

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION AT
GANDHINAGAR**

PETITION NO. 2220 OF 2023

In the matter of:

Filing of Petition for Review on the Commission's Tariff Order dated 31st March, 2023 in Case No. 2163 of 2022 for True Up of FY 2021-22 and Determination of ARR & Tariff for FY 2023-24 in accordance with the Section 72 (Review of the decisions, directions, and orders) of the GERC (Conduct of Business) Regulations, 2004

Petitioner : Gujarat Energy Transmission Corporation Ltd.. (GETCO)

Represented by : Smt. Falguni Patel,
Shri Dinesh Yadav.

V/s.

Respondent No. 1 : FEDERATION OF KUTCH INDUSTRIES ASSOCIATIONS
Represented by : Nobody was present

Respondent No. 2 : Torrent Power Limited
Represented by : Nobody was present

Respondent No. 3 : Aditya Birla Renewable Limited
Represented by : Nobody was present

CORAM:

**Anil Mukim, Chairman
Mehul M. Gandhi, Member
S. R. Pandey, Member**

09/05/2025

ORDER

1. The present petition has been filed by the petitioner seeking the reliefs as under:

- a. To review the Tariff Order dated 31.03.2023 in Case No. 2163 of 2022 in the matter of Truing up of FY 2021-22 and Determination of Tariff for FY 2023-24 on the following issues:
- i. Disallowance of loss on foreign exchange fluctuation for FY 2021-22
 - ii. Variation in rate of depreciation claimed and approved in FY 2021-22;
 - iii. Disallowed Capitalization towards evacuation system for 700 MW Raghnesda and Dholera;

2. The facts stated in the petition, in brief, are as under:

2.1 The petitioner filed Tariff Petition No. 2163 of 2022 in the matter of Truing up of FY 2021-22 and Determination of Tariff for FY 2023-24 for its transmission business.

2.2 The Commission passed Order dated 31.03.2023 in the aforesaid Petition. The petitioner has filed the present petition on 29.05.2023 seeking rectification / review in the order dated 31.03.2023 passed by the Commission on the following issues:

i. Disallowance of loss on foreign exchange fluctuation for FY 2021-22

2.3 The Petitioner submitted that the Commission has considered the amount of Rs. 11.83 Crore claimed Loss on Foreign Exchange Fluctuation includes an amount of Rs. 11.26 Crore which is capitalized and Rs. 0.58 Crore is revenue in nature. It has further submitted that the Commission has also noted that as per GETCO the said amount (Rs. 11.26 Crore) has not been considered as part of GFA for FY 2021-22. However, the Commission opined that such cost being capital in nature, in future, the same will be capitalized and allocated to GFA on which depreciation, interest on loan and Return on Equity will be allowed. Accordingly, allowing such costs as expenses under "Finance Charges" will result in double impact under revenue and capital which is not a normal under accounting principle and same cannot be allowed as expenses. Accordingly, the Commission has disallowed the Loss on foreign exchange fluctuation to the extent of Rs. 11.26 Crore which is capitalized.

2.4 It is further submitted that GETCO has availed two foreign exchange loans namely one from ADB for Gujarat Solar Power Project and another from KfW for Green Energy Corridor Project. The projects related to the loan from ADB have already been completed in FY 2016-17 and thereafter foreign exchange/gain loss related to ADB loan is accounted in Finance cost in case of loss and accounted in Other Income in case of Gain and any foreign exchange deviation (Loss or Gain) is not capitalized/booked in Fixed Assets.

2.4.1 In this regard, it has referred the Note no. 57 (a) to the Notes to the Accounts of GETCO Financial Statements of FY 2021-22 states that:

“Loan from ADB-2778-IND:

The Availment of Foreign Currency Loan from Asian Development Bank (ADB) is Complete. The Total Loan availed from ADB for Loan no. 2778-IND amounts to USD 656.16 lakhs. The Total repayment made for the aforesaid loan as on 31.3.2022 amounts to USD 178.61 lakhs. Interest for the year 2021-22 amounting to USD 3.06 lakhs (P.Y. USD 5.70 lakhs) is shown under Finance Cost.

Foreign currency fluctuation Gain / (Loss) related to ADB Loan no. 2778-IND for the FY 2021-22 is Loss of ₹ 1129.32 lakhs (P.Y. Gain of ₹ 980.66 lakhs). Foreign currency fluctuation Loss is accounted under the Finance Cost as the projects are completed in F.Y. 2016-17.”

2.5 It is further submitted that the foreign currency fluctuation Gain / (Loss) of Rs. 11.29 Crore pertains to projects which were already commissioned in FY 2016-17 and hence this expense is accounted under the finance cost in the annual accounts and claimed as part of the Interest & Finance expenses instead of GFA during the truing up for FY 2021-22.

2.6 With regard to projects funded by the loan from KfW, it is submitted that some of the projects are capitalized and some of the projects are under work in progress. For the projects which are already commissioned, the foreign exchange/gain loss related to those projects is accounted in Finance cost in case of loss and accounted in Other Income in case of Gain. For the projects which are under work in progress, the foreign exchange/gain loss is capitalized /booked to the Assets.

2.6.1 In this regard, it has referred to the Note no. 57 (b) to the Notes to the Accounts of GETCO Financial Statements of FY 2021-22 states that:

“Loan from KfW:

During the year, the company has taken Foreign Currency Loan from KfW amounting to Euro 44.75 lakhs (P.Y. Euro 259.13 lakhs). Further, the company has also repaid the said Loan from KfW amounting to Euro 108.56 lakhs. The Total Loan outstanding from kfw is Euro 623.03 lakhs. The Availment of Loan is upto 30th June 2022. Interest and commitment charges for the year 2021-22 amounting to Euro 10.00 lakhs (P.Y. Euro 9.24 lakhs) is shown under Capital Work In Progress.

Foreign currency fluctuation Gain related to KfW Loan for the FY 2021-22 is ₹1184.80 lakhs (P.Y. loss of ₹1035.88 lakhs), out of which Foreign Exchange Gain of ₹ 1126.00 lakhs (P.Y. loss of ₹ 938.69 lakhs) is de-capitalized from the projects which are under implementation stage and the balance of Foreign Exchange Gain of ₹58.80 lakhs (P.Y. Loss of ₹97.19 lakhs) is related to projects which are commercially put to use in FY 2021-22 and the same is expensed out and shown under the head Finance Cost.”

