

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 40 OF 2026

In the matter of recovery of wrongly allowed agricultural subsidy

Kishor Sambhaji Khamkar. Appellant
(Con. No. 253022015287)

V/s.

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

Appearances:

Appellant : Kishor Sambhaji Khamkar

Respondent: 1. Vijaykumar Adake, Executive Engineer, Jaysingpur Dn.
2. K.L. Shaikh, Jr. Law Officer, Kolhapur Circle


Coram: Vandana Krishna [I.A.S. (Retd.)]

Date of hearing: 5th May 2026

Date of Order : 13th May 2026

ORDER

This Representation was filed on 14th March 2026 under Regulation 19.1 of the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations, 2020 (CGRF & EO Regulations 2020) against the order dated 11th March 2026 in Case No. 06 of 2026 passed by the Consumer Grievance Redressal Forum, Kolhapur Circle (the Forum). The Forum by its order rejected the grievance application of the Appellant with the following direction.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



“2. The complainant may approach the Government of Maharashtra for deciding applicability of Regular direct subsidy to it.”

2. Preamble:

The following Tariff Orders issued by the Maharashtra Electricity Regulatory Commission have dealt with and clarified the issues involved in the present Representation. The relevant extracts from the said Tariff Orders are reproduced herein below for proper appreciation and clear understanding of the issues relating to applicability of tariff, consumer categorization, etc.

(A) MERC TARIFF ORDER in Case of 322 of 2019 dated 30.03.2020 with effect from 01.04.2020:

➤ **LT IV: Agriculture LT IV (A): LT - Agriculture Un-metered - Pumpsets**

Applicability: This tariff category is applicable for motive power supplied for Agriculture metered pumping loads, and for one lamp of wattage up to 40 Watt to be connected to the motive power circuit for use in pump-houses at Low/Medium Voltage.

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Tariff w.e.f. 1 April, 2022 to 31 March, 2023

Rate Schedule			
<i>Tariff w.e.f. 1 April 2022 to 31 March 2023</i>			
Consumer Category	Fixed / Demand Charge (Rs/ HP/ month)	Wheeling Charge (Rs/HP/Month)	Energy Charge (Rs/kWh)
LT IV (A): LT - Agriculture Un-metered Tariff - Pumpsets			
<i>Category I Zones*</i>			
<i>(a) 0-5 HP</i>	359	135	<i>Nil</i>
<i>(b) > 5 HP and ≤ 7.5 HP</i>	387	135	<i>Nil</i>
<i>(c) > 7.5 HP</i>	435	135	<i>Nil</i>

➤ **LT IV (B): LT – Agriculture metered – Pumpsets**

Applicability: This tariff category is applicable for motive power supplied for Agriculture metered pumping loads, and for one lamp of wattage up to 40 Watt to

be connected to the motive power circuit for use in pump-houses at Low/Medium Voltage.

It is also applicable for power supply for cane crushers and/or fodder cutters for self-use for agricultural processing operations, but not for operating a flour mill, oil mill or expeller in the same premises, either operated by a separate motor or a change of belt drive.


Rate Schedule			
Tariff w.e.f. 1 April, 2022 to 31 March, 2023			
Consumption Slab (kWh)	Fixed/ Demand Charge (Rs/ HP/ month)	Wheeling Charge (Rs/kWh)	Energy Charge (Rs/kWh)
All Units	43	1.35	1.95

➤ **LT IV (C): LT – Agriculture – Others**

Applicability: This tariff category is applicable for use of electricity / power supply at Low / Medium Voltage for:

- Pre-cooling plants** and cold storage units for Agricultural Products as defined under APMC Act, 1963 – processed or otherwise;
- Poulties...
- High-Technology Agriculture (i.e. Tissue Culture, Green House, Mushroom cultivation activities)**, provided the power supply is exclusively utilized for purposes directly concerned with the crop cultivation process, and not for any engineering or industrial process;
- Floriculture, Horticulture, Nurseries, Plantations, Aquaculture, Sericulture, Cattle Breeding Farms, etc;**
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Rate Schedule			
Tariff w.e.f. 1 April, 2022 to 31 March, 2023			
Consumption Slab (kWh)	Fixed/ Demand Charge (Rs/ HP/ month)	Wheeling Charge (Rs/kWh)	Energy Charge (Rs/kWh)
All Units	117.00	1.35	3.29


