

Rajasthan Prem Krishan Goods Transport Co.

Vs

Regional Provident Fund Commissioner, New Delhi and Others

Civil Appeal No. 4980 of 1980

(M. M. Punchhi, K. S. Paripoornan JJ)

20.05.1996

JUDGMENT

PUNCHHI, J.-

1. This appeal by special leave is against a limine dismissal of a writ petition preferred by the appellant before the Delhi High Court.
2. The appellant before us is M/s Rajasthan Prem Krishan Goods Transport Co. (in short hereafter to be referred as 'the Goods Transport Company'). The party concerned with it is the 3rd respondent M/s Rajasthan Prem Krishan Transport Co. (in short hereafter referred to as 'the Transport Company'). The appellant is aggrieved against the action and orders of the authorities established under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (for short 'the Act') in treating the appellant and the 3rd respondent as one and the same entity, holding the ostensible separate existence of these two as artificial and non-existent.
3. Significantly, both these companies are partnership concerns. According to the appellant, 'the Goods Transport Co. was constituted on 16-4-1976, composing of 10 partners. Beforehand, the third respondent, that is, 'the Transport Co. stood composed of 13 persons; 10 of whom compose the 'Goods Transport Company'. Their place of business and address is common, being behind Fire Brigade, S. P. Mukherjee Marg, Delhi. Their telephone numbers are also common. The management of the two was also common. From this, it was inferred by the Inspectorate functioning under the aforementioned Act that there was unity of ownership, management, supervision and control, employment, finance and general purpose to justify both the units being treated as a single establishment under the Act, as they constituted one integrated whole.
4. It is beyond dispute that if the two supposed entities were to be treated as separate, the provisions of the Act would not apply. But, if they be treated as one, the provisions of the Act would apply. It can otherwise be not disputed that on proper facts being established, two apparently separate entities can be clubbed into one to carry out the purposes of the Act and a fraudulent device adopted by a designing management can be exploded and matters put to their proper perspective.
5. The appellant and the third respondent received the requisite notices to show cause why the provisions of the Act be not made applicable treating both of them as one. The appellant and the third respondent showed cause. Their main defence was that these entities for the purpose of the Income Tax Act, were being treated as separate and that fact should govern the fate to keep these entities separate and singular. The Regional provident Fund Commissioner, after thorough enquiry, ordered on 31-3-1978, clubbing of the two entities together, with effect from 1-6-1976. The

application of the appellant under Section 19 of the Act to the Central Government was dismissed on 7-12- 1982, upholding the order of the Regional Provident Fund Commissioner. The writ petition against the orders of the Central Government was dismissed in limine. This is how the appellant is before us.

6. The finding recorded by the Regional Provident Fund Commissioner is that there is unity of purpose on each count inasmuch as the place of business is common, the management is common, the letterheads bear the same telephone numbers and 10 partners of the appellant are common out of the 13 partners of the third respondent. The trucks plied by the two entities are owned by the partners and are being hired through both the units. The respective employees engaged by the two entities when added together, bring the integrated entities within the grip of the Act; so is the finding. Now, this finding is essentially one of fact or on legitimate inferences drawn from facts, Nothing could be suggested on behalf of the appellant as to why could the Regional Provident Fund Commissioner not pierce the veil and read between the lines within the outwardliness of the two apparent. No legal bar could be pointed out by the learned counsel as to why the views of the Regional Provident Fund Commissioner, as affirmed by the Central Government, be overturned.

7. For the reasons aforestated, this appeal fails and is hereby dismissed but without any order as to costs.