2.7 It is further submitted that the foreign exchange gain of Rs. 11.26 Crore has been considered for decapitalizing the projects which were funded through these loans and only the foreign exchange gain of Rs. 0.59 Crore which pertained to projects which are already commissioned in FY 2021-22 have been considered as an expense under the head finance cost and claimed as part of the truing up of FY 2021-22.

2.8 It is further submitted that there were certain other minor adjustments pertaining to foreign exchange gain/loss considered in FY 2021-22 and which form part of the annual accounts though not explicitly mentioned in the Notes to Accounts, and further submitted the summary of foreign exchange loss/gain booked by GETCO in FY 2021-22;

Table 1: GETCO- Loss/(Gain) from foreign exchange fluctuations for FY 2021-22

Particulars	Loan from ADB (in Rs. Crore)	Loan from KfW (in Rs. Crore)	Total (in Rs. Crore)	Treatment in Books of Accounts and in Petition for True Up
A. Related to Projects Already Commissioned				
Foreign Exchange Gain	0.00	(0.68)	(0.68)	In Books as Other Income. In Petition - Non-Tariff

Particulars	Loan from ADB (in Rs. Crore)	Loan from KfW (in Rs. Crore)	Total (in Rs. Crore)	Treatment in Books of Accounts and in Petition for True Up
				Income.
Foreign Exchange Loss	11.29	0.54	11.83	In Books as Finance Cost. In Petition - Uncontrollable Finance Cost
Total A -Loss/(Gain)	11.29	(0.14)	11.15	
B. Related to Projects which are under Progress and is not included in Petition filed with the Hon'ble Commission				
Foreign Exchange Gain	0.00	(11.26)	(11.26)	In Books –Reduced from the Value of Capital Work in Progress In Petition- Not included as it will have an impact at the time of capitalization
Foreign Exchange Loss	0.00	0.00	0.00	
Total B -Loss/(Gain)	0.00	(11.26)	(11.26)	

2.9 It is further submitted that it has claimed foreign exchange fluctuation loss of Rs. 11.83 crores (Related to Projects that are already commissioned) under the head finance cost and has also offered Rs. 0.68 crores as Gain on Foreign Exchange fluctuation as Non-Tariff Income, as it can be seen from the above-table.

2.10 It is further submitted that the Commission in its Order of True Up for FY 2021-22 has misinterpreted the gain of Rs. 11.26 crore shown by GETCO in Note no. 57 (b) of Annual Accounts of FY 2021-22 as loss of Rs. 11.26 crore and accordingly has deducted the same from Finance Cost.

2.11 It is requested the Commission to revisit the deduction of Rs. 11.26 Crore against loss on account of foreign exchange fluctuation in FY 2021-22 in case of GETCO and to allow the recover of Rs. 11.26 Crore pertaining to the loss on foreign exchange fluctuation forming part of Other Finance Charges through Transmission Tariff and Recovery consequential impact on other cost elements of ARR such as Interest on Working Capital (receivable approved by the Hon'ble Commission) for the FY 2021-22 through Transmission Tariff.

ii. Variation in the rate of depreciation claimed and approved in FY 2021-22

2.12 It is submitted that the Commission has approved the rate of depreciation of 4.15% in its Order which is same as that considered by the GETCO in its petition. It is further submitted that based on the details available in the Order, GETCO has recomputed the average rate of depreciation as approved by the Commission considering the values of depreciation approved for the year and the average gross block during the year and it is observed that the approved rate of depreciation is actually 4.1417% (4.14% after rounding off) instead of 4.15% mentioned in the Table 4-19 of the impugned Order as against the average rate of depreciation as per GETCO's submission was 4.1460% (4.15% after rounding off). It is further submitted that the Commission in the past Orders as well has considered the average rate of depreciation, same as that submitted by GETCO in its Petition. Considering the same and based on the calculation done by GETCO, it is evident that that the Commission has considered a different rate of depreciation than that submitted by GETCO in its Petition and also different from the rate mentioned in the Table 4-19 of the Order.

2.13 It is further submitted that the lower rate of depreciation considered by the Commission has led to lower approval of the depreciation for the FY 2021-22 and the depreciation for the year works out to Rs. 1261.43 Crore as against Rs. 1260.12 Crore approved by the Commission in the impugned Order i.e. a variation of Rs. 1.31 Crore. Hence, it is apparent that considering a lower rate of depreciation during the True Up of FY 2021-22 appears to be an error apparent on the face of record which has led to a lower approval of depreciation to the extent of Rs. 1.31 Crore.

2.14 It is requested the Commission to revisit the approval of the depreciation and to allow the recover of differential amount of Rs. 1.31 Crore pertaining to the lower depreciation approved for the FY 2021-22 through Transmission Tariff and Recover consequential impact on other cost elements of ARR such as Interest on Working Capital (receivable approved by the Hon'ble Commission) for the FY 2021-22 through Transmission Tariff and also recover consequential impact, if any, on the ARR components in the future years through transmission tariff.

iii. Disallowed Capitalization towards evacuation system for 700 MW Raghnesda solar park in FY 2021-22

2.15 It is submitted that GETCO has claimed capitalization of Rs. 92.33 Crore against erection of 220/33 kV Raghnesda S/S and 220 kV transmission line, for evacuation of power from 700 MW Raghnesda solar park. It is further submitted that the Commission has opined that the amount of Rs. 92.33 Crore claimed by GETCO against development of RE evacuation network in respect to Raghnesda solar park is in the purview of GPCL and hence, the Commission has disallowed the capitalisation of the same while truing up for FY 2021-22. It is further submitted that the Commission opined that the assets may be removed from the books of accounts of GETCO and the corresponding depreciation, interest on loan, Return on Equity and also Income Tax has been disallowed.

2.16 It is submitted that the Raghnesda Solar Park in Gujarat is being developed by Gujarat Power Corporation Limited (GPCL). GPCL is also responsible for providing all power evacuation facilities. GUVNL is procuring RE power from developers of Raghnesda solar park. GETCO is the State Transmission Utility for the state of Gujarat and is responsible for evacuation of power from generating stations and maintaining a reliable network, under peculiar grid operating conditions.

