

**GUJARAT ELECTRICITY REGULATORY COMMISSION  
BEFORE THE ELECTRICITY OMBUDSMAN, GUJARAT STATE  
Polytechnic Compound, Barrack No.3, Ambawadi,  
Ahmedabad-380015**

**CASE NO. 34 & 35/2018**

**Appellant No.1** M/s. Rahulraj Mall Co-op. Service Society Ltd.& others  
(Rahul Raj Estate Pvt.Ltd.)  
Village Rundh-395007. Surat Dumas Road  
Ta: Choryasi. Dist.Surat

**Appellant No.2:** Shri Alidhara Texpin Engineers- Partnership Firm  
Rahul Raj Mall, Opp.Govardhan Haveli  
Dumas Road, Surat-395007.

**Appellant No.3:** Shri Lalitkumar Bhurmal Shah.  
Rahul Raj Mall, Opp.Govardhan Haveli  
Dumas Road, Surat-395007.

**Appellant No.4:** Shivpuja Estate- Partnership Firm  
Rahul Raj Mall, Opp.Govardhan Haveli  
Dumas Road, Surat-395007.

**Represented by:** Shri Kumaresh K. Trivedi, Learned Advocate  
Shri Manoj Agrawal,  
Shri Mayank Zariwala

**V/s.**

**Respondent No.1:**Executive Engineer,  
Dakshin Gujarat Vij Company Limited  
Division Office, Piplod-395007. Dist. Surat.

**Represented by:** Shri S.R.Shah, EE, DGVCL, Surat  
Shri D.C.Mahla, I/c.EE, DGVCL, Piplod, Surat.  
Shri M.M.Manto,JE(Tech), DGVCL, Surat  
Shri R.U.Gohil, J.A.

**Respondent No.2:**M/s. Vrundavan Developers  
Govardhan Haveli, Dumas Road,Surat-395007

**Represented by:** Nobody remained present.

**Respondent No.3:**M/s. Rahul Raj Estate Pvt. Ltd.  
Village: Rundh. Surat-Dumas Road,  
Taluka Choryasi. Dist.Surat.

**Represented by:** Nobody remained present.

**:::PROCEEDINGS:::**

- 1.0.** The Appellants have submitted representation aggrieving with the order No. 6077 and 6078 dated 02.04.2018 passed by the Consumer Grievances Redressal Forum, Dakshin Gujarat Vij Company Limited, Surat, in case No. 204 and 205 of 2017-18. The representations were registered at this office as Case No.34 & 35 of 2018. The hearing of this case was kept on 31.05.18, 21.06.18, 12.07,18 and 26.07.18. Respondent No.2 and Respondent No.3 have neither submitted any written representation nor remained present during hearing.
- 2.0.** Appellants have represented the case as under.
- 2.1. Being aggrieved by and dissatisfied with order dated 02.04.2018 received on 05.04.18 in case No. 204 and 205 of 2017-18 passed by CGRF, Appellant has preferred this Appeal as per the provisions of the Electricity Act,2003. Appellant has submitted the grounds as under:
- (1) The electricity meters were checked and inspected by officers of Respondent No.1 periodically and last checking was made on 27.03.2017. Even at that point of time, Respondent No.1 did not find any fault in the electricity meters and did not raise any issue with regard to merger of the electricity meters. Appellant had also produced the different checking sheets before CGRF in respect of inspection of electricity meters, but it was ignored by CGRF.
  - (2) Forum has ignored the facts that all the shops are under holding of different shop owners by virtue of different registered sale deeds. Copies of all Indexes and PAN cards of shop owners were also produced on records before CGRF.
  - (3) Forum has failed to appreciate that Clause No. 4.28 of GERC Supply Code,2015 neither have any retrospective effect nor same is mandatory.
  - (4) Forum has failed to appreciate that the Developers of the building had already transferred different shops in favour of

different shop owners mostly in the year 2011. Four different electric meters were installed by Respondent No.1 for different purposes for different end users for supply of electricity.

- (5) Hon'ble Ombudsman has also taken a view in the judgement and order dated 30.11.2017 in case No. 88/2017 and decided the issue that arrears of difference of tariff can be recovered from the date of detection of error. In this case as the notice for merger was issued first time in the month of September,2017 and amount of supplementary bill can be levied only from the month of September,2017.
- (6) Forum has committed an error in exercising the jurisdiction by not directing Respondent No.1 to reduce the electricity load from existing 1900 KW to 1200 KW for the connection No.11643 and from existing 1000 KW to 500 KW for the connection No.11641 within reasonable period.
- (7) Forum ought to have quashed and set aside the merger of connection No. 11605 with connection No. 11636 as well as the merger of connection No. 11641 with connection No.11643, more particularly in view of the facts that the ultimate end users of electricity supply through those electricity connections are different shop owners at Rahul Raj Mall.
- (8) Forum ought to have quashed and set aside the notice dated 01.02.2018 thereby demanding the huge amount of Rs.1,00,82,762.66 towards supplementary bill and also ought to have quashed and set aside the notice dated 01.02.2018 thereby demanding the huge amount of Rs.1,05,42,912.18 towards supplementary bill.
- (9) Forum ought to have directed Respondent-1 to provide separate and individual electricity meter to all the shop owners in view of the fact that those shop owners are having different entity and possess/owned their respective shops through different registered sale deed and having different PAN number.

- (10) Forum failed to appreciate that M/s. Rahul Raj Estate Pvt. Limited (Respondent No.3) is no more in existence since all the shops which were transferred in the year 2011 through more than 323 registered sale-deeds in favour of different shop owners. In such circumstances the PAN Card of M/s Rahul Raj Estate Pvt. Limited is immaterial.
- (11) Forum did not carry out the site inspection of Rahul Raj Mall otherwise real truth and fact would have come to the surface and it would have been revealed that all the shop owners are having different entities carrying out different business activities and holding different shops through different registered sale deed. None of the shop owners/end users are in the same entity and their shops are separated with permanent partition by construction of wall since the construction of building. Forum has also failed to consider the type and nature of use of building/shops by the shop owners.
- (12) Forum has committed errors in considering the absolutely irrelevant material about disconnection of the service in connection No.11643 due to pending bills. However, even at that point of time, the notice for merger was not issued by Respondent No.1. Appellants have taken over the administration and management of the building in the month of April,2017 after electricity supply was disconnected due to non-payment of dues by the builder. In fact, Appellants are not at all responsible for making the payment of electricity bills for the period when the administration and management of common facilities/services of the building was being managed by the builder at the relevant point of time and members of Appellant No.1 had already paid all the charges to the builder.
- (13) Forum has not taken the technical view in the matter by not ordering to reduce the existing load as per the request of Appellant, as reduction of load has nothing to do with the non-payment of earlier dues, if any.

- (14) It is submitted that the members of Appellant No.1 has paid the electricity bills regularly after the administration and management of the common facilities/services of the building was taken over by the Appellant No.1 from the builder in the month of April,2017.
- (15) The Electricity Supply code came into force from 24.09.2015, therefore Clause No. 4.28 of Supply Code,2015 cannot be applied with retrospective effect. The electricity was supplied through four different electric meters provided by Respondent No.1 in the year 2011 when the Electricity Supply Code, 2015 was not in existence.
- (16) In fact, Respondent No.1 cannot raise any bill for the period prior to two years from the date of demand. However, in this case Respondent No.1 has raised the supplementary bill for the period commencing from the month of April,2011 to till date, i.e. period of more than two years.
- (17) It is submitted that there is no fault on part of Appellants. All the four meter connections were supplied as per the law of the rules prevailing in the year 2011. Even after regular and periodical inspection by the officer of Respondent No.1 to the premises of Appellant, they never asked to amalgamate the connections. Since the Electricity Supply Code,2015 came into existence for the first time Respondent No.1 had asked in the month of Septemebr,2017 to amalgamate two electric meters' connections. Therefore, Respondent No.1 cannot demand for difference of amount for the period prior to the date of notice.
- (18) Different part of the properties/shops/PVR cinema Screens etc., is purchased by different parties as per the registered sale deed. Electricity bills are paid by the Appellant No.2 and 3 from the date of transfer of property in their favour. The Respondent No.2 and Respondent No.3 have no concern with the premises purchased by the Appellant No. 2 and Appellant No.3.

