

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL NO. 96 of 2014
In SPECIAL CIVIL APPLICATION NO. 8520 of 2004

With

CIVIL APPLICATION NO. 1028 of 2014
In LETTERS PATENT APPEAL NO. 96 of 2014

With

LETTERS PATENT APPEAL NO. 97 of 2014
In SPECIAL CIVIL APPLICATION NO. 8524 of 2004

With

CIVIL APPLICATION NO. 1029 of 2014
In LETTERS PATENT APPEAL NO. 97 of 2014

With

LETTERS PATENT APPEAL NO. 470 of 2014
In SPECIAL CIVIL APPLICATION NO. 16975 of 2003

With

CIVIL APPLICATION NO. 3697 of 2014
In LETTERS PATENT APPEAL NO. 470 of 2014

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR.JUSTICE M.R. SHAH

and

HONOURABLE MR.JUSTICE R.D.KOTHARI

1.	Whether Reporters of Local Papers may be allowed to see the judgment ?	Yes
2.	To be referred to the Reporter or not ?	Yes
3.	Whether their Lordships wish to see the fair copy of the judgment ?	No
4.	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?	No
5.	Whether it is to be circulated to the civil judge ?	No

DAKSHIN GUJARAT VIJ CO. LTD. OFFICE AT - & 1....Appellant(s)

Versus

SHREE VARDHAMAN SALT WORKS....Respondent(s)

Appearance:

MS LILU K BHAYA, ADVOCATE for the Appellant(s) No. 1 - 2

MR VC VAGHELA, ADVOCATE for the Respondent(s) No. 1

CORAM: HONOURABLE MR.JUSTICE M.R. SHAH
and
HONOURABLE MR.JUSTICE R.D.KOTHARI

Date : 24/12/2014

ORAL JUDGMENT

(PER : HONOURABLE MR.JUSTICE M.R. SHAH)

[1.0] As common question of law and facts arise in this group of Letters Patent Appeals, they are disposed of by this common judgment and order.

[2.0] Feeling aggrieved and dissatisfied with the impugned judgment and order dated 12.12.2013 passed by the learned Single Judge in Special Civil Application No.8520/2004 by which the learned Single Judge has partly allowed the aforesaid Special Civil Application preferred by the respondent herein and has quashed and set aside the order dated 03.05.2004 passed by the Appellate Committee of Gujarat Electricity Board to the extent it directs the respondent herein – original petitioner from paying the amount towards electricity theft for a period of 6 months and the appellant Company is further directed to issue a fresh supplementary bill to the respondent herein – original petitioner – firm towards electricity theft for the period from 15.10.2003 to 10.12.2003, the appellant herein – original respondent – Dakshin Gujarat Vij Co. Ltd. [erstwhile Gujarat Electricity Board – GEB] has preferred the present Letters Patent Appeal No.96/2014.

[2.1] Feeling aggrieved and dissatisfied with the impugned judgment and order dated 12.12.2013 passed by the learned Single Judge in Special Civil Application No.8524/2004 by which the learned Single Judge has partly allowed the aforesaid Special Civil Application preferred by the respondent herein and has quashed and set aside the

order dated 06.04.2004 passed by the Appellate Committee of Gujarat Electricity Board to the extent it directs the respondent herein – original petitioner from paying the amount towards electricity theft for a period of 6 months and the appellant Company is further directed to issue a fresh supplementary bill to the respondent herein – original petitioner – firm towards electricity theft for the period from 11.09.2003 to 11.12.2003, the appellant herein – original respondent – Dakshin Gujarat Vij Co. Ltd. [erstwhile Gujarat Electricity Board – GEB] has preferred the present Letters Patent Appeal No.97/2014.

[2.2] Feeling aggrieved and dissatisfied with the impugned judgment and order dated 29.01.2013 passed by the learned Single Judge in Special Civil Application No.16975/2004 by which the learned Single Judge has partly allowed the aforesaid Special Civil Application preferred by the respondent herein and has quashed and set aside the order dated 09.09.2003 passed by the Appellate Committee Gujarat Electricity Board to the extent it directs the respondent herein – original petitioner from paying the amount towards electricity theft for a period of 6 months and the appellant Company is further directed to issue a fresh supplementary bill to the respondent herein – original petitioner – firm towards electricity theft for the period from 27.01.2003 to 09.02.2003, the appellant herein – original respondent – Dakshin Gujarat Vij Co. Ltd. [erstwhile Gujarat Electricity Board – GEB] has preferred the present Letters Patent Appeal No.470/2014.

Letters Patent Appeal No.96/2014

[3.0] Facts leading to the present Letters Patent Appeal No.96/2014 in nut-shell are as under:

[3.1] That the respondent herein [hereinafter referred to as the original

petitioner – consumer] is a partnership firm engaged in manufacturing salt and for the said purpose, it obtained electricity connection from the appellant herein – original respondent – Electricity Company [hereinafter referred to as “Electricity Company”]. That the officers of the Electricity Company visited the premises of the factory on 15.10.2003 and carried out the inspection of the meter, but nothing objectionable was found. It appears that thereafter again on 10.12.2003, again an inspection was carried out and at that time it was found that the original petitioner – consumer has indulged in theft of electricity by not only tampering with the meter but by directly putting a hook on the cable wire and thereby making an arrangement to consume the electricity directly and by by-passing the meter. A rojkam / checking sheet was prepared. That on the basis of the checking sheet and having found that the original petitioner – consumer had indulged in theft of electricity, by applying the ABCD formula as per condition No.34 of Conditions and Miscellaneous Charges for Supply of Electrical Energy, the Electricity Company issued the supplementary bill to the tune of Rs.11,25,784/- considering theft of electricity for last six months. That the original petitioner – consumer preferred the appeal before the Appellate Committee, GEB, after depositing 50% amount of supplementary bill. That the Appellate Committee after considering the submissions made on behalf of the consumer as well as the officer of the Electricity Board and after considering the checking sheet on the basis of the inspection carried out on 10.12.2003 held that the consumer has indulged into malpractice and committed theft of electricity by making the arrangement to consume the electrical energy directly and by by-passing the meter and making an arrangement to abstract electrical energy directly without being recorded in the meter. The Appellate Committee also considered the connected load at 75 HP. The Appellate Committee also negated the contention on behalf of the consumer that

the supplementary bill ought to / should have been issued taking into consideration the chargeable days at 57 i.e. from 15.10.2003 to 10.12.2003 only. Consequently, the Appellate Committee partly allowed the said appeal and reduced the supplementary bill to Rs.7,70,818.13 ps.

