

# BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

## REPRESENTATION NO. 28 OF 2026

In the matter of retrospective refund of tariff difference from  
commercial to industrial tariff category

Lupin Limited (Previous Occupier) ..... Appellant  
(CLR Facility Services P. Ltd.: Present Consumer)  
(Con. No. 160220784026)

V/s.

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

Appearances:

Appellant : 1. Deepak Ghogre, General Manager  
2. Pramod Kulkarni, Deputy General Manager  
3. Ramya Shrinivas, Deputy General Manager  
4. Amit Bhagat, Sr. Manager  
5. Risita Gandhi, Manager

Respondent: 1. N. N. Thite, Executive Engineer, Shivajinagar Dn.  
2. P. P. Dandge, Addl. Executive Engineer


**Coram: Vandana Krishna [IAS (Retd.)]**

Date of hearing: 15<sup>th</sup> May 2026

Date of Order: 8<sup>th</sup> June 2026

## ORDER

This Representation was filed on 24<sup>th</sup> April 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 7<sup>th</sup> January 2026 in Case No.20/2025 passed by the Consumer Grievance Redressal Forum, MSEDCL, Pune (the Forum). The Forum rejected the grievance application.

  
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2. The Appellant has filed this representation against the order of the Forum. A physical hearing was held on 15.05.2026. Both parties were heard at length.

3. The Appellant's submissions and arguments are stated below: *[The Electricity Ombudsman's observations are recorded under 'Notes'.]*

- (i) The Appellant, Lupin Limited, is a tenant of landlord Punit Balan under a leave and license agreement executed on 3<sup>rd</sup> December 2015 for the period from 01.12.2015 to 30.11.2020, which has subsequently been extended for a further period up to December 2023. Thereafter, the Appellant vacated and handed over the premises to the owner. Simultaneously, the Appellant addressed a letter to the Respondent intimating the same. The Appellant, engaged in pharmaceutical research and development activities, used to operate its Research and Development (R&D) Unit from this rented premises situated at Unit 6, "A" Wing, Sai Trinity Complex, Pashan, Pune. The building complex mostly houses offices, and consists of 3 wings – A, B and C, each a G + 6 structure. The Appellant owns its premises at A wing on the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> floors, and occupies rental premises at A wing on the 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> floors, at B wing on the 5<sup>th</sup> floor, and at C wing on the 6<sup>th</sup> floor.
- (ii) The said R&D Unit is recognized as an in-house Research & Development facility by the Department of Scientific and Industrial Research (DSIR), Ministry of Science and Technology, Government of India, and is also registered with the Central Drugs Standards Control Organization (CDSCO). Its particulars are tabulated below.


Table 1:

Name of Consumer	Consumer No.	Address on Bill	Sanc. Load /Contract Demand	Date of Supply	Application applied online for Change of Tariff Category	Tariff Change Effected	Retrospective refund claimed
Lupin Ltd.	160220784026	Unit 6, Wing A, Sai Trinity, S.No.143/2/1A2 B/1148/2/1BN Pune	167.56 kW / 112 kVA	27.12.2007	On 29.07.2023 from Commercial to Industrial	Aug. 2023 bill from Comm. to industrial	Rs.47,41,140/- from April 2020 to July. 2023
Note:	<p>1. The electricity connection was originally released in the name of Smt. Sawhney Pushpa K. on 27.12.2007 and continued in the said name up to August 2016 as per CPL.</p> <p>2. Thereafter, the consumer's name was changed to Lupin Ltd., from Sep. 2016 and the connection continued in that name up to October 2024, as reflected in the Consumer Personal Ledger (CPL).</p> <p>3. The records indicate that Lupin Ltd. occupied the premises as a tenant during the period from 01.12.2015 to December 2023.</p>						

