

Sirsilk Ltd.

Vs

Textiles Committee and Others

Century Spinning and Manufacturing Co. Ltd.

Vs

Textile Committee and Others

Civil Appeal No. 869 of 1973

(A. P. Sen, K. N. Singh JJ)

12.09.1988

JUDGMENT

SEN, J. –

1. In all these appeals except the one by special leave, and the connected transferred case brought by the appellants, each of which is a company incorporated under the Companies Act, 1956 engaged in the business of manufacture and sale on a very large scale of Textiles generally and also of rayon yarn and staple fibre, both of which form species of what is known as manmade fibre i. e. artificial silk, there is a common question as to the constitutional validity of a fee imposed under Rule 21 of the Textiles Committee Rules, 1965 made by the Central Government under Section 22 of the Textiles Committee Act, 1963, by the Textiles Committee constituted under Section 3 of the Act, on the production of rayon yarn and staple fibre i. e. manmade fibres manufactured by them. These appeals are against the various judgments and orders of the High Courts of Allahabad, Andhra Pradesh, Gujarat and Madras upholding the validity of the levy. The remaining appeal i. e. Civil Appeal No. 1281 of 1973 is preferred by the Textiles Committee against the judgment and order of the Kerala High Court taking the view to the contrary.

2. The facts in all these cases are more or less similar. It would suffice for our purposes to notice the salient features thereof. To illustrate, the appellant company in Civil Appeal No. 869 of 1973, Messrs Sirsilk Ltd., Hyderabad is a manufacturer of rayon yarn and staple fibre and has established its factory at Sirpur Kagaznagar in the State of Andhra Pradesh for the manufacture of the aforesaid manmade fibres. The Chief Inspecting Officer, Textiles Committee by his letter dated May 19, 1965 directed all the Textile mills in India including the appellant to send immediately, the monthwise statements of production for March and April 1965 and a cheque in payment of the fees due thereon. However, the Association of manmade Fibre Industry, Bombay of which the appellant is a member by its letter dated May 25, 1965 advised the Textile mills to keep the payment of fees in abeyance, as it had made a representation dated May 26, 1965 on behalf of its members to the Ministry of Commerce, Government of India and to the Textiles Commissioner. Along with its letter, the Association forwarded to all its members a copy of the said representation. By a further letter dated May 29, 1965, the Association advised all the Textile mills including the appellant to send a reply to the letter addressed by the Textiles Committee demanding payment of fees to the

effect that the Association had already made a representation to the Ministry of Commerce and to the Textiles Commissioner and as soon as a reply was received by them, they would revert to the subject and take such action as might be necessary in the circumstances. In the meanwhile, the Textiles Committee by its letter dated August 10, 1965 made a demand for payment of the fees for the months of March to July 1965. The appellant in its reply expressed its inability to pay the fees in view of the pending representation made by the Association on their behalf and more so because the Association had advised the members that the fee would become payable by the Textile mills only in connection with the inspection and examination and must be commensurate with the exact quantum of services rendered by the Committee. The appellants were however informed that one of its members had already remitted the fees. Consequently, the appellant paid a sum of Rs. 40,186.37 towards the fee for the period from March 1, 1965 to February 28, 1966. It however adopted the stand that the payment of the fee was under a mistake and under misconception as to its legal rights. It accordingly called upon the Association to take up the matter with the Ministry of Commerce and the Textiles Commissioners and to lodge a strong protest against the illegal exaction of the fee by the Textiles Committee from its members when, in fact, no services of any kind were being rendered.

3. Thereafter, the Accounts Officer, Textiles Committee by letter dated February 26, 1969 called upon the appellant to remit a sum of Rs. 33,343.62 towards the fee in respect of production of rayon or staple fibre the period from March 1, 1966 to March 31, 1967. It was also advised to pay the fee up to April 1968. In response thereto, the appellant by its letter dated February 27, 1969 stated that the Association had on behalf of its members addressed a letter to the Secretary, Textiles Committee for certain clarifications and on receipt of the reply, the Association would advise its members as to the course of action. Eventually, the Secretary, Textiles Committee by a letter dated March 11, 1970, called upon the appellant that it should remit an amount of Rs. 35,138.63 being the amount of fee outstanding within ten days failing which the said amount would be recovered as arrears of land revenue under Section 12(2) of the Act. Aggrieved, the appellant moved the High Court of Andhra Pradesh under Article 226 of the Constitution challenging the validity of the fee and the threatened action for recovery. A learned Single Judge (Parthasarathi, J.) by his judgment dated January 28, 1972 dismissed the writ petition upholding the validity of the levy of the fee. On appeal being preferred by the appellant the judgment of the learned Single Judge was upheld by a Division Bench (Gopalrao Ekbote, C. J. and Chennakesava Reddy, J.) by its judgment dated January 22, 1973. The High Court of Andhra Pradesh preferred to follow the view expressed by B. N. Lokur, J. of the Allahabad High Court in *M/s. Juggilal Kamalpat Cotton Spinning & Weaving Mills Co. Ltd. v. Textiles Committee, Bombay* and dissented from the view taken by Isaac, J. in *Travancore Rayons Ltd. v. Textile Committee* holding that the Textiles Committee was not entitled to levy any fee under Rule 4 of the Rules so long as it was not rendering any service by way of inspection or examination of rayon yarn.

4. Briefly stated, the facts in Transferred Cases Nos. 351-352 of 1983 are these. The petitioner in the first case the Century Spg. & Mfg. Co. Ltd., Bombay carry on the business of manufacture of rayon yarn and tyre-cord yarn, both of which form species of what is popularly known as 'manmade rayon', while the petitioners in the second Messrs Century Enka Limited, Bombay carry on the business of manufacture of nylon filament yarn. By letter dated May 25, 1968 the Accounts Officer, Textiles Committee, Bombay called upon the petitioner the Century Spg & Mfg. Co. Ltd. to remit a sum of Rs. 5,87,187.46 as fees in respect of production of 29,459,373.23 kgs. of rayon yarn for the period from March 1, 1966 to April 30, 1968. The petitioners were also called upon to pay the fees for April 1968. In reply, the petitioners by their letter dated June 18, 1968 stated that the Association of Manmade Fibre Industry, Bombay had addressed a letter to the Secretary, Textiles

Committee for certain clarifications in the matter and on receipt of the reply the Association would be advising its members further. Thereupon, further correspondence ensued between the Textiles Committee on the one hand and the Association on the other. Thereafter, by letter dated February 20, 1969 the Secretary, Textiles Committee intimated the petitioner that it was proposed to initiate immediate action to recover the outstanding fees from the petitioner as arrears of land revenue as contemplated under Section 12(2) of the Act. It was further stated that in order to avoid coercive proceedings the petitioner should pay up the arrears at least up to March 31, 1967 amounting to Rs. 3,19,977.11; in any case before March 1, 1969 failing which the Textile Committee would be constrained to advise the concerned Collector to enforce recovery of the outstanding fees as arrears of land revenue. The petitioner accordingly moved a petition under Article 226 of the Constitution before the High Court of Bombay for quashing the impugned notice of demand dated February 20, 1969 complaining that they had at no time made any application for inspection and/or examination of the yarn they manufacture nor did they ever approach the said Committee to inspect and/or examine yarn manufactured by them. They averred that neither the said Committee nor anyone on its behalf had rendered any service whatsoever to them either at their instance or otherwise. Similarly, the petitioner Century Enka Limited moved a petition under Article 226 of the Constitution before the High Court of Bombay contending that the Textiles Committee was not entitled to demand or recover a sum of Rs. 78,553.15 or any other sum by way of fees on the nylon yarn manufactured by them, on the ground that the element of quid pro quo was totally absent inasmuch as no services at all were rendered by the Committee to them. These two writ petitions were ordered to be transferred to this Court under Article 139 of the Constitution and numbered as Transferred Cases Nos. 351-352 of 1983.