[3.2] Feeling aggrieved and dissatisfied with the order passed by the Appellate Committee partly allowing the appeal only and challenging the revised supplementary bill issued by GEB of Rs.7,70,818/-, the original petitioner – firm – consumer preferred Special Civil Application No.8520/2004 before this Court. It was contended on behalf of the petitioner – consumer that as such there was no theft of electricity by the consumer. It was also contended on behalf of the consumer that the connected load was wrongly considered at 75 HP. It was also contended on behalf of the original petitioner – consumer that even otherwise the supplementary bill was wrongly issued for last six months i.e. chargeable days are wrongly considered as 183. It was the case on behalf of the petitioner – consumer to take chargeable days at 57 from 15.10.2003 to 10.12.2003 only. It was submitted that as the meter was previously checked on 15.10.2003 and nothing was found objectionable, even assuming that the theft of electricity has been proved, in that case also, the supplementary bill was required to be issued considering the chargeable days only from 15.10.2003.

[3.3] That by impugned judgment and order the learned Single Judge has accepted the submissions on behalf of the original petitioner – consumer that the supplementary bill ought to have been issued considering the chargeable days from 15.10.2003 only and though confirming the finding recorded by the Appellate Committee that connected load is rightly considered at 75 HP and though the finding

that the original petitioner – consumer has committed the theft of electricity has been confirmed by the learned Single Judge, by impugned judgment and order the learned Single Judge has partly allowed the aforesaid Special Civil Application directing the electricity company to issue a fresh supplementary bill towards electricity theft for the period from 15.10.2003 to 10.12.2003 only and has directed the electricity company to re-calculate the amount to be paid by the original petitioner – firm – consumer and to refund the excess amount, if any, paid by the original petitioner – firm – consumer. That while partly allowing the aforesaid Special Civil Application, the learned Single Judge has also observed that the onus is upon the electricity company to prove that the consumer has committed the theft for the period prior to the date of checking.

[3.4] Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the learned Single Judge, the original respondent – electricity company has preferred the present Letters Patent Appeal No.96/2014.

Letters Patent Appeal No.97/2014

[4.0] Facts leading to the present Letters Patent Appeal No.97/2014 in nut-shell are as under:

[4.1] That the respondent herein [hereinafter referred to as the original petitioner – consumer] is a partnership firm engaged in manufacturing salt and for the said purpose, it obtained electricity connection from the appellant herein – original respondent – Electricity Company [hereinafter referred to as “Electricity Company”]. That the officers of the Electricity Company visited the premises of the factory on 11.09.2003 and carried out the inspection of the meter. It appears that

thereafter on 11.12.2003, again an inspection was carried out and at that time it was found that the original petitioner – consumer had indulged in theft of electricity by not only tampering with the meter but by directly putting a hook on the cable wire and thereby making an arrangement to consume the electricity directly and by by-passing the meter. A rojkam / checking sheet was prepared. That on the basis of the checking sheet and having found that the original petitioner – consumer has indulged in theft of electricity, by applying the ABCD formula as per condition No.34 of Conditions and Miscellaneous Charges for Supply of Electrical Energy, the Electricity Company issued the supplementary bill to the tune of Rs.7,90,288.12/- considering theft of electricity for last six months. That the original petitioner – consumer preferred the appeal before the Appellate Committee, GEB, after depositing 50% amount of supplementary bill. That the Appellate Committee after considering the submissions made on behalf of the consumer as well as the officer of the Electricity Board and after considering the checking sheet on the basis of the inspection carried out on 10.12.2003 held that the consumer has indulged into malpractice and committed theft of electricity by making the arrangement to consume the electrical energy by-passing the meter and making an arrangement to obstruct electrical energy directly without being recorded in the meter. The Appellate Committee also considered the connected load at 82.5 HP. The Appellate Committee also negated the contention on behalf of the consumer that the supplementary bill ought to / should have been issued taking into consideration the chargeable period as six months. However, the Appellate Committee partly allowed the said appeal and reduced the supplementary bill to Rs.4,01,826.57 ps.

[4.2] Feeling aggrieved and dissatisfied with the order passed by the Appellate Committee partly allowing the appeal only and challenging

the revised supplementary bill issued by GEB of Rs.4,01,826.57 ps., the original petitioner – firm – consumer preferred Special Civil Application No.8524/2004 before this Court. It was contended on behalf of the petitioner – consumer that as such there was no theft of electricity by the consumer. It was also contended on behalf of the consumer that the connected load was wrongly considered at 82.5 HP. It was also contended on behalf of the original petitioner – consumer that even otherwise the supplementary bill was wrongly issued for last six months i.e. chargeable days are wrongly considered as 183. It was the case on behalf of the petitioner – consumer to take chargeable days at 57 from 11.09.2003 to 10.12.2003 only. It was submitted that as the meter was previously checked on 11.09.2003 and nothing was found objectionable, even assuming that the theft of electricity has been proved, in that case also, the supplementary bill was required to be issued considering the chargeable days only from 11.09.2003.

[4.3] That by impugned judgment and order the learned Single Judge has accepted the submissions on behalf of the original petitioner – consumer that the supplementary bill ought to have been issued considering the chargeable days from 11.09.2003 only and though confirming the finding recorded by the Appellate Committee that connected load is rightly considered at 82.5 HP and though the finding that the original petitioner – consumer has committed the theft of electricity has been confirmed by the learned Single Judge, by impugned judgment and order the learned Single Judge has partly allowed the aforesaid Special Civil Application directing the electricity company to issue a fresh supplementary bill towards electricity theft for the period from 11.09.2003 to 10.12.2003 only and has directed the electricity company to re-calculate the amount to be paid by the original petitioner – firm – consumer and to refund the excess amount, if any, paid by the

original petitioner – firm – consumer. That while partly allowing the aforesaid Special Civil Application, the learned Single Judge has also observed that the onus is upon the electricity company to prove that the consumer has committed the theft for the period prior to the date of checking.

[4.4] Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the learned Single Judge, the original respondent – electricity company has preferred the present Letters Patent Appeal No.97/2014.

