IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 13053 of 2024

With
R/SPECIAL CIVIL APPLICATION NO. 14920 of 2025

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK

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Approved for Reporting	Yes	No

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AMUL CRANKSHAFT PRIVATE LIMITED
Versus
EXECUTIVE ENGINEER (O AND M), PGVCL & ANR.

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Appearance:
PRIYAL M PARIKH(7593) for the Petitioner(s) No. 1
MR VAIBHAV SHARMA, ASST. GOVERNMENT PLEADER for the Respondent(s) No. 2
MS LILU K BHAYA(1705) for the Respondent(s) No. 1

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

Date : 02/04/2026

COMMON JUDGMENT

1. Since common issue is involved in the captioned writ petitions, the same are heard analogously and are being decided by this common judgment.

2. Rule returnable forthwith. Learned counsel Ms. Lilu K. Bhaya, waives service of notice of Rule for and on behalf of the respondent No.1 and learned Assistant Government Pleader Mr. Vaibhav Sharma, waives service of notice of Rule for and on behalf of the respondent No.2.

3. With the consent of the learned counsel appearing for the respective parties, the petitions have been taken up for final hearing today.

4. By way of present petitions under Article 226 of the Constitution of India read with the provisions of the Electricity Act, 2003 (hereinafter be referred to as "*the Act*"), the respective petitioners have challenged the order dated 15.12.2021 passed by the respondent No.2 – Chief Electrical Inspector and Appellate Authority, Gandhinagar (hereinafter be referred to as "*the Appellate Authority*") in Appeal No. 1 of 2021 pursuant to the remand application heard by the respondent No.2 in furtherance of the order dated 24.11.2021 passed by the Division Bench of this Court in Letters Patent Appeal No. 874 of 2021. By virtue of the impugned order dated 15.12.2021, the learned Appellate Authority has directed the respondent No.1 herein to recalculate the final assessment bill for unauthorized use of electricity at twice the rate and deduct the charges already recovered therefor from the present petitioner during the period of assessment. It was also directed that the amount deposited by the present petitioner be adjusted / refunded against the bill so recalculated.

5. In view of the fact that Special Civil Application No. 13053 of 2024 is treated as lead matter, facts mentioned in the said Special Civil Application are considered. It is the case of the petitioner that, the Petitioner had established its manufacturing unit in Shed No.2 of Ashish Industrial Compound and for expansion of their business, the petitioner set-up an additional manufacturing unit adjoining to the existing facility by taking on lease the shed admeasuring 702 sq. mtrs. of Aarcee Precision Casting Pvt. Ltd. That, for the purpose of

catering to the power requirements of the new unit, the petitioner vide its letter dated 16.04.2010 informed PGVCL that it had taken on lease the adjoining shed and requested to consider both sheds as their premises. It was also mentioned in the said letter that the petitioner would obtain the wiring approved by the Electrical Inspector. That, the PGVCL replied to the aforesaid letter asking the petitioner to furnish the ownership documents of the shed of Aarcee Precision Casting Pvt. Ltd. within 10 days and in response to the same, the petitioner provided the required ownership documents to the PGVCL. That, the PGVCL replied to the above letter, *inter alia*, informing that upon perusal of the documents it is found that the premises which is sought to be amalgamated/merged has been granted on special conditions for a different purpose and on a different survey number and that in no circumstances the said premises can be amalgamated/merged with the existing premises. It was further mentioned in the above letter that it was a case of breach of conditions of grant of land and that therefore, as per the rules and regulations of the PGVCL the application of the petitioner is rejected. That, in response to the above, the petitioner replied vide a letter informing, inter alia, that the adjoining land of Aarcee Precision Casting Pvt. Ltd. was also granted for Industrial purpose and that there is no case of breach of conditions.

5.1 It is further the case of the petitioner that, the PGVCL vide letter dated 17.09.2010 informed the petitioner that apropos to the Development Permission granted by Rajkot Urban Development Authority, as per the Special Condition No.3, the petitioner was required to produce a "No Objection Certificate" from Rajkot Urban Development Authority within 10 days. In response thereto, the petitioner informed the PGVCL that the abovementioned condition in

