

# PROJECTS, ENERGY & INFRASTRUCTURE

MONTHLY NEWSLETTER  
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# LEGAL & POLICY UPDATES



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## Ministry of Petroleum and Natural Gas (MoPNG) has issued the Natural Gas (Supply Regulation) Order on March 9, 2026

- The Ministry of Petroleum and Natural Gas (**MoPNG**), on March 9, 2026, has issued the Natural Gas (Supply Regulation) Order, 2026, in exercise of powers under Section 3(2)(d) and (f) of the Essential Commodities Act, 1955.
- This order regulates production, sector-wise allocation, diversion, distribution, disposal, acquisition, use, and consumption of natural gas, including Liquefied Natural Gas (**LNG**) and regasified LNG, due to LNG shipment disruptions through the Strait of Hormuz and force majeure invocations by suppliers.
- The Central Government directs regulation of production, supply, and distribution to maintain supplies and ensure equitable availability for priority sectors based on the past six-month average gas consumption, subject to operational availability.
  - Priority Sector I receives 100% supply for domestic Piped Natural Gas (**PNG**), Compressed Natural Gas (**CNG**) for transport, Liquefied Petroleum Gas (**LPG**) production, including shrinkage requirements, and pipeline compressor fuel or other essential operational needs.
  - Priority Sector II ensures 70% supply to fertilizer plants, provided units use gas solely for fertilizer production with a certificate furnished to Petroleum Planning and Analysis Cell (**PPAC**) via the Ministry of Fertilizer, and no allocation is diverted between units.
  - Priority Sector III maintains 80% supply to tea industries, manufacturing, and other industrial consumers via the national gas grid, with allocation principles to be evolved by PPAC in coordination with the Industry Committee.
  - Priority Sector IV provides 80% supply to industrial and commercial consumers through City Gas Distribution networks, with allocation principles to be evolved by PPAC in coordination with the Industry Committee.
- Priority sector entities receiving pooled gas must undertake that the price is acceptable, the force majeure mitigation supply will not face litigation despite variances with existing contracts, and they will not resell the diverted gas.
- Oil refining companies shall absorb LNG disruption impacts by reducing refinery gas allocation to approximately 65% of past six-month consumption, subject to operational feasibility.
- Gas Authority of India Ltd. (**GAIL**), in coordination with PPAC, shall manage natural gas supplies to implement these directions and submit invoice prices for every diverted volume to PPAC.

- Every producer, importer, transporter, marketer, or distributor of natural gas, including LNG and regasified LNG, must furnish details on production, imports, stocks, allocation, supply, and consumption to the Central Government or authorized officers, with PPAC designated as the nodal agency.
- The provisions of the order shall apply even if they conflict with existing Gas Sale Agreements (**GSAs**) or other commercial arrangements.

### **Ministry of Petroleum and Natural Gas (MoPNG) has notified the sale of Ethanol Blended Petrol with Prescribed quality standards on February 17, 2026**

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- The Ministry of Petroleum and Natural Gas (**MoPNG**) on February 17, 2026, has notified the sale of Ethanol Blended Petrol with prescribed quality standards (**Notification**) under Section 3 of the Essential Commodities Act, 1955, read with paragraph 6 of the Motor Spirit and High-Speed Diesel (Regulation of Supply and Distribution and Prevention of Malpractices) Order, 2005, directing oil companies to supply Ethanol Blended Motor Spirit across all States and Union Territories.
- The Notification supersedes the earlier notification dated June 2, 2021, while ensuring that actions already taken under the previous rule remain unaffected.
- The Central Government directs oil companies to sell Ethanol Blended Motor Spirit with up to 20% Ethanol content as per Bureau of Indian Standards (**BIS**) specifications and a minimum Research Octane Number (**RON**) of 95 across all States and Union territories.
- The Central Government may, in special circumstances, permit oil companies to sell Ethanol Blended Petrol with specified RON standards as per BIS for designated regions and time periods.

### **Ministry of Petroleum and Natural Gas (MoPNG) issued a Revised Order on Petroleum Products (Maintenance of Production, Storage and Supply) Order, 1999 on March 09, 2026**

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- The Ministry of Petroleum and Natural Gas (**MoPNG**) on March 09, 2026, issued a Revised Order (**Order**) to prioritize availability of LPG in public interest for domestic consumption, under Clauses 3 and 5 of the Petroleum Products (Maintenance of Production, Storage and Supply) Order, 1999 (**1999 Order**), read with Section 3 of the Essential Commodities Act, 1955 (**ECA, 1955**).
- All domestic and Special Economic Zone (**SEZ**) oil refining companies, including petrochemical complexes, must maximize production and ensure that all C3 and C4 streams, whether produced, recovered, fractionated, or otherwise available, are used for LPG pool production and supplied exclusively to Indian Oil Corporation Limited (**IOCL**), Hindustan Petroleum Corporation Limited (**HPCL**), and Bharat Petroleum Corporation Limited (**BPCL**).
- Oil refining companies are restricted from diverting, utilizing, processing, cracking, converting, or otherwise using such C3 and C4 streams for the manufacture of petrochemical products or any downstream derivatives.
- Public sector Oil Marketing Companies (**OMCs**) are required to ensure that LPG procured under this order is supplied and marketed solely to domestic LPG consumers.
- Any contravention of the Order shall attract penalties under the 1999 Order, ECA 1955, and other applicable laws.
- The Order supersedes the earlier order dated March 05, 2026, and comes into force with immediate effect and will remain in force until further orders of the Central Government.