Letters Patent Appeal No.470/2014

[5.0] Facts leading to the present Letters Patent Appeal No.470/2014 in nut-shell are as under:

[5.1] That the original petitioner – proprietary concern [hereinafter referred to as “original petitioner – firm – consumer”] is engaged in the business of manufacturing salt. For the purpose of running the salt factory, the original petitioner – consumer was having electricity connection. According to the original petitioner – consumer on 27.01.2003, since the existing meter was not properly functioning, the new meter was replaced on 27.01.2003 and at that time the checking sheet was prepared, wherein everything was found in order and nothing adverse was recorded of any malpractice or theft etc. That thereafter on 09.02.2003 again the checking was made and as per the electricity company, at that time the theft of electricity was found, since the wires were connected directly with the load etc. and directly putting a hook on the cable wire and thereby making an arrangement to consume the electricity directly by by-passing the meter. Therefore, the electricity company issued the supplementary bill amounting to Rs.7,76,046/-

considering the chargeable days for committing theft of electricity of last six months prior to 09.02.2003.

[5.2] Feeling aggrieved and dissatisfied with the supplementary bill of Rs.7,76,046/-, the original petitioner – consumer preferred appeal before the Appellate Committee of the GEB, after depositing 50% amount of supplementary bill. That the Appellate Committee after considering the submissions made on behalf of the consumer as well as the officer of the Electricity Board and after considering the checking sheet on the basis of the inspection held that the consumer has indulged into malpractice and committed theft of electricity by making the arrangement to consume the electrical energy by-passing the meter and making an arrangement to obstruct electrical energy directly without being recorded in the meter. The Appellate Committee also negated the contention on behalf of the consumer that the supplementary bill ought to / should have been issued taking into consideration the chargeable period from 27.01.2003 to 09.02.2003 only. However, the Appellate Committee partly allowed the said appeal and reduced the supplementary bill to Rs.3,32,008.56 ps.

[5.3] Feeling aggrieved and dissatisfied with the order passed by the Appellate Committee partly allowing the appeal only and challenging the revised supplementary bill issued by GEB of Rs.3,32,008.56 ps., the original petitioner – firm – consumer preferred Special Civil Application No.16975/2003 before this Court. It was contended on behalf of the petitioner – consumer that as such there was no theft of electricity by the consumer. It was also contended on behalf of the original petitioner – consumer that even otherwise the supplementary bill was wrongly issued for last six months i.e. chargeable days are wrongly considered as 184. It was the case on behalf of the petitioner – consumer to take

chargeable days from 27.01.2003 to 09.02.2003 only. It was submitted that as the meter was previously checked on 11.09.2003 and nothing was found objectionable, even assuming that the theft of electricity has been proved, in that case also, the supplementary bill was required to be issued considering the chargeable days only from 27.01.2003.

[5.4] That by impugned judgment and order the learned Single Judge has accepted the submissions on behalf of the original petitioner – consumer that the supplementary bill ought to have been issued considering the chargeable days from 27.01.2003 to 09.02.2003 only and though confirming the finding recorded by the Appellate Committee that connected load is rightly considered and though the finding that the original petitioner – consumer has committed the theft of electricity has been confirmed by the learned Single Judge, by impugned judgment and order the learned Single Judge has partly allowed the aforesaid Special Civil Application directing the electricity company to issue a fresh supplementary bill towards electricity theft for the period from 27.01.2003 to 09.02.2003 only and has directed the electricity company to re-calculate the amount to be paid by the original petitioner – firm – consumer and to refund the excess amount, if any, paid by the original petitioner – firm – consumer. That while partly allowing the aforesaid Special Civil Application, the learned Single Judge has also observed that the onus is upon the electricity company to prove that the consumer has committed the theft for the period prior to the date of checking.

[5.5] Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the learned Single Judge, the original respondent – electricity company has preferred the present Letters Patent Appeal No.470/2014.

[6.0] Ms. Lilu Bhaya, learned advocate appearing on behalf of the electricity company has vehemently submitted that the learned Single Judge has materially erred in quashing and setting aside the supplementary bill as well as the order passed by the Appellate Committee of the GEB and directing to issue fresh supplementary bill for the period between 11.09.2003 to 10.12.2003 in Special Civil Application No.8520/2004; 15.10.2003 to 10.12.2003 in Special Civil Application No.8524/2004 and 27.01.2003 to 09.02.2003 in Special Civil Application No.16975/2003.

[6.1] It is further submitted by Ms. Lilu Bhaya, learned advocate appearing on behalf of the electricity company that the learned Single Judge has materially erred in not properly appreciating the fact that on the earlier date of inspection i.e. 15.10.2003 in Special Civil Application Nos.8520/2004 and on 11.09.2003 in 8525/2004 only the meter was checked and nothing further than that. It is submitted that however on the subsequent date of inspection it was found that the consumer has committed the theft of electricity by making arrangement by putting a hook on the cable wire and thereby making an arrangement to consume the electricity directly and by by-passing the meter. It is submitted that therefore, may be at the time of first inspection, the meter might have been found OK, considering the modus operandi adopted by the consumer and it was found at the time of second inspection that the consumer had committed the theft of electricity by making special arrangement by directly putting a hook on the cable wire and thereby making an arrangement to consume the electricity directly and by by-passing the meter, for which no inspection was carried out at the time of first inspection, considering the statutory formula as per the Regulations more particularly condition No.34 of Conditions and Miscellaneous Charges for Supply of Electrical Energy, the chargeable days for theft of

electricity were required to be considered for the last six months. It is submitted that therefore the electricity company was absolutely justified in issuing the supplementary bill for committing the theft of electricity considering the chargeable period for the last six months from the date of subsequent inspection.

[6.2] It is further submitted by Ms. Bhaya, learned advocate appearing on behalf of the electricity company that if the order passed by the learned Single Judge is sustained, in that case, it would be contrary to the statutory provisions more particularly condition No.34 of Conditions and Miscellaneous Charges for Supply of Electrical Energy. It is submitted that as such in condition No.34 of Conditions and Miscellaneous Charges for Supply of Electrical Energy, the assessment of energy for theft of electricity is provided. It is submitted that consumer is bound by clause 34 of Conditions and Miscellaneous Charges for Supply of Electrical Energy even as observed by the Hon'ble Supreme Court in the case of **Hyderabad Vanaspathi Ltd. vs. A.P. State Electricity Board and Ors.** reported in (1998)4 SCC 470. She has also relied upon the decision of the Division Bench of this Court in the case of **Patel Parshottamdas Vanmalidas vs. Gujarat Electricity Board & Anr.** reported in AIR 1987 Gujarat 188 in support of her submission that it cannot be said that condition No.34 is arbitrary or is *ultra vires* in any manner.

