

Aluminium Corporation of India Ltd.

Vs

Union of India and Others

Civil Appeal No. 1269 (N) of 1969

(D. A. Desai, O. Chinnappa Reddy JJ)

26.04.1983

JUDGMENT

CHINNAPPA REDDY, J.-

1. The Aluminium Corporation of India Limited, the appellant in the civil appeal, has not appeared before us at the hearing. However, Dr. Y. V. Chitale appearing for the Bharat Aluminium Corporation, who were appointed as authorised Agents on the take-over of the Aluminium Corporation of India Limited under the provisions of the Industries (Development and Regulation) Act, has assisted us and we are grateful to him for his assistance. The question for consideration in the appeal is about the interpretation of a provision of the Emergency Risks (Factories) Insurance Scheme and it arises this way : The Aluminium Corporation of India Limited was obliged to insure its factories, factory buildings, plants, machinery, etc., under the Emergency Risks (Factories) Insurance Act, 1962 and the Emergency Risks (Factories) Insurance Scheme made under that Act. A sum of Rs. 2,43,750 was determined by the Chief Enforcement Officer as the amount payable by the Aluminium Corporation of India Limited towards arrears of premia. Clause (a) of para 7 of the Scheme prescribed that the insurable value of property for the purpose of insurance under the Act shall be, " the actual value in the case of completed works, and the estimated value of the works which are in the course of construction, or additions to property which are anticipated or expected to be completed, in both cases at the prices prevailing on the relevant dates after making due allowance for any depreciation." In arriving at the valuation, the Chief Enforcement Officer had proceeded on the basis that the 'actual value' meant the market value on the relevant date and not the actual cost to the owner. The Corporation, in an appeal preferred to the Government of India, questioned the determination made by the Enforcement Officer on the ground that actual value meant the actual cost to the owner and not the market value as on the relevant date. The Government of India did not agree with the contention of the appellant-Corporation and rejected the appeal. Thereupon the Corporation preferred the present appeal to this court under Article 136 of the Constitution, after obtaining special leave from this court.

2. We are convinced that on a true construction of the scheme. Particularly in the light of the purpose and the provision of the statute, the expression 'actual value' occurring in the scheme means the market value and not the cost to the corporation. The Emergency Risks (Factories) Insurance Act, 1962 and its sister Act, the Emergency Risks (Goods) Insurance Act, 1962 came into force w. e. f. January 1, 1963 shortly after the proclamation of emergency under Article 352 of the Constitution on October 26, 1962, consequent on the Chinese aggression. The objects of the Acts has been explained by this court in Amadalavalasa Cooperative Agriculture & Industrial Society Ltd. v. Union of India as follows : (SCC p. 937, paras 4, 5)

It was realised after the Chinese aggression that it was necessary to make provision, if possible on war footing, for reinstating the factories damaged or ruined by enemy action and for reimbursement the loss or damage of goods and continue the commercial and economic activity with a view to stabilize the economy of the country. In view of the magnitude of the task, no private agency in the field of insurance could have undertaken it. By the Acts, the Central Government undertook the task of insuring factories and goods against loss or damage sustained by enemy action.

The Acts in substance provided for compulsory insurance against emergency risks....

A perusal of the provisions of the Emergency Risks (Factories) Insurance Act makes it clear that the scheme of Insurance envisaged by the Act was entirely different from the scheme of a contract of voluntary insurance. Not only was there no element of consensus on any of the fundamental terms of insurance in this scheme, the obligation to take out policy of insurance for the full insurable value of the factory was mandatory and the failure to do so was an offence. In the case of failure to insure for the full insurable value, there was also a provision for recovery of the premia evaded. On the other side of the picture was the provision for an Emergency Risks (Factories) Insurance fund and provisions for payments due under the policy of insurance issued under the scheme which might provide for payment, within the limits of the liability assumed by the Central Government, of the cost necessary to restore the property as far as practicable to the condition in which it existed before the occurrence of damage or compensation for the loss in value, ascertained on the basis of values, prices ruling at the time at which the policy of insurance was taken out or at which the loss occurred, whichever was less, suffered by the property as a result of the damage, after due allowance had been made for depreciation during the period of insurance covered.

3. If the scheme which provided for the ascertainment of the insurable value as the actual value, is construed in the context of the purpose and the provision of the Act which contemplated the reinstatement of factories, damaged or ruined by enemy action and the continuance of economic activity with a view to stabilise the economy of the country, there cannot be doubt that the actual value which was the insurable value could only be the market value and not the actual cost of the owner. The interpretation suggested by the appellant might lead to absurd consequences. The actual costs by the appellant might lead to absurd consequences. The actual cost to the owner less depreciation might reduce the insurable value to such a low figure that reinstatement of the property to its previous condition would well nigh be impossible in these days of rising, if not spiralling, prices and thus frustrating the whole object of the Act. The only reasonable construction which can be put upon the expression 'actual value' in par 7 of the scheme is actual market value on the relevant date. We do not think that it is necessary to labour the point any further. Dr. Chitale invited our attention to a decision of the Calcutta High Court in *C. I. T. v. Lothian Jute Mills Co. Limited*. The case is of no assistance to us, as the expression which had to be construed there was "actual cost to the assessee" occurring in Section 10 (5) of the Income Tax Act, 1922. We are of the view that the Chief Enforcement Officer and the Government of India were right in adopting market value on the relevant date as actual value for computing insurable value. The appeal is dismissed. In the circumstances, there is no order as to costs.

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