

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

(Appointed by the Maharashtra Electricity Regulatory Commission
under Section 42(6) of the Electricity Act, 2003)

REPRESENTATION NO. 43 OF 2025

In the matter of extension of load of Ice Factory

Diamond Ice Factory Appellant
(Cons. No. 004979044050)

V/s.

Maharashtra State Electricity Distribution Co. Ltd. Vasai Circle Respondent

Appearances:

Appellant : 1. Mansurbhai Valji Kanani, Director
2. Vinay Vaze, Consumer Representative
3. Sabaddin Abbas Tamnani, Partner

Respondent : 1. Sanjay Khandare, Superintending Engineer, Vasai Circle
2. Sameer Chavan, Asst. Law Officer

Coram: Vandana Krishna [IAS (Retd.)]


Date of hearing: 1. 17th July 2025

2. 16th September 2025

Date of Order: 22nd September 2025

ORDER

This Representation was filed on 11th June 2025 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against the Order dated 16th April 2025 in Case No. 1 of 2025 passed by the Consumer Grievance Redressal Forum, MSEDCL, Vasai (the Forum). The consumer runs an ice factory. The Forum has disposed of the grievance as under-


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(d) In this matter, the Forum has come to the following conclusion that,


- i) The HT connection cannot be converted in to LT connection, since existing HT billing system & LT billing system are different.
 - ii) In this case existing HT connection having Con. No. 004979044050 has to be disconnected permanently and a fresh application for LT connection has to be applied, but a new consumer number will be generated, but due to disputed amount/arrears, a new connection cannot be given at the same premises.
 - iii) Also the disputed amount/arrears of old HT connection cannot be transferred to the new LT connection at the same premises.
- (e) As per request letter of consumer dated 07/01/2025, the consumer wants to expand their business activities, since the present load is too short to meet the same. Therefore, as per circular E.D.(Dist-II)/Guidelines/NonSoP/25388 dated 11.09.2019, if consumers apply above 187 KVA, it will be feasible for MSEDCL to release the additional load by utilizing the existing infrastructure. Also there will be no need of a new separate LT connection.

2. The Appellant has filed this Representation against the order passed by the Forum. A physical hearing was held on 17.07.2025. The parties were heard at length. The Respondent's submissions and arguments are stated as below. [The Electricity Ombudsman's observations and comments are recorded under 'Notes' where needed.]

- (i) The Appellant is an 11 HT Industrial Consumer having consumer no. 004979044050 from 25.11.2016 for running an ice factory. The details of consumer number, address, sanctioned load, contract Demand, etc. are tabulated as below:

Table 1:


Name	Consumer No.	Address	S.L./C.D.	Date of Supply	Date of Inspection	Theft Assessment Bill	High court Order dated 19.07.2022	Total Load applied with additional load
Diamond Ice Factory	004979044050	SR No. 85/6, Village Majivali, Parol Bhiwandi Road, Virar (East)-401303, Tal.: Vasai, Dist: Palghar	138 KW/108 KVA	25.11.2016	30/10/2021 & supply was disconnected immediately	Rs. 4,93,98,460/- for the period from Nov. 2016 to Oct. 2021 on 03.11.2021	As per order, Rs. 25,48,195/- was paid on 06.09.2022 & supply was reconnected on 07.09.2022.	150(=138+ 12) KW / 166 (=108+58) KVA on 07.01.2025.


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History of the Case:

