

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 10 OF 2026

In the matter of refund of tariff difference

IQGEN – X Pharma Pvt. Ltd. (Occupier)Appellant
(Divine Chairs P. Ltd.: Original Consumer)
(Con. No. 000437456518)

V/s.

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

Appearances:

Appellant : 1. Yogita Kodgule, Occupier
2. Rohan Salunke, Representative

Respondent: 1. S.V. Pol, Addl. Executive Engineer, B& R Sub/Dn.
2. J. D. Ambade, Acting Executive Engineer, Washi Dn.
3. Praksh Kamble, Asst. Accountant, Koparkhairane Sub. /Dn.


Coram: Vandana Krishna [IAS (Retd.)]

Date of hearing: 26th May 2026

Date of Order: 9th June 2026

ORDER

This Representation was filed on 13th February 2026 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 15th December 2025 in Case No.48/2025-26 passed by the Consumer Grievance Redressal Forum, MSEDCL, Bhandup (the Forum). The Forum dismissed the grievance application of the Appellant.


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Secretary
Electricity Ombudsman Mumbai




2. The Appellant has filed this representation against the order of the Forum. A physical hearing was held on 26.05.2026. Both parties were heard at length. The Appellant's submissions and arguments are stated below: *[The Electricity Ombudsman's observations are recorded under 'Notes'.]*


- (i) The Appellant, IQGEN-X Pharma Pvt. Ltd., is the occupier of the premises and the *de facto* user of the power supply provided to the site. Though the primary consumer registration remains in the name of the premises owner, Divine Chairs Pvt. Ltd., the Appellant qualifies as a "Consumer" under Regulation 2(15) of the MERC (Electricity Supply Code and Standards of Performance of Distribution Licensees) Regulations, 2021. The Appellant has consistently fulfilled all payment obligations toward the electricity bills associated with this connection.
- (ii) The Appellant has utilized the power supply exclusively for standalone Research and Development (R&D) activity since 01.02.2020. Details of the electricity connection and change of tariff category from “ Commercial to Industrial” with effect from April 2024 are provided in Table 1 as below:

Table 1:

Name of Consumer	Consumer No.	Address on Bill	Sanc. Load /Contract Demand	Date of Supply	Online Application applied for Change of Tariff Category	Date of Inspection	Tariff Change Effected	Retrospective refund claimed
Divine Chairs P. Ltd.	000437456518	Plot No. A-165 TTC Indl. Area, MIDC, Khairme	80.43 kW / 60 kVA	30.06.2009	On 14.03.2024 from Commercial to Industrial	23.04.2024	Aug. 2024 bill onwards from Comm. to Industrial with consequential retrospective refund from Apr.'24 to July'24.	From April 2020 March 2024

- (iii) The Appellant placed on record important documents such as valid MIDC subletting permissions, the registered Rent Agreement, Industrial Registration, Udyog Aadhaar Registration dated 23.05.2017, and Udyam Registration dated 13.10.2020, No Objection Certificate issued by the Health Department, Government of India, dated 20.08.2018, along with other relevant operational clearances.



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- (iv) Pursuant to the Tariff Order passed by MERC in Case No. 322 of 2019 dated 30.03.2020 (effective from 01.04.2020), Stand-alone R&D units were categorized under Industrial Tariff Category to promote research and development activities. The said Tariff Order was implemented by MSEDCL through Commercial Circular No. 323 dated 03.04.2020. The stand-alone R&D category has been continued under the Industrial Tariff Category in further subsequent tariff orders of the Commission till date.
- (v) Despite the statutory mandate, the Respondent continued billing the Appellant under the Commercial Tariff Category from 01.04.2020 onwards till March 2024 contrary to the Commission's Tariff Orders. This resulted in wrongful recovery of excess amount through the application of an incorrect tariff.
- (vi) There was no need to submit formal application to the Respondent, even though, the Appellant, vide letter dated 12.12.2023, requested correction of tariff category from Commercial to Industrial. However, the Respondent neither replied to the request nor changed the tariff category.
- (vii) The Appellant submitted an online application on 14.03.2024 for change of tariff category from Commercial to Industrial. MSEDCL revised the tariff category to Industrial with effect from the September 2024 billing cycle and refunded the excess amount recovered for the period from April 2024 to August 2024. However, no refund was granted for the excess amount recovered during the period from 01.04.2020 to 31.03.2024.
- (viii) Aggrieved thereby, the Appellant filed a grievance before the Forum on 02.07.2025 seeking retrospective refund of the tariff difference between Commercial and Industrial categories. However, vide the Impugned Order dated 15.12.2025, the Forum dismissed the grievance holding that tariff change could not be granted retrospectively.


