unauthorized use of electricity. Section 126(3) of the Electricity Act, 2003, envisages a notice to the consumer providing him an opportunity to file objections to the provisional assessment made by the Assessing Officer. After such opportunity of hearing, the Assessing Officer can pass a final assessment order. A remedy of appeal against the final assessment order is provided under Section 127 of the Electricity Act, 2003.

18. In contrast, Section 135 of the Electricity Act, 2003, which is subsumed under Part XIV relating to offences and penalties, proscribes and punishes theft of electricity. The expression "theft of electricity" is defined in wide terms. It opens with the words "Whoever, dishonestly" which emphasize the element of *mens rea*. A consumer indulging in any or all of the acts specified under clauses (a) to (e) of sub-section (1) of Section 135 of the Electricity Act, 2003 so as to abstract or consume or use electricity shall be deemed to have committed theft of electricity and thus liable for punishment.

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19. Sub-section (1A) of Section 135 of the Electricity Act, 2003, empowers the licencee or supplier upon detection of such theft of electricity through an officer of the specified rank to immediately disconnect the supply of electricity. For the purposes of case at hand, the provisions contained in the third proviso to Sub-section (1A) of Section 135 of the Electricity Act, 2003, assumes significance. Under the said provision, the licencee or supplier on deposit or payment of the assessed amount or electricity charges in accordance with provisions of that Act shall, without prejudice to the obligation to lodge the compliant as referred to in the second proviso to that sub-section, restore the supply of electricity within 48 hours of such deposit or payment.

20. Section 154(5) of the Electricity Act, 2003, empowers the Special Court constituted under Section 153 of the Electricity Act, 2003 to determine the civil liability against a consumer or a person in terms of money for theft of energy which shall not be less than an amount equivalent to two times of the tariff rate applicable for a period of twelve months preceding the date of detection of theft of energy or the exact period of theft if determined whichever is less and the amount of civil liability so

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determined shall be recovered as if it were a decree of Civil Court. Sub-section (6) of Section 154 of the Electricity Act, 2003, makes consequential provision for adjustment and refund of the amount deposited by the consumer in case the amount so deposited exceeds the civil liability determined by the Special Court.

21. The thrust of the submissions on behalf of Respondent Nos. 1 to 4 was that, the provisions contained in Sections 126 and 127 of the Electricity Act, 2003 and Section 135 and 154 of the Electricity Act, 2003 operate in different spheres. The principles that govern the assessment of the liability under Section 126 of the Electricity Act, 2003 cannot be imported to a case of theft of electricity. Therefore, the restoration of electricity in a case where the consumer is accused of having committed theft of electricity can only be upon the deposit of the entire assessed amount or the electricity charges under the third proviso to Section 135(1A) of the Electricity Act, 2003. In the event the civil liability is finally determined by the Special Court under Section 154(5) of the Electricity Act, 2003, and the said liability is less than the electricity charges and compounding charges raised by the Respondent No. 4, the petitioner would be entitled to the refund of excess amount alongwith interest.

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22. Though the aforesaid submissions premised on the distinction between Sections 126 and 135 of the Electricity Act, 2003 appear apparently consistent with the textual scheme of the Electricity Act, 2003, yet, the two sets of provisions, in the considered view of this Court, cannot be construed in watertight compartments. As would emerge from the purposive interpretation of these provisions and the decisions of the Supreme Court which illuminate the path, it appears that, at the stage of assessment of the electricity charges an element of convergence emerges. A prime reason for this convergence is that, all unauthorized use of electricity may not constitute theft of electricity but all the cases of theft of electricity may have the trappings of the unauthorized use of electricity.

23. The distinction between the provisions contained in Sections 126 and 135 of the Electricity Act, 2003 was postulated by a three-Judge Bench judgment of the Supreme Court in the case of ***Executive Engineer, Southern Electricity Supply Company of Orissa Ltd. (SOUTHCO) & anr. Vs. Sri Seetaram Rice Mill***[3]. The Supreme Court observed, *inter alia*, as under :-

> "**1(b) Distinction between Sections 126 and 135 of the 2003 Act**

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24. Upon their plain reading, the mark differences in the contents of Sections 126 and 135 of the 2003 Act are obvious. They are distinct and different provisions which operate in different fields and have no common premise in law. We have already noticed that Sections 126 and 127 of the 2003 Act read together constitute a complete code in themselves covering all relevant considerations for passing of an order of assessment in cases which do not fall under Section 135 of the 2003 Act.

