

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 44 OF 2025

In the Matter of theft case under Section 135 of the Electricity Act, 2003

Kamdhenu Dairy and Agro Farm....Appellant
(Consumer No. 142540036283)

V/s.

Maharashtra State Electricity Distribution Co. Ltd., Sangamner Dn. Respondent
(MSEDCL)

Appearances:

Appellant : 1. Arun Wakchaure
2. Sharad Gavhane, Representative

Respondent: Pradeep Wattamwar, Executive Engineer, Sangamner Dn.


Coram: Vandana Krishna [IAS (Retd.)]

Date of hearing: 8th August 2025

Date of Order : 28th August 2025

ORDER

This Representation was filed on 17th 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 31st January 2025 passed by the Consumer Grievance Redressal Forum, MSEDCL, Nashik Zone (the Forum) in Case No. 29 of 2024. The Forum, by its order dated 31st January 2025 has partly allowed the grievance application. Its operative order is as below:



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1. Consumer's request for refund of amount paid by him against the bill issued by MSEDCL under Section 135 of the Electricity Act, 2003, is rejected as per Regulation 7.9 (b) of the CGRF & EO Regulations, 2020.
 2. MSEDCL is directed to cancel the supplementary bill of differential amount charged due to tariff changed to consumer.
 3. MSEDCL is directed to revert the tariff category for above listed consumer from commercial to industrial.
 4. As per Section 9.2(b) of the MERC (CGRF) Regulations, 2020, Refund (if paid excess) the amount through credit in the upcoming electricity bill to the applicant with interest as per Reserve Bank of India.
2. The Appellant has filed this representation challenging the order passed by the Forum. An e-hearing in the matter was conducted on 04.08.2025 via video conference. Both parties were heard at length. The submissions and arguments presented by the Respondent are summarized below. *[The Electricity Ombudsman's observations and comments are recorded under 'Notes' where needed.]*
- (i) The Appellant is a Low Tension (LT) Industrial Consumer, bearing Consumer No. 142540036283 since 19.03.2021. The Appellant is engaged in the supply of fresh, high-quality, natural milk. As part of the operations, the Appellant carries out pasteurization and chilling processes for the preservation of milk.
 - (ii) The relevant consumer details, including the consumer number, address, sanctioned load, contract demand, date of inspection, and the assessed amount for the alleged pilferage, are provided in Table 1 below:

Table 1:

Name of Consumer	Address	Consumer No.	San. Load /Contract Demand	Date of Supply	Date of Inspection	Assessment towards pilferage of energy & Period	Compounding Charges
Kamdhenu Dairy and Agro Farm	S/No-148/2, Kalas Budruk, Kolhar Ghoti Road, Akola, Ahmadnagar	142540036283	45 HP/ 25 KVA	19.03.2021	19.12.2023	Rs. 26,23,260/- of 72,818 units from Dec. 2022 to Nov. 2023 which was paid on 05.01.2024	Rs. 2,45,000/- paid on 05.01.2024


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- (iii) On 19.12.2023, at approximately 19:30 hrs, the Flying Squad Unit of the Respondent, Wagle Estate Division, conducted a spot inspection at the Appellant's premises in the presence of the Appellant. During the inspection, it was observed that the Appellant had tapped a direct supply through a 3.5 sq.mm armored cable from the Low Voltage side of the bushings of the distribution transformer of MSEDCL to the Appellant's busbar, bypassing the energy meter. The current measured during the direct supply was recorded as follows:


Table 2


Current Measurement	R -Phase	Y -Phase	B -Phase
Current measured at incoming supply (Amp.) with normal voltages	60	50	51

This was treated as a case of pilferage of electricity under Section 135 of the Electricity Act, 2003. The Appellant did not sign the spot inspection report, which has been taken on record. Immediately following the inspection, an Evidence (Ghatana-Sthal) Panchnama and Japti Panchnama were prepared.