5. Similar are the facts in other cases. In Transferred Case No. 354 of 1983 Messrs Nirlon Synthetic Fibres & Chemicals Limited, Bombay carry on the business of manufacture of nylon yarn and apparently paid Rs. 8820-40 by way of fees on the nylon yarn manufactured by them in compliance with the notice of demand issued by the Accounts Officer, Textiles Committee dated February 20, 1969. The petitioner in the other case Transferred Case NO. 355 of 1983 Messrs Garware Nylons Limited, Bombay also carry on the business of manufacture of nylon yarn and paid Rs. 51,738.89 by way of fee in compliance with the circular issued by the Chief Inspecting Officer, Textiles Committee, Bombay dated May 19, 1965 and assert that the payment of the said amount was under a mistake. Both these petitioners moved the High Court under Article 226 of the Constitution challenging the validity of the levy of the fee and prayed for the issue of a writ in the nature of mandamus directing the Textiles Committee to refund the amounts recovered from them. Both these writ petitions were also transferred to this Court under Article 139 and are numbered as Transferred Cases Nos. 354-355 of 1983.

6. In Civil Appeals Nos. 863-864 of 1977, the appellant Baroda Rayon Corporation Limited, Gujarat are engaged in the business of manufacture of rayon yarn and paid Rs. 55,100 towards the fee in compliance with the notice of demand issued by the Accounts Officer, Textiles Committee dated March 9, 1966 for the period from March 1, 1965 to February 28, 1966. They were further called upon by the Secretary, Textiles Committee to remit a sum of Rs. 39,211.26 towards the arrears up to March 31, 1967. The appellant challenged the recovery of the said amount of Rs. 55,100 as well as the threatened demand of a further sum of Rs. 39,211.26 by the Textiles Committee as being ultra vires by petitions under Article 226 of the Constitution before the High Court of Gujarat. A Division Bench (S. Obul Reddy, C. J. and N. H. Bhatt J.) by its judgment dated November 18, 1976 upheld the validity of the fee and accordingly dismissed the writ petitions.

7. The appellant in Civil Appeal No. 1460 of 1980 Messrs Modipon Limited, Meerut are

manufacturers of nylon yarn. The accounts Officer, Textiles Committee by his letter June 11, 1969 required the company to pay the arrears of fees for the period from March 1965 to May 1968. The company brought a suit being Original Suit No. 86 of 1970 in the Court of the II Civil Judge, Meerut for a declaration and perpetual injunction. In the suit it applied for grant of a temporary injunction under Order 39, Rule I of the Code of Civil Procedure, 1908 restraining the Textiles Committee from recovering the fees on the ground that the nylon yarn manufactured by them did not fall within the definition of Textiles under Section 2(g) of the Act. The learned Civil Judge by his order dated May 12, 1972 granted ad interim temporary injunction but later vacated the same. The appellant accordingly went up in appeal to the High Court. A Division Bench (M. N. Shukla and N. N. Mithal, JJ.) by its order dated April 10, 1980 substantially disallowed the application for temporary injunction while making a direction requiring the learned Civil Judge to examine whether the appellant had commenced production since March 1968 and therefore the demand for fee for the period anterior to the commencement of the production could not possibly be sustained.

8. Appellants in Civil Appeals Nos. 1133-34 of 1979 Messrs J. K. Cotton Spg. & Wvg. Mills Co. Ltd., Kanpur carry on the business of manufacture of rayon yarn under the name and style of J. K. Rayon, and of nylon yarn under the name and style of J. K. Synthetics Limited. For the period from March 1965 to February 1966 they paid Rs. 49,372.65. Thereafter, they fell into arrears. The two companies filed petitions under Article 226 of the Constitution before the High Court of Allahabad contending inter alia that the said payments were made under mistake without realising the implications of the Textiles Committee Act or the Rules, and prayed for the issue of a writ in the nature of mandamus directing the Textiles Committee to refund the amount in question. As already stated, B. N. Lokur, J. in Juggilal case by his judgment dated November 6, 1971 upheld the validity of the levy of the fee and dismissed the writ petitions. On appeal, a Division Bench (Satish Chandra C. J., and Yashoda Nandan J.) by its judgment dated October 24, 1978 dismissed the appeal.

9. In Civil Appeal No. 1281 of 1973 the Textiles Committee has come up in appeal the judgment of a learned Single Judge of the High Court of Kerala (Isaac, J.) who by his judgment dated March 3, 1972 in Travencore Rayons Ltd. held that the levy of the fee by the Committee was without the authority of law and so long as the Committee was not rendering any service by way of inspection and examination of rayon yarn manufactured by Messrs Travancore Rayon Limited, it was not entitled to recover the same.

10. In order to appreciate the rival contentions, it is necessary to set out the background in which the Textiles Committee was constituted, the object the purpose of the Textiles Committee Act as also the relevant provisions of the said Act and the rules made thereunder. The history of the legislation has been set out in the counter-affidavit filed on behalf of the Textiles Committee and is as follows.

11. The Second World War gave a completely sheltered market for Indian Textiles and created an unprecedented boom for their products. They were, however, for a variety of reasons, unable to withstand the severe international competition they had to face in foreign markets with the return of normal conditions after the war. Alive to the various problems faced by the Textiles Industry in general and the Cotton Textile Industry in particular, the Government of India took timely steps to arrest the crisis by adopting various measures of safeguard production and export of cotton Textiles and to assure the efficiency of the Cotton Textiles Industry. It was in his context that the Cotton Textiles Fund Ordinance, 1944 was promulgated, establishing a fund, for supervising the exports of cloth and yarn and for development of technical education, research and other matters in relation to the Cotton Textile Industry. The Cotton Textiles Fund Committee which was appointed as the body to perform the various functions imposed under the Ordinance did very useful work during the

period from 1945 to 1964 for the improvement of the said industry and so as to enable it to meet the competition of foreign Textiles in international market. The Ordinance, promulgated in 1944 establishing the Cotton Textiles Fund Committee, had provisions to safeguard exports of Cotton Textiles only. As more and more items of Textiles such as wool, silk, art silk and other man-made fibre fabrics and yarn started finding their way into the international market in increasing quantities, it became necessary for the Government of India to create a homogenous entity to look after and promote the improvement and safeguard for all such textile item. It was also necessary to take as such steps in the case of these schemes of the Textile Industry both for improving standards in such industry and because the same were in many ways connected and interrelated with the Textile Industry. Such action and interrelation arose because of the nature of the commodities and because in many cases composite fibres and textiles were produced and many units engaged in production of such synthetics and other materials were also engaged in the Cotton Textile Industry.

