

Gujarat Petrosynthese Limited vs Axis Bank And Others on 27 May, 2026

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TELECOM DISPUTES SETTLEMENT & APPELLATE TRIBUNAL
NEW DELHI

Dated 27th May 2026
Cyber Appeal No. 1 of 2012

M/s Gujarat Petrosyntheses Ltd. ... Appellant
Vs.
Axis Bank Ltd. and others ... Respondents

BEFORE:

HON'BLE MR. JUSTICE RAM KRISHNA GAUTAM, MEMBER

For Petitioner : Mr. Rohit Madan, Advocate
For Respondents : Dr. Abhimanyu Chopra and Mr. Kushagra Jain,
Advocates For R-1 to 7 and R-10 to 12
Ms. Shreya Pathak for Kotak Bank
Ms. Vasudha Arora for HDFC Bank

JUDGMENT

1. This Cyber Appeal, under Section 57 of IT Act, 2000, has been filed by Appellant - Complainant, Gujarat Petrosynthese Limited (GPL) against Axis Bank Ltd. and Others- Respondents-Opposite parties, in main complaint, against the impugned order, dated 27.12.2011, passed by Learned Adjudicating Officer, Principal Secretary to Government of State of Karnataka, in Complaint under Section 43 of IT Act, 2000, with a prayer for allowing this appeal, thereby setting aside Impugned Order of Learned Adjudicator, and remand the matter to adjudicator, to continue the adjudication process for expeditious disposal, as per principles and procedure provided for in the Information Technology Act, 2008 and accompanying rules.

2. In brief, memo of appeal, contends that Appellant had approached Learned Adjudicating Authority i.e., Principal Secretary to Government, Department of Information and Technology,

Government of State of Karnataka, on 28.10.2011, with an application, under Section 46 of IT Act, 2000, as amended by IT Amendment Act, 2008, for having compensation for its suffering of wrongful loss of Rs. 39,00,550/-, on account of certain contraventions of Information Technology Act, 2008, by the 12 Respondents, arrayed as opposite parties, in above complaint. The adjudication application also stated the reasons, why each of Respondents could be considered, as jointly and severely liable, to pay compensation to the applicant, and providing other details, including certain documents, related to RBI Guidelines, National and International case laws etc. Opposite parties i.e, Axis bank, ING Vysya Bank, and HDFC Bank, were represented and others were not present. Axis Bank submitted two Interlocutory Applications. Firstly, seeking time for filing the reply and then objecting the proceedings and arguing that the application was not sustainable. ING Vysya Bank also submitted its reply, claiming it's no liability, under Section 43 of IT Act.

3. This appeal, is not, however, made in respect of any of the substantive points, mentioned either in Complaint, or in respect of reply, filed by opposite party, because the Impugned Order is not with application of Judicial mind, nor is on merit on these facts under dispute. Rather, the Impugned Order, on which this appeal is filed, is on specific ground on which the adjudication application has been held, as not maintainable, in the Impugned Order, and this was with reference to the two points, raised by Axis Bank, in its Interlocutory Application, namely, Lack of Jurisdiction, and Non-maintainability of this complaint/ adjudication application, under Section 43 and 43 A, where Corporate persons were involved, either as a Complainant or the accused.

4. The two Interlocutory Applications, submitted by Axis Bank, on behalf of Respondents 1 to 7 and 12 to 14, were considered by the adjudicator, and the Impugned Order, against which the appeal rests, referred to these two Interlocutory Applications. Hence, this Appeal is restricted to those two points only.

5. In these Interlocutory Applications, Axis Bank disputed the Jurisdiction of the Adjudicator, to continue the proceedings and raised objection to the Sustainability of the proceedings under Section 43 of the ITA, 2008. Learned Adjudicating Officer, vide its Impugned Order, dated 27.12.2011, held the contention of Axis Bank with regard to jurisdiction, not with any ground, and this objection was over-ruled. Meaning thereby, jurisdiction of Learned Adjudication Officer was held to be there.