2.17 It is further submitted that GPCL requested GETCO for construction of the 220/33 kV Raghnesda Substation and associated 220 kv Line for evacuation system of 700 MW Raghnesda Solar Park on deposit basis and also requested GETCO for the capex estimates for taking approval from GPCL Board vide GPCL letter No. GPCL/700MW/GETCO/44085 dated 17/01/2017. Based on GPCL's request, GETCO had invited tenders and issued Letter of Acceptance (LoA) to L1 bidder, M/s Sieyuan Electric Co. Ltd., China with Indian Associate M/s HEC Infra projects Limited, Ahmedabad for 33/220 kV pooling station.

2.18 It is further submitted that to avoid duplication of GST, GPCL proposed that although the tender process has been undertaken by GETCO, however the Contract may

be placed by GPCL to the L1 bidder identified by GETCO. On this proposal GETCO board resolved vide BR no 124.16/2084 dated 02.03.2019 that

- For 33/220 kV pooling station, EPC contract of Rs 88.23 Crore to be given by GPCL instead of GETCO to the L1 bidder.
- For Transformer, GETCO shall initiate the tendering process and GPCL to give the LOA/contract.
- For the 220 kV evacuation transmission line (estimated at Rs. 24.64 Crore excluding 220 kV conductor cost of Rs. 6 crore), the board directed that GETCO may continue to do the work of creating this transmission evacuation system and network, as in case of other transmission assets for the state. This will relieve the unnecessary loading/ cost built up by developer while offer the solar power to the State Utility and ultimately Solar Power cost will reduce.

2.19 It is further submitted that GPCL proposed that GETCO may implement the entire project under Build, Own, Operate and Maintain (BOOM) basis, as GETCO has the technical expertise. GETCO would carry out the substation implementation under EPC mode, as their own. GPCL has informed that, GPCL will transfer the amount of Central Financial Assistance (CFA) received from MNRE and Upfront Development Charges (UDC) collected from Solar Project Developers to GETCO.

2.20 It is further submitted that GPCL shall give land to GETCO on lease basis @ Rs 1/1.5 per sqm pa with escalation of 15% every 3 years. GETCO shall execute lease agreement and GETCO shall bear the cost. It is also provided the estimated cost of the project and the funding proposed as shown in the below table;

<i>Particulars</i>	Amount (In Crores)
<i>Pooling Station</i>	
<i>220 / 33 kV Pooling Station</i>	121.73
<i>Land Cost (Lease)</i>	0.41
<i>Total</i>	122.14
<i>220 kV DC Transmission Line including conductor</i>	30.64
<i>Total Project Cost</i>	152.78

<i>Particulars</i>	Amount (In Crores)
<i>Funding Assistance</i>	
<i>CFA</i>	39.00
<i>UDC</i>	82.31
<i>Total</i>	121.31
<i>Cost for GETCO</i>	31.47

2.21 It is further submitted that the funding of the project costs also clearly identifies costs which are anyways to be borne by GETCO and the same in any case needs to be recovered through the ARR apart from other costs.

2.22 It is further submitted that GETCO Board vide BR No. 130.8/2172 dated 20.08.2020, decided that *“GETCO shall implement and own this project as State’s transmission project, wherein GETCO would carry out sub-station project implementation, as their own, therefore, GETCO would bear all the expenditure of this transmission evacuation system as a routine course of activity and keep these assets in its Books of Accounts and maintain and operate these assets for the service of consumers of Gujarat. It means expenditure will be booked in GETCO ARR. The 220 kV/ 33 kV pooling stations of Raghnesda Solar park and Dholera solar park will be property of GETCO and it’s expenditure to be booked in GETCO ARR.”*

2.23 It is further submitted that GETCO as the State Transmission Utility is responsible for developing the transmission network in the state of Gujarat and enabling evacuation of power from generation sources to the demand centers. Further, the Central Govt. has set an ambitious target of 175 GW of renewable energy integration with the grid and the solar power generation from Raghnesda Solar Park is contributing to this target. Presently, 500 MW (AC) solar generation is commissioned and integrated to the GETCO grid, thus contributing to the overall national target. GETCO has constructed the 220 / 33 kV Raghnesda Substation and associated 220 kV Line for evacuation system 700 MW Raghnesda Solar Park and achieved key milestones with regard to the project.

2.24 It is further submitted that M/s Sieyuan Electric Co. Ltd., China with Indian Associate M/s HEC Infra projects Limited, Ahmedabad was appointed for the construction of the 33 / 220 kV pooling station. However, due to the contractor appointed for creation of 220kV GIS substation backing out, the prime requirement of Solar park project i.e. the 220kV substation created by GETCO with interim AIS arrangement to enable evacuation of the power on a priority basis. Accordingly, the upgraded 220 kV GIS substation will be created/developed subsequently, and the associated cost will be determined accordingly, which is tabulated as below;

SR. No.	Description	Amount Capitalized (Rs.)
1	220kV Substation cost	55,67,12,311.9
2	220kv Transmission line cost	36,66,00,000.0
3	Total	92,33,12,311.9

2.25 It is further submitted that the CFA to be received from MNRE is linked to certain identified milestones and the UDC is also payable by the solar park developer linked to identified milestones. It is further submitted that in order to ensure timely evacuation of power, GETCO has gone ahead and undertaken the construction of the sub-station and transmission line at its own cost. GETCO has already constructed the 220 kV sub-station and the associated transmission line and GETCO has also been following up with GPCL for financial assistance in the form of CFA and UDC. However, **GETCO is yet to receive any funds in this regard from GPCL.**

2.26 It is further submitted that considering the importance of creating the evacuation network in a timely manner and pursuant to the resolution of GETCO's Managing Board vide BR No. 130.8/2172 dated 20.08.2020, GETCO undertook the project implementation considering this project as State's transmission project. It is further submitted that GETCO carried out sub-station project implementation, as their own, and the expenditure towards the transmission evacuation system as a routine course of activity. Consequently, these assets are booked in GETCO's Books of Accounts. GETCO will also continue to maintain and operate these assets to ensure uninterrupted evacuation of power which will in turn benefit the consumers in Gujarat.

2.27 It is further submitted that disallowance of the capitalisation and other associated expenses related to the power evacuation project has adversely impacted GETCO as the costs incurred by it for implementation and the continued operation & maintenance of

the project have not been allowed for recovery by the Commission. It is requested the Commission to ensure that GETCO is not unduly penalized for undertaking its responsibilities as the state transmission licensee.