25. Section 135 of the 2003 Act falls under Part XIV relating to "offences and penalties" and title of the Section is "theft of electricity". The Section opens with the words "whoever, dishonestly" does any or all of the acts specified under clauses (a) to (e) of Sub-section (1) of Section 135 of the 2003 Act so as to abstract or consume or use electricity shall be punishable for imprisonment for a term which may extend to three years or with fine or with both. Besides imposition of punishment as specified under these provisions or the proviso thereto, Sub-section (1A) of Section 135 of the 2003 Act provides that without prejudice to the provisions of the 2003 Act, the licensee or supplier, as the case may be, through officer of rank authorized in this behalf by the appropriate commission, may immediately disconnect the supply of electricity and even take other measures enumerated under Sub-sections (2) to (4) of the said Section. The fine which may be imposed under Section 135 of the 2003 Act is directly proportional to the number of convictions and is also dependent on the extent of load abstracted.

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26. In contradistinction to these provisions, Section 126 of the 2003 Act would be applicable to the cases where there is no theft of electricity but the electricity is being consumed in violation of the terms and conditions of supply leading to malpractices which may squarely fall within the expression "unauthorized use of electricity". This assessment/proceedings would commence with the inspection of the premises by an assessing officer and recording of a finding that such consumer is indulging in an "authorized use of electricity". Then the assessing officer shall provisionally assess, to the best of his judgment, the electricity charges payable by such consumer, as well as pass a provisional assessment order in terms of Section 126(2) of the 2003 Act.

.....

29. Thus, it would be clear that the expression "unauthorized use of electricity" under Section 126 of the 2003 Act deals with cases of unauthorized use, even in absence of intention. These cases would certainly be different from cases where there is dishonest abstraction of electricity by any of the methods enlisted under Section 135 of the 2003 Act. A clear example would be, where a consumer has used excessive load as against the installed load simpliciter and there is violation of the terms and conditions of supply, then, the case would fall under Section 126 of the 2003 Act. On the other hand, where a consumer, by any of the means and methods as specified under Sections 135(a) to 135(e) of the 2003 Act, has abstracted energy with dishonest

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> intention and without authorization, like providing for a direct connection bypassing the installed meter, the case would fall under Section 135 of the Act.
>
> **30.** Therefore, there is a clear distinction between the cases that would fall under Section 126 of the 2003 Act on the one hand and Section 135 of the 2003 Act on the other. There is no commonality between them in law. They operate in different and distinct fields. The assessing officer has been vested with the powers to pass provisional and final order of assessment in cases of unauthorized use of electricity and cases of consumption of electricity beyond contracted load will squarely fall under such power. The legislative intention is to cover the cases of malpractices and unauthorized use of electricity and then theft which is governed by the provisions of Section 135 of the 2003 Act."
>
> (emphasis supplied)

24. In the case of ***West Bengal State Electricity Distribution Company Ltd. & ors., Vs. Orion Metal Pvt. Ltd., & anr.***[4], the High Court had drawn a distinction between the cases where the restoration of the supply was sought by consumer, and in cases where the consumer did not seek such restoration of electric supply after disconnection and held that, only in cases where consumer sought restoration of supply after disconnection, the authorities can resort to make assessment

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under Section 126(1) of the Electricity Act, 2003, otherwise the civil liability can be determined by the Special Court only by following the procedure under sub-section (5) of Section 154 of the Electricity Act, 2003.

25. Disagreeing with the aforesaid distinction made by the High Court and the view of the High Court that both proceedings cannot operate parallelly, the Supreme Court again analyzed the import of the provisions contained in Sections 126 and 127 of the Electricity Act, 2003; on the one part, and Sections 135 and 154 of the Electricity Act, 2003; on the other part, the distinction therein and the areas where the assessment provisions conflate. In the process, the Supreme Court emphasized that, all instances of unauthorized use of energy may not amount to theft of electricity within the meaning of Section 135 of the Electricity Act, 2003, but at the same time the theft of electricity which is covered by Section 135 of the Electricity Act, 2003 will fall within the definition of unauthorized use of electricity.