6. With regard to second objection, Learned Adjudicating Officer held:

"However the contention of the respondent that the complainant has wrongly invoked Section 43 seeking adjudication and compensation under Section 46 of IT Act does hold water. Section 43 of the Act relates to a person and not a body corporate. The IT Amendment Act of 2008 has made a separate provision for a body corporate to seek compensation. In the instant case both the Complainant company and the Respondent bank are body Corporates", and accordingly, the proceeding was ended.

7. This finding and conclusion of Learned Adjudicating Officer, was not tenable in law and was in violation of well known mandatory principle of law in India. As per General Clauses Act, 1897,

(Annexure VI) to memo of appeal, as well as Karnataka General Clauses Act 1899 (Annexure VII), which provide clear, unmistakable and mandatory guidelines to Judicial authorities on how to interpret the term "person". "Section 3 of the Central and State General Clauses Act state that the term "person" includes any company or association or body of individuals, whether incorporated or not." This alone is sufficient to determine that the subject order is bad in law and needs to be set aside. Even under Indian Companies Act, a registered corporate entity is considered a 'Legal Person', which is distinct from its Directors as well as Shareholders, and this Company, as a Legal Person is an entity, which can sue and can be sued upon its own name. Hon'ble Apex Court in Telco Vs. State of Bihar (1964) 34 Com Cases 458: AIR 1965 SC 40 observed "... The Corporation in law is equal to a natural person and has a legal entity of its own ... it bears its own name and has a seal of its own it can sue and be sued exclusively for its own purpose; ..."

8. In present case, both that is, the Complainant, namely Gujarat Petrosynthese Ltd., as well as Respondent - Axis Bank & Other Banks, named as Respondents are entities, who can sue and can be sued, upon in their respective names. Hence, IT Act, 2008, does not provide a separate definition for 'Person' under Section 2 of the Act. Rather, it is for both natural as well as legal person, as is apparent from subsequent Sections too. Hence, this Appeal with above prayer.

9. Learned Counsel for Axis Bank i.e., Respondent Nos. 1 to 7 and for other Banks i.e., Respondent Nos. 9 - 12, has objected this Appeal on two fold. One, is on 'technical ground' and the other, is on 'merit'. The very objection is with regard to competence of the person, who has filed this Complaint, before Adjudicating Officer, as well as before this Appellate Tribunal. The Authorized Representative (AR), by way of Power of Attorney, dated 01.12.2011, has assumed the role of both the authorized signatory for the Appellant, as well as its pleader. Whereas, the said power of attorney does not even provide the authorised representative, with the power/ authority to act or argue the captioned matter, before this Appellate Tribunal. As per settled law, unless a Company specifically confers power, to institute a suit on a Director, by way of a Board Resolution, the Director will not have authority to institute the suit. Hence, this Complaint, before Learned Adjudicating Officer, as well as this Appeal, before this Appellate Tribunal, is not maintainable, on account of absence of valid authority, with the authorized representative. Moreover, the appeal is also not maintainable, since AR is not a legal practitioner, under Advocates Act, 1961. Hence, in absence of permission, or an application, before this Appellate Tribunal, AR is in violation of Section 29 and 30 of the Advocates Act, 1961.

10. Section 43 applies to a person "who is in charge of a computer, computer system or computer network" whereas, Section 43A, specifically introduced, subsequently, by way of an amendment, in the IT Act in 2008, and addresses a "body corporate" and deals with compensation for failure to protect, sensitive personal data. Therefore, clear intention of the legislature, is to create a difference between a 'natural person' and a 'juristic person' (a body corporate). Since, the appeal is qua a 'body corporate', Section 43 is not the appropriate provision, to file the complaint, and on this ground alone, the present Appeal, ought to be dismissed. The intent of legislature is also evident from the criminal implication of offences, as per Chapter IX of the IT Act, committed under Section 43, of the IT Act. The fact that such criminal implications, cannot be levied upon a 'body corporate' substantiates the submission set forth, hereinabove. Per contra, Section 43A solely provides for

compensation (as is the only logical and possible implication qua 'body corporates'). Therefore, introduction of Section 43A, by way of amendment, in IT Act, 2008, was clearly to introduce, a separate and distinct provision, to deal with 'body corporates', and on this ground alone, the present Appeal is liable to be dismissed.

