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E-Newsletter
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ELECTRICITY THEFT

Electricity theft/ Power theft is one of the most alarming issues around the world. It not only leads to economic loss but leads to an irregular supply of electricity. As per a report by the World Bank in 2012 Electricity theft diminishes the Indian GDP by 1.5%. The Central Electricity Authority in 2017 stated that over 27% of all the power produced in India is either lost due to dissipation from wires or theft. This translates approximately to about 261,130 Gigawatt/hour of power annually — enough to light up New York for nearly two years — worth nearly ₹1 trillion at average electricity rate of ₹4 per unit. Despite the gap between these reports, electricity theft continues to be one of most menacing problems in India.

In order to curb this, the Electricity Act, 2003 (“Act”) under part XIV has enlisted offences and penalties. Section 135 of the Act states that electricity theft can include:

- Tapping of the wire- Wherein a connection is made with overhead, underground or under water lines or cables.
- Tampering of the meter- Wherein one installs or uses a tampered meter, current reversing transformer, loop connection or any other device or method which interferes with accurate or proper registration, calibration, or metering of electric current.
- Damaging or destroying the electric meter, apparatus, equipment, or wire in a manner that interferes with the proper metering of electricity.

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Any person who is found to have engaged in any of the above mentioned acts shall be liable for punishment which may extend for a period of three years or fine or both.

The Act mentions certain exemptions to this general rule and states that if the load abstracted or attempted to be abstracted is below or exceeds 10 Kilowatt, the fine for first conviction shall not be less than three times the financial gain in both the situations. In the second or subsequent conviction the fine shall not be less than six times the financial gain if the load is below 10 Kilowatt and shall lead to imprisonment (not less than 6 months, can exceed to 5 years) with a fine not less than six times the financial gain if the load exceeds 10 Kilowatt.

The Act further states that if it is proved that any means not authorized by the authorities for the abstraction, consumption or use does exist then it shall be presumed until the contrary is proved that such abstraction, consumption or use has been caused dishonestly.

In the case of *D.D Chadha vs. State (NCT, Delhi) (1999) 51 DRJ 31*, the Delhi High Court held that “Section 39 of the Indian Electricity Act which is para materia Section 135 of the Electricity Act, 2003 the court held that mens rea is an essential ingredient of the offence... In the absence of proof of mens rea, merely because the petitioner is the registered consumer he can't be fastened with liability”.

Section 151 of the Act states that cognizance of an offence under the act shall be taken only upon a complaint made in writing by an Appropriate Government or Appropriate Commission or any of their officer authorized by them or a Chief Electrical Inspector or an Electrical Inspector or licensee or the generating company.

Furthermore Section 152 allows for the Compounding of the offence of electrical theft, by stating that the Appropriate Government or any officer authorized by it in this behalf may accept from any consumer a sum of money by way of compounding the offence.

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