2.28 It is further submitted that the Commission in its Order has also directed GETCO to not to claim any kind of capitalisation through ARR in future against development of RE evacuation network in respect to Raghnesda and Dholera solar park as well and accordingly has disallowed the capital expenditure associated with these schemes for FY 2023-24. It is requested the Commission to allow capital expenditure against the Raghnesda and Dholera solar park evacuation schemes for FY 2023-24 as well.

2.29 It is requested the Commission to consider the matter under review as “**other sufficient reason**” under Regulation 72 (1) of the GERC (Conduct of Business) Regulations, 2004, and allow capitalization along with other associated costs including but not limited to the operation & maintenance expenses related to the transmission project pertaining to Raghnesda Solar Park undertaken by GETCO. It has further submitted that GETCO has built the network for evacuation of solar power as an initiative to promote solar parks in Gujarat and in the interest of the state and the consumers. The project is executed and evacuating power from the solar park. However, GETCO is at a loss, as it has not received the funds for developing the project. The Commission is also requested to allow the proposed capital expenditure against the Raghnesda and Dholera solar park evacuation schemes for the FY 2023-24 along with all the consequential impact on ARR components. The Petitioner has requested following things;

- Allow the capitalization of these assets amounting to Rs. 92.33 Crore pertaining to Raghnesda Solar Park evacuation scheme in FY 2021-22;
- Allow the impact on expenses under ARR namely, Depreciation, Interest on Loan, Return on Equity, operation & maintenance expenses, Income Tax, etc.
- Consider the consequential impact of this cost approval on the ARR components for the future years, as applicable, and allow recovery of the consequential impact through transmission tariff.

- Allow the proposed capital expenditure against the Raghnesda and Dholera solar park evacuation schemes for the FY 2023-24 along with all the consequential impact on ARR components for the FY 2023-24.
3. The matter was heard on 09.10.2023 and 07.11.2024. Respondents or any representative on their behalf were neither present during the hearing nor had conveyed about their non-availability in spite of notices which had duly been served to them.
- 3.1 The Commission vide Daily Order dtd. 16.10.2023 directed the petitioner to implead the original objectors as objectors in the present Review Petition and amend the cause title. Further, the Petitioner is also directed to provide copy of the Review Petition to the objectors for their submissions consists of objections / suggestions if any, on the subject matter of the Petition within 7 days of the issuance of this Order. After serving copy of the petition, the petitioner shall file affidavit of such service before the Commission. The respondents are directed to file their reply, if any, within 3-weeks on receipt of copy of the petition.
- 3.2 In response to the aforesaid directives, the petitioner has joined the original objectors as party and provided copy to them. The Petitioner has also filed on 27.10.2023 an affidavit dated 26.10.2023 in support of above submissions.
- 3.3 The Commission has not received any replies/submissions against the Review Petition filed by the Petitioner.
4. During the hearing the Petitioner reiterated the fact as stated in para 2 above. It has submitted that the present petition has been filed has preferred present petition under Regulation 72 of the GERC (Conduct of Business) Regulations, 2004, provides power to the Commission for reviewing the Tariff Order in Petition No. 2163 of 2022 dated 31.03.2023 for True Up of FY 2021-22 and Determination of ARR & Tariff for FY 2023-24 for GETCO.

The Petitioner has referred the Regulations 72 of the GERC (Conduct of Business) Regulations, 2004, which read as under;

“Review of the decisions, directions, and orders

72(1) Any person aggrieved by a decision or order of the Commission, from which no appeal is preferred or allowed, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decision/order was passed by the Commission or on account of some mistake or error apparent from the face of record, or for any other sufficient reason, may apply for review of such order within 60 days of the date of decision/ order to the Commission.”

5. The present petition has been filed by the petitioner seeking rectification/review of Tariff Order dated 31.03.2023 in case No. 2163 of 2022. The petitioner has raised various issues as stated above and requested to rectify the same.
- 5.1. The petitioner has also submitted that they have provided copy of the petition to the original objectors of Petition No. 2163 of 2022. In support of the same, the petitioner has also submitted necessary documents on 27.10.2023
- 5.2. The Commission has neither received any submission from the parties nor they have presented at the time of hearing, when the matter was finally heard on 07.11.2024.
6. Now, we deal with the issue as to whether the Commission has power to rectify/ review the order dated 31.03.2023 in Case No. 2163 of 2022 or not. The petitioner has relied on the Regulations 72 the GERC (Conduct of Business) Regulations.

Regulation 72 provides that any person aggrieved by a decision or order of the Commission from which no appeal is preferred or allowed, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decision/order was passed by the Commission or on account of some mistake or error apparent from the face of record, or for any other sufficient reason, may apply for review of such order within 60 days of the date of decision/order to the Commission.

The Petitioner has raised following issues and requested to rectify the same;

- i. Disallowance of loss on foreign exchange fluctuation for FY 2021-22
- ii. Variation in rate of depreciation claimed and approved in FY 2021-22;
- iii. Disallowed Capitalization towards evacuation system for 700 MW Raghnesda and Dholera;

7. Now we deal with the aforesaid issues, one by one.

a) Disallowance of loss on foreign exchange fluctuation for FY 2021-22

7.1 The Petitioner has submitted that the Commission has considered the amount of Rs. 11.83 Crore claimed as Loss on Foreign Exchange Fluctuation which includes an amount of Rs. 11.26 Crore which is capitalized and Rs. 0.58 Crore is revenue in nature. It is further submitted that the Commission has also noted that as per GETCO, the said amount (Rs. 11.26 Crore) has not been considered as part of GFA for FY 2021-22. However, the Commission opined that such cost being capital in nature, in future, the same will be allocated to GFA on which depreciation, interest on loan and Return on Equity will be allowed. Accordingly, allowing such costs as expenses under "Finance Charges" will result in double impact under revenue and capital which is not a normal practice under accounting principle and same cannot be allowed as expenses. Accordingly, the Commission has disallowed the Loss on foreign exchange fluctuation to the extent of Rs. 11.26 Crore which is capitalized.

7.2 It is further submitted that the Commission in its Order of True Up for FY 2021-22 has misinterpreted the gain of Rs. 11.26 crore shown by GETCO in Note nos. 57 (a) & (b) of Annual Accounts of FY 2021-22 as loss of Rs. 11.26 crore and accordingly has deducted the same from Finance Cost.

