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The case of electricity usage in shopping mall

BACKGROUND

A shopping mall in Pune was assessed under section 126 of the Electricity Act, 2003, to be using electricity by sub-distributing HT Power supply received at a single point to all the occupants of the shops in the mall having mixed loads, and measuring the power consumed by the occupants through sub-meters not approved by the local distribution licensee. The assessment order was for several tens of millions of rupees.

CHALLENGES

- Receiving power at a single point of supply and sub-distributing it to mixed loads without a license under Section 12 of Electricity Act was declared to be outside the purview of the Act by the Maharashtra Electricity Regulatory Commission (MERC) in 2006 itself.
- The assessment of the Act took place in 2010.
- The challenge was to show to the Appellate authority under Section 127 of the Electricity Act that the mall had not been using the power illegally.

STRATEGY

- An elaborate appeal was filed before the Appellate Authority showing how the distribution licensee had proposed single point supply to the mall at the time of seeking sanction, knowing fully well that the purpose of power use would be for a commercial shopping mall.
- The MERC order was discussed and distinguished.
- The role of the distribution licensee in releasing and supplying power for years to the Mall, knowing that different occupants of the mall were using power for their shops, was highlighted and debated upon.
- Emphasis was laid on the scope of the inquiry under Section 126 of the Act, and it was pointed out how the case could not be considered to be one within the meaning of unauthorized use under the section.

IMPACT

- The Appellate Authority passed a judgement in the matter completely allowing the Appeal and setting aside the entire assessment made against the Mall.
- The judgment is now an oft used one before the Appellate Authority for many subsequent cases involving similar questions and facts of law.