- (19) Though the Respondent No.1 has knowledge that the shops are sold out to different shop owners as per the list, Respondent No.1 is not providing separate electric meter to each shop owner as each shop has separate premises.
- (20) Respondent No.1 is duty bound to supply/install separate electricity meters to each shop owner as per the registered sale deed. At present electricity meters are running in the name of builder. The arrears of outstanding amount, if any, can be recovered from the amount of deposit made by the builder on behalf of the shop owners at the relevant point of time and thereafter electricity meters are required to be transferred in the individual name of shop owners, who are in fact the owner of property by way of registered sale deed.
- (21) CGRF has failed to appreciate that the notice was issued for the first time only in the month of September,2017 with regard to merger/amalgamation of the meters, the Respondent No.1 can raise supplementary bill only from the month of September,2017 if it is proved that the electricity supply is provided through different electric meters to the same premises. In this case each premises are separate premises as stated above and end users are required to be treated as different entities as neither Vrundavan Developers i.e Respondent No.2 nor Rahul Raj Estate Pvt. Limited are at present the owner of the premises which are already sold out by them by way of different sale deeds.
- (22) CGRF has failed to appreciate that as M/s. Alidhara Texpin, Appellant No.2 is owner of the separate premises, the electricity connection cannot be merged with the electricity connection HT-11605 being used for common usage and same is utilized by shopkeepers for common electricity consumption.
- (23) CGRF has failed to appreciate that the Multiplex PVR Cinema is also having separate entity and separate electric connection HT-11636 exclusively for Cinema Hall. The Appellant No.3 and 4 are

also not utilizing the common electricity connection HT 11605. In such circumstances the action on part of Respondent No.1 to issue merge bill is absolutely irrational and against the provisions of law.

- (24) CGRF has failed to appreciate that in the letter dated 21.09.2017 Appellants have specifically asked Respondent No.1 to give time for 15 days to provide documents, however Respondent No.1 has rejected the application without according opportunity of hearing to the members of Appellant No.1 and passed the order to recover the differential amount against the merger of electric connections.
- (25) Though Appellant No.1 is required only 1000 KW load through connection No.11643 and 450KW load through connection No.11641, total 1450KW, the Respondent No.1 is not reducing electricity load.
- (26) The premise has been defined under the Provisions of Section 2(51) of the Electricity Act,2003, which states that “premise” include any land, building or structure.

The “consumer” is also defined under the Provisions of Section 2(15) of the Electricity Act,2003. Once the property is transferred by the erstwhile owner to the applicant, the transferees become a consumer. Merely because the name on the electricity bill is not changed, the Respondent No.1 cannot merge the bill though the consumers are different with different premises. The Electricity Supply code,2015, Section 2(54) states that “premises” refers to land, building or infrastructure or part or combination thereof in respect of which a separate meter or metering arrangement have been made by the Licensee for supply of electricity. The Respondent No.1 has failed to appreciate that part or combination of part of building is also premises as per the Electricity Supply Code,2015. The merger of electricity bill itself is illegal and against the provisions of the Electricity Supply Code,2015.

(27) Forum has failed to appreciate that the electricity connection through the connection No. 11641 is exclusively utilized by Appellant No. 3 and 4, but same has been merged with electricity connection through connection No.11643 which is utilized by the members of Appellant No.1. The premises occupied by Appellant No.1, Appellant No.3 & Appellant No.4 are different. Therefore, the electricity connection through the electricity meter No.11643 could not have been merged with connection No.11641.

(28) Clause No.4.28 of Supply Code,2015 is directory and not mandatory. The said Clause does not provide for any consequences for non-observance of the same. As no consequences penalty is prescribed for providing separate electricity connection for separate end user, the supplementary bill cannot be raised by the Respondent No.1 from April,2011. Whether the provision is directory or mandatory is always depend upon the consequential penalty provided under the Act/Code.

2.2. Vide Appeal dated 27.04.2018, Appellants have requested to grant exemption to the Appellants/shop-owners for making 1/3<sup>rd</sup> amount of supplementary bill as per the impugned order passed by CGRF and permit to Appellants for the payment of 20% amount of supplementary bill.

2.3. On 03.05.18 Appellants have submitted additional submission and stated as under:

(1) M/s. Shivpuja Estate i.e. Appellant No.4 made application on 08.10.2012 to Respondent No.1 requesting to change the name from M/s. Rahul Raj Estate Pvt. Limited to M/s. Shivpuja Estate for connection No.11641 (1000 KVA). Respondent No.1 wrote a letter dated 28.07.2014 for providing documents. M/s. Shivpuja Estate have submitted all the relevant documents and NOC dated 19.07.2014. However, name has not been changed by Respondent No.1.

- (2) Appellants have produced the documents for payment of 1/3<sup>rd</sup> amount of supplementary bill (1) Rs.53,50,000/- paid by M/s. Rahul Raj Estate Pvt. Limited, HT connection No.11643 on 30.04.2018 and (2) Rs. 33,70,000/- paid by M/s. Vrundavan Developers, HT connection No.11605 on 30.04.2018.

2.4. On 21.06.2018, Appellants have submitted rejoinder as under.

- (1) It is submitted that in the similar and identical matter in case of M/s. J. B. Chemicals and Pharmaceuticals Limited V/s Executive Engineer, DGVCL, in case No.68/2017-18, order dated 11.08.17, CGRF has taken the view to the effect that the supplementary bill is required to be issued w.e.f. 24.09.15. The Coram of CGRF was same in the said matter. CGRF cannot take different view in the case of Appellants.
- (2) All the shop holders have different PAN card numbers (copy enclosed). Similarly, all the shop holders have different GST number (copy enclosed). Copies of municipal tax bills of each of shop holders are also annexed by Appellants. Respondent No.1 sent electricity bills to Appellant No.1 Society, and energy bill paid by members of Appellant No.1 by contribution, and by Appellant No. 2 to 4 individually. The builders i.e. Respondent No.2 and 3 have no title or interest in the shops since the year 2011-12.
- (3) The above refer facts clearly indicate that all the shops are different premises with different shop holders with different PAN card number, with different GST number since the year 2011-12. The Indexes of all the registered sale deed indicate that all the shops are/were transferred by the builders in the year 2011 in favour of different shop owners on different date and different sale consideration. Though the nomenclature of buildings is Mall, in fact it is a shopping complex, as all the shops are under ownership of different shop owners (Copy enclosed). The developer of Mall has nothing to do with shop owners. It cannot be and should not be termed as a single unit/single premises.

The shop owners are of different caste, creed, region and language and they are not related either by blood or by marriage with each other. So all the shop owners are required to be provided with separate electricity meter. The end users of shops are different shop owners who are paying electricity bill. The developer does not have any control over the shop owners. So the PAN card of the builder i.e. Respondent No.2 and 3, cannot be shown to establish that the electricity supply is provided to a single unit/single premises.

- (4) Appellants have reiterated the Clause No.4.28 of Supply Code, 2015 and stated that supplementary bill cannot be raised from April,2011. Appellants have referred the reference of Hon'ble High Court of Gujarat in case of Chhotubhai Chikabhai Patel V/s State of Gujarat and others and reproduced the Para No.38 of the said judgement, as under:

Para No.38:

“In view of the above, we find that requirement of subsection (3-A) of Section 17 has not been fulfilled. However, the question arises to what effect. Undoubtedly the statute enjoins a duty on the Land Acquisition Officer to make 80% of the estimated amount of compensation before taking possession in case powers under Section 17(1) have been invoked to take possession before making of the award, which shall ordinarily be the case in the absence of notification of power under Section 17. The provision has been couched as a mandate to the Land Acquisition Officer. However, no consequence has been provided under the Act for the failure of the Land Acquisition Officer to discharge this obligation. Though prima facie inference from the language used in the statute appears to be mandatory in character in its compliance but whether it implies nullification of the Act for disobedience is a question to be considered. The principle is well settled and can be spelt out in

the words of Lord Campbell from the oft quoted passage his opinion in *Liverpool Bank v. Turner* (1861)30LJ Ch 379”.

“No universal rule can be laid down as to whether mandatory enactments shall be considered directory only or obligatory with an implied nullification for disobedience. It is the duty of Courts of justice to try to get at the real intention of the Legislature by carefully attending to the whole scope of the statute to be considered.”

