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BOMBAY HIGH COURT REINFORCES LIABILITY OF SUBSEQUENT PURCHASERS FOR ELECTRICITY THEFT DUES UNDER REGULATIONS, 2021

Case Name: Aeon Creations Private Limited & Mr. Rajendra Prasad Jain vs. The State of Maharashtra & Ors.

Case No. Writ Petition No. 2734 of 2025

Court: High Court of Judicature at Bombay (Civil Appellate Jurisdiction)

Date of Judgment: June 6, 2025

Facts of the Case

In the case of M/s. Aeon Creations Private Limited & Mr. Rajendra Prasad Jain vs. The State of Maharashtra & Ors., in Writ Petition No. 2734 of 2025, the Hon'ble Bombay High Court ("High Court"), by its judgment dated June 6, 2025, dealt with the issue of liability for electricity dues, particularly those arising out of electricity theft, vis-à-vis subsequent purchasers of industrial properties acquired on an "as is where is" basis.

In the said case, M/s. Aeon Creations Private Limited ("Aeon"), a company engaged inter alia in the business of manufacturing mild steel ingots, sought to expand its business operations and, in furtherance thereof, purchased the industrial unit of M/s. Vishwas Steel Limited ("Vishwas Steel") through a public auction conducted under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("SARFAESI Act, 2002"), pursuant to a public notice dated January 24, 2008. Consequent to the said auction, a Sale Certificate dated May 12, 2008 and a Registered Agreement for Sale dated January 5, 2010 were executed in favour of Aeon.

Since the electricity connection at the said premises had been permanently disconnected with effect from April 1, 2001, Aeon applied to the Maharashtra State Electricity Distribution Company Limited ("MSEDCL") for a fresh electricity supply connection. However, MSEDCL rejected the Aeon's application on the ground that the outstanding arrears of the previous owner, Vishwas Steel, were required to be cleared prior to sanctioning a new connection.

Aggrieved by the said rejection, Aeon filed Writ Petition No. 1686 of 2011 before the Hon'ble High Court, inter alia seeking directions to MSEDCL to provide a new electricity connection to the said premises and to quash the circular issued by MSEDCL mandating recovery of past dues of the previous consumer as a precondition for reconnection.



By an Order dated June 15, 2011, the Hon'ble High Court was pleased to direct MSEDCL to grant a fresh electricity connection to Aeon upon deposit of the dues for six (6) months immediately preceding the date of disconnection, subject to verification by MSEDCL. The said order, however, did not include or pertain to any theft charges levied on the previous consumer. It is further noted that Aeon has not deposited the aforesaid amount till date, i.e., for a period of approximately fourteen (14) years since the passing of the said order.

Issues

Whether, in the facts and circumstances of the case, the Petitioners are entitled to maintain their application under the Amnesty MSEDCL Mahavitaran Abhay Yojana, 2024 ("Amnesty Scheme").

Regulatory Context

In the case of *Aeon Creations Private Limited & Mr. Rajendra Prasad Jain vs. The State of Maharashtra & Ors.*, the Hon'ble High Court examined the applicability of the Maharashtra Electricity Regulatory Commission Electricity Supply Code and Other Conditions of Supply, 2005 ("Supply Code, 2005") and the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Standards of Performance of Distribution Licensees including Power Quality) Regulations, 2021 ("Regulations, 2021") in the context of the Amnesty Scheme. The Petitioners relied on Regulation 10.5 of the Supply Code, 2005, which exempted subsequent purchasers from liability for dues of previous consumers, arguing that this provision shielded them from theft charges. They also cited an interim order dated June 15, 2011, which required only six (6) months' dues to be deposited prior to reconnection.

The Hon'ble High Court noted that the Supply Code, 2005 had been repealed and replaced by the Regulations, 2021, which omitted the proviso relied upon by the Petitioners. Since the Amnesty Scheme was framed under the Regulations, 2021, any rights under the repealed Supply Code, 2005 could not be claimed. Reliance was placed on *Kolhapur Canesugar Works Ltd. v. Union of India (2000) 2 SCC 536*, which held that repealed provisions cannot be revived unless expressly saved.