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(B) MERC TARIFF ORDER in Case of 226 of 2022 dated 01.04.2023 with effect from 01.04.2023:

(Note: There were some changes were introduced in this Tariff Order, particularly whereby the categories of **Floriculture, Horticulture, Nurseries, and Plantations** were shifted from **LT IV (C): LT – Agriculture – Others tariff category** to **LT IV (B): LT – Agriculture Metered – Pump Sets tariff category** as follows.)

➤ **LT IV (A): LT - Agriculture Un-metered - Pumpsets**

Applicability: This tariff category is applicable for motive power supplied for Agriculture un-metered pumping loads, and for one lamp of wattage up to 40 Watt to be connected to the motive power circuit for use in pump-houses at Low/Medium Voltage.

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<i>Tariff w.e.f. 1 April 2023 to 31 March 2024</i>			
Consumer Category	Fixed / Demand Charge (Rs/ HP/ month)	Energy Charge (Rs/kWh)	Wheeling Charge (Rs/HP/Month)
LT IV (A): LT - Agriculture Un-metered Tariff - Pumpsets			
<i>Category 1 Zones*</i>			
<i>(a) 0-5 HP</i>	<i>466</i>	<i>Nil</i>	<i>117</i>
<i>(b) > 5 HP and ≤ 7.5 HP</i>	<i>506</i>	<i>Nil</i>	<i>117</i>
<i>(c) > 7.5 HP</i>	<i>566</i>	<i>Nil</i>	<i>117</i>

➤ **LT IV (B): LT – Agriculture metered - Pumpsets**

Applicability: This tariff category is applicable for motive power supplied for Agriculture metered pumping loads for irrigation purposes, and for one lamp of wattage up to 40 Watt to be connected to the motive power circuit for use in pump-houses at Low/Medium Voltage.

This tariff is also applicable for floriculture, horticulture, nursery and plantation. It is also applicable for power supply for cane crushers and/or fodder cutters for

self-use for agricultural processing operations, but not for operating a flour mill, oil mill or expeller in the same premises, either operated by a separate motor or a change of belt drive.

LT IV B			
Rate Schedule			
Tariff w.e.f. 1 April, 2023 to 31 March, 2024			
Consumption Slab (kWh)	Fixed / Demand Charge (Rs/ HP/ month)	Energy Charge (Rs/kWh)	Wheeling Charge (Rs/kWh)
All Units	47	3.00	1.17


➤ **LT IV (C): LT – Agriculture – Others**

Applicability: This tariff category is applicable for use of electricity / power supply at Low / Medium Voltage for:

- Pre-cooling plants
- Poulties.....
- High-Technology Agriculture (i.e. **Tissue Culture**, Green House, Mushroom cultivation activities Banana Ripening), provided the power supply is exclusively utilized for purposes directly concerned with the crop cultivation process, and not for any engineering or industrial process;

LTIV C			
Rate Schedule			
Tariff w.e.f. 1 April, 2023 to 31 March, 2024			
Consumption Slab (kWh)	Fixed/ Demand Charge (Rs/ HP/ month)	Energy Charge (Rs/kWh)	Wheeling Charge (Rs/kWh)
All Units	129	5.06	1.17

(C) MERC TARIFF ORDER in Case of 217of 2024 dated 28.03.2026 with effect from 01.04.2026:


 (Dilip Dumbre)
 Secretary
 Electricity Ombudsman Mumbai



➤ **LT IV (A): LT - Agriculture Un-metered - Pumpsets**

Applicability: This tariff category is applicable for motive power supplied for Agriculture un-metered pumping loads, and for one lamp of wattage up to 40 Watt to be connected to the motive power circuit for use in pump-houses at Low/Medium Voltage.

