

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

Appeal No-254 of 2025, 256 of 2025 &  
257 of 2025

Date of Video Conferencing: 05.01.2026  
Date of Order: 12.01.2026

In the matter of

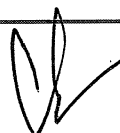
1. Sh. Anant S Patre, IDSE, EE GE (P) Navy Mandovi, Military Engineering Services, INS Mandovi, Verem, Goa-403109 in case No 254 of 2025
2. Sh. Jitender Kumar Meena, EE GE, Military Engineering Services, Garrison Engineer (NW), Mangor Hill, Vasco-da-Gama, Goa 403802 in case No 256 of 2025
3. Shri Raj Gopal, (IDSE), EE GE, Military Engineering Services, Mangor Hill, Vasco-da-Gama, Goa 403802 in case No 257 of 2025.

Appellant(s)

Versus

1. Chief Electrical Engineer,  
Electricity Department,  
Govt. of Goa, Vidyut Bhawan,  
Panaji, Goa.
2. Executive Engineer,  
Div-VI, Electricity Department,  
Mapusa-Goa
3. Executive Engineer,  
Electricity Department,  
Division-XI, Vasco-Goa

Respondent(s)

 12.01.2026

Present:

Appellant: Ld. AR Mr Sarath Gopi AE (E/M) on behalf of Appellants

Respondents: 1). Mr Gangu R Kuttikar, Executive Engineer,

Division-VI, Electricity Department, Goa.

(For case No. 256 of 2025 & 257 of 2025)

2).Mr. Caetono Cardozo, Assistant Engineer,

Division-XI, Electricity Department, Goa.

(For case No 254 of 2025)

### ORDER

These appeals, being Appeal No. 254 of 2025, 256 of 2025 and Appeal No. 257 of 2025, have been preferred under Section 42(6) of the Electricity Act, 2003, read with Regulations 35 and 36 of the Joint Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2024, assailing the orders dated 10.11.2025 passed by the Learned Consumer Grievance Redressal Forum (CGRF), Goa, in Complaint No. C.G.-23/2025, Complaint No. C.G.-21/2025 and Complaint No. C.G.-21/2025, respectively.

Appeal No. 254 of 2025 was instituted on 15.12.2025, while Appeal No. 256 of 2025 was instituted on 15.12.2025 and Appeal No. 257 of 2025 was instituted on 22.12.2025.

Upon admission of the appeals, notices were issued on 15.12.2025 for case No 254 of 2025 and 256 of 2025 respectively and for case No 257 of 2025 the admission notice was issued on 26.12.2025, to the Respondents, namely the Executive Engineer, Electricity Department Goa calling upon them to file their replies to the appeals.

Respondent No. 2, Executive Engineer, Electricity Department Goa, filed its reply/comments vide Letter dated 29.12.2025, which is taken on record.

All the three appeals were thereafter listed for hearing together on 5th January 2026. Having regard to the pleadings on record and noting that the appeals arise out of a common factual and legal matrix, including the levy of Electricity duty on Military Engineering Services, which is a Defense Establishment of Government of India, this Authority, considered it appropriate to hear and decide



all the three appeals together. Accordingly, the appeals were clubbed for the purpose of adjudication.

The parties were heard, and the record has been carefully perused. The submissions advanced on behalf of the Appellants and the Respondents are noticed hereinafter.

#### A. SUBMISSIONS BY THE APPELLANTS

The present representation has been filed by the Military Engineering Services (MES), a department under the Ministry of Defense, Government of India, aggrieved by the levy and recovery of electricity duty in respect of following electricity connections installed in the State of Goa in the name of Military Engineering Service. The details of the connections are as under:

S.No	Case Ref	CA No.	Agreement No.	Voltage Level (kV)	D.O.E	Tariff paid	Elec. Duty
1	254 of 2025	HTC-005/6005	60002124315	33	26.04.1975	63971927.00	1739000
2	256 of 2025	HTC-075/1575	60002127078	33	09.04.1991	-	4640948
3	256 of 2025	HTC-086/1586	60002127102	33	28.10.1983	-	2463515.80
4	257 of 2025	HTC-64/1564	60002127029	33	01.01.2000	-	670479
5	257 of 2025	HTC-66/1564	60002127037	33	01.01.2000	-	1315194
6	257 of 2025	HTC-180/1564	60002127276	33	07.03.2003	-	417124
7	257 of 2025	HTC-47/1564	60002126918	33	18.06.1975	-	192966.60
8	257 of 2025	HTC-92/1564	60002127110	33	26.12.1989	-	22108

The Appellants contends that the electricity supplied under the said connections is consumed exclusively for official Governmental purposes and that recovery of electricity duty by the Respondent Electricity Department, Goa through electricity bills is contrary to Article 287 of the Constitution of India.