2.5. On 12.07.18 Appellants have submitted following documents:

Annex.	Particulars of the documents.
00	Details of payment of electricity consumption bill made by the lessee PVR Ltd to DGVCL for electric meter No.11636 for the period 19.04.11 to 24.01.18.
PP	Details of payment made by Lifestyle International Pvt. Ltd. to DGVCL for the period from 01.09.11 to 12.07.18.
QQ	Details of payment made by the Appellant No.1 for electric meter No.11643 to DGVCL for the period from 16.9.17 till date.
RR	Details of payment made by the Appellant No.1 to DGVCL for electric meter No.11605 for the period from 18.09.17 till date.
SS Coly	Copies of the Municipal Tax Bills of the shops.
TT	Copies of the Municipal Tax Bills of the shops.
UU	Copies of the Municipal Tax bills of the shops.
Details of correspondence for transfer of meter No.11641 by Shivpuja Estate.	
VV	Copy of the application for city survey dated 01.08.12.
WW	Copy of the undertaking SPE for name transfer dated 07.08.12.
XX	Copy of undertaking of Rahul Raj Estate to SPE No Objection for name transfer dated 07.08.12.
YY	Copy of the undertaking of SPE for address dated 07.08.12.
ZZ	Copy of reply No.1 dated 07.08.12.
A-1	Copy of reminder letter to DGVCL dated 21.08.14.
A-2	Copy of the SPE to DGVCL No.1 and 4 reply with attachment dated 06.10.14.
A-3	Copy of DGVCL reminder letter No.19466 dated 27.11.14.
A-4	Copy of the reply No.9 Shri Lalitbhai and other agree to give bill in joint name dated 16.01.15.
A-5	Copy of reminder letter for name transfer dated 19.02.15.
A-6	Copy of reminder letter No.02668 dated 20.02.15.
A-7	Copy of reminder letter No.13448 dated 30.07.14.

It is submitted that more than 300 shop-owners consumed electricity from connection No.11643 and 11605 and paid amount towards electricity consumption charges to the builders i.e. Respondent No 2

and 3, builders used to pay electricity consumption charges to Respondent No.1 prior to March,2017. After the management was taken over from the builders by Appellant No.1 society with regard to the shops, except property owned by the Appellant No.2,3 and 4, details of the payment made by Appellants to the builders are not available. The fact remains that each shop owners are having different entity and are holding different premises. Any of the Appellants have nothing to do with PVR theatre under ownership of Alidhara Texpin (PAN No. AAIFA2434N), connection No. 11636 or nothing to do with the connection No. 11641 used by Lifestyle (PAN No. AABCR0373F).

2.6. Appellants have prayed as under:

- (1) To quash and set aside the CGRF order.
- (2) To set aside the merger notice and supplementary bill.
- (3) To direct Respondent No.1 to grant load reduction.

3.0. Respondent has represented the case as under.

3.1. In respect of CGRF case No.204/2017-18 details of both the connections are as under:

Sr. No.	Particulars	HT conn.No.11641	HT conn.No.11643
1	Name	M/s.Rahul Raj Estate P. Ltd.	M/s.Rahul Raj Estate P. Ltd.
2	Contract Demand	1000 KVA	1900 KVA
3	Date of release	12.08.2011	20.09.2011
4	Address	Survey No.20, TPS No.28 FP No.31 at village Rundh, Dumas Road, Surat	Survey No.20, TPS No.28 FP No.31 at village Rundh, Dumas Road, Surat
5	PAN Card No.	AABCR0373F	AABCR0373F
6	Date of Notice	19.09.2017 & 06.10.2017	19.09.2017 & 06.10.2017
7	Dt. of issue of merge bill	18.10.2017	18.10.2017
8	Dt. of issue of Suppl. bill	01.02.2018	01.02.2018

In respect of CGRF case No.205/2017-18 details of both the connections are as under:

Sr. No.	Particulars	HT conn.No.11605	HT conn.No.11636
1	Name	M/s. Vrundavan Developers	M/s.Vrundavan Developers
2	Contract Demand	850KVA	750KVA
3	Date of release	16.09.2009	19.04.2011
4	Address	Survey No.20, TPS No.28 FP No.31 at Rundh, Dumas Road, Surat	Survey No.20, TPS No.28 FP No.31 at Rundh, Dumas Road, Surat
5	PAN Card No.	AAGFV1604H	AAGFV1604H
6	Date of Notice	19.09.17 & 06.10.17	19.09.17 & 06.10.17
7	Dt. of issue of merge bill	18.10.2017	18.10.2017
8	Dt. of issue of Suppl. bill	01.02.18	01.102.18

3.2. Respondent No.3 is having 2 No. of HT connections. HT connection No.11641 at survey No.20, TPS No.28, FP No.31 at village Rundh, having contracted demand of 1000 KVA, and other HT connection No.11643 at survey No.20, TPS No.28, FP No.31 at village Rundh, having contracted demand of 1900 KVA. Both the HT connections are in the name of M/s. Rahul Raj Estate Pvt. Limited, having common PAN number. Therefore, notice on 19.09.2017 was issued to Respondent No.3 for merging of both the HT connections as per erstwhile GEB Circular No.769 dated 23.01.2005 and as per Clause No. 4.1.17 of Supply Code,2005 and as per Clause No. 4.28 of Supply Code, 2015. Respondent No.1 has also issued reminder on 06.10.2017 for the same. However, Respondent No.3 had not taken any action. Hence supplementary bill amounting to Rs. 1,60,42,912.18 was issued on 01.02.2018 for the period September,2011 to September,2017. Appellants had challenged the supplementary bill before CGRF and on 02.04.2018 Appeal was rejected by CGRF.

Similarly, Respondent No.2 is having 2 No. of HT connections. HT connection No.11605 at survey No.20, TPS No.28, FP No.31 at village Rundh, having contracted demand of 850 KVA and other HT connection No.11636 at survey No.20, TPS No.28, FP No.31 at village Rundh, having contracted demand of 750 KVA. Both the HT connections are in the name of Appellant M/s. Vrundavan Developers having common PAN number. Therefore, notice on 19.09.2017 was issued to Respondent No.2 for merging of both the HT connections as per erstwhile GEB Circular No.769 dated 23.01.2005 and as per Clause No. 4.1.17 of Supply Code,2005 and as per Clause No. 4.28 of Supply Code,2015. Respondent No.1 has also issued reminder on 06.10.2017 for the same. However, Respondent No.2 had not taken any action. Hence supplementary bill amounting to Rs. 1,00,82,762.62 was issued on 01.02.2018 for the period April,2011 to September,2017. Appellants had challenged the supplementary bill before CGRF and on 02.04.2018 Appeal was rejected by CGRF.

- 3.3. It is not permissible for one consumer to have more than one connection without any separate legal entity. If there are more than one connections/meters in one premises, the consumer has to amalgamate both the connections as per the Provisions of Supply Code which are statutory in nature. The action taken by Respondent No.1 is in accordance with the Provisions of Supply Code.
- 3.4. It is submitted that Respondent No.3 is having a common PAN No.AABCR0373F, therefore he is not in a position to establish a separate legal entity and hence Respondent No.3 cannot be permitted to continue with two separate connections in the same premises and he has to merge both the connections.  
Similarly, Respondent No.2 is having a common PAN No. AAGFV1604H, therefore he is not in a position to establish a separate legal entity and hence Respondent No.2 cannot be permitted to continue with two separate connections in the same premises and he has to merge both the connections.
- 3.5. Respondent No.2 and 3 have violated the provisions of Clause No. 4.1.17 of Supply Code,2005 and Clause No.4.28 of Supply Code,2015 and erstwhile GEB Circular No. 769 dated 28.01.2005.
- 3.6. Respondent No.2 and 3 both are having two separate connections in the adjoining area. Therefore, demand charge and other charges are calculated separately, splitting up both, demand and energy charges, under lower slab of tariff, resulting into revenue loss to the Respondent No.1 which affect the functioning of Respondent No.1. The sample calculation for one month, May,2016, as per applicable tariff for the case of Respondent No.3, is as under:

Sr. No.	Name of consumer	Conn. No.	Billing Parameter		
			CD KVA	Actual Demand	Units KWh
1	M/s. Rahul Raj Estate Pvt.Ltd. (Shop Mall Life style)	11641	1000	355	102732
2	M/s. Rahul Raj Estate Pvt.Ltd.	11643	1900	983	285200

(A) With individual metering:

(1) Demand charges calculation:

Conn. No.	Contract Demand in KVA	Actual Demand in KVA	BMD in KVA	Rate per KVA	Amount (Rs.)
11641	1000	355	500	150	75000/-
			350	260	91000/-
	85% of Contract Demand as Actual Demand is less than 85% of Contract Demand		850		166000/-
11643	1900	983	500	150	75000/-
			500	260	130000/-
			615	475	292125/-
	85% of Contract Demand as Actual Demand is less than 85% of Contract Demand		1615		497125/-

Total demand charges Rs. 166000+ 497125 = Rs. 663125/-

(2) Energy charges calculation:

Conn.No.	KWH drawl	Rate per KWh	Amount (Rs)
11641	102732	4.20	431474.40
11643	285200	4.20	1197840.00
	387932		1629314.40

(3) Time of use charges calculation:

Conn.No.	KWH drawl	Rate per KWh	Amount (Rs)
11641	34212	0.85	29080.20
11643	102740	0.85	87329.00
	136952		116409.20

(2) With individual meter(after merging):

(1) Demand charges calculation:

Conn. No.	Contract Demand in KVA	Actual Demand in KVA	BMD in KVA	Rate per KVA	Amount (Rs.)
11641 & 11643	2900	2465	500	150	75000/-
			500	260	130000/-
			1465	475	695875/-
		Total	2465		900875/-

(2) Energy charges calculation:

Conn.No.	KWH drawl	Rate per KWh	Amount (Rs)
11641 & 11643	387932	4.20	1629314.40

(3) Time of use charges calculation:

Conn.No.	KWH drawl	Rate per KWh	Amount (Rs)
11641 & 11643	136952	0.85	116409.20

Grand total of energy bill: Demand charges+Energy charges+TOU charges

Rs. 900875.00 + 1629314.40 + 116409.20 = Rs. 26,46,598.60

Similarly, the sample calculation for one month, May,2016, for the case of Respondent No.2, as per applicable tariff, is as under:

Sr. No.	Name of consumer	Conn. No.	Billing Parameter		
			CD KVA	Actual Demand	Units KWh
1	M/s. Vrundavan Developers	11605	850	563	111440
2	Vrundvan Developers(Fame-Multiplex)	11636	750	452	88552

(B) With individual metering:

(4) Demand charges calculation:

Conn. No.	Contract Demand in KVA	Actual Demand in KVA	BMD in KVA	Rate per KVA	Amount (Rs.)
11605	850	563	500	150	75000/-
			223	260	57980/-
	85% of Contract Demand as Actual Demand is less than 85% of Contract Demand		723		132980/-
11636	750	452	500	150	75000/-
			138	260	35880/-
	85% of Contract Demand as Actual Demand is less than 85% of Contract Demand		638		110880/-

Total demand charges Rs. 166000+ 497125 = Rs. 663125/-

(5) Energy charges calculation:

Conn. No.	KWH drawl	Rate per KWh	Amount (Rs)
11605	111440	4.20	468048.00
11636	88552	4.20	371918.40
	199992		839966.40

(6) Time of use charges calculation:

Conn. No.	KWH drawl	Rate per KWh	Amount (Rs)
11605	35630	0.85	30285.50
11636	34672	0.85	29471.20
	70302		59756.70

(2) With individual meter (after merging):

(1) Demand charge calculation:

Conn. No.	Contract Demand in KVA	Actual Demand in KVA	BMD in KVA	Rate per KVA	Amount (Rs.)
11605 & 11636	1600	1361	500	150	75000/-
			500	260	130000/-
			361	475	171475/-
		Total	1360		376475/-

(2) Energy charges calculation:

Conn. No.	KWH drawl	Rate per KWh	Amount (Rs)
11605 & 11636	199992	4.20	839966.40

(3) Time of use charges calculation:

Conn. No.	KWH drawl	Rate per KWh	Amount (Rs)
11605 & 11636	70302	0.85	59756.70

Grand total of energy bill: Demand charges+Energy charges+TOU charges

Rs. 376475.00 + 839966.40 + 59756.70 = Rs. 12,76,198.10.

- 3.7. Respondent No.1 is a Distribution Licensee and bound by the Provisions of the Electricity Supply Code. The bills issued by the Respondent No.1 is in accordance with the Provisions of Electricity Supply Code. Respondent No.1 has referred Clause No. 4.28 of Supply Code,2015 and Clause No. 4.1.17 of Supply Code,2005.
- 3.8. It is submitted that it is incorrect to say that the Respondent No.1 is not entitled to recover the amount of supplementary bills. Under the Electricity Act,2003, Respondent No.2 and 3 are required to be merged both the connections since they are not having separate legal entity. It is not correct to say that since earlier connections of Respondent No. 2 and 3 had not been disconnected though they had not merged both the connections, hence Respondent No. 2 ad 3 cannot be asked for merging of both the connections. If there was a violation, it is violation as on today, and therefore bill issued by Respondent No.1 is in accordance with the law.
- 3.9. It is submitted that two units does not mean that Respondent No. 2 and 3 are entitled to have two connections. It is not correct to say that existing connections cannot be directed to be merged.
- 3.10. It is submitted that interpretation of the Appellants that the Regulations relates to non-release of more than one connections in the said premises, but it does not speak for the merger of two different connections already released in two different premises is clearly erroneous.

- 3.11. It is submitted that enough opportunities have been given to the Respondent No. 2 and 3. They had been called upon to merge both the connections. Both the connections do not have any separate legal entity as both the connections are having same PAN card number.
- 3.12. Respondent No.1 had asked the Respondent No. 2 and 3 to merge the connections and on failure of the same, supplementary bills have been issued, therefore, there is no question of issuance of bills with retrospective effect.
- 3.13. It is submitted that the Supply Code is framed by GERC in exercise of powers conferred upon it under the Electricity Act,2003, which are under statutory in nature. Not only the Respondent No.1 herein, but all the Distribution companies are bound to follow and comply with the Supply Code.
- 3.14. It is submitted that various decisions of Hon'ble High Court have made it clear that consumer cannot be allowed to have two different connections, just with a view to see that they are not required to pay at a higher tariff rate which will cause financial loss to the Distribution Licensee. No consumer can be allowed to use electricity at a lower tariff rate than what it is actually required to pay.
- 3.15. The contentions raised by Appellants in para No.2.1(26) are wrong. The Electricity Supply Code,2015, Clause No. 4.70, speaks as under:  
*"A connection may be transferred in the name of another person upon death of the consumer or in case of transfer of the ownership or occupancy of the premises, upon filing an application form in the prescribed format given in either Annexure I or II (as applicable) for change of name by the new owner or occupier:  
Provided that such change of name shall not entitle the applicant to require shifting of the connection from the present location."*
- 3.16. Respondent No.1 has issued energy bill on the name of M/s. Rahul Raj Estate Pvt. Limited for the amount of Rs. 1,60,42,912.38 is pending. Respondent No.1 has referred Clause No. 4.30 of Supply Code,2015, which speaks as under:  
*"An application for new connection, reconnection, addition or reduction of load, change of name or shifting of service line for any premises need not be entertained unless any dues relating to that premises or any dues of the applicant to the Distribution Licensee in respect of any other service connection held in his name anywhere in the jurisdiction of the Distribution Licensee have been cleared."*

*Provided that in case the connection is released after recovery of earlier dues from the new applicant and in case the licensee, after availing appropriate legal remedies, get the full or part of the dues from the previous consumer/owner or occupier of that premise, the amount shall be refunded to the new consumer/owner or occupier from whom the dues have been recovered after adjusting the expenses to recover such dues.”*

According to the above Clause, Appellants have to clear all the dues and thereafter action shall be taken for change of name as well as any alteration demanded by the Appellants.

3.17. It is submitted that Hon'ble Ombudsman has rejected the appeal of Appellants in case No.70/2015 of M/s. Bhavnagar Salts V/s PGVCL, Bhavnagar, Case No.103/2015 of M/s. Acrysil Limited V/s PGVCL, Bhavnagar and Case No. 72/2017 of M/s. Ramdev Chemical Industries V/s DGVCL, Ankleshwar, being a similar nature of subject matter.

3.18. It is submitted that the Electricity Supply Code is a complete Code and the provisions have been framed keeping in mind that the electricity is a public property and the energy consumed by the consumers has to be charged accordingly. If any consumer is found to be acting against the Supply Code, Distribution Licensee has a right to issue supplementary bill for such act of non-compliance with the Provisions of Electricity Supply Code. Hon'ble Court as well as Hon'ble Supreme Court have already taken a view that consumer cannot be allowed to take undue advantage with a view not to pay the actual charges for consumption of electricity. A person cannot be allowed to have two connections in the same premises with a view to see that he may not be required to pay charges for consumption of electricity at a higher tariff rate.

The electricity company has to see that other persons who require electricity and are waiting in queue for their turn to get electricity and for that one consumer cannot be allowed to have more than one connections in the same premises, when the purpose is same and consumer has not produced any documents, showing that both the units are separate legal entity by producing separate PAN number and other documents. It is submitted that if the electricity company does

not follow the provisions of the Electricity Act,2003, and Supply Code then it will be against the constitution of India and violate the rights of other consumers to get electricity. It is submitted that such provisions are not unreasonable. Electricity company is required to see that it has to give equal treatment to all the consumers and cannot allow one consumer to have two connections and other may not get connection. It is submitted that allowing Respondent No.2 and 3 to enjoy two connections in one premises with the same purpose would mean that they would not be required to pay actual charges for the consumption of electricity. This would amount to unjust enrichment of the Respondent No. 2 and 3 at the cost of other consumers, which is not the aim and object of the Act.