12. Parliament accordingly enacted the Textiles Committee Act (hereinafter referred to as 'the Act') which received the assent of the President on December 3, 1963. It was meant to re-enact the provisions of the aforesaid Ordinance and to make the same applicable to all textiles including all synthetic fibres i. e. rayon yarn, staple fibre, nylon yarn, manmade fibre commonly known as artificial silk.

13. The avowed object and purpose of the Act, as reflected in the long title, is to provide for the establishment of a Committee for ensuring the quality of Textile machinery and for matters connected therewith. Section 2(f) of the Act defines 'textile machinery' to mean the equipment employed directly or indirectly for the processing of textile fibre into yarn and for the manufacture of fabric therefrom the weaving or knitting and to include equipment used either wholly or partly for the finishing, folding or packing of textiles. Section 2(g) defines 'textile'. The definition as originally enacted reads as follows :

2. (g) 'Textiles' means any fabric or cloth or yarn made wholly or in part of cotton, or wool or silk or artificial silk or other fibre.

By Act 51 of 1973, a new definition of 'textiles' was substituted w. e. f. January 1, 1975 and it reads :

2. (g) 'Textiles' means any fabric or cloth or yarn or garment or any other article made wholly or in part of -

(i) cotton; or

(ii) wool; or

(iii) silk; or

(iv) artificial silk or other fibre, and includes fibre.

Section 3 of the Act provides for establishment of the Textiles Committee by the Central Government. Section 4 deals with the functions of the Committee. The functions of the Committee as stated in Section 4 generally are to ensure by such measures as it thinks fit, standard qualities of textiles both for internal marketing and export purposes and the manufacture and use of standard type of textile machinery. It reads as follows :

4. Functions of the Committee - (1) Subject to the provisions of his Act, the functions of the Committee shall generally be to ensure by such measures, as it thinks fit, standard qualities of textiles both for internal marketing and export purposes and the manufacture and use of standard type of textile machinery.

(2) Without prejudice to the generality of the provisions of sub-section (1), the Committee may -

(a) undertake, assist and encourage, scientific technological and economic research in textile industry and textile machinery,

(b) promote export of textile and textile machinery and carry on propaganda for that purpose;

(c) establish or adopt or recognise standard specifications for -

(i) textiles, and

(ii) packing materials used in the packing of textiles or textile machinery, for the purpose of export and for internal consumption and affix suitable marks on such standardised varieties of textile and packing materials;

(d) specify the type of quality control or inspection which will be applied to textile or textile machinery;

(da) provide for training in the techniques of quality control to be applied to textile or textile machinery;

(e) provide for the inspection and examination of -

(i) textiles;

(ii) textile machinery at any stage of manufacture and also while it is in use at mill-heads;

(iii) packing materials used in the packing of textiles or textile machinery;

(f) establish laboratories and test houses for the testing of textiles;

(g) provide for testing and textile machinery in laboratories and test houses other than those established under clause (f);

(h) collect statistics for any of the abovementioned purposes from -

(i) manufacturers of, and dealers in, textiles;

(ii) manufacturers of textile machinery; and

(iii) such other persons as may be prescribed;

(i) advise on all matters relating to the development of textile industry and the

problem of textile machinery;

(j) provide for such other matters as may be prescribed.

(3) In the discharge of its functions, the Committee shall be bound by such direction as the Central Government may, for reasons to be stated in writing, give to it from time to time.

Sections 7 of the Act provides for constitution of a Fund called the Textiles Fund. Fees recovered under the Act form part of this Fund. The moneys in the Fund are applied for meeting the pay and allowances of the officers and other employees of the Committee and other administrative expenses of the Committee and for carrying out the purposes of the Act. Section 11 confers on the Committee the power of the inspection and provides :

11. Inspection - (1) The Committee may, on application made to it or otherwise, direct an officer specially authorised in that behalf to examine the quality of textile or the suitability of textile machinery for use at the time of manufacture or while in use in a textile mill and submit a report of the Committee.

(2) Subject to any rules made under this Act, such an officer shall have power to -

(a) inspect any operation carried on in connection with the manufacture of textile machinery in relation to which construction particulars, marks or inspection standards have been specified;

(b) take samples of any article or of any material or substance used in any article or process in relation to which construction particulars, marks or inspection standards have been specified.

(c) exercise such other powers as may be prescribed.

(3) On receipt of the report referred to in sub-section (1), the Committee may tender such advice, at it may deem fit, to the manufacturer of textiles, the manufacturer of textile machinery and the appellant.

Section 12 provides for levy of fees for inspection and examination and reads as follows :

12. (1) The Committee may levy such fees as may be prescribed -

(a) for inspection and examination of textiles,

(b) for inspection and examination of textile machinery,

(c) for any other service which the Committee may render to the manufacturers of textiles and textile machinery :

Provided that the Central Government may, by notification in the official Gazette, exempt from the payment of fees, generally or in any particular case.

(2) Any sum payable to the Committee under sub-section (1) may be recovered as an arrear of land revenue.

(The section quoted here is as it stood before its amendment by Act 51 of 1973.)

Section 22(1) confers on the Central Government power to make rules for carrying out the purposes of the Act. In particular, Section 22(2) (e) empowers the Central Government to make rules providing "the scale of fees that may be levied for inspection and examination under Section 12".

14. In exercise of the powers conferred by Section 22, the Central Government made the Textiles Committee Rules, 1965. A levy of fee was introduced for the first time w. e. f. March 1, 1965 by virtue of Rule 21 of the Rules. The Table forming part of Rule 21 under which the fee was levied was in these terms;

21. Fee for inspection, examination and other services rendered by the Committee -

(1) The Committee may with effect from March 1, 1965 levy and collect for inspection and examination of textiles and textile machinery specified in column 2 of the Table below, the fee specified in the corresponding entry in column 3 of that Table;

#	-----Sl. Description of textiles & textile machinery-----	1	2	3
1	Cotton cloth where the average 6 paise for every 100 square count of yarn used in the cloth metres manufactured. is less than 35 s.	2	10 paise for every 100 sq. count of yarn used in the cloth metres manufactured. is 35s or finer.	3.
2	Woollen yarn.	2 paise per kg. manufactured.	4.	Manmade cellulosic or non-cellulosic filament yarn.
3	Manmade cellulosic fibre cut to staple length.	2 paise per kg. manufactured.	5.	Manmade cellulosic fibre cut to staple length.
4	Textile machinery.	8 paise per Rs. 100 ad valorem on the ex-factory price of the machinery manufactured.	6.	Textile machinery.

(2) The Committee may levy and collect, for any other service rendered by it to the manufacturers of textiles and textile machinery such fee as it may fix with the approval of the Central Government.