### **Ministry of New and Renewable Energy (MNRE) has issued an Office Memorandum amending the Procedure for inclusion/updating Wind Turbine Model in the Approved List of Models and Manufacturers (ALMM) on February 16, 2026**

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- The Ministry of New and Renewable Energy (**MNRE**), on February 16, 2026, issued an Office Memorandum (**OM**) amending the procedure for inclusion and updating of Wind Turbine Models in the Approved List of Models and Manufacturers (**ALMM**) of Wind Turbines originally issued on July 31, 2025, while introducing targeted relaxations in compliance timelines for critical components.
- Additional time has been granted for compliance with requirements relating to special bearings, including main bearings, yaw bearings, and pitch bearings, on account of prevailing supply chain constraints.
- Wind power projects for which bids were closed prior to July 31, 2025, have been exempted from compliance requirements concerning main bearings, provided such projects are commissioned within 3 years from July 31, 2025.
- Projects already bid out or to be bid before July 31, 2027, have been granted exemption from main bearing requirements, with such requirements to be re-evaluated after two years based on supply chain conditions.
- Wind power projects to be commissioned within 18 months from July 31, 2025, under captive, open access, and third-party sale arrangements have been accorded additional exemptions under the revised framework.
- The OM further provides for exemptions in specific scenarios, including:
  - A general exemption period of two years for compliance with main bearing requirements, subject to review, extending up to January 31, 2029.
  - A separate exemption period of one year for compliance with yaw and pitch bearing requirements, extending up to January 31, 2028.
- Apart from the above, all other provisions of the OM dated July 31, 2025, continue to remain unchanged.

## RERC Battery Energy Storage Systems (BESS) Regulations, 2026

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- The Rajasthan Electricity Regulatory Commission (RERC), in exercising its powers under the Electricity Act, 2003, has notified the Battery Energy Storage Systems (BESS) Regulations, 2026 to create a structured framework for deployment, operation, and market participation of energy storage systems in the State of Rajasthan.
- These Regulations were preceded by a draft version issued for public consultation, wherein multiple stakeholders including utilities, developers, and industry participants submitted comments. The Commission has considered these inputs and issued a Statement of Objects and Reasons, reflecting a consultative and iterative regulatory process.
- The key highlights of the response are as follows:
  - The Regulations apply to licensees, generating companies, aggregators, Battery Energy Storage Systems (“BESS”) developers, and consumers/prosumers, thereby enabling deployment of storage across utility-scale as well as behind-the-meter applications.
  - The Regulations are presently limited to BESS; however, the Commission has clarified that similar principles may be extended to other storage technologies through separate regulatory intervention.
  - Consumers, including those under net metering, net billing, group/virtual net metering, and green open access, are expressly recognised, promoting decentralised participation in energy storage.
  - BESS may be developed, owned, or operated by utilities, private developers, aggregators, consumers, or third-party investors, in line with Central Government guidelines facilitating market participation and investment.
  - The Commission has clarified that the State Load Despatch Centre (“SLDC”) will function as a system operator and not as a market participant, ensuring operational neutrality and compliance with the Electricity Act, 2003.
  - BESS is permitted to provide multiple services such as ancillary services, energy arbitrage, and grid support subject to technical capability, SLDC procedures, and safeguards against double counting of revenues.
  - Distribution Licensees and the State Transmission Utility are required to undertake coordinated storage planning aligned with grid reliability, renewable integration, congestion management, and Resource Adequacy (“RA”) principles, along with cost-optimisation analysis.

- Procurement of BESS capacity/services by licensees is to be undertaken through tariff-based competitive bidding, with explicit allocation of responsibilities relating to charging energy, losses, and settlement.
- Deviation settlement and operational aspects for BESS will follow applicable Central Electricity Regulatory Commission (“**CERC**”) regulations and procedures mutatis mutandis, ensuring regulatory consistency.
- Consumers are permitted to deploy BESS for self -consumption, peak management, and energy arbitrage, with settlement mechanisms to be specified separately by the Commission.
- Looking ahead, India is committed to E20 blending until 31 October 2026. Any decision to move beyond E20 will be based on the Inter - Ministerial Committee’s report, stakeholder consultations with automakers, fuel suppliers, R&D bodies, and farmers, ensuring that future transitions are carefully calibrated.
- With the notification of the BESS Regulations, 2026, the Commission has established a comprehensive and forward-looking framework to facilitate the integration of energy storage into the electricity sector, balancing grid stability, market development, and consumer interests.
- The Regulations promote a market-driven and technology-evolving approach by enabling multiple ownership models, consumer/prosumer participation, and multi-use applications of BESS, while ensuring regulatory oversight through SLDC and alignment with central frameworks.
- The Commission has adopted a calibrated approach by linking storage deployment with system planning, resource adequacy, and cost optimisation, thereby ensuring that BESS investments remain efficient and do not impose undue burden on consumers.
- Overall, the framework lays a strong foundation for scaling up energy storage in the State, while leaving scope for further refinement through procedures and future regulatory interventions as the market evolves.

# RECENT JUDGMENTS



## In this Section

**Southern Power Distribution Company of Andhra Pradesh Limited & Anr. Vs. Green Infra Wind Solutions Limited & Ors.**

**West Bengal State Electricity Distribution Company Limited Vs. Adhunik Power & Natural Resource Ltd.**

**Power Trust (Promoter of Hiranmaye Energy Ltd.) Vs. Bhuvan Madan (Interim Resolution Professional of Hiranmaye Energy Ltd.) and Others**

**Ramjus Vs. B.S.E.S. Rajdhani Power Ltd.**

**Maharashtra State Electricity Distribution Company Limited & Ors Vs. Vivek Pandurang Chawan & Ors.**

**The Maharashtra State Electricity Distribution Company Ltd. and Ors. Vs. Harman Fino Chem Private Limited.**

**Ultra Tech Cement Company Ltd. Vs. Maharashtra State Electricity Distribution Company Ltd. and Ors.**

**Gujarat Urja Vikas Nigam Limited Vs. Tata Power Company Limited & Ors.**

**M/s Manaksia Coated Metals & Industrial Limited Vs. Executive Engineer, Division Office Paschim Gujarat Vj Company Limited.**

