

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 11 OF 2026

In the matter of change in tariff category

Avarya Retail Pvt. Ltd. (User – Occupier) Appellant
M. J. Infotech Co. (Original Consumer) (No.000149032920)

V/s.

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

Appearances

Appellant : 1. Upeen S. Gala, Manager
2. Rohan Salunkhe, Representative

Respondent : 1. J.D. Ambade, Addl. Ex.Engineer, I/C Ex.Engr.
2. S.V. Pol, Addl. Ex. Engineer, B&R S/Dn.
3. Prakash Kamble, Asst. Accountant


Coram: Vandana Krishna [IAS (Retd.)]

Date of hearing: 26th May 2026

Date of Order: 8th 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.47/2025-26 passed by the Consumer Grievance Redressal Forum, MSEDCL, Bhandup (the Forum). The Forum dismissed the grievance application of the Appellant.


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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, Avarya Retail Pvt Ltd., is an 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, M.J. Infotech Co., 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(Supply Code & SoP Regulations 2021). The Appellant has consistently fulfilled all payment obligations toward the electricity bills associated with this connection.
- (ii) The Appellant–Occupier, Avarya Retail Pvt. Ltd., is a three-phase consumer bearing Consumer No. 000149032920. Details of the electricity connection and change of tariff category to “Industrial” with effect from August 2024 are provided in Table 1. The particulars of the said consumer are tabulated below.

Table 1:


Name of Consumer	Name of User/ Occupier	Consumer No.	Address on Bill	Sanc. Load /Contract Demand	Date of Supply	Industrial activity Started	Online Application applied for Change of Tariff Category	Date of Inspection	Tariff Change Effected	Retrospective refund claimed
M.J. Infotech Co.	Avarya Retail Pvt. Ltd.	000149032920	Plot No. EL-223, TTC-MIDC Industrial Area, Mahape, Navi Mumbai	200.01 kW / 100 kVA	25.10.2007	From 25.02.2022	On 17.07.2024 from Commercial to Industrial	29.07.2024	Nov. 2024 bill onward from Comm. to Industrial with consequential retrospective refunded from Aug' 24 to Oct.'24.	From 25.02.2022 to July 2024

- (iii) The Appellant has submitted all necessary documents supporting its claim for Industrial tariff applicability, including the certificates pertaining to industrial activities, copy of MIDC subletting permission dated 25.02.2022. A hard copy of the application submitted to MSEDCL on 21.09.2023, seeking change of tariff category from Commercial to Industrial along with other relevant supporting documents is on record.


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- (iv) The Appellant further contended that MSEDCL wrongly and illegally issued monthly electricity bills under Commercial tariff during the period from 25.02.2022 to August 2024 and recovered excess charges by applying an incorrect tariff category. In view of the applicable MERC Tariff Orders and MSEDCL Commercial Circulars, Industrial tariff ought to have been applied since the electricity supply was being utilized exclusively for manufacturing activities from 25.02.2022 onwards.
- (v) There was no requirement to submit a formal application to the Respondent for applicability of the correct tariff category. Nevertheless, the Appellant, vide letter dated 21.09.2023, requested for correction of the tariff category from Commercial to Industrial and submitted statutory documents relating to industrial activity, including registration of manufacturing activity on the portal of the Ministry of Micro, Small and Medium Enterprises showing the date of commencement as 23.02.2022 in the name of Avarya Retail Pvt. Ltd. However, the Respondent neither responded to the said request nor effected the change in tariff category.
- (vi) The activity of the Appellant is food processing which comes under Industrial tariff category from 23.02.2022 onwards; however, the Respondent continued to levy Commercial Tariff Category on the Appellant's industrial unit. Accordingly, billing under the Commercial Tariff Category during the above period resulted recovery of excess amount through application of an incorrect tariff.
- (vii) An online application for change of tariff category from Commercial to Industrial was submitted on 17.07.2024. MSEDCL changed the tariff category to Industrial from the Oct. 2024 billing cycle onwards. [Note: Later this was applied from August 2024.]. However, the excess amount recovered for the earlier period was not refunded.
- (viii) Aggrieved thereby, the Appellant filed a grievance before the Forum on 02.07.2025 seeking retrospective refund of tariff difference between Commercial and Industrial categories and additionally requested **consideration of the alleged hard-copy application dated 21.09.2023** submitted to MSEDCL seeking change of tariff category from Commercial to Industrial along with supporting documents. However, vide the Impugned Order dated 15.12.2025, the Forum dismissed the grievance holding that tariff change could not be granted retrospectively.


