

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
District: Bhavnagar

SPECIAL CIVIL APPLICATION No. OF 2020

M/s K B Ispat Private Limited

... Petitioner

Versus

State of Gujarat & Ors.

... Respondents

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Sr. No.	Annexure	Particulars	Pg. Nos	
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Place: Ahmedabad
Date: 29.05.2020

Param
ABHISHEK MEHTA, ADVOCATE
PARAM SHAH, ADVOCATE
ABHISHEK M. MEHTA
ADVOCATE
M. 9909011008

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
District: Bhavnagar

SPECIAL CIVIL APPLICATION No.

OF 2020

A

M/s K B Ispat Private Limited.

... Petitioner

Versus

State of Gujarat & Ors.

... Respondents

SYNOPSIS

- (A) That the controversy in the present petition arises in the background of the current pandemic and the spread of corona virus or Covid-19 which has hit not only India but the entire world.
- (B) That the First case of Corona Virus was reported in India in Kerala on 31.01.2020. The World Health Organization (WHO) declared Corona Virus Disease (COVID-19) as 'pandemic' on 11.03.2020. The Secretary (Labour & Employment) issued D. O. No. M- 11011/08/2020-Media dated 20.03.2020 to all Chief Secretaries of States / UTs, requesting them to issue necessary Advisory to Employers / Owners of all establishments in the state, to extend their cooperation by not terminating their employees, particularly casual or contractual workers from job or reduce their wages. As per the said letter, if any worker takes leave, he should be deemed to be on duty without any consequential deduction in wages for this period. Further, if the place of employment is to be made non-operational due to COVID-19, the employees of such unit will be deemed on duty.
- (C) The Hon'ble Prime Minister addressed the nation and announced a nationwide lockdown for 21 days i.e. from 24.3.2020 till 14.04.2020 in the wake of Covid-19 pandemic. The Home Secretary, Ministry of Home Affairs in his capacity as chairperson, National Executive Committee while

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exercising the power, conferred under Section 10(2)(I) of the Disaster Management Act vide Order dated 24.03.2020 issued guidelines to implement lockdown to contain the spread of COVID-19, in all parts of the country for the period of 21 days with effect from 25.03.2020, which, thereafter came to be extended time and again and presently stands extended till 31.5.2020. All economic activities in the country came to a standstill and people and industries were faced with unprecedented hardships, financially or otherwise. Such was the nature of lockdown that people were not allowed to stir out of their house but for urgent need including purchase of essentials items etc.

- (D) Since there was complete lock down in the country, which is unprecedented in the history of human kind, the central government issued guidelines as well as notifications to deal with the catastrophic situation including issuing directions under the Disaster management Act. One of such directions included directing the employers/ industries to make payment of wages to the workers even if the industries were shut and not working or engaged in manufacturing activities due to the lock down. That on one hand, the monthly business of the Petitioner has been reduced to the ground level than what was prevailing before lock down and on the other hand the Petitioner is being compelled under the Impugned Notifications to pay for the wages to workers for entire lockdown period The Petitioner is under extreme financial stress and any further liability would completely wipe out the Petitioner.

- (E) Keeping the disastrous consequences of the Covid-19 pandemic in mind and in view of the request of the petitioner and other persons, the Association made representation dated 21.3.2020 to the Hon'ble Chief Minister of the State of Gujarat other eminent persons in the Government, pointing out the already bad state of affairs and the economic down turn

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and crisis which the steel rolling mills were going through and which was to worsen in view of the lock down and the effects of the Covid-19 pandemic, requesting for waiver of the minimum/ fixed demand charges by the electricity companies in the state of Gujarat.

(F) That as far as the captioned petition is concerned, the respondent No.1, following one such notification No. 40-3/ 2020-D issued by the Central Government on 24.3.2020, came out with a Notification No. GUV-122020-345-k1 dated 27.03.2020 permitting the consumers of electricity in the state of Gujarat to pay the bill in a staggered manner till 15.4.2020 and there will be no disconnection in this regard. Also, the notification referred to herein above exempted all commercial / industrial consumers who are closed due to lockdown, from payment of minimum charges or fixed charges for the bills issued for the month of April 2020 and charges will be levied as per actual usage.

(G) That with no economic activities and mounting debts and no respite in sight for re-starting the manufacturing activities, a state of uncertainty prevailed which was unparalleled in history of the world and this country and the same required extraordinary steps to be taken by the central and state governments. With complete shut down and the liability of paying the workers despite there being no revenue generation, the Petitioner through the Association, addressed various letters to the respondents suggesting a slew of measures to mitigate the plight of the Petitioner and members of the association.