11. At the outset, the Appellant has preferred a limited appeal and effectively has only sought remand of the matter, before the AO, as it is aggrieved by the Impugned Order, and nothing more. Whereas, by way of an early hearing application, it has been pleaded, for making a case on merit, which was beyond the scope of appeal, hence, it ought to be disregarded in its entirety. The law mentioned, in written submission, by the Appellant, are with different set of facts and not applicable to present one. Hence, the maintainability has been disputed, and the merit of Appeal is also not in favour of Appellant.

12. Heard Learned Counsels for both side and gone through the materials placed on record.

13. From the vary perusal of Complaint filed, before adjudicator of Karnataka, Office of the Principal Secretary, Department of IT, Government of Karnataka, it is apparent that it is an application for adjudication, under Information Technology Act, 2000, as amended by Information Technology Amendment Act, 2008, by Gujarat Petrosynthese Limited, No. 24, II Main, Doddanekkundi Industrial Area, Phase I, Mahadevapura Post, Bangalore. Meaning thereby, this was with no specific Section, as to whether under Section 43 or 43A of the IT Act, or whether in old Act or in Amended IT Act. Rather, it was with specific mention of the Information Technology Act, 2000, the old one and Information Technology Act, 2008 i.e., Amended one, and this was for adjudication and compensation, for the alleged wrong committed by opposite parties, with regard to derogation of IT Provisions and Rules framed thereunder.

14. The Complaint had been filed for adjudication under Section 46 of Information Technology Act, 2000, as amended by the Information Technology Amendment Act, 2008, hereinafter referred to as IT Act, 2008 (1) and as per guidelines contained under notification No. GSR 220 (E) dated 17.03.2003 and GSR 240 (E) dated 25.03.2003 of Ministry of Communications and Information Technology, Government of India, with a specific contention that the Complainant is a Public Limited Company, having its Head Office as well as Registered Office, detailed in this Complaint at Mumbai and Bangalore, and it maintained the banking accounts with Axis Bank at Marathahalli, and this complaint refers to the unauthorized access to the information, residing inside the computer systems, attributable to Axis Bank, having its branch Office at site No. 43, Varthur Main Road, Marathahalli, Bangalore, and resulting in a wrongful loss to this Company. All instructions regarding the disputed transactions in Complainants account referred to in this application, were passed with electronic documents delivered to Axis Bank, Marathahalli and carried out by the electronic documents attributable to them.

15. The contraventions of Section 43, as well as other Sections of IT Act, 2008 have occurred on 20.06.2011, causing wrongful loss to the complainant, to the extent of Rs. 39,00,550/- of which Rs. 35,44,400.01/- remains unrecovered. Hence, this incident was within the sole jurisdiction of Adjudicator of Karnataka, by virtue of Section 46 and Section 61 of IT Act, 2008. Hence, this

Complaint was got filed and this was with a specific mention in its Part IV detailed that "This complaint has been made under provisions of Section 46 of the Information Technology Act, 2008 as per details provided under Part VIII". Part V is with specific mention of time of contravention and it was given to June 20, 2011, when this amended IT Act, 2008 was in operation. Place of contravention in Part VI and cause of action in Part VII, is with specific mention that the cause of action was the contravention of some provision of Information Technology Act, 2008, and it occurred the wrongly loss to Complainant. It was because of the contravention of IT Act, 2008, and was within the pecuniary jurisdiction of Rs. 5 Crores, and territorial jurisdiction of Adjudication Officer of State of Karnataka and there was a bar of any Civil Court, as per Section 61 of the IT Act, 2008, hence, the complaint was got filed, against the opposite parties.