- (ii) The Superintending Engineer, MSEDCL, Vasai Circle, accompanied by the Testing Team, conducted a surprise inspection of the consumer's premises on 30/10/2021. During the course of inspection, it was observed that the consumer had dishonestly installed an external circuit in the CT secondary wiring of the R, Y, and B phases, with the intent to interfere with accurate metering and cause under-recording of electricity consumption, thereby indulging in pilferage of electricity in contravention of Section 135 of the Electricity Act, 2003. Consequent to the detection of theft, an FIR was lodged against the Appellant on 04/11/2021 under Crime No. 1054 of 2021 for offences punishable under Sections 135, 138, and 150 of the Electricity Act, 2003. The copy of FIR is kept on record. **A theft assessment bill for the period from November 2016 to October 2021 amounting to Rs. 4,93,98,460/- was issued to the consumer on 03.11.2021.**
- (iii) Aggrieved by the said assessment bill, the Appellant filed a case (No. Cri. O.M.A. No. 03/2021) before the Hon'ble District and Sessions Judge, Vasai. Vide order dated 07/01/2022, the Hon'ble Court directed the Appellant (accused) to pay 50% of the assessed amount as a precondition for restoration of the electricity supply. The copy of the said order is kept on record. The Court further directed MSEDCL to restore the electricity supply within 48 hours upon payment of 50% of the assessed amount. The said application is still pending and is scheduled for hearing on 24/02/2025.
- (iv) **Appeal Before Hon'ble High Court, Mumbai:**
The Appellant challenged the District Court's order by filing Criminal Application No. 151 of 2022 before the Hon'ble Bombay High Court immediately. The High Court, vide its order dated 19/07/2022 allowed the application of the Appellant. The High Court set aside the District Court's order dated 07/01/2022, and permitted the Appellant to deposit only Rs. 25,48,195/- in lieu of 50% of the assessed amount. The copy of the said order is kept on record. The Appellant paid this amount of Rs.25,48,195/- on 06.09.2022. The supply of the Appellant was reconnected on 07.09.2022.
- (v) **Special Leave Petition (SLP) before the Hon'ble Supreme Court:**


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Being aggrieved by the above order dated 19.07.2022 passed by the Hon'ble High Court of Bombay, the Respondent – MSEDCL preferred a Special Leave Petition before the Hon'ble Supreme Court of India, which has been registered as Criminal Appeal No. 9341 of 2022. The matter is currently **sub-judice** before the Hon'ble Supreme Court.

Submissions in the Present Grievance:

(vi) **Consumer's Application for Disconnection of HT Supply:**

On 24/04/2024, the Appellant submitted an application stating that their actual plant load does not exceed 100 KVA, whereas the sanctioned demand is 138 KVA.

Accordingly, they requested permanent disconnection of the HT supply and sought a new LT supply of 200 HP at the same premises. This was done without clearing the heavy dues of about Rs.4.69 crores.

(vii) **System Constraints and Fresh Request:**

Due to system constraints in the HT portal, the application for load change from 138 KW to 150 KW could not be processed. Therefore, the Appellant submitted a fresh application on 07/01/2025 requesting conversion from HT to LT. It was also stated that any final orders passed by competent judicial authorities will be binding on the Respondent.


(viii) **Legal Opinion Sought:**

MSEDCL sought legal opinion regarding permanent disconnection of the HT connection (Con. No. 004979044050) of M/s. Diamond Ice Factory and granting a new LT connection at the same premises.

(ix) **Legal Opinion Received:**

The Legal Advisor, Konkan Region of MSEDCL vide opinion dated 31/01/2025, opined as under:

- (i) The Hon'ble High Court permitted the accused to deposit Rs.25,48,195/- as against 50% of the theft bill. Initially, the Appellant requested for permanent disconnection and a fresh LT connection. **Later, the request was modified to convert the existing HT connection to LT.**


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(ii) In light of the pending SLP before the Hon'ble Supreme Court, it is in MSEDCL's interest to convert the connection to LT, provided theft arrears are duly reflected and safeguarded.

(x) **Technical Constraints in Conversion:**

However, the conversion of HT to LT is not technically feasible due to differences in HT and LT billing systems. Hence, the existing HT connection must be permanently disconnected, and a fresh LT connection must be applied for, resulting in generation of a new consumer number. However, due to the existence of disputed arrears, a new connection at the same premises cannot be issued.


(xi) **Load Enhancement Feasibility:**

As per Appellant's letter dated 07/01/2025, they wish to expand operations, and the existing load is insufficient. As per MSEDCL's Circular No. E.D. (Dist-II)/Guidelines/Non-SoP/25388 dated 11/09/2019, applications above 200 KVA can be catered to using HT infrastructure, eliminating the need for a separate LT connection.

(xii) The Appellant filed a grievance application in the Forum on 30/01/2025. The Forum by its order principally rejected the grievance application. The Forum's observation is quoted in the First Para. The Forum has arrived at the following conclusions:

- (i) The existing HT connection cannot be converted into an LT connection, as the HT and LT billing systems are technically distinct and incompatible.
- (ii) To obtain an LT supply, the existing HT Connection No. 004979044050 must be permanently disconnected, and a fresh application for an LT connection must be submitted. A new consumer number will be generated. However, due to the pending arrears/disputed amount, a new LT connection at the same premises cannot be sanctioned. The arrears/disputed amount of the old HT connection cannot be transferred to any new LT connection at the same premises.

