

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

**REVIEW PETITION No. 1 OF 2025**  
**IN**  
**APPEAL NO. 341 OF 2017**

Dated : 8<sup>th</sup> April, 2025

Present: Hon'ble Mr. Sandesh Kumar Sharma, Technical Member  
Hon'ble Mr. Virender Bhat, Judicial Member

**In the matter of:**

**1. Surat Citizens Council Trust**

Through its President  
Shri Sharad Champaklal Kapadia  
205/206, Tirupati Plaza  
Beside Collector's Office  
Nanpura, Surat – 395 001.  
Email: [bizcon.kapadia@gmail.com](mailto:bizcon.kapadia@gmail.com)

**... Review Petitioner**

*Versus*

**1. Gujarat Electricity Regulatory Commission**

Through its Secretary  
6<sup>th</sup> Floor, GIFT ONE  
Road 5C, Zone 5, GIFT City  
Gandhinagar – 382 355 (GUJARAT)  
Email: [secretary@gercin.org](mailto:secretary@gercin.org)

**2. Torrent Power Ltd.**

Through its Vice President (Corporate Affairs)  
Electricity House  
Lal Darwaja, Ahmedabad – 380 001 (GUJARAT)  
Email: [cs@torrentpower.com](mailto:cs@torrentpower.com)

**3. The Southern Gujarat Chamber of Commerce & Industry**

'Samruddhi", Makai Pool  
Through its President

Nanpura, Surat – 395001  
Email: [bsagrawal1946@gmail.com](mailto:bsagrawal1946@gmail.com)

...Respondents

Counsel for the Appellant(s) : Akshit Pradhan for App.1  
Counsel for the Respondent(s) : C.K. Rai  
Anuradha Roy  
Vinay Kumar Gupta for Res. 1  
Deepa Chavan, Ld. Sr. Adv.  
Anand K. Ganesan  
Swapna Seshadri  
Aishwarya Subramani  
Harsha V Rao for Res. 2

## ORDER

### PER HON'BLE MR. VIRENDER BHAT, JUDICIAL MEMBER

1. The Petitioner is seeking review of our judgement dated 12<sup>th</sup> August, 2024 passed in Appeal No. 341 of 2017 wherein it was held that the Petitioner/Appellant Trust cannot be termed as “Aggrieved Person” and thus, is not competent to maintain the appeal against the impugned tariff order under Section 111 of the Electricity Act, 2003. Accordingly, the appeal was dismissed as “Not Maintainable”.

2. The review of the said judgement has been sought on the following grounds:-

- a) There is no provision in the Act which states that only “consumer” qualifies as “aggrieved person”. An organization, such as Review Petitioner, which is furthering

the cause of citizen also qualifies as “aggrieved person” entitling to maintain the appeal against the tariff order.

- b) Instead of examining whether the Petitioner/Appellant was aggrieved by the multi-year tariff order or not, this Tribunal has erroneously embarked up into examining whether the Petitioner/Appellant qualified as “Consumers” as defined under Section 2(15) of the Electricity Act, 2003.
- c) The Tribunal has committed a patent error in holding that the Petitioner/Appellant has nowhere pleaded that it is occupying the premises at 206, Tirupati Plaza whereas the Petitioner/Appellant is the owner of the said premises.
- d) The 2<sup>nd</sup> Respondent itself has, vide letter dated 22<sup>nd</sup> August, 2024 affirmed the fact that it was supplying the electricity to the Petitioner/Appellant from 30<sup>th</sup> June, 2000 in the said premises and from 18<sup>th</sup> November, 1998 at Flat No. 2/B, Harsh Co-op Housing Society Ltd., which also falls under the jurisdiction of the 2<sup>nd</sup> Respondent.
- e) The bank statements of the Petitioner/Appellant from the Financial Years 2016 to 2024 show that it was paying electricity bills to 2<sup>nd</sup> Respondent from the said premises.
- f) An Independent Practitioner’s Certificate dated 11<sup>th</sup>

September, 2024 obtained by the Petitioner from an independent Chartered Accountant firm also states that it is operating from the said premises.

- g) The income-tax returns of the Petitioner/Appellant from assessment year 2019-22 to assessment year 2023-24 also mention the same address of the Petitioner/Appellant.
- h) The Trust deed of the Petitioner/Appellant has erroneously been disregarded by this Tribunal which unequivocally states that the Petitioner/Appellant has its operations in Surat and its initial address was also in Surat, Gujarat.

3. We have heard Learned Counsel for the Petitioner/Appellant as well as the Learned Counsels appearing for Respondent Nos. 1 & 2. We have also considered the written notes/submissions filed by the Learned Counsels as well as the judgements relied upon by them.

