

BEFORE THE ELECTRICITY OMBUDSMAN
(For the State of Goa and Union Territories)
Under Section 42 (6) of the Electricity Act, 2003
3rd Floor, Plot No. 55-56, Udyog Vihar - Phase IV, Sector 18
Gurugram (Haryana) 122015,
Email ID: ombudsman.jercuts@gov.in
Phone No.:0124-4684708

Appeal No-247 of 2025

Date of Video Conferencing: 13.11.2025 &
21.11.2025

Date of Order:25.11.2025

In the matter of

M/s Digital Ventures Pvt Ltd,
Mount Litera Zee School,
Near NH-17B, Bypass Road,
Sy. No. 236/2, Behind BITS Pillani,
Zuarinagar, Goa-403726

....Appellant

VERSUS

The Chief Electrical Engineer,
Electricity Department,
Government of Goa,
Vidyut Bhawan, Panaji, Goa.

The Executive Engineer,
Electricity Department,
Div-XI, Vasco, Goa

....Respondent(s)

Present

Appellant(s) Ld. Adv.Shri Dileshwar Naik for Appellant M/s Digital
Ventures Pvt. Ltd
Shri Shiv Tari Manager, for Appellant M/s Digital
Ventures Pvt. Ltd
Mr Amanpreet Singh for Appellant M/s Digital Ventures
Pvt. Ltd

Respondent(s) Shri. Gangu R Kuttikar,
Executive Engineer,
Electricity Department, Div-XI, Vasco, Goa

ORDER

This representation was filed on 13.10.2025, under Section 42(6) of the Electricity Act 2003 read with Regulations 35 & 36 of Joint Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations 2024 against the order dated 03.09.2025 in case No. CG No. 19/2025/96 passed by the Ld. Consumer Grievance Redressal Forum (CGRF), Goa.

After a thorough examination of the complaint and following due process, the admission notice was issued on 17.10.2025. A copy of the complaint was forwarded to the Respondent, Executive Engineer, Executive Engineer, Div-XI, Vasco, Electricity Department, Goa directing them to file a reply to the appeal filed by the Appellant M/s Digital Ventures Pvt. Ltd. vide this office letter dated 17.10.2025.

The Respondents filed their reply/comments vide Email dated 31.10.2025.

A. Submission by the Appellant:

The Appellant, M/s Digital Ventures Private Limited, which operates Mount Litera Zee School, a private educational institution situated at Sancoale, Goa, submitted that the electricity connection granted to the institution was wrongly categorized under HT-Industrial (HTI) tariff instead of the appropriate HT-Commercial (HTC) tariff since December 2017.

The Appellant stated that despite the erroneous categorization, the institution had regularly and promptly paid all electricity bills raised by the Respondent Department from 2017 onwards, without any default. The Appellant contended that the error occurred solely due to departmental negligence, and the mistake was noticed only after a lapse of nearly eight years, for which the Department has provided no plausible explanation.

It was further submitted that, based on subsequent departmental communications dated 13.05.2025, 05.06.2025, and 08.07.2025, the



Department raised a demand of ₹7, 62,475/- towards the differential amount of tariff for the past period. The Appellant argued that such retrospective recovery of arrears after eight years is unjust and arbitrary, particularly when the consumer had acted in good faith and complied with all billing obligations under the classification applied by the Department itself.

The Appellant also submitted that the Consumer Grievance Redressal Forum, vide its Order dated 03.09.2025, erred in holding the demand valid and merely allowing its payment in 36 monthly installments without Delayed Payment Charges (DPC). The Appellant contended that the Forum failed to appreciate that:

- a) The liability arose entirely from departmental error, not from any act or omission of the consumer;
- b) The retrospective recovery after such an extended period imposes undue financial hardship and violates principles of fairness and equity; and
- c) The Forum's order unjustly transfers the burden of the Department's own lapse upon the consumer.

Accordingly, the Appellant prayed for quashing of the impugned demand of ₹7,62,475/- and sought appropriate directions to the Respondent Department to correct the tariff categorization prospectively only, without retrospective financial liability.