## **Southern Power Distribution Company of Andhra Pradesh Limited & Anr. Vs. Green Infra Wind Solutions Limited & Ors.**

SC, decided on March 25, 2026, reported in 2026 INSC 294

### Background facts

- The dispute concerns whether Generation Based Incentive (GBI) granted by the Ministry of New and Renewable Energy (MNRE) can be factored into tariff determination by State Electricity Regulatory Commissions (SERCs).
- The GBI Scheme (2009) provides ₹0.50 per unit of electricity generated to incentivise renewable energy, particularly wind power, with the objective of increasing investment and generation efficiency.
- The scheme expressly stipulates that GBI is over and above the tariff determined by SERCs and is intended as a generator-focused incentive.
- APERC framed the Tariff Regulations, 2015, including Regulation 20 mandating that incentives or subsidies must be “taken into consideration” while determining tariff.
- APERC initially issued tariff orders (2015–2016) without factoring in GBI. Subsequently, DISCOMs sought revision of tariff to account for GBI benefits.
- APERC (2018) allowed deduction of GBI from tariff, holding that Regulation 20 required such consideration.
- The GENCOs challenged this before APTEL, which held that “taking into consideration” does not mandate deduction and directed refund of deducted amounts.
- The matter was carried to the Supreme Court to determine the scope of regulatory powers vis-à-vis policy incentives.

### Issues at Hand

- Whether tariff determination under the Electricity Act, 2003 includes the power to consider incentives granted by the Central Government such as GBI.
- Whether Regulation 20 mandates deduction of GBI from tariff payable to renewable energy generators.
- Whether factoring GBI into tariff violates the constitutional scheme governing grants under Articles 112–114 and 282.
- What are the duties and obligations of SERCs while exercising their tariff determination powers.

### Decision of the Tribunal

- The Supreme Court held that the Electricity Act, 2003 is a complete code, and tariff determination is the exclusive and plenary domain of SERCs, with no regulatory vacuum outside their jurisdiction.

- SERCs exercise wide legislative, executive and adjudicatory powers, guided by statutory principles including consumer interest, efficiency, competition, and promotion of renewable energy. Regulation 20 imposes a mandatory obligation to “take into consideration” incentives, including GBI, while determining tariff.
- The Court clarified that consideration of GBI does not amount to diversion or subversion of a Parliamentary grant, as the incentive continues to be disbursed directly to generators.
- It rejected the argument that GBI is immune from regulatory treatment after disbursement, holding that it remains subject to the tariff framework.
- However, the Court held that “taking into consideration” does not translate into automatic or mechanical deduction of GBI from tariff.
- The Court emphasized that tariff determination must be contextual, purposive, and aligned with statutory policy, particularly the mandate under Section 61(h) to promote renewable energy.
- It held that regulators must function as part of a “collaborative enterprise”, coordinating with government policies, climate commitments, and sectoral objectives rather than acting in isolation.
- Since GBI is a generator-centric incentive linked to national and international renewable energy goals, it cannot be treated as a consumer subsidy through tariff reduction.
- Accordingly, the Court upheld APTEL’s decision and held that GBI must be paid over and above tariff and not deducted.
- The Court also affirmed that amounts deducted by DISCOMs pursuant to APERC’s order are liable to be refunded to generators.



HSA  
**Viewpoint**

The judgment strikes a clear balance between regulatory autonomy and policy intent. While affirming the plenary powers of SERCs in tariff determination, the Court limits mechanical application of such powers where it would defeat the objective of government incentives. By holding that GBI cannot be treated as a consumer subsidy, the ruling preserves its character as a generator-focused incentive, thereby strengthening investor confidence in the renewable energy sector while ensuring regulatory decisions remain aligned with statutory and policy goals.

## West Bengal State Electricity Distribution Company Limited Vs. Adhunik Power & Natural Resource Ltd.

SC, decided on February 27, 2026, reported in 2026 SCC OnLine SC 328

### Background facts

- In January 2011, a Power Supply Agreement (PSA) was executed between the Appellant (WBSEDCL) and PTC India Limited for the supply of 100 MW of power for 25 years.
- As part of a back-to-back arrangement, a Power Purchase Agreement (PPA) was executed in March 2011 between the Respondent (APNRL) and PTC India Limited for the onward sale of that 100 MW to WBSEDCL.
- Although the PPA/PSA did not explicitly name the coal source in its primary text, internal minutes from January 2011 and subsequent correspondence in 2012 confirmed that the power was to be generated using coal from the Ganeshpur captive coal block.
- As the Ganeshpur captive coal block could not be operationalized in time, APNRL began supplying power using coal sourced under a "tapering linkage" from Central Coalfields Ltd. (CCL), supplemented by expensive e- auction and imported coal.
- On August 25, 2014, the Supreme Court cancelled the allotment of various coal blocks, including the Ganeshpur Captive Coal Block allotted to APNRL.
- Following the court's judgment, the Government issued the Coal Mines (Special Provision) Ordinance, 2014, and the Coal Mines (Special Provision) Act, 2015, which fundamentally altered the coal block allocation process.

- APNRL sought to pass through the additional costs of coal incurred due to the shortfall in tapering linkage and the subsequent loss of its captive mine, leading to a legal dispute over whether these events constituted a "Change in Law" under Article 10 of the PPA/PSA.

### Issues at hand

- Whether the cancellation of the coal block by the Supreme Court and the subsequent enactment of the 2015 Act constituted a "Change in Law" event under Article 10 of the PPA/PSA.
- Whether APNRL was entitled to compensation for the additional cost of coal purchased through e-auctions/imports to meet shortfalls prior to the 2014 cancellation.
- Whether the indemnity clause in Article 2.5 which barred escalation for sourcing coal from "other sources" applied even after the captive source was legally extinguished.