(H) That in April, 2020, the petitioner through the Association and the association, keeping in mind the crisis its members were facing due to the lock down, addressed various letters to the respondent No.1 and No. 4 also to the Hon'ble Chief Minister of the state of Gujarat and to the various

eminent persons holding posts in the State Government, praying for extending the benefit provided in the Notification dated 27.3.2020 to the month of May, 2020 by, inter alia, waiving the minimum charges / fixed charges levied by the electricity companies / distribution licensees on the consumers and extension of time to pay the said electricity bills and waiver from electricity duty. The said aspect is of utmost relevance since the lock down came to be extended repeatedly by the Central Government as well as the State of Gujarat and the governments of other states in India and now stands extended to 31.5.2020. That even if the lock down was relaxed, the same would be inconsequential as there was no demand and no manufacturing that would take place as there were no labourers available to work in the industries due to the policy of the central government to send back the migrant labours to their respective states leaving with hardly / or no workmen to work in the industries.

- (I) That the petitioner's manufacturing activity as well as that of the other members of the Association are more or less dependent on the functioning of the Alang Sosiya Ship recycling Yard close to Bhavnagar which supplies the iron scrap by breaking down ships which have lived their life and are to be cut down from which the iron and scrap is taken out and used for the purpose of manufacturing steel and re rolling of steel. The same also closed down due to lockdown. In view of the representation made by the Ship recycling Industries Association, the State of Gujarat through its nodal agency Gujarat maritime Board, has extended time for depositing the annual lease charges. If the suppliers of raw material are going through extreme crisis and cannot supply raw material and are not able to pay their dues, in that case the petitioner is in worst off situation. The State of Gujarat has been kind enough to extend the time for deposit of the charges till 30.6.2020 for the plot holders at the Ship Breaking yard. The empathy show by the Government is what will help the industries to resume work but the

same cannot be done and is not possible without the help of the respondent No.1 and No. 4 who can provide the required environment and an impetus to the industries in Gujarat by waiving the fixed charges leviable in the electricity bills and extending the payment of the bill for actual consumption and giving more time and waiving the electricity duty which is up to the tune of 15 percent on total of fix and energy charges.

- (J) That in the month of May, 2020 pursuant to the extension of the lock down, the Association addressed various letters to the respondent No.1 reiterating its request as stated in the earlier representations.
- (K) That even if the petitioner does not undertake any manufacturing activities for what so ever reason, the petitioner is bound to pay minimum contract demand charges running into crores of rupees. That over and above the aforesaid fix charges, electric duty at the rate of 10 % to 15 % is to be paid, as per the notification of Chief collector of Electric Duty, Gujarat State. The said amount expands enormously if the amount is to be considered for all the members of the Association.
- (L) That in the set of circumstances and the situation which has arisen, the Petitioner legitimately expect the concerned respondents including the Respondent NO.1 and 4 to extend the benefit of exemption / waiver of fixed charges / minimum demand charges which was given in terms of the Notification dated 27.3.2020 to further months rather than restrict to the month of April, 2020. The very reason why the Notification dated 27.3.2020 was issued was to mitigate and provide some breathing time or a cordial environment of the industries and other consumers of electricity in the State of Gujarat to manage keeping themselves afloat and alive so as to somehow pull through the current economic crisis which has hit the economy due to the effect of the corona pandemic. The very same situation still exists with no change in the present economic scenario which was

prevalent in the month of March, April or May, 2020. In such circumstances there is clear legitimate expectation on the part of the petitioner which ought to be met with by the respondents in a benevolent manner if they expect the industries to survive the onslaught of economic crisis and recession.

- (M) That as on today, the Petitioner and other members of the Association are more or less on a ventilator with the minimum supply of oxygen in the form of the exemption / waiver of the fixed charges / minimum demand charges by the Respondents. If the said ventilator collapses due to non-supply or continuation of the oxygen, the industries run by the petitioner and other members and entire Steel industry are bound to die and along with the economic death of the steel industry, the workers / staff and other persons who are directly / indirectly attached to the steel industry in the chain of supply right from manufacturing to the end product are bound to perish due to unemployment and poverty.
- (N) That this Hon'ble Court can certainly pass appropriate direction in the present scenario and keeping in mind the larger perspective in the exceptional and unprecedented circumstances prevailing as of now, to ensure that the fundamental rights of the Petitioner are protected and/or not violated at the hands of the respondents as non-extension or non-grant of the said benefits as prayed for will not only kill the industry but will kill the economy leading to loss of livelihood leading to violation of Articles 14, 21 and 19(1)(g) of the Constitution of India.
- (O) That not only this Hon'ble Court but the Hon'ble Supreme Court and other High Courts have in such exceptional circumstances and keeping in mind the current pandemic situation which is unprecedented in the history of human kind, issued orders / directions to guide, rectify or set aside the actions / inactions of the state authorities to ensure and mitigate the