Grounds of Appeal

The Appellant has preferred this appeal on the following, among other, grounds which are taken without prejudice to one another:

Error in Tariff Classification: The Forum failed to appreciate that the Appellant's installation was erroneously categorized under HT-Industrial (HTI) instead of the correct HT-Commercial (HTC) tariff due to departmental oversight, for which the consumer cannot be held liable.

Departmental Negligence: The erroneous categorization continued unnoticed for nearly eight years, reflecting clear administrative lapse on the part of the Respondent Department, with no explanation offered for such prolonged inaction.

Absence of Consumer Default: The Appellant regularly paid all electricity bills raised by the Department in good faith and without any default; hence, there is no element of concealment, fraud, or misrepresentation attributable to the consumer.

Retrospective Recovery Unjustified: The Forum erred in upholding a retrospective recovery of ₹7,62,475/- after an inordinate delay, which is arbitrary and inequitable, and contrary to the settled principle that consumers should not suffer for mistakes committed by the utility.

Violation of Principles of Natural Justice: The impugned order and the consequent demand shift the burden of departmental error onto the consumer, thereby violating principles of fairness, equity, and reasonableness underlying the Electricity Act, 2003 and the JERC Regulations.

Improper Relief by the Forum: The Forum's direction permitting payment in 36 installments, though mitigating in form, effectively endorses an illegal demand instead of setting it aside, thereby failing to remedy the substantive injustice.

Relief Sought by the Appellant

In view of the facts and grounds stated above, the Appellant respectfully seeks the following reliefs:

To quash and set aside the impugned demand of ₹7,62,475/- raised by the Respondent Department vide communications dated 13.05.2025, 05.06.2025, and 08.07.2025, being arbitrary, retrospective, and contrary to principles of natural justice.



To direct the Respondent Department to correct the tariff categorization of the Appellant's installation from HT-Industrial (HTI) to HT-Commercial (HTC) prospectively, from the date of detection of the error or from the date of representation, as may be deemed just and proper.

To hold that the Appellant cannot be saddled with liability arising solely from the Department's own error in tariff classification, particularly in the absence of any concealment, misrepresentation, or default on the part of the consumer.

B. Submissions by the Respondent.

The Respondent Department submitted that during an internal scrutiny of High Tension (HT) connections carried out by the Office of the Executive Engineer, Division XI, Vasco, it was observed that the consumer, M/s Digital Ventures Private Limited, operating Mount Litera Zee School, a private educational institution located at Sancoale, Goa, had been billed under the HT-Industrial (HTI) tariff category instead of the applicable HT-Commercial (HTC) tariff category since the release of the connection on 26.12.2017.

Upon detection of this anomaly, the Department, by its letter dated 13.05.2025, informed the consumer that their HT installation bearing CA No. 60006740777 had been incorrectly classified under the HT-Industrial category since inception. The said communication was duly supported by relevant references to the Notification published in the Official Gazette, Government of Goa (Extraordinary No. 2), Series I No. 11, Chapter 10 – Tariff Schedule dated 20.07.2017, which provides that private educational institutions are to be billed under the HT-Commercial category. Copies of the relevant correspondence and Gazette notification were annexed as Annexures A and B (Colly.).

In accordance with the said notification, the Department proposed to reclassify the installation under HT-Commercial tariff and to compute the differential amount of energy charges arising from the erroneous categorization since the release of the connection.

Thereafter, the Department, vide its communication dated 05.06.2025, informed the consumer that the total amount recoverable on account of tariff difference from December 2017 to April 2025 had been computed as ₹7,62,475/-. As no response was received from the consumer, a further communication dated 08.07.2025 was issued, intimating that the said amount would be included under "Sundry Charges" in the monthly bill for July 2025 (billed in August 2025). Copies of these communications were enclosed as Annexure C (Colly.).