(xiii) In view of the above, the Respondent prays that the present representation be rejected.


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3. The Appellant's submissions and arguments are outlined as follows:

(i) The Appellant is an 11 kV HT Industrial Consumer (Consumer No. 004979044050) since 25/11/2016. The relevant details of this connection are provided in Table 1. At the time of connection, the following regulations were in force:

- Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2005 (Supply Code Regulations, 2005), applicable from 20.01.2005 to 24.02.2021, and
- Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014 (Standards of Performance Regulations 2014), applicable from 20.05.2014 to 24.02.2021.

Under these regulations, electrical loads above **80 kW / 100 kVA** were categorized under the 11 kV HT supply. Accordingly, the Appellant's sanctioned load of **138 kW / 108 kVA** was correctly placed under the 11 kV HT category at the time of connection on 25.11.2016.


- (ii) However, under the current regulatory framework, LT connections are now permitted for loads up to 160 kW / 200 kVA. As the Appellant's contract demand remains at 108 kVA, well within the LT threshold, the connection now qualifies for categorization under LT supply. Therefore, the Appellant submits that MSEDCL ought to have reclassified the connection under the LT category and billed accordingly.
- (iii) The Appellant intends to expand their business operations. However, the present sanctioned load of 108 kVA is grossly inadequate to meet the projected demand. **Based on future expansion plans, the Appellant requires an enhanced load of 150 kW with a corresponding contract demand of 166 kVA.**
- (iv) The Appellant attempted to submit an application for enhancement of load through MSEDCL's Web Self Service (WSS) portal. However, since the connection is


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categorized under the HT supply category, **the portal mandates a minimum demand of 201 kVA for HT consumers. Consequently, the system does not permit submission of an application for a load below 200 kVA. This compels the Appellant to seek an unjustified higher load, contrary to their actual requirement.**

- (v) In light of this, the Appellant approached MSEDCL with a formal request to either (a) accept their enhancement application for 166 kVA under HT, or (b) permit conversion of their HT connection to LT so that the necessary application can be submitted accordingly.
- (vi) The matter was referred by MSEDCL to its Legal Department, as a case under Section 135 of the Act was pending against the Appellant. The Legal Department opined that subject to technical feasibility, a new LT supply could be granted with the same consumer number.
- (vii) Notwithstanding the aforesaid legal opinion, no action was taken by MSEDCL to process the Appellant's request. The HT connection was neither converted to LT, nor was a new LT connection sanctioned, nor was the load enhancement request entertained.
- (viii) The Appellant acknowledges that a proceeding under Section 135 of the Act is pending. The Appellant has challenged the theft assessment bill before the Hon'ble Special Court in MA No. 03/2021. The order dated 07.01.2022 passed by the Special Court, Vasai was set aside by the Hon'ble High Court in Writ Petition No. 151/2022 vide order dated 19.07.2022.
- (ix) By the said order, the Hon'ble High Court directed restoration of power supply upon deposit of 5% of the assessed amount. In compliance, the Appellant deposited Rs.25,48,195 with MSEDCL on 06.09.2022 pursuant to which supply was restored on 07.09.2024. The Hon'ble Supreme Court has not granted any stay on the said order. Accordingly, during the pendency of the Special Leave Petition, MSEDCL is precluded from recovering the remaining amount.
- (x) The Forum erred in rejecting the Appellant's request on the ground of pending arrears. In doing so, the Forum failed to consider that the Hon'ble High Court's order operates as a stay on recovery of any amount beyond the 5% already paid.


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- (xi) The Appellant places reliance on Regulation 5.4 of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021, which provides:

"Provided further that, revision in load / shifting of services / extension of services / name change / restoration of supply – the consumer shall clear all its pending dues as on the date of application unless payment of the same is not stayed by any forum / court."


In view of the stay granted by the Hon'ble High Court, the rejection of the Appellant's application is contrary to the aforesaid regulation.