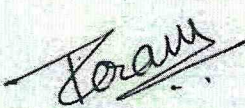
hardships faced by the citizens of the country which is going through grave economic crisis due to the current pandemic.

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- (P) That in view of the circumstances, the petitioner is constraint to challenge the inaction / refusal of the respondents in extending the benefit under the notification dated 27.3.2020 for the succeeding months or granting the exemption /waiver of minimum charges / fixed charges in the electricity bills and for waiver of electricity duty levied in the electricity bills, as being illegal, arbitrary, ultravires the provisions of the Constitution of India and being violative of Article 14 and 19 (1) (g) of the Constitution of India.

Hence, the present petition.

Place: Ahmedabad
Date: 29.05.2020


ABHISHEK MEHTA, ADVOCATE
PARAM SHAH, ADVOCATE
ABHISHEK MEHTA
M. 9909011008

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
District: Bhavnagar

SPECIAL CIVIL APPLICATION No. OF 2020

In the matter under Articles 226 of the
Constitution of India;

AND

In the matter under Article 14 and 19
(1) (g) of the Constitution of India;

AND

In the matter under the provisions of
Electricity Act 2003;

AND

In the matter about the notification
NO.GUV-122020-346-K1 issued on
27.3.2020 by the respondent No.1
State of Gujarat providing relief to the
electricity consumers in view of the
extra ordinary circumstances
prevailing due to the Corona
Pandemic;

AND

In the matter between:

1. M/s K B Ispat Private Limited,

.... PETITIONER

Versus

1. State of Gujarat
(Notice to be served to the
Principal Secretary, Govt of Gujarat)
Electricity and Petrochemicals Department,
Swarnim Sankul,
Gandhinagar – 382 010.
2. Paschim Gujarat Vij Company Ltd
(Through its Managing Director)
Having its address at:
Paschim Gujarat Vij Seva sadan,
Nana Mava Main road,
Laxminagar, Rajkot.

3. The Principal Secretary
Industries and Mines department
Government of Gujarat
5th Block, Third Floor,
Sachivalay, Gandhinagar

... RESPONDENTS

To:
The Hon'ble Chief Justice and Other
Hon'ble Judges of the High Court of
Gujarat at Ahmedabad

The humble petition of the
Petitioner above named

MOST RESPECTFULLY SHEWETH THAT:

1. The present petitioner is a company incorporated under the provisions of the companies Act, 1956 (now Companies Act 2013) (herein after referred to as "the Companies Act") and is having its address as mentioned in the cause title hereinabove. That the petitioner is engaged in the business of manufacturing of steel in the form of billet from its premises for which they are using the electricity supplied by the respondent No.2 PGVCL. That the captioned petition is preferred through the managing Director / authorized signatory of the concerned petitioner who is a citizen of India and entitled to the fundamental rights guaranteed under part III of the constitution of India.
2. The Petitioner is also members of an association known as "Sihor Steel Rolling Mills Association" (herein after referred to as 'the Association') which is an association registered under the provisions of the Cooperative societies Act and comprises of nearly 70 members who are engaged in the manufacturing of steel re rolling and induction furnace. The said association is having its registered office at 101, GIDC, Phase2, Sihor-364240.
3. As far as the Respondents are concerned -
 - (i) The Respondent No.1 is the State of Gujarat, Electricity and petroleum department which is the Nodal Department pertaining to

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the issue of electricity, as in the present case, in State of Gujarat
whereas

- (ii) The respondent No.2 is the Paschim Gujarat Vij Company Ltd which is a "distribution licensees" as contemplated under the provisions of the Indian Electricity Act, 2003 and are owned by the respondent State of Gujarat and operated and controlled through the Electricity and Petrochemicals department of the State of Gujarat i.e. the respondent No.1.
- (iii) The respondent No. 3 is the Principal Secretary, Government of Gujarat, Industries and Mines Department and decides matter pertaining to policy to run industries in the State of Gujarat and promotion of sustainability of industries of Gujarat.
- (iv) The aforesaid respondents are all statutory authorities and / or instrumentalities of state and / or State and are amenable to the writ jurisdiction of this Hon'ble Court.