With effect from June 11, 1966, the Table of Fee was revised to read as under :

#	Table-----Sl. Description of textiles & textile machinery-----	1	2	3
1	Cotton cloth where the average 6 paise for every 100 square count of yarn used in the cloth metres manufactured. is less than 35 s.	2	10 paise for every 100 sq. count of yarn used in the cloth metres manufactured. is 35 s. or finer.	3.
2	Woollen yarn.	2 paise per kg. manufactured. (excluding shoddy & carpet yarn).	3.	(a) Woollen yarn. 2 paise per kg. manufactured. (excluding shoddy & carpet yarn). (b) Shoddy & carpet yarn. 1 paise per kg. manufactured.
3	Manmade cellulosic or non-cellulosic filament yarn.	2 paise per kg. manufactured.	4.	(a) Manmade cellulosic or non-cellulosic filament yarn. (other than nylon filament yarn). (b) Nylon filament yarn. 6 paise per kg. manufactured.
4	Manmade cellulosic fibre cut to staple length.	1 paise per kg. manufactured.	5.	(a) Manmade cellulosic fibre 1 paise per kg. manufactured. cut to staple length. (b) Nylon filament yarn. 6 paise per kg. manufactured.

Manmade non-cellulosic fibre 2 paise per kg. manufactured. cut to staple length.6.
Textile machinery.(assembled) 8 paise per Rs. 100 ad valorem on the ex-factory price
of the machinery manufactured.-----
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15. It must be stated here that Act 51 of 1973 introduced a new provision Section 5-A as a result of which a cess has been imposed in place of a fee. Sub-section (1) provides that there shall be levied and collected as a cess for the purposes of this Act a duty of excise on all textiles and on all textile machinery manufactured in India at such rate, not exceeding 1 per cent ad valorem as the Central Government may, by notification in the official Gazette, fix. Proviso thereto interdicts that no such cess shall be levied on textiles manufactured from out of handloom or powerloom industry. Sub-section (2) of Section 5-A directs that the duty of excise levied under sub-section (1) shall be in addition to any cess or duty leviable on textiles or textile machinery under any other law for the time being in force. Another change brought about was to delete clause (b) of Section 12, and clause (c) re-lettered as clause (b) and a proviso were inserted, with the word 'special' inserted in place of the word 'other'. The new clause (b) so inserted is in these terms :

(b) for any special service which the Committee may render to the manufactures or exporters of textiles and textile machinery :

Provided that no fees shall be levied in respect of inspection and examination of textiles on which a duty of excise is leviable under this Act;

All these cases pertain to the period prior to January 1, 1975 i. e. prior to the enactment of Act 51 of 1973. We are here concerned with the validity of the fee as levied Rule 21 of the rules and the question is whether the imposition can be justified as a fee.

16. We have had the benefit of hearing Shri V. M. Tarkunde, learned counsel appearing for the appellant J. K. Cotton Spg. & Wvg. Mills Co. Ltd., Shri G. L. Sanghi, learned counsel appearing for the appellant Baroda Rayon Corporation Limited, Shri Vinod Bobde, learned counsel appearing on behalf of Century Spg. & Mfg. Co. Ltd. and Century Enka Limited, Shri N. K. Khaitan, learned counsel appearing for Sirsilk Limited, Dr. Dhananjaya Chandrachud, learned counsel appearing for Nirlon Synthetics Fibres and Chemicals Ltd. and Garware Nylons Ltd. and Shri Krishna Kumar, learned counsel for Modipon Limited. The learned counsel presented their respective points of view with much resource and learning.

17. On behalf of the appellants and the petitioners, the learned counsel put forth in substance two main contentions, namely : (1) That rayon yarn and nylon yarn manufactured by the writ petitioners before the High Court i. e. appellants and the petitioners before us, are made wholly of filaments and not at all of fibres and therefore are not textiles within the meaning of the definition of Textiles as contained in section 2(g) of the Act and accordingly are outside the purview of the Act and not liable to payment of any fee in accordance with Rule 21 of the Rules or as originally framed or as it existed after its amendment w. e. f. June 11, 1966. And (2) that the Textiles Committee rendered to service to the writ petitioners in respect of their production of rayon yarn and nylon yarn and hence it was not within its competence to levy any fee on them under rule 21 of the rules. According to the writ petitioners, in fact they do not need the services of the committee, and the committee's also not in a position to render any service to them, not having even laid down standard specifications for the manufacturer of rayon yarn or nylon yarn. It was submitted that there was no co-relation between

the fee charged and the service rendered by the Committee and there is complete absence of the element of quid pro quo, legally essential for levying a fee.

18. Shri G. Ramaswamy, learned Additional Solicitor General, on the other hand, during his lucid and forceful submissions repelled the arguments. He submitted that the levy under Rule 21 of the rules was not correlated to the power of inspection which the Textiles Committee had under Section 11 of the Act, but was relatable to its power to levy fees under Section 12 for the performance of its functions, powers and duties under Section 4. He contended that the avowed object and purpose of the Act as is clear from Section 3 was 'quality control' of all textiles, and it would be idle to contend that rayon yarn and nylon yarn which are but species of what is known as manmade fibres, otherwise called artificial silk and has world market, should be outside the purview of the Act. He cautioned that we have to bear in mind that the act is not a scientific treatise on organic and inorganic chemistry but is an Act by Parliament for the benefit of the indigenous textile industry so that it may be able to hold its own in a fiercely competitive international market. He therefore, contends that the Act and the words used therein have to be interpreted not on a technological or specialised scientific plane, but in a popular sense as understood by experts in the sphere of the textile industry and the commercial world dealing with it. The learned Additional Solicitor General questioned the correctness of the decision rendered by the Madhya Pradesh High Court in Gwalior Rayon Silk Manufacturing (Wvg.) Co. Ltd., Birlagram, Ujjain v. Textiles Committee Bombay as also its interpretation of the definition of textiles in Section 2(g) of the Act prior to its amendment by Act 51 of 1973 as not including viscose staple fibre. According to him, the whole approach of the High Court in Gwalior Rayon Case in adopting a literal construction of the definition of 'textiles' in Section 2(g) of the Act prior to its amendment was totally unsupportable. A literal construction of the definition of 'Textile' in Section 2(g) of the Act prior to its amendment, it is said, would lead to a manifest absurdity. If that view of the Madhya Pradesh High Court were to be frustrated. The definition of textile in Section 2(g) prior to its amendment must be given a broad and liberal construction in furtherance of the object and purpose of the Act. The learned Additional Solicitor General also placed before us a wealth of material showing that a huge infrastructure has been built by the Central Government over the years and it has invested crores of rupees to make the establishment of the Textile Committee under Section 3 of the Act meaningful for manmade fibres or artificial silk which have a world market. Finally, the learned Additional Solicitor General strongly relied upon the decision of this Court, in Sreenivasa General Traders v. State of Andhra Pradesh for the submission that the validity of the levy has to be sustained as there is a broad co-relationship between the imposition of the fee and the nature of the services rendered to the entire textile industry. We shall deal with the contentions advanced by learned counsel for the appellants and the petitioners in seriatim.