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Grounds for Challenge

- (i) The Forum erred in holding that tariff reclassification of the Appellant's Industrial Unit under the Industrial Tariff Category could be granted only prospectively despite the Tariff Order of the Commission in Case No. 322 of 2019 dated 30.03.2020 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 date of starting industrial activity i.e., 25.02.2022.
- (ii) The Forum erred in denying relief for the period prior to Aug. 2025 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 September 2023 onwards itself amounts to acknowledgment of the earlier error.
- (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.
- (iv) As per Section 62(6) of the Electricity Act, 2003, tariff orders are legally binding and excess recoveries must be refunded with interest.
- (v) The monthly consumption ranged between 15,000 and 27,000 units, with corresponding monthly bills varying from approximately Rs. 2,00,000/- to Rs. 3,00,000/-.
- (vi) The Appellant relies 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).


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- **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 25.02.2022 to July 2024, or as per the revised prayer from 21.09.2023 to July 2024 with interest.

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

(i) The Appellant–Occupier, M/s. Avarya Retail Pvt. Ltd. is using electricity supply under Consumer No. 000149032920, which is a three-phase connection. Details regarding the electricity connection and subsequent change of tariff category to “Industrial” w.e.f. August 2024 are provided in Table-1. As per the Respondent’s records, the premises have been used by M/s. Avarya Retail Pvt. Ltd., as tenant, for food processing activities from August 2024 onwards. The earlier use was commercial, as per the records (Table 1).


Limitation and Maintainability:

(ii) The present claim is 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 28.07.2020. Accordingly, the claim relating to the period prior to two years from filing of grievance is time-barred and liable to be rejected.

(iii) **Further, the Appellant subsequently altered its prayer before the Ombudsman by seeking refund from 25.02.2022 on the ground that manufacturing activity**


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commenced from that date, whereas before the Forum, the Appellant claimed that manufacturing activity had commenced from 28.07.2020. These inconsistent stands clearly indicate that the Appellant has not approached this Authority with clean hands. Further, during the course of arguments, the Appellant again modified its stand and sought refund from 21.09.2023 on the basis of alleged hard-copy intimation submitted to the Respondent without filing an application through the prescribed Web Self Service (WSS) portal, despite such online application being a statutory requirement under the applicable Standards of Performance Regulations since 2016 onwards.

Reply on Merits:

- (iv) The subject electricity connection bearing Consumer No. 000149032920 was originally released on 25.10.2007 in the name of Dr. Madan Mohan Mahendra at Plot No. EL-223, TTC MIDC, Mahape, Navi Mumbai for commercial use, as specifically requested by the consumer and verified by the Respondent at the time of release of supply. Accordingly, LT-II Commercial tariff was applied from inception and continued thereafter. Subsequently, in May 2017, the connection was transferred in the name of M/s. M.J. Infotech Co. while retaining the same LT-II Commercial tariff category.
- (v) As on date, the supply continues in the name of M/s. M.J. Infotech Co. The present Appellant, namely M/s. Avarya Retail Pvt. Ltd., is not the registered consumer of the Respondent and therefore lacks locus standi to seek retrospective relief. Since release of supply, electricity bills were continuously issued under LT-II Commercial tariff and were paid without protest or objection.

Application for Tariff Change and Subsequent Action:

- (vi) The Appellant, for the first time, applied for change of tariff category from commercial to industrial through the WSS Portal on 17.07.2024. Pursuant thereto, an inspection was carried out on 29.07.2024 wherein it was observed that the premises were being used for food processing activities. Accordingly, proposal for tariff change was forwarded to competent authority on 29.07.2024 and, after approval by the competent authority, tariff category was changed from LT-II Commercial to LT-V Industrial initially with effect from October 2024 billing cycle. Tariff difference for the period August 2024 to October 2024 was later adjusted in the December 2024 bill.