26. The Supreme Court further clarified that, the expression "assessed amount" referred to in the third proviso to Section 135 (1A) of the Electricity Act, 2003, upon the payment of which

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the licencee or supplier is enjoined to restore the supply of electricity within 48 hours, relates to the assessment which is contemplated under Section 126(1) of the Electricity Act, 2003, only. The observations of the Supreme Court in Paragraph Nos. 12, 13 and 15 are instructive and, hence, extracted below :-

> "**12.** A perusal of the aforesaid provisions and on giving a conjoint reading of the same, it appears to us that after an inspection of any place or any premises of any consumer, when Assessing Officer comes to a conclusion that the consumer is indulging in unauthorized use of electricity, the provisional assessment to the best of his judgment is to be made in accordance with Section 126(1) of the Act and such provisional assessment shall be served upon the person in occupation of the premises. After giving an opportunity to file objections to the provisional assessment, the Assessing Officer is empowered to pass a final order of the assessment assessing the loss of energy, on account of unauthorized use of energy. The unauthorized use of electricity is defined under Section 126 (6)(b) of the Act. It is clear from the aforesaid definition that unauthorized use of electricity means, the usage of electricity by any artificial means or by a means not authorized by the concerned person or authority or licensee; or through a tampered meter; or for the purpose other than for which the usage of electricity was authorized; or for the premises or areas other than those for which the supply of electricity was authorized.
>
> **13.** It is clear from the reading of Section 126 (6)(b)(iii) of the Act that instances of use of energy through a tampered meter is included in the definition of unauthorized use of

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electricity. If that is so, there is no reason, for excluding the power of the authorities for making assessment under Section 126 (1) the Act to assess the loss of energy, where electricity is used through a tampered meter. All instances of unauthorized use of energy may not amount to theft of electricity within the meaning of Section 135 of the Act, but at the same time, the theft of electricity which is covered by Section 135 of the Act, will fall within the definition of unauthorized use of electricity. As per Section 135(1A) of the Act, without prejudice to the other provisions of the Act, the licensee or supplier, as the case may be, upon detection of theft of electricity, is empowered to disconnect the power supply immediately. Further, as per the third proviso to Section 135(1A) of the Act, the licensee or supplier, as the case may be, on deposit or payment of assessed amount or electricity charges, without prejudice to the obligation to lodge a complaint, can restore the power supply electricity within forty- eight(48) hours of deposit /payment of such amount. Thus, it is clear that the authorities under the Act are empowered to make a provisional and final assessment by invoking power under Section 126 (1) of the Act, even in cases where electricity is unauthorisedly used by way of theft. When a consumer deposits the assessed amount, the licensee or the supplier has to restore the power supply. The assessed amount referred to in the aforesaid proviso, relates to assessment which is contemplated under Section 126 (1) of the Act only. There is apparent distinction between Section 126 and Section 135 of the Act. Section 126 forms part of the scheme which authorizes electricity supplier to ascertain loss in terms of revenue caused to it by the consumer by his act of “unauthorized use of electricity” whereas

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Section 135 deals with offence of theft if he is found to have indulged himself in the acts mentioned in clauses (a) to (e) of sub-section (1) of Section 135 of Electricity Act. Further, it is also clear from Section 154 of the Act, which prescribes procedure and power of Special Court, that the Special Court is empowered to convict the consumer and impose a sentence of imprisonment. The Special Court, in cases, where a criminal complaint is lodged, is also empowered to determine civil liability under Section 154(5) of the Act. As per Section 154(6) of the Act, in case civil liability so determined by the Special Court is less than the amount deposited by the consumer or the person, the excess amount so deposited by the consumer or the person, shall be refunded by the licensee or the concerned person, as the case may be. Merely because the Special Court is empowered to determine civil liability under Section 154(5) of the Act, in cases where a complaint is lodged, it cannot be said that there is no power conferred on authorities to make provisional assessment/final assessment under Section 126 of the Act.