16. The specific mention is that the financial loss had occurred to Complainant, because of unauthorized access to the Information System, owned and maintained by Axis Bank, in contravention of Section 43(a) of the IT Act, 2008, causing damage to the electronic information (viz: Credit balance standing to complainant's credit), residing inside the Axis Bank's Computer System, [Section 43 (f) of ITA 2008]. Assistance by Axis Bank and its staff to some unknown person, to un-authorisedly enter the Bank's system, and make changes in the information, issue instructions for fund transfer, and also to let some unknown person, withdrew the proceeds of the fraud in other places. [under Section 43 (g) of the IT Act, 2008]. Diligence and its lack i.e., defiance by the beneficiary banks i.e., Indus Ind Bank, ING Vysya Bank, HDFC Bank, Standard Chartered Bank and Canara Bank, as well as suffering Bank, Axis Bank. Thereby manipulating and insecureing the information and data base of complainant, in its system has been complained in it. Hence, the very conclusion of learned Adjudicatory Authority that the contention of Axis Bank hold water, on the point that the complainant had wrongly invoked section 43, seeking adjudication and compensation under section 46 of IT Act, does hold water. Section 43 of IT Act relates to the person and not the body corporate. The IT Amendment Act of 2008 had made a separate provision for body corporate to seek compensation. In the instant case, both the complainant company and the respondent bank, is a body corporate, is a cryptic finding with no reasons, which is against the facts on record.

17. The complaint itself is with specific mention of section 43 A of IT Act, alongwith other regulations directions given under it at different times. Hence, it can never be concluded that it was complaint under section 43 of old Act. The Tribunal in its judgment, given in CA No. 2 of 2012, Rajender Prasad Yadav Vs ICICI Bank Ltd, delivered on 18.7.2019, wherein, the bone of contention was that in complaint No. 15 of 2011, preferred by appellant - Rajender Prasad Yadav, against the respondent - ICICI Bank Ltd. and some others, Principal Secretary to Government, Department of Information Technology, Government of Karnataka/Adjudicating Officer, decided to reject the complaint as not maintainable and held that section 43 of IT Act is not applicable to a body corporate, such as the respondent bank, after IT Amendment Act 2008, came into force. But, this Hon'ble Division Bench of this Tribunal has held :

"On going through the relevant provisions of the IT Act carefully, we find that the Ld. AO has committed error of law in holding the complaint to be not maintainable. The complaint in the very first line mentions that it has been filed for adjudication under section 46 of the IT Act. It is also clearly mentioned that several contraventions of

section 43 as well as other sections of IT Act have occurred on different dates causing wrongful loss to the extent of Rs. 4,14,122/- of which Rs. 3,91,210/- remains unrecovered.

The jurisdiction to adjudicate and enquire vested under section 46 of the IT Act is wide enough to make the complaint maintainable. The power to enquire and adjudicate has been given to a senior and responsible officer so that misdeeds amounting to violation of provisions of the Act may be thoroughly examined and do not go unpunished. This jurisdiction can not get curtailed/ limited even if the complainant wrongly labels its complaint petition grievances. But fortunately, in this case, jurisdiction was clearly invoked under section 46. The complainant may not be aware of section 43A having already come in the statute book in October 2009, but it was the duty of AO to take that into consideration if the facts of the case so required. But this was not done possibly because at the outset, the AO held the complaint as not maintainable. It may be one thing to hold in the facts of a particular case that section 43 of the IT Act is not attracted against a particular body corporate but as a general principle of law it would be an error of law to say that the word "person"

mentioned in section 43 cannot cover a body corporate and a bank.

We have gone through the provisions of section 85, section 79 and section 66 on which learned counsel for the respondent has placed reliance and find that those provisions do not lend any support to the views taken by the AO and are not relevant for deciding the question of law that has been decided by the Ld. AO but wrongly we find merit in submissions advanced on behalf of appellant. Hence, the impugned order is set aside by holding that the complaint cannot be dismissed as not maintainable and a body corporate such as the respondent bank can well be within the purview of the IT Act, as explained earlier. It is unfortunate that the complainant has remained deprived of an appropriate order on his complaint for such long years. Hence, while remitting back to the Ld. AO, we direct that the complaint should be considered on merits expeditiously so as to take a final decision within three months from the date of production or communication of the copy of this order. The bank in our considered view, took a wrong and vexatious defence of jurisdiction and maintainability and that has led to this appeal. Hence, while allowing the appeal, we also allow a cost of Rs. 75,000/- in favour of the complainant. That shall be paid by the bank to the complainant within one month."

18. Hence, this law of this Tribunal is a precedent for this proceeding, and the same question of fact and law, which is in present appeal, was there in above decided appeal, wherein above law has been propounded.

