

**COURT-II**  
**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY**  
**(Appellate Jurisdiction)**

**DFR No. 245 of 2018**

**Dated: 5<sup>th</sup> April, 2018**

**Present: Hon'ble Mr. Justice N.K. Patil, Judicial Member**  
**Hon'ble Mr. S.D. Dubey, Technical Member**

**In the matter of:**

**M/s Jai Balaji Industries Limited**

**... Appellant(s)**

**Vs.**

**State of Chhattisgarh & Anr.**

**... Respondent(s)**

Counsel for the Appellant (s) : Mr. Ankit Pandey  
Mr. Kaustubh Shukla

Counsel for the Respondent(s) : Mr. C.S.Khandey  
Chief Electrical Inspector  
State of Chhattisgarh

Mr. Sakesh Kumar for R-2

**ORDER**  
**(On Maintainability)**

Heard the learned counsel, Mr. Ankit Pandey appearing for the Appellant, Mr. C.S. Khandey representing party-in-person/first Respondent, Chief Electrical Inspector, State of Chhattisgarh and the learned counsel, Mr. Sakesh Kumar, appearing for the second Respondent regarding maintainability of the Appeal.

After careful perusal of the material available on record, what is emerged that the Appellant has filed application under Order IX Rule 13 read with section 94 of the Electricity Act and also filed an application for condonation of delay under section 5 of the Limitation Act 1963 to quash and set-aside the impugned Order dated 27.11.2017 passed by the second Respondent in Review Petition No. 53 of 2017(M).

Instead of considering the said application on merits, the second Respondent, without application of mind, treated the same as a review petition and without giving reasonable opportunity of hearing to the Appellant, passed the said ex-parte Order on misconception notion. Therefore, we are of the considered opinion that the appeal is

maintainable against the Order passed on the basis of the application filed by the Appellant for setting aside the ex-parte order as envisaged in the relevant provisions of Electricity Act and Rules. Hence, we hold that the instant application filed by the Appellant, being DFR No. 245 of 2018, is maintainable.

Registry is directed to assign a regular number to the appeal.

**(S.D. Dubey)**  
**Technical Member**

**(Justice N.K. Patil)**  
**Judicial Member**

*js/vt*