[6.3] Ms. Bhaya, learned advocate appearing on behalf of the appellant – electricity company has further submitted that even otherwise the observations made by the learned Single Judge that for the period prior to the date of detection of theft of electricity, the onus is upon the electricity company to prove theft of electricity is contrary to the provisions of the Act and the Rules, more particularly condition No.34. It

is submitted that therefore the same cannot be sustained.

[6.4] Ms. Bhaya, learned advocate appearing on behalf of the electricity company has also heavily relied upon the recent decision of the Division Bench of this Court in the case of **Kailash Plastic Processors vs. Gujarat Electricity Board and Anr.** rendered in **Letters Patent Appeal No.110/2014** by submitting that in the identical facts and circumstances of the case when there was a replacement of meter earlier and thereafter subsequently there was a detection of pilferage of electricity, the supplementary bill was issued for last six months considering condition No.34, the Division Bench has confirmed the supplementary electricity bill issued by electricity company by observing that in such a situation, criteria No.3 of condition No.34 would not be applicable and the electricity company was justified in issuing the supplementary bill for last six months.

Making above submissions and relying upon above decisions, it is requested to allow the present Letters Patent Appeals.

[7.0] All these appeals are opposed by Shri V.C. Vaghela, learned advocate appearing on behalf of the respective consumer – original petitioners.

[7.1] It is submitted that in the facts and circumstances of the case and considering the fact that earlier when the meter was checked/replaced, nothing was found adverse, the learned Single Judge has not committed any error in directing the electricity company to issue the supplementary bill only from the date of first inspection and the learned Single Judge rightly held that the electricity company cannot issue the supplementary bill for the theft of electricity prior to the date of first inspection.

[7.2] Shri Vaghela, learned advocate appearing on behalf of the consumer – original petitioners has heavily relied upon the decision of the learned Single Judge of this Court in the case of **Ambeshwar Paper Mills Ltd. vs. Gujarat Electricity Board** reported in **2002(3) GLH 441** on interpretation of condition No.34. It is submitted that in the aforesaid decision the learned Single Judge has interpreted condition No.34 upon which the reliance has been placed by the electricity company in the present case and has observed that even after issuance of supplementary bill if the consumer is able to establish even before the Appellate Committee that so called theft is committed only from a particular date, the Appellate Committee can give appropriate relief at the time of determining quantum of amount which the consumer is required to pay, which may not cover the entire period of six months. Relying upon the aforesaid decision it is submitted by Shri Vaghela, learned advocate appearing on behalf of the respective consumers that in the present case on the first/earlier checking of the meter nothing was found objectionable and therefore, for the period prior to that even if it may cover the six months, the supplementary bill for theft of electricity was required to be issued for the period thereof i.e. from the date of first inspection only and therefore, as such no error has been committed by the learned Single Judge in directing the electricity company to issue fresh supplementary bill from the date of first inspection and/or from the date of change of meter, as the case may be.

[7.3] Shri Vaghela, learned advocate appearing on behalf of the consumers has also relied upon the decision of the learned Single Judge of this Court in the case of **Kailash Plastic Processors vs. Gujarat Electricity Board** rendered in **Special Civil Application No.5295/2001** which has been confirmed by the Division Bench and the Letters Patent Appeal has been dismissed.

Making above submissions and relying upon above decisions, it is requested to dismiss the present Letters Patent Appeals.

[8.0] Heard learned advocates appearing on behalf of the respective parties at length and perused the impugned judgment and orders passed by the learned Single Judge by which the learned Single Judge has partly allowed the respective Special Civil Applications and has set aside the supplementary bills issued by the electricity company issuing the supplementary bills for theft of electricity for last six months and has directed the electricity company to issue fresh supplementary bills only from the date of the first checking/inspection. That the learned Single Judge has also observed that onus/burden to prove the theft of electricity for the period prior to the detection of the theft of electricity is upon the electricity company.

[8.1] At the outset it is required to be noted that electricity company has as such issued the supplementary bills for theft of electricity for last six months considering condition No.34 of the Conditions and Miscellaneous Charges for Supply of Electrical Energy, which are statutory in nature.

Therefore, in order to appreciate the contention raised by the learned advocates appearing for respective parties and more particularly contentions raised by the learned advocate appearing on behalf of the consumer that the chargeable days / period should be considered from the date of replacement of earlier meter till the checking in question was made and/or from the earlier date of checking of the meter till the subsequent checking was made on which the theft of electricity / pilferage of electricity was found and not for a period of 180 days prior to the date of checking when the pilferage of the electricity has been noticed, it is worth to reproduce the condition No.34. Condition No.34

of the Conditions and Miscellaneous Charges for Supply of Electrical Energy reads as under:

“The assessment of energy under this Clause 34 shall apply on the following basis:

1. Past six months from the date of detection, (for seasonal industries Six working months, excluding off season period declared by the consumer); or
2. Actual period from the date of commencement of supply upto the date of detection; or
3. Actual period from the date of replacement of component of metering system in which evidence is detected within six months from the date of detection and upto the date of detection; or
4. The actual period from the date of the previous installation checking (and resulted into supplementary bill) under provisions of this clause within six months period of the date of the detection under consideration and upto the date of detection.”

Similar condition No.3 came to be considered by the Hon’ble Supreme Court in the case of **Hyderabad Vanaspathi Ltd. vs. A.P. State Electricity Board and Ors.** reported in (1998)4 SCC 470 (Para 42); in the case of **J.M.D. Alloys Ltd. vs. Bihar State Electricity Board and Ors.** reported in (2003)5 SCC 226 (Paras 7, 11 and 12); in the case of **Patel Parshottamdas Vanmalidas vs. Gujarat Electricity Board & Anr.** reported in **AIR 1987 Gujarat 188 (Para 16)** and in the case of **Ambeshwar Paper Mills Ltd. (Supra)**. In the case of **Hyderabad Vanaspathi Ltd. (Supra)**, the Hon’ble Supreme Court has also approved the view of the Division Bench of this Court in the case of **Patel Parshottamdas Vanmalidas (Supra)** and it is observed that such type of condition is valid. In para 42 of the said judgment, the Hon’ble Supreme

Court has found that the Division Bench of the Gujarat High Court has considered similar condition and upheld the validity thereof and ultimately, the Hon'ble Supreme Court agreed with the view taken by this Court. In para 42 of the said judgment the Hon'ble Supreme Court has observed and held as under:

“42. In Patel Parshootamdas Vanmalidas vs. Gujarat Electricity Board a Division Bench of the Gujarat High Court considered similar conditions and upheld their validity. The Bench said:

“Thus, it is clear that the Board has formulated such a condition in order to safeguard its interest. Such a condition is there for the purpose of checking, apart from other things, the theft of electricity. It is not a case; of any defective meter, but it is a case of theft of electricity by the consumer concerned. As a matter of fact, in this case it is alleged that the petitioner, by inserting a plastic strip, was able to stop the running of the meter and thereby, committed theft of electricity. The condition clearly states as to the procedure that has to be adopted for the purpose of questioning the departmental action in levying penal charges. It has also been made clear in the condition as to the limit to which the Department can go for the purpose of assessing the theft of electricity. In no case the Department can go beyond a period of six months, according to this condition to Condition No. 34, we are able to see that manner of assessment also has been specified. If all these steps are taken by the Department, the Condition itself states that the consumer has a remedy by filing an appeal to the appropriate authority within a specified time. Thus, a conjoint reading of this Condition and the purpose for which it is intended, clearly makes out that such a condition is not arbitrary or unreasonable, but within the powers of the Board and in our opinion, it does not offend any of the Articles of the Constitution. The argument as if the imposition of penal assessment before filing an appeal is harsh and makes the appeal illusory cannot be appreciated. The penal assessment, as we have stated already, is restricted to a limited period. Such an assessment was made after the Department itself was satisfied with regard to the theft of electricity committed by the consumer concerned. Hence, it cannot be said that the appeal provided under Condition No. 34 is an illusory one.”

We agree with the above opinion.”

The Division Bench of this Court in the case of Patel Parshottamdas Vanmalidas (Supra), considered in detail the condition No.34. In para 2, the Hon'ble Supreme Court has observed and held as under:

“2. As regards the contention of absence of procedure for submitting the case of the consumer before the impugned assessment of penalising action is taken, we are not able to appreciate this argument. The consumer with his open eyes enters into an agreement with the Board with such conditions. Those conditions are for the purpose of meeting certain exigencies in granting the service connection. It has also been made clear by the Board in Condition No.3 which is framed under the title "The Gujarat Electricity Board Prevention of Theft of Energy and Malpractices (By Consumers) Regulations, 1976" as follows :-

“3. The Board may, with a view to preventing the consumers from indulging in committing theft of energy and committing malpractices impose such conditions in its conditions of supply applicable to its consumers and forming part of the Contract of supply between the Board and the consumer as the Board may deem fit.”

Thus, it is clear that the Board has formulated such a condition in order to safeguard its interest. Such a condition is there for the purpose of checking, apart from other things, the theft of electricity. It is not a case of any defective meter, but it is a case of theft of electricity by the consumer concerned. As a matter of fact, in this case it is alleged that the petitioner, by inserting a plastic strip, was able to stop the running of the meter and thereby, committed theft of electricity. The condition clearly states as to the procedure that has to be adopted for the purpose of questioning the departmental action in levying penal charges. It has also been made clear in the condition as to the limit to which the Department can go for the purpose of assessing the theft of electricity. In no case the Department can go beyond a period of six months, according to this condition. In Condition No.34, we are able to see that manner of assessment also has been specified. If all these steps are taken by the Department, the condition itself states that the consumer has a remedy by filing an appeal to the appropriate authority within a specified time. Thus, a conjoint reading of this Condition and the purpose for which it is intended, clearly makes out that such a condition is not arbitrary or unreasonable, but within the powers of the Board and, in our opinion, it does not offend any of the Articles of the Constitution. The argument as if the imposition of penal assessment before filing an appeal is harsh and makes the appeal illusory cannot be appreciated. The penal assessment, as we have

stated already, is restricted to a limited period. Such an assessment was made after the Department itself was satisfied with regard to the theft of electricity committed by the consumer concerned. Hence, it cannot be said that the appeal provided under Condition No.34 is an illusory one.”

[8.2] Identical question came to be considered by the Division Bench of this Court in the recent decision rendered in Letters Patent Appeal No.110/2014. In the case before the Division Bench, the meter was replaced in the month of August 2003 and thereafter when subsequently there was an inspection of the premises, pilferage of electricity was detected while slightly cutting down the rubber cap of neutral wire leading towards meter and placing the regulatory switch so that the current of the load connected would pass through current coil of meter but pressure coil of the meter would not receive the voltage and thereby recording of consumption of electricity would be by-passed. The electricity company issued the supplementary bill for a period of 180 days prior to the date of checking when the pilferage of electricity was noticed i.e. 180 days prior to 06.11.2013. The same was challenged. The learned Single Judge accepted the aforesaid and on an appeal the Division Bench has negated the contention on behalf of the consumer and by observing in paras 9 to 13, it is held that the electricity company was justified in issuing the supplementary bill for theft of electricity / pilferage of electricity for 180 days prior to the date of detection of the pilferage of electricity i.e. 06.11.2013 and has held that criteria No.3 of condition No.34 would not be applicable. In paras 9 to 13, the Division Bench has observed as under:

“9. In this view of the matter, whenever a wise consumer can arrange for such sort of pilferage of electricity without tampering with the meter or its components and when criteria No.3 of condition No.34 clearly provides for the actual period from the date of replacement of component of metering system in which evidence is detected, in our opinion, this criteria cannot be applicable in the facts of the present

case because it is not the case of either party that at the time when the meter was changed in August 2013 the theft of electricity was detected by the officials of the appellant company. Since it is not the case of either of the party that the theft was detected at the time when the meter was changed in the month of August 2013, there is no occasion of counting the actual period as provided in criteria 3 of condition No.34 and the learned Single Judge appears to have misconstrued the criteria provided for assessment of period since the earlier meter was not changed due to the detection of theft of electricity by the consumer. The essential part of criteria No.3 is the replacement of component of metering system in which the evidence is detected. Here, in this case, the case of the consumer does not fall within that criteria because the essential part of criteria No.3 is missing in this case.

10. It is also relevant to note that the learned Single Judge has also observed that when the meter was replaced in the month of August 2013, it amounts to inspection of the premises. However, it is nobody's case that at the time of replacement of the metering system, the premises of the consumer was inspected. The facts of replacement of meter and inspection of premises are altogether different. In our opinion, meter can be changed at any time without inspecting the premises and when the inspection is sought to be carried out, it means that the authority may have some doubt about the pilferage of energy. Thus, the observation of learned Single Judge that the replacement of meter in the month of August 2013 amounts to inspection of the premises appears to be based upon presumption only. However, the fact appears to be otherwise.

