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Kerala Coir Works Vs. the Regional Provident Fund Commissioner and anr.

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Court : Kerala

Decided On : Nov-18-1971

Reported in : (1972)IILLJ82Ker

Judge : T.C. Raghavan, C.J. and; P. Unnikrishna Kurup, J.

Appellant : Kerala Coir Works

Respondent : The Regional Provident Fund Commissioner and anr.

Judgement :

T.C. Raghavan, C.J.

1. The short question in these writ appeals is whether industries manufacturing alath rope will come within the entry 'coir (excluding the spinning sector) industry' in Shedule I to the Employees' Provident Funds Act. A learned Judge of This Court has dismissed the writ petitions giving rise to these appeals answering the question in the affirmative.

2. The word 'alath' (also 'alass') is of Arabic origin and the expression 'alath rope' means a special variety of rope much thicker in core than the ordinary types of coir rope, and the process of making alath rope is detailed in paragraph 3 of the counter-affidavit. (This is not disputed too.) Cocoanut fibre, made out of cocoanut husk, is spun into coir yarn called 'choodi' locally; and this is generally a cottage industry in Kerala. The appellants in these cases purchase such coir yarn from the open market and the yarn so purchased is being used in their factories for making alath rope. The coir yarn is first rolled or coiled to form big size balls locally called 'bharani'; and three to five coir yarns are twisted together to make one strand. Such strands are again twisted together to make the alath rope, the number of strands used depending upon the thickness required. The twisting of yarn into strands and strands into rope is done by machines; and then the projecting edges of the fibre are cut and the rope is rolled into coils and sent to the market.

3. Two contentions are raised before us by the counsel of the appellants. The first is that spinning is involved in the making of the strands and the rope in the factories of the appellants and, since the spinning sector is excluded, these factories will not come within the relevant entry in the Schedule. The second argument is that coir industry means only the industry where coir or the fibre of cocoanut alone is involved and the industry involving a product of coir or fibre will not come within the entry.

4. The word 'spin' means in the Shorter Oxford English Dictionary 'to draw out and twist the fibres of wool, (lax, etc., so as to form a continuous thread' and the word 'coir' means in the same Dictionary '(ad. Malayalam kayar cord). The prepared fibre

of husk of the cocoanut, used for making ropes, cordage, matting, etc., orig. the cordage made of this fibre.'

5. Before we consider the contention raised by the counsel of the appellants, we shall refer to some of the decisions cited before us, which will indicate how the entries in Schedule I have to be construed. The first and the important decision is the decision of the Supreme Court in The Regional Provident Fund Commissioner, Punjab v. Shibu Metal Works : (1965)ILLJ473SC , Gajendragadkar, C.J., who spoke for the Bench, has laid down some general principles regarding the interpretation of the entries in Schedule I to the Employees' Provident Funds Act. Paragraph 13 of the judgment reads:

Reverting then to the question of construing the relevant entry in Schedule I, it is necessary to bear in mind that this entry occurs in the Act which is intended to serve a beneficent purpose. The object which the Act purports to achieve is to require that appropriate provision should be made for the employees employed in the establishments to which the Act applies; and that means that in construing the material provisions of such an Act, if two views are reasonably possible, the Courts should prefer the view which helps the achievement of the object. If the words used in the entry are capable of a narrow or broad construction, each construction being reasonably possible, and it appears that the broad construction would help the furtherance of the object, then it would be necessary to prefer the said construction. This rule postulates that there is a competition between the two constructions, each one of which is reasonably possible. This rule does not justify the straining of the words or putting an unnatural or unreasonable meaning on them just for the purpose of introducing a broader construction.

The learned Chief Justice was considering, in that case, the entry 'electrical, mechanical or general engineering products' and his Lordship has cautioned that, in interpreting the entry, Courts should not concentrate on the word 'products' and what they have to ask themselves is: is the industry engaged in the manufacture of any of the products mentioned in the entry? Gajendragadkar C.J., has also observed that it is the character of the industrial activity carried on that falls to be determined, and the question is not so much as to what is the product produced as what is the nature of the activity.

6. The next decision is of the Madras High Court, East India Industries (Madras) Private Limited v. Regional Provident Fund Commissioner, Madras : AIR1964Mad371 . The Madras High Court has laid down that, in referring to the various entries in the Schedule, the opening sentence of the Schedule, namely, 'Any industry (sic) facture.ofany of the following,...'should be, given proper weight. This decision also appears to stress that, in considering the effect of the entries, it is the nature of the industrial activity that has to be noted, and not the nature of the product of such activity.

7. The next decision is the Division Bench ruling of the Patna High Court in Bankim Chandra Chakravarty v. Regional Provident Fund Commissioner : (1958)IILLJ444Pat . In that case, the Patna High Court considered the entry 'electrical' mechanical or general engineering products,' and has held that the entry is wide enough to include high pressure incandescent lamps. The Patna High Court has further pointed out that high pressure incandescent lamps may also come within another entry, 'iron and steel'.

