

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

CASE NO.28/2019

Appellant: M/s. Shalimar Talkies
Station Road, BHARUCH-392001

Represented by: Shri S.R.Parmar, Authorized representative
Shri Sanjiav M.Shah, Partner

V/s.

Respondent: Executive Engineer,
Dakshin Gujarat Vij Company Ltd.,
City Division Office, Behind Jilla Panchayat office,
Bharuch-392001.

Represented by: Shri U.I.Yadav, EE, DGVCL, Bharuch city Divn.
Shri M.D.Rana, Dy.Suptd., DGVCL, Bharuch city Divn.

:::PROCEEDINGS:::

1.0. The Appellant had submitted representation aggrieving with the order No.4197 dated 18.03.2019 passed by the Consumer Grievances Redressal Forum, DGVCL, Surat, in case No.131/2018-19. The representation was registered at this office as Case No.28/2019. The hearing of this case was kept on 02.05.2019 and 28.05.2019.

2.0. Appellant has represented the case as under.

2.1. Appellant is having following two HT connections.

- (i) Connection No.40038 for shopping mall, having contracted load of 550KVA, which was released on 30.06.2008. Reduction of load from 550 KVA to 325 KVA was granted on 28.12.2011.
- (ii) Connection No.40040 for new cinema, having contracted load of 400 KVA, which was released on 25.09.2008. Reduction of load from 400KVA to 250 KVA was granted on 28.12.2011.

In A-1 form submitted to Respondent for both the connections, Appellant has mentioned the purpose of connection No.40038 as shopping mall and for connection No.40040 as new cinema hall. Both connections were sanctioned by higher authority of Respondent and Respondent had executed an agreement with Appellant and same purpose was mentioned in agreement also. Even reduction of load of both connections was also approved as shown above. Both the consumers are utilizing electric supply for their own purpose which was ascertained by authorized officer of Respondent during monthly reading for HT billing since 2008. Monthly payments of bills to Respondent are made by individual entity from their own bank accounts which are accepted by Respondent.

- 2.2. Appellant has submitted documentary proof of separate entity of both connections to Respondent as shown below:

Consumer No./ Date of release.	Name as per ledger of Respondent	Actual occupant by registered lease agreement	Address	PAN No.	GST/TAN/CIN
40038/ 30.06.08	Shalimar Talkies C/o. Big Bazar	Future Retail Ltd.	GF, FF	AADCB1093N	24AADCB1093N1ZM/ MUMB25142F/ 151909MH2007PLC268269
40040/ 16.08.08	Shalimar Talkies	Inox Lisure Ltd.	SF	AAACI6063J	24AACCI6063J1ZM/ MUMI04008E/ L92199GJ1999PLC044045

- 2.3. As per computerized consumer ledger copy supplied to Appellant by Respondent for connection No.40038 it is mentioned "40038 M/s. Shalimar Talkies, C/o. Big Bazzar, Station Road, Bharuch. Similarly, in connection No.40040 M/s. Shalimar Talkies, Station Road, Bharuch. These are the proof that both entities are separate since date of connection. This was not considered by CGRF as proof of separate entity over and above PAN number, GST and Lease deed.
- 2.4. While sanctioning the second connection of Appellant the site verification was done and specifically separate entities was confirmed by officers of Respondent, then only second connection was sanctioned by higher authority of Respondent. Appellant had demanded copy of

this letter/certificate/office note under RTI Act, but same was not provided by Respondent to hide the fact.

- 2.5. Authorized officers of Respondent were visiting the site of Appellant every month for monthly reading since 2008. Even special installation checking was also done for 21 times, but no responsible officer had ever remarks/noticed that two different connections utilized by single entity. That is to say those two connections are demanded for getting advantage of lower tariff rates.
- 2.6. Even Executive Engineer, Bharuch city Division was also of the opinion that both entities are separate and hence Application of Appellant for additional load was registered on 08.10.2018. Site survey was also done and processed initiated in e-urja up to 12.10.2018 by DE(Tech), S.A (Accounts), EE of Bharuch City Division with OK remark. Then it was proceeded by Accounts Officer/CEO&SE, Bharuch Circle office and sent to Dy. Engineer(Tech) of Bharuch Circle who had objected that power boundary is not shown in proposal and referred back to EE, Bharuch city Division for compliance. This was kept pending up to 06.11.2018 (for 25 days). He informed to Circle Office to reject due to arrears of merger bill amounting to Rs.26,93,462.82 and application of Appellant was rejected. This is proof that local officers of Respondent were aware that both entity was separate.
- 2.7. Appellant has submitted A-1 form with all required documents showing separate legal entity for change of name of connection No.40038 i.e. from Shalimar Talkies to M/s. Future Retail Limited on 08.06.2018 (with stamped acknowledgement) to the office of EE, Bharuch city Division in person and it was told to keep the application and documents with him to ascertain legal entity. But to the reasons best known to him change of name application of Appellant was not registered even after repeated follow up by Appellant. Ultimately, application for change of name was rejected stating that documents

are incomplete without mentioning specific reason/name of document required as per his opinion on 03.12.2018 i.e. after lapse of 180 days. But in cancellation notice, EE, Bharuch city Division confirms that documents like separate PAN Card, GST/TIN, registered lease deed was submitted. This is clear proof that Executive Engineer was of the opinion that our both entities were separate.

2.8. Surprisingly, on 10.11.2018, Appellant received a letter No.2832 dated 30.10.2018 from Respondent which was for merging of connection and differential merging bill amounting to Rs.26,93,462.82, which is illegal act as per law. Even bill calculation details were not supplied to Appellant. Only merger bill and separate bill without details of calculations was served. On demand of calculations of merger bills same chart showing amount in rupees and ledger copy was supplied. Then Appellant was forced to demand details under RTI Act in December, 2018 and Appellant was supplied with incomplete details on 19.01.2019 (after hearing of CGRF was over on 18.01.2019). From the details received on 19.01.2019 Appellant is of the opinion that the merger bill calculation is totally illegal as per following reasons.

- (i) Billing demand taken for merger bill is not arrived from time sum of demand of both meters as per rules and injustice is done.
- (ii) Peak hour and night hour consumption was also not arrived at by using time sum which is illegal.
- (iii) Power Factor calculation is done by KWH/KVAH only but actually where RKVAH data is available it should also be ascertained by calculating PF using RKVAH and best of the two methods PF is to be considered for billing purpose which was not done by Respondent and injustice is done to Appellant in issuing merger bill.
- (iv) There are arithmetic mistakes in calculations as per narration of Appellant in appeal application.

