

BEFORE THE ELECTRICITY OMBUDSMAN (MUMBAI)

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

REPRESENTATION NO. 48 OF 2025

In the matter of Reclassification of Tariff Category for Advocate
Chamber from Commercial to Residential

Santosh Eknath GatkalAppellant
(Con. No. 049018417064)

V/s.

Maharashtra State Electricity Distribution Co. Ltd., Nashik Urban 1. Respondent
(MSEDCL)

Appearances:

Appellant : Santosh Eknath Gatkal

Respondent : Chetan Wade, Executive Engineer, Nashik Urban 1 Dn.


Coram: Vandana Krishna [IAS (Retd.)]

Date of hearing: 22nd July 2025

Date of Order : 30th July 2025

ORDER

This Representation was filed on 23rd June 2025 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 6th June 2025 in Case No. 3 of 2025 passed by the Consumer Grievance Redressal Forum, Nashik (the Forum). The Forum by its order has rejected the grievance application of the Appellant.


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2. Aggrieved by the order of the Forum, the Appellant filed this Representation. An e-hearing was held on 22nd July 2025 through video conference where both the parties were heard at length. The Respondent's submissions and arguments are as below. *[The Electricity Ombudsman's observations and comments are recorded under 'Notes' where needed.]*

- (i) The Appellant is a commercial consumer bearing Consumer No. 049018417064 since 17.03.2015. The relevant details of the Appellant's premises, including address, sanctioned load, and consumption pattern, etc., are summarized below:

Name of Consumer	Consumer No.	Address	San. Load	Date of Supply	Cosumption Pattern
Santosh Eknath Gatkal	049018417064	Chamber No. 104, First Floor, Maruti Chambers, Nashik District Court Compound, CBS, Nashik 422002.	2 KW	17.03.2015	30 to 60 Units per month

- (ii) The Respondent conducted an inspection of the Appellant's premises on 04.02.2025 in the presence of the Appellant. It was observed that the premises comprise an Advocate's Chamber measuring approximately 200 square feet, located within Nashik District Court Complex. The said chamber is exclusively used for professional purposes, including legal consultation, clerical work undertaken by the Appellant's legal assistant, and related office activities. The electrical load at the time of inspection consisted of two tube lights, two fans, one bulb, and various electrical points. Importantly, no residential use was found at the premises. Accordingly, the Appellant has been categorized under LT II – Non-Residential or Commercial Tariff, which is consistent with the actual usage of electricity at the said premises.
- (iii) The electricity tariff is determined by the Maharashtra Electricity Regulatory Commission (hereinafter referred to as "the Commission") in exercise of powers conferred under Sections 61, 62, and 86 of the Electricity Act, 2003, along with other enabling provisions. Based on submissions received from MSEDCL, stakeholder inputs during the public consultation process, and after due regulatory scrutiny, the Commission issued its Tariff Order dated 31.03.2023, effective from 01.04.2023.


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The relevant portions of the said Tariff Order are reproduced below for reference:

LT I (B): LT – Residential

Applicability:

This tariff category is applicable for electricity used at Low/Medium Voltage for operating various appliances used for purposes such as lighting, heating, cooling, cooking, washing/cleaning, entertainment/leisure, water pumping in the following premises:

a. to e.

f. Residential premises used by professionals like Lawyers, Doctors, Engineers, Chartered Accountants, etc., in furtherance of their professional activities, but not including Nursing Homes and Surgical Wards or Hospitals;

g. to m.

*n. Professionals like Lawyers, Doctors, Professional Engineers, Chartered Accountants, etc., occupying premises **exclusively for conducting their profession, shall not be eligible** for this Tariff, and will be charged at the Tariff applicable to the respective categories.*

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LT II: LT – Non – Residential or Commercial

Applicability:

A). 0-20kW

This tariff category is applicable for electricity used at Low/Medium voltage in non-residential, non-industrial and/or commercial premises for commercial consumption meant for operating various appliances used for purposes such as lighting, heating, cooling, cooking, entertainment/ leisure and water pumping in, but not limited to, the following premises:

a. Non-Residential, Commercial and Business premises, including Shopping Malls and Showrooms, Exhibition Centres;

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The subsequent Tariff Orders issued by the Commission have consistently followed the same principle.