Facts in a nutshell:

- 4. As stated herein above, the Petitioner is a company established under the provisions of the companies Act and is engaged in the business of manufacturing Steel from scrap iron. A copy of the Certificate of Registration under the Companies Act is annexed hereto and marked as **ANNEXURE A.**
- 5. That for carrying out its manufacturing activities, the petitioner is required to purchase electricity from the respondents No.2 as the case may be, which the petitioner have been doing since the inception of their manufacturing activities. The petitioner, as consumer of electricity, is required to pay the electricity charges raised by the respondent No.2 as per the tariff issued by

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the Gujarat Electricity Regulatory Commission ("GERC" for short) from time to time.

6. That as per the tariff classification, the petitioner is covered under HTP IV tariff. That the tariff HTP IV allows production / manufacturing activities during one-night shift from 10.00 pm to 6.00 am of next day only. As per tariff, the Petitioner have to pay a minimum demand charge (Fixed charge) considering 85 % of contract demand if the actual demand is less than or equal to that. If actual demand is more than 85 % of the contract demand than the demand charges will be charged as per actual demand recorded during the billing month. The details of the petitioner in a nut shell are as below:

Unit	Connection No.	Contract demand in KVA	85 % of contract demand in KVA	Minimum fix charges in Rs.
K B Ispat Pvt. Ltd.	24031	12500	10625	18,85,500

Annexed hereto and marked as **ANNEXURE B** is a copy of the tariff order of the GERC

7. In view of the aforesaid, it is evident that even if the petitioner do not undertake any manufacturing activities for what so ever reason, the petitioner is bound to pay minimum contract demand charges to the tune of Rs. 18,85,500/- . That over and above the aforesaid fix charges, electric duty at the rate of 10 % to 15 % is to be paid, as per the notification of Chief collector of Electric Duty, Gujarat State. The said amount expands enormously if the amount is to be considered for all the members of the Association. Annexed hereto and marked as **ANNEXURE-C** are copies of the electricity bills of the petitioner.

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8. That the controversy in the present petition arises in the background of the current pandemic and the spread of corona virus or Covid-19 which has hit not only India but the entire world.
9. That the First case of Corona Virus was reported in India in Kerala on 31.01.2020. The World Health Organization (WHO) declared Corona Virus Disease (COVID-19) as 'pandemic' on 11.03.2020. The Secretary (Labour & Employment) Government of India issued D. O. No. M- 11011/08/2020-Media dated 20.03.2020 to all Chief Secretaries of States / UTs, requesting them to issue necessary Advisory to Employers / Owners of all establishments in the state, to extend their cooperation by not terminating their employees, particularly casual or contractual workers from job or reduce their wages. As per the said letter, if any worker takes leave, he should be deemed to be on duty without any consequential deduction in wages for this period. Further, if the place of employment is to be made non-operational due to COVID-19, the employees of such unit will be deemed on duty.
10. The Hon'ble Prime Minister addressed the nation and announced a nationwide lockdown for 21 days i.e. from 24.3.2020 till 14.04.2020 in the wake of Covid-19 pandemic. The Home Secretary, Ministry of Home Affairs in his capacity as chairperson, National Executive Committee while exercising the power, conferred under Section 10 (2) (I) of the Disaster Management Act vide Order dated 24.03.2020 issued guidelines to implement lockdown to contain the spread of COVID-19, in all parts of the country for the period of 21 days with effect from 25.03.2020, which, thereafter came to be extended time and again and presently stands extended till 31.5.2020. All economic activities in the country came to a standstill and people and industries were faced with unprecedented hardships, be it financially or otherwise. Such was the nature of lockdown

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that people were not allowed to stir out of their house but for urgent need including purchase of essentials items etc.