Development Permission of RUDA relates to regularization fees and thus the same is not applicable to it and only the PGVCL - Distribution License was required to verify the N.A. order. That thereafter, an officer of PGVCL came for checking the HT installation at the abovementioned premise, however, in the 'checking sheet' prepared by the officer, no observation regarding unauthorized utilization of electrical power was made. That, the petitioner provided ‘Work Completion Report' to PGVCL and requested for site inspection and requested for requisite permission. That, the petitioner also informed PGVCL that the wiring for extension of power supply to adjoining shed was completed and the ‘Work Connection Report’ had already been filed with the Office of the Electrical Inspector. That, the petitioner also submitted the Test Report, Work Commencement and Completion Report and receipt of the fees paid. That, more than 9 months after the aforesaid development, a checking team of PGVCL arrived at the premise of the petitioner for inspection of the HT Installation and a Rojkam and HT Installation Checking Sheet was filed wherein, a note was made mentioning, that it was a case of unauthorized extension of power boundary and that PGVCL may take necessary steps as per the rules. That, therefore, the petitioner immediately addressed a letter to PGVCL stating that the usage of electricity at unit No.2 cannot be considered as unauthorized use of electricity and that Provisional Bill should not be raised as the petitioner had utilized the electricity only after complying with the due process. That, on the basis of the aforesaid checking sheet and notwithstanding the petitioner's letter dated 27.08.2011, PGVCL vide its letter dated 29.08.2011 served the petitioner with a Provisional Assessment Bill. Thereafter, PGVCL informed the petitioner, for the first time, that permission for amalgamation/merger of additional premise with existing premise was not granted to them and their

receipt for payment of fees for the Test Report was also not accepted. It was further stated that there was unauthorized use of power and therefore, the petitioner was required to pay the amount of the provisional bill. That, the petitioner informed PGVCL that it has not accept the provisional bill and requested the PGVCL to give an opportunity of personal hearing and also filed written submissions and Additional written submissions against the provisional bill. That, the PGVCL after hearing the representative of the petitioner, issued a Final Bill dated 26.09.2011 for an amount of Rs.52,06,835/-.

5.2 Being aggrieved by the Final Bill dated 26.09.2011 of the PGVCL, the petitioner approached the Appellate Authority by way of an appeal under section 127 of the Electricity Act, 2003 and as per the rules, the petitioner deposited an amount of Rs.26,03,417/- (50%) before the PGVCL for the purpose of appeal. That, the said appeal was allowed by the Appellate Authority and the Final Bill was set aside. That, against the said order of the Appellate Authority, PGVCL preferred Special Civil Application No. 6553 of 2012 before the Court, which was also dismissed, and the order of the Appellate Authority was upheld. That, against the said order of the learned Single Judge, PGVCL preferred Letters Patent Appeal No. 874 of 2021 before the Division Bench of this Court, whereby, the petitioner was permitted to approach respondent No. 2 to resolve the matter thereby remanding it back to the Chief Electrical Inspector Appellate Authority under section 127 of the Electricity Act 2003. Pursuant to such remand, the Appellate Authority/Respondent No. 2 vide the Impugned order dated 15.12.2021 held that the petitioner had indulged in unauthorized usage of power in the adjoining plot of M/s. Arcee Precision Casting Pvt. Ltd. and directed the respondent No.1 to recalculate the final assessment bill for unauthorized use of electricity at twice the rate, by

deducting the charges already received from the petitioner during the period of assessment.

6. Being aggrieved and dissatisfied with the impugned order dated 15.12.2021 passed by the respondent No.2 in Appeal No. 1 of 2021, the petitioner – Company has preferred Special Civil Application No. 13053 of 2024 and the petitioner – PGVCL has preferred cross-petition being Special Civil Application No. 14920 of 2025.

7. Heard Ms. Priyal M. Parikh, learned counsel appearing for the petitioner – Company, Ms. Lilu K. Bhaya, learned counsel appearing for the respondent No.1 – PGVCL and Mr. Vaibhav Sharma, learned Assistant Government Pleader, appearing for the respondent No.2 – State Authority.

8. Learned counsel Ms. Parikh has submitted that the impugned order passed by the respondent authority is illegal, erroneous, unjust and contrary to the facts on record and against the settled principles of law and therefore, the same is required to be quashed and set aside. She has submitted that the petitioner Company had submitted all the documents sought for and had given an explanation to all the queries raised by PGVCL from time to time, however, the respondent No.2, without considering the same, has wrongly come to the conclusion that the application of the petitioner for power boundary extension was not granted on account of want of requisite documents. She has submitted that when the petitioner provided ownership documents in response to the respondent's query requesting for the same, PGVCL never specifically sought for any document proving the ownership of the said M/s Arcee Precision Casting Pvt. Ltd. and thus, the respondent No.2 has wrongly observed that the petitioner ought