- (v) Technical parameters and its calculation for each separate bill are not supplied to Appellant.
- (vi) Even after 30.10.2018, whatever merger bills are issued, Appellant is not supplied with details as per (i) to (iii) above. Even meter reading sheets generated by on line readings were not supplied to Appellant for his confirmation of correctness.
- (vii) On 12.03.2019 Appellant was illegal issued notice by EE, Bharuch city Division for making payment of outstanding arrears of Rs.28,04,580.40 up to October,2018, which is to be paid by Respondent within 15 days of the notice. This is again illegal act as EE, Bharuch city Division, who was aware of the fact that illegal notice and illegal merger bill was already challenged by Appellant to CGRF on 17.11.2018, which was heard on 18.01.2019 but the order was not prepared/conveyed up to 12.03.2019.
- (viii) On 28.03.2018 Appellant got a telephonic message that his electric supply will be disconnected and to make payment of differential amount of the bill i.e. Rs. 26,93,432.82 – 28,04,580.40 = Rs.1,11,117.58. Thus Rs.26,93,432.82 was declared legal dispute by order of CGRF on 18.03.2018. Accordingly, Appellant was not served revised bill to be paid nor notice for outstanding amount, but telephonically threatened to disconnect the supply and disconnection order was also prepared in presence of Appellant. The main objection of Appellant is that CGRF order states that Appellant can file appeal before Hon'ble Ombudsman within 30 days but EE, Bharuch City Division has ignored this and insisted Appellant to pay differential amount as stated above for which separate notice was not served. Thus against disconnection notice amount of Rs.28,04,580.40, Appellant was orally instructed by Respondent to pay Rs.1,11,117.58, which was paid under

protest by Appellant to avoid disconnection of supply. One illegal calculation of amount was again noticed by Appellant that all merger bills issued by Respondent, bills shows delay payment charges which is actually charges of erroneous merger bill because regular bills of both connections are paid within time limit even after harassment by EE, Bharuch City Division, every month by not accepting regular bill amount. Thus the differential amount of Rs. 1,11,117.58 paid by appellant is inclusive of delay payment charges of illegal merger bill which was disputed by Appellant. As per rules, EE, Bharuch city Division is not permitted to recover delay payment charges of the legal disputed bill till final outcome but in this case of Appellant, EE, Bharuch City Division should issue revised/corrected bill as per order of CGRF, but EE, Bharuch having unlimited power by virtue of his post to violate Electricity Act,2003.

- (ix) In April, 2019 Appellant had received one separate bill of connection No.40038 showing arrears without details of arrears calculation, one merger bill and one sheet of credit debit amount in rupees. Here also Appellant is not supplied with details (i), (ii) and (iii) and Appellant has to only trust without ascertaining correctness of the units consumed and other data related to billing retrieved by Respondent on line.

From all the above points is crystal clear that Respondent is interested in issuing HT consumer bills in haphazard manner, without proper justification of billing quantity arrived at, calculations done, thereby violating Electricity Act,2003 and Supply Code and Regulations. Also EE, Bharuch City Division is of the opinion to threaten Appellant to disconnect power supply illegally so that Appellant has to stop his business then only Respondent will get more revenue from Appellant.

2.9. It is submitted that in order of CGRF, following points are ignored.

- (1) Merger bill was issued on 30.10.2018 without notice as per Act 2003 and also no reason for merging of both connections was narrated in the notice. But in written representation to CGRF, only reason mentioned is same PAN Number which is not the evidence that both connections have same entity. Also Respondent had presented in writing that as per instruction of higher authority, merger bill is issued. Actually up to and even on date of hearing (18.01.2019) written representation was not submitted by Respondent but it is afterthought of the Respondent. During hearing on 18.01.2019 Respondent had not shown any legal reason/justification/proof for issuing merger bill.
- (2) The circulars and rules stated in letter of merger bill do not contain any word like merger of connections or merger bill to be issued from retrospective effect. This matter narrated by Appellant in his application to CGRF and does not permit Respondent to issue merger bill.
- (3) Forum has considered only point No.1 and 2 of the Respondent of order page No.9 but has not considered point No. 3,4,5,7,8 and 9 on the same page and also Application of Appellant dated 17.11.2018, written presentation to the Forum dated 18.01.2019, which clearly states that since 08.06.2018 then 19.07.2018. Appellant has submitted documents for change of name as Respondent informed Appellant to provide documents of separate legal entity of both connections but deliberately the letter (without date and signature) does not mention the list of documents submitted by Appellant

or what other documents are required to be submitted by Respondent. During representation by Appellant dated 18.01.2019, he has submitted proof of separate legal entity and Respondent could not name Appellant the incomplete document nor Forum could guide Appellant about incomplete documents.

- (4) The Forum had ordered to issue only supplementary (not separate) bill from April,2019. This is again violation of Act and Supply Code because if two separate entities are using power from merger of two connections i.e. one connection, then it will be resale of electricity leads to violation of Supply Code. Hence, order is biased, bad in law, against natural justice and resulting in violation of Supply Code permitted by CGRF.
- (5) On 12.11.2018 and 20.11.2018 Appellant has submitted application demanding few documents and detailed calculation of illegal merger bill. All demanded documents were supplied to Appellant except Sr.No.7 – detail calculation of illegal merger bill was not given to us thereby hiding the documents has proved that illegal erroneous bill was prepared and issued.
- (6) As per RTI Application made by Appellant on 26.12.2018, all other details are given on 12.02.2019 but MRI data from date of issue of bill till October,2018 was not supplied. Only 60 days i.e. from 19.11.2018 to 19.01.2019 was given in soft copy. Again case of hiding details and proves illegal act of issuing erroneous merger bill.
- (7) On hearing date (18.01.2019), Appellant had orally complained that EE is not accepting regular bills and every time Appellant has to request higher authority then only regular bills are accepted. Hon'ble CGRF orally

instructed to accept the regular bill till finalization of grievances. But EE, Bharuch city Division did not obey the oral order of CGRF.

- (8) On 30.01.2019, Appellant again filed grievances to CGRF for not following oral instruction of CGRF by EE, Bharuch city Division. The complaint registration number is yet not conveyed to Appellant similar to his previous application dated 17.11.2018. In that application Appellant has requested five points of grievances but till today it is not redressed by CGRF which is violation of Grievances Redressal Regulations.
- (9) On 11.02.2019, Appellant has complained to GERC stating his grievances not redressed by CGRF. But Appellant was neither replied nor CGRF was instructed to redress his grievances. This is still pending with CGRF. Appellant has requested to report this matter to GERC for further actions in the matter.
- (10) On 18.03.2019 again Appellant filed complaint with Chairman, Redressal Forum, Bharuch to quash the illegal notice and instruct EE, Bharuch City Division to follow Act/Supply Code and grievances redressal Regulations. No any complaint number was given, means complaint of Appellant is not registered till today. This is again violation of grievances redressal regulations and supply code.
- (11) It is submitted that in GEB colony all adjoining premises are having separate connections on one name number but here this rule of merger is not applied.

In all government colonies/police housing colonies/GHB there is same situation but merger bills are not issued.

Two connections of Agricultural University in same one building, same purpose, same owner at Maktampor very

near to DGVCL office are given by DGVCL, Bharuch as per instruction of higher authority of DGVCL to avoid HT connection. Here also merging bills are not issued.