19. With regard to 'technical objection', Hon'ble Supreme Court as well as Hon'ble Courts, in catena of judgments have propounded that the justice need not to be done away, on the basis of procedural lapses. Rather, the procedural lapses and the technicalities, the procedure are the hand made of justice and the substantial justice is to be given considering the procedures, which are the hand made of substantial justice. Learned counsel of bank, in its written submission, has vehemently

pressed Order III Rule 1 of CPC, which provides that "Appearances, etc., may be in person, or by recognized agent or by pleader.-- Any appearance, application or act in or to any Court, required or authorized by law to be made or done by a party in such Court, may, except where otherwise expressly provided by any law for the time being in force, be made or done by the party in person, or by his recognized agent, or by a pleader 1 [appearing, applying or acting, as the case may be,] on his behalf : Provided that any such appearance shall, if the Court so directs, be made by the party in person. Sub Rule (2) provides "2. Recognised agents provides for (a) persons holding powers-of-attorney, authorising them to make and do such appearances, applications and acts on behalf of such parties; (b) persons carrying on trade or business for and in the names of parties etc. etc."

20. In the present case, the thrust of the argument is that authorised representative, by way of Power of Attorney dated 1.12.2011, has assumed the role of both the authorised signatory for the appellant, as well as its pleader, whereas, the said power of attorney, does not even provide the AR with the power / authority to act or argue the captioned matter, before this Hon'ble Tribunal. The law has been pressed by counsel. But, in the present case, learned counsel appearing for the appellant is with authority to appear because of the fact of vakalatnama got executed in his favour and along with the memo of appeal a special power of attorney, for and on behalf of M/s Gujarat Petrosyntheses Ltd., has been filed appointing Mr. Na. Vijayshankar, as special power of attorney holder. This authorisation to Na. Vijayshankar for this appellant company is by authorised signatory Mr. Urmi N Prasad, in the presence of two witnesses before Government Notary of Government of India. Hence, the person who had filed this appeal, before this Tribunal, is the special power of attorney holder, in whose favour special power of attorney, got executed for and on behalf of appellant company, by its authorised signatory Mr. Urmi N Prasad. Hence, this 'technical objection' is of no force.

21. The complaint too, was filed before learned Adjudicating Officer by the same, Mr. Urmi N Prasad, who was the authorised representative of complainant company. Moreso, such technical requirement may be filed, in case of objection, at any stage of the trial. This has been propounded at many times by Hon'ble Courts, and for this lack or delay, the substantial justice is not to be denied, though in present case, the very argument of counsel for Axis Bank is with no substance. The law pressed, as precedents by learned counsel for banks, are with different facts and passed under different set of facts and circumstances, but law of this Hon'ble Division Bench of this Tribunal, is with specific substances, alike the present one, written as above. Hence, this appeal, merits to allowed, with special cost of Rs. 50,000/- to be borne by opposite party, Axis Bank and paid to appellant.

22. The complainant - appellant had suffered a lot since 2011 uptil now, on the ground of objections raised by Axis Bank, before Learned Adjudicating Officer with regard to 'technical objections', which were of no force, in law and the cryptic finding with the conclusion drawn by Learned Adjudicating Officer, with no reason for this decision, compelled this victim to run from pillar to post, since 2011 to this 2026 year, and under alike circumstances, this Tribunal vide, its Hon'ble Division Bench judgment cited, as above, had imposed Rs. 75,000/- cost, over the bank. Hence, this imposition of Rs. 50,000/- is being made, as above.

Order Appeal is being allowed with a special cost of Rs. 50,000/- (Rupees Fifty Thousand only), to be paid by Axis Bank, to complainant/appellant within two months of judgment. The impugned order of learned Adjudicating Officer is being set aside. The file is being remanded back to learned adjudicating officer with a direction to adjudicate the matter, as per law and procedure, within stipulated period of six months, from the date of communication / receipt of this order of Appellate Court.

Both side counsels are in attendance. They are aware of this judgment and directions. Hence, ought to get the case decided in above period by their full cooperation to learned Adjudicating Officer.

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(Justice Ram Krishna Gautam) Member 27.05.2026 /NC/