4. At the outset, we may note that Section 114 of CPC is the substantive provision dealing with scope of review and is quoted below:

*“114. Review.—Subject as aforesaid, any person considering himself aggrieved—*

*(a) by a decree or order from which an appeal is allowed by this Code, but from which no appeal has*

*been preferred.*

*(b) by a decree or order from which no appeal is allowed by this Code, or*

*(c) by a decision on a reference from a Court of Small Causes, may apply for a review of judgment to the Court which passed the decree or made the order, and the Court may make such order thereon as it thinks fit.”*

5. The grounds on which review of a judgment / order can be sought, have been specified in Order XLVII of the CPC which are reproduced herein below: -

*“1. Application for review of judgment.—(1) Any person considering himself aggrieved—*

*(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,*

*(b) by a decree or order from which no appeal is allowed, or*

(c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.

(2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applied for the review.

*Explanation.—The fact that the decision on a question of law on which the judgment of the Court is based has been reversed or modified by the subsequent decision of a superior Court in any other case, shall not be a ground for the review of such judgment.”*

*(Emphasis supplied)*

6. A bare reading of these relevant legal provisions would make it clear that an application for review of a judgment / order is maintainable upon (i) discovery of a new and important matter or evidence which, after exercise of due diligence, was not within the knowledge of the review applicant or could not be produced by him when the judgment / order was passed; or (ii) on account of some mistake or error apparent on the face of record; or (iii) for any other sufficient reason.

7. The expression “error apparent on the face of record” used in Order XLVII Rule 1 indicates an error which is self-evident and staring in the eye. Any error or mistake which is not self-evident and has to be deducted from a process of reasoning cannot be said to be an error

apparent on the face of record justifying exercise of power of review. Power of review can be exercised only where a glaring omission or a patent mistake is found in the order under review. We may also note that the power of review can be exercised only for correction of a patent mistake but not to substitute a view for the reason that a review petition cannot be permitted to be an appeal in disguise.

8. *In Chhajju Ram v. Neki Ram AIR 1922 PC 112*, it was held that the

words “any other sufficient reason” appearing in Order XLVII Rule 1 CPC must mean “a reason sufficient on grounds at least analogous to those specified in the rule”. This interpretation was approved by the Supreme Court in later judgment in *Moran Mar Basselios Catholicos v. Most Rev. Mar Poulouse Athanasium 1955 1 SCR 520*. In *Kamlesh Verma v. Mayawati & Ors. (2013) 8 SCC 320*, Hon’ble Supreme Court has succinctly summarized the principles for exercising review jurisdiction as under:-

*“20. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the stature:*

*20.1 When the review will be maintainable:*

(i) *Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;*

(ii) *Mistake or error apparent on the face of the record;*

(iii) *Any other sufficient reason.*

*The words “any other sufficient reason” have been interpreted in Chhajju Ram v. Neki and approved by this Court in Moran Mar Basselios Catholicos v. Most Rev. Mar Poulouse Athanasius to mean “a reason sufficient on grounds at least analogous to those specified in the rule”. The same principles have been reiterated in Union of India v. Sandur manganese & Iron Ores Ltd.*

20.2 *When the review will not be maintainable:*

(i) *A repetition of old and overruled argument is not enough to reopen concluded adjudications.*

(ii) *Minor mistakes of inconsequential import.*

(iii) *Review proceedings cannot be equated*

*with the original hearing of the case.*

*(iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.*

*(v) A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error.*

*(vi) The mere possibility of two views on the subject cannot be a ground for review.*

*(vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.*

*(viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.*

*(ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negatived.”*

9. We also find advantageous to quote here following Paragraphs of the judgment of the Hon'ble Supreme Court in S. Madhusudhan Reddy v. V.

Narayana Reddy & Ors. (2022) SCC OnLine SC 1034:-

*“31. As can be seen from the above exposition of law, it has been consistently held by this Court in several judicial pronouncements that the Court’s jurisdiction of review, is not the same as that of an appeal. A judgment can be open to review if there is a mistake or an error apparent on the face of the record, but an error that has to be detected by a process of reasoning, cannot be described as an error apparent on the face of the record for the Court to exercise its powers of review under Order XLVII Rule 1 CPC. In the guise of exercising powers of review, the Court can correct a mistake but not substitute the view taken earlier merely because there is a possibility of taking two views in a matter. A judgment may also be open to review when any new or important matter of*

evidence has emerged after passing of the judgment, subject to the condition that such evidence was not within the knowledge of the party seeking review or could not be produced by it when the order was made despite undertaking an exercise of due diligence. There is a clear distinction between an erroneous decision as against an error apparent on the face of the record. An erroneous decision can be corrected by the Superior Court, however an error apparent on the face of the record can only be corrected by exercising review jurisdiction. Yet another circumstance referred to in Order XLVII Rule 1 for reviewing a judgment has been described as “for any other sufficient reason”. The said phrase has been explained to mean “a reason sufficient on grounds, at least analogous to those specified in the rule” (Refer: Chajju Ram v. Neki Ram and Moran Mar Basselios Catholicos v. Most Rev. Mar Poulouse Athanasius).”

