

CASE NO.:
Appeal (civil) 514 1999

PETITIONER:
M/S SOUTHERN AGENCIES, RAJAMUNDRY

Vs.

RESPONDENT:
ANDHRA PRADESH EMPLOYEES STATE INSURANCE CORPORATION

DATE OF JUDGMENT: 29/11/2000

BENCH:
S.R.Babu, S.N.Variava

JUDGMENT:

L.....I.....T.....T.....T.....T.....T.....T...J

J U D G M E N T

RAJENDRA BABU,, J. :

The appellant is a partnership firm engaged in the retail sale of Godrej Steel Furniture, Usha Fans and similar items having its administrative office at Rajamundry. There is also a sales office at Rajamundry. The appellant has separate units at Kakinada, Visakhapatnam, Vizianagaram, Srikakulam, Khammam and Warrangal. The Government of Andhra Pradesh extended the application of the provisions of the Employees State Insurance Act, 1948 [hereinafter referred to as the Act] to different classes of establishments, including shop. By a communication sent on 19.11.1982 the Corporation asked the appellant to furnish the details of its branch offices together with the number of employees working therein as the appellant is covered by the Act pursuant to the notification dated 2.3.1978 issued by the Government of Andhra Pradesh. The appellant contended that in none of these outlets there are employees exceeding 10 and each of these outlets is a separate unit and they cannot be clubbed together. Further the sales offices situated in different districts are not covered under the Act and the administrative office is not a shop for the purpose of the Act as no sale takes place there and it is purely an administrative office. The appellant filed an original petition before the E.S.I. Court, Rajamundry, contesting the stand taken by the respondent which was, however, negatived by it by an order made on 4.11.1991. The matter was carried as Civil Miscellaneous Appeal before the High Court. A Division Bench of the High Court observed that if the head office is not covered by the said notification then all the establishments run by the appellant firm cannot be aggregated for the purpose of bringing them within the ambit of the Act and referred the matter to the Full Bench. The Full Bench took the view that for the purpose of the Act the office of the appellant at Rajamundry can be treated as a shop and dismissed the appeal. Hence this appeal by special leave. The contentions put forward before the High Court and the Employees States Insurance Court are

reiterated before us on behalf of the appellant, while the learned counsel for the respondent supported the view taken by the High Court. In M/s Kirloskar Consultants Ltd. v. Employees State Insurance Corporation, JT 2000 (Suppl. 2) SC 585, after referring to the decisions in International Ore and Fertilizers (India) Pvt. Ltd. v. ESI Corporation, 1987 (4) SCC 203, Hindu Jea Band v. Regional Director, ESIC, 1987 (2) SCC 101, and ESI Corporation v. R.K. Swamy & Ors., 1994 (1) SCC 445, we have examined the scope of the expression shop used in the notification issued under the Act and held that the word shop has acquired an expanded meaning. Where in a premises any economic activity is carried on leading to sale or purchase that premises will have to be held a shop for the purpose of the Act even though there is no actual giving or taking of goods in such premises. If the business carried on in a premises results in having some nexus with the purchase or sale of goods is sufficient to be shop for the purpose of the Act. Admittedly, in the present case, the appellant supervises and controls the sales in all its branch offices and takes share of their income and, therefore, we think, there is absolutely no justification to take any contrary view. The nature of the activities carried on by the appellant is commercial or economical and would amount to parting with such services for a price through its different outlets. Further the administrative office and different branches constitute a single entity as held by the courts below which on examination of the facts such conclusion has been reached. The evidence tendered by the General Manager indicated that the branches are responsible and answerable to the appellant; that the head office keeps track of the efficiency of each branch and its profitability; that the head office has control over the branch offices and gets information periodically as to stocks received and goods sold from each branch from time to time; that the business in respect of all branches is carried on with the same funds and there are transfers of employees as well from one branch to another branch; that a single audit is made by preparing a single statement of accounts including sales in all the branches which are put together. These factors clearly indicate that the administrative office at Rajamundry is nothing but a controlling office to supervise the sales taking place in different branches and thus falls within the definition of expression shop. We find no merit in this appeal and the same shall stand dismissed. No costs.