### Decision of the Tribunal

- The Central Electricity Regulatory Commission (CERC) initially held that Article 2.5 of the PPA/PSA which bars price escalation for sourcing coal from "other sources" only applied when the captive coal source was operational. It granted compensation for coal purchased to meet shortfalls in tapering linkage pending the operationalization of the Ganeshpur block but rejected the "Change in Law" claim regarding the 2014 coal block cancellation.
- The Appellate Tribunal for Electricity (APTEL) reversed the CERC's "Change in Law" finding, ruling that the Supreme Court's 2014 cancellation of the coal block and the subsequent 2015 Act did constitute "Change in Law" events under Articles 10.1.1(b) and 10.1.1(f). APTEL awarded compensation and carrying costs effective from 25.08.2014.
- The Supreme Court set aside APTEL's grant of compensation for coal shortfalls occurring prior to the August 2014 cancellation. The Court held that APNRL had assured the block would be operational by the start of power supply, and thus the indemnity in Article 2.5 applied to any delays before the legal cancellation.
- The Supreme Court upheld APTEL's decision regarding the post-2014 period, confirming that the judicial interpretation and subsequent legislative changes regarding coal mining laws were "Change in Law" events that materially affected APNRL's obligations.
- The Court affirmed that APNRL was entitled to be restored to the same economic position it would have occupied had the Change in Law not occurred, granting compensation and carrying costs from the date of the de-allocation.
- The Supreme Court directed the CERC to modify its implementation orders within four weeks to align with this judgment, specifically removing the compensation for pre- August 2014 shortfalls.



#### HSA **Viewpoint**

The Supreme Court reinforces the sanctity of tariff structures by holding that pre-2014 costs arising from alternate coal sourcing remain the generator's commercial risk unless expressly shifted under the contract. At the same time, it broadens the scope of "Change in Law" by recognizing that judicial reinterpretation and subsequent legislative measures can trigger compensatory relief. Importantly, the Court distinguishes between risk allocation clauses Article 2.5 and statutory relief provisions in Article 10, ensuring they operate in separate domains. The ruling also strengthens investor confidence by protecting generators against unforeseeable sovereign actions while preventing unjustified claims for ordinary commercial inefficiencies, thereby maintaining contractual and regulatory balance.

# Power Trust (Promoter of Hiranmaye Energy Ltd.) Vs. Bhuvan Madan (Interim Resolution Professional of Hiranmaye Energy Ltd.) and Others.

SC order dated February 18, 2026, in 2026 SCC OnLine SC 248

## Background facts

- Hiranmaye Energy Ltd. (Corporate Debtor) availed a term loan of Rs. 1,859 crore from REC Ltd. (2nd Respondent/Financial Creditor) under a Common Loan Agreement dated June 19, 2013, for setting up a thermal power plant at Haldia, West Bengal. An additional facility of Rs. 446.97 crore was availed on October 30, 2015. Subsequently, the Corporate Debtor entered into a PPA with WBSEDCL. The accounts were classified as NPAs on June 30, 2018, on account of alleged defaults.
- After negotiations, the Financial Creditor approved restructuring proposals dated February 21, 2020, and September 29, 2020, both subject to pre-implementation conditions including obtaining a favourable tariff order from WBERC by February 28, 2021, creation of a DSRA, demonstrating the power plant running at installed capacity for 72 hours continuously, and making available priority debt and working capital. The Corporate Debtor failed to fulfil these pre-implementation conditions within the agreed deadline.
- REC Ltd. filed a Section 7 application before NCLT recording the date of default as March 31, 2018. The NCLT admitted the application and initiated CIRP on January 2, 2024. Both the High Court at Calcutta and NCLAT upheld the admission. During proceedings before the Supreme Court, the Appellant (Power Trust, promoter) made five settlement proposals (Rs. 1,101.56 crore, Rs. 1,450 crores, Rs. 1,601.29 crore, Rs. 1,606.86 crore, Rs. 1,671.86 crore), all of which were rejected by the CoC by overwhelming majorities. On October 29, 2024, the CoC approved the resolution plan of Damodar Valley Corporation (DVC) by 99.92% voting.

## Issues at hand

- Whether the initiation of CIRP was barred under Section 10A of the IBC on account of the alleged default falling within the COVID-19 suspension period.
- Whether the restructuring agreements resulted in novation of the original loan agreement, thereby negating the existence of a due and payable debt.
- Whether the Adjudicating Authority was required to assess the viability of the corporate debtor and consider settlement proposals before admitting the Section 7 application.

## Decision of the Tribunal

- The Supreme Court dismissed the appeal and vacated the stay on CIRP. On Section 10A: the plea was held to be a non-starter. The original date of default March 31, 2018 pre-dated the Section 10A bar by nearly two years. Even assuming the 1st restructuring plan was accepted, it was subsumed in the 2nd restructuring plan, under which the first instalment fell due on March 31, 2021, beyond the Section 10A window.
- On novation: the restructuring proposals were underpinned on pre-implementation conditions which the Corporate Debtor failed to fulfil. Since the proposals never fructified into valid agreements, there was no novation of the original loan agreement. Receipt of part payments under an existing debt does not amount to acceptance of a failed restructuring proposal, nor does it satisfy the debt in full.
- On viability and Vidarbha: the Court reiterated the ratio in *Innoventive Industries Ltd. v. ICICI Bank*, holding that the Adjudicating Authority's role under Section 7 is limited to ascertaining the existence of a financial debt and a default. The observations in *Vidarbha (supra)* were clarified in review and in *M. Suresh Kumar Reddy v. Canara Bank* as being restricted to the facts of that case and do not operate as binding precedent altering the *Innoventive* ratio.
- On settlement: the commercial wisdom of the CoC in accepting DVC's resolution plan and rejecting the Appellant's proposals is non-justiciable. The Court held that further directions to stall the CIRP on the basis of yet another settlement proposal would be prejudicial to a swift resolution. SEFL's application for release of Rs. 125 crore deposited by the Appellant was also rejected, as no crystallised award of SEFL's claim against the Appellant was on record and the deposit was made as a condition to stay the CIRP.