- (iv) Based on the inspection findings, the Respondent conducted an assessment of the connected load directly drawn from MSEDCL's LT supply. The calculation of the assessed units is detailed below:


Table 3


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Particulars of Machinerics	Quantity	Capacity	Total Load	Total Load
CBI/IBT Plant	2	30 HP	60 HP	61 HP
Chilling Motor	2	0.75 Hp	1.5 HP	1.5 HP
Invertor	1	0.5 KW	0.5 KW	0.5 KW
Halogen	2	50 W	100 W	101 W
TV	1	150 W	150 W	151 W
LED	8	20 W	160 W	161 W
Fan	2	60 W	120 W	121 W
Computer	1	300 W	300 W	301 W
Fridge	1	300 W	300 W	301 W
Cooling Tower	1	1 HP	1 HP	2 HP
Misc. Load	as per various points onsite			
Total Load		48.26KW	48.26KW	
Assessed Units = Conn.Load x (Load Factor x Diversity Factor) x Working Hrs. x Months				
Units Calculated	48.26X.05 LF X 10 DF.X30 days x 12 months			
Already Billed Units			14050 Units	
Net Assessed Units for 12 months from Dec.2022 to Nov. 2023			72818(= 86868-14050) Units	

- (v) The Respondent issued an assessment of Rs. 26,23,260/- of 72818 units from Dec. 2022 to Nov. 2023 to the Appellant on 26.12.2024 based on the recommendation of the Flying Squad Unit, Wagle Estate Division. A copy of the assessment bill has been placed on record. On the same day, the Respondent issued a letter to the Appellant offering an opportunity to settle the matter by submitting a *Sammati Patra* (Consent Letter) and paying compounding charges of Rs.2,45,000/-, in accordance with the provisions laid down by the Government of Maharashtra. This offer was made in lieu of initiating police proceedings. The Appellant subsequently submitted an undated *Sammati Patra* to MSSEDCL and paid the assessment amount and compounding charges on 05.01.2024, and hence, no FIR was lodged.
- (vi) Thereafter, the Appellant filed a grievance application before the Forum on 19.01.2025. The Forum, by its order dated 31.01.2025, partly allowed the grievance, directing the


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Respondent to charge the Appellant at Industrial rates instead of Commercial. The assessment amount u/s 135 was left unchanged.

- (vii) During the course of hearing, the Respondent submitted that the Appellant was earlier billed under the *Industrial Tariff Category* up to November 2023. The surprise inspection was conducted in December 2023. Thereafter, from December 2023 to February 2025, the tariff category was changed to *Commercial*. Subsequently, in compliance with the Forum's directions, the Appellant's tariff was restored to *Industrial Tariff Category* with effect from March 2025. The differential amount of Rs.11,40,674.71 (from December 2023 to February 2025) was accordingly credited to the Appellant's bill in March 2025. The Appellant continues to be billed under the *Industrial Tariff Category* from March 2025 onwards.
- (viii) **The assessment towards theft of electricity was carried out for the period from December 2022 to November 2023, applying the *Commercial Tariff Category*.**
- (ix) The Respondent further submitted that, in accordance with Regulation 7.9 of the CGRF & Electricity Ombudsman Regulations, 2020, the Forum does not have jurisdiction to adjudicate matters related to electricity theft. If the Appellant seeks to contest the theft allegation, the appropriate forum for such adjudication is the "Special Court" constituted under the provisions of the Electricity Act, 2003.
- (x) The Respondent prays that the representation of the Appellant be rejected.

3. The Appellant's submissions and arguments are stated as below.


- (i) The Appellant, a Low Tension (LT) Industrial Consumer (Cons. No. 142540036283) since 19.03.2021 and is engaged in supplying fresh, organic, and nutritious milk. The operations primarily involve pasteurization and chilling, both of which are essential to ensure quality. The main consumer details, including consumer number, address, sanctioned load, and contract demand, are provided in Table 1.
- (ii) On 19.12.2023, the Flying Squad from the Respondent's Wagle Estate Division conducted an inspection at the Appellant's premises. No theft was detected during the


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visit. However, a fabricated Panchnama was prepared post-inspection, and the Respondent unlawfully removed a meter that was accurately recording consumption. This act of the Respondent is a clear violation of the mandatory provisions under the Regulations in force and the Act.