- (12) Even after written instructions from Hon'ble Secretary, GERC to M.D., DGVCL/CGRF and repeated letters from Appellant, Forum has not responded in case of Appellant and delayed redressal of grievances by 120 days from the date of application (application date 17.11.2018 and date of Forum order 18.03.2019). Even Appellant was not intimated the complaint number.
- (13) It is submitted that Appellant should be compensated for not replying his application along with documents submitted to the office of EE, Bharuch City Division for change of name on 08.06.2018, then on 19.07.2018 and also clarified all queries raised by his office during visit of representative of Appellant at office of EE, Bharuch city Division on 17.10.2018 but registration charges are not accepted intentionally and application of Appellant was not taken care of by EE, Bharuch City Division. After visit of Appellant to Bharuch City Division on 17.10.2018, EE was convinced. Appellant has also represented in his letter dated 05.11.2018, but all of sudden on 06.11.2018 EE wrote a letter to Appellant that documents are incomplete without stating any particular document/reason. This is violation of Supply Code,2015, Clause 4.65 "The Licensee shall issue written note on the spot regarding shortcoming in the application form...". This was not followed in the case of change of name of Appellant. Because on 19.07.2018, Appellant had replied letter No.18 of Respondent (which was without date and without signature) that all documents showing separate

legal entity of both connections, along with the application are received. Then how the question of incomplete documents arises after four months. Respondent company had also issued circular for simplification of the procedure to be adopted for change of name and the list of documents to be obtained. Appellant has submitted all required documents as asked by Respondent vide letter No.18442 dated 01.12.2012 and also discussed personally during frequent visit to the office of EE, Bharuch City Division. Up to 06.11.2018 all documents are in order and all of sudden after issuing illegal supplementary merger bill on 30.10.2018 application of Appellant was cancelled and one of the reasons stated is incomplete documents and outstanding arrears. Thus this afterthought illegal act proves that it was preplanned to deprive Appellant from his legal right by EE, Bharuch City Division for reason best to him. Appellant has requested that he should be compensated for harassment by EE, Bharuch City Division.

From all above points, it is very clear that Respondent company and its officers are not bounds to follow Electricity Act,2003, Supply Code and Regulations of GERC and consumers are left at mercy of the officers. If any consumer approaches higher officers of DGVCL, GERC or any higher authority then he will have to face enormous problems. Also it can be believed that offices of Respondent company have preplanned to cause mental agony and harassment to HT consumers which is main source of revenue for Respondent company and GoG. Therefore, HT consumers should not complaint and should always obey any legal/illegal instruction/act of

local office without even thinking to rebel and complaint to higher authority.

2.10. Vide letter dated 17.06.2019, Appellant has submitted counter reply against reply filed by Respondent on 06.06.2019 and stated that arguments/contentions in the reply of Respondent are not denied/complained in detailed by the Respondent.

Respondent had not clarified the issues pertaining to billing of merger bill issued and related contentions as pointed out in earlier para No.2.8.

Again, in the counter reply filed by Appellant it is stated that Respondent had intentionally not registered application for change of name and additional load at initial level and made harassment to Appellant by way of issuing supplementary bill for merger of existing two HT connections and insisted for payment of the same.

2.11. Appellant has prayed as under.

- (1) To quash the order passed by CGRF.
- (2) Merger notice dated 30.10.2018 issued by EE, City Division, Bharuch should be withdrawn/cancelled.
- (3) Supplementary bill issued on 30.10.2018 by Bharuch City Division Office should be quashed.
- (4) Separate bill of both connections should be continued to be issued.
- (5) To order Respondent to discontinue to issue of merger bills from November,2018 onwards.
- (6) Illegal disconnection notice issued on 12.03.2019 by EE should be cancelled.
- (7) Rs.1,11,117.58 recovered from Appellant on 28.03.2019 should be refunded with interest.
- (8) Extension of load for connection No.40038 demand 325 KVA to 425 KVA Sr.No.5047337 was kept pending in e-urja from 08.10.2018 to 06.11.2018 should be granted. Appellant should

be compensated for violation of SOP as Respondent has not sanctioned additional load within 15 days as per Supply Code No.4.81.

- (9) To order to consider change of name approved effective from 08.06.2018. Appellant should be compensated for not following Supply Code, 4.71 by Respondent for change of name and also the change of name should be implemented in regular billing. As such no reason for not accepting registration charges for change of name application was specified by EE, Bharuch City Division.
- (10) Appellant should be compensated for not complying point No.7 of application dated 12.11.2018 asking detailed calculation sheet for calculating merger bills.
- (11) All above matters, point No. 3(vi),7,8,9,10,11,13 for taking action against concern and compensate for harassment since last three months by pressuring Appellant to pay illegal merger bill and denial to accept current bill even though the matter was pending in grievances.
- (12) To instruct Respondent DGVCL to issue and accept regular separate bills with technical details for calculation of bill for both connections till the matter is finalized by grievances redressal mechanism.
- (13) Appellant should be compensated for (i) violation of SOP in change of name (ii) violation of SOP for extension of load (iii) mental torture and harassment by Respondent DGVCL.
- (14) To compensate Appellant for expenditure occurred in clerical, stationary, postal and legal consultant charges, and wasting valuable time etc., amounting to Rs.2 lakh.
- (15) Disciplinary action be ordered to be initiated for not complying Supply Code/Act/Regulations and any other order or relief as deemed fit by Ombudsman.

3.0. Respondent has represented the case as under.

3.1. The brief history of the case is submitted as under.

- (1) Appellant, bearing consumer No.40038 and 40040 had contracted demand of 550 KVA and 400KVA respectively at the time of initial release of connections. Connection No.40038 was released on 30.06.2008 at Plot No.C.S.1457/54, 93 to 98, 117, 118 and 119. Another connection bearing consumer No.40040 was released on 25.09.2008 on the same plot and same building with same name M/s. Shalimar Talkies. As per application, M/s. Shalimar Talkies is a partnership firm and Shri Sanjeev M. Shah is authorized signatory to apply and execute the agreement and he had signed all the relevant documents in the matter of both the above applications on behalf of M/s. Shalimar Talkies.
- (2) Appellant had demanded reduction of load for consumer No.40038 from 550 KVA to 325 KVA and for consumer No.40040 from 400KVA to 250KVA, which was granted by Respondent on 28.12.2011 vide release order No.17189 and 17190 respectively.
- (3) M/s. Future Retail Limited got inwards an application for name change from M/s. Shalimar Talkies to M/s. Future Retail for connection bearing No.40038 on 12.07.2018. As no documents for the same were submitted, registration was not done by Respondent.
- (4)
 - (a) Respondent had written a letter to Appellant on 18.07.2018 vide letter No.1928 in notice format informing the consumer that they had two connections in the same premises in the same name and same was in contravention of Supply Code,2015, Clause 4.28 and asked them to prove separate entity in both the cases by providing documentary evidence.
 - (b) Appellant, M/s. Shalimar Talkies, vide letter dated 19.07.2018 (received on 21.07.2018) had claimed that

they had given documents to the office of Respondent for both the connections to show separate legal entity for both connections at the time of application of new connection but same is denied as they had given only documents of Shalimar Talkies at the time of application for new connections and with this letter they had attached copies of (1) Leave and License agreement between Shalimar Talkies and Pantaloon Retail (India) Limited dated 21.01.2008 for a period of nine years (2) Lease agreement on 20.02.2018 between M/s. Shalimar Talkies and M/s. Future Retail Limited with effect from 04.08.2017 for nine years (3) a lease deed between M/s. Shalimar Talkies and M/s. Fame India Limited dated 03.03.2008 for 15 years.

These lease documents were not revealed for change of name process, hence these documents of M/s. Shalimar Talkies, from previous dates could not be entertained as the requirement of the Electricity Act,2003, Section 12, 13 and 14 are not met with. As Appellant is not exempted under Section 13 and neither authorized nor licensed under Section 14, he could not sell (distribute) electricity to third party, and also as per the agreement with M/s. Shalimar Talkies, Clause No.13(a) which read as under:

“The consumer shall not without previous consent in writing of the supplier, assign, transfer or part with the benefit of this agreement nor shall the consumer in any manner part with or create any partial or separate interest in it.” Therefore, this application is not registered for name change.