The Respondent further stated that, prior to the inclusion of the arrears in the billing system, the consumer submitted letters dated 21.07.2025, 23.07.2025, and 24.07.2025 (Refs. MLZS/23/2025-26, MLZS/24/2025-26, and MLZS/26/2025-26), wherein the consumer accepted the need for tariff reclassification but objected to the retrospective recovery and requested a breathing period of 45 days for further internal consultation. Copies of these communications were annexed as Annexure D.

Since the consumer did not agree to pay the differential amount, the matter was escalated to the Consumer Grievance Redressal Forum (CGRF), where the consumer filed Petition No. Goa C.G. No. 19/2025 against the Department. The Hon'ble CGRF, after hearing both parties, upheld the validity of the Department's claim but permitted the consumer to pay the arrears of ₹7,62,475/- in 36 equal monthly installments without Delayed Payment Charges (DPC). A copy of the said order was annexed as Annexure E.

The Department emphasized that its action of issuing the supplementary demand was in conformity with Clause 24 (a) and (b) of the HT Agreement, which explicitly empowers the supplier to rectify clerical or billing errors and recover or refund any undercharged or overcharged amount accordingly. The said clause provides that any clerical error or mistake in billing may be corrected, and the amount so found due shall be payable irrespective of the



time elapsed, provided such claims are not barred by limitation under the Act. A copy of the HT Agreement was annexed as Annexure F.

It was further contended that although the error was detected after eight years, there exists no statutory bar or regulatory restriction preventing the Department from recovering the legitimate dues once the error was discovered, as such recovery constitutes correction of under-billing rather than retrospective penalization. The Respondent relied on the judgment of the Hon'ble Supreme Court of India in Assistant Engineer (D1), Ajmer Vidyut Vitran Nigam Ltd. & Anr. v. Rahamatullah Khan @ Rahamjulla, Civil Appeal No. 1672 of 2020, wherein it was held that the licensee is entitled to recover amounts lawfully due on account of under-billing or mistaken categorization once discovered.

Accordingly, the Respondent Department submitted that its actions were bona fide, transparent, and within the provisions of law and the governing tariff notification, and prayed that the Hon'ble Ombudsman may be pleased to dismiss the appeal, uphold the order of the Hon'ble CGRF, and direct the Appellant to pay the supplementary demand of ₹7,62,475/- as determined.

Proceedings:

Proceedings dated 13.11.2025

The matter was taken up for hearing through video conferencing.

Ld. Advocate Shri Dileshwar Naik appeared on behalf of the Appellant, M/s Digital Ventures Pvt. Ltd., and submitted that the electricity connection bearing No. 60006740777 was released in the year 2017 for the premises of Mount Litera Zee School, Sancoale, Goa, a private educational institution operated by the Appellant. He submitted that the connection had been erroneously billed under the HT-Industrial (HTI) tariff category instead of the applicable HT-Commercial (HTC) category from December 2017 onwards. The Appellant had, however, regularly paid all electricity bills raised by the Respondent Department without any default.

It was argued that the incorrect tariff classification occurred due to departmental negligence and was detected only after nearly eight years, for which no explanation has been offered. Based on departmental communications dated 13.05.2025, 05.06.2025 and 08.07.2025, a retrospective demand of ₹7,62,475/- was raised towards differential tariff. The Ld. Advocate contended that such retrospective recovery after an inordinate delay is arbitrary, unjust, and time-barred, as the consumer acted bona fide on the bills issued by the Department.

The Ld. Advocate also challenged the CGRF order dated 03.09.2025, contending that the Forum erred in upholding the demand and merely granting 36 instalments without Delayed Payment Charges. He submitted that:

- (a) the liability arose solely due to departmental lapse;
- (b) retrospective recovery imposes undue hardship and violates principles of fairness; and
- (c) the impugned order shifts the burden of departmental error to the consumer.

The Appellant sought quashing of the retrospective demand and requested that tariff correction be given effect prospectively only.

