

HIGH COURT OF GUJARAT

AGAM TEXTILE PVT LTD

Versus

DAKSHIN GUJARAT VIJ COMPANY AND ORS

Date of Decision: 02 May 2008

Citation: 2008 LawSuit(Guj) 2629

Hon'ble Judges: [Ravi R Tripathi](#)

Eq. Citations: **2008 2 GLH 410**

Case Type: Special Civil Application

Case No: 4635 of 1999

Acts Referred:

[Constitution Of India Art 226](#)

Final Decision: Appeal allowed

Advocates: [R C Jani](#), [Tushar Mehta](#)

Cases Referred in (+): 1

Ravi R. Tripathi, J.

[1] This petition is filed before this Court challenging order dated 30/3/1999 (Annexure-A), revised bill at Annexure-B and letter dated 14/6/1999 at Annexure-C.

[2] Learned advocate Mr.Tushar Mehta for the petitioner contended that the appellate committee of the Gujarat Electricity Board while deciding the appeal No.B-50/1998-99 did not take into consideration the submissions made by the petitioner. He also contended that the committee decided the appeal without proper application of mind to the facts of the case. He submitted that the order passed by the appellate committee is not tenable in law and requires to be quashed and set aside by this Court.

[3] The learned advocate for petitioner invited attention of the Court to the grounds set out in para-4 of the petition, on which the order of the appellate committee is challenged. The learned advocate for petitioner also invited attention of the Court to

the contents of the revival application filed before the appellate committee, a copy of which is produced at Annexure-D to this petition.

[4] Taking into consideration the grounds on which the order passed by the appellate committee is challenged and taking into consideration the fact that the contentions raised by the petitioner before the appellate committee were not dealt with, with required application of mind, the order passed by the appellate authority is hereby quashed and set aside and the matter is sent back to the appellate authority for deciding afresh.

[5] The petitioner is directed to file an appeal before the appellate authority as per the provisions contained in Gujarat Electricity Regulatory Commission (Procedure for Filing Appeal before the Appellate Authority) Regulations, 2004, within four weeks from today. The learned advocates have no dispute on the point that the appeal will be filed before the Assistant Electrical Inspector, Surat who has jurisdiction over Surat Circle.

[6] The appellate authority is directed to decide the appeal so filed by the petitioner preferably within two months from the date of receipt of the appeal.

[7] At this juncture, learned advocate for the petitioner submitted that the petitioner has already deposited a sum of Rs.3,21,294.02 (Rupees three lakh twenty one thousand two hundred ninety four and paise two only) in compliance with the order passed by this Court on 1/9/1999. He submitted that the said deposit be subjected to the final order passed by the appellate authority. He requested that in light of the Division Bench judgment of this Court in case of [Kiran Industries Mehsana vs. Gujarat Electricity Board Baroda and another](#), 1995 2 GLH 1, it be directed that the same be refunded with interest at the commercial rate of interest in the event the petitioner succeeds in the appeal. Order accordingly.

[8] With the aforesaid observations and directions, the petition is allowed to aforesaid extent. Rule is made absolute to the aforesaid extent only. No order as to cost.