to have submitted "Dastavej" to PGVCL clarifying the ownership of M/s Arcee Precision Casting Pvt. Ltd. and that without such Dastavej it would be difficult to conclude the real ownership of M/s Arcee Precision Casting Pvt Ltd. She has submitted that the respondent No.2 has failed to consider the fact that pursuant to the correspondence exchanged between the petitioner and PGVCL from April, 2010 to September, 2010 and pursuant to the clarifications provided by the petitioner, the PGVCL did not raise any further query which led the petitioner to believe in good faith that its explanations were accepted by PGVCL and the permission for extension was deemed to be granted. She has submitted that this was further vindicated by the fact that when the officer of PGVCL came for checking the HT installation of the petitioner on 26.10.2010, no observation or remark was made in the checking sheet regarding the utilization of electrical power by the petitioner at the adjoining shed, even though the wiring for extension of power supply to adjoining premises was already done. She has submitted that the respondent No.2 has failed to consider the fact that after the wiring for extension of power of supply to adjoining shed was completed, the petitioner filed the Works Commencement and Completion Report with the Office of the Electrical Inspector and thereafter submitted the test report of the wiring and paid requisite fees to PGVCL in accordance with the GERC Supply Code, however, the PGVCL did not undertake any further procedure as per the provisions of the Supply Code. She has submitted that it is a settled practice followed by PGVCL that once the test report is submitted to PGVCL, additional load stands sanctioned and no formal letter or permission is to be issued by PGVCL.

8.1 Learned counsel Ms. Parikh has submitted that the respondent No.2 has not considered the fact that the respondent No.1 came up

with a case of unauthorized use of electricity more than 10 months after inspection of the petitioner's connection on 26.20.2010 (even though power was being used by the petitioner on the adjoining land at the time of the said inspection) and after submission of the Completion of Works and Test Report by the petitioner, which indicates the unfair and malafide conduct of the respondent No.1. She has submitted that the respondent No.2 has recorded its findings on the basis of an observation that the assessment was made only for a period from 26.10.2010 to 26.08.2011 i.e. from the period of the last inspection to the period of subsequent inspection and the period prior to 26.10.2010 was excluded, however, it is an undisputed fact that on 26.10.2010, when the officer of the PGVCL had come to the premises of the petitioner for inspection, the petitioner was already using power in the adjoining land but, no objection was raised by the respondent at that relevant point of time, which fact has been entirely ignored by the respondent No.2. She has submitted that the Electricity Supply Code clearly provides that if the assessing officer reaches to the conclusion that unauthorised use of electricity has taken place, it shall be presumed that such unauthorized use of electricity was continuing for a period of six months immediately preceding the date of inspection for all other categories of services (except domestic and agricultural services) and in the instant case, the assessment for unauthorized use has been made for a period of 10 months, which is clearly in violation of law. She has submitted that the respondent No.2 has completely ignored the factual observations made earlier by the learned Appellate Authority as well as the learned Single Judge of this Court in Special Civil Application No. 6553 of 2012 that, the road between the two adjoining plots was margin space and not a public road and therefore, there was no question of there being any issue in allowing the power extension sought for by the petitioner.

She has submitted that the respondent No.2 has not made any observations whatsoever regarding the issue of the alleged "public road", which was one of the alleged reasons for which the application for power extension by the petitioner was not considered. She has submitted that the respondent No.2 has failed to consider the fact that there is no provision either in the Electricity Act, 2003 or the Electricity Supply Code that prohibits extension of power supply from existing premises to adjoining premises and despite the same, the application of the petitioner was not considered in the proper perspective by PGVCL, which unreasonably insisted for amalgamation of plots of land. She has submitted that, it is a settled law that so long as a consumer has utilized the energy for his purpose in his premises irrespective of the number of plots or division, it would not amount to unauthorized use and the Appellate Authority as well as the learned Single Judge of this Court in SCA No. 6553 of 2012, after duly considering the facts of the case and the evidence on record, had come to the conclusion that the assessment bill for unauthorized use of electricity raised by PGVCL was improper and unjustified and therefore, the order passed by the respondent No.2, disturbing the conclusive findings of the earlier order passed by the Appellate Authority as well as this Court, more than 8 years after the alleged incident, is clearly unreasonable and unjustified. Over and above the grounds agitated in the memo of petition, learned counsel Ms. Parikh ha submitted that the impugned order passed by the respondent No.2 be quashed and set aside and the present petition be allowed.