7.3 The Petitioner requested the Commission to revisit the deduction of Rs. 11.26 Crore considered as loss on account of foreign exchange fluctuation in FY 2021-22 and to allow the recovery of Rs. 11.26 Crore pertaining to the loss on foreign exchange fluctuation forming part of Other Finance Charges through Transmission Tariff and Recover consequential impact on other cost elements of ARR such as Interest on Working Capital (receivable approved by the Hon'ble Commission) for the FY 2021-22 through Transmission Tariff.

7.4 In this regard, it is pertinent to refer Note 57 (a) and (b) of the GETCO's Annual Accounts for FY 2021-22 which reads as under;

a. "Loan from ADB-2778-IND:

The Availment of Foreign Currency Loan from Asian Development Bank (ADB) is Complete. The Total Loan availed from ADB for Loan no. 2778-IND amounts to USD 656.16 lakhs. The Total repayment made for the aforesaid loan as on 31.3.2022 amounts to USD 178.61 lakhs. Interest for the year 2021-22 amounting to USD 3.06 lakhs (P.Y. USD 5.70 lakhs) is shown under Finance Cost.

Foreign currency fluctuation Gain / (Loss) related to ADB Loan no. 2778-IND for the FY 2021-22 is Loss of ₹ 1129.32 lakhs (P.Y. Gain of ₹ 980.66 lakhs). Foreign currency fluctuation Loss is accounted under the Finance Cost as the projects are completed in F.Y. 2016-17."

b. "Loan from KfW:

During the year, the company has taken Foreign Currency Loan from KfW amounting to Euro 44.75 lakhs (P.Y. Euro 259.13 lakhs). Further, the company has also repaid the said Loan from KfW amounting to Euro 108.56 lakhs. The Total Loan outstanding from KfW is Euro 623.03 lakhs. The Availment of Loan is upto 30th June 2022. Interest and commitment charges for the year 2021-22 amounting to Euro 10.00 lakhs (P.Y. Euro 9.24 lakhs) is shown under Capital Work In Progress.

Foreign currency fluctuation Gain related to KfW Loan for the FY 2021-22 is ₹1184.80 lakhs (P.Y. loss of ₹1035.88 lakhs), out of which Foreign Exchange Gain of ₹ 1126.00 lakhs (P.Y. loss of ₹ 938.69 lakhs) is de-capitalized from the projects which are under implementation stage and the balance of Foreign Exchange Gain of ₹58.80 lakhs (P.Y. Loss of ₹97.19 lakhs) is related to projects which are commercially put to use in FY 2021-22 and the same is expensed out and shown under the head Finance Cost."

The figures of Gain and Loss on account of FERV appearing in the above notes, reflected in the Note No. 32 and 34, treatment of these figures given by the Petitioner in its Books of Accounts and in the True up Petition No. 2163 of 2022 and treatment given by the Commission in the True up Order dated 31.03.2023 in the Petition No. 2163 of 2022 is summarised as under;

Particulars	Loan from ADB (in Rs. Crore)	Loan from KfW (in Rs. Crore)	Total (in Rs. Crore)	Treatment in Books of Accounts and in Petition for True Up	Treatment given by the Commission in the Order dated 31.03.2023
Foreign Exchange Gain related to Project already commissioned and asset value is capitalised	0.00	(0.68)	(0.68)	In Books as Other Income at Note No. 32. In Petition – Considered along with Non-Tariff Income of Rs. 456.24 Crore at Table No. 57 and Form 8.	Considered as Non Tariff Income along with Non-Tariff Income of Rs. 456.24 Crore at Table No. 4.37 of the Order
Foreign Exchange Loss related to Project already commissioned and asset value is capitalised	11.29	0.54	11.83	In Books as Finance Cost at Note No. 34. In Petition – Considered along with Other Bank Charges of Rs. 12.94 Crore at Table 52	The Commission has considered Other Charge as Rs. 1.68 Crore in Table 4.23 of the Order (12.94- 11.26 = 1.68).
Foreign Exchange Gain related to project which are under progress and yet to be capitalised	0.00	(11.26)	(11.26)	In Books –Reduced from the Value of Capital Work in Progress In Petition- Not included as Non-Tariff Income as mentioned in Para 3.20.1 of the Petition No. 2163 of 2022 since it will have an impact at the time of capitalization	

From the above it is observed by the Commission that infact amount of Rs. 11.26 Crore as Foreign Exchange Gain in respect to Loan from KfW is against the work which is in progress and has been adjusted in the amount of CWIP in the Annual Accounts of GETCO for FY 2021-22 and shall have impact at the time of capitalisation of the particular asset. It is observed by the Commission that inadvertently in the Order dated 31.03.2023 amount of Rs. 11.26 Crore has been considered as Foreign Exchange Loss against the asset to be capitalised. This being an error apparent on the face of the record, the Commission decides to rectify the same.

Accordingly, the revised Interest and Finance Charges approved for FY 2021-22 is as per the Table below;

Interest and Finance Charges now approved for FY 2021-22 (Rs. Crore)

S. No	Particulars	Approved in the Tariff Order dated 30.03.2021	Actual Claimed in Petition No. 2163 of 2022	Approved in Truing up Order dated 31.03.2023	Now Approved
1	Opening Loans	7,416.57	7,019.26	7,003.04	7,003.04
2	Loan Additions during the Year	1,427.06	1,290.90	1,226.27	1,226.27
3	Repayment during the Year	1,349.02	1,263.34	1260.12	1,261.43
4	Closing Loans	7,494.61	7,046.82	6969.19	6,967.88
5	Average Loans	7,455.59	7,033.04	6986.11	6,985.46
6	Weighted Average Rate of Loan	7.65%	6.40%	5.52%	5.52%
7	Interest on Loan	570.08	450.10	385.76	385.72
8	Other Charges (Guarantee + financing charges)	1.00	12.94	1.68	12.94
9	Total Interest & Finance Charges	571.08	463.04	387.44	398.66

Accordingly, the revised Gain/(Loss) on account of interest & finance charges, on account of uncontrollable factors in the Truing up for FY 2021-22, is depicted in the Table below:

Gain/(Loss) from Interest & Finance Charges now approved for FY 2021-22 (Rs. Crore)

