

SUPREME COURT OF INDIA

Shri Mahila Griha Udyog Lijjat

Vs.

Union of India

(S Majmudar and V Khare JJ.)

18.03.1999

ORDER

1. After this appeal was heard for quite some time, Mr. G.L. Sanghi, learned Senior Counsel appearing for the appellant, fairly stated that he gives up all his contentions in this appeal especially in view of the decision of the Constitution Bench of this Court in Writ Petition No. 86 of 1962 (Basant Lal Jain v. R.P. F. Commr. 1963 SC (Notes) 114) decided on 21-3-1963 where under the same Entry 24 inserted by notification of 30-4-1962 applying the Act as per the provisions of Section 1(3) Sub-section (b) was held applicable to the facts of the case wherein a manufacturer of sweetmeats was held liable to be covered under the said entry even though he was selling his own manufactured sweetmeats after storing them. That Entry 24 reads as under:

Every trading and commercial establishment engaged in the purchase, sale or storage of any goods, including establishment of exporters, importers, advertisers, commission agents and brokers, and commodity and stock exchanges but not including banks or warehouses established under any Central or State Act.

2. Mr. Sanghi is also right when he does not contest the finding of fact recorded by the Regional Provident Fund Commissioner and which is also confirmed by the High Court, that women who were preparing "Lijjat" papad by utilising the raw material supplied by the Jabalpur branch of the appellant, were employees of the branch concerned. He, however, submitted that even if this appeal is dismissed, the application of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 may be made prospective in its applicability to Jabalpur branch for the simple reason that under Section 6 of the Act the employer has to deduct, for remitting to the authorities, eight and one-third percent (after amendment 10 per cent) of the basic wages dearness allowance and retaining allowance (if any) from wages of its employees and deposit the same as prescribed under

the Act together with its own equal amount of contribution every month for the future statutory benefits of the employees. The employees are women who carried on physical work of preparing papads. Years have rolled by. They are mostly destitute and also in dire economic need for carrying out their livelihood to maintain their families living from hand to mouth. The demand from 1986 to 1991, by way of monthly deductions from their wages, will give rise to immense hardships to all these women and equal hardships to the appellant. During the proceedings before the High Court the demand had remained stayed by the High Court and till today, under the orders of this Court in this appeal, when leave was granted on 6-12-1993 the stay has continued. In these circumstances, if the past demands are revived, it would bring extreme disaster, not only to the appellant concerned, but also to the poor women employees, who were to be financially assisted by giving them economic assistance when work was taken from them of preparing papads and vadis and were paid on the basis of the out-turn of papads and vadis on piece-rate basis related to the weight of the papads and vadis prepared by them.

3. The aforesaid submission of Mr. Sanghi deserves to be accepted in the interest of justice and in the light of the peculiar facts of this case. We, therefore, while dismissing this appeal and while holding that the Act applied to the appellant's branch at Jabalpur, direct that the application of the Act to that branch should be with effect from 1-4-1999. It is obvious that the appropriate deductions under Section 6 of the Act from the wages of the employees concerned at Jabalpur branch as well as the matching contribution of the employer for depositing them with the authority will start from 1-5-1999 for the month of April 1999 onwards.

4. It is made clear that in view of the present order, the appellant will not be liable to make any contribution under Section 6 of the Act for the Jabalpur branch for any period prior to 1-4-1999.

5. The appeal is dismissed subject to the aforesaid modification. No costs.