  
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- (iii) Prior to April 2020, the Appellant's R&D Unit was categorized under the Commercial tariff category; however, pursuant to the Tariff Order passed by MERC in Case No. 322 of 2019 dated 30.03.2020, independent R&D units were re-categorized under the Industrial Tariff Category to promote research and development. The said Tariff Order was implemented by MSEDCL through Commercial Circular No. 323 dated 03.04.2020, making the revised tariff applicable from 01.04.2020 onwards. The R&D category has been continued under the Industrial Tariff Category in further subsequent tariff orders of the Commission till date.
- (iv) Despite the above statutory mandate, the Respondent continued to levy tariff on the Appellant's R&D Unit under the Commercial Tariff Category from 01.04.2020 onwards, contrary to the Tariff Orders of the Commission.
- (v) An online application for a change of tariff category from Commercial to Industrial was submitted on 29<sup>th</sup> July 2023. On the same date, the Appellant addressed a letter to the Executive Engineer, Shivaji Nagar Division, Pune, pointing out the incorrect tariff categorization. Following this representation, MSEDCL rectified the tariff category in the August 2023 billing cycle onwards, thereby acknowledging the error. However, MSEDCL failed to refund the excess amount recovered during the prior period. The Appellant has claimed retrospective refund amounting to approximately Rs. 47,41,140/- for the period spanning from April 2020 to August 2023. *[Note: When asked during the hearing why the Appellant did not apply online earlier, i.e. in 2020, 2021 or 2022, it replied that it was partly due to ignorance and partly due to Covid- 19 Pandemic.]*
- (vi) The Appellant continuously pursued the matter through various correspondence dated 04.03.2024, 02.05.2024, 30.08.2024, 23.09.2024, and 05.03.2025. Subsequently, the Appellant issued a legal notice dated 23.05.2025 seeking compliance with the Commission's Tariff Order in Case No. 322 of 2019, alongside the refund of the excess recovery arising from the incorrect tariff categorization.
- (vii) The Appellant was constrained to file a Complaint dated 26.05.2025 before the Internal Grievance Redressal System of MSEDCL. However, MSEDCL failed to provide any response to the said complaint within the stipulated time period, compelling the Appellant to seek further redressal in accordance with law.


  
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(viii) Aggrieved by the continued inaction of MSEDCL, the Appellant filed a grievance before the Forum on 14.08.2025 seeking retrospective refund of the tariff difference arising from incorrect categorization under the Commercial tariff instead of the Industrial tariff category. However, vide the Impugned Order dated 07.01.2026, the Forum rejected the grievance, holding that tariff change could not be granted retrospectively. Being aggrieved by the said findings, which are contrary to the Tariff Order, 2020 and applicable statutory provisions, the Appellant has filed the present Representation.

### **Grounds for Challenge**

- (ix) **Error in Holding that Tariff Reclassification can be Granted only Prospectively:** 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 and MSEDCL Circular mandating implementation from the said date. The reclassification was automatic in nature and binding upon MSEDCL from the effective date specified by the Commission. (In Noida Power Co. Ltd. v. UPERC (Appeal No. 98 of 2021 dated 28.11.2025), APTEL reaffirmed that tariff orders are quasi-judicial, final, and binding unless set aside by an appellate authority.)
- (x) **Failure to Consider Evidence Establishing R&D Activity:** 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.
- (xi) **Error in Denying Relief for Prior Period despite Continuing Cause of Action:** The Forum erred in denying relief for the period prior to August 2023 without appreciating that excess recovery due to incorrect tariff categorization constitutes a continuing wrong giving rise to a recurring cause of action. Further, correction of tariff from August 2023 onwards itself amounts to acknowledgment of the earlier error.
- (xii) **Failure to Apply Section 62 of the Electricity Act, 2003 and Applicable Regulations:** 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.


  
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- (xiii) As per Section 62(6) of the Electricity Act, 2003, tariff orders are legally binding and excess recoveries must be refunded with interest. The MERC Tariff Order 2020 statutorily reclassified standalone R&D units from Commercial to Industrial effective April 01, 2020, **requiring automatic, suo motu implementation by MSEDCL**. Because the Appellant's R&D activities remained constant, regulations on "change of use" are inapplicable. Furthermore, the order coincided with the COVID-19 lockdown, during which the Appellant prioritized essential medicine production and approached MSEDCL at the first reasonable opportunity. **MSEDCL's practice of automatically levying higher tariffs while placing procedural hurdles on refunds is arbitrary**; it cannot use the argument of lack of an application to deny this statutory refund from April 01, 2020.
- (xiv) The monthly consumption ranged between 10,000 and 20,000 units, with corresponding monthly bills varying from approximately Rs. 1,00,000/- to Rs. 3,50,000/-. The Appellant calculated the retrospective tariff differential for the period from 01.04.2020 to 31.08.2023 at approximately Rs. 47,41,140/-.
- (xv) In view of the above, the Appellant prays that the Respondent be directed to refund the excess amount of Rs. 47,41,140 /- wrongfully recovered under the LT-II 'Commercial' Tariff Category (instead of Industrial) for the period from April 1, 2020, to August 31, 2023 with interest calculated at 1.25% per month from the date of incorrect levy of tariff till the date of payment or realization thereof.