- (iv) The Appellant has sought to avail the LT I (Residential) tariff for his Advocate's Chamber. However, the said premises are not used for any residential purpose from any aspect. The nature of usage is purely non-residential and falls squarely within the ambit of LT II – Non-Residential or Commercial Tariff Category, as per the Commission's tariff determination.
- (v) The Appellant has relied upon the following judicial precedents in support of his submission:
- a. Hon'ble Supreme Court of India – Civil Appeal No. 1065/2000 in Case of Chairman, M.P. Electricity Board & Ors. v. Shiv Narayan & Anr.
 - b. Hon'ble Bombay High Court – Writ Petition No. 11343/2023 in Case of MSEDCL v. Shrinivas Shivram Odhekar.
 - c. Hon'ble Bombay High Court, Aurangabad Bench– Writ Petition No. 15666/2023 in Case of Advocate Association of Bombay High Court, Aurangabad v. State of Maharashtra & Ors.
- (vi) While the Appellant has cited the aforementioned case laws, it is submitted that the determination of tariff categories falls strictly within the regulatory domain of the respective State Electricity Regulatory Commissions, as contemplated under Sections 61, 62, and 86 of the Electricity Act, 2003. Tariff structures differ from State to State depending on their respective Annual Revenue Requirements and consumers with their uses of the respective licensees. Therefore, the ratio of these judgments cited by the Appellant are distinguishable on facts and not applicable in the present matter. These references appear intended to mislead or misguide the authority and ought to be disregarded. The Respondent, being a licensee, is statutorily bound to implement and adhere to the Tariff Orders issued by the Commission in force from time to time.
- (vii) In view of the above, the Respondent prays that the representation of the Appellant be rejected with cost.


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3. The Appellant's submissions and arguments are stated as below:
- (i) The Appellant is a consumer (No. 049018417064) of MSEDCL from 17.03.2015. The details consumer's address, sanctioned load, consumption pattern, and other relevant particulars are provided in Table 1.
 - (ii) The Appellant operates an Advocate's Chamber admeasuring approximately 200 sq. ft., situated within the Nashik District Court Complex for legal profession. The Appellant's principal grievance pertains to the erroneous classification of tariff category as "Commercial" instead of "Residential" from the release of supply. The actual consumption by the Appellant ranges between 30 to 60 units per month. The Appellant submits that the Advocate's Chamber is used solely for professional purposes and not for any commercial or trading activity.
 - (iii) In support of his contention, the Appellant relies upon the judgment of the Hon'ble Allahabad High Court dated 03.08.2023 passed in Writ Petition No. 2637 of 2023 *in the matter of Tehsil Bar Association v. U.P. Power Corporation Limited & Ors.*, reported in 2023 SCC Online All 566, wherein at para 38, the Hon'ble Court held as under:

*38. Thus in view of the above, discussion, the writ petition is **allowed**. The Respondents are directed to charge for the consumption of electricity by the lawyers in their chamber in the court premises as per the rate schedule LMV-1 as approved by the U.P. Electricity Regulatory Commission.*
 - (iv) The Appellant further places reliance on the interim order passed by the Hon'ble High Court of Bombay, Bench at Aurangabad dated 20.12.2023 in Writ Petition No. 15666 of 2023 in the matter of Advocate Association of Bombay High Court, Aurangabad vs State of Maharashtra & Ors., whereby interim relief was granted in favour of the petitioner advocates by restraining MSEDCL from levying commercial tariff on Advocate Chambers situated within High Court premises.
 - (v) The Appellant also refers to the judgment of the Hon'ble High Court of Bombay dated 12.09.2023 in Writ Petition No. 11343 of 2023 in the matter of MSEDCL v. Shrinivas Shivram Odhekar, wherein the Hon'ble Court observed as under:


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5. *It is the case of the Petitioner that the premises in question are used by the Respondent as his office. It is the case of the Respondent that the premises in question are residential and the same are also used as office by the Respondent. Admittedly, the Respondent is professional lawyer and the premises are situated in residential building and the user of the premises as per sanctioned plan is also residential. Therefore, there is no illegality or perversity in the impugned order.*


6. *Accordingly, the Writ Petition is dismissed, however, with no order as to costs.*

MSEDCL is restrained from applying commercial tariff instead of Residential.