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Rate Schedule			
<i>Tariff w.e.f. 1 April 2025 to 31 March 2026</i>			
Consumer Category	Fixed / Demand Charge (Rs/ HP/ month)	Energy Charge (Rs/kWh)	Wheeling Charge (Rs/HP/Month)
LT IV (A): LT - Agriculture Un-metered Tariff - Pumpsets			
<i>Category 1 Zones*</i>			
(a) 0-5 HP	675	Nil	154
(b) > 5 HP and ≤ 7.5 HP	719	Nil	154
(c) > 7.5 HP	796	Nil	154

➤ **LT IV (B): LT – Agriculture metered – Pumpsets**

Applicability: This tariff category is applicable for motive power supplied for Agriculture metered pumping loads for irrigation purposes, and for one lamp of wattage up to 40 Watt to be connected to the motive power circuit for use in pump-houses at Low/Medium Voltage. This tariff is also applicable for floriculture, horticulture, nursery and plantation.

This tariff is also applicable for **floriculture, horticulture, nursery and plantation.**

.....
High-Technology Agriculture (i.e. Tissue Culture, Green House, Mushroom cultivation activities Banana Ripening), provided the power supply is exclusively utilized for purposes directly concerned with the crop cultivation process, and not for any engineering or industrial process;

LT IV B			
Rate Schedule			
<i>Tariff w.e.f. 1 April, 2023 to 31 March, 2024</i>			
Consumption Slab (kWh)	Fixed / Demand Charge (Rs/ HP/ month)	Energy Charge (Rs/kWh)	Wheeling Charge (Rs/kWh)
All Units	75	4.28	1.24

➤ **LT IV (C): LT – Agriculture – Others**


Applicability: This tariff category is applicable for use of electricity / power supply at Low / Medium Voltage for:

- a. Pre-cooling plants
- b. Poultryes.....
- c. Aquaculture, Sericulture, Cattle Breeding Farms, Livestock Farming, Indoor Vertical Farming etc;
- d.

LTIV C			
Rate Schedule			
Tariff w.e.f. 1 April, 2023 to 31 March, 2024			
Consumption Slab (kWh)	Fixed/ Demand Charge (Rs/ HP/ month)	Energy Charge (Rs/kWh)	Wheeling Charge (Rs/kWh)
<i>All Units</i>	<i>170</i>	<i>5.43</i>	<i>1.24</i>

The current dispute arose due to the different rates applied for nurseries and for tissue culture in the MERC tariff order dated 01.04.2023, as the Appellant carried out both these activities simultaneously, though predominantly engaged in tissue culture activity.

At this stage it is clarified that in addition to the above-mentioned lower electricity rates applicable to LT IV (A) and LT IV (B) categories {compared to LT IV (C)}, the government also grants additional subsidy only to LT IV (A) and LT IV (B) tariff category (**except floriculture, horticulture, nursery and plantation**), which is not mentioned in the above MERC tariff orders, but is reflected in the monthly electricity bills. While considering the use of the word ‘subsidy’ in the current representation, it is therefore important to understand the distinction between lower or ‘subsidized’ tariff mentioned in the above MERC Orders, and additional government subsidy not mentioned therein.


 (Dilip Dumbre)
 Secretary
 Electricity Ombudsman Mumbai



3. Aggrieved by the order of the Forum, the Appellant has filed this representation. An e-hearing was held on 5th May 2026 through video conferencing. Both the parties were heard at length. The Appellant's submissions and arguments are as below. *[The Electricity Ombudsman's observations and comments are recorded under 'Notes' where needed.]*


- (i) The Appellant has been an LT consumer bearing Consumer No. 253022015287 since 20.03.2021. The particulars of the electricity connection are set out below.