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

- (i) The Appellant - Occupier, has been a three-phase consumer (No. 160220784026) since 27.12.2007. The details regarding the electricity connection, inspection, and the subsequent change of tariff category to "Industrial" (effective August 2023) are detailed in Table 1. To the Respondent's knowledge, the connection has been utilized for Research and Development (R&D) purposes from August 2023 to December 2023 by "Lupin Limited" as Tenant. After December 2023, the premises were vacated by the Appellant.
- (ii) An online application for a change of tariff category from Commercial to Industrial was submitted on 29.07.2023. On the same date, the Appellant addressed a letter to the Executive Engineer, Shivaji Nagar Division, Pune, pointing out the incorrect


  
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tariff categorization. Following this representation, MSEDCL rectified the tariff category from the August 2023 billing cycle onwards, thereby acknowledging the error. However, because MSEDCL failed to refund the excess amount recovered during the prior period, the Appellant has claimed a retrospective refund amounting to approximately Rs. 47,41,140/- for the period spanning from April 2020 to August 2023.

### **Background of the Case**


- (iii) The Respondent categorically denies the Appellant's assertion that the recent tariff reclassification constitutes an "acknowledgment of a prior error." The classification applied prior to August 2023 was entirely consistent with the records in effect at that time.
- (iv) Legal Position on Retrospective Refund: The Appellant's claim for a retrospective refund of approximately Rs. 47,41,140/- (covering April 2020 to August 2023) is legally untenable. This demand is barred by the statute of limitation and contravenes the regulatory framework governing retrospective tariff revisions; consequently, the Respondent bears no liability for refunds pertaining to the period preceding the formal submission of the application, **as no site inspections were available** and the Respondent did know that the Appellant (Lupin) was the tenant of Shri S Balan (original consumer). Landlords frequently change their tenant, and some tenants also change the use. 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.
- (v) On August 14, 2025, the Appellant filed a grievance before the Forum seeking a refund of the tariff differential, citing the use of the premises for Research and Development (R&D) activities. In support of this claim, the Appellant alleges that prior applications for this reclassification were submitted to various offices, including the Regional Director, Chief Engineer, and Superintending Engineer—without receiving a response. However, he was not entitled for retrospective change of tariff category and hence the claims were rejected. *[Note: The Respondent should at least have replied to the Appellant, instead of staying silent, as a part of consumer – responsive work culture.]*

  
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**Submissions on merit:**

- (vi) **Basis of Initial Tariff Classification:** At the time of supply in 2010, the connection was categorized and billed under the LT–Commercial tariff, a classification based on the consumer's declared purpose of use, site verification reports, and the specific consumer duty code (71-06), applicable to commercial consumers in metro cities with loads exceeding 50 kW. Pursuant to the MERC Tariff Order dated 30.03.2020 (Case No. 322 of 2019) and the Electricity Supply Code, tariff classification is strictly governed by the nature of the activity conducted at the premises. **MSEDCL maintains that it cannot ascertain changes in activity without formal intimation or an application from the consumer, which can be verified on site.**
- (vii) **Consumer’s Obligation to Declare Change of Use:** Under Regulation of the MERC (Electricity Supply Code and Standards of Performance) Regulations, 2021, the responsibility lies with the consumer to declare the correct nature of use and to promptly notify the licensee of any operational changes. MSEDCL records confirm that no application for a category change from commercial to industrial was submitted by the consumer between April 2020 and July 2023.
- (viii) **Verification and Prospective Reclassification:** Following the consumer’s application in 2023, a spot verification for consumer no. 160220784026 was conducted on 14/08/2023. This inspection confirmed that the premises were utilized for Research and Development (R&D) activities, qualifying for the LT–Industrial tariff. Consequently, the tariff category was revised to LT–Industrial, effective from August 2023, in full compliance with the regulatory framework.
- (ix) **Regulatory Framework and Legal Precedent Regarding Refunds:** As per 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.
- (x) Accordingly, the Respondent submits the following legal positions:
- **Prohibition of Retrospective Reclassification:** As affirmed by the Hon’ble APTEL in *MSEDCL v. MERC* and *Torrent Power Ltd. v. GERC*, tariff

  
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reclassification and refunds for past periods are not permissible without specific direction from the Commission or a competent court.