(vi) The Appellant further relies upon the judgment of the Hon'ble Supreme Court of India dated 24.08.2005 in Chairman, M.P. Electricity Board & Ors. v. Shiv Narayan & Anr., Civil Appeal No. 1065 of 2000, wherein the Hon'ble Court elaborately interpreted the terms "commerce" and "commercial". The Apex Court observed that the term 'commerce' means trade, traffic, commerce, transportation or communication among the several States, or between the District of Columbia or any Territory of the United States and any State or other Territory, or between any foreign country and any State, Territory, or the District of Columbia, or within the District of Columbia or any territory, or between points in the same State but through any other State or any Territory or the District of Columbia or any foreign country. National Labour Relations Act 2.....". The word 'commercial' has been defined to mean:

"Commercial. Relates to or is connected with trade and traffic or commerce in general; is occupied with business and commerce. Anderson vs. Humble Oil & Refining Co. 226 Ga.252, 174 S.E. 2d 415, 416. Generic term for most all aspects of buying and selling."

The expression 'commerce' or 'commercial' necessarily has a concept of a trading activity. Trading activity may involve any kind of activity, be it a transport or supply of goods. Generic term for most all aspects is buying and selling. But in legal profession, there is no such kind of buying or selling nor any trading of any kind whatsoever.


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The word 'profession' has also been defined in the Advanced Law Lexicon Volume-3 at page 3764 which reads as under:

"Profession- A 'profession' involves the idea of an occupation requiring either purely intellectual skill or any manual skill, as in painting and sculpture or surgery, skill controlled by the intellectual skill of the operator, as distinguished from an occupation which is substantially the production or sale or arrangements for the production of sale of commodities. C.I.T. v. Manmohan Das (1966) 59 ITR 699, 710 (SC) Income Tax Act, 1961. Sec.28."


Therefore, to compare legal profession with that of trade and business is far from correct approach and it will totally be misplaced.

The Hon'ble Supreme Court of India also observed that even if it is accepted that the user was not domestic, it may be non-domestic. But it does not automatically become "commercial". The words "non-domestic" and "commercial" are not inter-changeable. The entry is "commercial". It is not a residual entry, unless the user is commercial the rate applicable to be commercial user cannot be charged merely because it is not considered to be domestic user, as has been held in New Delhi Municipal Corporations' case (supra).....

We, therefore, refer the matter to a larger Bench. Place the records before the Hon'ble Chief Justice of India for necessary orders.

(The Appellant cited a judgment sourced from the Indian Kanoon website.)

- (vii) The Appellant submitted his grievance application before the Forum on 15.01.2025. However, by its order dated 06.06.2025, the Forum rejected the said application. In doing so, the Forum failed to appreciate the fundamental issue that the Appellant's profession is not commercial in nature. Furthermore, the Forum did not thoroughly consider the various judgments of the Hon'ble Supreme Court and High Courts cited by the Appellant. The Forum relied on the case of Adv. Nitin Thakre and Adv. Shankar Sonawane vs MSEDCL, wherein the District Forum directed that billing be done under


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the category of public services rather than commercial. The Respondent challenged this decision before the State Forum in Case No. A/21/322, which is not applicable to the present matter, as the original decision was rendered by a Consumer Forum and remains sub judice before the appellate authority.


(viii) In view of the facts and legal submissions stated above, the Appellant prays that the Respondent be directed to

- (a) Reclassify the Appellant's electricity connection from the "Commercial" tariff category to the "Residential" tariff category.
- (b) Pay compensation of ₹1,00,000/- (Rupees One Lakh only) to the Appellant for the mental agony, harassment, and financial loss caused due to wrongful categorization and billing under the commercial tariff;
- (c) not to issue raising further bills under the commercial tariff category and from disconnecting the electricity supply on account of any dispute regarding past unpaid amounts billed under the commercial category;
- (d) Refund or adjust the excess amount collected from the Appellant due to application of commercial tariff.

Analysis & Ruling

4. The parties were heard, and the documents on record were duly examined. The Appellant is a commercial consumer (No. 049018417064) of MSEDCL since 17.03.2015. The premises in question comprise an Advocate's Chamber admeasuring approximately 200 square feet, situated within the Nashik District Court Complex. The details of the electricity connection are provided in Table 1.

