

COURT-1

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

DFR No : 1 of 2025 & IA No. 330 OF 2025 & IA No. 329 OF 2025 & IA
No. 1 OF 2025

Dated: 21st April, 2025

Present : Hon`ble Mr. Justice Ramesh Ranganathan, Chairperson
Hon`ble Ms. Seema Gupta, Technical Member (Electricity)

In the matter of:

Gallante Ispat Limited, previously known as Gallante
Metal Limited, ... Appellant(s)

Versus

Paschim Gujarat Vij Company Ltd & Ors. Respondent(s)

Counsel on record for the Appellant(s) : Shekhar Prit Jha
Vikrant Bhardwaj for App. 1

Counsel on record for the Respondent(s) : Ranjitha Ramachandran
Utkarsh Singh
Srishti Khindaria
Aneesh Bajaj
Parth Bhalla for Res. 1

Ranjitha Ramachandran
Utkarsh Singh
Srishti Khindaria
Aneesh Bajaj
Parth Bhalla for Res. 2

C.K. Rai
Anuradha Roy
Vinay Kumar Gupta for Res. 3

ORDER

IA-330/2025

(For condonation of delay in refiling the Appeal) (50 days) &

IA-329/2025

(For condonation of delay in filing the Appeal) (03 days)

The delay of 03 days in filing the appeal, and 50 days in refiling the appeal, is not so inordinate as to necessitate denial to hear the Appeal on merits. The delay is also not opposed by Learned Counsel for the Respondents. The delay in filing/refiling the Appeal is condoned and the applications are, accordingly, disposed of.

DFR No : 1 of 2025 & IA No. 1 OF 2025

This appeal has been preferred against the order passed by the Gujarat Electricity Regulatory Commission in Petition No. 1530 of 2015 dated 14.11.2024. Respondent Nos.1 and 2 herein filed a petition under Section 94(1) of the Electricity Act read with Order 47 Rule 1 of Civil Procedure Code seeking review of the earlier order passed by the Commission in Petition No. 1339 of 2013 dated 23.07.2015. By its order in review petition No. 1530 of 2015 dated 11.02.2024, the GERC noted that the Appellant herein had argued on the maintainability of the review petition, while the first and second Respondents had argued both on maintainability and on merits. The Commission then observed that they would hear the petition on both the issues, ie maintainability and on its merits, together to take a holistic view on the issues raised in the present matter.

While we may not be understood to have held that, in no case can the maintainability of the review petition be decided as a preliminary issue before examining the review petition on merits, the Commission cannot also be faulted for its decision to hear the review petition both on its maintainability and on its merits together, for, in such an event and in case the Commission were to be satisfied when the review petition is finally heard that the tests stipulated in Order 47 Rule 1 of CPC are not satisfied, it would then refrain from adjudicating the review petition on its merits and

dismiss the review petition on the ground that the tests stipulated under Order 47 Rule 1 CPC have not been fulfilled. It is only if it is satisfied that the tests stipulated in Order 47 Rule 1 CPC are fulfilled, would it then consider passing an order on the merits of the review petition. We see no reason, in such circumstances, to interfere with the order impugned in this appeal.

We must, however, take note of the submissions of Mr. S.P. Jha, Learned Counsel for the Appellant, that, under the guise of pendency of the review petition, the first and second Respondents have chosen not to comply with the earlier order passed by the Commission. We find that such a tendency prevails in several cases, and that parties avoid compliance with the orders passed by the Commission on the ground that a review petition/appeal is pending. We deem it appropriate to make it clear that, in the absence of any order being passed granting stay of the impugned order it is, ordinarily, impermissible for any party to decide on its own as to whether the impugned order should be complied with or not. Since the Appellant has the remedy of invoking the jurisdiction of the Commission under Section 142 of the Electricity Act, we refrain from saying anything more.

We, however, find no error in the impugned order passed by the Commission warranting interference in appeal. Subject to the aforesaid observations, the appeal fails and is accordingly dismissed.

(Seema Gupta)
Technical Member (Electricity)
mk/dk

(Justice Ramesh Ranganathan)
Chairperson