The electricity connections in question were installed during the period between 1975 and 2003. The Appellants contend that, in respect of these connections, electricity duty was not reflected in



the bills raised by the Respondent Department for a considerable period and that such duty came to be included in the bills commencing from the year 2023.

The grievance was earlier raised before the Ld. Consumer Grievance Redressal Forum, Goa vide Complaint No. C.G.-23/2025, Complaint No. C.G.-21/2025 and Complaint No. C.G.-21/2025, respectively. Being dissatisfied with the Redressal afforded, the Appellants have approached this Authority under the Joint Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Electricity Ombudsman) Regulations 2024.

The Appellants submits that MES is an undisputed Military Establishment of the Government of India performing Governmental and Sovereign functions.

It is contended that Article 287 of the Constitution of India expressly prohibits a State from imposing or authorizing the imposition of any tax on the consumption or sale of electricity consumed by the Government of India.

It is argued that electricity duty is a tax and that its recovery from MES through electricity bills is constitutionally barred, irrespective of any State legislation, tariff condition, or administrative circular.

Reliance is also placed upon judicial precedents, including the judgment of the Hon'ble Punjab & Haryana High Court in *Union of India v. Punjab State Electricity Board*.

The Appellants seeks directions restraining further recovery of electricity duty and for adjustment/refund of duty already recovered.

#### **B. Submissions of the Respondents**

The Respondent Electricity Department, Government of Goa, opposes the appeals and submits as under:

The Respondents submit that electricity duty is levied under the provisions of the Goa, Daman and Diu Electricity Duty Act, 1986 ("the 1986 Act"), which is a valid State enactment providing for the levy and collection of duty on consumption of electrical energy within the State. The Electricity Department collects such duty strictly in accordance with the statutory mandate and in its capacity as a collecting agency of the State Government.

Reliance is placed on Section 14 (Savings) of the 1986 Act, which clarifies that the Act does not impose or authorise imposition of a tax on electricity that is Generated and Consumed by the Government of India or used in the construction, maintenance, or operation of Railways of the Government of India.



It is submitted that the said provision does not extend exemption to electricity merely consumed by Central Government establishments where Generation is not by the Government of India.

The Respondents further rely upon the General Terms and Conditions of the applicable Tariff Orders, which expressly provide that tariff rates approved by the Joint Electricity Regulatory Commission (JERC) (hereinafter referred to as "Commission") are exclusive of electricity duty and other taxes levied by the Government or competent authority, which are payable by consumers in addition to tariff charges.

It is also submitted that Regulation 4.21 of the Joint Electricity Regulatory Commission (Electricity Supply Code) Regulations, 2018 mandates recovery of statutory levies, including electricity duty, as applicable under law. The Distribution Licensee has no discretion in this regard.

Reliance is placed on the circular issued by the Chief Electrical Engineer, Electricity Department, Panaji dated 06.09.2018, clarifying that waiver of electricity duty is applicable only to State Government consumers and that, in the absence of any specific exemption granted by the State Government, electricity duty is recoverable from all consumers, including Central Government establishments.

At the threshold, the Respondents submit that the present appeals are not maintainable before the Electricity Ombudsman. The jurisdiction of the Ombudsman under Section 42 of the Electricity Act, 2003, read with the applicable CGRF and Ombudsman Regulations, is confined to adjudication of consumer grievances relating to billing errors, metering issues, tariff application, and deficiency in services.

The present dispute does not concern any billing mistake or tariff misapplication, but constitutes a challenge to the levy and applicability of electricity duty imposed under a state taxation statute. Electricity duty is neither a tariff component nor a charge determined by the Regulatory Commission, but a statutory levy enacted by the State Legislature under Entry 53 of List II of the Seventh Schedule to the Constitution of India.

It is submitted that a statutory or quasi-judicial authority constituted under the Electricity Act, 2003 lacks jurisdiction to examine the constitutional validity, legislative competence, or constitutional immunity relating to a state enactment. Questions involving interpretation of Article



287 of the Constitution of India and the validity or applicability of State taxation statutes fall exclusively within the domain of Hon'ble Constitutional Courts.