Grounds for Challenge:

- (i) The Forum erred in holding that tariff reclassification of the Appellant's standalone R&D Unit under the Industrial Tariff Category could be granted only prospectively despite the Tariff Order of the Commission effective from 01.04.2020. The reclassification was automatic in nature and binding upon MSEDCL from the effective date specified by the Commission.


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- (ii) The Forum failed to appreciate that the Appellant's R&D activities at the subject premises stood established during the relevant period through CDSCO registration and DSIR recognition, which evidences the nature of activities carried out at the premises.
- (iii) The Forum failed to appreciate that tariff classification determined under Section 62 of the Electricity Act, 2003 has statutory force and is binding on MSEDCL, which was required to implement the Tariff Order of the Commission effective from 01.04.2020 in letter and spirit without deviation. As per Section 62(6) of the Electricity Act, 2003, tariff orders are legally binding and excess recoveries must be refunded with interest.
- (iv) The monthly consumption ranged between 10,000 and 20,000 units, with corresponding monthly bills varying from approximately Rs. 1,00,000/- to Rs. 2,00,000/-.
- (v) The Appellant relies on the following judicial and quasi-judicial precedents to support its contentions:
- (vi) The Appellant relied on the following judicial and quasi-judicial precedents to support its contentions:
- **Bombay High Court:** Order dated 10.02.2020 in *MSEDCL vs. Shri Girish Dadasaheb Dadwad* (Writ Petition No. 8712 of 2018).
 - **Electricity Ombudsman:**
 - *Indian Oil Corporation Ltd.* (Representation No. 103 of 2024, dated 20.09.2024).
 - *Capital First Ltd.* (Representation No. 28 of 2018, dated 14.05.2018).
 - **CGRF, Kalyan:** Order dated 14.05.2025 in *M/s Aarti Pharmalabs Ltd.* (Case No. K/E/029 of 2025), wherein the Forum directed a refund of tariff differentials effective from 01.04.2020, pursuant to MSEDCL Commercial Circular No. 323 dated 03.04.2020.
- (vii) In view of the above, the Appellant prays that the Respondent be directed to refund the excess amount wrongfully recovered under the LT-II 'Commercial' Tariff Category (instead of Industrial) for the period from April 2020 to March 2024 with interest.


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

- (i) The Appellant–Occupier, IQGEN – X Pharma Pvt. Ltd., is availing electricity supply under Consumer No. 000437456518 as a tenant. The details of the electricity connection and the subsequent change of tariff category to “Industrial” with effect from April 2024 are provided in Table 1. As per the Respondent's records, the premises have been used by IQGEN – X Pharma Pvt. Ltd. for Research & Development activities from April 2024 onwards, whereas the earlier recorded use of the premises was under the Commercial category (Table 1).

Limitation and Maintainability:


- (ii) The claim before the Forum was barred by limitation, and is not maintainable under Regulation 6.6 / 7.8 of the MERC (CGRF and EO) Regulations, 2006/2020, which provides:


“The Forum shall not admit any grievance unless it is filed within two years from the date on which the cause of action has arisen.”

The Appellant filed the grievance before the Forum on 02.07.2025 seeking refund of tariff difference retrospectively from 01.04.2020. The claim relating to the period prior to two years from filing of grievance is time-barred.