Findings and Analysis

The Hon'ble High Court held that the duty of a distribution licensee under Section 43 of the Electricity Act, 2003 ("EA, 2003") is conditional upon compliance by the consumer, including payment of arrears. Purchasers acquiring property on an "as is where is basis" inherit existing liabilities, including electricity dues. Citing *K.C. Ninan v. Kerala State Electricity Board, 2023 SCC OnLine SC 663*, the Hon'ble High Court affirmed that requiring subsequent purchasers to clear previous electricity dues, including theft charges, is lawful, reasonable, and consistent with the objectives of the EA, 2003.

The Hon'ble High Court further clarified that the Amnesty Scheme constitutes a binding settle-



-ment, and both MSEDC and consumers are required to adhere strictly to its terms. Judicial intervention cannot modify, extend, or dilute the benefits provided under the Amnesty Scheme. Consequently, the Petitioners' contention for exemption from theft charges under the Amnesty Scheme was rejected.

Conclusion:

The judgment clarifies the legal landscape concerning electricity theft liabilities and the applicability of the Amnesty Scheme. The Hon'ble High Court dismissed the petition filed by the Petitioners, thereby reaffirming the enforceability of electricity theft liabilities against subsequent purchasers of premises acquired on an "as is where is" basis. The Hon'ble High Court held that the Regulations, 2021, particularly Clause 12.5, create a statutory charge on the premises, enabling MSEDC to recover pending electricity dues, including those arising from theft, from the new owners. As a result, stakeholders must recalibrate their operational, transactional, and compliance frameworks to align with this authoritative legal position, thereby minimizing risk and fostering regulatory certainty. The Hon'ble High Court further clarified that accepting benefits under such schemes constitutes a contractual settlement with the utility provider, and the judiciary cannot introduce new conditions or exempt categories not expressly contemplated by the scheme itself.



CERC FOURTH AMENDMENT, 2025: REFORMS IN ISTS TRANSMISSION CHARGES & INCENTIVES FOR RENEWABLE ENERGY, STORAGE, & GREEN HYDROGEN PROJECTS

Introduction

The Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) (Fourth Amendment) Regulations, 2025 (“**Fourth Amendment, 2025**”), notified by the Hon’ble Central Electricity Regulatory Commission (“**CERC**”) on June 30, 2025, and effective from the date of publication in the Official Gazette, amend the principal Regulations i.e., Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020 (“**Regulations, 2020**”). This significant regulatory shift aims to enhance incentives for renewable energy (“**RE**”), hydro generation, energy storage systems (“**ESS**”), and green hydrogen/ammonia production while clarifying the treatment of dual-connected generation assets and transmission availability. By introducing time-sensitive transmission charge waivers and refined cost-sharing mechanisms, the amendment promotes investment in clean energy infrastructure, making the inter-state transmission system (“**ISTS**”) more accessible and economically viable, aligning with India’s renewable energy targets under the Electricity Act, 2003 (“**EA, 2003**”).

Background

The Regulations, 2020 established an equitable framework for sharing ISTS charges and losses among designated inter-state customers (“**DICs**”) using the Point of Connection methodology. Prior amendments addressed General Network Access (“**GNA**”) integration and tariff adjustments. By 2025, India’s pursuit of 500 GW non-fossil fuel capacity by 2030 highlighted challenges such as delayed RE project commissioning due to transmission constraints and the rise of hybrid renewable systems. The Fourth Amendment, informed by stakeholder consultations in early 2025, extends waivers to offshore wind, Battery Energy Storage Systems (“**BESS**”), and green hydrogen/ammonia plants, while ensuring eligibility clarity to prevent misuse and maintain grid stability.

Key Provisions of the Amendment

The amendment introduces new definitions, waivers, extensions, and procedural refinements to support clean energy integration:

1. New Definitions (Regulation 2):

- i. “**Tariff Regulations**” refers to the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2024 (“**CERC Tariff Regulations, 2024**”).



ii. “**Terminal Bay**” aligns with the Central Electricity Regulatory Commission Connectivity and General Network Access to the Inter State Transmission System Regulations 2022, clarifying infrastructure for cost .