- 3.2. Appellant, bearing consumer No.40038 on 21.07.2018 himself approached for applying additional load from 325 KVA to 425 KVA with only application i.e. without any documents. Respondent had again written a letter dated 18.08.2018 to Appellant to provide relevant

documents to process the additional load. On 08.10.2018, Appellant, consumer No.40038, again approached Respondent and got the load extension application registered for extension of load from 325 KVA to 425 KVA, documents submitted were in respect of M/s. Shalimar Talkies and same date M/s. Future Retail approached for name change of this connection No.40038 in the name of M/s. Future Retail and this application was not registered.

- 3.3. Appellant cannot create interest for leasee without previous consent in writing, hence his submission vide letter dated 19.07.2018 (received on 21.07.2018) is not admitted as there was no previous consent from DGVCL. Respondent is of the opinion that Appellant is single entity having two connections in the same premises, in the same name in contravention to requirement of prevailing Supply Code,2015, Clause No.4.28, which reads as under.

“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.”

And also requirement of previous Supply Code,2005, Clause 4.1.17, which reads as under.

“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.”

Taking in to account of above and discussion with the higher authority, it was decided to process merger case merging both the consumers bearing consumer No.40038 and 40040 as both the connections are in the name of M/s. Shalimar Talkies bearing consumer No.40038 and 40040. PAN card submitted at the time of new connection application in both the connections is same (PAN No. AASFS2968K) and both the connections are in the same premises i.e. ground floor, first floor, second floor of the premises and third floor is

partly used by consumer No.40040. At the time of taking connection and also at the time of taking reduction of load, Appellant had not mentioned about any lease deed or rent agreement done with M/s. Future Retail Limited and M/s. Fame India Limited. Respondent has issued supplementary bill to Appellant vide letter No.2832 dated 30.10.2018 for Rs.26,93,462.82.

- 3.4. Appellant, vide his letter dated 05.11.2018 inquired about his change of name application. Respondent wrote to Appellant vide letter No.2878 dated 06.11.2018 to provide necessary documents which was informed to representative of the Appellant on 17.10.2018 and also informed that documents provided by him are not satisfying the Supply Code Notification Clause No.4.28 and thereafter Respondent had issued bill to the Appellant on 30.10.2018 vide letter No.2832 for Rs.26,93,462.82 and intimated that after making payment of the supplementary bill necessary action will be initiated by Respondent as per rules and regulations.
- 3.5. It is submitted that to comply with the Electricity Supply Code,2015, Clause No.4.28, it is pertinent that Respondent has to call upon Appellant to merge both the connections bearing No.40038 and 40040, as per the Supply Code,2005,Clause 4.1.17 and also Clause No.4.28 of Supply Code,2015, this requirement existed and as Appellant has violated these conditions since commencement of second connection on 25.09.2008 in the same name having connection No.40040, Appellant is merged from 25.09.2008 as Appellant, M/s. Shalimar Talkies took the benefit of lower tariff rate by taking two separate connections having initial contract demand of 550KVA and 400KVA, and after getting reduction of load, having contracted load of 325 KVA and 250KVA respectively. On merging of two connections, Appellant has to pay higher tariff rate and the applicable tariff rate for contracted and billed demand above 500KVA. Not only that but Appellant has to provide circuit breaker and additional cabling. Therefore, by

continuing with two separate connections, Appellant is causing financial loss to Respondent company. Appellant is not merging both the connections only with a view to avoid higher tariff which is actually applicable for total demand of the Appellant.

- 3.6. The sample calculation for one month(April,2016) of revenue loss due to above as per applicable tariff is as under:

Sr. No.	Name of consumer	Consumer No.	Billing parameters		
			CD (KVA)	Actual Demand(KVA)	Units (KWh)
1	M/s. Shalimar Talkies	40038	325	315	75692
2	M/s. Shalimar Talkies	40040	250	217	50085

(A) With individual metering.

(1) Demand charges calculation.

Conn.No.	Actual Demand	Billing MD in KVA	Rate per KVA	Amount (Rs.)
40038	315	315	130	40950/-
Total		315		40950/-
Conn.No.	Actual Demand	Billing MD in KVA	Rate per KVA	Amount (Rs.)
40040	217	217	130	28210/-
Total		217		28210/-

Total demand charges Rs.40950 + Rs. 28210 = Rs. 69160/-.

(2) Energy charges calculation.

Consumer No.	KWH used	Rate per KWH	Amount(Rs)	PF rebate	Net Amount
40038	75692	4.35	329260.20	6914.46	322345.74
40040	50085	4.35	217869.75	108.93	217760.82
Total	125777		547129.95		540106.56

(3) Time of Use charges calculation.

Consumer No.	KWH used	Rate per KWH	Amount (Rs.)
40038	28980	0.45	13041.00
40040	19527	0.45	8787.15
Total			21828.15

(B) On considering both the connections as one(after merging).

(1) Demand charges calculation.

Conn.No.	Actual Demand	Billing MD in KVA	Rate per KVA	Amount (Rs.)
40038 & 40040	500 532	500	130	65000/-
		32	240	7680/-
Total		532		72680/-

(2)Energy charges calculation.

Consumer No.	KWH used	Rate per KWH	Amount(Rs)	PF rebate	Net Amount
40038 & 40040	125777	4.55	572285.35	7439.71	564845.64
Total	125777		572285.35		564845.64

(2) Time of use charges calculation.

Consumer No.	KWH used	Rate per KWH	Amount (Rs.)
40038 & 40040	48507	0.85	41230.95
Total	48507		41230.95

Grand total of energy bill:

Demand charges + Energy charges + TOU charges

Rs. 72680.00 + 572285.35 + 41230.95 = Rs. 686196.30

Revenue loss on account of

(a) Demand charges Rs. 72680 – Rs. 69160 = Rs. 3520/-

(b) Energy charges Rs.564845.64 - 540106.56 = Rs. 24739.08

(c) TOU charges Rs.41230.95 – 21828.15 = Rs. 19402.80

(d) Electricity Duty @25% on consumption charges Rs.47661.88

Electricity Duty amount: Rs. 11915.48

Total loss of Rs. 59577.36

3.7. Pointwise reply against representation of Appellant is submitted as under:

(A) Pointwise representation against final order of CGRF.

In reply to Appellant's representation before Ombudsman, Respondent has specified that if any matter is not specifically accepted by Respondent, it is denied. Respondent denied the arguments of Appellant and has stated his arguments in the brief history of the case and Respondent stick to them.

(B) Wrong billing analysis of illegal bill issued:

The requirement in respect of meters for new connections for HT/EHT consumers as per Supply Code,2015, Clause 6.5(2) is reproduced hereunder:

“6.5: The meters for new connections shall be of following type(s):

- (2) For HT/EHT consumers – 3 Phase Tri-vector meters with MDI. The meters shall have a facility for “Time of the Day” metering and storage of at least 45 days. The consumer shall have the option to install meter having facility to record peak hours MDI in addition to above features.”

For classifying consumers as per GERC Tariff, Respondent is not empowered to create any new category but have to classify consumers in to various categories approved by GERC, the relevant Clause of Supply Code,2015, for classification of consumers is 3.10 and same is read as under:

3.10. Distribution Licensee may classify and reclassify consumers into various Tariff Categories from time to time as may be approved by the GERC and announce the different Tariffs for different classes of Consumers with the approval of GERC. No additional category other than those approved by GERC shall be created by the Distribution Licensee.