On behalf of the Respondent Department, it was submitted that during an internal scrutiny of HT connections conducted by the Office of the Executive Engineer, Division XI, Vasco, it was discovered that the Appellant's installation, released on 26.12.2017, had been incorrectly billed under HT-Industrial instead of HT-Commercial. The anomaly was communicated to the consumer vide letter dated 13.05.2025, referring to the applicable Tariff Notification (Government of Goa Gazette Extraordinary No. 2, Series I No. 11, Chapter 10 dated 20.07.2017), which lists private educational institutions under the HT-Commercial tariff category. The Department later quantified the differential amount payable from December 2017 to April 2025 as ₹7,62,475/-.



Upon hearing both parties, the following issues emerged for determination:

- A. The circumstances and reasons leading to the erroneous tariff categorization since installation; and
- B. The appropriate methodology for liquidation or adjustment of any financial liability arising therefrom, so as to avoid undue hardship to the Appellant.

At this stage, Ld. Advocate for the Appellant requested time to examine the relevant statutory provisions and judicial precedents concerning retrospective recovery in cases of erroneous tariff categorization. In the interest of justice, the request was allowed.

Accordingly, the matter was adjourned and listed for further hearing on **21.11.2025 at 2:30 PM** through video conferencing.

Proceedings dated 21.11.2025

The matter was taken up for further hearing through video conferencing.

Ld. Advocate Shri Dileshwar Naik, appearing for the Appellant, submitted that the demand raised by the Department is barred by limitation, as it has been issued after seven years. He placed reliance on the judgment of the Hon'ble Supreme Court in *Civil Appeal No. 7235/2009, M/s Prem Cottex v. Uttar Haryana Bijli Vitran Nigam Ltd.*, wherein the Court upheld the utility's right to recover escaped billing but, considering equities, permitted liquidation of arrears in 60 instalments. He requested similar instalment relief in the present case. The Appellant did not dispute applicability of the HT-Commercial category but objected to the belated demand which arose pursuant to an internal audit.

It was further submitted that CIRP (Corporate Insolvency Resolution Process) has been initiated against M/s Digital Ventures Pvt. Ltd. before the NCLT, Mumbai Bench-IV. The Appellant M/s Digital Ventures Pvt. Ltd placed on record orders passed in Company Appeal (AT) (Insolvency) No. 2233 of



2024 and CP (IB) No. 1065/MB/2023. It was noted that neither order contains any express stay on recovery of dues arising from tariff category correction.

With respect to *Prem Cottex* (supra), it is noted that the Hon'ble Supreme Court held:

- (a) the short-billing was an "escaped assessment" and therefore not governed by the limitation under Section 56(2) of the Electricity Act, 2003;
- (b) the utility was entitled to recover arrears; and
- (c) recovery was permitted in 60 equal monthly instalments to mitigate hardship, without any waiver of dues.

The Respondent Department reiterated its earlier submissions and stated that the demand has been computed strictly in accordance with the applicable tariff schedule and the HT-EHT Agreement

FINDINGS AND ANALYSIS

After perusal of the pleadings, documents, and the submissions made, the following issues arise for determination:

1. Whether the retrospective correction of tariff classification from HT-Industrial to HT-Commercial is legally permissible.
 2. Whether the consumer is liable to pay the differential amount of ₹7,62,475/- arising out of such correction.
1. It is undisputed that the Appellant applied for an HT connection under the HT-Commercial category, and that the Respondent Department erroneously categorized the supply under HT-Industrial at the time of release in December 2017. This error was administrative in nature and was detected only during an internal audit.

The applicable Tariff Notification published in the Official Gazette, Government of Goa, dated 20.07.2017 clearly provides that private educational institutions fall under the HT-Commercial tariff category. The



retrospective correction was therefore a rectification of a clerical error and not a change in tariff classification based on consumer conduct.