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Responsibility for Seeking Tariff Change:

- (vii) The supply was originally sanctioned for commercial use and there was nothing on record to indicate that supply was used for industrial purpose. Therefore, billing under LT-II Commercial tariff continued lawfully. If there is change in purpose / usage, it is incumbent upon the consumer to intimate the Respondent and apply for change of tariff category. The present case is not one involving reclassification of tariff or creation of a new tariff category but merely change in usage by the consumer itself.
- (viii) The Appellant alleges occupation of premises from July 2020. However, neither any rental agreement, nor change of name nor tariff category application was submitted at that stage. It is the consumer who possesses relevant documents, certifications and information relating to business activities, and therefore responsibility to seek tariff change rests upon the consumer itself.
- (ix) The Appellant seeks retrospective application of LT-V Industrial tariff from July 2020 despite not submitting any application during the relevant period. **There existed no mechanism for the Respondent to independently ascertain exact usage during July 2020 to July 2024 without specific application and supporting documents.** Upon receipt of the application dated 17.07.2024, the Respondent promptly processed the request and implemented tariff change within the prescribed timeline. Delay in seeking tariff change occurred solely due to consumer's own omission and negligence. Therefore, the Respondent cannot be held liable for any alleged loss arising from the delayed intimation. Had the consumer applied during the relevant period, the Respondent would have had the opportunity to verify actual usage and determine applicability of tariff contemporaneously. **Mere production of certificates at a later stage cannot conclusively establish industrial usage for past periods.**
- (x) Allowing retrospective application in such circumstances would amount to unjust enrichment and create an avoidable financial burden.

Regulatory Position:


- (xi) **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


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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.

- (xii) In the present case, the Appellant submitted an (online) application on 17.07.2024 and tariff change was approved and implemented from August 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.
- (xiii) The Appellant is not entitled to retrospective application of tariff category from July 2020 or any earlier date. The claim is barred by limitation, unsupported by contemporaneous evidence and contrary to the applicable regulatory framework.
- (xiv) The Appellant filed the grievance before the Forum on 02.07.2025 seeking refund of tariff difference retrospectively from 28.07.2020. The Forum has already passed a reasoned order after considering all relevant issues and therefore no interference is warranted.
- (xv) 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.


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- (xvi) MSEDCL has already established a Consumer Facilitation Centre at Circle Offices, including Vashi Circle, for more than the last 15 years for consumer assistance and service delivery. The Appellant could have used its services to apply online earlier.
- (xvii) 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. The principal issue arising for consideration is whether the Appellant is entitled to retrospective application of Industrial tariff and consequential refund of tariff difference for the period prior to submission of a formal application for tariff change. The subject electricity connection bearing Consumer No. 000149032920 was originally released on 25.10.2007 under LT-II Commercial tariff based upon the declared purpose of use and continued under the said category thereafter. The connection presently continues in the name of M/s. M.J. Infotech Co.

5. The Appellant contended that Industrial tariff ought to have been applied retrospectively from commencement of manufacturing activity, and that a separate application for tariff change was not necessary.

6. 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 :—*


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(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.

7. 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.

8. 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 01.09.2023 (the date of hard copy application) or whether such reclassification is dependent upon a formal / online request from the consumer.

9. **Requirement of Procedural Compliance:** Regulation 4.13 of the 2014 Regulations and corresponding provisions under the 2021 Regulations specifically contemplate change of tariff category upon receipt of application **through the prescribed WSS Portal and payment of necessary charges.** MSEDCL has already established a Consumer Facilitation Centre at Circle Offices, including Vashi Circle, for more than the last 15 years for consumer assistance and service delivery. Therefore, the obligation to disclose the nature and purpose of usage and seek appropriate tariff categorization fundamentally rests upon the consumer.

10. **Effective Date of Reclassification:** Tariff reclassification necessarily follows consumer declaration and subsequent verification by the Distribution Licensee. Neither the


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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.

11. **Admittedly, no application seeking reclassification was submitted online through WSS portal until 17.07.2024.** An offline application is not allowed under the Regulations. 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 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.

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

Sd/
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