Particulars	Approved in the Tariff Order dated 30.03.2021	Now Approved	Deviation + / (-)	Now Approved Gain/(Loss) due to Controllable Factors	Now Approved Gain/(Loss) due to Uncontrollable Factors
Interest and Finance Charges	571.08	398.66	172.42		172.42

The above revision shall have a consequential impact on Interest on Working Capital. The same shall be reflected in the consolidated table of True of ARR for FY 2021-22 and resultant True up Gap/ Surplus shown subsequently in this Order.

b. Variation of depreciation rates claimed and approved for FY 2021-22

7.5 The Petitioner has submitted that the Commission has approved the rate of depreciation of 4.15% in its Order which is same as that considered by the GETCO in its petition. It is further submitted that based on the details available in the Order, GETCO has recomputed the average rate of depreciation as approved by the Commission considering the values of depreciation approved for the year and the average gross block during the year and it is observed that the approved rate of depreciation is actually 4.1417% (4.14% after rounding off) instead of 4.15% mentioned in the Table 4-19 of the impugned Order as against the average rate of depreciation as per GETCO's submission as 4.1460% (4.15% after rounding off). It is further submitted that the Commission in the past Orders also has considered the average rate of depreciation, same as that submitted by GETCO in its Petition. Considering the same, and based on the calculation done by GETCO, it is evident that that the Commission has considered a different rate of depreciation than that submitted by GETCO in its Petition and also different from the rate mentioned in the Table 4-19 of the Order.

7.6 It is further submitted that the lower rate of depreciation considered by the Commission has led to lower approval of the depreciation for the FY 2021-22. Accordingly, the depreciation for the year works out to Rs. 1261.43 Crore as against Rs. 1260.12 Crore approved by the Commission in the impugned Order resulting into a difference of Rs. 1.31 Crore. Hence, it is apparent that considering a lower rate of depreciation during the True Up of FY 2021-22 appears to be an error apparent on the face of record which has led to a lower approval of depreciation to the extent of Rs. 1.31 Crore.

7.7 It is observed by the Commission that the trued-up depreciation for FY 2021-22 in the Tariff Order dated 31.03.2022 is as below:

Depreciation approved for FY 2021-22 in Tariff Order dated 31.03.2023 (Rs. Crore)

S. No	Particulars	Approved in Tariff Order	Actual Claimed	Approved in Truing up
1	Opening Gross Block	29,911	29,355	29,354.80
2	Net Additions during the Year	2,401	2,233	2,141.04
3	Closing Gross Block	32,312	31,588	31,495.83
4	Average Rate of Depreciation	4.34%	4.15%	4.15%
5	Depreciation for the Year	1,349.02	1,263.34	1,260.12

7.8 It is further observed by the Commission that the amount of Rs. 2141.04 Crore under the head “Net Additions during the Year” in the above table has been calculated after subtracting the Net Addition Amount pertaining to SLDC (Rs 3.01 Cr) and disallowed capitalisation of Rs. 92.33 Crore pertaining to Radhanesda and Dholera solar parks as per Para 4.2 of the Order dated 31.03.2023 from the total of Net Addition Amount of Rs. 2235.68 Crore appearing in the Note No. 2 of Annual Accounts of GETCO for FY 2021-22 and past period capitalisation of Rs. 0.70 Crore allowed by the Commission as per Para 4.2 of the Order dated 31.03.2023 ($2235.68+0.70-3.01-92.33 = 2141.04$). In addition to the above deduction related to capitalisation pertaining to SLDC, while determining the depreciation for GETCO, depreciation approved for SLDC (Rs 2.53 Cr) as per Order dated 31.03.2023 in Petition No. 2164 of 2022 was subtracted again, which should not be the case as it amounts to doubling impact. This being an error apparent on the face of record, the Commission decides to rectify the same. Accordingly, the revised depreciation approved for GETCO for FY 2021-22 is as shown in the table below:

Depreciation now approved for FY 2021-22 (Rs. Crore)

S. No	Particulars	Approved in Tariff Order dated 30.03.2021	Actual Claimed in Petition NO. 2163 of 2022	Approved in Truing up Order dated 31.03.2023	Now Approved
1	Opening Gross Block	29,911	29,355	29,354.80	29,354.80
2	Net Additions during the Year	2,401	2,233	2,141.04	2,141.04
3	Closing Gross Block	32,312	31,588	31,495.83	31,495.83
4	Average Rate of Depreciation	4.34%	4.15%	4.15%	4.15%
5	Depreciation for the Year	1,349.02	1,263.34	1260.12	1,261.43

Here it is to clarify that the rate of depreciation considered by the Commission in the tariff Order dated 31.03.2023 was the same as that considered by the Petitioner. The error creped into calculation of depreciation for FY 2021-22 was due to the reason explained above.

7.9 Accordingly, the revised Gain/(Loss) on account of depreciation, on account of uncontrollable factors in the Truing up for FY 2021-22, is depicted in the Table below:

Gain / (Loss) from Depreciation now approved for FY 2021-22 (Rs. Crore)

Particulars	Approved in the Tariff Order	Now Approved	Deviation + / (-)	Now Approved Gain/(Loss) due to Controllable Factors	Now Approved Gain/(Loss) due to Uncontrollable Factors
Depreciation	1,349.02	1,261.43	87.59		87.59

7.10 The above revision in depreciation amount shall have a consequential impact on Interest & Finance Charges and Interest on Working Capital. The same shall be reflected in the consolidated table of True of ARR for FY 2021-22 and resultant True up Gap/ Surplus shown subsequently in this Order.

c. Disallowance of Capitalization towards evacuation system for 700 MW Raghnesda and Dholera

7.11 The Petitioner has submitted that capitalization of Rs. 92.33 Crore was claimed against erection of 220/33 kV Raghnesda S/S and 220 kV transmission line, for evacuation of power from 700 MW Raghnesda solar park. It is further submitted that the Commission has opined that the amount of Rs. 92.33 Crore claimed by GETCO against development of RE evacuation network in respect to Raghnesda solar park is in the purview of GPCL and hence, the Commission has disallowed the capitalisation of the same while truing up for FY 2021-22. It is further submitted that the Commission opined that the assets may be removed from the books of accounts of GETCO and the corresponding depreciation, interest on loan, Return on Equity and also Income Tax has been disallowed.

