

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
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Case No. 198 of 2025

Case of Varun Beverages Limited seeking compliance with the Order dated 18 June 2025 in Case No. 129 of 2024 by MSEDCL in respect of Net Billing Adjustment for Rooftop Solar Plant

And

Interlocutory Application(IA) 105 of 2025 in Case No. 198 of 2025

Interlocutory Application of Varun Beverages Limited for urgent listing of the Petition in Case No. 198 of 2025.

Varun Beverages Limited (VBL)

.... **Petitioner**

V/s

Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL)

.... **Respondent**

Coram

**Sanjay Kumar, Chairperson
Anand M. Limaye, Member
Surendra J. Biyani, Member**

Appearance

For Petitioner

: Mr. Ghansham Thakkar (Rep.)

For MSEDCL

: Mr. Harinder Toor (Adv.)

ORDER

Date: 2 December 2025

1. Varun Beverages Limited. (**Petitioner/VBL**) has filed a Petition on 4 September 2025 seeking compliance with the Order dated 18 June 2025 in Case No. 129 of 2024 (**Impugned Order**) by MSEDCL, in respect of the Net Billing Adjustment for the

MERC Order in Case No. 198 of 2025 & IA 105 of 2025

Rooftop Solar Plant commissioned by VBL. The Petition has been filed under Section 142 of the Electricity Act (EA/Act), 2003.

2. **VBL's main prayers are as follows:**

“a) Admit the present proceedings initiated under Section 142 of the Electricity Act, 2003

b) Direct forthwith compliance by M/s. Maharashtra State Electricity Distribution Company Limited to undertake Net Billing Adjustment for generation from rooftop Solar Plant with the Petitioner/ Applicant in terms of the Order dated 18.06.2025 in Case No. 129 of 2024 from May 2025 onwards.

c) Pass any other order or order(s) as this Hon'ble Commission may deem fit and proper in the facts and circumstances of the present case.”

3. **The Petition states as follows:**

3.1. VBL has installed a Solar-based Renewable Energy Generating System (**REGS**) of 3833 kW, which is eligible under the prevailing MERC (Grid Interactive Rooftop Renewable Energy Generating Systems) (First Amendment) Regulations, 2023 (**MERC (Grid Interactive RREGS First Amendment) Regulations 2023**).

3.2. VBL had filed Case No.129 of 2024 for seeking directions for allowing Net Billing arrangement along with Open Access. The Commission vide Order dated 18 June 2025 in Case No. 129 of 2024 ruled as under:

“

ORDER

1. The Petition in Case No.129 of 2024 is allowed.

2. Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL) to execute the Roof top Solar Net Billing connection agreement with Varun Beverages Ltd. (VBL) in line with Regulation 12(h) of MERC (Grid Interactive RREGS)(First Amendment) Regulations 2023, i.e., after the installation of the Renewable Energy Generating System but before the synchronization with the distribution network.

3. MSEDCL to compensate VBL and other similar consumers for the delay in processing the Net Billing Applications in accordance with Regulation 7 of MERC (Grid Interactive RREGS)(First Amendment) Regulations 2023, which would make the compliance of the Regulations by MSEDCL.”

3.3. The Commission has issued explicit direction in the impugned order, to allow net billing

in timebound manner and also directed to sign the Net Billing Agreement. MSEDCL has demonstrably failed to adhere to the above directions issued by the Commission.

- 3.4. Also, despite requests (Letter and e-mails) to allow Net Billing Adjustment in line with Net Billing Agreement signed by the Parties and clear directions of the Commission, MSEDCL deliberately ignored the same and flouted specific directions passed by the Commission, thereby indulging in an act of contempt.
- 3.5. Further, MSEDCL has neither sought any review of the aforesaid Order, nor preferred any appeal before the Hon'ble Appellate Tribunal for Electricity (ATE).
- 3.6. Furthermore, the contravention which is to be dealt with under Section 142 of EA 2003 must be deliberate or intentional.
- 3.7. The non-adjustment of Net Billing under the Net Billing Agreement is not a technical or venial breach, but a gross breach resulting in a situation where MSEDCL has done overbilling of Rs 76 Lakh, by not giving energy adjustment as per Net Billing, and the same needs to be given effect in prospective bills of the Petitioner. Any denial of Net Billing would cause the power generated by the Petitioner's solar rooftop plant to be stranded.
- 3.8. Thus, it is the obligation, rather than a mandatory requirement of MSEDCL, to undertake Net Billing Adjustment with VBL, which is being contravened on a continuous basis with effect from May 2025 onwards.
4. **On 4 September 2025, VBL filed IA No.105 of 2025 in Case No.198 of 2025 for urgent listing of the matter with the following prayers:**

“(a) Allow the present Application, thereby urgently listing the captioned Petition on the first day when this Hon'ble Commission is sitting after filing of the present Application or any other early date as may be convenient to this Hon'ble Commission; and

(b) Pass any other order as this Hon'ble Commission may deem fit in the facts and circumstances of the present case and in the interest of justice.”