3.19. It is submitted that Hon'ble High Court has already considered such provisions and held that the charging of the aforesaid amount is in accordance with the law. Hon'ble High Court of Gujarat has rejected SCA No.15262/2012 and LPA No.1069/2013 in the case of M/s. Modern Denim V/s UGVCL for the issue of supplementary bill under Clause No. 4.1.17 of Supply Code,2005, which is a similar case of this case of Appellants.

3.20. Vide letter dated 05.06.2018 Respondent No.1 has submitted rejoinder as under:

(1) Appellants had filed SCA No. 3475/2018 before Hon'ble High Court of Gujarat, against the supplementary bill. Hon'ble High Court has directed to approach appropriate authority within a period of two weeks vide order dated 05.03.2018. Appellants had filed grievance before CGRF on 09.02.2018, which was decided by CGRF vide order dated 28.03.2018.

(2) It is stated that installation checking was carried out at M/s. Vrundavan Developers by Checking Squad on 28.03.2017 vide checking sheet No. 233. During checking it was observed that HT consumer namely M/s. Rahul Raj Estate Pvt. Limited, bearing consumer No.HT-11643, was utilising power from HT connection No.11605 namely M/s. Vrundavan Developers. The

connection of M/s. Rahul Raj Estate Pvt. Limited, consumer No. HT-11643, was disconnected by Respondent No.1 on 16.01.2017 due to non-payment of bill.

- (3) It was found during checking by Checking Squad that load of HT consumer No.11643 was connected to HT consumer No.11605. Due to this irregularity the supplementary bill of Rs.32.92,908.83 was issued to M/s. Vrundavan Developers under Section 126 of Electricity Act,2003. Out of that 50% of amount was paid and appeal was filed before Appellate Authority against the issue of supplementary bill.
- (4) M/s. Rahul Raj Estate Pvt. Limited, HT-11641, having contracted demand of 1000 KVA had applied for change of name from M/s. Rahul Raj Estate Pvt. Limited to Shiv Pooja Estate, vide application received on 08.10.2012. Vide letter No. 19466 dated 27.11.2014, Respondent No.1 had raised points to comply/ clarify for processing change of name application and intimated the same to M/s. Shiv Pooja Estate. As compliance was not received from M/s. Shiv Pooja Estate, change of name was not processed by Respondent No.1.

3.21. Vide letter dated 04.07.2018, Respondent No.1 has further submitted as under:

- (1) As per the oral directives given by Electricity Ombudsman during hearing dated 21.06.2018 to submit the payment details of all four HT connections, after and before merger, the details were asked from Bank. As per the details provided by the Bank, Respondent No.1 has prepared the statement showing month-wise details of payment made by consumer No.11605, 11636, 11641 and 11643 before and after merging of connections.
- (2) The map showing power boundary of connection No.11605 and 11636 namely M/s. Vrundavan Developers is enclosed by Respondent, which shows that both the HT connections are in the same premises and adjacent to each other.

3.22. Vide letter dated 18.07.2018, Respondent No.1 has submitted rejoinder as under:

- (1) As per the oral directives given by Hon'ble Electricity Ombudsman during the hearing dated 12.07.2018 to issue notice to M/s. Rahul Raj Estate Private Limited (HT-11641 and HT-11643) and M/s. Vrundavan Developers (HT-11605 and HT-11636), Respondent has issued notice to Directors of M/s. Rahul Raj Estate Pvt. Limited vide letter No.4167 dated 16.07.18 and to all the partners and POA holders of M/s. Vrundvan Developers vide letter No.4165 dated 16.07.18.
- (2) M/s. Rahul Raj Estate Pvt. Limited had applied for reduction of load (HT-11643 and HT-11641) vide application dated 08.11.17 and same was not processed due to insufficient documents, which was intimated vide letter No. 6998 dated 18.11.2017.
- (3) Respondent No.1 has issued energy bill of Rs. 1,60,42,912.38 in the name of M/s. Rahul Raj Estate Pvt. Limited which is pending. As per the Clause No. 4.30 of Supply Code,2015, Respondent No.1 has not processed the application for reduction of load.

3.23. Vide letter dated 04.08.2018 Respondent No.1 has informed Appellant No.1 and Respondent No.3 regarding application for reduction of contract demand from 1900 KVA to 1200 KVA for connection No.11643 and reduction of contracted demand from 1000 KVA to 500KVA for connection No.11641 in respect of application for load reduction dated 26.07.18 that due to pending dues of supplementary bill, the application is not processed. Further it has been intimated to apply for merger of above two connections along with required documents.

3.24. It is submitted that in view of above Appellants are not eligible for prayer as prayed in appeal.

**::: ORDER :::**

**4.0.** I have considered the contentions of the Appellant and the contentions of Respondent and the facts, statistics and relevant papers, which are on record, and considering them in detail, my findings are as under.

4.1. (a)M/s. Vrundavan Developers had applied for HT connection at third floor at Revenue Survey No.54, new Revenue Survey No.20, Opp. Valentine Theatre at Rundh, taluka Surat, for 750 KVA contracted demand on 08.03.2010, by submitting key plan of M/s. Vrundavan Developers – Respondent No.2, mentioning Multiplex area at 3<sup>rd</sup> floor. Copy of registered Firm (having partnership firm No.GUJ/SRT/17/24460 dated 20.01.2006) and partnership deed, along with copy of 7/12 Utara and 8-A of survey No.20. of village Rundh, submitted to Respondent No.1.

(b)Release order of 750 KVA was issued in respect of M/s. Vrundavan Developers (Fame Multiplex, 3<sup>rd</sup> floor, Revenue Survey No.20, FP-31, TPS No.28, Surat-Dumas Road) vide letter No.3699 dated 17.03.2017, under HTP-I tariff.

(c)As per statement prepared it is shown by Respondent No.1 that while releasing of HT connection No.11636 on 19.04.2011 under HTP-I tariff, estimate of Rs. 33,93,621/- was paid on 01.10.2010, and Agreement was executed on 12.10.2010. Test Report was received on 25.03.2011.

(d)M/s. Vrundavan Developers – Respondent No.2, had demanded 850 KVA contracted demand for shopping mall (common lighting) vide SR No.27172.

Release order for 850 KVA contracted demand (SR No.27112) at Revenue Survey No.20, FP-31, TPS No.28 at village Rundh was accorded by Respondent vide letter No.8246 dated 09.07.2009 under HTP-IIA tariff.

As per details regarding release of HT connection dated 12.06.2010, estimated amount of Rs. 1,03,14,196/- was paid on 21.05.2008 and

agreement was executed on 27.05.2008 and Test Report was submitted on 31.05.2010. HT connection was released under HTP-IIA tariff on 12.06.2010 with HT connection No.11605.

- 4.2. (a) HT connection No. 11641 was released in the name of M/s. Rahul Raj Estate Pvt. Limited (Life Style) at Revenue Survey No.20, TPS No.28, FP No.31, Ground Floor + First floor + Second floor at village Rundh for the area defined as Ground floor life Style Shop No.36 to 54, First Floor Life Style Shop No.20 and Second Floor Life Style Shop No.217 to 234. The connection for 1000 KVA was released on 12.08.2011.
- (b) HT connection No. 11643 was released in the name of M/s. Rahul Raj Estate Pvt. Limited (Shopping area) at Revenue Survey No.20, TPS No.28, FP No.31, Ground Floor + First floor + Second floor at village Rundh for the area defined as Ground Floor Shop carpet area shop No.1 to 35. First Floor Shop carpet area Shop No. 101 to 113 and 134 to 151 and Second Floor Shop carpet area shop No. 201 to 216 and 236 to 253 and Third floor of carpet area shop No.301 to 307 + food court + Restaurant-1 + Restaurant-2 + Restrant-3 + Banquet. The connection for 1900 KVA was released on 20.09.2011.
- (c) As per statement prepared it is shown by Respondent No.1 that while releasing of HT connection No.11641 on 12.08.2011 under HTP-I tariff, estimate of Rs. 45,72,518/- was paid and an agreement was executed on 26.05.2011, vide SR No.1029735. Test Report was received on 09.08.2011. Release order was issued on 11.08.2011 by Respondent No.1.
- (d) As per statement prepared it is shown by Respondent No.1 that while releasing of HT connection No.11643 on 20.09.2011 under HTP-I tariff, estimate of Rs. 89,06,255/- was paid on 01.07.2011 vide SR No.1029783, and an agreement was executed on 06.07.2011. Test Report was received on 19.09.2011. Release order was issued on 06.09.2011 by Respondent No.1.