Table 1:

Name of Consumer	Consumer No.	Address	San. Load / Contract Demand	Date of Supply	Activity	Debit bill adjustment towards recovery of subsidy
Kishor Sambhaji Khamkar	253022015287	Gat No137/1, Kothali Shirol, Kolhapur	50.01 HP/ 47 KVA	20.03.2021	Tissue Culture	₹2,97,538/- in Dec. 2025 for the period from Apr. 2023 to Nov. 2025 (32 months)

- (ii) **The Appellant is engaged in the business of manufacturing tissue culture plants, primarily banana tissue culture plants, along with various garden and agricultural plants. According to the Appellant, there has been no change in the nature of activity since the date of release of supply. Tissue culture activity has always been the principal activity, whereas nursery activity, if any, was only incidental or secondary in nature.**
- (iii) Pursuant to the Mid-Term Tariff Review Order passed by the Maharashtra Electricity Regulatory Commission in Case No. 226 of 2022 with effect from April 2023, nursery activities came to be classified under LT-IV (B): Agriculture Metered – Pumpsets. Owing to a prior erroneous classification by the Respondent treating the Appellant's activity as "Nursery", the tariff category was unilaterally changed from LT-IV (C) to LT-IV (B) by the Respondent's software. **Consequently, Government subsidy was mistakenly extended to the Appellant from April 2023 to November 2025 without any application, request, or knowledge on the part of the Appellant.**

- (iv) Thereafter, the Respondent issued a debit adjustment of ₹2,97,538/- in the bill for December 2025 towards alleged recovery of subsidy for the period from April 2023 to November 2025, thereby causing a sudden and substantial increase in the billing amount. Despite repeated approaches and written communications addressed to the Respondent, no satisfactory explanation or reasoned order was provided.
- (v) The Appellant contends that it neither applied for subsidy nor carried out only nursery plantation activity. The incorrect categorization arose solely on account of the Respondent's internal system records. Hence, the grant of subsidy and subsequent recovery are entirely attributable to the Respondent's own error, and no liability can be imposed upon the Appellant.
- (vi) The impugned recovery is ex facie illegal and contrary to Section 56(2) of the Electricity Act, 2003, which bars recovery of any sum after a period of two years from the date it first became due, unless such amount has been continuously shown as recoverable arrears. In the present case, the alleged arrears were never reflected in the bills for the period April 2023 to November 2025, rendering the recovery legally unsustainable.
- (vii) The Appellant further relies upon the following judicial and quasi-judicial precedents:
- Order dated 02.04.2019 of the Electricity Ombudsman in Case No. 60/2019 of Principal, College of Engineering Pune V/s MSEDCL, Application of tariff category was prospective.
 - In the case of MSEDCL vs. Principal, College of Engineering Pune (Writ Petition No. 10536/2019), the Hon'ble Bombay High Court delivered a significant judgment on June 9, 2020, affirming that a distribution licensee cannot recover tariff differences retrospectively.
 - Decision of CGRF, Nashik in Case No. 33/2021, wherein similar retrospective recovery was rejected.
- (viii) In view of the foregoing, the Appellant prays that the Respondent be directed to:
- Withdraw the debit adjustment of ₹2,97,538/-;
 - Refrain from disconnecting the electricity supply on account of the disputed amount;


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



- (c) Cease levying any interest or delayed payment charges thereon;
- (d) Apply the correct tariff category based on actual usage, i.e. tissue culture activity; and
- (e) Award compensation of ₹50,000/- towards mental agony and litigation expenses.

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

- (i) The Appellant is a three-phase LT consumer bearing Consumer No. 253022015287 since 20.03.2021 and **is engaged in tissue culture activity**. The Appellant was initially billed under LT IV C Agricultural – Others tariff category. The particulars of the electricity connection are set out in Table 1.

Preliminary Submissions

- (ii) The present dispute essentially concerns Government subsidy granted under the policy of the Government of Maharashtra relating to agricultural consumers and allied agro-based activities.
- (iii) The Respondent has relied upon the following judicial pronouncements, particularly with regard to eligibility for subsidy, classification of consumer category, authority for recovery of subsidy already granted, and the principles governing retrospective recovery of subsidy.

- (a) The Hon'ble Bombay High Court in Writ Petition No. 6409 of 2024 (MSEDCL vs. Meera Enterprise), by order dated 20.01.2025, observed as under:

“Government of Maharashtra is empowered to grant any subsidy to any consumer category and any dispute related to such direct subsidy needs to be referred to the Government of Maharashtra. It is upon the Government of Maharashtra to clarify any aspect of applicability of subsidy, if there is doubt from the intended beneficiary or implementing agency. The CGRF has no jurisdiction to pass any order in respect of subsidy.”