Reply on Merits:


- (iii) The electricity supply under Consumer No. 000437456518 was originally sanctioned in the name of Divine Chairs Pvt. Ltd. on 30.06.2009. The connection was applied for commercial use, which was verified at that time as a routine procedure and was accordingly billed under the LT-II Commercial tariff, which continued till March 2024, and the electricity bills were paid without raising any objection regarding the applicable tariff category.
- (iv) The supply continues to stand in the name of Divine Chairs Pvt. Ltd. The Appellant, M/s. IQGEN-X Pharma Pvt. Ltd., is not a registered consumer of MSEDCL and, therefore, lacks locus standi to maintain the present proceedings.


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- (v) The Appellant contended that a tariff change application had been submitted vide letter dated 12.12.2023 to the Superintending Engineer through the common inward section of the Circle Office. However, tariff change cases pertaining to LT consumers are ordinarily dealt with at the Sub-Division level, whereas the Circle Office primarily handles matters relating to HT consumers. In these circumstances, the alleged submission of the application to the Circle Office was misdirected and cannot be treated as a valid application for tariff change. **Further, since 2015, all such applications are required to be submitted through the MSEDCL Web Self Service (WSS) Portal in accordance with the Commission's directions for online consumer services.** MSEDCL has also established Consumer Facilitation Centers at its Circle Offices, including Vashi Circle, for consumer assistance and service delivery. The Appellant could have availed these facilities and submitted an online application for tariff change at an earlier point of time.
- (vi) The first valid online application for change of tariff was submitted on 14.03.2024. Pursuant thereto, an inspection was conducted on 23.04.2024, during which the premises were found to be used for Standalone Research & Development activities. Based on the inspection findings, a proposal for tariff change was forwarded to the competent authority, which approved the change from LT-II Commercial to LT-V Industrial tariff on 02.08.2024 with effect from April 2024. Annexure – II (Level of Compensation Payable to Consumer for failure to meet Standards of Performance) of the MERC (Electricity Supply Code and Standards of Performance) Regulations, 2021, explicitly stipulates that a change in category of tariff shall be effective within the second billing cycle after the date of application by the consumer. In this case it was effected in the first billing cycle.
- (vii) The supply was originally sanctioned for commercial purposes. Any subsequent change in the nature of usage required the consumer to inform MSEDCL and seek the appropriate tariff category. The premises had multiple occupants since 2009, and the Appellant is stated to have occupied the premises only from August 2018. The consumer could have furnished the leave and license agreement and disclosed the purpose of electricity usage, enabling MSEDCL to carry out the necessary inspection and maintain appropriate records.


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Secretary
Electricity Ombudsman Mumbai





- (viii) **As this is neither a case of tariff reclassification nor creation of a new tariff category, the responsibility to disclose the change in usage and seek the applicable tariff rested entirely with the consumer.** The reliance placed on Circular No. 431 dated 28.04.2023 is misconceived. The said Circular applies only to cases involving reclassification or creation of a new tariff category and not to cases where the consumer has independently altered the usage of electricity without notifying the distribution licensee. The Respondent cannot reasonably be expected to identify such changes in individual cases without being informed by the consumer. Since the connection mostly stays in the landlord's name, MSEDCL cannot be expected to be aware and updated about any change in use, unless informed by the consumer through an application.
- (ix) Although the Appellant seeks application of the LT-V Industrial tariff from April 2020, no explanation has been provided as to why the necessary application was not made earlier. The Appellant continued under the LT-II Commercial tariff without objection and subsequently sought retrospective application of the Industrial tariff. Further, there is no mechanism available to verify the exact nature of past usage during the period from April 2020 to March 2024.

Regulatory Position:

- (x) Change of tariff category is governed by applicable MERC Regulations and requires scrutiny of documents, verification of activity and due diligence before approval. Regulation 4.13 of MERC SOP Regulations, 2014 provides: *“Change of category for use of supply in reference to tariff schedule shall be effected within the second billing cycle on receipt of application and payment of necessary charges.”* Similarly, Annexure-II of the MERC (Electricity Supply Code and Standards of Performance) Regulations, 2021 provides that change in tariff category shall be effected within the second billing cycle after receipt of application.