9. As against that, learned counsel Ms. Bhaya, appearing for the respondent – PGVCL, has submitted that the Appellate Authority having confirmed unauthorized use of electricity and period of assessment, has erred in directing the PGVCL to recalculate the final

assessment bill for unauthorized use of electricity at twice the rate and deduct the charges already recovered therefor from the present petitioner during the period of assessment. She has submitted that the only reasoning given by the Appellate Authority in Para-5.7 of the order that since the petitioner had already paid the charges for entire consumption once for the unauthorized load during the billing period and the respondent PGVCL has made twice the assessment for unauthorized use of electricity, the total assessment made for unauthorized units comes three times. Although it is lawful to charge the petitioner by assessing unauthorized use of electricity with twice the rate, the fact that the petitioner has paid the charges for unauthorized load along with his regular bills cannot be ignored and hence, it would be prudent to deduct the charges already recovered by the respondent PGVCL towards unauthorized consumption during the assessed period when the unauthorized consumption was also duly metered and thus, the Appellate Authority having admitted that the PGVCL can charge the unauthorized use of electricity with twice the rate, has erred in holding that since the petitioner has already paid charges for unauthorized load alongwith the regular bills and therefore, it should be deducted. She has submitted that the direction of the Appellate Authority is against the provisions of the Electricity Act, 2003 and the Electricity Supply Code and also against the provisions of Section 126(6) of the Electricity Act, 2003. Section 126(6) of the Electricity Act, 2003 reads as under :-

> "*126(6) The assessment under this section shall be made at a rate equal to 1[twice] the tariff rates applicable for the relevant category of services specified in sub-section (5).*"

9.1 Relying upon Section 126(6), learned counsel Ms. Bhaya has submitted that Section-126 nowhere provides to give deduction of the

units for unauthorized use of electricity already billed and thus, the direction given by the Appellate Authority is against the statutory formula provided under the Electricity Supply Code, 2005 in Clause No.7.2 thereof. She has submitted that the Appellate Authority has no jurisdiction to issue directions dehors the provisions of the Electricity Act, 2003 and the Electricity Supply Code and provide for methodology for calculation of bill for unauthorized use of electricity contrary to the formula provided therein. Under the circumstances, learned counsel Ms. Bhaya has urged that the present petition be dismissed and the petition preferred by PGVCL be allowed.

10. I have heard the learned counsel appearing for the respective parties and perused the material placed on record. I have also gone through the impugned order passed by the respondent authority. On perusal of the impugned order under challenge, it appears that without considering the provisions of Section 126 of the Act and without considering the fact that in the earlier round of litigation, this Court has remitted the matter back to the concerned authority to consider the issue afresh, the respondent authority has passed he impugned order. Even the Appellate Authority has not assigned any reason while passing the impugned order and the only reasoning is given in para-5.7. The Appellate Authority has also not considered the provisions of Section 126(6), which provides that assessment under this section shall be made at a rate equal to 1[twice] the tariff rates applicable for the relevant category of services specified in sub-section (5), meaning thereby, that they have to pay double, however, the Appellate Authority has not considered this aspect while passing the impugned order. It also emerges from the record that the order of the learned Single Judge was further challenged by the PGVCL before this Court by way of preferring Letters Patent Appeal No. 874 of 2021,

whereby, the Division Bench of this Court has disposed of the appeal without expressing any opinion about the contentions raised by the parties and remanded the matter back to the concerned authority. Considering all these aspects, I am of the opinion that the impugned order passed by the respondent authority is required to be quashed and set aside and the matter is required to be remitted back to the concerned authority for deciding the issue afresh.

11. In the result, both the petitions are partly allowed. The impugned order dated 15.12.2021 passed by the respondent No.2 – Chief Electrical Inspector and Appellate Authority, Gandhinagar in Appeal No. 1 of 2021 is herby quashed and set aside. The matter is remanded back to the concerned authority for deciding the issue afresh, after affording proper and reasonable opportunity to both the sides. It is open for all the concerned parties to raise all the contentions available in the eye of law before the respondent authority and the same shall be considered by the respondent authority in accordance with law, as expeditiously as possible, preferably within a period of **4 (four) months** from the date of receipt of writ of this Order. Rule is made absolute to the aforesaid extent. There shall be no order as to costs.

(HEMANT M. PRACHCHHAK,J)

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Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: DOLLYBEN CHETANBHAI VADUKAR(HC01392), PRIVATE SECRETARY, at High Court of Gujarat on 07/04/2026 17:58:42