

Present for:

M/s Himalaya International Ltd.
...Petitioner

Sh. Rahul Mahajan
Advocate

H.P. State Electricity Board
... Respondent

Sh. Satyen Vaidya
Advocate
Er. V.K. Kanwar
A.E.

Order

The petition is still to be considered on merits. While disposing of the Appeal No.78 of 2007 the Appellate Tribunal has not considered the question of jurisdiction of the Commission to adjudicate such claims, and has not ruled either way on the same. Sh Rahul Majahan, Advocate for the petitioner firm has, therefore, requested for permission to withdraw this petition, with liberty to seek effective remedy by agitating his claim either before the Forum/ State Consumer Commission under the Consumer Protection Act, 1986 or in a Court of competent judicature. Harmonious reading of the provisions of sub-sections (5), (6), (7) and (8) of section 42; section 173 and section 175 of the Electricity Act, 2003, is indicative of the fact that the consumer is free to invoke statutory provisions under any other law for the time being in force . The Consumer Protection Act, 1986 has the overriding effect. Further section 175 of the Electricity Act, 2003, stipulates that the said enactment is in addition to other laws in force and not in derogation. In light of the above, the Commission allows the petitioner to withdraw his petition, with the liberty to file it before the Forum/Court available to him under the law in force.

Dated: 24.5.2008

(Yogesh Khanna)

Chairman