HSA

## Viewpoint

This judgment definitively resolves the tension between Innoventive Industries and Vidarbha Industries, firmly reaffirming that the scope of enquiry under Section 7 is limited to existence of debt and default. For power sector practitioners, the ruling on Section 10A is equally significant: a restructuring proposal conditioned on pre-implementation milestones which are not met does not crystallise into a binding agreement and cannot be used to shift the date of default into the pandemic moratorium window. The decision also underscores that the commercial wisdom of the CoC in approving a resolution plan over a promoter's settlement offer is non-justiciable, even where the promoter's offer is numerically higher. Power companies facing IBC proceedings should therefore ensure that any restructuring arrangement is documented as a final, unconditional agreement, and that all preconditions are either waived or demonstrably fulfilled before relying on the restructured terms to contest a Section 7 admission.

## Ramjus Vs. B.S.E.S. Rajdhani Power Ltd.

Delhi HC order dated February 16, 2026, in 2026 SCC Online Del 591

### Background facts

- On 07.03.2014, BSES Rajdhani Power Ltd. conducted an inspection at a jhuggi near Shri Mata Kirtan Mandali, B-15711, Freedom Fighter Enclave, New Delhi. The inspection team comprising a Manager (PW1), an Engineer, a Lineman (PW3) and a Videographer found that the accused persons (A1 and A2) were committing theft of electricity by directly tapping from the BSES pole using copper wires of 2.5 mm sq., with a connected load of approximately 6.775 KW. Inspection reports, a load report, seizure memo and videography were prepared contemporaneously at the site. A theft bill of Rs. 2,22,445/- was raised.
- A2 absconded and was declared a proclaimed absconder. A1 (Ramjus/Appellant) pleaded not guilty, claiming he was merely present at the jhuggi as A2 had asked him to look after it, and that the premises belonged to A2. The trial court convicted A1 under Section 135, Electricity Act, 2003 and sentenced him to three months' rigorous imprisonment, a fine of Rs. 3,20,958/-, and directed him to pay civil liability of Rs. 2,13,975/-. A1 preferred the present criminal appeal.

### Issues at hand

- Whether A1, who was not the owner of the jhuggi but was found in possession and use of the premises at the time of inspection, could be held liable under Section 135 of the Electricity Act, 2003 for electricity theft.
- Whether the statutory presumption under the third proviso to Section 135(1) was attracted and whether A1 had discharged the burden of rebutting it.

### Decision of the Tribunal

- The Delhi High Court dismissed the appeal, upholding the conviction. The Court held that Section 135(1)(a) does not require proof of ownership of the premises — liability attaches to any person who dishonestly uses or occupies the premises where electricity is being abstracted. A1 was found in possession and control of the jhuggi at the time of inspection and was identified in the videography. His presence as an occupier and beneficiary of the theft attracted liability under Section 135.
- The Court rejected the argument based on the wife's Aadhaar card as proof of A1's residence elsewhere, holding that the Aadhaar card of a spouse cannot constitute substantive evidence of A1's residential address sufficient to absolve criminal liability. The contemporaneous inspection documents (inspection report, load report, seizure memo) corroborated PW1 and PW3's testimonies. The Court also held that A1's challenge to the quantum of connected load (6.775 KW) as improbable for a jhuggi was inadmissible at the appellate stage, as no such suggestion had been put to PW1 or PW3 during trial.
- On A1's refusal to sign the inspection documents, the Court held that this does not negate his presence at the site, as he was identified by PW1 and PW3 in the

videography. No infirmity was found in the trial court's reasoning warranting appellate interference.



#### HSA **Viewpoint**

This judgment helpfully clarifies that Section 135 liability for electricity theft is not conditioned on ownership of the premises. The critical test is occupation and beneficial use at the relevant time a pragmatic and purposive reading that prevents accused persons from escaping liability by pointing to absconders or absent co-accused as the 'true' owner. The decision also provides a useful reminder of good evidentiary practice for distribution companies: contemporaneous documentation (inspection report, load report, seizure memo, videography) prepared at the site is the most effective evidence in theft prosecutions. Defences based on third-party Aadhaar data or challenges to connected load quantum that were not raised during trial will not be entertained on appeal.

## **Maharashtra State Electricity Distribution Company Limited & Ors Vs. Vivek Pandurang Chawan & Ors.**

Maharashtra High Court order dated February 20, 2026; 2026: BHC-AS:4061

### **Background facts**

- Eight writ petitions filed by MSEDCL (Petitioner) challenging orders passed by the Appellate Authority (Electric Inspector, Nashik) arising from final assessments under Section 126 of the Electricity Act, 2003 against individual owners of bungalows/rowhouses at the Grand Garden Resort, Nashik.
- The flying squad of MSEDCL inspected the premises on February 28, 2020, and found that the row houses provided with single-phase residential electricity connections were being put to commercial use as a guest house/hotel. Final assessment bills were issued applying commercial tariff from the date of connection.
- The Appellate Authority (Respondent No. 2) reduced the assessment period, restricting the levy of commercial tariff to the date of an alleged rent agreement dated August 20, 2019 between the property owners and the Developer operating the resort.
- MSEDCL challenged this restriction, contending that the rent agreement was unstamped, unregistered and printed on the Developer's letterhead, and that the website of the Developer (published in 2015) indicated commercial use from 2015. Respondent No. 1 argued that in any event, the maximum lookback period under Section 126(5) is 12 months from the date of inspection.

### **Issues at hand**

- Whether the Appellate Authority was justified in restricting the assessment period for unauthorized commercial use of electricity to the date of the unstamped and unregistered rent agreement August 20, 2019.
- Whether Section 126(5) of the Electricity Act, 2003 applies to the facts, and if so, what is the correct lookback period for the assessment.

