

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

I.A. No. 4473 of 2023 in
Company Appeal (AT) (Ins.) No. 1300 of 2022

IN THE MATTER OF:

Executive Engineer **....Appellant**
Uttar Gujarat VIJ Company Ltd.

Vs.

Pradeep Kumar Kabra **....Respondent**
Liquidator of Pacific Pipe systems Pvt. Ltd. & Anr.

Present:

For Appellant: **Mr. Vipul Ganda, Ms. Nirthi Dua, Mr. Ishan Upadhaya, Advocates.**

Mr. Anal S. Shah, Advocate

For Respondent: **Mr. Ravi Raghunath, Advocate for R-2.**

ORDER
(HYBRID MODE)

18.12.2023: I.A. No. 4473 of 2023:- By this application the applicant has prayed for following reliefs:

- a. Allow the present Application;*
- b. Direct the Respondent No.1 to pay the interest due and payable from the date of termination of the electricity i.e. March 01, 2016 connection in the name of the Corporate Debtor, till the date of adjudication of the present application, at the interest rate prescribed in Gujarat Electricity Regulatory Commission (GERC) (Security Deposit) Regulations 2005 published vide Notification No: 8 of 2005;*
- c. Pass such further and/or other orders as deemed fit and proper in the interest of justice.*

2. This appeal was filed against the order of Adjudicating Authority dated 04.10.2021 while deciding the application for relief and concession filed by the Applicant.
3. Adjudicating Authority disposed of the application and issued certain direction in paragraph (ix) which is to the following effect:

“IX. We hold that all electricity charges accrued prior to liquidation commencement date shall stand permanently extinguished and any security deposit for connection shall continue in the name of the Corporate Debtor. We further direct Uttar Gujarat Vij Company Limited to restore the electricity supply to the Corporate Debtor so that the Corporate Debtor can be run as a going concern. The charges after the liquidation commencement date and till acquisition date shall also stand extinguished quo Successful Auction Bidder.”

4. Appeal was filed by the Executive Engineer, Uttar Gujarat Vij Company Limited which appeal was disposed of on 16.05.2023 and noticing the submissions of the counsel for the respondent. Following submissions were noticed of the order:

“3. When the Appeal was taken today, Learned Counsel for the Appellant submits that Appellant has already recovered all dues on the electricity connection and there are no further dues to be recovered. He further submits that the electricity connection was disconnected permanently in 2017 and Appellant is ready to give fresh connection to the Successful Bidder provided that Application and/or Form are filled up. It is further submitted that security which was already deposited with the Appellant shall be continued in the name of the Corporate Debtor. It is further

submitted that electricity shall be restored within six weeks if application/form is made within two weeks from today for the restoration of the electricity.

4. It is made clear that no financial charges shall be asked from the Corporate Debtor for giving fresh connection.

5. Learned Counsel for Respondent submits that there was some entitlement of interest on the security deposited. With regard to said, the Appellant may consider in accordance with applicable rules and regulations.

6. The Appeal is disposed of, accordingly.”

5. Subsequent to the aforesaid order an application was filed by Executive Engineer, Uttar Gujarat Vij Company Limited being I.A. No. 3972/2022. Now in this application the grievance of the applicant is that the interest of the security deposits is not being paid which according to the regulation the respondent was entitled. The issues which are sought to be raised in this application were not before the Adjudicating Authority in this appeal.

6. Recording the statement of counsel for the respondent (who is applicant before us) that the appellant may consider in accordance with the application rules and regulations the appeal was disposed of. In event, the said consideration is not favourable to the applicant it is always open to the applicant to file appropriate application before the Adjudicating Authority for relief, if any.

7. We are of the view that said issues cannot be entertained in this application nor adjudicated by this Tribunal in this appeal. We, however, make it clear that we are not expressing any opinion on merits of the claim in the application filed by the applicant and it is for the Adjudicating Authority to consider and decide in accordance with law.

8. With these observations, we dispose of this application.

**[Justice Ashok Bhushan]
Chairperson**

**[Mr. Barun Mitra]
Member (Technical)**

sa/nn