**10.** In the case at hand, the averments made in the Review Petition

and the submissions made by the petitioner's counsel clearly indicate that, according to the petitioner, the judgement dated 12.08.2024 is erroneous as it is contrary to legal provisions. Therefore, the Review Petition is patently not maintainable. Such an erroneous decision can be assailed only by way of appeal.

**11.** Further, it is evident from the contents of the Review Petition as well as from the submissions made by its counsel that the review of judgement dated 12<sup>th</sup> August, 2024 is being sought on the basis of certain documents, i.e. letter dated 22<sup>nd</sup> August, 2024 stated to be issued by 2<sup>nd</sup> Respondent to the Petitioner, bank accounts statement of the petitioner, independent practitioner's certificate dated 11<sup>th</sup> September, 2024 in the name of the petitioner and income tax returns of the petitioner which were not filed along with the appeal. As such there was no occasion for this Tribunal to consider these documents at the time of passing the judgement under review. It is nowhere contended by the petitioner in the entire petition that these documents were not within its knowledge before passing of the judgment under review by this Tribunal or were discovered by it after the said judgement was passed or could not have been known /obtained by it despite exercise due diligence. Undisputedly, the bank account statements and the income tax returns were always available with the petitioner and it deliberately chose not to

file with those along with the appeal to support its contention that it is competent to maintain the appeal. So far as letter dated 22<sup>nd</sup> August, 2024 and its independent practitioner certificate dated 11<sup>th</sup> September, 2024 are concerned, these also have been obtained by the petitioner after passing of the judgement under review by this Tribunal purportedly to create a ground for filing of the instant review petition.

**12.** In paragraph numbers 7 onwards of the judgement under review, which we are not reproducing herein to avoid unnecessary lengthening of this order, we have very clearly discussed and explained why the petitioner/Appellant cannot be considered as “aggrieved person” to maintain the appeal under Section 111 of Electricity Act, 2003 against the multi-year tariff order dated 19<sup>th</sup> June, 2017 issued by the 1<sup>st</sup> Respondent. We have taken note of all the documents on record in coming to the conclusion that the Appellant petitioner is not competent to file the appeal against the said tariff order. We have also considered the trust deed filed by the petitioner which neither shows that the petitioner trust has its office at “Samruddhi”, Nanpura, Surat, Gujarat nor that the trust was created with the object to espouse the rights of citizens qua the public utility services including the supply of electricity. As per the electricity bills issued by the Respondent, which were produced before us during the course of hearing by the Appellant, the name of the consumer

is M/s. Samarpan Organisers Pvt. Ltd. and not the Petitioner. This fact is conceded by the Petitioner itself in paragraph No. 3(8) of the Review Petition while stating that the petitioner has filed name change application dated 20<sup>th</sup> August, 2024 in respect of the said electricity connection bearing No. 5004392439 as the said connection was in the name of M/s. Samarpan Organisers Pvt. Ltd. from whom the petitioner has purchased the premises in the year 2001. Patently, the said name change application has also been filed after the judgement under review was passed by this Tribunal.

**13.** Therefore, it was correctly held by us in the judgement under review that the petitioner trust neither has its office within the area of supply of 2<sup>nd</sup> Respondent nor is it the consumer of electricity in that year.

**14.** We find that in the grab of this Review Petition, the petitioner is seeking re-hearing of this appeal on merits, which is not permissible under law. The petitioner has miserably failed to demonstrate any patent error in the judgement dated 12.08.2024 which may convince us to invoke our review jurisdiction. The petitioner merely wants re-appreciation of evidence in the grab of Review Petition, which cannot be allowed.

**15.** Hence, we are of the considered view that the judgement dated 12<sup>th</sup> August, 2024 does not suffer from any error apparent on the face of the

record. There is a marked distinction between a judgement from an error apparent on the face of record and an erroneous judgement. An erroneous judgement can be assailed only by way of Appeal before higher forum. Therefore, in case in the opinion of the petitioner, the judgement under review is erroneous, it may impugn the same by way of an appeal before the Hon'ble Supreme Court, if so advised. The instant review petition is clearly misconceived.

**16.** In view of the above, no merit is found in the Review Petition and the same is hereby dismissed.

Pronounced in the open court on this 8<sup>th</sup> day of April, 2025.

(Virender Bhat)  
Judicial Member

(Sandesh Kumar Sharma)  
Technical Member (Electricity)

✓

*REPORTABLE / NON-REPORTABLE*

*js*