

PETITIONER:
ESS DEE CARPET ENTERPRISES

Vs.

RESPONDENT:
UNION OF INDIA AND ORS.

DATE OF JUDGMENT 07/12/1989

BENCH:
VENKATARAMIAH, E.S. (CJ)
BENCH:
VENKATARAMIAH, E.S. (CJ)
SINGH, K.N. (J)
KASLIWAL, N.M. (J)

CITATION:
1990 AIR 455 1989 SCR Supl. (2) 417
1990 SCC (1) 461 JT 1989 (4) 527
1989 SCALE (2) 1246

ACT:

Employees Provident Funds and Miscellaneous Provisions Act, 1952: Section 1(3)(a) and Schedule I clause (b)--Carpet weaving--Whether comes under the expression "textiles"--Carpet manufacturing industry--Whether comes within the scope of the Act.

HEADNOTE:

The appellant is a partnership firm carrying on business of manufacturing and selling carpets in the State of Rajasthan. It owns three factories. When the Regional Provident Fund Commissioner took steps to direct the appellant firm to comply with the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act 1952, the appellant contested the applicability of the Act on the ground that it was not manufacturing textiles included in Schedule I of the Act. The Regional Provident Fund Commissioner held that the business of manufacturing carpets carried on by the appellant included textiles and that the Act was applicable to the appellant.

Aggrieved by the said order, the appellant approached the Central Government under section 19A of the Act, which upheld the order of the Regional Provident Fund Commissioner. Thereafter the appellant moved the High Court under Article 226 of the Constitution. The writ petition was dismissed. The appellant preferred an appeal to the Division Bench of the High Court and that appeal was also dismissed.

This appeal, by special leave, is against the order of the Division Bench.

Dismissing the appeal, this Court,

HELD: 1.1 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, [420B-C]
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1.2 Though there may be 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 it is very clear that the activity of making carpet 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. [420D-F]

1.3 The non-inclusion of knotting in the explanation to Schedule defining 'textiles' is, therefore, immaterial. [42ID]

Porrits Spencer (Asia) Ltd. v. State of Haryana, [1979] 1 SCR 545, relied on.

2. 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. [421D]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 1372 of 1987.

From the Judgment and Order dated 29.1.1986 of the Rajasthan High Court in Spl. Appeal No. 336 of 1984.

Soli. J. Sorabjee, Roxena Swamy, Sushil Kr. Jain and L.C. Agarwala for the Appellant.

Anil Dev Singh, Hemant Sharma, C.V.S. Rao, Mrs. Sushma Suri (N.P.) and Ms. A. Subhashini (N.P.) for the Respondents.

The Judgment of the Court was delivered by

VENKATARAMIAH, C.J. 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 XIX of 1952) (hereinafter referred to as 'the Act'). The appellant is a partnership firm carrying on the business of

419 manufacturing and selling carpets in the State of Rajasthan at three 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 27th July, 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 19A of the Act before the Central Government. The Central Government passed an order on 4th May, 1981 holding that the appellant's establishment was engaged in the manufacture of 'textiles' and accordingly the order of the Regional Provident 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 15th October, 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 29th January, 1986. This appeal by special

leave is filed against the order of the Division Bench of the High Court of Rajasthan.

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)

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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."

It is not disputed that wool was material with which the carpets are made. Wool 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 a 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.

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

In *Porritts & Spencer (Asia) Ltd. v. State of Haryana*, [1979] 1 S.C.R. 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,

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nylon or of any other description made out of any other material 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.

It is not necessary to refer to the other decisions cited before us in this case.

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.

G.N.
dismissed.

Appeal

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