The Respondents submit that the Electricity Department received representations from the Appellant seeking exemption from electricity duty in respect of High Tension electricity connections used by them within the MES area on the ground of Article 287 of the Constitution of India. The Electricity Department, vide communication dated 11.12.2024, informed the Appellant that under the Goa, Daman and Diu Electricity Duty Act 1986, exemption from electricity duty is available only to the "Government" as defined therein, namely the Government of Goa, and that the Act does not extend such exemption to Central Government establishments.

Subsequently, the Appellant approached the Chief Electrical Engineer, who, by communication dated 21.07.2025, reiterated the statutory position and clarified that Section 14 of the Goa, Daman and Diu Electricity Duty Act 1986 does not prohibit levy of electricity duty on electricity consumed by Central Government establishments supplied by the State distribution system.

The Respondents submit that the Ld. Consumer Grievance Redressal Forum, Goa, after examining the grievance, held that the levy of electricity duty arises from a state enactment, that the CGRF lacked jurisdiction to adjudicate upon constitutional questions, and accordingly advised the Appellant to seek appropriate remedy before a higher judicial forum.

It is further submitted that electricity duty has been levied on Military Engineering Services a Defense establishment of Government of India with effect from September 2023 pursuant to notification published in the Official Gazette, Government of Goa. The duty is levied at a concessional rate applicable to the relevant consumer category and is charged uniformly in accordance with law.

In view of the above, the Respondents submit that the levy and recovery of electricity duty has been carried out strictly in accordance with the statutory framework and that the issues raised in the present appeals fall outside the jurisdiction of the Electricity Ombudsman.

The Respondents accordingly pray that the appeals be dismissed on the ground of lack of jurisdiction, with liberty to the Appellant to seek appropriate remedy before a competent constitutional court.

### **C. Points for Determination**

The following issues arise for consideration:



- i Whether this Authority has jurisdiction to examine the recoverability of electricity duty included in electricity bills;
- ii Whether this Authority can examine electricity duty, though excluded from tariff and ordinarily payable in addition thereto, is lawfully recoverable from a department of the Government of India in view of Article 287 of the Constitution of India;
- iii Whether tariff conditions or administrative circulars can authorize recovery of electricity duty in derogation of constitutional immunity.

#### D. Findings and Analysis

Electricity duty is a tax levied by the State Legislature under Entry 53 of List II of the Seventh Schedule to the Constitution of India. It is imposed under a separate State enactment and does not form part of tariff determination under the Electricity Act, 2003.

The General Terms and Conditions of the applicable Tariff Orders explicitly provide that tariffs are exclusive of electricity duty and other taxes levied by the Government or competent authority, which are payable by consumers in addition to tariff charges.

The jurisdiction of the Electricity Ombudsman under Section 42(6) of the Electricity Act, 2003, read with the CGRF and Ombudsman Regulations, is confined to adjudication of consumer grievances relating to billing errors, tariff application, metering disputes, and deficiency in service by the distribution licensee.

It is a settled principle of law that statutory or quasi-judicial authorities cannot adjudicate upon the constitutional validity or applicability of legislation under which they do not derive their powers.

The Hon'ble Supreme Court in *K.S. Venkataraman & Co. v. State of Madras*, AIR 1966 SC 1089, and *State of Kerala v. Aluminium Industries Ltd.*, (1996) 7 SCC 637, has held that authorities constituted under a statute lack jurisdiction to pronounce upon constitutional questions. This principle has been reiterated in *PTC India Ltd. v. CERC*, (2010) 4 SCC 603.

The Appellant's reliance on Article 287 of the Constitution of India raises a substantial constitutional issue concerning immunity from State taxation. Determination of the scope, applicability, and enforcement of Article 287, particularly in the context of a State taxation statute, necessarily involves constitutional adjudication.

Such adjudication falls exclusively within the jurisdiction of Hon'ble Constitutional Courts exercising powers under Articles 226 and 32 of the Constitution of India.



The Appellant has contended that electricity duty was not reflected in the bills for a long period prior to 2023. This Authority notes that past non-levy or non-recovery of a statutory tax does not, by itself, confer any vested right, immunity, or exemption, nor can it estop the State from enforcing a statutory levy, particularly where the issue involves interpretation of constitutional and taxation provisions. In any event, examination of such issues would require adjudication beyond the statutory remit of this Authority.

Grant of any direction staying levy or recovery of electricity duty would, in substance, amount to granting interim constitutional relief against enforcement of a state taxation statute.

In view of the limited statutory jurisdiction of the Electricity Ombudsman, and considering binding judicial precedent, this Authority is not empowered to grant such relief.

