

**Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)**

APPEAL NO. 48/11 & IA-84/11

Dated: 20th July, 2011

**Present : Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson
Hon'ble Mr. M. B. LAL, Technical Member (P&NG)**

Sabarmati Gas Ltd.

... Appellant/Petitioner(s)

Versus

**Petroleum & Natural Gas Regulatory Board & Ors.
Advatech Cera Tiles Ltd.**

**... Respondent (s)
....Respondent -2**

Counsel for the Appellant(s) : Mr. Apsi M.Kapadia
Mr. Prashant Kalra
Mr. Adit S.Pujari

Counsel for the Respondent (s) : Ms. Sampada Narang
Mr. Rakesh Dewan for R-1

ORDER

We have heard the learned counsel for both the parties. This is an Appeal filed by the Appellant challenging the order of the Respondent Board holding that it has got jurisdiction to go into the dispute in question.

1. According to the learned counsel for the Appellant, the agreement dated 13.04.2010 provides for arbitration clause to resolve the disputes, if any, between the parties and, therefore, the Petroleum Board has no jurisdiction over the issue under dispute.

2. According to the learned counsel for the Board, payment of Minimum Billing Quantity charges is for the period prior to the agreement dated 13.04.2010 and so it can be resolved only by the Board and not through arbitration.

3. We have carefully considered their respective submissions.

4. As rightly pointed out by the learned counsel for the Board, the claim made by the Appellant with regard to Minimum Billing Quantity charges was in relation to the period between May 2009 and October 2009, which is evident from the letter of the Appellant dated 25.03.2009. As such, the claim made by the Appellant is in relation to the period prior to the date of agreement entered on 13.04.2010. Hence, the Board has taken the view that it has jurisdiction over this matter. This finding, in our view, is perfectly justified.

5. However, we noticed that there is a very monstrous prayer, in the complaint which has been made by the complainant , the second Respondent, seeking for the direction from the Board for the award of damages and impunity damages to the tune of Rs.102 crores. This prayer cannot be considered to be in relation to the main issue in any manner. Similarly, the prayer for declaration that some of the provisions of the agreement dated 13.4.2010 are not valid, is again an unrelated and preposterous prayer. Therefore, these prayers need not be gone into by the Board.

6. In view of the dispute being related to the period prior to the date of agreement, we consider that the Board has got jurisdiction to inquire into the matter with reference to the prayer (a) and (b) alone and not with reference to other prayers (c) to (f) contained in the complaint.

7. So, the Board is directed to go into the said dispute and dispose of the matter as expeditiously as possible. At the end, the learned counsel for Appellant submits that the Appellant is likely to consider to waive their claim. If it is so, it may be represented to the Board and in that event, the Board may consider the same and pass the appropriate orders.

8. With these observations, the Appeal is disposed of.

No order as to costs.

(M. B. LAL)
Technical Member (P&NG)

(Justice M. Karpaga Vinayagam)
Chairperson

/pkj

