

Supreme Court Rejects Gujarat Power Pleas, Upholds Public Interest Over Commercial Gain



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In a landmark decision, the Supreme Court has dismissed appeals from the state-run power company, Gujarat Urja Vikas Nigam Limited (GUVNL), asserting that a state instrumentality cannot prioritize its commercial interests over the public policy of promoting renewable energy. The ruling, which upholds a previous order by the Appellate Tribunal for Electricity (APTEL), reinforces the principle that government entities must act as "model citizens" rather than private businesses.

The case centered on a dispute between GUVNL and four wind energy companies. GUVNL had entered into Power Purchase Agreements (PPAs) with these firms at a tariff of ₹3.56 per unit, a rate intended for projects that availed of "accelerated depreciation" under the Income Tax Act. However, these companies had not opted for that tax benefit and subsequently sought a higher tariff from the Gujarat Electricity Regulatory Commission (GERC), which had already clarified that non-depreciation-availing projects were entitled to a separate tariff.

GUVNL challenged this, arguing that the companies were bound by the original PPA. However, the Supreme Court, in its verdict, found GUVNL's conduct "patently unfair" and "akin to a Shylock," noting that the company had failed to obtain a written commitment from the firms regarding their depreciation status. The court emphasized that the PPAs were signed before the companies could even exercise their tax option.

The bench underscored that tariff determination is a statutory function, not a mere commercial contract. It found that as an instrumentality of the state, GUVNL was duty-bound to align its actions with the government's policies, which were designed to promote and incentivize the growth of wind energy. The court ruled that GUVNL could not disregard these policy objectives for the sake of commercial gain.

The decision is a significant victory for renewable energy developers in India, providing legal clarity and security for their investments. It reaffirms that state-owned entities must operate in a manner that supports broader public policy goals, even if it means foregoing a purely commercial advantage. The ruling ensures a more equitable and predictable regulatory environment for the country's clean energy transition.