5. The Appellant contended that he is an Advocate operating in the said chamber. The tariff category of his electricity connection being "Commercial" is erroneous, as the premises are used exclusively for professional legal work and not for any commercial or trading activity. In support of his claim, the Appellant relies on the following judicial precedents:



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- Tehsil Bar Association v. U.P. Power Corporation Ltd. (Allahabad High Court, 2023), wherein the Court directed that electricity consumption by lawyers in court chambers be billed under the residential tariff;
- Advocate Association v. State of Maharashtra (Bombay High Court, 2023), which granted interim relief restraining MSEDCL from levying commercial tariff on lawyers' chambers within court premises;
- MSEDCL v. Shrinivas Shivram Odhekar (Bombay High Court, 2023), wherein the use of residential premises by a professional lawyer was held not to attract commercial categorization; (a case of an office within a residence.)
- Chairman, M.P. Electricity Board v. Shiv Narayan (Supreme Court, 2005), which clarified that professional activities, such as legal practice, do not fall within the ambit of "commercial use".

The Appellant maintains that his case is directly covered by these rulings, which distinguish between professional usage and commercial activity. He therefore prays for the reclassification of his electricity connection from the "Commercial" to the "Residential" tariff category.

6. The Respondent contended that it had conducted an inspection of the said 200 sq. ft. Advocate's Chamber on 04.02.2025, located within the Nashik District Court Complex. The premises were used solely for professional purposes as legal consultation, clerical work, and related office activities with no evidence of residential use. The load included minimal fixtures (two tube lights, two fans, one bulb), and the connection was accordingly categorized under **LT II – Non-Residential** tariff. Electricity tariffs are determined by the Maharashtra Electricity Regulatory Commission under Sections 61, 62, and 86 of the Electricity Act, 2003. In this case, it is determined as per the Tariff Order dated 31.03.2023 (effective from 01.04.2023) and the subsequent Tariff Orders issued by the Commission have also consistently followed the same principle. LT I (Residential) tariff would have applied only where it is in a dominantly Residential, and only partly professional use. Conversely,


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professionals occupying **non-residential premises exclusively for professional use** fall under LT II – Non-Residential. The Appellant’s premises do not qualify as residential and are used solely for professional activities. Therefore, the existing classification under LT II is consistent with the Commission’s Tariff Order. The Appellant has relied on certain court judgments; however, tariff classification is a matter governed exclusively by the respective State Electricity Regulatory Commissions. Since tariff structures vary across States, the cited cases are distinguishable and not binding in the present context. The Respondent, being a licensee, is obligated to follow the MERC-approved tariff applicable in Maharashtra. The Commission duly conducted public hearings before deciding this issue, and the Appellant would have been free to make his representation before the Commission.


7. The Maharashtra Electricity Regulatory Commission issued a Tariff Order on 28th March 2025 (Case No. 217 of 2024), followed by a Review Tariff Order dated 25 June 2025 (Case No. 75 of 2025), pertaining to the Maharashtra State Electricity Distribution Co. Ltd. These orders are in reference to the Multi-Year Tariff effective from 1 July 2025. Relevant quotes from the said Tariff Orders are reproduced below for reference.

The Commission, in exercise of the powers vested in it under Sections 61, 62 and 86 of the Electricity Act, 2003 (“EA, 2003”) and all other powers enabling it in this behalf, and after taking into consideration all the submissions made by MSEDCL, and in the public consultation process, and all other relevant material, has approved the Final Truing-up of ARR for FY 2022-23 and FY 2023-24, Provisional Truing-up of ARR for FY 2024-25 and approval of ARR and Tariff for the 5th Control Period from FY 2025-26 to FY 2029-30 in this Order.

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Tariff Philosophy, tariff design and category-wise tariff’s from FY 2025-26 to FY 2029-30

7.1 Overall Approach for Tariff Design

7.1.1 The Commission has kept in view the main objects of the Electricity Act, 2003 (“EA, 2003”), as set out in its Preamble, including the protection of the interest of


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consumers, the supply of electricity to all areas, promoting reliability, encouraging factors that would improve collection efficiency and the rationalisation of tariffs. The EA, 2003 mandates the Commission to maintain a healthy balance between the interest of the Utilities and the reasonableness of the cost of power being supplied to consumers. The Commission has also kept in view the principles of tariff determination set out in Sections 61 and Section 62 of the EA, 2003, the Tariff Policy, 2016 and the MYT Regulations, 2024 and also taken into considerations MSEDCL's submissions as well as the Public Responses in these MYT proceedings.