19. As to the first contention that the rayon yarn and nylon yarn manufactured by the appellants and the petitioners were filaments and not fibres and therefore did not fall within the ambit of the definition of textiles in Section 2(g) of the Act prior to its amendment, Shri Khaitan who first argued the case of Sirsilk Limited and more particularly Shri Tarkunde appearing on behalf of J. K. Cotton Spg. & Wvg. Mills Co. Ltd., followed by Shri Krishna Kumar appearing for Modipon Limited placed strong reliance on scientific and technological material explaining the manufacturing process of rayon yarn and nylon yarn to contra-distinguish the same from fibres. The learned Additional Solicitor General rightly drew our attention to the averments made in paragraph 1 of the writ petitions before the High Court in which each of the appellants and the petitioners has specifically averred that they are manufactured by them was not rayon made of artificial silk or fibre. The contentions of the learned Additional Solicitor General must prevail. The averments in paragraph 1 of the writ petitions are more or less the same. We need only reproduce paragraph 1 of

the writ petitions filed by Messrs Sirsilk Limited, and it reads :

The Petitioners are a limited company incorporated under the Indian Companies Act and are having their registered office at Himayatnagar, Hyderabad-29. The petitioners, inter alia, carry on the business of manufacture of rayon yarn and staple both of which form species of what is popularly known as "manmade yarn". For the purpose of manufacturing of the aforesaid yarns, the petitioners have established their factory at Sirpur Kagaznagar.

To the same effect are the averments made in the writ petitions filed by the appellants M/s. Cotton Spinning & Weaving Co. Ltd., M/s Baroda Rayon Corporation Ltd. and M/s. Modipon Ltd. as well as by the petitioners M/s. Century Spinning & Manufacturing Co. Ltd. Century Enka Ltd., M/s. Nirlon Synthetic Fibres & Chemicals Ltd. and M/s. Garware Nylons Ltd. On their own showing, the appellants as well as the petitioners are actually engaged in the manufacture of rayon yarn and nylon yarn both of which they aver are 'species of what is known as manmade fibres'. In view of this undisputed factual position, the contention that rayon yarn and nylon yarn manufactured by them are 'filament' and not 'fibre' or that they are not 'yarn' and therefore do not fall within the definition of textiles under Section 2(g) of the Act prior to its amendment, cannot be countenanced.

20. The main thrust of the argument of learned counsel for the appellants and the petitioners that rayon yarn and nylon manufactured by the appellants and the petitioners are not fibres but filaments, stems from the decision of the Madhya Pradesh High Court in Gwalior Rayon Silk Manufacturing (Wvg.) Co. Ltd. Birlagram, Ujjain v. Textiles Committee, Bombay. In the decision, the Madhya Pradesh High Court assumes that a fibre in order to answer the description of yarn, in the ordinary commercial sense must be a spun strand meant for use in weaving, knitting or rope-making. It proceeds upon the basis that although viscose staple fibre was manufactured out of fibre but it had to be subjected to various other operations such as blending, carding, combing or hackling and spinning before fibre could be converted into yarn. Upon that basis, the Madhya Pradesh High Court held that viscose staple fibre manufactured by the Gwalior Rayon Silk Manufacturing (Wvg.) Co. Ltd. was made wholly of filaments and therefore was not fibre and hence was not yarn and accordingly did not fall within the meaning of the expression textiles as defined in Section 2(g) of the Act. We are afraid, we cannot accept this line of reasoning.

21. The Madhya Pradesh High Court was clearly wrong in giving to the expression 'textiles' in Section 2(g) of the Act a narrow and restricted meaning. The reasoning of the Madhya Pradesh High Court is best stated in the words of G. P. Singh, C. J. speaking for himself and C. P. Sen J. :

According to this definition, textiles meant "any fabric or cloth or yarn made wholly or in part of cotton, or wool or silk, or artificial silk or other fibre." The use of the word 'means' in the definition gives rise to the inference of its being restrictive and exhaustive. Further, it is clear that what was embraced by the definition before January 1, 1975 was any fabric or cloth or yarn and not any fibre. The definition made a distinction between yarn and fibre. The same distinction appears in Section 2(f) in the definition of 'textile machinery' which expression is defined to mean the equipment employed "for the processing of textile fibre into yarn."

The Act does not contain any definition of 'yarn' and hence it has to be understood in its ordinary sense to mean "any fibre, or wool, silk, flax, cotton, nylon etc. spun into strands for weaving, knitting or making thread." [Webster's New World Dictionary].

A fibre in order to answer the description of 'yarn' in the ordinary commercial sense must be a spun strand meant for use in weaving, knitting or rope-making [CST v. Sarin Textile Mills]. It is true that yarn is manufactured out of fibre but various operations such as blending, carding, combing or hackling and spinning have to be performed for converting fibre into yarn [See The New Encyclopaedia Britannica, 15th edn., Vol. 18, p. 173].

There was no explicable reason for the legislature to have excluded rayon yarn and nylon yarn from the purview of the definition of textiles in Section 2(g) of the Act prior to its amendment. The expression 'textile' has been defined in Section 2(g) of the Act in a way as to include not only yarn but also manmade fibres or a artificial silk. In the premises, the expression 'textiles' as defined in Section 2(g) of the Act has to be given a broad and liberal construction, in furtherance of the purpose and object of the Act.

22. The Madhya Pradesh High Court was clearly in error in construing the expression 'textiles' as defined in Section 2(g) of the Act, prior to its amendment in a narrow and restricted sense. The particular words used as artificial silk had to be understood according to the common commercial understanding of the terms used, and not in their scientific or technical sense. The High Court failed to bear in mind that the Act is not a scientific treatise on organic or inorganic chemistry but is an enactment by the Parliament for the benefit of the indigenous textile industry, so that it may be able to hold its own in a fiercely competitive international market. In these circumstances, the Act and the words used therein have to be interpreted not on a technological or specialised scientific place but in the popular sense as understood by experts in the sphere of the textile industry and the commercial world dealing with it. We find no discernible reason for Parliament to have left out manmade fibres like viscose staple fibre, rayon yarn and nylon yarn from the purview of the definition of textile in Section 2(g) of the Act prior to its amendment particularly when synthetic fibres have a world market and India has entered into a competitive international trade in all textile in a large way.

23. We were referred to several Encyclopaedias, authoritative treatises, text-books and handbooks viz., encyclopaedia Britannica, both Micropeadia and the 15th edn., Textile Terms and Definitions, 5th edn. published by the Textile Institute, Manchester in 1963, 1968 Book of American Society for Testing and Materials, Part 24, Mercury Dictionary of Textile Terms, Standard Handbook of Textile by A. J. Hall, Handbook of Textile Fibres, 4th edn. by J. Gordon Cook, Manmade Fibres by Mark-Atlas and Cernia, Vol. 2, Textile Fibre by Mathews, 6th edn. and Survey of Manmade Fibre Industry by Dr. A. S. Kapur. These Encyclopaedias and technological books contain a wealth of information collected by knowledgeable, and distinguished men who have acquired distinction in their own sphere of academic disciplines and are made use of not by our own courts but by courts of other countries where English language is in vogue.