.....

15. We also do not find any valid reason for making a distinction as made by the High Court in applying Section 126 of the Act. From the scheme of the Act, it appears that after inspection team notices unauthorized use of energy by tampering the meter, the authorities can disconnect the power supply immediately and make immediate assessment for loss of energy, by invoking power under Section 126(1) of the Act. The term "unauthorized use of energy" is of wide connotation. There may be cases of unauthorized use of energy, not amounting to theft, which

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are cases viz. exceeding the sanctioned load or using the electricity in the premises where its use is not authorized etc. But at the same time, when there is an allegation of unauthorized use of energy by tampering the meter, such cases of unauthorized use of energy include 'theft' as defined under Section 135 of the Act. The power conferred on authorities for making assessment under Section 126 (1) of the Act and power to determine civil liability under Section 154(5) of the Act, cannot be said to be parallel to each other. In this regard, we are of the view that the High Court has committed an error in recording a finding, that both proceedings cannot operate parallelly. In a given case where there is no theft of energy, amounting to unauthorized use of energy, in such cases no complaint of theft can be lodged as contemplated under Section 135 of the Act. In such cases for loss of energy, on account of unauthorized use of energy not amounting to theft, it is always open for the authorities to assess the loss of energy by resorting to power under Section 126(1) of the Act. In cases where allegation is of unauthorized use of energy amounting to theft, in such cases, apart from assessing the proceedings under Section 126(1) of the Act, a complaint also can be lodged alleging theft of energy as defined under Section 135(1) of the Act. In such cases, the Special Court is empowered to determine civil liability under Section 154(5) of the Act. On such determination of civil liability by the Special Court, the excess amount, if any, deposited by the petitioner, is to be refunded to the consumer. It is a settled principle that to prove the guilt of the accused in a criminal proceeding, authorities have to prove the case beyond reasonable doubt and the element of mens rea is also to be established. On the other hand,

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such a strict proof is not necessary for assessing the liability under Section 126(1) of the Act."

(emphasis supplied)

27. In the case of ***Himadri Steel Pvt. Ltd. Vs. Jharkhand Urja Vikas Nigam Ltd. & ors.***[5], the Supreme Court again enunciated in clear and explicit terms that, Section 135 of the Electricity Act, 2003, does not have a separate procedure of assessment, like the one under Section 126 of the Electricity Act, 2003 in case of "unauthorized use of electricity". Even then, the procedure under Section 127 of the Electricity Act, 2003 is applicable to cases of theft of electricity for the reason that all acts of unauthorized use of electricity are not theft but all cases of "theft of electricity" fall under the ambit of unauthorized use of electricity. The observations in Paragraph Nos. 19 and 21 are material and hence, extracted below :-

> "19. The concept of "provisional order of assessment" and "final order" find their place under Section 127 of the Act which governs the cases falling squarely under Section 126 of the Act. Section 135 does not have a separate procedure. Even then, the procedure applicable under Section 127 is applicable on cases falling under Section 126 simply for the reason that all acts of unauthorised use of electricity are not theft, but all cases of "theft of electricity" fall under the unauthorised use of electricity.

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> Hence, if we were to make a Venn Diagram, it will look somewhat like this:
>
> ....
>
> 21. It stands established that though not explicitly mentioned, Section 127 applies as much to Section 135 as it does to Section 126. It is clear as daylight that the provision for statutory appeal under Section 127 of the Electricity Act is only with regards to a final order of assessment and not a provisional order. Since the Act does not provide for a statutory appeal against a Provisional Assessment Order, the Writ Petition against the same is maintainable."
>
> (emphasis supplied)

28. The issue of interplay between Sections 126 and 135 of the Electricity Act, 2003 again came up for consideration before the Supreme Court in the case of ***Dakshin Gujarat Vij Company Ltd. & anr., Vs. Vaibhav Metal Crusher***[6]. In a very recent judgment pronounced on 26th October, 2026, the Supreme Court, upon an analysis of the provisions of Electricity Act, 2003 and the Supply Code, 2015, applicable to the State of Gujarat, postulated that there is no other provision in the Electricity Act, 2003, for making assessment in cases of theft of electricity than the one provided in Section 127 of the Electricity Act, 2003 which is for making assessment qua unauthorized use of electricity. The expression "the assessed amount" as used