7.1.2 The provision of electricity is an essential driver for development and influences social and economic change. The Commission has endeavoured to ensure that, industry and commerce is promoted, and at the same time interest of various consumer segments of society is protected. The Commission has also sought to ensure regulatory consistency for all stakeholders and a reasonable return for the Licensee.


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LOW TENSION (LT) TARIFF

LT I (B): LT – Residential

Applicability: This tariff category is applicable for electricity used at Low/Medium Voltage for operating various appliances used for purposes such as lighting, heating, cooling, cooking, washing/cleaning, entertainment/leisure, water pumping in the following premises:

- a. to g.
- h. .Residential premises used by professionals like Lawyers, Doctors, Engineers, Chartered Accountants, etc., in furtherance of their professional activities, but not including Nursing Homes and Surgical Wards or Hospitals;**
- i.
- j. Consumers undertaking business or commercial/industrial / non-residential activities from a part of their residence, whose monthly consumption is up to 300 units a month and annual consumption in the previous financial year was up to 3600 units. The applicability of this tariff to such consumers will**


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be assessed at the end of each financial year. In case consumption has exceeded 3600 units in the previous financial year, the consumer will thereafter not be eligible for the tariff under this category but be charged at the tariff otherwise applicable for such consumption, with prior intimation to him.

k. to m.....

n. **Professionals like Teachers, Lawyers, Doctors, Professional Engineers, Chartered Accountants, etc., occupying premises exclusively for conducting their profession, shall not be eligible for this Tariff, and will be charged at the Tariff applicable to the respective categories.**

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Summary of LT Tariff for FY 2025-26, effective from 1 July, 2025					
Category	Units for Fixed/ Demand Charge	Fixed / Demand Charge	Energy Charge	Wheeling Charge	Total Variable Charge
LT I(B): LT - Residential					
1-100 units	Rs/conn/mth	130	4.28	1.47	5.74
101-300 units	Rs/conn/mth	130	11.1	1.47	12.57
301-500 units	Rs/conn/mth	130	15.38	1.47	16.85
Above 500 units	Rs/conn/mth	130	17.68	1.47	19.15
Three Phase Charges	Rs/conn/mth	430			


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LT II: LT – Non-Residential or Commercial

A. 0-20kW

Applicability:

This tariff category is applicable for electricity used at Low/Medium voltage in non-residential, non-industrial and/or commercial premises for commercial consumption meant for operating various appliances used for purposes such as


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lighting, heating, cooling, cooking, entertainment/ leisure and water pumping in, but not limited to, the following premises:


- a. Non-Residential, Commercial and Business premises, including Shopping Malls and Showrooms, Exhibition Centres;

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Category	Units for Fixed/ Demand Charge	Fixed / Demand Charge	Energy Charge	Wheeling Charge	Total Variable Charge
LT II: LT - Non-Residential					
(A) 0 – 20 kW	Rs/conn/mth	520	8.90	1.47	10.37
(B): >20 kW and ≤ 50 kW	Rs/kVA/mth	525	12.83	1.47	14.30
(C): >50 kW	Rs/kVA/mth	525	15.22	1.47	16.69

8. The Forum and the Electricity Ombudsman do not possess the jurisdiction to determine or reclassify tariff categories, as such powers rest solely with the Maharashtra Electricity Regulatory Commission under Section 62 and 64 of the Electricity Act, 2003. In exercise of their functions under the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020, the Forum and the Ombudsman are mandated to ensure that Distribution Licensees apply the tariff categories strictly in accordance with the Commission’s approved tariff orders and prevailing Regulations. Thus, their role is supervisory and corrective in nature, acting as quasi-judicial bodies to ensure faithful implementation of the Commission’s directives and to prevent any arbitrary or erroneous application of tariff provisions by the Licensees.

It is clear that the LT – II tariff is applicable not only to commercial premises, but also to any other type of non-residential premises. The Commission has specifically used the words ‘Non-Residential’ or ‘Commercial’ to indicate that any other type of non-residential activity, and this would include ‘professional’ use, would be covered under this category.


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There is no ambiguity in this regard. To remove any lingering doubts, in para 7, the relevant quoted para 7.1.2.n further clarifies this issue. It is up to the Commission to fix a separate non-residential tariff, or otherwise.

9. In view of the above, the representation of the Appellant is rejected and disposed of.

Sd/
(Vandana Krishna)
Electricity Ombudsman (Mumbai)



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Secretary

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