7.12 It is further submitted that disallowance of the capitalisation and other associated expenses related to the power evacuation project has adversely impacted GETCO as the

costs incurred by it for implementation and the continued operation & maintenance of the project have not been allowed for recovery by the Commission. The Petitioner has requested the Commission to ensure that GETCO is not unduly penalized for undertaking its responsibilities as the state transmission licensee.

7.13 It is further submitted that the Commission in its Order has also directed GETCO to not to claim any kind of capitalisation through ARR in future against development of RE evacuation network in respect to Raghanesda and Dholera solar park as well and accordingly has disallowed the capital expenditure associated with these schemes for FY 2023-24. It is requested to the Commission to allow capital expenditure against the Raghanesda and Dholera solar park evacuation schemes for FY 2023-24 as well.

7.14 It is requested to the Commission to consider the matter under review as “**other sufficient reason**” under Regulation 72 (1) of the GERC (Conduct of Business) Regulations, 2004, and allow capitalization along with other associated costs including but not limited to the operation & maintenance expenses related to the transmission project pertaining to Raghanesda Solar Park undertaken by GETCO. It is further submitted that GETCO has built the network for evacuation of solar power as an initiative to promote solar parks in Gujarat and in the interest of the state and the consumers. The project is executed and evacuating power from the solar park. However, GETCO is at a loss, as it has not received the funds for developing the project. The Commission is also requested to allow the proposed capital expenditure against the Raghanesda and Dholera solar park evacuation schemes for the FY 2023-24 along with all the consequential impact on ARR components.

7.15 On perusal of the impugned Order the Commission has ruled at Para 4.2 and Table 4.19 on page no. 25-27 of the Order as under;

“On a query from the Commission, GETCO submitted that it is constructing evacuation system for 1000 MW Dholera solar park and 700 MW Raghanesda solar park and cost of which shall be reimbursed by GPCL to GETCO from the amount of Central Financial Assistant received from MNRE and Upfront Development Charges (UDC) collected from solar park developers. It is further submitted by GETCO that it has claimed capitalisation of Rs. 92.33 Crore against erection of 220/33 kV Raghanesda S/S and 220 kV transmission line in the truing up of FY 2021-22. It is also submitted by GETCO that its Board, vide BR No. 130.8/2172 dated 20.08.2020, decided that “*GETCO shall implement and own this*

project as State's transmission project, wherein GETCO would carry out sub-station project implementation, as their own, therefore, GETCO would bear all the expenditure of this transmission evacuation system as a routine course of activity and keep these assets in it's Books of Accounts and maintain and operate these assets for the service of consumers of Gujarat. It means expenditure will be booked in GETCO ARR. The 220 kV/ 33 kV pooling stations of Raghnesda Solar park and Dholera solar park will be property of GETCO and it's expenditure to be booked in GETCO ARR."

However, based on the details submitted by GETCO about capitalisation of these assets, it is observed by the Commission that these assets were originally to be erected by GPCL from the amount received from solar project developers under the head - "Upfront Development Charges (UDC)" and "Central Financial Assistance (CFA)". Thereafter, there was a series of communication occurred between GETCO and GPCL regarding tendering and execution of work. From these communications, it reveals that GPCL have collected UDC from the solar park developers and was supposed to receive CFA against the renewable evacuation network development for Raghnesda and Dholera solar park. It also reveals from the documents submitted by GETCO that so far no fund has been transferred by GPCL to GETCO. Since, the solar power offered by the solar park developers to the beneficiary GUVNL is based on competitive bidding rate which were quoted by the developers keeping in view the cost of UDC paid or to be paid to GPCL. Thus, cost of RE evacuation development is already built up in the tariff rate at which GUVNL is procuring RE power from developers of Raghnesda solar park. Loading the RE network evacuation cost again on GETCO ARR as per GETCO's Board note tantamount to duplication of recovery against the same RE evacuation network from the consumers; one as a part of RE power and second as GETCO's transmission tariff.

Therefore, the Commission is of the view that aforementioned work is in the purview of GPCL and the costs of the same is to be borne by the GPCL.

In view of above, the Commission has deducted the capitalisation of Rs. 92.33 Crore in the true up of FY 2021-22 with consequent impact on other elements of ARR. GETCO is also directed to remove the asset value from it's Books of Accounts and also not to claim any kind of capitalisation through ARR in future against development of RE evacuation network in respect to Raghnesda and Dholera solar park.

In view of the above, the actual capitalisation allowed by the Commission for FY 2021-22, and the funding considered by the Commission, are shown in the following Table:

Capitalisation approved for FY 2021-22 (Rs. Crore)

S. No	Particulars	Approved
1	Net Capitalisation as per accounts	2,235.68
2	Add: past disallowed capitalisation	0.70
3	Less: Capitalisation of 220/33 kV Raghnesda S/S and 220 kV transmission line	92.33
3	Less: Net Capitalisation for SLDC	3.01
4	Capitalisation Approved	2,141.04