4.3. Amalgamation of two HT connections:

- (1) M/s. Vrundavan Developers.  
Consumer No. 11605  
Contracted load: 850KVA  
Address: Opp. Govardhan Haveli, Dumas Road, Surat-395007.
- (2) M/s. Vrundavan Developers ( Fame Multiplex )  
Consumer No. 11636  
Contracted load: 750 KVA  
Address: Third Floor, RS No.20, FP No.31, TPS 28, Surat Dumas Road, Rundh. Surat.

Notice was issued on 19.09.2017 as per GSO 769 dated 28.01.2005 of erstwhile GEB and as per Clause No. 4.28 of Supply Code,2015 to Respondent No.2. Reminder was issued vide letter No.5997 dated 06.10.2017.

Supplementary bill was issued vide letter No. 753 dated 01.02.2018 for merging of two HT connections in respect of M/s. Vrundavan Developer, HT connection No.11605 and 11636, treating as single consumer to Respondent No.2.

Amalgamation of two HT connections of Respondent No.2 was served on the basis of details available with Respondent No.1, like name of connection premises, geographical situation of both the premises which are adjoining with each other and having a common PAN card number, i.e. AAGFV1604H.

It is on record that Respondent No.2 and Respondent No.3 have neither submitted any written representation nor remained present during hearing. Respondent No.2 had submitted letter dated 20.09.2017 mentioning that to provide time for 15 days for submission of documents of each shop owner as end user of electricity is individual one but not Respondent No.2 i.e. M/s. Vrundavan Developers. Vide letter dated 11.10.2017, Respondent No.2 has submitted that HT connection No.11605 is utilized for ground floor area for common lighting connection of Mall having PAN No.AAGFV1604H, while another HT connection No.11636 was utilized by Alidhara Texpin Engineers

through tenant M/s. PVR Limited, which is end user having PAN No.AAACP4526D. Respondent No.2 had submitted rent deed copy of PVR Limited and M/s. Vrundavan Developers and stated that there is no any breach of Section 4.28 of Supply Code,2015. Hence amalgamation does not require in this case.

Supplementary bill of Rs. 1,00,82,762.62 is calculated for the period from April,2011 to September,2017 as per GSO 769 of erstwhile GEB and Clause No.4.28 of Supply Code,2015 by Respondent No.1.

4.4. Amalgamation of two HT connections:

- (1) M/s. Rahul Raj Estate Pvt. Limited (Shop Mall Life Style)  
Consumer No. 11641  
Contracted load: 1000KVA  
Address: Village Rundh. Dumas Road, Surat-395007.
- (2) M/s. Rahul Raj Estate Pvt. Limited  
Consumer No. 11643  
Contracted load: 1900 KVA  
Address: Village Rundh. Dumas Road, Surat-395007.

Notice was issued on 19.09.2017 as per GSO 769 dated 28.01.2005 of erstwhile GEB and as per Clause No. 4.28 of Supply Code,2015 to Respondent No.3. Reminder was issued vide letter No.5998 dated 06.10.2017.

Supplementary bill was issued vide letter No. 752 dated 01.02.2018 for merging of two HT connections in respect of M/s. Rahul Raj Estate Pvt. Limited, HT connection No.11641 and 11643, treating as single consumer to Respondent No.3.

Amalgamation of two HT connections of Respondent No.3 was served on the basis of details available with Respondent No.1, like name of connection premises, geographical situation of both the premises which are adjoining with each other and having a common PAN card number, i.e. AABCR0373F.

It is on record that Respondent No.3 had submitted letter dated 20.09.2017 mentioning to provide time for 15 days for submission of documents of each shop owner as end user of

electricity is individual one. Vide letter dated 11.10.2017 Respondent No.3 has submitted that HT connection No.11643 is utilized for shopping area, while another HT connection No.11641 was utilized by Alidhara Texpin Engineers through tenant M/s. PVR Limited, which is end user, having PAN. Respondent No.3 had stated that there is no any breach of Section 4.28 of Supply Code, 2015. Hence amalgamation does not require in this case.

Supplementary bill of Rs. 1,60,42,912.18 is calculated for the period from September,2011 to September,2017 as per GSO 769 of erstwhile GEB and Clause No.4.28 of Supply Code,2015.

- 4.5. Appellant No.1 is a Co-op. Service Society, registered under Co-Op. Societies office of the District Registrar (Co-operative Housing, Surat) vide No. SRT/SA-10686 of 2017 for carrying out maintenance activity at Rahul Raj Mall at village Rundh, SR No.20, TP No.28 and FP No.31. Respondent No.2 and 3 remained absent during all the hearings. Individual directives were issued by this office as well as by Respondent No.1 to remain present before the Ombudsman, but Respondent No. 2 and 3 did not remain present.

Previously, Appellants had filed the case before Hon'ble High Court vide SCA No.3475/2018 against the supplementary bills issued by Respondent No.1 and as per the directives given, grievance was filed before appropriate authority i.e. CGRF. Appellants had registered grievance on 09.02.2018 and aggrieved by the order dated 02.04.2018 issued by CGRF, Appellants have filed present representation before Ombudsman.

- 4.6. (a) Appellants had submitted Index copy of Sr.No.16955 dated 01.11.2013 for the premises as under:

Revenue Survey No.20, TP Scheme No.28, FP No.31, Rahul Raj Mall, Third & Fourth floor of property known as Multiplex Screen No.1 to 8, admeasuring total carpet area of about 5111.52 Sq.Mtrs. (which shown as 4830.26 Sq.Mtrs. in Surat Municipal Tax Bill).

(b) Vide sale deed No.5951 dated 04.05.2010, M/s. Vrundavan Developers had made sale deed of premises area of 17718.74 sq.mtrs. (as mentioned hereunder) in favour of M/s. Rahul Raj Estate Pvt. Limited.

Ground floor area: 5607.62 sq.mtrs.

First floor area: 4899.25 sq.mtrs.

Second floor area: 5798.07 sq.mtrs.

Third floor area: 1413.08 sq.mtrs.

Total 17718.79 sq.mtrs., of Revenue Survey No.20, TP No.28, FP No.31 of 16320 sq.mtrs. land at Rundh.

(c) Vide sale deed No. 15169, M/s. Raj Estate Pvt. Limited has sold out the total area of 4246.69 sq.mtrs., of M/s. Rahul Raj Mall situated at Revenue Survey No.20, TP No.28, FP No.31 of village Rundh to M/s. Raj Estate (partnership firm) on 02.12.2010.

(d) Vide sale deed No.7420, M/s. Raj Estate Pvt. Limited has sold out the area of 3039.96 sq.mtrs. of M/s. Rahul Raj Mall situated at Revenue Survey No.20, TP No.28, FP No.31 of village Rundh to M/s. Shiv Pooja Estate on 09.05.2012.

(e) Appellants have produced the list of shops owners, along with Index copies/PAN card number and Tax bill copies of Surat Municipal Corporation and stated that end users of electricity by different shop owners at different premises.

4.7 To deal with the issue of merger of two HT connections and issue of supplementary bills to Respondent No.2 and 3, it is necessary to read the Section 2(15) and 2(49) of the Electricity Act,2003, along with Clause 4.28 of Supply Code,2015 and Clause No.4.1.17 of Supply Code,2005.

2(15): "consumer" means any person who is supplied with electricity for his own use by a licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be;

2(49): "person" shall include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person;

The electricity connections were released earlier in the year 2011 to 2013 and at relevant time Supply Code 2005, Notification No.11 of 2005 was in existence. Therefore, relevant portion of Clause 4.1.17 is required to be read which is as under:

Clause 4.1.17:

The Distribution Licensee will not provide more than one connection/meter for one premises. The consumers opting for second meter will have to produce separate legal entity such as documents of separate Income Tax No/ Sales Tax No. ration card and rent or lease agreement.

With effect from 24.09.2015, Supply Code,2015 is effective and Clause 4.28 speaks as under:

Clause 4.28:

The Distribution Licensee will not provide more than one connection for one premise or in adjoining/contiguous premises belonging to same owner if these are not separated by a public road or by private premise. The consumers opting for second connection will have to produce separate legal entity documents such as separate Income Tax No/ Sales Tax No., ration card and rent or lease agreement.

Respondent No.1 had issued supplementary bills for merger of two HT connections on the basis of above provisions.

- 4.8. It is on record that while applying for new HT connection (HT-11605), M/s. Vrundavan Developers Respondent No.2 has demanded HT power supply for Mall for 850 KVA contracted demand at Revenue Survey No. 20, FP No.31, TPS No.28 at village Rundh. Release order was also issued by Respondent No.1 on 09.07.2009 under HTP-IIA tariff category. While application for new HT connection (HT-11636) asked by M/s. Vrundavan Developers at 3<sup>rd</sup> floor Multiplex area at Revenue Survey No.20, FP No.31, TP No.28 at village Rundh. Release order was issued under HTP-I tariff on 17.03.2011.