5. **The IA, along with the main matter, was listed for hearing on 9 September 2025:**
- 5.1. Representatives for VBL reiterated its submissions as made out in the Petition and IA and further stated:
 - (i) The Commission issued the impugned Order on 18 June 2025, in which it made clear that a consumer can avail of open access, have a rooftop solar system, and enter into a net billing arrangement.

- (ii) MSEDCL is not giving monthly credit as per the net billing arrangement and is still continuing with the gross billing arrangement, incurring a loss of Rs. 25 Lakhs per month, and is not following the Commission's order.
- 5.2. The advocate for MSEDCL stated that VBL wants a Net Billing arrangement, but the proviso to Regulation 3.4 of the DOA Second Amendment Regulations 2023 provides for Net metering. This forms part of the clarificatory Petition in Case No. 232 of 2024, which was filed before the Commission.
- 5.3. The Commission directed MSEDCL to comply with the Order dated 18 June 2025 in Case No. 129 of 2024 within 15 days. Based on the outcome in Case No. 232 of 2024, MSEDCL is at liberty to make necessary adjustments, if required.
6. **VBL, in its additional submission dated 20 September 2025, stated as follows:**
- 6.1. As per the Daily Order dated 9 September 2025 in IA No 105 of 2025 in Case No 198 of 2025, MSEDCL was required to give an energy adjustment for rooftop solar generation as per the Net Billing Arrangement within 15 days.
- 6.2. On 16 September 2025, MSEDCL issued the August 2025 monthly electricity bill. It is observed that MSEDCL has continued to give adjustment for rooftop solar generation on gross metering and not as per Net Billing as per the Agreement signed between the parties and also the explicit directions of the Commission in Case No. 129 of 2024 and IA No. 105 of 2025 in Case No. 198 of 2025.
7. **VBL, in its additional submission dated 3 October 2025, stated as follows:**
- 7.1. MSEDCL vide its letter dated 1 October 2025 stated that:
- “..... it is hereby informed that the Energy Bills for the month of May 2025, June 2025, July 2025 and August 2025 are being revised and the corresponding credit adjustment will be reflected in the ensuing bill of September 2025”*
- 7.2. MSEDCL has agreed to comply with the directions issued vide daily Order dated 9 September 2025.
- 7.3. MSEDCL has stated that the energy bill adjustment of May 2025 to August 2025 will be reflected in the ensuing bills of September 2025, though the same is being undertaken under protest.
8. **MSEDCL, in its additional submission dated 3 November 2025, stated as follows:**
- Compliance of the impugned Order:
- 8.1. In compliance with the impugned Order, the parties have already executed the Net Billing

Connection Agreement on 15 May 2025.

- 8.2. Further, without prejudice to its legal rights and remedies, and subject to the liberty available to MSEDCL as per the final outcome in Case No. 232 of 2024, MSEDCL has revised the Energy Bills for May 2025, June 2025, July 2025, and August 2025, along with the adjustment on Net-Billing basis for September 2025.
- 8.3. Accordingly, corresponding credit adjustments reflecting such revisions have already been duly carried out in the Energy Bill for September 2025.
- 8.4. Therefore, the directions pursuant to the compliance of the impugned Order dated 18 June 2025 passed in Case No. 129 of 2024 were duly complied with.

Applicability of the DOA (Second Amendment) Regulations, 2023

- 8.5. The DOA (Second Amendment) Regulations, 2023, were notified on 10 November 2023 and came into force prospectively. The said Regulations introduced new provisions under Regulations 3.3 and 3.4 relating to Green Energy Open Access (GEOA) and the simultaneous operation of Open Access with Rooftop Solar, subject to the consumer meeting the eligibility criteria under Regulation 3.2 or 3.3.
- 8.6. In particular, Regulation 3.4 provides that during such simultaneous operation, *“the net drawal recorded on net meter/meter adjusted for banking credit available under Rooftop Regulations shall be used for adjusting energy credit”* as per Regulation 14.10 of the Principal Regulations.
- 8.7. However, as clarified in the MERC Grid Interactive RREGS Regulations, 2019, “banking credit” is applicable only in a Net Metering arrangement. Therefore, only those consumers who have validly applied and are operating under the Green Energy Open Access (GEOA) regime, with Net Metering permitted by the Nodal Agency (MSLDC), are eligible to claim such adjustment.