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in the third proviso to Sub-section (1A) of Section 135 of the Electricity Act, 2003 would have to be understood as the amount assessed in accordance with the procedure delineated in Section 126 of the Electricity Act, 2003. The observations in Paragraph Nos. 31 and 33 read as under :-

> "31. From a survey of the relevant statutory provisions what also is clear is that there is no other provision in the 2003 Act for making assessment than the one provided in Section 126, which, however, is for making assessment qua unauthorized use of electricity. Similarly, the 2003 Act and the Supply Code do not specify any Assessing Officer for making assessment in cases of theft of energy. Thus, there is no Assessing Officer other than what is specified for making assessment in cases of unauthorized use of electricity. As a logical corollary thereof, in our view, the expression "the assessed amount" as used in the third proviso to sub-section (1A) of Section 135 of the 2003 Act would have to be understood as the amount assessed in accordance with the procedure delineated in Section 126 of the 2003 Act. In consequence, the amount required to be deposited under the third proviso to sub-section (1A) of Section 135 for restoration of supply would have to be assessed by the same procedure as is to be used for making assessment under Section 126 of the 2003 Act. Therefore, if sub-section (2) of Section 126 requires the consumer to be served with an order of provisional assessment, and sub-section (3) thereof enables the consumer to file an objection to the provisional assessment to ensure that the final order of assessment is passed after affording a reasonable opportunity of hearing to such person, the same procedure,

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which conforms to the principles of natural justice, would have to be adopted for assessing the amount required to be deposited under the third proviso to sub-section (1A) of Section 135 for restoration of supply until a separate procedure is prescribed therefor by the Supply Code.

.....

33. It is therefore clear that in cases of unauthorized use of electricity amounting to theft, besides assessment proceeding under Section 126(1) of the 2003 Act, a complaint can also be filed under Section 135(1) of the 2003 Act and in such cases the Special Court is empowered to determine the civil liability of the person concerned under Section 154(5) of the 2003 Act. On such determination of the civil liability by the Special Court, the excess amount, if any, deposited by the person concerned, is to be refunded to him. This implies that in cases of theft i.e. where a criminal complaint is filed, the assessment made under Section 126 read with the provisions of the Supply Code is subject to the final determination of the civil liability under Section 154(5) of the 2003 Act."

(emphasis supplied)

29. The Supreme Court expressly repelled the submission like the one canvassed before this Court on behalf of the Respondent Nos. 1 to 4, that in matters concerning electricity theft there could be no assessment as envisaged under Section 126 of the Electricity Act, 2003, in the following words :-

"**34.** The contention on behalf of the distribution licensee that in matters concerning electricity theft there could be no assessment in terms envisaged under Section 126

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does not appear correct when we consider the provisions of sub- section (1A) of Section 135 the 2003 Act in conjunction with other provisions of the 2003 Act and the Supply Code. Importantly, the third proviso to sub-section (1A) of Section 135 enables the consumer to seek restoration of the supply of electricity on deposit/ payment of the assessed amount. It is an emergency provision which enables a consumer who has suffered disconnection, being accused of electricity theft, to seek restoration of the supply of electricity, a commodity essential for all aspects of life including business. Therefore, for restoration of the supply of electricity, if the person facing accusations of theft is required to await final determination of civil liability under sub-section (5) of Section 154, the very purpose of the third proviso to sub-section (1A) of Section 135 would stand frustrated. In our view, therefore, in the absence of any provision other than the one under Section 126 of the 2003 Act to determine the 'assessed amount' (i.e. the expression used in the third proviso to sub-section (1A) of Section 135, and there being a singular formula (see Annexure IV extracted above) in the Supply Code to make assessment, adoption of the same procedure to determine the 'assessed amount' for seeking restoration of the supply of electricity, disconnected under sub-section (1-A) of Section 135 of the 2003 Act on accusations of theft, cannot be faulted.

