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2026:GAU-AS:8863-DB

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WA/203/2026

M/S EDEN COLD STORAGE PVT. LTD.
HAVING ITS REGISTERED OFFICE AT N.H. 37, OPPOSITE KAMRUP WEIGH BRIDGE, KHANAPARA, GUWAHATI-781022, REPRESENTED BY ITS MANAGER, SRI TUPIDHAR GOGOI, S/O LATE BOGADHAR GOGOI, RESIDENT OF BASISTHA BAKRAPARA, P.O. AND P.S.- BASISTHA, GUWAHATI, PIN- 781009, DIST- KAMRUP (M)

VERSUS

ASSAM POWER DISTRIBUTION COMPANY LIMITED AND 3 ORS.
BIJULEE BHAWAN, PALTAN BAZAR, GUWAHATI- 781001, REPRESENTED BY ITS CHAIRMAN, APDCL, BIJULEE BHAWAN, PALTAN BAZAR, GUWAHATI- 781001, ASSAM.

2:THE MANAGING DIRECTOR
ASSAM POWER DISTRIBUTION COMPANY LIMITED
BIJULEE BHAWAN
PALTAN BAZAR
GUWAHATI- 781001

3:THE AREA MANAGER
INDUSTRIAL REVENUE COILECTION LIMITED
BIJULEE BHAWAN
PALTAN BAZAR
GUWAHATI- 781001.

4:THE SDO
GARBHANGA SUB DIVISION
ASSAM POWER DISTRIBUTION COMPANY LIMITED
GUWAHATI- 78100

Advocate for the Petitioner : MRS. P GOSWAMI, MR M Z RAHMAN,M P CHOUDHURY

Advocate for the Respondent : SC, APDCL,

BEFORE
HONOURABLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

JUDGMENT & ORDER (ORAL)

Date : 19-06-2026

(Arun Dev Choudhury, J)

1. This intra-court appeal has been filed by the appellants, assailing the judgment and order dated 28.04.2026, passed by the learned Single Judge in WP(C) No.6488/2024, whereby the writ petition preferred by the appellant came to be dismissed, and the order of the Appellate Authority dated 15.10.2024, passed under section 127 of the Electricity Act, 2003, was upheld.

The appellant further challenged the findings of "unauthorised use of electricity" by the Appellant and sought interference with the assessment order made under section 127 of the Electricity Act, 2003.

2. The facts are on a narrow campus and are largely undisputed.

3. The appellant has been carrying on the business of

cold storage since the year 2001 and has obtained an electricity connection from Assam Power Distribution Company Limited (APDCL).

Subsequently, portions of his premises were leased to 6 different entities for use as warehouses/godowns.

On 05.03.2016, an inspection was carried out by the officials of APDCL, during which it was observed that the sanctioned industrial connection was being utilised for activities carried out by the tenants occupying the leased portions.

This inspection ultimately led to the initiation of proceedings under section 126 of the Electricity Act, 2003 and culminated in the impugned assessment.

4. The appellate authority, while partly accepting the appellant's contentions, restricted the assessment period from 12 months to the period commencing from the appellant's application for segregation of commercial load, thereby substantially releasing the assessed liability.

5. The learned counsel for the appellant submitted that the learned Single Judge erred in upholding the assessment under section 126 of the Act, 2003.

It is contended that the appellant, being a duly registered MSME engaged in cold storage operations, had leased portions of its premises to tenants carrying on warehouse and allied activities, which are recognised as service enterprises under the MSME notification dated 05.11.2014. Therefore, the use of electricity by such tenants could not be treated as unauthorised or as constituting malpractice.

6. It is further argued that the appellant had applied for segregation of load and commercial categorisation, and the authorities erroneously construed the same as evidence of unauthorised use.

7. Accordingly, it is argued that the assessment and the orders of the Assessing Officer, the Appellate Authority and the learned Single Judge deserve to be set aside.

8. Per contra, Mr. B Choudhury, learned Standing counsel, APDCL supports the impugned judgment, and argues that the appellant had admittedly utilised the industrial electricity connection for purposes other than those for which it was sanctioned, thereby attracting Section 126 of the Electricity Act, 2003.

It is further contended that the MSME notification relied upon by

the appellant has no bearing on the classification of electricity tariff or the conditions of supply.

It is further the case of the respondents that, even otherwise, the appellant was registered as an MSME company only with effect from 23.06.2021, much subsequent to the inspection carried out on 05.03.2016.

9. We have given our anxious considerations to the rival submissions advanced on behalf of the parties and have carefully perused the pleadings, the records of the case, the order passed by the Assessing Officer, the Appellate Order dated 15.10.2024, as well as the judgment and order rendered by the learned Single Judge.