It is submitted that as per Clause 6.48 of Supply Code,2015, tariff and charges for supply of electricity shall be as determined by GERC, the clause reads as under:

6.48. Tariffs and charges for supply of electricity shall be as determined by GERC from time to time.

GERC gives tariff order every year and both the connections of Appellant have always been classified in same tariff category and billed accordingly.

As per Supply Code,2015, meter has to store values for 45 days and Respondent gets MD from the MDI by reading the meter on the day of billing, the meter is programmed to measure the maximum demand in KW or KVA, as the case may be, shall mean an average KW/KVA supplied during consecutive 30/15 minutes and if same is greater

than the previously recorded maximum MD during the billing period, the MDI records it as the Maximum MD and highest MD is thus recorded in the MDI and same is recorded for the billing and reset on the day of billing. This is the standard procedure and is followed in all the HT meter billing in Bharuch city Division.

Appellant, M/s. Shalimar Talkies, has argued that the MD charges calculated by Respondent from October,2008 to March,2010 is wrong. In this connection it is submitted by Respondent that the MD charges are correct and as per applicable tariff approved by GERC. However, in the print of the bill the first slot of MD is printed as 1st 500KVA, whereas same is to be read as first 1000 KVA, as per tariff HTP-II(A) applicable to consumer at that time. The tariff HTP-II(A) applicability and Demand Charges for the year 2008 of GERC Tariff order are reproduced hereunder:

“12.0: RATE HTP-II(A):

Applicability: This tariff shall be applicable for supply of energy to HT consumers contracting for 100 KVA and above, requiring power supply for Railways (other than Railway workshops chargeable under Rate HTP-I and Railway Traction), hotels, amusement parks, resorts, water parks, aerodromes, cinemas, auditoriums, banks, studios, offices, film production etc. requiring and given separate point of supply and such other establishments as may be approved from time to time.

12.1: Demand charges:

(a)	For billing demand up to contract demand	
	(i) For first 1000 KVA of billing demand	Rs.173 per KVA per month
	(ii) For billing demand in excess of 1000 KVA	Rs.260 per KVA per month
(b)	For billing demand in excess of contract demand	Rs.396 per KVA per month for billing demand in excess over the contract demand

The calculation of MD charges as per above tariff order for the months mentioned above are proper and accurate.

(C) Against Appellant's representation that error is detected in calculation of the energy charges in individual bills it is stated by Respondent that

the difference between energy charges shown in merger bill and energy charge shown in abstract is because energy charge shown in bill is only one element that is only energy charge without Night Usage rebate, whereas energy charge shown in abstract is net of the energy charge – Night Rebate. There is no error in the calculation as such.

Against Appellant's representation it is stated that the formula adopted for obtaining Power Factor is $KWH/KVAH, \cos \text{ of Tan Inverse (RKVAH/KWH)}$ is only used in two part meters, where KVAH is not available. Method used for calculation of Power Factor is accurate and as per accepted norms. The bills are calculated as per the norms by using the data of various parameters available on the billing date.

Against Appellant's representation it is submitted by Respondent that all the parameter values initial and final are available on printed bills and are available with the Appellant. Bills show element-wise all the charge calculations and tariff order is given by GERC and readily available on their web site, thus nothing is hidden from the consumer and Respondent has provided whatever available data, the Appellant has sought.

Against Appellant's representation regarding illegal notice for merger of connection and bills, it is refuted by Respondent and Respondent stick to his submission stated in brief history of the case of Appellant. Against Appellant's representation regarding harassment and not solving grievances by CGRF and CRC, it is refuted by Respondent and it is submitted that all available details and documents relevant to Appellant have been shared with them. Meter data storage capacity required by GERC is 45 days but storage capacity of meter installed at Appellant's end is 60 days and on request of Appellant, data of sixty days was also down loaded and made available to Appellant against his RTI application, though it is not standard procedure and same is not readily available with Respondent.

Appellant, since November,2018, has not paid merged regular bill and has paid only part bills attributable to the individual connections 40038 and 40040, and has paid merged bills arrears from November,2018 till February,2019 when his request was specifically declined by CGRF.

All other submissions of Appellant are denied. The due process as per requirement of Supply Code,2015 are followed in the matter of Appellant.

3.8. Respondent has submitted rejoinder vide letter dated 06.06.2019 and reiterated the above certain points along with following points.

(1) Contention made by Appellant vide Para No.2 of his submission is denied and it is submitted that both the connections are on the same plot and on same building with same name M/s. Shalimar Talkies. As per application, Shalimar Talkies is a partnership firm and Shri Sanjeev M. Shah is authorized signatory to apply and execute the agreement and he had signed all the relevant documents in the matter of both the above applications on behalf of Shalimar Talkies. As per norms, Respondent tries to ensure that consumer installation meters are checked for measuring consumption accurately once in six months and for that purpose meters have been checked several times and no interpretation can be made from them as of legal entity of the connection. Executive Engineer has authority only to register the application and has no authority to process the HT consumer application. Respondent has submitted the same in his submission vide letter No.1163 dated 17.05.2019, which may be considered.

(2) In letter No.1163 dated 17.05.2019, Respondent has addressed all the points covered in Appellants submission vide Para 5 and 6 and same may be relied on and Respondent is ready to share all relevant data and documents pertaining to the Appellant and

readily available with Respondent if the consumer asks for the same.

- (3) M/s. Shalimar Talkies, consumer No.40038 and 40040 are merged since 30.10.2018 and merged consumer bill too is served, but they approached Respondent with individual consumer bills amount cheques/Demand Drafts and did not bring total amount of merged billed, it being revenue receipt in part against the bill raised it became necessary to keep higher authorities informed and accept the part payments.
- (4) Disconnection notice issued to the Appellant on 12.03.2019 was in accordance with the Supply Code,2015, Clause 8.3(1) read as under:

Clause 8.3(1):

The supply may be disconnected temporarily in following cases:

- (1) On non-payment of the licensee's dues: The licensee may issue a disconnection notice in writing, as per Section 56 of the Act, to any consumer who defaults on his payment of dues, after giving him a notice period of 15 working days to pay the dues. Such notice can be embedded in the energy bill also. Thereafter, the licensee may disconnect the consumer's installation on expiry of the said notice period by removing the service line/meter as the licensee may deem fit.*

The allegation of M/s. Shalimar Talkies is denied and Respondent has taken due care and has issued notice for the recovery of dues as per Regulatory requirement. It is further mentioned that M/s. Shalimar Talkies was not paying regular merged bill additional amount due to merger since November,2018, which had accumulated to Rs.1,11,117.58 and had also not paid the supplementary bill of Rs.26,93,462.82 issued on 30.10.2018, and there was no injunction or stay from any statutory or regulatory body, forum or authority against recovery of dues.

It is submitted that no disconnection was performed against this disconnection notice as Rs.1,11,117.58 was paid by M/s.

Shalimar Talkies on 28.03.2019 and CGRF order, vide order No.4197 dated 18.03.2019 asked to consider Rs.26,93,462.82 as legal disputed amount and same was complied with.