- (iii) The Appellant's operations are milk pasteurization and chilling which clearly fall within the scope of Industrial Tariff Category, as consistently recognized by the Respondent since the commencement of supply. However, in an arbitrary and unjustified action, seemingly intended to harass, the Respondent reclassified the activity under the Commercial Tariff Category. Based on this erroneous classification and an alleged theft assessment, the Respondent issued a supplementary bill amounting to Rs.26,23,260/- for 72,818 units consumed during the period from December 2022 to November 2023. This reclassification and billing are not only unlawful but also contrary to the prevailing tariff orders and the consistent nature of the Appellant's activity.
- (iv) The Respondent failed to furnish the requisite supporting documents, thereby denying the Appellant a fair opportunity to verify the accuracy of the theft assessment. Given the perishable nature of milk, the Appellant was compelled to make the payment under protest to avoid spoilage and further financial loss. Accordingly, on 05.01.2024, the Appellant paid the assessment amount of Rs.26,23,260/- along with compounding charges of Rs.2,45,000/-, as detailed in Table 1.
- (v) A chilling plant constitutes the major electrical load and plays a vital role in the milk pasteurization process. Pasteurization involves heating milk to approximately 72°C for 15–20 seconds (High-Temperature Short Time method) to eliminate harmful bacteria. Immediately thereafter, the milk is rapidly cooled using the chilling plant to inhibit bacterial regrowth and preserve its quality.
- (vi) From the commencement of supply on 19.03.2021, the Respondent correctly billed the Appellant under the Industrial Tariff Category, in accordance with the Commission's Tariff Order No. 322 of 2019 dated 30.03.2020, effective from 01.04.2020. The


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classification of chilling plant activity under the Industrial category has remained consistent in all subsequent Tariff Orders issued by the Commission.


- (vii) The nature of the Appellant's activity has remained unchanged since the date of supply. However, the Respondent has inconsistently applied tariff categories as follows:

Period	Tariff Category Applied	Remarks
19.03.2021 to Nov. 2023	Industrial	
Dec. 2023 to Feb. 2025	Commercial	Refunded tariff Difference
March 2025 to Present	Industrial	
Flying Squad Recovery (Dec. 2022 to Nov. 2023)	Commercial	Tariff difference yet to be refunded

- (viii) This inconsistent and arbitrary billing is unjust and inequitable. **The Appellant primarily seeks a refund of the differential amount arising from the wrongful application of the Commercial Tariff Category in the theft assessment.**
- (ix) The Appellant submitted a grievance application before the Forum on 19.01.2025. By its order dated 31.01.2025, the Forum partly allowed the grievance. However, it failed to direct MSEDCL to revise the theft bill by applying the correct Industrial Tariff Category.
- (x) The payment made on 05.01.2024 towards the theft assessment and compounding charges was under protest, driven by the urgent need to prevent spoilage of milk and avoid further operational losses.
- (xi) In light of the above, the Appellant prays that the Respondent be directed to refund the differential amount in the theft assessment for the period from December 2022 to November 2023, by applying the correct Industrial Tariff Category.

Analysis and Ruling

4. Heard the parties and perused the documents on record. The Appellant, a Low Tension (LT) Industrial Consumer (Consumer No. 142540036283) since 19.03.2021, is engaged in milk



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processing activities, including pasteurization and chilling. The relevant details of the consumer are summarized in **Table 1**.

5. The Respondent submitted that on 19.12.2023, the Flying Squad (Wagle Estate Division) detected direct tapping of supply by the Appellant from the LT side of the transformer to its bus-bar, bypassing the meter. The case was treated as theft under Section 135 of the Electricity Act, 2003. Accordingly, an assessment bill of Rs.26,23,260/- (based on 72,818 units for Dec. 2022–Nov. 2023) and compounding charges of Rs.2,45,000/- were issued on 26.12.2024. Both were paid by the Appellant on 05.01.2024 under protest to avoid the disconnection and loss of business, and no FIR was lodged. The Appellant was earlier billed under the Industrial Tariff Category from the date of connection until Nov. 2023, thereafter under the Commercial Tariff Category from Dec. 2023 to Feb. 2025. Pursuant to the Forum's Order dated 31.01.2025, the tariff was restored to Industrial from Mar. 2025 and a credit of Rs.11,40,674.71 was granted in the bill of Mar. 2025. **The theft assessment, however, was calculated on Commercial Tariff Rates for Dec. 2022 to Nov. 2023.** The Respondent contended that, in terms of Regulation 7.9 of the CGRF & EO Regulations, 2020, the Forum has no jurisdiction over theft cases, which fall exclusively within the jurisdiction of the Special Court under the Electricity Act, 2003.

