

Ess Dee Carpet Enterprises

Vs

Union of India and Others

And

Rajasthan Carpet Manufacturers and Exporters Association and Another

Vs

Union of India and Others

Civil Appeal No. 1372 and Writ Petition No. 736 of 1987

(CJI E. S. Venkataramiah, K. N. Singh, N. M. Kasliwal JJ)

07.12.1989

JUDGMENT

VENKATARAMIAH, C.J. -

1. The question for consideration in this appeal is whether an establishment which is manufacturing carpets is subject to the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (Act 19 of 1952) (hereinafter referred to as 'the Act'). The appellant is a partnership firm carrying on the business of manufacturing and selling carpets in the State of Rajasthan at there factories belonging to it. When steps were taken to direct the appellant to comply with the provisions of the Act by the Regional Provident Fund Commissioner the appellant contested the applicability of the Act on the ground that the establishment owned by it was not manufacturing 'textiles' included in Schedule I to the Act. The Regional Provident Fund Commissioner after giving opportunity of being heard to the appellant passed an order on July 27, 1979 holding that the business of manufacturing carpets carried on by it made the Act applicable to the appellant as carpets were textiles. Aggrieved by the said order the appellant filed a petition under Section 19-A of the Act before the Central Government. The Central Government passed an order on May 4, 1981 holding that the appellant's establishment was engaged in the manufacture of 'textiles' and accordingly the order of the Regional Provident Fund Commissioner was upheld. The appellant thereafter filed a petition under Article 226 of the Constitution before the Rajasthan High Court (Jaipur Bench). The High Court by its order dated October 15, 1984 dismissed the writ petition. The appellant then appealed to the Division Bench of the High Court and the Division Bench of the Rajasthan High Court dismissed the appeal on January 29, 1986. This appeal by special leave is filed against the order of the Division Bench of the High Court of Rajasthan.

2. The only point urged before us by the learned counsel for the appellant is that the products, namely, carpets which are being manufactured by the appellant did not come within the meaning of the expression 'textiles' described in Schedule I to the Act and hence the Act was inapplicable. Clause (a) of sub-section (3) of Section 1 of the Act provides that subject to the provisions contained in Section 16, the Act applies to every establishment which is a factory engaged in any

industry specified in Schedule I and in which 20 or more persons are employed. The relevant part of Schedule I to the Act reads thus :

# "Any industry engaged in the manufacture of any of the following, namely :  
Cement. Cigarettes. Electrical, mechanical or general engineering products. Iron and steel. Paper. Textiles (made wholly or in part of cotton or wool or jute or silk, whether natural or artificial ...."##

3. Clause (d) of the Explanation contained in Schedule I to the Act reads thus :

"(d) the expression "textiles" includes the products of carding, spinning, weaving, finishing and dyeing yarn and fabrics, printing, knitting and embroidering.

4. It is not disputed that the material with which the carpets are made is wool which is one of the materials mentioned in the Schedule, namely, textiles made wholly or in part of cotton or wool or jute or silk, whether natural or artificial. The activity of manufacturing carpets is generally understood as the weaving of carpets and the man who is engaged in such activity is popularly known as a 'carpet weaver'. Weaving means to form a fabric by interlacing yarn on a loom. It also means the method or pattern of weaving or the structure of a woven fabric. The warp means yarn arranged lengthwise on a loom. The fabric which is woven includes the weft which means yarn woven across the width of the fabric through the lengthwise yarn. Thus the activity of the weaving involves passing of the weft through the warp. While doing so even if there are any knots in the yarn still the activity is weaving. The mere fact that there is knotting of the yarn, the fabric which is ultimately produced does not cease to be a textile fabric. The fact that the Handicrafts Board has issued certificate under the Import Trade Control Policy Handbook of Rules that carpet is a product of handicrafts does not in any way improve the matter. Even then the carpets do not cease to be textiles. That certificate is not enough since we are very clear that the activity of making carpets though it involves knotting, in substance, amounts to weaving and the carpet is a fabric which is woven. Thus it comes within the meaning of the expression "textiles" as explained in clause (d) to the Explanation of Schedule I to the Act.

5. We are, therefore, of the view that the establishment in question comes within Schedule I to the Act.

6. In *Porritts & Spencer (Asia) Ltd. v. State of Haryana* ((1979) 1 SCC 82 : 1979 SCC (Tax) 38 : (1979) 1 SCR 545) this Court held that the concept of 'textiles' is not a static concept. It has, having regard to newly developing materials, methods techniques and processes, a continually expanding content and new kinds of fabric may be invented which may legitimately without doing any violence to the language be regarded as textiles. The word 'textiles' is derived from Latin 'texere' which means 'to weave' and it means woven fabric. When yarn, whether cotton, silk, woollen, rayon, nylon or of any other description is made out of any other materials is woven into a fabric what comes into being is a 'textile' and is known as such. Whatever be the mode of weaving employed, woven fabric would be 'textile'. What is necessary is no more than the meaning of yarn and weaving would mean binding or putting yarn together by some process so as to form a fabric. A textile need not be of any particular size or strength or weight. The use to which it may be put is also immaterial and does not bear on its character as a textile. The fact that the 'dryer felts' are used only as absorbents of moisture in the process of manufacture in a paper manufacturing unit, cannot militate against 'dryer felts' falling within the category of textiles, if otherwise they satisfy the description of textiles.

7. It is necessary to refer to the other decisions cited before us in this case.

8. The non-inclusion of knotting in the Explanation to Schedule defining 'textiles' is, therefore, immaterial. No other point was pressed before us in this case. We, therefore hold that the Regional Provident Fund Commissioner, the Government of India and the High Court were right in holding that the establishment of the appellant came within the scope of the Act and the appellant was liable to comply with the requirements of the Act in all respects. The appeal, therefore, fails and it is dismissed.

Writ Petition No. 736 of 1987.

9. In view of our judgment in *Ess Dee Carpet Enterprises v. Union of India and Others* (Civil Appeal No. 1372 of 1987) delivered by us today, the writ petition is dismissed. There will be no order as to costs.

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