35. Now what needs to be borne in mind is that sub-section (1) of Section 126 provides for provisional assessment against which an objection can be filed by the person aggrieved under sub-section (3). Upon such objection, a reasonable opportunity of hearing is to be

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afforded to the objector. Whereafter, final assessment is made under sub-section (5) of Section 126. Aforesaid assessment is subject to an appeal under Section 127 and the order of the appellate authority, by virtue of sub-section (4) of Section 127, is final. Taking a clue from the aforesaid statutory scheme, particularly the finality clause, it is submitted on behalf of the distribution licensee that since final determination of the civil liability is by the Special Court which addresses the accusations of electricity theft, an appeal under Section 127 should not be allowed in cases of theft because if the appellate order attains finality, the provision enabling determination of civil liability would be rendered otiose. In our view, the aforesaid contention is not acceptable because in cases where there is a complaint of theft, the finality attached to the order of the appellate authority is limited to determining the amount required for restoration of the supply of electricity disconnected under sub-section (1A) of Section 135. It does not absolve the offender of his civil liability which is determined by the Special Court in exercise of its power under sub-section (5) of Section 154. This is clear from a bare reading of sub-section (6) of Section 154 of the 2003 Act which provides that in case the civil liability determined by the Special Court under sub-section (5) is less than the amount deposited by the consumer or the person, the excess amount so deposited by the consumer or the person concerned shall be refunded by the Board or licensee, etc. to such consumer or person.

36. Thus, the legal position emerging from the aforesaid discussion is that the benefit of the third proviso to sub-section (1A) of Section 135 qua restoration of the supply

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of electricity disconnected under sub-section (1A) of Section 135, in the absence of any specific provision in the Supply Code notified under Section 181(2)(x) read with Section 50 of the 2003 Act, is available on deposit or payment of the amount assessed in accordance with the provisions of Section 126 of the 2003 Act read with the provisions of the Supply Code, as are applicable to cases of unauthorized use of electricity. However, since an appeal is considered as a continuation of the original proceeding, the amount so assessed under Section 126 is subject to the order in an appeal under Section 127. In consequence, the assessed amount determined in the appeal, if any, is final for the limited purpose of seeking restoration of the supply of electricity as contemplated under the third proviso to sub- section (1A) of Section 135. However, in cases of theft where a criminal complaint is filed, the determination under Sections 126 and 127, though final for the purpose of seeking restoration of the supply of electricity under the third proviso to sub-section (1A) of Section 135, is subject to the determination of the civil liability by the Special Court under sub-section (5) of Section 154 of the 2003 Act."

(emphasis supplied)

30. In the case of ***Dakshin Gujarat Vij Company (supra)***, the Supreme Court also considered the justifiability of an order passed by the High Court for restoration of electric supply on payment of half of the provisionally assessed amount. After considering the competing interest, in the face of the allegations

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of theft of electricity, the Supreme Court enunciated that, where the provisional assessment is *prima facie* arbitrary, the High Court may for reasons to be recorded order restoration of the supply by directing the writ petitioner to pay such amount out of the demanded amount which should not be less than 50% because under sub-section (2) of Section 127 of the Electricity Act, 2003, an appeal is to be entertained only upon deposit of half of the assessed amount. The observations in Paragraph nos. 38 to 40 read as under :-

> "**38.** At this stage, we shall deal with another contention made on behalf of the licensee, which is, that the direction given by the High Court for restoration of the electricity supply on payment of half of the provisionally assessed amount is too lenient a view that fails to accord due consideration to the mandate of the third proviso to sub-section (1A) of Section 135. Moreover, such lenient view, if adopted, would fail to deter those indulging in theft of electricity.
>
> **39.** In that regard, we may observe that the powers of a Constitutional Court, including the High Court, cannot be totally circumscribed by statutory provisions, though self-imposed restraints in dealing with matters which fall within the four corners of a self-contained statutory code are necessary. However, we must not be oblivious to the fact that electricity is an essential commodity necessary for both life and livelihood. Its deprivation may have serious consequences. Therefore, in an appropriate case, the High Court may be justified in exercising its

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constitutional powers to protect a person from an arbitrary action of the State and its instrumentalities including a distribution licensee. However, in cases of theft, which necessarily involves a criminal intent (i.e. mens rea), adoption of a liberal approach may not be appropriate. Rather, each case should be addressed on its own facts and if the facts so warrant, the High Court might be justified in even declining the prayer for restoration of electricity supply till entire amount, provisionally assessed, is deposited. In short, a circumspect approach is required while dealing with petitions seeking restoration of supply of electricity disconnected on ground of theft.