10. The principal submission of the appellant is that the warehouse and godown activities have been recognised as "Service enterprises" under the notification issued by the Ministry of MSME, and therefore, such activities ought not to have been treated as constituting unauthorised use of electricity.

11. We are unable to accept the submission.

12. The notification relied upon by the appellant merely classifies certain activities as manufacturing or service for the

purpose of the MSME framework. Such classification neither governs nor overrides the statutory provision contained in the Electricity Act, 2003 or the Supply Code framed thereunder.

13. The legality of an Assessment Order under Section 126 of the Act, 2003, has to be tested with reference to the authorisation granted by the Distribution Licensee and also the purpose for which the supply of electricity was sanctioned.

14. A classification under a different enactment intended to confer benefits upon MSME enterprises cannot automatically alter the contractual and statutory conditions attached to an electricity connection.

15. Section 126 of the Act, 2003 specifically contemplates that uses of electricity "***for the purposes other than for which the usage of the electricity was authorised"*** amount to unauthorised use. The expression has been deliberately couched in broad terms to protect the integrity of the tariff structure and prevent consumption under a category different from that sanctioned by the distribution license.

16. Another aspect of the matter revealed by the record is that the appellant itself sought segregation and reclassification of the load for the leased portion of the premises.

17. Such conduct itself indicates an acknowledgement that the existing arrangement requires regulatory approval. The fact remains that the inspection by APDCL was conducted prior to the grant of any such approval, and therefore, the authorities cannot be faulted for inspecting and exercising their power under section 126 of the Act, 2003, to verify whether the sanctioned supply was being utilised in accordance with law and authorised use and thereafter, assess the same.

18. Another significant circumstance that cannot be overlooked is that the appellant's reliance on its Udyam/MSME registration is misplaced on the facts.

The inspection giving rise to the present dispute was conducted on 15.03.2016, and the Assessment Order was passed on 16.06.2016, whereas the Udyam registration relied upon by the appellant was obtained only on 23.06.2021, i.e. more than five years after the inspection.

19. The legality of the assessment has to be examined with reference to the factual and legal position prevailing on the date of inspection and not on the basis of a subsequent registration, even if such registration gives benefit to the appellant as claimed.

A registration obtained in 2021 cannot retrospectively validate or regularise the manner in which electricity was being utilised on 15.03.2016, or negate the consequences flowing from section 126 of the Act, 2003.

20. Although the appellant contends that it had been operating under an earlier Entrepreneur Memorandum prior to obtaining Udyam registration, the issue in the present case is not merely whether the appellant was an MSME but whether the electricity supplied under a sanctioned industrial connection was being used strictly in terms of such sanction.

As recorded hereinabove, the subsequent registration does not alter the factual position existing at the time of inspection, nor does it confer retrospective immunity from an assessment under section 126 of the Act, 2003.

21. Equally significant is the fact that the Appellate Authority did not mechanically affirm the assessment made by the Assessing Officer.

It considered the peculiar facts of the case, including the appellant's request for commercial categorisation, and granted substantial relief by restricting the period of assessment from the maximum permissible period of 12 months to the shorter period

beginning from the appellant's first application for commercial connection until the date of inspection.

The appellate order thus reflects due consideration of the mitigating circumstances rather than a rigid application of the statutory provision.

22. The learned Single Judge, while exercising jurisdiction under Article 226 of the Constitution of India, examined the legality of the Appellate decision and found no perversity or jurisdictional error warranting interference.

23. We find ourselves in complete agreement with that conclusion.

24. The findings recorded by the statutory authorities are based on inspection records, applicable statutory provisions, and the admitted factual matrix. No procedural irregularity, violations of principles of natural justice, or manifest misapplication of law have been demonstrated before us, warranting our interference.

25. An intra-court appeal is not intended to provide a fresh forum for re-appreciation of factual determinations merely because another view may also be possible. Unless the conclusions arrived at by the learned Single Judge are shown to

be patently erroneous or legally unsustainable, appellant interference is unwarranted.

26. In the present case, the reasoning adopted by the learned Single Judge is consistent with the statutory scheme and does not suffer from any infirmity calling for correction by this court.

27. Accordingly, we hold that the appellant's reliance on the MSME notification is misplaced, that the assessment proceedings cannot be said to be without jurisdiction, and that the appellate authority has already extended equitable relief by substantially reducing the assessment period.

28. We therefore find no merit in the appeal. Accordingly, the writ appeal fails and is dismissed.

29. Parties to bear their own costs.

JUDGE **CHIEF JUSTICE**

Comparing Assistant