11. Even if the officers of the appellant by exercising due care and diligence could not notice the pilferage of electricity at the time of replacement of metering system, it did not bring the case of the consumer for the assessment of lesser period commencing from replacement of metering system for want of evidence of pilferage of electricity and resultant replacement of meter, as envisaged in criteria No.3. Further, even if in connivance or with the open eyes the officials of the appellant did not notice the pilferage while replacing the metering system, it would not eliminate the possibility of pilferage of energy by the consumer.

12. Now, a bare perusal of criteria Nos. 2 and 4 clearly indicates that these criteria are not applicable to the facts and circumstances of the present case. Thus, in our opinion, criteria No. 2, 3 and 4 would not be applicable in the facts and circumstances of the present case. Thus, in this view of the matter, the case of the consumer falls within the provisions of criteria No.1.

13. As narrated above, the modus operandi adopted by the consumer

for pilferage of electricity was such that even with the open eyes an ordinary man could not notice the breakage of neutral wire below the meter. In this situation at the time of replacement of meter in the month of August 2013, the officials of the appellant could not have noticed the pilferage of electricity, otherwise, at that time on detection of pilferage of electricity, a supplementary bill could have been issued. Even if it is presumed that the fact of theft of electricity was noticed by the officials of the appellant company at the time of replacement of earlier meter in the month of August 2013 and they acted in connivance with the consumer, in that case also, the position being the same that the consumer was committing theft of electricity by cutting down the neutral prior to the period of replacement of the meter in the month of August 2013 stands established.”

Considering the facts of the case on hand and two checking sheets i.e. the checking sheet prepared on earlier date of inspection of meter and the subsequent checking sheet on which the pilferage of electricity / theft of electricity has been found, considering the respective checking sheets it appears that on earlier checking, only the meter was checked and not the entire premises. Nothing is on record that on earlier date of inspection and/or checking of the meter, entire premises was inspected. On the subsequent checking it has been found that not only the meters are tampered with but a special arrangement was made by the consumer directly getting the electricity supply without the same being recorded in the meter and the *modus operandi* was such that by making the arrangement to consume the electrical energy by by-passing the meter and making an arrangement to obstruct electrical energy directly without being recorded in the meter. Similar is the situation with respect to the case in which earlier the meter was changed and subsequently the theft of electricity has been detected. The *modus operandi* adopted by the consumer for pilferage of electricity was such that unless the entire premises is inspected, such a theft of electricity/pilferage of electricity is not noticed. What is subsequently noticed on the date of subsequent checking was not noticed earlier on earlier checking and as observed hereinabove as such on earlier occasion only the meter was checked.

Under the circumstances, criteria Nos.2, 3 and 4 would not be applicable in the facts and circumstances of the present case. Thus, in the facts and circumstances of the case, the case of the respective consumer would fall within the provisions of criteria No.1.

[8.3] It is required to be noted that finding recorded by the Appellate Committee that the respective consumers have committed the theft of electricity has been confirmed by the learned Single Judge. The Appellate Committee consisting of the Members comprising of experts as well as legal members have elaborately dealt with all the rival contentions raised before it and also recorded the finding of fact that the respective consumers have committed theft of electricity / pilferage of electricity by adopting *modus operandi* and to see that electricity is directly got by making special arrangement and not recorded through the meter. Therefore, on earlier inspection the meter was checked and nothing objectionable was found hardly matters and/or has no any relevance.

[8.4] Under the circumstances and in the facts and circumstances of the case, the learned Single Judge has materially erred in quashing and setting aside the supplementary bill issued by the electricity company confirmed by the Appellate Committee of issuing supplementary bill for theft of electricity, considering the period of 180 days prior to the date of subsequent checking and has materially erred in directing the electricity company to issue supplementary bill only from the date of earlier checking and/or replacement of meter as the case may be till the date of subsequent checking when the pilferage of electricity was noticed.

[8.5] Even the observations made by the learned Single Judge that the

onus is upon the electricity company to prove the theft of electricity for period prior to the date of checking when the pilferage of electricity is noticed is concerned, same is contrary to the statutory provisions more particularly condition No.34. It is required to be noted that as such similar provision / similar condition No.34 has been approved and confirmed by the Hon'ble Supreme Court and it is held that once the theft of electricity is detected, the supplementary bill is required to be issued as per the ABCD formula and as per the relevant condition, in the present case condition No.34. Under the circumstances, it can be said that there is a statutory presumption and the moment theft of electricity is found, the electricity company can issue supplementary bill for theft of electricity for the period of 180 days prior to the date of checking when the pilferage of electricity is found, unless in the facts and circumstances of the case, the consumer is able to establish and prove by leading evidence that when earlier the meter was checked, everything was found OK and subsequently any illegality and/or theft of energy is noticed, on same facts and circumstances on which, previously, the consumer was not found to have committed theft. The decision of the learned Single Judge in the case of Ambeshwar Paper Mills Ltd. (Supra) upon which heavily reliance is placed by the learned advocate appearing on behalf of the consumers is required to be considered and/or appreciated considering the above situation. In the aforesaid case what is observed by the learned Single Judge is that if the consumer is able to satisfy the authority that at the time of previous inspection checking, the checking squad found everything in order and no electricity theft was noticed in any manner and it is established that if the previous checking was done in proper manner and subsequently after that checking, if any illegality or theft of electricity is noticed **on the same set of facts** on which, previously, the consumer was not found to have committed theft, the consumer can get the benefit of the same. It is required to be noted that

even in the said decision also the learned Single Judge also specifically observed that it, however, depends on the facts and circumstances of the case and the nature of inspection checking at the relevant time and at the subsequent time. Thus, the decision of the learned Single Judge in the case of Ambeshwar Paper Mills Ltd. (Supra) would not be of any assistance to the consumers. On the contrary, following observations and clarification in para 16 of the said judgment would be applicable to the facts of the case on hand.