- (xii) The Appellant reiterates readiness to submit a formal undertaking affirming liability for the assessed dues. It is submitted that denial of the requested load enhancement on such technical or procedural grounds is unjust, arbitrary, and contrary to principles of natural justice.
- (xiii) **In its reply, MSEDCL has directed the Appellant to apply for a demand above 200 kVA and remain under HT supply. However, the Appellant's actual requirement is below 200 kVA, which falls within the LT category. The cost of continuing under HT, particularly in terms of fixed charges, is disproportionately high—approximately Rs.20, 000 per month—thereby placing an unreasonable financial burden on the Appellant, who is operating a small-scale business.**

4. In view of the above, the Appellant prays that the Respondent be directed to:

- a) Process the Appellant's application dated 07.01.2025 for LT connection;
- b) Sanction the required load of 166 kVA;
- c) Either convert the existing HT connection to LT or release a new LT industrial connection in the Appellant's name.

5. During the course of the hearing, both parties were advised by the Hon'ble Electricity Ombudsman to explore the possibility of an amicable settlement. Upon mutual request, both


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parties were granted a period of two weeks to attempt such a settlement. However, the Appellant by his email dated 01.09.2025 informed that such a settlement could not be reached and hence the representation be disposed on merit.

6. A second e-hearing was held on **16.09.2025** through Video Conference. This time the Respondent submitted that its Corporate Office has incorporated the required modification in the New Connection System software (dated 19.05.2025). Accordingly, **the LT load can now be released while still retaining the existing HT Consumer Number**. The relevant provisions of the amendment are reproduced below:

“Application: New Connection System

Version Number: 1.0.11.83

Version Release Date: 19-MAY-2025

.....

Process to transfer consumer from HT to LT due to reduction in demand

For HT consumer with categories Commercial, Industrial, Public Service, PWW, while applying for CD Reduction at WSS -

If existing demand is above 200 KVA and revised demand entered is less than or equal to 200 KVA.


Then consumer shall be treated eligible for HT to LT conversion.

Tariff and Electricity Duty Change application shall be auto created while Meter Assignment Save stage for such ***Contract Demand Change with Load Change*** application mentioned above.

Only similar LT tariff category will be made available as per existing HT tariff category of consumer for selection at Meter Assignment page.

It will be mandatory to approve this Tariff and Electricity Duty Change application before sending to billing of respective Contract Demand Change with Load Change application.

*Authorization to Verify given to SE login and Approve/Reject given to Regional Director/Jt. Managing Director for this **Tariff and Electricity Duty Change** application.*


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*Both applications shall be sent to billing after approval of respective **Contract Demand Change with Load Change** application.*

Consumer will continue to be billed in HT billing system.”

7. The Appellant expressed his willingness to adopt the above process for transfer from HT to LT, since the revised demand is below 200 kVA, and confirmed his readiness to pay all applicable statutory charges. Both parties agreed to settle the matter amicably in line with the Modification in the New Connection System (dated 19.05.2025).


Although the parties were granted **three days from the date of hearing** to submit a settlement proposal, no proposal was received within the stipulated period. Hence the following order is passed on merits.

Analysis and Ruling:

8. The Appellant is an HT Industrial Consumer (No. 004979044050) since 25.11.2016, engaged in operating an ice factory. The relevant details are presented in Table-1.

9. The Respondent submitted that during an inspection on 30.10.2021 by the Superintending Engineer, MSEDCL Vasai, along with the Testing Team, tampering of CT secondary wiring (R-Y-B phases) was detected, leading to under-recording of consumption. This was treated as theft under Section 135 of the Electricity Act, 2003. Accordingly,

- FIR No.1054/2021 dated 04.11.2021 was registered under Sections 135, 138, and 150.
- A theft assessment bill of ₹4,93,98,460/- (Nov-2016 to Oct-2021) was issued on 03.11.2021.
- The Appellant challenged the assessment in Cri. O.M.A. No.03/2021 before District Judge, Vasai, who on 07.01.2022 directed a 50% deposit for reconnection; matter pending, next hearing 24.02.2025.