8. And, lastly, we come to the ruling of a single Judge (Tulzapurkar J.) of the Bombay High Court in Ramlakar Chankar Warde v. Central Board of Trustees : AIR1967Bom259 . It is this decision that has been relied upon mainly by the counsel of the appellants ; and we shall straightaway advert to the argument of the counsel on this aspect. The counsel have pointed out that, in the several entries in Schedule I, a distinction is made between certain materials or articles and products of those materials or articles: in other words, the counsel have pointed out that entries like 'milk and milk products industry', 'paper products industry,' 'plastic and plastic products industry', etc., draw a distinction between particular materials and their products with the result that industries using such materials and industries using products of such materials should be separately treated. From this premise, the counsel have argued that the industries of the appellants are not coir industries but only coir products industries, so that they will not come within the relevant entry mentioned hereinbefore. This argument appears to have been raised beforeTulzapurkar, J. of the Bombay High Court; and the learned Judge has accepted the same. In the light of the decision of the Supreme Court mentioned already, we find it difficult to accept this argument. And, with due respect to Tulzapurkar, J., we express our inability to agree with the reasoning of the learned Judge. Gajendragadkar, C.J., has observed, in the Supreme Court decision noted above, that, if the words used in the entry are capable of a narrow and broad construction, each construction being reasonably possible, and if it appears that the broad construction would help the furtherance of the object of the Act, then the broad construction should be adopted. We would also repeat the reasoning of the Madras High Court in the Madras decision cited, viz., that due weight should be given to the opening sentence of the Schedule too, which means that, to any industry engaged in the manufacture of any of the articles mentioned in the Schedule, the Act would apply. Therefore, a wider interpretation has to be given to the relevant entry.

9. Now, we shall come to the two objections raised by the counsel of the appellants. The first objection, as already indicated, is that Spinning is involved in the making of alath rope and, since the spinning sector is excluded, the industries of the appellants will not be included in the relevant entry. Spinning, as we have pointed out, means drawing out and twisting the fibres of wool, flax, etc., so as to form a continuous thread. In making alath rope out of the yarn spun out of cocoanut fibre, there is no spinning since spinning means drawing out but only twisting the fibre : only twisting is involved in making the strands or the rope, but not spinning. On the first objection, therefore, we disagree with the counsel and hold that in making alath rope out of coir yarn or choodi there is no spinning so that, if these factories are engaged in coir industry, they do not come within the exclusion (spinning sector) since there is no spinning in making the rope: the coir yarn or choodi alone is spun (that is mostly a cottage industry too, and that is why, probably, it is excluded) and the rope is not spun but only twisted.

10. The next objection is that coir industry does not include the making of rope of coir yarn or choodi, which alone is being done in the factories of the appellants so that this entry will not cover these factories. The argument is based on the meaning of the word 'coir', which, we have already said, means fibre prepared from the husk of cocoanut: the argument is that coir industry stops with the making of coir, and the industry engaging in twisting the coir yarn into alath rope is not coir industry. The origin of the word coir is from the Malayalam word kayar, which does not mean cocoanut fibre: it means merely rope. However, the word has now come to mean prepared fibre of husk of cocoanut; and it may, at first blush, appear that this

argument has some force. But, the learned Central Government Pleader, brings to our notice the Coir Industry Act of 1953, wherein 'coir' or 'coir fibre' is defined to mean the fibre extracted from the husk of the cocoanut; the term the 'coir products' is defined to mean mats andmatting, rugs and carpets, ropes and other articles manufactured wholly or partly from coir or coir yarn; and 'coir yarn' is defined to mean yarn obtained by the spinning of coir. The definition of the expression 'coir products' indicates that the Legislature has not intended to confine the word 'coir' to cocoanut fibre alone, because, by this definition, ropes and other articles made out of coir yarn are also coir products: in other words, the Legislature has not confined the meaning of the term 'coir industry' to the industry of making yarn (or choodi) out of coir or fibre of the cocoanut. The other provisions of this Act also indicate that coir industry has to mean not only the industry of converting coir (cocoanut fibre) into coir yarn, but to the industry of making products out of coir yarn. This has also to be borne in mind in interpreting the relevant entry: and this is only in tune with the rule of interpretation laid down by Gajendragadkar, C.J., in the ruling of the Supreme Court. We may also point out in this connection that at least in two of these cases the names of the appellants themselves do not support this distinction : in one, the name is Kerala Coir Works and in the other, Noble Coir Rope Manufacturing Bureau.

11. This line of reasoning will indicate that the decision of the learned single Judge is correct. The decision is, therefore, confirmed, and the appeals are dismissed, however, without costs.

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