### **Decision of the Tribunal**

- The Bombay High Court allowed petitions. The Court held that the unstamped, unregistered rent agreement printed on the Developer's letterhead was not sufficient to conclude that commercial use commenced on August 20, 2019. The Appellate Authority erred in accepting that date without addressing the objection that the agreement lacked legal validity. Similarly, neither the date of publication of the Developer's website 2015 nor the photographs on record provided a definitive basis for determining the commencement date of commercial use.
- In these circumstances, the period during which unauthorized use of electricity had taken place could not be ascertained, and Section 126(5) squarely applied. The Court directed MSEDCL to levy the commercial rate for the period of 12 months immediately preceding the date of inspection (i.e., from January 28, 2019) and to raise modified bills accordingly, giving credit for the 50% amount already deposited by the Respondent.



#### HSA **Viewpoint**

This decision is a useful affirmation of the Section 126(5) safeguard from the perspective of the distribution company: where the period of unauthorized use cannot be ascertained with certainty, the statute restricts the lookback to 12 months, but equally it does not permit any shorter period to be substituted on the basis of a document of dubious authenticity. The Appellate Authority's acceptance of an unstamped, unregistered rent agreement as a ceiling on the assessment period was rightly set aside. For distribution companies pursuing unauthorized use cases involving commercial hospitality operations (resorts, farmhouses, hotels), the ruling underscores that website launch dates, photographs and informal agreements will not readily establish the commencement date, and Section 126(5) will typically apply as the fallback.

## The Maharashtra State Electricity Distribution Company Ltd. and Ors. Vs. Harman Fino Chem Private Limited.

Maharashtra High Court order dated February 27, 2026; Writ Petition No. 9470 of 2026

### Background facts

- The Respondent (Harman Fino Chem Pvt. Ltd.) is an industrial consumer of MSEDCL with Consumer No. 490539009950, having been sanctioned 33 KV HT supply for industrial purposes from March 29, 2015.
- On October 1, 2015, and October 15, 2015, inspections were carried out and reports submitted indicating that production activity had not commenced, construction and machinery installation were ongoing. On the basis of these inspection reports, the Assessing Officer issued a provisional assessment under Section 126 of the Electricity Act, 2003 on the ground that the HT connection was being used for purposes other than those for which it was authorised.
- A final assessment order was passed on February 8, 2016, confirming a demand of Rs. 4,86,09,032.49/-. The Respondent-Company filed a grievance before the Consumer Grievance Redressal Forum (CGRF), Aurangabad Zone, MSEDCL. MSEDCL appeared before the CGRF and raised a jurisdictional objection under Regulation 6.8 of the MERC (CGRF and Electricity Ombudsman) Regulations, 2006, which excludes unauthorized use of electricity under Section 126 from the CGRF's jurisdiction.
- The CGRF, however, allowed the grievance and directed withdrawal of the Section 126 assessment bill, concluding that the matter did not fall within Section 126. MSEDCL challenged this order by writ petition.

### Issues at hand

- Whether the Consumer Grievance Redressal Forum (CGRF) had jurisdiction to entertain a grievance directed against a final assessment order passed under Section 126 of the Electricity Act, 2003, in view of the express exclusion under Regulation 6.8 of the MERC (CGRF and Electricity Ombudsman) Regulations, 2006.
- Whether, once a final assessment order is passed under Section 126, the statutory remedy of appeal under Section 127 is the only available forum, and the CGRF is excluded.

### Decision of the Tribunal

- The Bombay High Court allowed the writ petition. The Court held that the action taken against the Respondent was clearly under Section 126 of the Electricity Act, 2003 and that a final assessment order had been passed after affording an opportunity of hearing. Section 127 provides a statutory remedy of appeal against such an order. Regulation 6.8 of the Regulations, 2006 expressly excludes unauthorized use of electricity under Section 126 from the CGRF's jurisdiction. The CGRF, therefore, had no jurisdiction to entertain the grievance.
- Without entering into the merits of the assessment, the order dated 04.05.2016 of the CGRF was quashed and set aside as being without jurisdiction. The Respondent was granted liberty to file an appeal under Section 127 within eight

weeks, with the delay during the writ proceedings to be condoned by the Appellate Authority. MSEDCL was restrained from taking coercive action for eight weeks.



HSA  
**Viewpoint**

This decision reinforces the bright-line rule that the CGRF's jurisdiction over consumer grievances does not extend to Section 126 unauthorized use assessments, for which the legislature has carved out a dedicated appellate mechanism under Section 127. Distribution companies facing collateral challenges to Section 126 assessments before the CGRF should raise the jurisdictional objection promptly under Regulation 6.8 of the Regulations, 2006 (and its 2020 successor). The Court's refusal to go into the merits of the assessment underscores that the CGRF's order even if it found no unauthorized use — was a nullity, and all substantive disputes must be ventilated before the Appellate Authority under Section 127.

## **Ultra Tech Cement Company Ltd. Vs. Maharashtra State Electricity Distribution Company Ltd. and Ors.**

**Maharashtra High Court order dated March 03, 2026; Second Appeal No. 591 of 2022**

### **Background facts**

- UltraTech Cement Ltd. (Appellant/original Plaintiff) has been engaged in cement production at Ratnagiri since 1982, a continuous process requiring uninterrupted electricity supply. It obtained HT electricity connections for both its factory and jetty. Pursuant to government guidelines and MERC tariff orders, industries were categorised as continuous or non-continuous, with the distinction affecting applicable tariff rates and load-shedding obligations. UltraTech consistently maintained that it qualified as a continuous process industry.
- By letter dated January 31, 2008, the Joint Director of Industries/Advisory Committee declared the Appellant to be a non-continuous industry, based on the decision of an Advisory Committee under the State Government. MSEDCL relied on this reclassification to issue supplementary electricity bills for the period October 2006 to April 2007 (Rs. 33,57,718.45/- plus Rs. 1,04,789.60/-).
- The Appellant filed a civil suit seeking a declaration that the letter dated January 31, 2008 was illegal and inoperative, that it was a continuous process industry, and a perpetual injunction restraining action on the reclassification. The trial court and the Appellate Court dismissed the suit on the ground that the civil court's jurisdiction was barred under Section 145 of the Electricity Act, 2003.