Absence of clarity and pending clarification petition

- 8.8. Post notification of the DOA (Second Amendment) Regulations, 2023, several ambiguities arose regarding the interpretation and operationalisation of simultaneous Open Access with Rooftop Solar, particularly concerning Net Metering applicability and energy adjustment methodology.
- 8.9. Pursuant to the direction issued by the Commission vide daily order dated 20 August 2024 in Case No. 231 of 2023, MSEDCL issued Commercial Circular No. 346 dated 09 September 2024 for the implementation of Green Energy Open Access in accordance with the provisions of the DOA Second Amendment Regulations, 2023.

- 8.10. However, subsequent to the issuance of the said amendment, there arose ambiguity as to the manner in which Open Access consumers having Rooftop Solar Renewable Energy Generating Systems were to be treated, particularly in respect of energy adjustment and credit methodology under Net Metering, and how such treatment would differ from that applicable under the DOA (First Amendment) Regulations, 2019, which was already under implementation by MSEDCL.
- 8.11. Thereafter, MSEDCL filed a Clarificatory Petition registered as Case No. 232/MP/2024, wherein the Commission, during the hearing dated 09 September 2025, acknowledged the operational difficulties raised by MSEDCL and stated that a committee shall be constituted to examine and finalize the matter.
- 8.12. In view of the above, the question of granting Net Metering adjustment under the DOA Second Amendment Regulations 2023 remains sub judice and under consideration before the Commission itself, as the clarification sought by MSEDCL still remains pending before the Committee.
- 8.13. MSEDCL reiterated that till such time as the Commission issues directions in the aforesaid Clarificatory Petition (Case No. 232 of 2024), owing to ambiguities as highlighted, the existing billing methodology is continuing due to non-clarity in the prevailing regulatory framework. Accordingly, any claim for financial adjustment or Net Metering benefit is subject to the final outcome of the present Petition and further orders of the Commission in Case No. 232 of 2024.
- 8.14. It is significant that the averments made by VBL on aforesaid Regulation 3.4 of MERC DOA Regulations, 2016 are fundamentally flawed/ misconceived in fact and law. This is because *ex facie*, Regulation 3.4 relates and is applicable to an existing / subsisting / commissioned Rooftop REGS and not to an inchoate / proposed Rooftop REGS (as in the above Case of VBL). Pending installation and commissioning of VBL's Solar-based REGS, VBL cannot, in law, avail Open Access under said Regulation 3.4.
- 8.15. At this juncture it is pertinent to note that VBL had sought GEOA from MSEDCL pending installation and commissioning of said Solar based REGS. In any case or event, VBL cannot avail GEOA or Renewable Energy OA from MSEDCL after coming into force or commencement of the Electricity (Promoting Renewable Energy through Green Open Access) Rules, 2022 [**GEOA Rules, 2022**], as well as the DOA (Second Amendment) Regulations, 2023.
- 8.16. In this context, MSEDCL relies upon the judgment of Hon'ble Supreme Court of India ("Supreme Court") in the case of *[State of Punjab vs Davinder Pal Singh Bhullar]* reported as (2011) 14 SCC 770, and particularly Paras 107 to 111 thereof, which are extracted as below:

“107. It is a settled legal proposition that if initial action is not in consonance with law, all subsequent and consequential proceedings would fall through for the reason that illegality strikes at the root of the order. In such a fact situation, the legal maxim sublato fundamento cadit opus meaning thereby that foundation being removed, structure/work falls, comes into play and applies on all scores in the present case.

108. In Badrinath v. Govt. of T.N. and State of Kerala v. Puthenkavu N.S.S. Karayogam this Court observed that once the basis of a proceeding is gone, all consequential acts, actions, orders would fall to the ground automatically and this principle is applicable to judicial, quasi-judicial and administrative proceedings equally.

109. Similarly in Mangal Prasad Tamoli v. Narvadeshwar Mishra this Court held that if an order at the initial stage is bad in law, then all further proceedings, consequent thereto, will be non est and have to be necessarily set aside.

110. In Albert Morris v. K Chandrasekaran this Court held that a right in law exists only and only when it has a lawful origin. (See also Upen Chandra Gogoi v. State of Assam, Satchidananda Misra v. State of Orissa, SBI v. Rakesh Kumar Tewari and Ritesh Tewari v. State of U.P.)