- (5) As submitted above, due legal course was followed and no disconnection was done and no information in the matter of consumer's grievance with CGRF dated 18.03.2019 is available with Respondent.
- (6) Respondent is responsible for taking action for regularization of HT consumers of Bharuch city. Respondent has reviewed all the HT consumers and regularized all of them. Appellant has specifically mentioned two connections of Agriculture University in the same one building at Maktampur. The said connections are Low Tension, Lighting connections and premise is in area served by Bharuch East Sub-division and details of both the connections are examined and it is found that both the connections are in different names and for different colleges and applicants are two different persons, thus separate legal entities are there. Details of both the connections are as under:
 - (i) Conn.No.13217/30830/1 in the name of Principal, Polytechnic in Agriculture having contracted demand of 80 KW. Date of release is 03.02.2016.
 - (ii) Conn.No.13217/30829/8 in the name of Principal, College of Agriculture, having contracted demand of 90 KW. Date of release is 03.02.2016.
- (7) Application dated 08.06.2018 was only inwards and that too without any documents on 12.07.2018, the matter of separate legal entity was in question since notice served to party for utilizations of maximum demand in excess of contracted demand vide letter No.682 dated 13.03.2018. M/s. Shalimar Talkies merely to create false legal entity may have taken this exercise and Respondent had written letter to Appellant vide

No.1928 dated 18.07.2018 in notice format informing him that he had two connections in the same premise in the same name and same was in contravention of Supply Code, 2015, Clause 4.28 and asked Appellant to prove separate entity in both the cases by providing documentary evidence. M/s. Shalimar Talkies, vide letter dated 19.07.2018 had claimed that they had given documents to Respondent for both the connections to show separate legal entity for both connections at the time of application of new connection, but same is denied, as they had at the time of application of new connection only given documents of Shalimar Talkies and with this letter dated 19.07.2018 they attached copies of (1) lease and License agreement between Shalimar Talkies and Pantaloon Retail (India) Limited dated 21.01.2008 for a period of 9 years, (2) Lease agreement on 20.02.2018 between M/s. Shalimar Talkies and M/s. Future Retail Limited w.e.f.04.08.2017 for 9 years and (3) a lease deed between M/s. Shalimar Talkies and M/s. Fame India Limited dated 03.03.2008 for 15 years, for first time. These lease documents were not revealed nor change of name process was done in the name of leasee earlier, hence these documents of M/s. Shalimar Talkies, from previous dates could not be entertained as they were clear contravention of the Electricity Act, 2003, Section 12 and also agreement made with the Appellant M/s. Shalimar Talkies, same is reiterated in detail earlier.

It is also brought to the notice of Hon'ble Ombudsman that GUVNL is holding company for DGVCL, DGVCL itself is wholly owned company of Government of Gujarat. Officers of DGVCL are delegated certain powers as per office held and designation etc.

For processing of HT connection, extension/reduction of load etc., Division Office can only register applications. They are not empowered to process the application. For processing the HT applications, powers are vested with Circle Office for up to 500 KVA and Corporate Office for above that. This office registered their load extension application on 08.10.2018 and as M/s. Shalimar Talkies failed to provide proper documents ascertaining separate legal entity for both HT connections i.e. consumer No.40038 and 40040, ultimately their load extension application was rejected as separate legal entity was not getting satisfied as per requirement of Clause 4.28 of Supply Code,2015. As M/s. Shalimar Talkies was taking benefit of lower rates by taking 2 No. of HT connections in the same name in the same premise, a supplementary bill dated 30.10.2018 for the losses accrued to Respondent due to two separate connections was issued, as Appellant has caused financial loss to Respondent since 25.09.2008.

3.9. Respondent has sought nature of relief as under.

- (1) Relief sought by M/s. Shalimar Talkies may be denied as the actions taken by Respondent are in accordance with rules and regulations.
- (2) Allowing the Appellant to enjoy two connections in one premises for the purpose covered under the same tariff category would mean that Appellant would not be paying actual charges for consumption of electricity as required for total demand as DGVCL tariff is based on cross subsidy and for higher demand, Demand Charges, normal tariff rates and time of use charges are higher. This would amount to unjust economical benefit to the Appellant.
- (3) Respondent being wholly owned Government of Gujarat company gets liberal grants from State and Central

Government. In view of above, it is prayed to dismiss the appeal of Appellant.

::: 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. As per Para 2.1 and 3.1, Appellant is having two HT connections. The factual details submitted, are as under:

(A) HT connection No.40038.

(1) Release order of this connection for 550KVA at 22KV power supply was issued to Appellant by Respondent vide letter No.3752 dated 26.06.2008. Details are as under:

Applicant: M/s. Shalimar Talkies, Station Road, Surat.

SR No.68490. Tariff : HTP-IIA

Date of connection: 30.06.2008.

Date of execution of agreement: 08.04.2008 wherein premises location shown as R.S.No.56 and 57, Ward No.3.

C.S.No.1457/54, Station Road, Bharuch for 550 KVA contracted demand for shopping mall.

A-1 form dated 05.02.2008 shows name of Applicant as "Shalimar Talkies" Station Road, Bharuch.

Reduction of load 550KVA to 325 KVA was granted on 28.12.2011.

(2) Appellant had applied for change of name on 08.06.2018 from M/s. Shalimar Talkies to M/s. Future Retail Limited for HT connection No.40038. As per letter of Respondent dated 06.11.2018 it is stated that A-1 Form submitted along with documents like PAN Card, GST registration certificate, Board Resolution copy and Registered Lease Deed between M/s. Shalimar Talkies and M/s. Future Retail Limited. Respondent had informed Appellant in same letter dated 06.11.2018

regarding insufficient documents for change of name, and not proceeded application for change of name.

- (3) Appellant had submitted additional load application dated 19.07.2018 for 325 KVA + 100KVA = 425 KVA contracted demand which was inwards by Respondent for HT connection No.40038. It is to note here that vide letter dated 19.07.2018, Appellant had written a letter to Respondent submitting documents of legal entity (lease deed) of both HT connections i.e. connection No. 40040 and 40038.
 - (4) Respondent had made registration for additional load of Appellant by accepting registration charges of Rs.1000/- vide MR No.0513662 dated 08.10.2018 in HT connection No.40038. Vide letter dated 06.11.2018 Respondent had mentioned date of registration as 08.10.2018 for change of application of Appellant, but looking to the documents i.e. A-1 Form dated 08.06.2018 was inwards on the same day, which shows that Appellant had applied for additional load of 100 KVA, total 425 KVA contracted demand and also applied for change of name in HT connection No.40038.
- (B) HT connection No.40040.
- (1) A-1 form shows name of applicant as "M/s. Shalimar Talkies". Address: CS No.1459/54, 93 to 98, 113, 118 and 119, Station Road, Bharuch, for contracted demand of 400 KVA for Cinema Hall.
Agreement dated 10.09.2008 was executed between the parties for contracted demand of 400 KVA under HTP-IIA tariff for Cinema Hall.
Date of connection: 25.09.2008.
Reduction of load from 400 KVA to 250 KVA granted on 28.12.2011.

4.2. Vide letter dated 30.10.2018 Respondent had issued supplementary bill of Rs. 26,93,462.82 for the period 25.09.2008, i.e. release of second HT connection No.40040 to October,2018 having knowledge of two HT connections in the same premises i.e. Shalimar Talkies. Considering merging of two HT connections, bearing No.40038 and 40040, mentioning erstwhile GEB Commercial Circular No.769 dated 28.01.2003 and Clause 4.28 of Supply Code,2005, directed to pay supplementary bill amount within 10 days.