### **Issues at hand**

- Whether Section 145 of the Electricity Act, 2003, which bars civil court jurisdiction in respect of matters empowered to be determined by the assessing officer under Section 126 or the appellate authority under Section 127, also bars a suit challenging the reclassification of an industry from continuous to non-continuous process industry by an advisory committee/Joint Director of Industries.
- Whether the dismissal of the suit at threshold under Order VII Rule 10 CPC, without adjudication on merits, was correct.

### **Decision of the Tribunal**

- The Bombay High Court (Kolhapur Bench) allowed the Second Appeal and remanded the matter to the trial court for fresh decision on merits. The Court held that Section 145 of the Electricity Act, 2003 specifically applies to matters within the domain of Section 126 (assessment for unauthorized use) and Section 127 (appeal against assessment). The dispute in the present case the validity of the reclassification of the Appellant's industry from continuous to non-continuous by the Advisory Committee/Joint Director of Industries did not fall within the domain of Sections 126 or 127, or any other adjudicatory mechanism under the Act attracting the Section 145 bar.
- The Court further held that the State Advisory Committee constituted under Section 87 of the Act is an advisory body on policy matters and its objects under

Section 88 do not extend to adjudicating disputes about industry categorization affecting individual consumers' tariff liability.

- The relief sought (a declaration and injunction against the reclassification letter) is essentially declaratory and can appropriately be granted only by a competent Civil Court. The findings of the trial and appellate courts that the civil court lacked jurisdiction were set aside, and the matter was restored for decision on merits.



#### HSA **Viewpoint**

This ruling draws an important and commercially significant distinction between two types of electricity disputes: (i) disputes about unauthorised use and assessment of charges (Sections 126–127), which are squarely within the exclusive jurisdiction of the statutory electricity fora and bar civil courts under Section 145, and (ii) disputes about industry classification and the validity of administrative decisions affecting tariff categorisation, which are not within the Section 126/127 regime and remain justiciable before civil courts. For continuous process industries (cement, steel, chemicals, paper) that face reclassification, this ruling is significant: a civil suit seeking a declaration against an adverse classification letter issued by an advisory body or government authority is maintainable. Such disputes involve mixed questions of law and fact. whether the actual manufacturing process qualifies as continuous that require evidence-based adjudication, and the Section 145 bar does not shut out the civil courts from this space.

## Gujarat Urja Vikas Nigam Limited Vs. Tata Power Company Limited & Ors.

Appellate Tribunal for Electricity's (APTEL) Order dated February 25, 2026, in Appeal No. 348 of 2025 & 371 of 2025 & 400 of 2025

### Background facts

- The present batch of appeals arose from a common order passed by the Central Electricity Regulatory Commission ("CERC") concerning disputes between Tata Power Company Limited ("TPCL") and multiple procurers under the Power Purchase Agreement ("PPA") relating to the Mundra Ultra Mega Power Project.
- The disputes pertained to issues of supply, declared capacity, levy of penalties, and claims for compensation/refund arising out of alleged non-supply or short-supply of electricity.
- In the impugned order, CERC declined to decide whether the Supreme Court's order in the DVC case constitutes a binding declaration of law under Article 141, but held that the DVC judgment of APTEL, as affirmed by the Supreme Court, would govern and required examination of its ratio and applicability.
- CERC held that disputes which do not impact tariff are "non-tariff" disputes falling outside its adjudicatory jurisdiction under Section 79(1)(f) read with Section 79(1)(b), and must be referred to arbitration under the latter limb of Section 79(1)(f), even in the absence of a timely application under Section 8 of the Arbitration and Conciliation Act, 1996 ("A&C Act").
- CERC further held that disputes between TPCL and procurers could be referred to arbitration while granting liberty to pursue separate remedies against WRDLC.
- Aggrieved by the reference to arbitration and findings on jurisdiction, the Procurers (GUVNL, HPPC and PSPCL) preferred appeals before the Appellate Tribunal for Electricity ("APTEL").

### Issues at hand

- Whether the DVC judgment constitutes binding precedent and the extent of its applicability.
- Whether CERC can refer disputes to arbitration under Section 79(1)(f) when it lacks jurisdiction to adjudicate such disputes.
- Whether non-tariff disputes can be mandatorily referred to arbitration irrespective of Section 8 of the A&C Act.

- Whether the disputes in the present case impact tariff or involve regulatory functions.
- Whether CERC can bifurcate disputes involving TPCL and WRLDC.