From the above, it is established that initially Respondent No.1 might have processed for two HT connections in the name of Respondent No.2 for different purpose with different tariff categories observing the provisions 4.1.17 of Supply Code,2005.

Similarly, it is on record that while applying for new HT connections (HT-11641) M/s. Rahul Raj Estate Pvt. Limited, Respondent No.3 has demanded HT power supply for Mall for 1000 KVA contracted demand at Revenue Survey No. 20, FP No.31, TPS No.28 at village Rundh for

Life Style International Limited. Release order was also issued by Respondent No.1 on 11.08.2011 under HTP-I tariff category. While application for new HT connection (HT-11643) asked by M/s. Rahul Raj Estate Pvt. Limited, at shopping area at Revenue Survey No.20, FP No.31, TP No.28 at village Rundh. Release order was issued under HTP-I tariff on 06.09.2011.

From the above, it is established that initially Respondent No.1 might have processed for two HT connections in the name of Respondent No.3 for different purposes with different tariff categories observing the provisions 4.1.17 of Supply Code,2005.

- 4.9. As per the record submitted by both the parties, regarding payment of energy bills of M/s. Rahul Raj Estate Pvt. Limited, HT connection No.11641, regular energy bill payment was made by M/s. Life Style International Ltd., since December,2011.

Similarly, as per the record submitted by both the parties, regarding payment of energy bills of M/s. Vrundavan Developers (Fame Multiplex) HT connection No.11636, regular energy bill payment was made by M/s. PVR Limited since December,2011.

Appellant No.1 is paying energy bills of HT connection No.11605, common lighting connection and HT connection No. 11643 since formation of Co-op. Society for the maintenance of common amenities of M/s. Rahul Raj Mall. As per the say of Appellants, previously energy bills for common lighting purpose connection were paid by the Builder by collecting the amount from the shop owners.

- 4.10. On the basis of submission of documents related to ownership of premises, Respondent No.1 had released two HT connections for different purpose. The premises i.e. (Rahul Raj Mall) is a whole structure developed by builder. It is a case where commercial space/shops were developed and sold out/lease to person who has not entered his/her name in to the electric connections, in case of HT connection No.11641 and HT connection No. 11636.

On receipt of notice dated 19.09.2017 and 06.10.2017, Appellant No.2 and 4 had submitted details regarding ownership of premises of HT

connection No.11641 and No.11636 mentioning that they were using electric supply and paying electric bills at their level regularly since long.

- 4.11. As per record, Appellant No.4 is an owner of premises where HT connection No.11641 is situated and Appellant No.2 is an owner of premises where HT connection No.11636 is situated, while Appellant No.1 is Co-operative Service Society, framed by the Shops Owners of Rahul Raj Mall for maintenance of common amenities. Therefore, end user of electricity is different. Appellant No.4 is paying energy bill for HT connection No.11641 and Appellant No.2 is paying energy bill for HT connection No.11636, which is also confirmed by the Respondent No.1.

From the above it is seen that end users of the premises were not entered their names in the respective electric service connections.

- 4.12. In the issue of supplementary bill, Respondent has quoted Circular No. 769 of erstwhile GEB. While going through the guideline issued in Circular No.769 it reveals that it is for release of only one power connection in one premises.

The Para No.1.10 it is reproduced as under:

“In case of Flat system and shopping complexes, where more than one flats or shops are located, separate service connection shall be given for flat and shop on ownership documents or rent deed/lease deed/ration card”.

From the above guideline, separate connection should be directed to grant in case of production of ownership/rent deed/lease deed documents to concern.

Para No. 1.7 of the said circular is reproduced here under:

*“Further physical verification of the premises needs to be done by Deputy Engineer in cases of LT connections and by Executive Engineer personally in case of HT consumers to ascertain the separate individual legal entity of the exclusive premises. It should be clearly ascertained that the premises are separate and such noting should be done by the respective engineers in the technical proposals which shall be maintained in the consumer’s case file.”*

While releasing two HT connections, concern Executive Engineer might have visited the site of Appellant and prepared a technical

proposal after verification of premises of two HT connections and utilization of purpose of electricity.

- 4.13. As per Section 43 of the Electricity Act, 2003 it is mandatory provision to provide electric connection to applicant who produce legal ownership of premises.

Section 43(1):

**(Duty to supply on request):** --- (1) licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply:

Provided that where such supply requires extension of distribution mains, or commissioning of new sub-stations, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Appropriate Commission:

Provided further that in case of a village or hamlet or area wherein no provision for supply of electricity exists, the Appropriate Commission may extend the said period as it may consider necessary for electrification of such village or hamlet or area.

- 4.14. In this case, two HT connections were released by Respondent No.1 in the name of Respondent No.2 as per the details of Para No.4.1 and in name of Respondent No.3 as per details of Para No.4.2. Respondent No.1 had also issued notice to merge two HT connections first time on 19.09.2017 after knowing the details regarding documents of existing connections and verification of site of Appellants.

It is also true that after getting two HT connections by Respondent No.3 at the said premises and after making rent deed/lease deed with another party, Appellant No.4 had processed for change of name for the HT connection No.11641 and later on, while receiving the notice from Respondent No.1, Appellant No.4 came forward and submitted the facts of end users of electricity at relevant premises.

It is also true that after getting two HT connections by Respondent No.2 at the said premises and after making rent deed/lease deed with another party, Appellant No.2 had not processed for change of name for the HT connection No.11636 and later on, while receiving the notice from Respondent No.1, Appellant No.2 came forward and submitted the facts of end users of electricity at relevant premises.

4.15. In reference to the observations made by CGRF in Para No.14 and 15 of its order, CGRF has not decided the present grievance, but the issue involved herein is different one as narrated above.

The action taken by Respondent No.1 for merger/clubbing of different connections of Respondent No.2 and 3 are in pursuance to existing provisions of 4.28 of Supply Code,2015. The individual owners of shops premises have to approach before Respondent No.1 for individual connection or for name change by producing requisite documents.

It is said by Appellants during hearing that individual connections were not granted by Respondent No.1 at earlier stage, but no relevant proof/documents pertaining to that were produced before Ombudsman.

4.16. Appellants have referred order dated 07.08.2014 of Hon'ble APTEL in Appeal No. 131 of 2014 in the matter of M/s. Vianney Enterprise V/s Kerala State Electricity Regulatory Commission and others. In the said case, Hon'ble APTEL has observed in its order that arrears for difference in tariff could be recovered from the date of detection of the error.

Relevant portion of Para No.22 of the APTEL order is as under:

“The State Commission has correctly held that the arrears have to be collected by the Electricity Board from the Appellant from the date of detection of error i.e. 10.03.2008. We are in full agreement with the findings of the State Commission.”

In the present case, after knowing two number of connections in the name of Respondent No. 2 and Respondent No.3, Respondent No.1 has issued merger notice first time on 19.09.2017 for merger of HT connections of Respondent No. 2 and 3.

4.17. This is a case in which end users of individual premises are different and separate. As per says of Appellants, energy bills are being paid by user of electricity of the said premises. Respondent No.1 had issued merger notice on the ground of documents available with them. Only having common PAN number of Respondent No.2 for two HT connections and common PAN number of Respondent No.3 for two HT

connections, assumed that premises is one in the name of Respondent No.2 and Respondent No.3 respectively and started issuing merger energy bills to Respondent No.2 and 3, which is objected by Appellants.

On the ground of definition of premises, Respondent No.1 had released the original connections in the name of Respondent No.2 and 3 at relevant point of time after verifying site and collecting ownership documents. At the time of receiving of application of HT connections at the premises of Respondent No.2 and 3, the Electricity Supply Code and Related Matters Regulation Notification 11 of 2005 was in existence. Respondent No.1 should have followed the relevant provisions of Supply Code,2005 at relevant time for providing electric connections to Respondent No.2 and 3.

- 4.18. This is a case in which Respondent No.2 and 3 are builder developer and on their names two HT connections are recorded with Respondent No.1. As per say of Appellants, due to non-payment of energy bills of HT connection No.11643, Respondent No.1 had disconnected the supply and thereafter all individual shop owners had collected the amount and paid the dues of energy bills and connection was reconnected by Respondent No.1. Respondent No.2 and 3 have shown their inability to pay the energy bills of the shopping area as well as common lighting area connection and thereafter shop owners of M/s. Rahul Raj Mall had framed Rahul Raj Co-operative Service Society for the maintenance of common amenities in Mall as well as for the payment of energy bills for HT connection No.11605, and HT connection No.11643 (Shopping Area of Complex). Appellant No.1 had requested to direct Respondent No.1 for granting load reduction in HT connection No.11643 from 1900KVA to 1200KVA based on the recorded maximum demand of previous period, as Appellant No.1 is looking after maintenance activities of above mentioned two connections.
- 4.19. In absence of Respondent No.2 and 3, Appellant No.1 is handling the maintenance activities of M/s. Rahul Raj Mall and paying energy bills

of HT connection No.11605 and HT connection No. 11643 (M/s. Rahul Raj Estate Pvt. Limited) and requested to grant load reduction of HT connection No.11641 from 1000 KVA to 500 KVA and HT connection No.11643 from 1900 KVA to 1200 KVA and submitted application before Respondent No.1.