- **Binding Nature of Declarations:** As held by the Hon'ble Supreme Court in its Judgment dated 15.05.2007 in *Southern Petrochemical Industries Co. Ltd. v. Electricity Inspector*, a consumer is bound by their declared purpose of use.
- **Statutory Billing:** As established in Judgment dated 19.05.2023 in *K.C. Ninan v. Kerala State Electricity Board (2023)*, of Civil Appeal No. 2109-2110 of 2004, billing and recovery are strictly governed by statute, and any claim for refund must have a clear legal basis.


(xi) The Respondent by its letter dated 13.05.2026 filed additional submissions regarding the claim for tariff reclassification and refund.

- The consumer never submitted any application, via the MSEDCL WSS Portal to change the category from Commercial to Industrial.
- **Prospective Implementation:** As per Regulation 8(i) of the *MERC (Electricity Supply Code) Regulations, 2014* (and analogous provisions in the 2021 Regulations), a change in tariff category becomes effective from the next billing cycle following the date of the consumer's application. Accordingly, as the application was received on 29.07.2023, the tariff change was correctly implemented effective from Aug. 2023 billing cycle.

(xii) In view of the above, the Respondent prays that the Representation of the Appellant be rejected.

## Analysis and Ruling

5. 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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6. The Appellant contended that its Research and Development (R&D) unit is a standalone facility duly recognized by DSIR and CDSCO. 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 motu. Consequently, failure to apply the correct tariff allegedly resulted in excess recovery of Rs. 47.41 lakhs, for which refund with interest has been claimed.

7. 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 in July 2023, tariff revision was rightly implemented from the August 2023 billing cycle.

8. 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 seeking change of tariff category until July 2023. The Respondent's records (Table 1) give no indication of any R& D activity which the Respondent can be reasonably expected to pick up suo moto or through its software. The building complex houses mostly offices / commercial space, and the Respondent cannot be reasonably expected to know where any R & D activities might be going on.

  
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This issue was discussed in detail during the hearing. Since these premises were occupied prior to 2020 (when the benefit of ‘industrial’ classification was granted to stand-alone R&D units), there was no question (or benefit) of applying for tariff change at that point. This benefit started only from April 2020, but the Appellant, in its initial ignorance, defaulted in applying for it in time.

No change of tariff was applied till July 2023. Some premises in these buildings continue to be ‘commercial’ while the premises occupied by the Appellant became ‘industrial’. It is noteworthy that, under normal viewing, all these premises would look alike, i.e. offices with computers, and not any industrial or lab machinery. R&D activity is not visible or apparent at first glance. In these circumstances, any ‘industrial’ categorization must be informed and applied for specifically by a consumer.

9. 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.**

10. 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:*

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

11. 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:***

***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;***

12. 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.

The following aspects emerge from consideration of the matter:

• **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.

13. **Requirement of Procedural Compliance:** Regulation 4.13 of the 2014 Regulations and corresponding provisions under the 2021 Regulations specifically contemplate change of

  
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category upon receipt of application and payment of prescribed charges. The obligation to disclose the nature and purpose of usage fundamentally rests upon the consumer.


14. **Effective Date of Reclassification:** Tariff reclassification necessarily follows consumer declaration and subsequent verification by the Distribution Licensee. Neither the Electricity Act, 2003 nor the applicable MERC Regulations cast an obligation upon the Distribution Licensee to independently monitor internal operational activities of consumers and undertake tariff revisions without formal intimation.

15. **Admittedly, no application seeking reclassification was submitted until July 2023.** Prior thereto, billing continued based upon the records available with the Respondent and the declared consumer category. Consequently, implementation of Industrial tariff from the August 2023 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.

16. Another important issue is that the Appellant's application to the Forum was time barred. The Appellant approached the Forum on 14.08.2025 seeking retrospective refund for the period from April 2020 to August 2023. The applicable Regulations provide that a grievance shall be filed within two years from the date on which the cause of action has arisen. Even considering continuous / on – going cause of action, only the period from August 2023 onwards could have been considered by the Forum.

Regulation 6.6 / Regulation 7.8 of the CGRF & EO Regulations, 2006/2020 provides as under:

*“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.”*

  
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17. In view of the foregoing discussion, this Authority finds no infirmity in the findings recorded by the Forum. The Representation lacks merit and does not warrant interference. The Representation filed by Lupin Limited stands rejected, and is disposed of accordingly.

18. The Secretariat of this Office is directed to refund the deposit amount of Rs.25,000/- to the Respondent for adjustment in the ensuing electricity bills of the Appellant.

Sd/  
(Vandana Krishna)  
Electricity Ombudsman (Mumbai)



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