"16. Mr.Mehta thereafter has vehemently argued that the theft bill is required to be calculated as per the formula $M \times H \times C$, which is contained in Condition No.34 of the Conditions framed by the Board. The respondent-Board has framed various Conditions for supply of Electrical Energy. Condition No.33 provides about Malpractice and Theft of Energy and Condition No.34 provides for payment for energy dishonestly used or abstracted or maliciously wasted or diverted. The method of computing period of assessment is also provided under Condition 34 and the same reads as under :-

"34. Payment for energy dishonestly used or abstracted or maliciously wasted or diverted.

xxx xxx xxx

PERIOD OF ASSESSMENT :

The assessment of energy under this Clause 34 shall apply on the following basis :

- 1. Past six months from the date of detection, (for seasonal industries - Six working months, excluding off season period declared by the consumer); or*
- 2. Actual period from the date of commencement of supply upto the date of detection; or*
- 3. Actual period from the date of replacement of component of metering system in which evidence is detected within six months from the date of detection and upto the date of detection; or*
- 4. The actual period from the date of the previous installation Checking (and resulted into supplementary bill) under provisions of this clause within six months period of the date of the detection under consideration and upto the date of detection."*

Mr.Mehta submitted that the revised bill was required to be issued to the petitioner only after considering the subsequent period from the date of the previous installation checking and the period prior to such last checking cannot be taken into consideration for the purpose of sending the supplementary bill, especially when in the previous installation checking, nothing objectionable was found. He submitted that simply because everything was found to be in order during previous checking and on that basis, no supplementary bill is issued to the petitioner, is no ground to take the aforesaid period into account, which was already subjected to proper checking for the purpose of sending the revised bill. He submitted that Condition No.34 which provides that unless the previous checking has resulted into supplementary bill, the said period cannot be given set off is illegal and unconstitutional. He further submitted that even if nothing objectionable is found during earlier inspection and, therefore, no supplementary bill is issued, as per the amended Condition No.34, unless previous installation checking has resulted into supplementary bill, the aforesaid period will be taken into account. It is submitted that, in the instant case, the supplementary bill, at the most, could have been issued to the petitioner only from the date of previous installation checking, as, upto that period, i.e. when the previous installation checking was done, everything was found to be in order. He further submitted that in view of the amended Condition No.34, since such installation checking has not resulted into supplementary bill, unfortunately, no such benefit is available to the petitioner, and, therefore, even though for the earlier period as per the inspection, everything was found to be in order, yet, since no supplementary bill is given, the petitioner is subjected to revised bill, even though, during that period, he had not committed any alleged illegalities. In his submission, as per the above-referred amended condition even if the installation is checked previously for detection of theft and no theft is detected, then also, the bill will have to be issued for past six months. No discretion is given either to the Officers of the Board, who prepare the theft bill, or even to the appellate committee to revise the bill from the date of last theft checking when no theft was found. The said Condition is arbitrary and, therefore, such amended condition is required to be struck down as being unreasonable and discriminatory.

On behalf of the Board, it is submitted by Ms. Bhaya that in view of the Division Bench judgment of this Court in Patel Parshottamdas Vanmalidas v. Gujarat Electricity Board and another, AIR 1987 Gujarat 188, it cannot be said that the said Condition No.34 is arbitrary or is ultra vires in any manner. In the said judgment, a Division Bench of this Court has considered Condition No.34 (prior to its amendment) and it is observed in paragraphs 2 and 3 as under :-

“... ..

2. As regards the contention of absence of procedure for submitting the case of the consumer before the impugned assessment of penalising action is taken, we are not able to appreciate this argument. The consumer with his open eyes enters into an agreement with the Board with such conditions. Those conditions are for the purpose of meeting certain exigencies in granting the service connection. It has also been made clear by the Board in Condition No.3 which is framed under the title "The Gujarat Electricity Board Prevention of Theft of Energy and Malpractices (By Consumers) Regulations, 1976" as follows :-

"3. The Board may, with a view to preventing the consumers from indulging in committing theft of energy and committing malpractices impose such conditions in its conditions of supply applicable to its consumers and forming part of the Contract of supply between the Board and the consumer as the Board may deem fit."

Thus, it is clear that the Board has formulated such a condition in order to safeguard its interest. Such a condition is there for the purpose of checking, apart from other things, the theft of electricity. It is not a case of any defective meter, but it is a case of theft of electricity by the consumer concerned. As a matter of fact, in this case it is alleged that the petitioner, by inserting a plastic strip, was able to stop the running of the meter and thereby, committed theft of electricity. The condition clearly states as to the procedure that has to be adopted for the purpose of questioning the departmental action in levying penal charges. It has also been made clear in the condition as to the limit to which the Department can go for the purpose of assessing the theft of electricity. In no case the Department can go beyond a period of six months, according to this condition. In Condition No.34, we are able to see that manner of assessment also has been specified. If all these steps are taken by the Department, the condition itself states that the consumer has a remedy by filing an appeal to the appropriate authority within a specified time. Thus, a conjoint reading of this Condition and the purpose for which it is intended, clearly makes out that such a condition is not arbitrary or unreasonable, but within the powers of the Board and, in our opinion, it does not offend any of the Articles of the Constitution. The argument as if the imposition of penal assessment before filing an appeal is harsh and makes the appeal illusory cannot be appreciated. The penal assessment, as we have stated already, is restricted to a limited period. Such an assessment was made after the Department itself was satisfied with regard to the theft of electricity committed by the consumer concerned. Hence, it cannot be said that the appeal provided under Condition No.34 is an illusory one.

3. We are also not convinced that such a condition provided under Condition No.34, in any way, conflicts with the provisions of the Indian Electricity Act as directly coming into conflict with S.26(6) of the Indian Electricity Act. Section 26(6) reads as follows :

“26. xx xx xx

(6) Where any difference or dispute arises as to whether any meter referred to in sub-sec.(1) is or is not correct, the matter shall be decided, upon the application of either party, by an Electrical Inspector, and where the meter has, in the opinion of such Inspector ceased to be correct, such Inspector shall estimate the amount of the energy supplied to the consumer or the electrical quantity contained in the supply, during such time, not exceeding six months, as the meter shall not, in the opinion of such Inspector, have been correct; but save as aforesaid, the register of the meter shall, in the absence of fraud, be conclusive proof of such amount or quantity :

Provided that before either a licensee or a consumer applies to the Electrical Inspector under this sub-section, he shall give to the other party not less than seven days notice of his intention so to do."