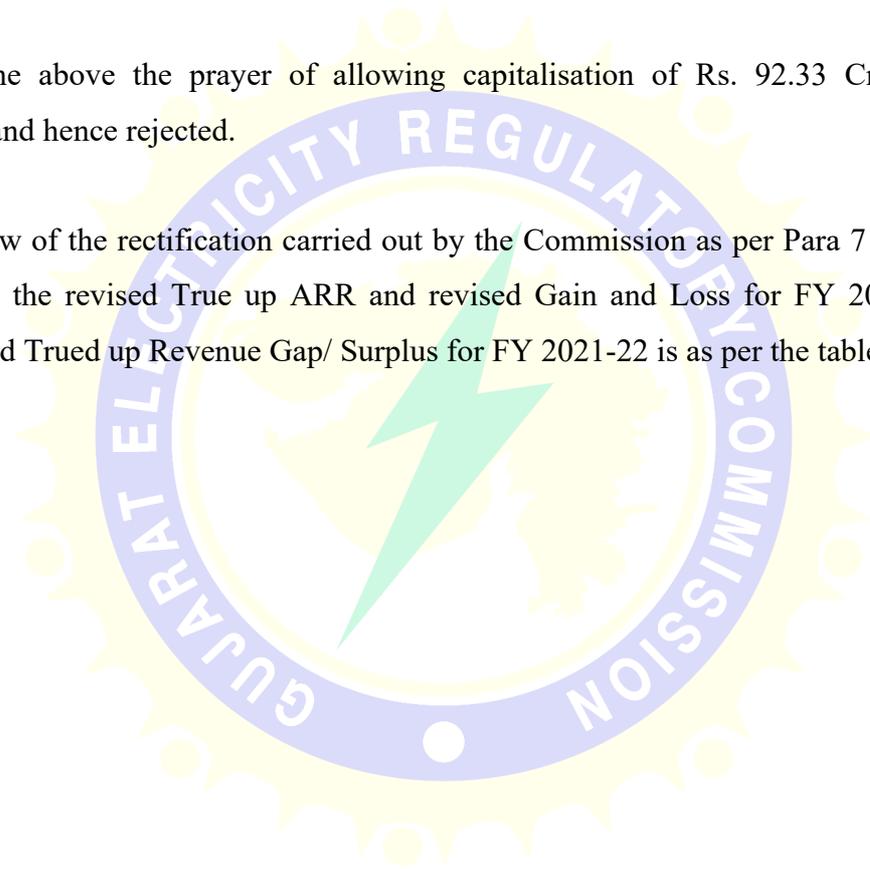
7.16 It has been observed from the above table that the Commission has arrived capitalisation amounting to Rs. 2141.04 Crore after netting off with past disallowed capitalisation of Rs. 0.70 Crore, Rs. 92.33 Crore towards capitalisation of 220/33 kV Raghnesda S/s and 220 kV transmission line and Rs. 3.01 Crore towards net capitalisation of SLDC.

7.17 With regard to disallowance of Rs. 92.33 Crore, the Commission has observed that these assets were originally to be erected by GPCL from the amount received from solar project developers under the head – “Upfront Development Charges (UDC)” and “Central Financial Assistance (CFA)”. Thereafter, there was a series of communication occurred between GETCO and GPCL regarding tendering and execution of work. From these communications, it reveals that GPCL have collected UDC from the solar park developers and was supposed to receive CFA against the renewable evacuation network development for Raghnesda and Dholera solar park. It also revealed from the documents submitted by GETCO that so far no fund has been transferred by GPCL to GETCO. Since, the solar power offered by the solar park developers to the beneficiary GUVNL is based on competitive bidding rate which were quoted by the developers keeping in view the cost of UDC paid or to be paid to GPCL. Thus, cost of RE evacuation development is already built up in the tariff rate at which GUVNL is procuring RE power from developers of Raghnesda solar park. Loading the RE network evacuation cost again on GETCO ARR as per GETCO’s Board note tantamount to duplication of recovery against the same RE evacuation network from the consumers; one as a part of RE power and second as GETCO’s transmission tariff. The Commission viewed that aforementioned work is in the purview of GPCL and the costs of the same is to be borne by the GPCL.

From the above, it is clear that the Commission has decided not to consider capitalisation amount of Rs. 92.33 Crore after detailed deliberation and cannot be considered as an error apparent on the face of the record. The Petitioner cannot seek to alter the decision of the Commission in disguise of the review since it is not permitted under Rule 47 of the CPC. There is a clear distinction between an erroneous decision and an error apparent on the face of the record. While the first can be corrected by a higher Forum the later can only be corrected by exercise of review jurisdiction. A review of judgment is not maintainable if the only ground of such review is that the point is not dealt in accordance with a particular perspective.

In view of the above the prayer of allowing capitalisation of Rs. 92.33 Crore is not maintainable and hence rejected.

8. In view of the rectification carried out by the Commission as per Para 7 (a) and (b) above the revised True up ARR and revised Gain and Loss for FY 2021-22 and revised Trued up Revenue Gap/ Surplus for FY 2021-22 is as per the tables below;



ARR & Gains /(losses) now approved as Truing up for FY 2021-22 (Rs. Crore)

S. No.	Particulars	Approved in Tariff Order dated 30.03.2021	Actual Claimed in Petition No. 2163 of 2022	Approved in Truing up Order dated 31.03.2023	Now Approved in Truing up	Now Approved Gain/(Loss) due to Controllable Factor	Now Approved Gain/(Loss) due to Uncontrollable Factor
1	Operation & Maintenance Expenses	1,935.86	1,906.73	1901.99	1,901.99	426.65	(392.78)
2	Depreciation	1,349.02	1,263.34	1260.12	1,261.43		87.59
3	Interest & Finance Charges	571.08	463.04	387.44	398.66		172.42
4	Interest on Working Capital	85.51	80.61	77.97	78.07		7.44
5	Return on Equity	1,096.38	1,064.15	1,062.21	1,062.21		34.17
6	Total Fixed Costs	5,037.85	4,777.88	4,689.74	4,702.37	426.65	(91.17)
7	Add: Provision for Tax	217.46	461.06	460.22	460.22		(242.76)
8	Less: Expenses Capitalized	356.38	311.99	311.99	311.99		44.39
9	Total Transmission Charges	4,898.93	4,926.95	4,837.96	4,837.96	426.65	(365.68)
10	Less: Non-Tariff Income	412.84	456.24	456.24	456.24		(43.40)
11	Aggregate Revenue Requirement	4,486.09	4,470.70	4,381.72	4,394.35	426.65	(334.91)
12	Add: Incentive for target availability	-	46.32	42.71	42.83		(42.83)
13	Total ARR	4,486.09	4,517.03	4,424.43	4,437.18	426.65	(377.44)

Revenue (Gap)/ Surplus now approved for FY 2021-22

S. No.	Particulars	Approved in Truing up Order dated 31.03.2023	Now Approved
1	Gain/(Loss) on account of Uncontrollable Factors to be passed on to the Consumers	(364.98)	(377.74)
2	Gain/(Loss) on account of Controllable Factor to be passed on to the Consumers (1/3 rd)	142.22	142.22
3	Revenue (Gap)/ Surplus	(222.77)	(235.52)

The Petitioner may claim the impact of this Review Order in the subsequent Truing up Petition.

9. Accordingly, the Petition is partly allowed.

10. With this order, the present Petition stands disposed of.

11. Order accordingly.

Sd/-
S. R. PANDEY
Member

Sd/-
MEHUL M. GANDHI
Member

Sd/-
ANIL MUKIM
Chairman

Place: Gandhinagar
Date: 09/05/2025