24. The words 'fibre' and 'filament' are not defined either in the Act or the Rules framed thereunder. The meaning assigned to 'fibre' in Webster's New Twentieth Century Dictionary of English Language, 2nd edn. is a "filament : and thredike part of a substance, as a filament of spun glass, wool, or hornblends". Even a 'filament', according to this dictionary, consequently constitutes 'fibre'. 'Artificial silk', according to the Oxford Concise Dictionary, 6th edn. 1976 means rayon.

25. In Encyclopadia Britannica, 14th edn. Vol. 7, p. 257 under the heading 'Fibre, Manmade', the following passage occurs :

Manmade fibre consists of two broad grounds, based upon the origin of the fibre-

forming substance. The first group, of which rayon and acetate are examples, are produced by modifying natural fibre-forming materials such as cellulose. The second group, frequently called synthetics and including such fibres as nylon and polyester, are produced from synthetic chemicals.

Again there occurs a passage at p. 260 of the same volume in the following terms :

In manmade fibres, the importance of rayon is similar to that of cotton among the natural fibres.

Under the heading "Synthetic Fibres" sub-heading "Polyamide fibres" at p. 263 it is stated :

Polyamides are polymers, or chain-like structure of linked molecular units, containing recurring amide groups as integral parts of the main polymer chains. Synthetic polyamide form nylon, a major textile fibre.

In Encyclopaedia Britannica, Vol. 18 under the heading "Development of the textile industry" sub-heading "Production of yarn", at p. 172, we notice the following passage :

Yarn is a strand composed of fibres, filaments (individual fibres of extreme length) or other materials, either natural or manmade, suitable for use in the construction of interlaced fabrics, such as woven or knitted types.

This passage again indicates that in the textile industry 'filaments' are treated as individual fibres of extreme length.

26. Similarly, in Chamber's Encyclopaedia, Vol. 5 at p. 613, the term 'fibre' is explained thus :

Fibre, a term used for a threadlike element of animal or vegetable tissue and any thread or filament used in the manufacture of textile materials. The range of fibres used for making fabrics was restricted to naturally occurring substances until the introduction of manmade fibres. These include regenerated fibres, such as those made from cellulose, and truly synthetic fibres, such as nylon, terylene, and courtelle.

At p. 616 of the same volume under the heading "Artificial Fibres", it is stated :

Artificial fibres can be divided into two main groups : regenerated and synthetic. In the first class a further sub-division can be made between fibres made from regenerated cellulose, i. e. viscose, acetate and cuprammonium protein such as Fibrolane. Fibres in the second class are strictly synthetic in the sense that they are built up from simple chemical compounds into the complex molecular structure required. They are classified according to their chemical composition : polyamides (nylon and perlon).

In Encyclopaedia Britannica, Micropaedia, Vol. VIII at p. 442 under the heading 'rayon', the following passage occurs :

Rayon, generic term for manmade textile fibre produced from the plant substance cellulose. Developed in an attempt to produce silk chemically, the fibre was originally known by such terms as artificial silk and wood silk, but in 1924 it was

given the coined name rayon. Nitrocellulose type, first produced commercially in France in 1891 in the form of a nitrocellulose fibre, it was later discontinued because of its high flammability. Rayon is described as a regenerated fibre because the cellulose is converted to a liquid compound and then back to cellulose in the form of fibre. The cellulose, obtained from soft woods or from the short fibres adhering to cotton seeds (linters), is chemically treated to form a solution that is forced through tiny holes in a nozzle (spinnerets). This process of forcing a solution through spinneret holes is called spinning; the same term is applied to the production of yarn by twisting together fibres that may be of natural manmade origin. Emerging in the form of filament, a fibre of great length, the rayon is hardened by drying in air or by chemical means. The filament is sometimes cut into shorter pieces having uniform length, called staple, and twisted together to make yarn.

The passages quoted above clearly show that even in the sphere of textile technology distinction between 'fibre' and 'filament' has reached a vanishing point. They further show that both nylon and rayon are 'artificial silk' yarn in contra-distinction to genuine silk. We accordingly uphold the view expressed by the High Courts of Allahabad, Andhra Pradesh, Gujarat and Madras and hold that rayon and nylon yarn are not only made of 'other fibre' but are also yarn of 'artificial silk' within the meaning of Section 2(g) of the Act. The view of the contrary by the Madhya Pradesh High Court does not lay down correct law.

27. Other considerations lead us to the same conclusion. The Industries (Development and Regulation) Act, 1951 enacted by Parliament received the assent of the President on October 31, 1951. In the Statement of Objects and Reasons appended to the Bill which became the Act, it is stated :

The Bill brings under Central control the development and regulation of a number of important industries, the activities of which affect the country as a whole and the development of which must be governed by the economic factors of all India import. The Bill confers on government power to make rules for the registration of existing undertakings, for regulating the production and development of the industries in the Schedule and for consultation with Provincial Governments on these matters.

The First Schedule of this Act sets out the various industries which it declared that it was expedient in the public interest that the Union should take under its control. Clause (7) of item 19 which bears the heading "Chemicals (other than Fertilisers)" is "manmade fibres including regenerated cellulose-rayon, nylon and the like." Clause (5) of item 23 which bears the heading "Textiles (including those dyed, printed or otherwise processed)" is "made wholly or in part of synthetics, artificial (manmade) fibres, including yarn and hosiery of such fibres." This parliamentary Act thus treats rayon as well as nylon as textiles made of artificial (manmade) fibres.

28. The Industries (Development and Regulation) Act, 1951 and the Textiles Committee Act, with which we are concerned, may properly be considered to be statutes in pari materia. According to Sutherland :

Statutes are considered to be in pari materia to pertain to the same subject-matter when they relate to the same person or things, or to the same class of person or thing, or have the same purpose or object. (Statutes and Statutory Construction, Vol. 2, p. 535, 3rd edn.)

The object of either of these two Acts is to protect and to assist in the development of Textile Industry inter alia. "Assistance in ascertaining the meaning of an enactment may be obtained by comparing its language with that used in earlier statutes relating to the same subject" (Craies on Statute Law, p. 140, 1971 edn.). Maxwell also in The Interpretation of Statutes (1976 Edn. p. 66) states that :

Light may be thrown on the meaning of a phrase in a statute by reference to a specific phrase in an earlier statute dealing with the same subject matter.

The Industries (Development and Regulation) Act, 1951 is an Act earlier in point of time we see no reason why if a subsequent statute by the same legislature can be pressed in aid for the purpose of interpreting in the event of any doubt, the provisions of an earlier statute, the earlier statute cannot be made use of for the purpose of construing, in the event of ambiguity, the provisions of a later statute.

29. For all these reasons the contention that rayon yarn and nylon yarn manufactured by the appellants and the petitioners are made wholly of filament and not of fibres and therefore did not come within the purview of textiles as defined in Section 2(g) of the Act prior to its amendment and therefore they were not liable for payment of the fee levied under Rule 21 of the Rules, cannot prevail.