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- In Criminal Application No.151/2022, Hon'ble Bombay High Court on 19.07.2022 reduced the deposit to 5% (₹25,48,195/-); Appellant paid on 06.09.2022; supply restored on 07.09.2022.
- MSEDCL filed SLP (Cri. Appeal No.9341/2022) before Hon'ble Supreme Court challenging the 5% deposit; matter pending.
- **The Respondent contended that evidence of theft must be preserved, but assured that the LT load will be released while retaining the HT Consumer Number as per amendment of *New Connection System* dated 19.05.2025.**

10. The Appellant contended as follows:

- Since 25.11.2016, sanctioned load is 138 kW/108 kVA under HT; he now requires 150 kW/166 kVA, which falls within LT limits (≤ 160 kW/200 kVA) as per Supply Code & SoP Regulations, 2021.
- MSEDCL's WSS portal does not permit HT applications below 201 kVA, forcing higher load applications.
- Requested either: (a) sanction of 166 kVA under HT, or (b) conversion to LT supply; Legal Dept. has already opined LT connection is possible, but no action taken.
- Section 135 proceedings are pending; High Court (19.07.2022) stayed recovery beyond 5% deposit; no stay from Supreme Court.
- Due to MSEDCL's stance, **Appellant suffers about ₹20,000/- per month kVAh penalty.**
- Prays for directions to process application dated 07.01.2025 for LT supply of 166 kVA, by either (i) converting existing HT to LT, or (ii) releasing new LT Industrial connection. The Appellant is willing to settle by enhancing LT load while retaining the HT Consumer Number.

11. The Regulation 3 of the MERC (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021 prescribes the system of supply and consumer classification. Relevant extracts are reproduced below:


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“3. System of Supply and Classification of Consumers

3.1 Except where otherwise previously approved by the Authority, the Distribution Licensee shall give supply of energy on the following systems, namely—

- a. Low voltage – Alternating current single phase or Alternating current three phase-Four Wire, 50 cycles.*
- b. High voltage – Alternating current three phases, 50 cycles.*
- c. Extra High voltage – Alternating current three phases, 50 cycles*

3.2 Except where otherwise previously approved by the Authority, the classification of installations shall be as follows: -

- a. Two wires, single phase, 230 / 240 volts- General supply not exceeding 40 amperes.*
- b. Four / Three wires, three phase, 230 / 240 volts between phase wire and neutral or 400 / 415 volts between the phases / lines and Sanctioned Load/Contract Demand not exceeding 160 kW/ 200 kVA:***

Provided that in case of multiple Consumers in the same building / premises with cumulative Sanctioned Load/Contract Demand exceeding 160 kW / 200 kVA, such limit would be 480 kW / 600 kVA.


.....and so on.

Provided that in case the Consumer who is eligible for single phase connection wants to avail supply at three phase, or any Consumer who seeks supply at the voltage level higher than its eligible voltage, such Consumer can avail such supply, if it is technically feasible and by incurring required expense:

Provided further, the licensee may release electricity supply at the voltage higher or lower than specified above only under exceptional circumstances based on the technical feasibility and considering the system constraints:

.....

12. In the present case, the Appellant’s supply was provided at 22 kV level under the 2014 SoP Regulations, 2014, as no 11 kV network was available at the periphery. Regulation 3.2 specifically provides that **the Licensee may release supply at higher or lower voltage under**


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exceptional circumstances, subject to technical feasibility and system constraints. The Respondent stated that the **LT load will be released while retaining the existing HT Consumer Number as per amendment in New Connection System dated 19.05.2025.**


13. Upon consideration of all facts and circumstances, it is held that the Respondent is duty-bound to release supply as per the consumer's requirement within the framework of Regulations. Amendment of New Connection System dated 19.05.2025 specifies that the enhancement of load can be released considering LT supply upto 200 KVA. In this case the enhancement is 166 KVA.

14. The Forum's order is accordingly set aside. The following directions are issued:

- (a) The Respondent shall sanction additional load of 12 kW/58 kVA, thereby revising the sanctioned demand to 150 kW/166 kVA, within two months of this order.
- (b) No kVAh penalty shall be levied up to 166 kVA after two months from the date of this order.
- (c) Compliance shall be reported within two months from the date of issuance of this order.
- (d) Other prayers of the Appellant stand rejected.

15. The Representation is disposed of in terms of this order.

Sd/
(Vandana Krishna)
Electricity Ombudsman (Mumbai)


(Dilip Dumbre)
Secretary
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