- 4.20. It is to note here that according to Respondent No.1, two HT connections are installed at one premises and therefore these HT connections are needed to be merged in case of Respondent No.2 and Respondent No.3.

The term “installation” defined under the CEA Notification 2010 for measures relating to safety and electric supply is as under:

“2(Zb): Installation means any composite electrical unit used for the purpose of generating, transforming, transmitting, converting, distributing or utilizing electricity.”

The term “premises” has been separately defined in Section 2(51) of the Electricity Act,2003 as under:

“51: ‘premises’ includes any land, building or structure”.

While as per Supply Code,2015, definition of ‘premises’ is as under:

“(54): **‘Premises’** refers to land, building or infrastructure or part or combination thereof in respect of which a separate meter or metering arrangements have been made by the licensee for supply of electricity; In case of Agriculture Connection, premises means the place of source of water in respect of which connection has been given or intended to be given by the licensee for supply of electricity.”

It is clear from the above definition that ‘installation’ and ‘premises’ carry the meaning assigned to them as per the CEA Regulations,2010 and the Electricity Act,2003. Any other meaning assigned to them which is not in line with these definitions will be of no consequence. It is clear the term ‘installation’ and ‘premises’ are quite independent. From the definition of the premises nothing prohibits the DISCOM to grant separate electricity connection to a person who produces legal documents showing separate legal entities.

- 4.21. So far crucial point as regards clubbing of meters of two connections installed at one premises is concerned, according to Appellants though two HT connections have been installed in one premises, activities for

use of electricity are different and the establishments are also separate.

On perusal of records, it is seen that purpose of electricity for all these trade is one i.e. commercial. However, utilization of electricity at end users are for different purposes. It is also on records that shop owners by way of sale deed and Surat Municipal Corporation tax receipts have proven their legal ownership in the Mall where two HT connections were released by Respondent No.1 in the name of M/s. Rahul Raj Estate Pvt. Limited and two HT connections were released by Respondent No.1 in the name of M/s. Vrundavan Developers.

- 4.22. Existing consumers i.e. Respondent No.2 and 3 are not responding to Respondent No.1 and not attended before CGRF during the course of hearing. Respondent No.1 had already intimated Respondent No.2 and Respondent No.3 for merger of the respective HT connections and to pay the amount of supplementary bills issued to them. Respondent No.2 and 3 are developers who had demanded HT connections at initial point of time.
- 4.23. For HT connection No.11641, energy bills are being paid by M/s Lifestyle International Limited. Similarly, for HT connection No.11636 energy bills are paid by M/s. PVR Limited since April,2016 to September,2017 as per records submitted by parties.
- 4.24. For payment of energy bill as per the statement submitted by Respondent No1, Appellant No.1 has requested for load reduction from 1900 KVA to 1200 KVA of HT connection No.11643 (shop area) and from 1000 KVA to 500 KVA of HT connection No.11641 (M/s. Lifestyle International Limited). Both the HT connections are in the name of Respondent No.3 (M/s. Rahul Raj Estate Pvt. Limited). Respondent No.1 is directed to process the application for change of name/load reduction after requisite documents are produced for HT connection No.11641 by the incoming party with recovery of dues amount, if any.

4.25. On part of issue of supplementary bill of Rs. 1,60,42,912.18 for merger of connections with previous effect, it is relevant to refer the APTEL Appeal No.131/2013 and order dated 07.08.2014.

Both HT connections are in the name of Respondent No.3, HT-11641, M/s. Rahul Raj Estate Pvt. Limited and HT-11643 for M/s. Rahul Raj Estate Pvt. Limited for Shopping area, having HTP-I tariff. Respondent No.1 had detected above issue first time on 19.09.2017, when notice for merger of two HT connections was issued. Looking to these circumstances, and relevant with findings of APTEL order, it is a case of classification of category of connections as per Supply Code, 2015 Clause No. 4.76. Therefore, Respondent No.1 is directed to revise the supplementary bill for merger of connections from the date of notice issued to the date of submission of documents for change of name for HT connection No.11641.

4.26. Appellant No.1 has requested to grant load reduction in HT connection No.11641 and No.11643 on the ground of recorded KW loading i.e. very less load recorded since release of HT connections. Looking to that Respondent No.1 is directed to grant load reduction of said HT connection No.11643, on fulfilment of criteria as specified as per Supply Code,2015 along with recovery of all dues amount.

Respondent No.1 is also directed to accord the approval for change of name in the name of incoming party for HT connection No.11641. Appellants have made 1/3<sup>rd</sup> payment of supplementary bill against original supplementary bill amount for filing appeal before Ombudsman. The said amount may be adjusted against the revised supplementary bill as directed above and to process the change of name proposal in case of HT connection No.11641 with recovery of all dues amount, if any.

4.27. In the Mall, initially one HT connections was released by Respondent No.1 for common lighting purpose. Activities cover under for common lighting, lift, water pump for Mall. Both the HT connections were demanded by M/s. Vrundavan Developers at initial stage, out of that one HT connection No.11605 is for common lighting, having different

activities, while HT connection No.11636 released for different activities and later on developer had transferred the said premises to Alidhara Texpin, and by the tenant deed M/s. PVR Limited is end user since the year 2011 and since then M/s. PVR Limited is paying energy bills of the said HT connection. Therefore, it is a case of making change of name in HT connection No.11636.

In this case, developers had developed the commercial complex, namely Rahul Raj Mall and demanded two HT connections in his name initially and thereafter individual shop area sold out to different persons by way of sale deed or by giving the area on lease by way of lease deed. Therefore, electricity is being utilized by end user of units/shops of Mall since the date of purchase/lease, but name of consumer on records of Respondent No.1 is Respondent No.2. Therefore, clubbing of load of two HT connections makes difficulties to Appellants for making payment of regular energy bills, Appellant No.1 is making payment of HT connection No.11605, while Appellant No.2 is making payment of HT connection No.11636, while both HT connections are in the name of Respondent No.2 i.e. Developers, who remained absent during course of hearing before CGRF as well as before Ombudsman.

Appellant No.2 and Respondent No.1 both are directed to take immediate action for making change of name in the name of legal owner/occupier as per the norms of Supply Code,2015.

- 4.28. On part of issue of supplementary bill of Rs. 1,00,82,762.62 for merger of connections with previous effect, it is relevant to refer the APTEL Appeal No.131/2013 and order dated 07.08.2014 as mentioned in above Para No.4.16.

Both HT connections are in the name of Respondent No.2, HT-11605, M/s. Vrundavan Developers for commercial lighting purpose and HT-11636 for M/s. Vrundavan Developers for PVR Mall, having HTP-I tariff. Initially tariff of HT connection No.11636 was different one which was changed and at present with tariff schedule published by GERC, common HTP-I tariff is applicable to both the connections. Respondent

No.1 had detected above issue first time on 19.09.2017, when notice for merger of two HT connections was issued. Looking to these circumstances, and relevant with findings of APTEL order, it is a case of classification of category of connections as per Supply Code, 2015 Clause No. 4.76. Therefore, Respondent No.1 is directed to revise the supplementary bill for merger of connections from the date of merger notice issued to submission of documents for change of name for HT connection No.11636.

4.29. Respondent No.1 is also directed to accord the approval for change of name in the name of incoming party for HT connection No.11636 (M/s. PVR Mall). Appellants have made 1/3<sup>rd</sup> payment of supplementary bill against original supplementary bill amount for filing appeal before Ombudsman. The said amount may be adjusted against the revised supplementary bill as directed above and to process the change of name proposal in case of HT connection No.11636 with recovery of all dues amount, if any.

4.30. This is a case in which shop owners are entitled to get individual electric supply if they submit legal documents along with prescribed A-1 form as per Supply Code,2015. Respondent No.1 is also bound to provide individual electricity supply by observing the formalities as per provisions of Supply Code,2015.

Compliance/action taken report may be intimated to this office within 60 days.

4.31 I order accordingly.

4.32. No order as to costs.

4.33. With this order, representation/Application stands disposed of.

(Dilip Raval)  
Electricity Ombudsman  
Gujarat State

Ahmedabad.

Date: 27.09.2018.