Here it is to note that prior to issue of supplementary bill to Appellant, no opportunities were given to Appellant to prove separate legal entity of both connections. In fact, as per records of Respondent, there are two HT connections in the name of Appellant as per details mentioned in Para 4.1.

4.3. Vide letter No. 2169 dated 04.07.2008 Respondent (EE), Bharuch City Division had written a letter to Appellant in response application of new HT connection for 400KVA contracted demand at C.S. No. 1457/54, 93 to 98, 117, 118, 119, Station Road, Bharuch. It was mentioned that during the site visit dated 30.06.2008 survey work was carried out and it was found that there was existing connection of 550KVA in the name of M/s. Shalimar Talkies in the said premises. Appellant has not specified the clear boundary of the proposed premises with application form along with site plan. It was also intimated to clarify separate legal entity for both connections. Respondent had also intimated in the said letter that there is no clear space available for metering point.

In response to letter dated 04.07.2008, Appellant M/s. Shalimar Talkies had replied vide letter dated 14.07.2008 and submitted the information demanded by Respondent mentioning floor-wise square feet area for both HT connections i.e. Big Bazar and Cinema Hall. Accordingly, Respondent (CE, DGVCL) approved and released HT connection of 400 KVA vide letter No.7714 dated 20.09.2009 vide SR

No.162664. This is proved that at the time of releasing second HT connection Respondent might have collected the requisite documents for separate legal entity of both the connections.

- 4.4. SR No.5047337 dated 06.10.2018 registered by Respondent for change of name purpose for connection No.40038. As per the generation of SR No.5047337 list of documents shown under e-urja system is as under: (i) Electric bill (ii) partnership deed (iii) power of attorney (iv) HT application form (v) Registered lease deed (vi) copy of property card as ownership document (vii) Adhar card.

Vide entry dated 06.11.2018 in e-urja system, Circle Office of Respondent had rejected the change of name proposal on the ground of non-payment of supplementary bill issued on 30.10.2018 for merging of 2 No. of HT connections i.e. connection No.40038 and 40040.

- 4.5. Vide letter dated 18.08.2018, Respondent had asked documents for additional load application dated 19.07.2018 for HT connection No.40038. The said notice was not in relation with merging of two HT connections. It is to note here that letter dated 18.07.2018 written by Respondent to Appellant is for change of name for HT connection No.40038 and for providing documents to establish separate legal entity of both HT connections. This communication was made by Respondent in accordance with receipt of application for change of name/additional load demand. Supplementary bill was issued for the period from release of HT connection No.40040 up to October,2018. While in this case prior to intimation for merger of two HT connections Appellant had applied for change of name in HT connection No.40038 and same was processed by Respondent as per SR No.5047337 and later on rejected on the ground of non-payment of supplementary bill so issued for merger of both HT connections.

Prior to said notice, vide letter dated 08.08.2018 Respondent had intimated Circle Office that both HT connections are being used by

separate parties i.e. (1) Big Bazar and (2) Inox Cinema, on the basis of separate lease deed and guidance was asked for processing the change of name/additional load application of Appellant.

- 4.6. It is also on record that Respondent had issued notice to M/s. Shalimar Talkies, C/o. Big Bazar, HT connection No.40038, vide letter No.682 dated 13.03.2018 to regularize the excess load mentioning that during the month of June,2017, October,2017, November,2017 and February,2018, Appellant had recorded excess demand. Intimation for regularization for contracted demand was issued to Appellant as per the provision of Supply Code,2015. In accordance with the notice served, Appellant had submitted the additional load demand application dated 19.07.2018. This application was registered on 08.10.2018, which was rejected by Respondent on the ground of non-payment of supplementary bill issued for merger of connections.
- 4.7. Respondent vide Para No.3.1(4)(b) accepted that vide letter dated 19.07.2018 Appellant had submitted documents as under:
- (i) Leave and Licence agreement between M/s. Shalimar Talkies and M/s. Pentaloon Retail (I) Limited dated 21.01.2008 for the period of nine years.
 - (ii) Lease agreement of 20.02.2018 between M/s. Shalimar Talkies and M/s. Future Retail Limited w.e.f. 04.08.2017 for nine years.
 - (ii) Lease deed between M/s. Shalimar Talkies and M/s. Fame India Limited dated 03.03.2008 for 15 years.

Above documents were not provided by Appellant at the time of registration of new application and same are provided first time to Respondent as stated by Respondent. It was narrated by Respondent that previously Appellant had not demanded for change of name by providing change of name application along with requisite documents.

- 4.8. As per Para No. 4.1 Respondent had accepted application for load extension for HT connection No.40038 for additional load of 100 KVA and made registration by accepting registration charges of Rs.1000/-

but not processed the application for granting additional load to Appellant. In view of Electricity Supply Code Regulation No.4 of 2015, Clause No.4.80 to Clause No.4.87, taking into consideration of provision Clause 4.83, which reads as under.

Clause 4.83 The application form for enhancement of load shall not be accepted if the consumer is in arrears of payment of the licensee's dues. However, the application form may be accepted if such payment of arrear has been stayed by a Court of law, or the Commission or an authority appointed by the Commission.

Additional load application dated 08.10.2018 has been registered by Respondent vide SR No.5047337, and on ground of arrears against supplementary bill issued for merging of two HT connections on 30.10.2018, said application has been cancelled by Respondent vide letter dated 03.12.2018.

In above issue, it is noted that the issue of so called arrears pending came across at the time of processing application for additional load. If arrears were on records of ledger of Appellant, Respondent should not have registered the application for additional load. Here additional load application has been registered by Respondent which proves that at the time of registration, arrears against Appellant was not pending.

- 4.9. In reference to application of Appellant for making change of name vide application dated 08.10.2018 in HT connection No.40038, Respondent has accepted application but registration for change of name was not made. While accepting change of name application if any compliance observed then it is a duty of Respondent to intimate Appellant to clear any compliance related with reference of change of name application but said process was not done by Respondent at the relevant point of time, as seen from the documentary evidence.

Respondent had written a letter dated 06.11.2018 mentioning that relevant documents have not been produced/complied for process of change of name application. It was also mentioned that supplementary bill dated 30.10.2018 was issued against merger of two HT connections No.40038 and 40040 for Rs.26,93,462.82 and on

payment of supplementary bill and submission of relevant documents, change of application would be processed as per norms.

From the above it is seen that at the time of submission of application for change of name on 08.10.2018 for HT connection No.40038, requisite documents might have not fulfilled by Appellant but Respondent had intimated Appellant for making the payment of supplementary bill for merger of HT connections No.40040 and 40038, subsequently issued on 30.10.2018.

From the application for additional load of 100 KVA registered as well as change of name application made for HT connection No.40038 by Appellant, Respondent would have tracked the issue of two HT connections existing in the so called premises "Shalimar Talkies", Station Road, Bharuch, and issued a supplementary bill for merger of HT connections No.40038 and 40040. Therefore, action of issue of supplementary bill is an afterthought of Respondent on receiving application for change of name/additional load. On ground of arrears so created by way of issue of supplementary bill for merger of two HT connections of Appellant and denial of application for change of name/additional load in HT connection No. 40038 is contrary.

- 4.10. To deal with the issue of merger of 2 No. of HT connections and issue of supplementary bill to Appellant, 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.