111. Thus, in view of the above, we are of the considered opinion that the orders impugned being a nullity, cannot be sustained. As a consequence, subsequent proceedings/orders/FIR/investigation stand automatically vitiated and are liable to be declared non est.”

- 8.17. Further in this context, MSEDCL relies upon the judgement of Supreme Court in the case of *[Narayanamma vs Govindappa]* reported as (2019) 19 SCC 42, and particularly Para 20 thereof which is extracted as below:

“20. It could thus be seen that, although illegality is not pleaded by the defendant nor is relied upon by him by way of defence, yet the court itself, upon the illegality appearing upon the evidence, will take notice of it, and will dismiss the action ex turpi causa non oritur actio. It has been held, that no polluted hand shall touch the pure fountain of justice. It has further been held, that where parties are concerned in illegal agreements or other transactions, courts of equity following the rule of law as to participators in common crime will not interpose to grant any relief, acting upon the maxim in pari delicto potior est conditio defendetis et possidentis.”

- 8.18. In the circumstances and for reasons aforesaid, the present Petition filed by VBL is based on an incorrect premise of law.

9. VBL in its additional submission dated 6 November 2025, stated as follows:

- 9.1. MSEDCL stated that the present petition is based on an incorrect premise that whoever, VBL, was constrained to reach the Commission against the consistent denial and breach of the directions issued by the Commission.
- 9.2. MSEDCL has given an energy adjustment as an arrear in the electricity bill generated for the month of September 2025.
- 9.3. MSEDCL has complied with the directions issued by the Commission regarding allowing adjustment on net billing in the respective electricity bill so far issued, and requested the Commission to direct MSEDCL for future compliance as well as the regulations issued by the Commission.

Commission's Analysis and Ruling:

10. The Commission notes that the present Petition has been filed under Section 142 of EA 2003 for seeking compliance with the Order dated 18 June 2025 in Case No. 129 of 2024 by MSEDCL.
11. The Commission vide its Order dated 18 June 2025 in Case No. 129 of 2024 (VBL Vs MSEDCL) directed MSEDCL to allow processing of the Net Billing Application of the VBL in a time-bound manner and also directed MSEDCL to sign the Net Billing Agreement. The relevant para. of the Order dated 18 June 2025 are as follows:

“

17.4 In view of the above, the Commission think it fit to direct MSEDCL to execute the Roof top Solar Net Billing connection agreement with VBL in line with Regulation 12(h) of MERC (Grid Interactive RREGS First Amendment) Regulations 2023 i.e after the installation of the Renewable Energy Generating System but before the synchronization with the distribution network.

.....

17.10 The Commission further notes that without any valid reasons, MSEDCL has delayed the processing of Net billing Applications of VBL and other similar consumers. The Commission can only conclude that despite clear regulatory provisions, MSEDCL has wilfully not processed the Net Billing applications.

17.11 Under such circumstances, the Commission notes that similar non-compliance has been observed by the Commission in Case No.176 of 2023. In said matter, the Commission vide its Order dated 6 June 2025 in Case No. 176 of 2023 ruled as below.

.....

17.13 In view of the above, the Commission think it fit to direct MSEDCL to compensate VBL and other similar consumers for the delay in processing the Net Billing Applications in accordance with Regulation 7 of MERC (Grid Interactive RREGS First Amendment) Regulations 2023, which would make the compliance with the Regulations by MSEDCL.”

.....

ORDER

1. The Petition in Case No.129 of 2024 is allowed.

2. Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL) to execute the Roof top Solar Net Billing connection agreement with Varun Beverages Ltd. (VBL) in line with Regulation 12(h) of MERC (Grid Interactive RREGS)(First Amendment) Regulations 2023, i.e., after the installation of the Renewable Energy Generating System but before the synchronization with the distribution network.

3. MSEDCL to compensate VBL and other similar consumers for the delay in processing the Net Billing Applications in accordance with Regulation 7 of MERC (Grid Interactive RREGS)(First Amendment) Regulations 2023, which would make the compliance of the Regulations by MSEDCL ”