11. Since there was complete lock down in the country, which is unprecedented in the history of human kind, the central government issued guidelines as well as notifications to deal with the catastrophic situation including issuing directions under the Disaster management Act. One of such directions included directing the employers/ industries to make payment of wages to the workers even if the industries were shut and not working or engaged in manufacturing activities due to the lock down. That on one hand, the monthly business of the Petitioner has been reduced to the ground level than what was prevailing before lock down and on the other hand the Petitioner is being compelled under the Impugned Notifications to pay for the wages to workers for entire lockdown period. The Petitioner is under extreme financial stress and any further liability would completely wipe out the Petitioner.
12. Keeping the disastrous consequences of the Covid 19 Pandemic in mind and in view of the request of the petitioner and other persons, the Association made representation dated 21.3.2020 to the Hon'ble Chief Minister of the State of Gujarat and other eminent persons in the Government, pointing out the already bad state of affairs and the economic down turn and crisis which the steel rolling mills were going through and which was to worsen in view of the lock down and the effects of the Covid-19 pandemic, requesting for waiver of the minimum/ fixed demand charges by the electricity companies in the state of Gujarat. Annexed hereto and marked as **ANNEXURE D** is a copy of the representation dated 21.3.2020.
13. That as far as the captioned petition is concerned, the respondent No.1, following one such notification No. 40-3/ 2020-D issued by the Central Government on 24.3.2020, came out with a Notification No. GUV-122020-

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345-k1 dated 27.03.2020 permitting the consumers of electricity in the state of Gujarat to pay the bill in a staggered manner till 15.5.2020 and there will be no disconnection in this regard. Also, the notification referred to herein above exempted all commercial / industrial consumers who are closed due to lockdown, from payment of minimum charges or fixed charges for the bills issued for the month of April 2020 and charges will be levied as per actual usage. Annexed hereto and marked as **ANNEXURE E** is a copy of the notification dated 27.03.2020.

14. That with no economic activities and mounting debts and no respite in sight for re-starting the manufacturing activities, a state of uncertainty prevailed which was unparalleled in history of the world and this country and the same required extraordinary steps to be taken by the central and state governments. With complete shut down and the liability of paying the workers despite there being no revenue generation, the Petitioner through the Association, addressed letters dated 4.4.2020 and 6.4.2020 followed by letter dated 7.4.2020 to the Hon'ble Chief Minister of the state of Gujarat suggesting a slew of measures to mitigate the plight of the Petitioner and members of the association. Annexed hereto and marked as **ANNEXURE F** colly are copies of the letter / representation dated 4.4.2020 and 6.4.2020 and representation dated 7.4.2020.
15. That in April, 2020, the petitioner through the Association and the association, keeping in mind the crisis its members were facing due to the lock down, addressed various letters to the respondent No.1 and No. 4 also to the Hon'ble Chief Minister of the state of Gujarat and to the various eminent persons holding posts in the State Government, praying for extending the benefit provided in the Notification dated 27.3.2020 to the month of May, 2020 by, inter alia, waiving the minimum charges / fixed charges levied by the electricity companies / distribution licensees on the consumers and extension of time to pay the said electricity bills and waiver

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from electricity duty. The said aspect is of utmost relevance since the lock down came to be extended repeatedly by the Central Government as well as the State of Gujarat and the governments of other states in India and now stands extended to 31.5.2020. That even if the lock down was relaxed, the same would be inconsequential as there was no demand and no manufacturing that would take place as there were no labourers available to work in the industries due to the policy of the central government to send back the migrant labours to their respective states leaving with hardly / or no workmen to work in the industries. Some of such letters addressed to the respondents are dated 16.4.2020 and letter dated 17.4.2020 and 18.4.2020 and 25.4.2020 and 27.4.2020 and 29.4.2020 and the same are annexed hereto and marked as **ANNEXURE G Colly**

16. That the petitioner manufacturing activity as well as that of the other members of the Association are more or less dependent on the functioning of the Alang Soshiya Ship recycling Yard close to Bhavnagar which supplies the iron scrap by breaking down ships which have lived their life and are to be cut down from which the iron and scrap is taken out and used for the purpose of manufacturing steel and re rolling of steel. In view of the representation made by the Ship recycling Industries Association, the State of Gujarat through its nodal agency Gujarat maritime Board, has extended time for depositing the annual lease charges. If the suppliers of raw material are going through extreme crisis and cannot supply raw material and are not able to pay their dues, in that case the petitioner is in worst off situation. The State of Gujarat has been kind enough to extend the time for deposit of the charges till 30.6.2020 for the plot holders at the Ship Breaking yard. The empathy show by the Government is what will help the industries to resume work but the same cannot be done and is not possible without the help of the respondent No.1 and No. 3 who can provide the required environment and an impetus to the industries in Gujarat by waiving the fixed

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charges leviable in the electricity bills and extending the payment of the bill for actual consumption and giving more time and waiving the electricity duty which is up to the tune of 15 percent on total of fix and energy charges. Annexed hereto and marked as **ANNEXURE H** is a copy of the order dated 29.4.2020 of the Gujarat Maritime Board.