2. Waivers on Transmission Charges and Losses:

- i. Wind/Solar Renewable Energy Generating Stations (“**REGS**”) and Renewable Hybrid Generating Stations: 100% waiver for projects achieving Commercial Operation Date (“**COD**”) by June 30, 2025, for 25 years; tapering to 75% (by June 30, 2026), 50% (by June 30, 2027), 25% (by June 30, 2028), and 0% thereafter.
- ii. Hydro Projects: 100% waiver for eighteen (18) years from COD if Power Purchase Agreements or construction awards are secured by June 30, 2025; tapering for later timelines.
- iii. BESS and Standalone ESS: 100% waiver for twelve (12) years from COD by June 30, 2025, with tapering thereafter. Paired RE-ESS projects qualify for the higher waiver if 51% annual RE consumption is met, verified via self-declaration (monthly billing, annual National Load Dispatch Centre (“**NLDC**”) verification). Grid contingency charging is allowed up to 10% annually.
- iv. Hydro Pumped Storage Projects (“**PSP**”): 100% waiver for twenty-five (25) years if contracts are awarded by June 30, 2025; tapering thereafter.
- v. Green Hydrogen/Ammonia Plants: Eligible for the higher waiver of the sourcing RE source (e.g., 75% for wind REGS post-June 30, 2025), subject to 51% RE electricity requirement.
- vi. Offshore Wind REGS: Tiered waivers starting from COD on or after January 1, 2033, up to 2035, based on annual schedules.

3. Force Majeure Extensions: Projects with Scheduled COD by June 30, 2025, retain 100% waiver if delayed by force majeure (including transmission unavailability), with up to two 6-month extensions approved by the Renewable Energy Implementing Agency, Distribution Company, Ministry of New and Renewable Energy, or CERC.

4. Dual Connectivity Handling: For dual-connected (ISTS and intra-state) generating stations, transmission deviation is based on net metered ex-bus injection exceeding combined GNA and intra-state access. State Transmission Utilities must share access data with NLDC/Central Transmission Utility for accurate computation.

5. Terminal Bay Charges: If a terminal bay is commissioned but generation is not, the connectivity grantee pays Yearly Transmission Charges for unused capacity. The “Associated Transmission System” now explicitly includes terminal bays.



6. **Transmission Availability:** Calculated per CERC Tariff Regulations, 2024, ensuring standardized metrics for cost-plus and Tariff-Based Competitive Bidding frameworks.
7. **Verification and Compliance:** Simplified self-declaration for ESS RE consumption with stricter penalties for non-compliance with timelines or shareholding patterns. NLDC verifies compliance annually.

Implications

The amendments significantly impact the power sector:

- i. **Promotion of Renewables and Storage:** Extended waivers and flexibility reduce financial barriers for RE developers, BESS, and green hydrogen projects, accelerating investments in hybrid, offshore wind, and PSP capacities toward India's net-zero goals.
- ii. **Grid and Economic Efficiency:** Phased waiver tapering prevents long-term revenue losses for ISTS operators while equitable charge sharing among DICs enhances coordination, reducing deviations and losses. CTU can estimate charges based on capital costs for phased rollouts.
- iii. **Stakeholder Impact:** Developers benefit from clear timelines and delay extensions but must adhere to strict verification protocols. Utilities and consumers may face adjusted sharing burdens, potentially stabilizing tariffs. Risks include grid congestion from clustered projects.
- iv. **Policy Alignment:** Supports national initiatives like the National Green Hydrogen Mission and PSP development, fostering regulatory certainty amid rising demand (e.g., Central Electricity Authority's 3% annual growth data).

Conclusion

The Fourth Amendment, 2025, refines ISTS sharing norms by balancing clean energy incentives with sustainable cost recovery. By expanding waivers to emerging technologies, clarifying terminal bay cost recovery, and strengthening compliance mechanisms, Hon'ble CERC fosters a transparent, investment-friendly framework. The explicit inclusion of terminal bays in the "Associated Transmission System" and liability for unutilized capacity protect transmission licensees from revenue shortfalls. Stakeholders must align projects with the June 30, 2025, cutoff to maximize benefits and implement robust compliance protocols to leverage these reforms. This amendment positions India for efficient renewable scaling, enhancing energy security and decarbonization.



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Warm Regards,

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