12. The Commission in the above Order clearly held that MSEDCL to execute the Roof top Solar Net Billing connection agreement with VBL in line with Regulation 12(h) of MERC (Grid Interactive RREGS)(First Amendment) Regulations 2023, i.e., after the installation of the Renewable Energy Generating System but before the synchronization with the distribution network and directed to compensate VBL and other similar consumers for the delay in processing the Net Billing Applications in accordance with Regulation 7 of MERC (Grid Interactive RREGS)(First Amendment) Regulations 2023, which would make the compliance of the Regulations by MSEDCL
13. In the present Petition, VBL has raised the issue to undertake Net Billing adjustment by MSEDCL for generation from the rooftop Solar Plant with VBL in terms of the impugned Order dated 18 June 2025.
14. During the hearing held on 9 September 2025 in the present matter, the Commission directed MSEDCL to ensure compliance with the Order issued in Case No. 129 of 2024 within a period of fifteen (15) days from the date of the hearing. The Commission further clarified that, subject to the outcome in Case No. 232 of 2024, MSEDCL shall be at liberty to carry out appropriate adjustments, if warranted.
15. In terms of compliance of the above daily Order dated 9 September 2025, MSEDCL vide its additional submission dated 3 November 2025 submitted as below:

“In compliance with the impugned Order, the parties have already executed the Net Billing Connection Agreement on 15 May 2025.

Further, without prejudice to its legal rights and remedies, and subject to the liberty available to MSEDCL as per the final outcome in Case No. 232 of 2024, MSEDCL has revised the Energy Bills for the months of May 2025, June 2025, July 2025, and August 2025 along with the adjustment on Net-Billing basis for September 2025. Accordingly, corresponding credit adjustments reflecting such revisions have already been duly carried out in the Energy Bill for September 2025.

Therefore, the directions pursuant to the compliance of the impugned Order dated 18 June 2025 passed in Case No. 129 of 2024 duly complied with.”

16. As evident from the above submissions, MSEDCL has revised the Energy Bills for the months of May to August 2025, along with the adjustment on a Net-Billing basis for September 2025. Accordingly, the corresponding credit adjustments arising from such revisions have been duly incorporated in the Energy Bill for September 2025.
17. Further, VBL in its additional submission dated 6 November 2025 stated that MSEDCL has given energy adjustment as an arrear into the electricity bill generated for the month of September 2025 and MSEDCL has complied with the directions issued by the Commission w.r.t. allowing adjustment on net billing in the respective electricity bill so far issued.
18. In view of the foregoing, the Commission notes that MSEDCL has complied with the impugned Order and provided the credit adjustment on a Net billing basis in the energy bills of September 2025, which VBL also confirmed. Therefore, the Commission rules that the case has been resolved for compliance with the Order dated 18 June 2025 in Case No. 129 of 2024 and that no direction is required to be issued to MSEDCL for non-compliance under Section 142 of the EA 2003.
19. In view of the above, the Commission is of the view that the Impugned Order has been complied with. Therefore, the Commission is not inclined to initiate any action against MSEDCL under Section 142 of the EA, 2003.
20. In addition to the compliance of the impugned Order, MSEDCL further submitted that any claim for financial adjustment or Net Metering benefit in the present Petition is subject to the final outcome of the order in Case No. 232 of 2024. MSEDCL has filed petition in Case No. 232 of 2024 seeking clarification on MERC (Distribution Open Access) (2nd Amendment) Regulations, 2023 (**DOA Second Amendment Regulations 2023**). In the said case, MSEDCL sought clarification to Regulation 3.4 (proviso) of DOA Second Amendment Regulations 2023 on the issue of credit adjustment of simultaneous OA and Net Metering.

21. The Commission has heard the matter in Case No. 232 of 2024 on 9 September 2025, wherein the Commission acknowledged the issues and the clarification sought by MSEDCL. The Commission directed the formation of a Working Group, and the Working Group shall submit its report on the issues raised by MSEDCL within two (2) months. Based on the findings and recommendations of the Working Group, the Commission may either issue appropriate Orders or initiate amendments to the Open Access Regulations as necessary.
22. The Commission notes that one of the key issues highlighted in the clarificatory Petition in Case No. 232 of 2024 pertains to the credit adjustment of simultaneous Open Access and Net Metering. This issue has also been raised by MSEDCL in the present proceedings through its additional submission dated 3 November 2025. As the matter concerning the clarification on simultaneous operation of Open Access and Net Metering is currently under adjudication before the Commission in Case No. 232 of 2024, the Commission shall deal with the said issue separately in Case No. 232 of 2024. Hence nothing survives in the present matter.
23. **Hence, the following Order:**

ORDER

1. **The Case No. 198 of 2025 is disposed of, as the MSEDCL has complied with the directions of the Commission in its Order dated 18 June 2025 in Case No. 129 of 2024. Accordingly, IA No.105 of 2025 is also disposed of.**

Sd/-
(Surendra J. Biyani)
Member

Sd/-
(Anand M. Limaye)
Member

Sd/-
(Sanjay Kumar)
Chairperson


(Dr. Rajendra G. Ambekar)
Secretary