- (b) The Hon'ble MERC in Case No. 45 of 2024 (M/s. Rattan India Power Ltd. V/s MSEDCL), by order dated 02.12.2025, held as under:

“This Commission has no jurisdiction on the matter of subsidy being granted by the GoM. The Petitioner may approach appropriate department of the GoM who have granted subsidy under Section 65 of the Electricity Act, 2003.”

In view of the aforesaid decisions, the present representation relating to recovery of subsidy does not fall within the jurisdiction of this Hon’ble Ombudsman. The Forum has rightly recorded the said position and dismissed the grievance on maintainability issue.

Submissions on Merits:

- (iv) The Appellant filed a grievance before the Forum on 30.01.2026 challenging the debit bill adjustment of ₹2,97,538/- reflected in the energy bill for December 2025 for recovery of subsidy for the period from April 2023 to November 2025. The Appellant was billed under Agricultural – Others tariff category (Tariff Code: 87-64) from the date of connection i.e. on 20.03.2021 for the **common purpose of Tissue Cultural Laboratory, Green House and Nursery.**
- (v) Under the agricultural tariff structure, various sub-categories exist, including LT-IV (B): Agriculture Metered – Pumpsets and LT-IV (C): Agriculture – Others, depending upon the nature of use and activity. *[Note: The details and applicability of the relevant Tariff Orders issued by the Maharashtra Electricity Regulatory Commission have already been referred to in the Preamble.]*
- (vi) The Respondent contended that the Appellant was originally billed under LT-IV (C): Agriculture – Others **under the sub-category “Nursery & Plantation” due to oversight, though the dominant activity of the Appellant was “Tissue Culture”** as contemplated under the Tariff Order passed by the Commission in Case No. 322 of 2019 dated 30.03.2020, effective from 01.04.2020. Under the said Tariff Order, both “Nursery & Plantation” and “Tissue Culture” activities were covered under the same tariff category, namely LT-IV (C): Agriculture – Others, carrying identical tariff rates. Hence the bonafide mistake, due to which no financial implication or billing difference arose till 31.03.2023, so long as the said Tariff Order remained in force.


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



- (vii) Subsequently, pursuant to the Tariff Order dated 01.04.2023 passed in Case No. 226 of 2022 (Commercial Circular No. 341 dated 28.04.2023 of MSEDCL), categories such as Floriculture, Horticulture, **Nursery, and Plantation** were shifted from LT-IV (C) to the lower tariff category LT-IV (B) with effect from 01.04.2023. However, “Tissue Culture” remained in LT-IV (C) tariff category.
- (viii) Accordingly, a mass tariff migration exercise was undertaken by the Corporate Office of the Respondent across Maharashtra. Since the Appellant’s activity was reflected in the system as “Nursery & Plantation”, the tariff category was automatically migrated from LT-IV (C) to LT-IV (B).
- (ix) As LT-IV (B) consumers, are billed under a concessional tariff structure with Government subsidy, (except **Floriculture, Horticulture, Nursery, and Plantation** which are not eligible for Government subsidy) as compared to consumers falling under LT-IV (C), the Appellant was wrongly billed under the LT-IV (B) concessional tariff category and was also erroneously granted Government subsidy (Rate tentatively Rs .1.80 per unit) for the period from 01.04.2023 to 30.11.2025.
- (x) The Respondent discontinued the subsidy for this consumer category through the system, from December 2025 onwards. Consequently, the subsidy amount erroneously passed on to the Appellant was debited and sought to be recovered through the impugned bill adjustment.
- (xi) **Recovery of tariff differential arising from correction of tariff category from LT-IV (B) to LT-IV (C) (till the new Review Tariff Order came in force from 01.07.2025) is under process and a supplementary bill is proposed to be issued separately.**
- (xii) The actual usage of electricity by the Appellant is primarily for Tissue Culture activities. The Appellant was also fully aware of the applicable tariff framework. However, the Appellant remained silent when he was billed under the lower tariff category with Govt. Subsidy. If subsidy was inadvertently extended due to system limitations or mistaken tariff mapping, it was equally incumbent upon the Appellant to bring the discrepancy to the notice of MSEDCL instead of continuing to avail the unintended benefit.