40. At the same time, we cannot be oblivious to the time-consuming procedure of making an assessment. An order of provisional assessment under sub-section (1) of Section 126 is to be served upon the person concerned, under sub- section (2) of Section 126 of the 2003 Act, to enable him to file an objection. Final assessment takes shape only after affording a reasonable opportunity of hearing to the person concerned. Against the final assessment, the person concerned has a right to file an appeal. This entire process of assessment may, therefore, take considerable time. In such circumstances, where the provisional assessment is prima facie arbitrary, in our view, the High Court may, for reasons to be recorded, order restoration of the supply by directing the writ petitioner to pay such amount, out of the demanded amount, which should not be less than 50%. We have said 50% because under sub-section (2) of Section 127 of the 2003 Act an appeal is be entertained only upon deposit of half of the assessed amount."

(emphasis supplied)

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31. In the light of the aforesaid enunciation of the legal position, it is deducible that even where the allegation is of theft of electricity, the "assessed amount" upon the deposit of which the licencee is enjoined to restore the electric supply under the third proviso to Section 135(1A) of the Electricity Act, 2003, means the amount that has been assessed in accordance with the provisions under Sections 126 and 127 of the Electricity Act, 2003. There is no other mechanism to determine the assessed amount than the one envisaged by Section 126 of the Electricity Act, 2003. As noted above, the assessment on account of unauthorized use of electricity subsumes in its fold the theft of electricity as in all cases of theft of electricity, there is unauthorized use of electricity. In this sense, at the stage of assessment of the amount of electricity charges on account of theft of electricity, the provisions contained in Sections 126 and 135 of the Electricity Act, 2003, converge. Therefore, the question as to whether the assessed amount in cases of theft of electricity is determined in accordance with the procedure prescribed under Section 126 of the Electricity Act, 2003, becomes relevant.

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32. It is imperative to note that, the provisions contained in the Regulations, 2021, do not prescribe a different mechanism for assessment of the amount in the cases of theft of electricity. Clause 10 of the Regulations, 2021 reads as under :-

> "**10. Theft and Unauthorised use of Electricity**
>
> **10.1 Theft of Electricity**
>
> 10.1.1 The computation of fine to be paid by the Consumer on conviction shall be as specified in Section 135 of the Act. This shall be computed for the entire period for which the dishonest abstraction, consumption or use of electricity under that Section can be clearly established by the officer authorised by the State Government in this regard :
> Provided that the Distribution Licensee shall specify and upload the methodology for computation of the fine on its website which shall not be inconsistent with the provisions of the Act/Regulations.
>
> 10.1.2 Without prejudice to the provisions of the Act, the Distribution Licensee or supplier, as the case may be, may, upon detection of such an instance of theft of electricity, immediately disconnect the supply of electricity to the premises in contention. This disconnection may involve removal of meter, electric line, electric plant and other apparatus in case of theft :
> Provided that only such officer of the licensee or supplier, as authorized for the purpose by the Commission or any other officer of the licensee or supplier, as the case may

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be, of the rank higher than the rank so authorized shall disconnect the supply line of electricity :

Provided further that pending adjudication by the appropriate court, the Distribution Licensee or supplier shall restore the supply line of electricity within Forty Eight (48) hours of payment of assessed amount without prejudice to the obligation to lodge the complaint. The assessment shall be made at a rate equal to twice the tariff applicable to the category of services and for the actual period of theft. Where the period for theft cannot be ascertained, it shall be presumed to be Twelve (12) months prior to the date of detection of such dishonest abstraction, consumption or use of electricity.

10.1.3 Where a case of theft of electricity is detected for metered connection, the units billed by the Distribution Licensee to the Consumer during the assessment period, shall be duly credited to the Consumer."