Judicial precedents support retrospective correction in such circumstances:

- **M/s Hindustan Zinc Ltd. v. Rajasthan Electricity Regulatory Commission (2015)** – Hon'ble APTEL upheld retrospective recovery where a consumer benefited from an incorrect tariff category.
- **U.P. Power Corporation Ltd. v. NTPC Ltd.** – The Hon'ble Supreme Court held that retrospective recovery is permissible where the consumer was undercharged due to a misclassification, provided the correction flows from a valid regulatory provision.

Clause 24(a) of the High-Tension Agreement between the parties further authorizes recovery of amounts undercharged due to clerical or billing mistakes.

Accordingly, the Respondent Department acted within its lawful authority in rectifying the tariff category retrospectively and recovering the corresponding differential dues.

2. The Appellant has not disputed that the supply was used exclusively for operating a private educational institution, which mandatorily falls under the HT-Commercial category. For nearly eight years, the consumer continued to pay bills under the HT-Industrial category and thereby derived financial benefit from a lower tariff.

Courts have consistently held that consumers cannot retain benefits arising from erroneous billing by utilities:

- **Punjab State Power Corporation Ltd. v. Vardhman Polytex Ltd.** – The High Court held that consumers are liable to pay the tariff differential arising from a departmental error.

- **Tata Steel Ltd. v. Jharkhand State Electricity Regulatory Commission** – APTEL reaffirmed that the consumer must pay the correct tariff once the error is discovered.

Accordingly, the liability to pay ₹7,62,475/-, or any other amount arising from tariff reclassification up to the date of the change in tariff category, rests with the Appellant. The impugned demand reflects legitimate recovery of under-billing and does not constitute a penal action.

3. Although the retrospective recovery is legally sustainable, the delay of nearly eight years in detecting the error warrants equitable consideration. The CGRF's direction allowing payment in 36 monthly instalments without DPC strikes a reasonable balance between mitigating consumer hardship and safeguarding the utility's right to recover lawful dues. However, considering the Appellants request for consideration of more time to liquidate the demand arising out due to reclassification of Tariff category

There is no material on record to justify any further extension of instalments or waiver of the assessed amount.


CONCLUSION AND DIRECTIONS

In view of the above analysis, this Authority holds as follows:

1. The retrospective reclassification of the Appellant's electricity connection from HT–Industrial to HT–Commercial is held to be legally valid, being a rectification of a clerical error under Clause 24(a) of the HT Agreement and the applicable tariff notifications.
2. The Appellant is liable to pay the differential amount of ₹7,62,475/- for the period from December 2017 until the date on which the Electricity Department effected the tariff reclassification. The liability arising from tariff correction up to the date of change in tariff category shall be computed in accordance with the prevailing tariff applicable on a year-on-year basis.



3. The direction of the CGRF dated 03.09.2025 permitting recovery of the differential amount in 36 monthly instalments without Delayed Payment Charges is modified. The Appellant is permitted to pay the outstanding dues in 50 equal monthly instalments, also without Delayed Payment Charges.
4. The Respondent Electricity Department is directed to prepare a monthly payment schedule starting from 1st January 2026 and share with the Appellant
5. The Appellant, M/s Digital Ventures Pvt. Ltd., shall clear the balance dues strictly in 50 equal monthly instalments. This facility is granted solely to mitigate financial hardship and shall not be construed as a waiver, remission, or reduction of any lawful dues.
6. In the event of default in payment of any instalment, the Electricity Department, Goa, shall be at liberty to take action in accordance with law, including disconnection of supply and recovery proceedings.
7. The Respondent is directed to ensure that the corrected tariff category is applied immediately if not already done.
8. No further relief is warranted in favour of the Appellant.
9. The order of the CGRF is upheld subject to the modification that the recovery of arrears shall now be made in 50 monthly instalments in place of the 36 instalments originally permitted.
10. Send a certified copy of this order to Appellant and Respondent through Email in addition to regular post.
11. Respondents are directed to comply the orders and submit compliance report within 15 days from the receipt of this order by Email.
12. Accordingly, the appeal is dismissed.


(C M Sharma) 25/11/25

Dated: 25.11.2025

Ombudsman JERC