(xiii) In view of the above facts and circumstances, the Respondent prays that the Representation of the Appellant be rejected.


Analysis and Ruling


5. Heard the parties and perused the documents on record. The Appellant is an LT industrial consumer bearing Consumer No. 253022015287. The electricity supply is primarily used for Tissue Culture activity. The dispute pertains to a supplementary assessment raised by the Respondent on account of incorrect release of Govt. subsidy. The Appellant was released electricity supply on 20.03.2021 under LT-IV (C): Agriculture – Others category for activities relating to Tissue Culture/Nursery. Under the Tariff Order dated 30.03.2020 passed in Case No. 322 of 2019, both “Tissue Culture” and “Nursery & Plantation” activities were covered under the higher tariff LT-IV (C): Agriculture – Others. The Appellant was mistakenly classified under “Nursery”. This was a bonafide mistake, as at that point of time there was no indication that in future these 2 activities might be subjected to different tariffs. Finally, the categorization would depend on which activity carries the high-power load.

6. Subsequently, under the Tariff Order dated 01.04.2023 passed in Case No. 226 of 2022, activities such as Floriculture, Horticulture, Nursery and Plantation came to be shifted under the lower tariff category LT-IV (B): Agriculture Metered – Pumpsets, whereas “Tissue Culture” continued under LT-IV (C): Agriculture – Others.

7. The billing of the Appellant has been carried out in accordance with the applicable Tariff/Duty Code as reflected in the Consumer Personal Ledger (CPL). A summary of the same is set out below:

Table 2:


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai



Year	2022-23	2023-24	2024-25	2025-26
Month	Tariff - Duty Code	Tariff - Duty Code	Tariff - Duty Code	Tariff - Duty Code
Apr	87-64	80-64	80-64	80-64
May	87-64	80-64	80-64	80-64
Jun	87-64	80-64	80-64	80-64
Jul	87-64	80-64	80-64	80-64
Aug	87-64	80-64	80-64	80-64
Sep	87-64	80-64	80-64	80-64
Oct	87-64	80-64	80-64	80-64
Nov	87-64	80-64	80-64	80-64
Dec	87-64	80-64	80-64	309-64
Jan	87-64	80-64	80-64	309-64
Feb	87-64	80-64	80-64	87-45
Mar	87-64	80-64	80-64	87-45
Note	87-64 : LT IV (C) : Ag-Others	80-64 : LT IV (B) : Ag Pump Sets with Subsidy.	309-64 : Floriculture, Horticulture, Nursery and plantation: LT IV (B) without Subsidy	87-45 : LT IV (C) : Ag-Others

8. The record further shows that, during the mass tariff migration exercise undertaken by the Corporate Office of the Respondent pursuant to the aforesaid Tariff Order and Commercial Circular No. 341 dated 28.04.2023, the Appellant's activity was reflected in the system as "Nursery & Plantation" instead of "Tissue Culture". Consequently, the Appellant's tariff category was automatically migrated from LT-IV (C) to LT-IV (B), and Government subsidy applicable to LT-IV (B) consumers was inadvertently and wrongly extended to the Appellant from April 2023 to November 2025.

9. The principal dispute in the present matter pertains to recovery of Government subsidy which was wrongly extended to the Appellant. In this regard, the Respondent has relied upon the judgment dated 20.01.2025 passed by the Hon'ble Bombay High Court in Writ Petition No. 6409 of 2024 (*MSEDCL vs. Meera Enterprise*), wherein it has been observed that disputes relating to Government subsidy granted under Section 65 of the Electricity Act, 2003 fall within the domain of the Government of Maharashtra and not within the jurisdiction of the Consumer Grievance Redressal Forum. Further, the Order dated 02.12.2025 passed by the Maharashtra


Electricity Regulatory Commission in Case No. 45 of 2024 (*M/s. Rattan India Power Ltd. vs. MSEDCL*) also clarifies that the Commission has no jurisdiction in matters relating to subsidy granted by the Government of Maharashtra under Section 65 of the Electricity Act, 2003. In view of the aforesaid judicial pronouncements, this Authority is of the considered opinion that disputes relating to grant, withdrawal, adjustment, or recovery of Government subsidy do not fall within the adjudicatory jurisdiction of the Electricity Ombudsman constituted under the applicable Regulations. In effect, if the benefit of government subsidy has to be given, it must be a decision at the government level.