Questions relating to constitutional immunity under Article 287 of the Constitution of India and the validity or enforceability of a state levy thereunder involve substantial constitutional issues falling within the exclusive domain of Hon'ble Constitutional Courts exercising jurisdiction under Articles 226 and 32 of the Constitution. Accordingly, this Authority refrains from expressing any opinion on the merits of the constitutional contentions raised and leaves it open to the Appellants to seek appropriate legal remedy before the Hon'ble High Court of Bombay at Goa or any other competent constitutional forum.

Subsequent to the conclusion of oral hearing on 5 January 2026, the Appellant, vide letter No. 400/ED/41/E4 dated 6 January 2026, placed on record certain additional communications, namely:

(i) Letter No. JAL/ED/DCT/96(2) dated 26.08.2022 issued by the Directorate of Commercial Taxes & Electricity Duty, Government of West Bengal, concerning exemption from payment of electricity duty; and

(ii) Communication No. ELD-2025/P.No.113/Energy-1 dated 1 October 2025 issued by the Government of Maharashtra relating to approval of electricity tariff refund/adjustment.

The Appellant has relied upon the aforesaid communications to contend that the Governments of West Bengal and Maharashtra have permitted exemption and/or refund of electricity duty in respect of Government premises, and that similar relief ought to be extended in the present case.





This Authority has taken note of the said submissions and documents. However, it is clarified that electricity duty is a State-specific levy, traceable to Entry 53 of List II of the Seventh Schedule to the Constitution of India, and the incidence, exclusively the provisions of the respective State enactments and notifications issued thereunder govern exemption, remission, or refund thereof.

The materials relied upon by the Appellant pertain to amendments, notifications, or executive decisions taken by other State Governments in exercise of their independent legislative and executive powers. Such measures have no automatic or persuasive applicability to the State of Goa unless incorporated by way of a corresponding statutory amendment or notification under the Goa, Daman and Diu Electricity Duty Act, 1986.

In the present case, it is an admitted position that neither party has placed on record any amendment, notification, or statutory instrument evidencing exemption or withdrawal of electricity duty in favor of Central Government establishments under the Goa, Daman and Diu Electricity Duty Act, 1986. On the contrary, as per Official Gazette Notification, Government of Goa, Series I No. 15 dated 13 July 2023, Notification No. 120/2/CEE/Tech/COM, electricity duty has been notified at Serial No. 15 at the rate of 20 paise per unit, including for the relevant category of consumers.

Accordingly, the post-hearing documents relied upon by the Appellant do not alter the jurisdictional limitations of this Authority nor do they warrant any deviation from the conclusions already recorded herein, the challenge raised being fundamentally rooted in constitutional and statutory interpretation beyond the remit of this Forum.

Order:

After hearing both the parties at length and upon careful consideration of the pleadings, submissions, and material placed on record, and for the reasons recorded hereinabove, this Authority passes the following order:


1. It is held that electricity duty is a statutory levy imposed by the State Legislature under a separate taxation enactment and does not form part of tariff determination or regulatory control under the Electricity Act, 2003.
2. It is further held that this Authority, being a quasi-judicial forum constituted under Section 42 of the Electricity Act, 2003, lacks jurisdiction to adjudicate upon the constitutional



validity, applicability, or exemption claimed under Article 287 of the Constitution of India, or to grant any stay or restraint on the levy or recovery of electricity duty imposed under State law.

3. Consequently, the grievances raised by the Appellants insofar as they relate to the levy and recoverability of electricity duty are held to be not maintainable before this Authority and are dismissed on the ground of lack of jurisdiction.
4. The orders passed by the Consumer Grievance Redressal Forum in Complaint No. C.G.-23/2025, Complaint No. C.G.-21/2025, and Complaint No. C.G.-22/2025 are hereby upheld to the extent indicated above.
5. It is clarified that this order is confined strictly to the question of jurisdiction and does not express any opinion on the merits of the constitutional contentions raised by the Appellants, which are expressly left open.
6. The representations/appeals bearing Nos. 254 of 2025, 256 of 2025, and 257 of 2025 stand disposed of accordingly.
7. The Appellants are at liberty to seek appropriate legal remedy before the Hon'ble High Court of Bombay at Goa or any other competent constitutional forum, in accordance with law.
8. A copy of this order be communicated to all concerned parties.
9. It is clarified that this order is confined strictly to the question of jurisdiction and shall not be construed as affirming or negating the constitutional claims raised by the Appellant, which are left open to be adjudicated by the appropriate Hon'ble Constitutional Court.

**Ordered accordingly.**

  
(Electricity Ombudsman)

Dated: 12.01.2026

Joint Electricity Regulatory Commission