

COURT-II

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)**

**ORDER IN APPEAL NO. 50 OF 2016
ON THE FILE OF THE
APPELLATE TRIBUNAL FOR ELECTRICITY NEW DELHI**

Dated: 26th April, 2018

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

In the matter of:

Mohit Industries Limited
Registered Office: A/601B,
International Trade Center,
Majura Gate, Ring Road,
Surat-395 002, Gujarat

...Appellant(s)

Versus

1. Gujarat Electricity Regulatory Commission
6th Floor, GIFT One, GIFT City Road-5C,
Zone-5, District Gandhinagar,
Gujarat-382355

2. Gujarat Urja Vikas Nigam Limited
Race Course Circle, Saradar Patel
Vidyut Bhawan,
Vadodara-390007

3. Dakshin Gujarat Vij Company Limited
Nana Varachha Road
Nr. Kapodara Char Rasta,
Surat-395 006

... Respondent(s)

Counsel for the Appellant(s) : Mr.Sakie Jakharia

Counsel for the Respondent(s) : Ms. Suparna Srivastava
Mr. Sanjana Dua for R-1

Mr. M.G. Ramachandran
Ms. Ranjitha Ramachandran for R-2

ORDER

PER HON'BLE JUSTICE N.K PATIL, JUDICIAL MEMBER

The Appellant has sought the following reliefs in Appeal No. 50 of 2016:

In view of the facts mentioned in paragraph no. 7 above and the points for determination and Grounds set out in paragraph nos. 8 and 9 above, the Appellant prays for the following reliefs:

- A. *Set aside the Impugned Order No. 1 of 2015 dated 30.03.2015 passed by the Respondent No. 1 and annexed at Annexure-A1 hereto;*
- B. *Pass such order/direction as this Hon'ble Tribunal may deem fit.*

The Appellant presented this appeal for considering following question of law:

- i). *Whether it was open to the Respondent No. 1 to have determined and enhanced Additional Surcharge for the period April 2014 to September 2014 without inviting Objections on the date submitted by the Distribution Licensees and affording opportunity of hearing to the Appellant and affected parties;*
- ii). *Whether it was open to the respondent No. 1 to have considered the entire average quantum of power allowed for Open Access as Stranded Capacity for which the Distribution Licensees are entitled to be compensated under Section 42(2) of the Act;*
- iii). *Whether it was open to the Respondent No. 1 to have determined Additional surcharge without considering the actual backing down date in 15 minutes time block and without considering date with respect to power procured by Distribution Licensees during the period of backing down;*
- iv). *Whether T & D charges payable to discom by OA consumers should be calculated on total energy consumed by OA consumers instead of OA scheduled energy. OA consumers are already paying all charges (DC, EC, ToU, FS etc) for energy consumed from discom. That takes care of T & D charges payable by OA consumers for energy consumed from discom.*
- v). *Whether the Respondent No. 1 is justified in determining and applying Additional Surcharge on existing Open Access Consumers merely on account of the fact that a Short Term Open Access Consumer has to seek Standing Clearance periodically.*

1. The Appellant questioning the legality and validity of the Impugned Order dated 30.03.2015 in Order No. 1 of 2015 on the file of the Gujarat Electricity Regulatory Commission, Gandhinagar / Respondent No. 1, presented the instant Appeal.
2. We have heard Ms. Sakie Jhakaria, learned counsel appearing for the Appellant for quite some time. During the course of the submissions, on instructions of the Appellant, submitted that the instant appeal filed by the Appellant may be dismissed as withdrawn and reserving liberty to the Appellant to redress their grievances before the future tariff proceedings in the interest of justice and equity.
3. The learned counsel Ms. Suparna Srivastava, appearing for Respondent No. 1 and Ms. Ranjitha Ramachandra, appearing for Respondent No. 2, inter-alia contended and submitted that the submissions made by the learned counsel appearing for the Appellant, as stated above may be placed on record. An appropriate order may kindly be passed in the light of the submissions made by the learned counsel appearing for the Appellant.
4. The submissions made by the learned counsel appearing for the Appellant and the submissions made by the learned counsel appearing for the Respondents, as stated above, are placed on record.
5. In the light of the submissions made by the learned counsel appearing for both the parties, as stated above, in the instant appeal filed by the Appellant is dismissed as withdrawn, reserving liberty to the Appellant to redress their grievances before Gujarat Electricity Regulatory Commission, Gandhinagar in future tariff proceedings, if they so advise or need arises in the interest of justice and equity.

With these observations, the instant appeal, Appeal No. 50 of 2016 filed by the Appellant, stands disposed of.

Order accordingly.

(S.D. Dubey)
Technical Member

(Justice N.K. Patil)
Judicial Member