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 2008 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 had issued supplementary bill for merger of 2 No. of HT connections on the basis of Clause No.4.1.17 and erstwhile GEB Circular No.769.

4.11. While applying for new HT connection, Appellant has demanded HT supply as per Para 4.1. Appellant has shown purpose of each connection i.e. HT connection No.40038, Shopping Mall and HT connection No.40040, Cinema Hall. HT connection No.40040 had been granted after clearing compliance as noted in Para No. 4.3.

4.12. On the basis of submission of documents relating to ownership of premises, Respondent had released 2 No. of HT connections of Appellant for different purposes.

As per Para 4.3, Appellant had produced ownership documents for change of name/additional load for HT connection No.40038. The premises on lease wherein HT connection No.40038 and 40040 were released in the name of Appellant at initial stage and later on asked for change of name for relevant HT connections in the name of occupier/lease holder.

This is a case wherein as per records of documents with Respondent for different 2 No. of HT connections, Respondent had taken action for merger of connections. Here it is to note that use of electricity for 2 No. of HT connections is separate one for different purposes. Two HT connections were given by Respondent to Appellant with mentioning area of Mall with purpose of use. The only name of connections is common i.e. M/s. Shalimar Talkies, but purpose and use of electricity is in different area of the premises.

- 4.13. As per records of documents, Appellant being an owner of premises got two HT connections, bearing No.40038 and 40040, which are existing. Now as per change of name application in HT connection No.40038 and additional load demand of 100 KVA in HT connection No.40038, Appellant had produced relevant documents. Based on documents produced at the time of change of name/additional load application, it is seen that end user of electricity is different, which creates a question against merger of different 2 No. of HT connections.

If at all merger of 2 No. of connections is accepted, then liability for payment of every bill will be of Appellant in which at tail end user of electricity in the different shop/floor area of Mall are different one. Thus, on above grounds, in present situation merger of 2 No. of HT connections is not feasible.

- 4.14. 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 connections and utilization of purpose of electricity, as noted in Para No. 4.3.

- 4.15. From the observations of Para 4.1 and 4.2 and 4.7, it is noted that for HT connection No.40038 and 40040, application was made in the year 2008 by M/s. Shalimar Talkies, for Shopping Mall and Cinema Hall. As per documents submitted, lease deed is made by M/s. Shalimar Talkies with M/s. Fame India Limited on 03.03.2008. Similarly, lease deed between M/s. Shalimar Talkies and M/s. Future Retail Limited is made on 20.02.2018 for 46506 sq.ft. of carpet area in mall/commercial complex “Shalimar Talkies” situated at CS No.1457154 and CS No. 1457193 to 98, 117, 118, 119 located at Station Road, Bharuch.

This is a case in which end user of individual premises are different and separate. As per say of Appellant, energy bills are being paid by user of electricity of the said premises. Here the issue involved is only to process change of name in the respective HT connection as Appellant had not processed at relevant point of time for the same and not corrected records of Respondent. Respondent had issued supplementary bill for merger of both HT connections on the ground

of documents available with him. Only having PAN number of two HT connections are same i.e. Appellant assuming that premises is one in the name of Appellant i.e. M/s. Shalimar Talkies and started issuing regular merger bills to Appellant which is objected by Appellant.

On observation of records of documents produced and utilization of electricity by individual premises holder are different one. It cannot be said that present Appellant i.e. M/s. Shalimar Talkies, is an end user of electricity of Respondent for above two HT connections.

On the ground of definition of premises, Respondent had released the original connections in the name of Appellant at relevant point of time after verifying site and collecting ownership documents. while receiving of application of HT connections at the premises of Appellant, Electricity Supply Code and Related Matters Regulation Notification 11 of 2005 was in existence. Respondent might have followed the relevant provisions of Supply Code,2005 at relevant time for providing electric connections to Appellant.

It is seen that 2 No. of HT connections are having different use by different end users but on record of Respondent, consumer's name is shown M/s. Shalimar Talkies. Consideration of merger of 2 No. of HT connections in the name of Appellant would result into one connection but utilization of electricity to end user to different legal owner/ occupier of person. In such circumstances, being one HT connection in the name of M/s. Shalimar Talkies issue will come up for resale of energy to end user by Appellant which is also not desirable. Therefore, in the interest of parties, it would be reasonable and proper to act as per stipulated provisions of the Electricity Act,2003 to have redressal of present subject matter. Respondent should have granted change of name in the name of occupier/owners of premises with fulfilling the necessary compliance by Appellant.

- 4.16. 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.

- 4.17. In above circumstances, Respondent is directed to process the application of Appellant for granting change of name by obtaining requisite documents as per present norms. It is also directed to intimate the Appellant for submission of the details of documents as per provision of Supply Code and Appellant is also directed to submit requisite documents for getting name change of relevant HT connections.

- 4.18. In reference to the observations made by CGRF in Para No.13 and 14 of its order, CGRF has not decided the present grievance. But the issue involved herein is different one as narrated above.

Looking to the situation as presented by parties, action for merger/clubbing of different connections of Appellant pursuance to provisions 4.28 of Supply Code,2015 is not feasible on the ground of having different separate entities of individual premises.

- 4.19. HT connections No.40038 and 40040 are for different purposes and end user are different one, but Respondent had started issuing merger bill to Appellant. By not granting change of name request in HT connection No.40038, Respondent has acted one sided with merging of both HT connections and thereby right of Appellant snatched for

granting approval for change of name as well as for additional load demand.

In such circumstances, to have merger of both connections, with having different purposes of use of electricity with different end users, both connections are required to be treated as a different HT connections.

Appellant is directed to comply the points raised by Respondent for change of name/additional load purpose. On receipt of compliance from Appellant, Respondent may accord an approval for change of name/additional load application to relevant end user as per records of ownership/occupancy as per the present norms.

- 4.20. In above circumstances, 2 No. of HT connections were released by Respondent in the name of Appellant as per the details of Para No.4.1. Respondent had not issued notice for merger of 2 No. of HT connections of Appellant and started issuing merger bills after October,2018.

It is also true that after getting 2 No. of HT connections by Appellant at the said premises and after making rent deed/lease deed with another party, Appellant had not processed for change of name for the electric connections and later on Appellant has submitted the facts of end users of electricity at relevant premises and asked for change of name.

It is required to refer order 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.

In the present case, Respondent has started issuing merger bill from October,2018 after getting knowledge of 2 No. of HT connections in the same premises. Prior to that Respondent has not intimated Appellant for merging of both the connections. In fact, as per Para No. 4.3 HT

connection No.40040 had been released by Respondent observing necessary formalities. Supplementary bill issued by Respondent with merging of load of 2 No. of HT connections with retrospective effect i.e. from the release of second number of HT connection, i.e. 40040 is not in accordance with directives of Hon'ble APTEL as per the order passed in case No.131/2014.

Respondent is directed to cancel the supplementary bill issued for merger of 2 No. of HT connections. It is also directed to issue separate calculation sheet including parameters of both HT connections at every billing cycle till compliance for change of name/additional load made by Appellant for HT connection No.40038 for granting change of name/additional load.

Compliance report to be submitted to this office within 30 days.

- 4.21. I order accordingly.
- 4.22. No order as to costs.
- 4.23. With this order, representation/Application stands disposed of.

(Dilip Raval)
Electricity Ombudsman
Gujarat State

Ahmedabad.
Date:19.06.2019.