

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 5700 of 2023****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK**

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Approved for Reporting	Yes	No

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EXECUTIVE ENGINEER(O AND M), PASHCHIM GUJARAT VIJ COMPANY
LIMITED
Versus
M/S PATEL COTTON INDUSTRIES & ANR.

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Appearance:
MS LILU K BHAYA(1705) for the Petitioner(s) No. 1
NOTICE SERVED for the Respondent(s) No. 2
PARAM V SHAH(9473) for the Respondent(s) No. 1

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**CORAM: HONOURABLE MR. JUSTICE HEMANT M.
PRACHCHHAK**

Date : 27/03/2026**JUDGMENT**

1. Rule returnable forthwith. Learned counsel Mr. Param Shah, waives service of notice of Rule for and on behalf of the respondent No.1.
2. With the consent of the learned counsel appearing for the respective parties, the petition has been taken up for final hearing today.
3. By way of present petition under Articles 226 & 227 of the Constitution of India read with the provisions of the Gujarat Electricity

Regulatory Commission (Electricity Supply Code and related matters) Regulations, 2005 (hereinafter be referred to as "*the Regulations*"), petitioner has prayed for the following reliefs :

"a) To allow this petition.

b) To issue a writ of mandamus or a writ in the nature of mandamus or a writ of certiorari or a writ in the nature of certiorari or any other appropriate writ, order or direction quashing and setting aside the order dated 12.4.2022 (Ann-A) passed by the Electricity Ombudsman, Gujarat State, Ahmedabad in Case No.82 of 2021 directing petitioner to revise energy bills from March, 2019 onwards and refund any additional amount if collected by way of refund and also quash and set aside order dated 13.7.2022 (Ann-B) passed by Electricity Ombudsman in Case No.82/2021 (Under Review).

c) To stay, the execution, implementation and operation of the order dated 12.4.2022 (Ann-A) passed by the Electricity Ombudsman, Gujarat State, Ahmedabad in Case No.82 of 2021 directing petitioner to revise energy bills from March, 2019 onwards and refund any additional amount if collected by way of refund and also quash and set aside order dated 13.7.2022 (Ann-B) passed by Electricity Ombudsman in Case No.82/2021 (Under Review).

d) To grant ad-interim relief in terms of Para-9(C).

e) To award cost of this petition.

f) To grant such other and further relief as may be deemed fit by this Hon'ble Court in the interest of justice."

4. Brief facts giving rise to the present petition are that, the respondent No.1 is HT consumer of petitioner vide consumer no.17516 and availed benefits of seasonal consumer under HTP-I tariff having contract demand of 1000 KVA. That, the respondent No.1 is covered under seasonal tariff and Clause-14.11 of Tariff speaks about Seasonal Consumers taking HT Supply. That, the respondent No.1 approached Consumer Grievance Redressal Forum by filing complaint contending that its billing was done as per tariff order issued by GERC upto February, 2019 for recovery of demand charges and till then, demand charges were recovered for actual demand utilized by it in on seasonal period. That, the respondent No.1 further contended that

thereafter, from March, 2019 the petitioner issued bill and recovery of demand charges were made as if the respondent No.1 was not seasonal consumer. That, the respondent No.1 demanded refund of demand charges recovered from it from March, 2019 to May, 2021. That, the petitioner appeared and filed reply and contended that before April, 2019, the calculation of demand charges in respect of seasonal consumer during on season period were as per the highest of Actual demand recorded during billing month, 100 KVA whereas, during off season no demand charges were calculated. That, GUVNL has corrected the existing HT billing software and logic of calculation of demand charges as per tariff provision to remove ambiguity between tariff order and logic of HT Billing. That, the CGRF, after hearing parties held that there was no dispute that respondent No.1 has opted for seasonal tariff under the provisions of seasonal tariff as per the GERC tariff order. That, the CGRF, after reproducing provisions of Clauses-14.11.1, 14.11.2, 14.11.3, 14.11.5 and 14.11.6 held that the demand of respondent No.1 was not in accordance with GERC tariff provision. That, the GERC accordingly, vide its order dated 18.08.2021 did not accept the complaint of the respondent No. 1. Being aggrieved by the same, the respondent No.1 approached the Electricity Ombudsman, Gujarat State, Rajkot by filing application being Case No.82 of 2021, whereby, the Electricity Ombudsman after hearing the parties vide judgment and order dated 12.04.2022 directed petitioner to continue with prevailing billing system i.e. billing prior to March, 2019 in such type of cases and directed to revise the energy bills for the month of March, 2019 onwards as per the prevailing practice and also directed that, any additional amount if, collected by way of such type of billing, be refunded to the accounts of the respondent No.1 by giving credit into the next bill. That, against the said order, petitioner preferred Review Application before the

Electricity Ombudsman, which came to be rejected by the Electricity Ombudsman vide judgment and order dated 13.07.2022.

5. Being aggrieved and dissatisfied with the inaction on the part of the respondent No.2, the petitioner has preferred this petition.

6. Heard Ms. Lilu K. Bhaya, learned counsel appearing for the petitioner and Mr. Param Shah, learned counsel appearing for the respondent No.1.

7. Learned counsel Ms. Bhaya has submitted that the learned Ombudsman has failed to appreciate the provisions of Clause-14.11 of the tariff order while rejecting the review application preferred by the present petitioner. She has submitted that there was no tariff refund and it was by mistake calculated and on analysis of the HT Billing Software, it was found that there was inadvertent mistake in the same and therefore, consumers were being charged improperly. She has submitted that merely because the computer has incorrectly calculated any tariff, there is no question of any refund of tariff nor they have revised their billing method and therefore, under such circumstances, the respondent authority has passed the order and observed that the amount which is deposited by the respondent No.1 is to be refunded or to be deducted in the next bill by the petitioner.

8. I have heard the learned counsel appearing for the respective parties and perused the material placed on record. It appears from the record that the respondent authority has not considered the facts in its true and proper spirit, as there was no question of any modification in the billing method on the basis of the tariff refund but, there was some inadvertent mistake while calculating the bill and

therefore, this Court is of the opinion that without entering into the merits, the matter is required to be remanded back to the concerned respondent authority for deciding the issue afresh.

9. In the result, the present petition is partly allowed. The impugned order dated 12.04.2022 passed by the learned Electricity Ombudsman, Gujarat State, Rajkot in Case No. 82 of 2021 is hereby quashed and set aside. The matter is remanded back to the concerned respondent authority for deciding the issue afresh, after affording proper opportunity to all the concerned parties, which shall be decided by the respondent authority in accordance with law, as expeditiously as possible. In the meantime, the interim relief, granted by this Court vide order dated 17.04.2023, is hereby vacated. It is open for all the concerned parties to raise all the contentions available in the eye of law. Rule is made absolute to the aforesaid extent. There shall be no order as to costs.

(HEMANT M. PRACHCHHAK,J)

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