6. The Appellant contended that he is engaged in milk pasteurization and chilling activities, which fall under the **Industrial Tariff Category**. During the inspection conducted by the Flying Squad on 19.12.2023, no theft was detected; however, a fabricated Panchnama was prepared and a duly recording meter was unlawfully removed, in breach of the Act and Regulations. Notwithstanding the unchanged nature of operations, the Respondent arbitrarily reclassified the supply under the **Commercial Tariff Category** and issued a supplementary bill of Rs.26,23,260/- (72,818 units for Dec. 2022 to Nov. 2023) together with compounding charges of Rs.2,45,000/-. Owing to the perishable nature of milk, the Appellant was compelled to pay the said amount on 05.01.2024 under protest. A grievance was thereafter filed before the Forum on 19.01.2025. By its order dated 31.01.2025, the Forum partly allowed the


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grievance, directing MSEDCL to apply 'industrial' tariff from March 2025, but failed to direct revision of the theft bill on the basis of the Industrial Tariff. The Appellant accordingly prays for refund of the differential amount by applying the correct **Industrial Tariff Category** for Dec. 2022 to Nov. 2023.

7. The provisions of *Section 135 of the Electricity Act, 2003 (Theft of Electricity)*, inter alia, stipulate that any person who dishonestly taps supply lines, tampers or uses a tampered meter, damages metering equipment, or uses electricity for unauthorized purposes, shall be punishable with imprisonment up to three years, or with fine, or with both. The Section 135 of the Act is produced below:

“Section 135. (Theft of Electricity): --- Whoever, dishonestly,

- (a) taps, makes or causes to be made any connection with overhead, underground or under water lines or cables, or service wires, or service facilities of a licensee or supplier as the case may be; or*
 - (b) tampers a meter, installs or uses a tampered meter, current reversing transformer, loop connection or any other device or method which interferes with accurate or proper registration, calibration or metering of electric current or otherwise results in a manner whereby electricity is stolen or wasted; or*
 - (c) damages or destroys an electric meter, apparatus, equipment, or wire or causes or allows any of them to be so damaged or destroyed as to interfere with the proper or accurate metering of electricity,*
 - (d) uses electricity through a tampered meter; or*
 - (e) uses electricity for the purpose other than for which the usage of electricity was authorised, so as to abstract or consume or use electricity shall be punishable with imprisonment for a term which may extend to three years or with fine or with both:*
-”

8. In the present case, an inspection and Panchnama were conducted on 19.12.2023, pursuant to which action was taken under Section 135. The Appellant's grievance pertains to the assessment of Rs.26,23,260/- for 72,818 units (Dec. 2022 to Nov. 2023), calculated on the basis of the **Commercial Tariff**. Prima facie, this constitutes a case of theft, which falls exclusively within the jurisdiction of the Special Court under the Act.


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9. As per Regulation 7.9(b) of the *CGRF & EO Regulations, 2020*, the Forum is barred from adjudicating cases under Sections 126, 127, 135–139, 152, and 161 of the Act. The Regulation 7.9 of the CGRF & EO Regulations 2020 is reproduced below:

“7.9 The Forum shall reject the Grievance at any stage under the following circumstances:

(a)

(b) In cases, which fall under Sections 126, 127, 135 to 139, 152, and 161 of the Act;

(c)

(d)

(e)

Provided that no Grievance shall be rejected unless the Complainant has been given an opportunity of being heard.” (Emphasis added).

10. It is notable that even on the merits of any case, even if clearly established, the Forum has no jurisdiction to entertain cases filed under Section 135. The Forum has passed a reasoned order. Hence, no interference is warranted, and the Representation stands rejected.

11. However, we note that the assessment should have been calculated at industrial, and not commercial rates. The Respondent is advised to ensure that in future, assessments under Section 135 are carried out strictly in accordance with the Act, Regulations, and applicable tariff categories. Hence, such cases should be taken up with the Authorities of Flying Squad of MSEDCL and / or with Director (Commercial), to train them for applying the proper tariff.


12. The Appellant is advised that he may seek legal opinion on reopening the matter before the Special Court if he desires.

13. The Representation is thus rejected and disposed of.

Sd/-

(Vandana Krishna)

Electricity Ombudsman (Mumbai)


(Dilip Dumbre)
Secretary
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