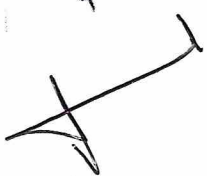
17. That in the month of May, 2020 pursuant to the extension of the lock down, the Association addressed various letters dated 6.5.2020 and 8.5.2020 followed by 11.5.2020 dated and to the respondent No.1 reiterating its request as stated in the earlier representations. Annexed hereto and marked as **ANNEXURE I** colly are copies of the letters dated 6.5.2020, 8.5.2020 and letters both dated 11.5.2020.
18. That the respondent No.1 issued a notification on 11.5.2020 clarifying the various issues in respect of the electricity consumers in the state of Gujarat however the requests / demand of the petitioner and the Association have not been taken into consideration except partial consideration in extension of last date of payment of electricity up to 30.5.2020. Annexed hereto and marked as **ANNEXURE J** is a copy of the Notification dated 11.5.2020.
19. That thereafter, another representation has been made on 15.5.2020 earnestly requesting the Hon'ble Prime Minister of India to look into the issue and take steps and direct the State Government to provide the necessary relief to the petitioner / association. Annexed hereto and marked as **ANNEXURE K** is a copy of the letter dated 15.5.2020.
20. That in view of the circumstances, the petitioner are constraint to challenge the inaction / refusal of the respondents in extending the benefit under the notification dated 27.3.2020 for the succeeding months or granting the exemption / waiver of minimum charges / fixed charges in the electricity bills and for waiver of electricity duty levied in the electricity bills, as being illegal,

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arbitrary, ultravires the provisions of the Constitution of India and being violated of Article 14 and 19 (1) (g) of the Constitution of India and the present petition is preferred on the following main amongst other grounds which may be urged at the time of hearing. The grounds set out hereunder are without prejudice to one another:

GROUND S

- A. That the impugned action/ non-action as impugned herein is bad in law, unjustified and article 14 and 19(1)(g) of the Constitution of India.
- B. That Petitioner state that the World Bank has warned that COVID19 pandemic will hit India very hard and the significant gains towards poverty alleviation are likely to be wiped out. The World Bank estimating that growth will fall to a range between 1.8 per cent in 2020. The report warned of a worst-case scenario in which the country would experience a negative growth rate this year.
- C. That Petitioner state MOODY has projected India's economic growth at 0.2 per cent in 2020, marking a sharp downward revision compared to its projection of 2.5 per cent in March this year. That MOODY said economic costs of COVID19 crisis amid the near shutdown of the Indian economy are accumulating rapidly. A special report namely 'Ferrous Metal Update May 2020' by ICRA- a MOODY's investor Company had also drawn a gloom report for steel industries in Post Covid Era. The Executive summary of the report is annexed as ANNEXURE L.
- D. That Petitioner state the FITCH rating said India's sovereign rating of BBB could come under pressure with a deteriorating fiscal outlook

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arising from weaker growth due to the COVID19 outbreak, further deterioration in the fiscal outlook as a result of lower growth or fiscal easing could pressure the sovereign rating in light of the limited fiscal headroom India had when it entered this COVID19 pandemic crisis.

- E. In Gujarat the steel industries provides direct or indirect employment to 40,000 persons and another 10000 family head earns their livelihood by indulged in related activities like transportation, Loaders, Brokers and traders from steel industries. During lockdown as an average Rs. 20 lac is spent by average size of steel manufacturing unit per month for wages, electric fix charges and maintenance. The major part of the expense after salary is fix charges of electricity. There are many fix charges collected annually like water, GPCB, BIS, GIDC maintenance is to be added in per month cost. In lieu of relief, many steel manufacturing units will be forced to close the shutter permanently.
- F. That Petitioner states People have moved long distances for job in which they have neither security of empowerments not proper housing. Losing a job, even temporarily, means starvation. In the present COVID19 situation, the loss is temporary or permanent but there is no knowing how soon the pandemic would end and the old job or a new one become available and the petitioner industry being a migrant labour oriented industry, cannot function without the minimum required labour force and looking to the situation, there seems to be no surety as to when the petitioner / the association and its members will be able to start their activities in full-fledged manner and incurring cost without any revenue generation will be disastrous and will certainly lead to death of the industries thereby

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causing loss of jobs and worsening the economic crisis and pushing the industries and the workmen and others dependent on it, to extreme poverty and starvation. Some of the industries have started functioning however, they are crippled due to non-availability of labour and market demand coupled with the high cost of expenses which they are required to incur which includes fixed charges, electricity duty, etc.