## Decision of the Court / Tribunal

- Issue No. 1: Binding nature and applicability of DVC judgment
  - APTEL held that a judgment is binding only to the extent of its ratio decidendi and must be applied in light of its facts. Judicial observations cannot be treated as statutory text, and even minor factual differences may limit precedential value. Accordingly, only the ratio of the DVC judgment, properly understood in its factual context, constitutes binding precedent and must be assessed specifically.
- Issue No. 2: Reference to arbitration under Section 79(1)(f)
  - APTEL held that the two limbs of Section 79(1)(f) are integrally connected. The phrase “refer any dispute to arbitration” cannot be read in isolation. CERC can refer disputes to arbitration only if such disputes fall within matters it is otherwise competent to deal with under Section 79(1)(a)–(d). If CERC lacks jurisdiction to adjudicate a dispute, it cannot refer that dispute to arbitration. APTEL further held that the DVC judgment does not lay down that CERC can refer disputes to arbitration when they fall outside its jurisdiction. Reliance on isolated observations in DVC was rejected.
- Issue No. 3: Scope of “regulation of tariff”
  - APTEL held that tariff includes not only rates but also the terms and conditions having a direct or indirect bearing on tariff, including capacity and energy charges and related components. Disputes involving regulatory functions or impacting tariff are non-arbitrable. The Tribunal clarified that CERC may refer only those disputes which fall within Section 79(1)(a)–(d) but do not involve regulatory functions or impact tariff.
- Issue No. 4: Nature of present disputes
  - APTEL held that CERC erred in treating the disputes as mere breach of contract without examining whether they impacted tariff directly or indirectly. Claims relating to capacity charges, penalties, and other tariff components required detailed scrutiny and could not be treated as merely ancillary.
- Issue No. 5: Applicability of Section 8 of the A&C Act
  - APTEL held that Section 8 applies to proceedings before CERC, which is a “judicial authority.” Compliance with Section 8, including timely invocation before filing the first substantive statement, is mandatory. Since TPCL failed to invoke Section 8 in time and had filed its own petition before CERC, the Commission was not justified in referring the disputes to arbitration.
- Issue No. 6: Splitting of disputes
  - APTEL held that disputes involving TPCL and WRLDC were integrally connected and could not be bifurcated. Since claims were made jointly and severally, and disputes against WRLDC were non-arbitrable, the entire dispute could not be referred to arbitration.



### HSA Viewpoint

The judgment clarifies the limits of CERC’s powers under Section 79(1)(f), particularly emphasizing that the power to refer disputes to arbitration is not independent but linked to its adjudicatory jurisdiction. It reiterates that disputes involving tariff or regulatory functions are non-arbitrable, while also underscoring the need for strict compliance with Section 8 of the A&C Act. The decision further provides guidance on the application of the DVC judgment and the treatment of interconnected disputes, although certain aspects, such as handling of consequential reliefs, have been left open for future determination.

# M/s Manaksia Coated Metals & Industrial Limited Vs. Executive Engineer, Division Office Paschim Gujarat Vij Company Limited

GERC order dated March 06, 2026, in Petition No. 1988/2021

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## Background facts

- The Petitioner, M/s Manaksia Coated Metals & Industrial Limited, a High-Tension consumer with a contract demand of 1500 kVA, applied for load extension from 1500kVA to 4100 kVA through a 66 kV line under Option-III, wherein the entire liability of executing the 66 kV line was on the consumer.
- The execution of the transmission line was delayed due to Right of Way ("RoW") disputes with landowners, which were beyond the control of the Petitioner.
- Despite the incomplete line and pending disputes, the Respondent began billing the Petitioner on a "deemed supply" basis for 4100 kVA from June 2018. On being threatened by the Respondent with disconnection, Petitioner wrote a representation stating that the Petitioner shall pay the excess amount under protest.
- Aggrieved by the action of the Respondent, the Petitioner approached the Consumer Grievances Redressal Forum ("CGRF"). The CGRF, vide its Order dated 14.02.2020 rejected the Petitioner's grievance.
- The Petitioner thereafter filed representation before Electricity Ombudsman, Ahmedabad, challenging the CGRF's decision. The Electricity Ombudsman held that such billing was improper and directed billing at 1500 kVA until resolution of RoW issues and compliance with procedural requirements.
- Thereafter, the Respondent filed a Review application, which was rejected by the Ombudsman.
- The Respondent failed to implement the Ombudsman's order, leading to the present petition before GERC seeking enforcement under the Regulation 3.49 of the GERC (Consumer Grievances Redressal Forum and Ombudsman) regulations, 2019.

## Issues at hand

- Whether the Respondent can avoid implementation of a binding Ombudsman order on the ground that it has been challenged before the High Court.
- Whether delay in approaching the Commission under the Regulations bars enforcement of the Ombudsman's order.

## Decision of the Tribunal

- The Commission held that orders of the Electricity Ombudsman are final and binding and must be implemented within 30 days as per the Regulations. Further, Regulation 3.45 stipulates that non-compliance of the Ombudsman's Order shall be considered as violation of the Regulations and shall be liable for appropriate action by the Commission under Sections 142 and 146 read with Section 149 of the Electricity Act, 2003.
- Mere pendency of a challenge before the High Court does not dilute the binding nature of the order in absence of a stay.
- The plea of delay was rejected, holding that non-implementation of an order constitutes a continuing cause of action.
- The Commission clarified that enforcement proceedings are limited to implementation and do not involve re-examination of merits.
- Accordingly, the Respondent was directed to implement the Ombudsman's order within 30 days, including necessary billing adjustments/refund.
- However, the Commission declined to grant interest, noting that the Ombudsman had not awarded it.



HSA  
**Viewpoint**

The ruling reinforces the binding nature of Electricity Ombudsman orders and rightly holds that mere pendency of a challenge, without a stay, does not excuse non-compliance. By treating non-implementation as a continuing cause of action, the Commission ensures that procedural objections do not defeat consumer rights, while also maintaining that enforcement proceedings cannot revisit merits.

## CONTRIBUTIONS BY

Molshree Bhatnagar | Partner

Nitish Gupta | Partner

Pranav Kumar Singh | Partner

Shubhi Sharma | Partner

Nipun Sharma | Associate Partner

Tushar Srivastava | Associate Partner

Rishabh Sehgal | Principal Associate

Kanya Sharma | Associate

Varnika Tyagi | Associate

Shambhavi Jha | Associate

Harshvardhan Singh | Associate

Harshit Dhamija | Associate

Shirin Gupta | Associate

Nishant Gopan | Trainee Associate

Vandana Ragwani | Trainee Associate

Shaurya Kapoor | Trainee Associate

Parth Tyagi | Trainee Associate

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[www.hsalegal.com](http://www.hsalegal.com)



[mail@hsalegal.com](mailto:mail@hsalegal.com)



HSA Advocates

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