30. The various activities undertaken by the Textiles Committee for the development of the textile industry and the promotion of textile exports which have expanded considerably, and the duties entrusted to the Committee to ensure the quality of all textile whether made wholly or partly of cotton wool, silk, artificial fibre or silk, particularly when Indian Textiles by and large and artificial silk or manmade fibres like rayon yarn, viscose staple fibres and nylon yarn as well as fabrics made of artificial silk, are facing ever-increasing competition in the international market from other exporting countries like Japan, China etc. and the production and export of textiles having substantially increased, the legislature thought it necessary to make adequate provision and accordingly created a Textile Fund under Section 7 of the Act to meet the expenditure of the Textiles Committee which necessarily has to be on a larger scale. At the time when the Textiles Committee was established under Section 3, the legislature accordingly provided for the establishment of a Textile Fund constituted under Section 7 of the Act from out of which the expenditure of the Committee has to be defrayed. Sub-section (1) of Section 7 provides that the Committee shall have a Fund to be called the Textile Fund and there shall be credited thereto various items specified in clauses (a) to (d), apart from all the moneys standing to the credit of the Cotton Textiles fund established under the repealed Ordinance, immediately before the date on which the Textiles Committee came to be established, which by virtue of Section 24(2) (a) stood transferred to and formed part of the Textile Fund, and such sums of money as the Central Government after due appropriation made by Parliament in that behalf, pays to the Committee in each financial year by way of grant, loan or otherwise for purposes of enabling the Committee to discharge its functions under the Act. There are only two other sources of income. One of the main sources of revenue, as indicated in clause (c), is the income derived from the levy of the fee under Rule 21 of the Rules, and the other that indicated in clause (d) viz. all moneys received by the Committee by way of grant, gift, donation, contribution, transfer or otherwise. After the imposition of the duty of excise as a cess by Section 5-A of the Act introduced by the Act 51 of 1973, the income derived from such cess becomes another source. Sub-section (2) of Section 7 provides that the moneys in the Fund shall be applied for (a) meeting the pay and allowances of the officers and other employees of the Committee and other administrative expenses of the Committee, and (b) carrying out the purposes of the Act. Sub-section (3) of Section 7 provides that all moneys in the

Fund shall be deposited in the State Bank of India or be invested in such securities, as may be approved by the Central Government.

31. From these provisions, it is amply clear that all the income derived from the levy of fee under Rule 21 of the Rules has to be credited to the Textiles Fund and the said income is utilised in defraying the expenditure of the Textile Committee in carrying on its manifold duties. No part of the fee levied under Rule 21 goes into the Consolidated Fund of India. It is only by Section 5-F introduced by Act 51 of 1973 which provides that proceeds of the duty of excise collected under Section 5-A reduced by the post of collection as determined by the Central Government, shall first be credited to Consolidated Fund of India and the Central Government may, after due appropriation made by Parliament by law, pay to the Committee from out of such proceeds, such sums of money as it thinks fit for being utilised for the purposes of the Act. We are not here concerned with the duty of exercise recovered as a cess under Section 5-A but only with the question whether levy of the fee under Rule 21 is sustainable as a fee. That is to say, whether there is sufficient quid pro quo between the levy of the fee and the services rendered. It has not been suggested that any part of the fees levied under Rule 21 can be diverted to any other purpose. When the entire proceeds of the fee are utilised in financing the various projects undertaken by the Textiles Committee, as also the inspection of all textiles including manmade fibres and textile machinery, the appellants cannot be heard to say that there is no reasonable and sufficient co-relation between the levy of the fee and the services rendered. The learned Additional Solicitor General drew our attention to the various averments made in the counter-affidavit filed on behalf of the Textiles Committee as well as the Government of India showing the extent of income from the fee levied under rule 21 and the expenditure of the Textiles Committee in each financial year. From the material on record it is amply clear that the levy of the fee under Rule 21 is not commensurate with the expenditure incurred by the Textiles Committee. It is not in dispute that the Textiles Committee has over the years built up a huge infrastructure and the Central Government has spent crores of rupees to make the legislation effective and meaningful and to bring about an overall improvement in the quality and standard of the textiles including manmade fibres or artificial silk so that our country may continue to retain its rightful place in the world market in a fiercely competitive international trade.

32. For a proper appreciation of the point involved, it is necessary to set down the activities of the Committee, in discharge of its functions conferred upon it by Section 4 of the Act. The Committee with a view to maintaining and stepping up the export of Indian Textiles, has introduced a number of pre-shipment inspection schemes covering a wide range of textiles to ensure that only quality textiles and yarns are exported from India. Inspection and certification of Art Silk and Woollen Textiles have also been undertaken by the Committee in pursuance of various Export Incentive Schemes introduced by the Government from time to time. The Committee has set up an Inspectorate with a large technical staff qualified in the various disciplines of textile technology. The Inspectorate has carried out inspection of various types of textiles in large quantities. Inspection of mill-made cotton cloth and mill-made cloth yarn has been made compulsory and export thereof without a certificate issued by the Committee has been banned. In order to carry out the inspection as expeditiously and smoothly as possible, the Committee besides its head office at Bombay has established its regional offices at fourteen different textile centres namely, at Ahmedabad, Amritsar, Bangalore, Calcutta, Coimbatore, Indore, Kanpur, Ludhiana, Madras, Madurai, Nagpur, New Delhi, Solapur, and Surat. Besides these, wherever necessary, the Committee staff are also attached to the textile mills at other places to render immediate service to the mills and exporters on the spot. The learned Additional Solicitor General placed before us the counter-affidavit of Shri C. G. Shivdasani, Acting Secretary of the Textiles Committee. It is averred under the heading 'Inspection' that for ensuring standard qualities of textiles and to satisfy that they have the characteristics necessary for

satisfactory performance, necessary tests such as identification of fibres, fibre composition, fibre finances, shrinkage, chemical degradation, resistance to mildew and fungus etc. are carried out quite often by the Committee. A statement showing the income and expenditure of the Textiles Committee for the period commencing for March 1, 1965 and ending with March 31, 1971 as well the estimated budget for the years 1971-72 to 1973-74 are set out to verify the ratio between the fee collected and the expenditure incurred for achieving the object and purpose of the Act. The statements are as detailed below :