The two decisions cited by the learned counsel appearing for the petitioner in *Hamidullah Khan v. Chairman, M.P. Electricity Board* reported in AIR 1983 Madh Pra 1 and *Basantibai v. M.P. Electricity Board, Indore*, reported in AIR 1985 Madh Pra 70, (deal) with defective digit in the meter and a meter which was burnt respectively. As far as the present case is concerned, there is no question of any defective meter as such, but the consumer has dexterously inserted a plastic wire in order to stop the meter from running. This is a case, if it is proved, squarely coming under the theft of electricity and will not in any way be construed as one coming under the category of recording consumption under a defective meter. Hence, Condition No.34 does not come into conflict either with the Indian Electricity (Supply) Act or S.26(6) of the Indian Electricity Act as submitted by the learned counsel appearing for the petitioner herein. Taking all these aspects into consideration, we are of the view that Condition No.34 is not unreasonable or arbitrary and it does not offend any of the provisions of the Constitution. For all these reasons, we do not find any substance in this Special Civil Application and accordingly, the same is dismissed."

A reference is also required to be made to the decision of the Apex Court in *Hyderabad Vanaspathi Ltd. v. A.P. State Electricity Board and others*, (1998) 4 SCC 470. In the said judgment, the Supreme Court has also approved the view of the Division Bench of this Court (*supra*) and it was

found that such type of condition was valid. In paragraph 42 of the said judgment, the Apex Court found that the Division Bench of the Gujarat High Court has considered similar condition and upheld the validity thereof and ultimately, the Apex Court agreed with the view taken by this Court.

Mr.Mehta, however, argued that in view of the amendment of Condition No.34, it is clear that unless the previous inspection resulted into supplementary bill, in a given case, even if it is found that everything was in order at the time of earlier inspection, and, therefore, no revised bill is issued, yet, while issuing the revised bill, even the said period, during which even no theft is committed, is also taken into consideration by the Board and, according to him, therefore, in view of this amendment, as indicated in the Condition, now, that part of the condition is arbitrary and ultra vires as even if the consumer is found to be honest and, therefore, no supplementary bill is issued during the intervening period, yet simply because no revised bill is issued, the said period is taken into consideration by the Board.

Considering the reasoning of the Apex Court as well as of the Division Bench of this Court, in my view, condition No.34 cannot be held as arbitrary, discriminatory or ultra vires simply because by amendment it is provided that the assessment of energy will be for the actual period from the date of the previous installation checking (and resulted into supplementary bill) within six months' period of the date of detection under consideration and upto the date of detection. Even otherwise, I am of the opinion that if a consumer is able to satisfy the authority that at the time of previous installation checking, the Checking Squad found everything in order and no electricity theft was noticed in any manner, then, naturally, the said aspect is required to be taken into account by the Board irrespective of whether the same resulted into a supplementary bill. In short, ultimately, if it is established that no irregularity or theft of energy was found at all in any manner, on the previous occasion during the earlier installation checking, naturally, the supplementary bill is required to be issued subsequent to the date of the previous installation checking irrespective of whether it resulted into supplementary bill. Even after issuance of supplementary bill if the consumer is able to establish even before the Appellate Committee that the so-called theft is committed only from a particular date, naturally, if the Appellate Committee, after examining the merits of such contention, comes to the conclusion that even though the supplementary bill is issued for six months, the consumer has committed theft only from a particular date, which may not cover the entire period of six months, naturally, the Appellate Committee can give appropriate relief at the time of determining the quantum of amount, which the consumer is required to pay. It cannot be said that if the previous checking is done in a proper manner and, subsequently after that checking if any illegality

or theft of energy is noticed, on same set of facts on which, previously, the Consumer was not found to have committed theft, naturally, he will get the benefit of the same, even though he is not subjected to supplementary bill, naturally because he has not committed theft at that time. It, however, depends on the facts and circumstances of the case and the nature of installation checking at the relevant time and at a subsequent time.

I may clarify that, in a given case, if it is established that in an earlier checking, everything was found to be in order, and on similar facts and evidence, another inspection was carried out, wherein it is found that there is theft of electricity energy, then, naturally, in such case, the Board has to consider the question about computing the revised bill from the date of such previous checking only. So far as amended Condition No.34 is concerned, it requires to be considered from the aforesaid angle and if in a given case the consumer is able to satisfy that on the same set of material, previously checking was done in which everything was found to be in order and, subsequently, so-called illegality is committed by him at a subsequent stage, naturally, the earlier installation checking will have its own bearing and in such cases, naturally, the supplementary bill will be required to be issued from the date of such previous installation checking. Condition 34 is required to be considered in the aforesaid light. Under these circumstances, the contention of Mr.Mehta that Condition No.34, which gives no option to the Board but to issue supplementary bill in case the earlier checking has not resulted into supplementary bill, is without any basis. The said contention is accordingly rejected, as Condition No.34 is required to be read in the aforesaid manner and in that view of the matter, the said condition cannot be said to be ultra vires, illegal or unconstitutional in any manner.”

If the entire judgment of the learned Single Judge in the case of Ambeshwar Paper Mills Ltd. (Supra) is considered and read as a whole, it will be in favour of the electricity company.

[8.6] Now, so far as the reliance placed upon the decision of the learned Single Judge in the case of Kailash Plastic Processors (Supra) rendered in Special Civil Application No.5295/2001 by the learned advocate appearing on behalf of the consumers is concerned, considering the facts in the said case and the facts of the case on hand, we are of the opinion that the said decision would not be of any assistance to the consumers.

In the case before the learned Single Judge from the evidence on record, it was found that the meter was changed on 21.04.2000 and upto which time no tampering either of the meter or of the metal board was detected by the Board Officers and subsequently the theft was detected on 06.05.2000 and therefore, in the facts and circumstances of that case, the learned Single Judge directed to issue fresh bill for the period between 21.04.2000 to 06.05.2000. Under the circumstances, the said decision shall not be applicable to the facts of the case on hand.

[9.0] In view of the above and for the reasons stated above, all these Letters Patent Appeals are allowed. Impugned judgment and orders dated 12.12.2013 passed by the learned Single Judge in Special Civil Application Nos.8520/2004 and 8524/2004 and the impugned judgment and order dated 29.01.2013 passed by the learned Single Judge in Special Civil Application No.16975/2004 are quashed and set aside and the respective decisions of the Appellate Committee confirming the supplementary bills and the supplementary bills issued by the Electricity Company for the period of 180 days prior to the date of detection of the pilferage of electricity / theft of electricity are hereby restored. All these Letters Patent Appeals are consequently allowed. However, in the facts and circumstances of the case, there shall be no order as to costs.

CIVIL APPLICATION NOS.1028/2014, 1029/2014 AND 3697/2014

In view of disposal of main Letters Patent Appeals, all the respective civil applications stand disposed of.

(M.R. SHAH, J.)

(R.D. KOTHARI, J.)

Ajay