In the present case, the Appellant submitted an (online) application on 14.03.2024 and tariff change was approved and implemented from April 2024 billing cycle, which is fully consistent with the applicable Regulations. Therefore, there is no deficiency, delay or imperfection in service attributable to the Respondent.


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Secretary
Electricity Ombudsman Mumbai





The Appellant is not entitled to retrospective application of tariff category from April 2020 to March 2024. The claim is barred by limitation, unsupported by contemporaneous evidence and contrary to the applicable SOP Regulations.

- (xi) The Appellant filed the grievance before the Forum on 02.07.2025 seeking refund of tariff difference retrospectively from April 2020. The Forum rejected the grievances and has already passed a reasoned order after considering all relevant issues and therefore no interference is warranted.
- (xii) The Appellant has relied upon various judicial and quasi-judicial precedents; however, the facts of those cases are clearly distinguishable and therefore the ratios thereof are not applicable to the present case.
- a. The Order dated 10.02.2020 passed by the Hon'ble Bombay High Court in MSEDCL Vs. Shri Girish Dadasaheb Dadwad pertains to a hospital which existed prior to introduction of the separate tariff category of "Public Services–Others", and involved applicability of a newly introduced tariff category. The present case does not involve creation of a new tariff category or tariff reclassification, but relates to change in usage. Hence, the ratio is not applicable.
- b. The Ombudsman Orders in Indian Oil Corporation Ltd. and Capital First Ltd. were passed on facts and circumstances materially different from the present case and therefore cannot be applied mechanically.
- (xiii) In view of the foregoing submissions, the Respondent prays that the Representation filed by the Appellant be rejected.

Analysis and Ruling

4. Heard the parties at length and perused the documents placed on record. The subject consumer connection was initially categorized under the Commercial tariff category. The details regarding consumer number, address, sanctioned load, contract demand, etc., are tabulated in Table 1.


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5. The Appellant contended that their Research and Development (R&D) unit is a standalone facility duly recognized by Government Authorities. Pursuant to the MERC Tariff Order passed in Case No. 322 of 2019, standalone Research and Development units were brought under the Industrial Tariff Category with effect from 01.04.2020. According to the Appellant, such reclassification was statutory in nature and ought to have been implemented by the Respondent suo moto. Consequently, failure to apply the correct tariff allegedly resulted in excess recovery for which refund with interest has been claimed.

6. The Respondent, on the other hand, stated that the connection was originally released and billed under the Commercial tariff category based upon the consumer's declaration and records available at the relevant time. It has no independent mechanism to ascertain changes in the nature of activity carried out at consumer premises unless such changes are formally intimated through an application. Relying upon the MERC (Electricity Supply Code and Standards of Performance) Regulations, 2021, the Respondent contended that change of tariff category becomes effective only after receipt of an application and subsequent verification. Since the application was submitted on 14.03.2024, tariff revision was rightly implemented from the April 2024 billing cycle.

7. The principal argument advanced by the Appellant is that it is the statutory obligation of the Respondent to apply the correct tariff category to consumers and, therefore, the Respondent ought to have identified consumers carrying out Research and Development activities even where the original category continued to remain "Commercial." According to the Appellant, failure of the Respondent to undertake such exercise cannot deprive the Appellant of the benefit of the Industrial tariff category. However, it is equally undisputed that although standalone Research and Development activities were brought under the Industrial Tariff Category from 01.04.2020, the Appellant admittedly did not submit any application on WSS portal seeking change of tariff category until March 2024. Further, it is observed that even as on date, the consumer details reflected in the electricity bills continue to appear as under:

Name: M/S DIVINE CHAIRS P. LT.


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Address: PLOT NO. A-165 TTC INDL. AREA, MIDC, KHAIRNE

These records give no indication of any R& D activity which the Respondent can be reasonably expected to pick up suo moto or through its software.

8. MERC (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021 stipulates that:

14. Classification and Reclassification of Consumers into Tariff Categories

The Distribution Licensee may classify or reclassify a Consumer into various Commission's approved tariff categories based on the purpose of usage of supply by such Consumer:

Provided that the Distribution Licensee shall not create any tariff category other than those approved by the Commission.