# Expenditure and fees realised during the period from March 1, 1965 to March 31, 1971-----	Accounting Revenue
Capital Market Fees year Expenditure Expenditure Research Realised on Inspectorate on Inspectorate-----	March 1965
00.89 lakhs -lakhs 0.08 lakhs -lakhs 1965-66 17.71 lakhs 0.64 lakhs 2.00 lakhs 21.90 lakhs	1966-67 23.05 lakhs 1.28 lakhs 2.32 lakhs 44.90 lakhs 1967-68 24.29 lakhs 0.91 lakhs 2.05 lakhs 30.38 lakhs
1968-69 24.73 lakhs 0.60 lakhs 2.66 lakhs 34.79 lakhs	1969-70 28.95 lakhs 1.87 lakhs 3.82 lakhs 32.39 lakhs
1970-71 34.62 lakhs 3.14 lakhs 4.55 lakhs 29.79 lakhs-----	
Total 154.24 lakhs 8.44 lakhs 17.48 lakhs 193.25 lakhs-----	
-----	Statement showing the estimated Revenue and Capital Expenditure & Revenue for the years 1971-72 to 1973-74-----
-----	Estimated Revenue Capital Expenditure Estimated Fees
Year Expenditure on on Inspectorate Realisable-----	
-----	1971-72(RE) 37.35 lakhs 22.66 lakhs 55.35 lakhs
43.78 lakhs 19.93 lakhs 53.76 lakhs	1972-73(BE) 52.00 lakhs 30.00 lakhs 55.00 lakhs-----
-----	1973-74 52.00 lakhs 30.00 lakhs 55.00 lakhs-----
-----	Total 133.13 lakhs 72.59 lakhs
162.11 lakhs-----	###

33. Under the heading 'Collection of Fees', the necessary averments are there showing that the entire amount of fees levied and collected under Rule 21 of the Rules is utilised in meeting the expenses of the Committee on account of pay and allowances of the officers and other employees of the Committee and for carrying out the purposes of the Act. The following is the table showing the fees realisable, fees actually realised and the total expenditure of the Inspectorate during the period from April 1, 1965 to March 31, 1971 :

#-----	Period Fees Fees Total
Expenditure on Realisable Realised the Inspectorate (in lakhs)-----	
-----	March 1, 1965 to 290.51 193.25 Revenue Rs.
154.24	March 31, 1971 Capital Rs. 8.44 -----(Actuals) Total Rs. 162.68 ----
-----	April 1, 1971 to 53.35 31.03 Revenue Rs. 37.35
Rs. 22.66 -----	Total Rs. 60.01 -----(Revised Estimate)April 1,
1972 to 53.76 31.00 Revenue Rs. 43.78	March 31, 1973 (Estimated) Capital Rs.
19.93 -----	----- (Budget Estimates) Total Rs. 63.93 -----
-----	Total Rs. 397.62 Rs. 255.28 Rs. 286.40-
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34. On these facts, there is no doubt whatever that the entire proceeds of the amount collected by way of fee under Rule 21 of the Rules are spent in carrying on the functions of the Textiles Committee. It cannot be doubted that the activities of the Committee in furtherance of the object and purpose of the Act are to ensure the quality of all textiles whether made wholly or partly of

cotton, wool, silk, artificial fibre or silk. The functions of the Committee should generally be to ensure standard qualities of textiles for internal as well as external marketing and manufacture and use of standard type of textile machinery. The grievance of the appellants and the petitioner that there is no inspection of the rayon yarn and nylon yarn manufactured by them at the stage of production is belied by the fact that there is pre-shipment inspection of the fabrics manufactured from such fibres for export. The provision for the levy of fees for inspection and examination of textiles under Section 12(1) (a) of the Act or the levy of the fee under Rule 21 of the Rules cannot be challenged on the ground that there is no reasonable relationship between the levy of the fee and the services rendered by the Committee to the entire textile industry to which the appellants and the petitioner before us owning textile industry to which the appellants and the petitioners before us owning large textile mills belong. When the levy of the fee is for the benefit of the entire textile industry, there is petitioners and the services rendered to the industry as a whole. In the premises, the principles laid down by this Court in *Srenivasa General Traders* are clearly attracted. One of us (Sen J.) speaking for the court had observed : (SCC pp. 380-81, paras 31 & 32)

The traditional view that there must be actual quid pro quo for a fee has undergone a sea change in the subsequent decisions. the distinction between a tax and a fee lies primarily in the fact that a tax is levied as part of a common burden, while a fee is for payment of a specific benefit or privilege although the special advantage is secondary to the primary motive of regulation in public interest. If the element of revenue for general purpose of the State predominates, the levy becomes a tax. In regard to fees there is, and must always be, co-relation between the fee collected and the service intended to be rendered. In determining whether a levy is a fee, the true test must be whether its primary and essential purpose is to render specific services to a specified area or class, it may be of no consequence that the State may ultimately and indirectly be benefited by it. The power of any legislature to levy a fee is conditioned by the fact that it must be "by and large" a quid pro quo for the services rendered. However, co-relationship between the levy and the services rendered or expected is one of general character and not of mathematical exactitude. All that is necessary is that there should be a "reasonable relationship" between the levy of the fee and the services rendered. If authority is needed for this proposition, it is to be found in the several decisions of this Court drawing a distinction between a 'tax' and a 'fee'. See : *Commissioner, HRE v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt*, *H. H. Sudhundra Thirtha Swamiar v. Commissioner for Hindu Religious and Charitable Endowments, Mysore*, *Hingir Rampur Coal Co. Ltd. v. State of Orissa*, *H. H. Shri Swamiji of Shri Admar Mutt v. Commissioner Hindu Religious and Charitable Endowments Department, Southern Pharmaceuticals and Chemicals, Trichur v. State of Kerala* and *Municipal Corporation of Delhi v. Mohd. Yasin*.

There is no generic difference between a tax and a fee. Both are compulsory exactions of money by public authorities. Compulsion lies in the fact that payment is enforceable by law against a person in spite of his unwillingness or want of consent. A levy in the nature of a fee does not cease to do of that character merely because there is an element of compulsion or coerciveness present in it, nor is it a postulate of a fee that it must have direct relation to the actual service rendered by the authority to each individual who obtain the benefit of the service. It is now increasingly realised that merely because the collections for the services rendered or grant of a privilege or licence are taken to the consolidated fund of the State and not separately appropriated towards the expenditure for rendering the service is not by itself decisive. Presumably, the attention of the Court in the *Shirur Mutt* case was not drawn to Article 226 of the Constitution. The Constitution nowhere contemplates it to be an essential element of fee that it should be credited to a separate fund and not to the consolidated fund. It is also increasingly realised that the element of quid pro quo in the strict sense is not always sine qua non for a fee. It is needless to stress that the element of quid pro quo is not necessarily absent in

every tax : See also : M/s. Amar Nath Om Parkash v. State of Punjab, City Corporation of Calicut v. Thachambalath Sadalanan, I. T. C. Ltd. v. State of Karnataka (per Fazal Ali and Mukharji, JJ.) and Om Parkash Agarwal v. Giri Raj Kishori.

35. Viewed from this perspective, the conclusion is inevitable that the levy of the fee under Rule 21 of the Textiles Committee Rules, 1965 by the Textiles Committee under sub-section (1) of Section 12 of the Textiles Committee Act, 1963 is valid and constitutionally permissible.

36. All the appeals and connected writ petitions filed by the textile mills in India must fail and are dismissed with costs. Civil Appeal No. 1281 of 1973 preferred by the Textile Committee, Bombay against the judgment and order of the Kerala High Court dated March 3, 1979, is however allowed and the writ petition filed by the respondent, M/s. Travancore Rayons Limited is dismissed with costs.

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