NASSCOM vs. Ajay Sood & Ors. - Section 66D

The case of NASSCOM vs. Ajay Sood & Ors. is a landmark judgment of the Delhi High Court in India (March 2005) involving Section 66D of the Information Technology Act, 2000. It dealt with the issue of "phishing" and its legality in the Indian legal framework.

Background:

National Association of Software and Service Companies (NASSCOM), the plaintiff, represented the Indian IT industry.

The defendants (Ajay Sood & Ors.) operated a recruitment agency and sent fraudulent emails imitating NASSCOM to extract personal data from job seekers.

NASSCOM filed a suit seeking injunction and damages against the defendants for using their trademark and engaging in deceptive phishing practices.

Key Issues:

Legality of Phishing: At the time, India lacked specific legislation against phishing. The court had to determine whether such actions fell under existing legal provisions.

Trademark Infringement: The defendants' use of NASSCOM's name and logo constituted trademark infringement, harming NASSCOM's reputation.

Section 66D: The court considered the applicability of Section 66D, which penalized "cheating by personation" using computer resources.

The Judgment:

The court acknowledged the absence of a specific anti-phishing law but declared phishing illegal under broader legal principles.

It recognized phishing as a form of deceptive trade practice and unfair competition, violating common law principles.

The court found the defendants guilty of trademark infringement for misusing NASSCOM's brand.

Applying Section 66D, the court ruled that the defendants' impersonation of NASSCOM to cheat and deceive constituted a punishable offense.

Impact:

The NASSCOM vs. Ajay Sood case set a significant precedent in Indian cyber law by criminalizing phishing activities.

It provided legal clarity for dealing with online fraud and deception, protecting businesses and individuals.

The judgment encouraged further development of cyber laws in India, leading to amendments in the IT Act to specifically address cybercrime.