- G. That the Impugned action/ non-action are arbitrary, illegal, irrational, unreasonable and contrary to the provisions of law including Article 14 and Article 19(1)(g) of the Constitution of India. If the relief prayed for are not granted, the petitioner and other industries which are on the verge of closure, will have to shut down with no chances of revival.
- H. It is imperative that the respondent No.1 undertakes measures to mitigate the losses and slows down the already deteriorating economy by providing the industries and more specifically the petitioner, exemptions / waiver from payment of minimum demand charges/ fixed charged as well as extension of time to make payment of the electricity bills and waiver of the electricity duty so that the petitioner and other industries can try to mitigate their losses and revive themselves which in turn will contribute in reviving the economy.
- I. That various other states including Karnataka and Punjab to name a few, have issued directions providing waiver on fixed electricity charges applicable to electricity consumers. Annexed hereto and marked as ANNEXURE M are copies of the media report pertaining to the decision taken by the State of Karnataka and circular issued by the State of Punjab.

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- J. That various other states have taken in to consideration the hardships of the industries and issued guidelines or special incentives for mitigating the economic crisis that the industries like the petitioner / association and its members are going through. Annexed hereto and marked as **ANNEXURE N** is a copy of the media reports.
- K. That the Orissa High Court has issued notices to the State Government on a PIL seeking direction for exemption of electricity tariff charges for both domestic and commercial consumers during the lockdown period. Prahallad Rout (82), a resident of Mancheswar in Bhubaneswar, filed the PIL. The petition has sought waiver of electricity tariff from March till the lifting of lockdown for domestic consumers, excluding employees both in public and private sectors and pensioners. The petition has also sought the same relief for commercial consumers. Annexed hereto and marked as **ANNEXURE O** is a copy of the media report.
- L. That it is of utmost importance that the respondent No.1 is directed to provide the reliefs as prayed for by the petitioner as the same is crucial in saving the industries from permanently shutting down with thousands of workers being left unemployed. The lock down and the Pandemic situation is no better than what it was when the notification dated 27.3.2020 was issued and the same situation is prevailing today also and therefore it is imperative that the captioned petition be allowed in the interest of justice.
- M. As per the notification dated 27.3.2020 by Energy and Petrochemical department, the financial impact of the waiver of fix

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charges for the month of April 2020 is to be borne by Distribution Companies. The Union Finance Minister Ms. Sitharaman had declared a special package of Rs. 90,000 Cr. for Distribution Companies of India. As per Press Information Bureau release dated 16.5.2020, the fix charges paid by discoms to central power generators are differed by 3 months and rebate of 20 to 25 % on fix charges to Discoms during lockdown period is to be granted. Special instructions are also issued to Discoms to pass the benefit of cost savings to the consumers. In such a situation, the impact of giving waiver of fix charges during total lockdown on finance of Distribution Companies will be minimized. A copy of PIB release marked as ANNEXURE P is attached.

- N. The dealer network for selling the finished goods is totally disturbed. The real estate sector of Gujarat is in very bad shape and absolute uncertainty prevailed in resumption of project activities, draws a bleak future for next few months. So even if the units start operations, they will run for few days in a month with limited time period only. Even otherwise, it is extremely difficult to restart the steel industries in Gujarat in the coming months in view of various reasons including lack of manpower, financial constraints, non-availability of raw material, marketing channel disturbances, recession, nil or negligible demand, etc. In such scenario, sometime the total profit for the month will be less than fix charges of electricity.
- O. That in the set of circumstances and the situation which has arisen, the Petitioner legitimately expect the concerned respondents including the Respondent NO.1 and 4 to extend the benefit of exemption / waiver of fixed charges / minimum demand charges which was given in terms of the Notification dated 27.3.2020 to

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further months rather than restrict to the month of April, 2020. The very reason why the Notification dated 27.3.2020 was issued was to mitigate and provide some breathing time or a cordial environment of the industries and other consumers of electricity in the State of Gujarat to manage keeping themselves afloat and alive so as to somehow pull through the current economic crisis which has hit the economy due to the effect of the corona pandemic. The very same situation still exists which no change in the present economic scenario which was prevalent in the month of March, April or May, 2020. In such circumstances there is clear legitimate expectation on the part of the petitioner which ought to be met with in a benevolent manner by the Respondents if they expect the industries to survive the onslaught of economic crisis and recession.