33. In the backdrop of the aforesaid legal position, reverting to the facts of the case at hand, it appears rather incontrovertible that the Respondent No. 4 has raised the electricity bill dated 27th December, 2024, on the allegations of theft of electricity. However, there is no material to indicate that, the procedure envisaged by Sections 126 and 127 of the Electricity Act, 2003, was thereafter followed. It does not appear that, the petitioner was given opportunity to raise objection to the said assessment of the electricity charges, in the manner envisaged by Section

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126 of the Electricity Act, 2003. Nor is it the case of the Respondents Nos. 1 to 4 that a final assessment order after providing an opportunity of hearing to the petitioner has been passed. What the Respondent Nos. 1 to 4 insist is that, the petitioner must pay the electricity charges and compounding charges as raised by the Respondent No. 4.

34. At this juncture, the exercise carried out by the Special Court by appointing the Electrical Inspector as a Commissioner purportedly in exercise of the power under Order XXXIX Rule 7 of the Code of Civil Procedure, 1908, deserves consideration. The Electrical Inspector has submitted a report to the effect that, the precise period of theft of electricity could not be established. Therefore, the theft of electricity should be reckoned for a period of six months preceding the date of inspection. So construing, the Electrical Inspector has arrived at the net assessment units of 16591.

35. The submissions on behalf of Respondent Nos. 1 to 4 that, the Electrical Inspector who has submitted the report is not an Assessing Officer under Section 126 of the Electricity Act, 2003, cannot be said to be unfounded. However, at an interim stage where the petitioner was seeking restoration of electric

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supply upon deposit of the amount as assessed by the Electrical Inspector, especially in the absence of the final assessment as envisaged by Section 126 of the Electricity Act, 2003, the report of the Electrical Inspector appointed as a Court Commissioner cannot be said to be bereft of any value.

36. Another factor which assumes critical salience is the demand of electricity charges by the Respondent No. 3 for an assessment period of 22 months. As noted above, under sub-section (5) of Section 154 of the Electricity Act, 2003, the Special Court shall determine the civil liability at the specified rate for a period of 12 months preceding the date of detection of theft of energy or the exact period of theft if determined whichever is less. Under Regulations, 2021 under clause 10.1.2, the provisional assessment shall be made at a rate equal to twice the tariff applicable to the category of services and for the actual period of theft and where the period for theft cannot be ascertained it shall be presumed to be 12 months prior to the date of detection of such dishonest, abstraction, consumption or use of electricity. In the face of the report of the Electrical inspector that, the exact period of theft of electricity could not be established, *prima facie*, the assessment for a term of 22 months may suffer from the vice of arbitrariness, apart from

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being contrary to the text of Section 154(5) of the Electricity Act, 2003, albeit for the purpose of final adjudication of civil liability.

37. The case at hand, in the considered view of this Court, falls in the category of cases in which this Court in exercise of the writ jurisdiction may direct the restoration of the electric supply to the subject plant as it has been disconnected for almost two years and the final determination of the civil liability may take considerable time.

38. For the foregoing reasons, this Court is inclined to direct the Respondent Nos. 1 to 4 to restore the electric supply upon payment of 50% of the electricity charges demanded by the Respondent No. 4 under the bill raised on 27th December, 2024 i.e. Rs. 11,46,705/- (Rupees Eleven Lakhs Forty Six Thousand Seven Hundred and Five) and the reconnection charges, if any.

39. The petition, therefore, deserves to be partly allowed. Hence, the following order :-

: : O R D E R : :

I) The Writ Petition stands partly allowed.

II) The impugned order dated 29th January, 2026, stands quashed and set aside.

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III) The Respondent Nos. 1 to 4 are directed to restore the electric supply to two electric meters bearing Consumer Nos. 061548005271 and 061540803624 within a period of three days of deposit of 50% of bill amount i.e. Rs. 11,46,705/- (Rupees Eleven Lakhs Forty Six Thousand Seven Hundred and Five) and the reconnection charges, if any, by the petitioner under specific intimation to Respondent No. 4.

IV) By way of abundant caution, it is clarified that the Special Court shall not be influenced by any of the aforesaid observations while finally determining the civil liability under Section 154(5) of the Electricity Act, 2003.

V) Rule made absolute to the aforesaid extent.

No costs.

[N. J. JAMADAR, J.]

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