It is worthwhile clarifying here the intention of this provision. In situations where a consumer may be trying to change usage to commercial (or to any higher tariff category) without informing the licensee, this obviously would lead to loss for the licensee; hence it has been empowered to take action suo moto, such as through surprise inspections, to determine the actual usage and to apply the appropriate tariff category.


In other words, this is an enabling or empowering provision. In situations described above, the licensee need not wait for an application from the consumer, since some consumers may deliberately try to delay or avoid the applicability of higher tariff.

However, practically it would not be possible to cover 100% of units through surprise inspections; hence consumers should not expect the licensee to grant the benefit of lower tariff suo moto, unless applied for.

9. Tariff Order of the Commission in Case No. 322 of 2019 dated 30.03.2020 effective from 01.04.2020 stipulate that

LT V: LT- Industry:


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Applicability: *This tariff category is applicable for electricity for Industrial use, at Low/Medium Voltage, for purposes of manufacturing and processing, including electricity used within such premises for general lighting, heating/cooling, etc.*

It is also applicable for use of electricity / power supply for Administrative Offices / Canteens, Recreation Hall / Sports Club or facilities / Health Club or facilities/ Gymnasium / Swimming Pool exclusively meant for employees of the industry; lifts, water pumps, fire-fighting pumps and equipment, street and common area lighting; Research and Development units, dhobi/laundry etc. –

Provided that all such facilities are situated within the same industrial premises and supplied power from the same point of supply;

a.....

.....

m. Stand-alone Research and Development units;

10. MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014 stipulates as:


Change of name and change of tariff category

4.13 *The Distribution Licensee shall intimate the charges to be borne by an applicant for change of name and change of tariff category within seven (7) days of receipt of an application in this regard and shall give effect to it within the following time limits :—*

(a) *change of name shall be effected within the second billing cycle on receipt of an application and payment of necessary charges.*

(b) *change of category for use of supply in reference of Tariff schedule shall be effected within the second billing cycle on receipt of application and payment of necessary charges.*

11. The records, pleadings and submissions of both parties have been carefully examined. The principal issue that arises for consideration is whether the Respondent was obligated to implement tariff reclassification suo- motu from 01.04.2020 or whether such reclassification is dependent upon a formal request from the consumer, particularly in a situation where the consumer stands to benefit from such reclassification.


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Secretary
Electricity Ombudsman Mumbai




The following aspects emerge from consideration of the matter:

12. **Regulatory Obligation vis-à-vis Consumer Responsibility:** Although the Tariff Order in Case No. 322 of 2019 introduced applicability of Industrial Tariff to standalone Research and Development units, implementation of tariff classification and reclassification continues to be governed by the applicable Supply Code Regulations, which prescribe a defined procedure for effecting such changes. Provisions under Supply Code and Standard of Performance Regulation, 2021 specifically contemplate change of category (which is to the benefit of the consumer) upon receipt of application and payment of prescribed charges. The obligation to disclose the nature and purpose of usage fundamentally rests upon the consumer.


13. Tariff reclassification which amounts to a concession or benefit to the consumer can be effected only upon the consumer's declaration of the actual usage and subsequent verification by the Distribution Licensee. Neither the Electricity Act, 2003 nor the MERC Regulations require the Distribution Licensee to independently ascertain changes in consumer activities. Admittedly, no application seeking reclassification was submitted until March 2024 through the WSS portal. Billing continued based upon the records available with the Respondent and the declared consumer category. Consequently, application of Industrial tariff from the April 2024 billing cycle cannot be said to be inconsistent with the regulatory framework. The contention of the Appellant that the tariff order automatically mandates retrospective application and refund, irrespective of procedural compliance, cannot be accepted. A Tariff Order determines applicability and rates, whereas the Supply Code prescribes the procedure for operational implementation. In the absence of timely declaration and application seeking reclassification, the claim for retrospective revision and refund for the prior period does not sustain.

14. The Impugned Order passed by the Forum does not warrant interference and is accordingly upheld. The Representation is rejected and disposed of accordingly.

Sd/
(Vandana Krishna)
Electricity Ombudsman (Mumbai)


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai




(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