10. The material on record indicates that the subsidy benefit was not granted pursuant to any independent entitlement established by the Appellant, but was extended due to erroneous tariff mapping in the Respondent's system during the mass migration process. In other words, the subsidy was never applicable. Once the discrepancy was noticed, the Respondent proceeded to reverse and recover the subsidy amount wrongly credited to the Appellant.

11. The Appellant has contended that the recovery is hit by Section 56(2) of the Electricity Act, 2003. However, the present recovery pertains to reversal of Government subsidy wrongly granted and not recovery of under-billed energy charges arising out of actual consumption of electricity. Therefore, the reliance placed on Section 56(2) and the judgments relating to retrospective tariff recovery does not advance the case of the Appellant in the facts of the present matter.

12. The judgments relied upon by the Appellant in *Principal, College of Engineering Pune vs. MSEDCL* and other similar cases pertain to retrospective recovery on account of tariff reclassification or billing disputes. The present case stands on a different footing since the impugned recovery pertains to Government subsidy erroneously passed on due to system-generated migration under a wrong activity classification.

13. At the same time, it is evident from the record that the erroneous migration occurred due to incorrect categorization reflected in the Respondent's system records. However, merely because the subsidy was initially granted due to such system error would not create a vested


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Secretary
Electricity Ombudsman Mumbai



right in favour of the Appellant to retain the subsidy amount if the Appellant was otherwise not eligible for the same under the applicable policy framework.

14. Accordingly, we do not find any illegality or perversity in the action of the Respondent in recovering the subsidy amount wrongly extended to the Appellant. The Appellate Authority for grant / withdrawal of subsidy is Government of Maharashtra. In view of the foregoing discussion and findings, the present Representation, insofar as it challenges recovery of Government subsidy, is held to be not maintainable within the jurisdiction of this Authority. The debit adjustment/recovery carried out by the Respondent towards Government subsidy wrongly extended to the Appellant from April 2023 to November 2025 does not warrant interference.

15. The Forum has passed a reasoned and speaking order and, therefore, no interference with the findings recorded therein is warranted in principle. However, the order requires partial modification in as much as the Government subsidy was extended to the Appellant over a period of 32 months commencing from 01.04.2023 to 30.11.2025, whereas the recovery of Rs.2.97 lakhs has been sought to be effected in a lump sum through a single adjustment. In the facts and circumstances of the case, it would be just, fair, and reasonable to permit recovery of the said amount in suitable instalments. Accordingly, the Respondent is directed as under: –

- a) to withdraw the interest and delayed payment charges levied from December 2025 onwards till the date of this order.
- b) The Appellant may be granted 10 equal monthly instalments without DPC and interest to pay the revised bill. If the Appellant fails to pay the monthly instalment along with its current bill, the Respondent is permitted to recover the interest proportionally for the failure period, and to take action as per the law in force.
- c) Compliance to be submitted within two months from the date of issue of this order.
- d) Other prayers of the Appellant are rejected.


16. The representation of the Appellant is disposed of accordingly.

17. Before parting with the matter, the Respondent is advised to ensure that the proper sub-tariff category applicable to the Appellant and other similarly placed consumers, is correctly

mapped and reflected in the billing system in accordance with the actual nature of the predominant activity.

18. The secretariat of this office is directed to refund Rs.25000/- taken as deposit with the Respondent by adjusting in the Appellant's ensuing bill.

Sd/
(Vandana Krishna)
Electricity Ombudsman (Mumbai)


(Dilip Dumbre)
Secretary
Electricity Ombudsman Mumbai