P. That as on today, the Petitioner and other members of the Association are more or less on a ventilator with the minimum supply of oxygen in the form of the exemption / waiver of the fixed charges / minimum demand charges by the Respondents. If the said ventilator collapses due to non-supply or continuation of the oxygen, the industries run by the petitioner and other members and entire Steel Industry is bound to die and along with the economic death of the steel industry, the workers / staff and other persons who are directly / indirectly attached to the steel industry in the chain of supply right from manufacturing to the end product are bound to perish due to unemployment and poverty in the long run.

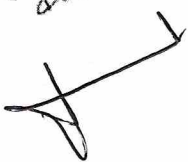
Q. That this Hon'ble Court can certainly pass appropriate direction in the present scenario to ensure that the fundamental rights of the Petitioner are protected and/or not violated at the hands of the respondents as non-extension or non-grant of the said benefits as

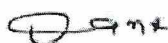
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prayed for will not only kill the industry but will kill the economy leading to loss of livelihood leading to violation of Articles 14, 21 and 19 (1) (g) of the Constitution of India.

- R. That not only this Hon'ble Court but the Hon'ble Supreme Court and other High Courts have in such exceptional circumstances and keeping in mind the current pandemic situation which is unprecedented in the history of human kind, issued orders / directions to guide, rectify or set aside the actions / inactions of the state authorities to ensure and mitigate the hardships faced by the citizens of the country which is going through grave economic crisis due to the current pandemic.
- S. That the said action / inaction on the part of the respondents is required to be rectified and appropriate directions are required to be given to the respondents to extend the benefits of the Notification granting exemption / waiver of fixed charges / minimum demand charges and also to extend the time period for payment of electricity bills as well as for waiver of electricity duty.
- T. Any other and further grounds that may be urged at the time of hearing.
21. The petitioner has not filed any other petition pertaining to the present cause of action before this Hon'ble Court or any other Court, including the Hon'ble Supreme Court of India.
22. The petitioner reserves its right to add to, alter, modify, delete paras of the present petition.
23. Under the circumstances, petitioner most respectfully pray that:

Prayer




- (A) YOUR LORDSHIPS may be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction, directing the respondents to extend the benefits provided in the Notification dated 27.03.2020, for further period of time till the lockdown is continued / extended.
- (B) YOUR LORDSHIPS may be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction, directing the respondents to extend the benefit under the notification dated 27.3.2020 and further direct the respondents to grant exemption /waiver of minimum charges / fixed charges in the electricity bills and waive electricity duty levied in the electricity bills and further extend the date for payment of electricity bill, at least for one more month.
- (C) YOUR LORDSHIPS may be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction, directing the respondents to charge and collect minimum charges / fixed charges in the electricity bills on pro-rata per day basis in place of fix charges collected on monthly basis, for the F.Y. 20-21.
- (D) YOUR LORDSHIPS may be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction, holding the impugned action / inaction of the respondents as being illegal, arbitrary, ultravires the provisions of the Constitution of India and being violative of Article 14 and 19 (1) (g) of the Constitution of India
- (E) Pending hearing and final disposal of the captioned petition writ petition, YOUR LORDSHIPS may be pleased to restrain the Respondents from collecting amounts towards fixed charges / minimum demand charges in the electricity bills of the petitioner and

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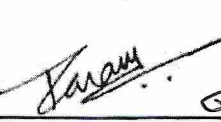
be pleased to restrain the respondents from levying and collecting electricity duty from the petitioner and further direct the respondents to extend the time limit for payment of the electricity bills.

(F) Ad-interim relief in terms of para 24 (B) be granted by this Hon'ble Court.

(G) Any other and further orders that are deemed necessary in the interests of justice may be passed.

AND FOR THIS ACT OF KINDNESS AND JUSTICE PETITIONER AS IN DUTY BOUND SHALL FOR EVERY PRAY.

Place: Ahmedabad
Date: 29.05.2020


ABHISHEK MEHTA, ADVOCATE
PARAM SHAH, ADVOCATE
ABHISHEK M. MEHTA
ADVOCATE
M. 9909011008

AFFIDAVIT

do hereby solemnly affirm and state that what is stated in paras 1 to 20 are statement of facts, paras 21 to 23 contain submissions on legal advice and para 24 Contains prayer clauses and I believe the same to be true.

Solemnly affirmed at Ahmedabad on this 29 May 2020.

