

PETITIONER:
REGIONAL DIRECTOR, EMPLOYEE'S STATE INSURANCE CORPORATION

Vs.

RESPONDENT:
HIGH LAND COFFEE WORKS OF P.F.X. SALDANHA AND SONS ANDANR

DATE OF JUDGMENT 26/07/1991

BENCH:
SHETTY, K.J. (J)
BENCH:
SHETTY, K.J. (J)
RAMASWAMI, V. (J) II
YOGESHWAR DAYAL (J)

CITATION:
1992 AIR 129 1991 SCR (3) 307
1991 SCC (3) 617 JT 1991 (3) 325
1991 SCALE (2) 221

ACT:
Employees State Insurance Act, 1948---Sections 1(4) and 2(12) Seasonal factory' exemption from Statute--Whether arises.

HEADNOTE:

The Regional Director, State Employees Corporation the appellant in the instant case claimed for covering the factories of the respondents M/s. High Land Coffee Works of P.F.X. Sakdanha & Sons under the provisions of the Employees State Insurance Act 1948.

Section 1(4) of the Act excludes "seasonal factory" from the scope of the Act. The seasonal factory is defined under section 2(12) of the Act.

The factories of the respondents were excluded from the operation of the Act since they were declared to be seasonal factories within the meaning of the definition of section 2(12) of the Act.

By amending Act 44 of 1966 which came into force from 28th January, 1966, the definition of 'seasonal factory' has been amended and accordingly the seasonal factory means a factory which exclusively engaged in one or more of the manufacturing processes detailed in the definition and includes a factory which is engaged for a period not exceeding seven months in a year. The expressions manufacturing process & power shall have the meaning respectively assigned to them in the Factories Act 1948.

So after the amendment the Corporation called upon the respondents to pay the contributions payable under the Act and threatened to take coercive steps to recover the arrears under the Revenue Recovery Act and prosecute them.

The respondents challenged the demand made by the appellants in the Employees Insurance Court contending that even the amending

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Act 44 of 1966 has not altered the definition of seasonal factory, would still excludes such factory from the operation of the Act. The Employees Insurance Court accepted the plea of the respondents and even the Karnataka High Court agreed to the view of aforesaid Court. So the Corporation

appealed to this Court.

The sole question before the Court for consideration is whether the respondents' factories in view of the amendment to the definition of seasonal factory have lost the benefit of exclusion from the Act.

Dismissing the appeals and the special leave petition the Court,

HELD: That in the instant case the High Court observation that the purpose of the definition by the amending act was to enlarge and not to restrict the Statutory concept of seasonal factory so the position of the respondents establishments as seasonal factories remain unaltered. This view seems to be justified because the objects reasons of the Bill of the amending Act clearly indicates that the proposed amendment was to 'bring within the scope of the definition of seasonal factory' a factory which works for a period of not exceeding seven months in a year a) in any process of blending, packing or repacking of tea or coffee b) in such other manufacturing processes as the Central Government may, by notification in the official Gazettee specify. Thus amendment is clearly in favour of widening the definition of seasonal factory' because the word 'include' in the Statutory definition is generally used to enlarge the meaning of the preceeding words. This is well accepted statutory construction that in interpretation clauses in order to enlarge the words or phrases occurring in the body of the statute the word include is very generally used. [310F-311C] Stroud's Dictionary, 5th Edn. Vol. 3 page 1263.

C.I.T. Andhra Pradesh v. M/s. Taj Mahal Hotel, Secunderabad, 971] 3 SCC 550 and State of Bombay v. The Hospital Mazdoor Sabha Ors., [1960] 2 SCR p. 666 at 875, referred to.

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 1837-1841 of 1977.

From the Judgment and Order dated 28.10.1976 of the Karnataka High Court in Misc. First Appeal Nos. 557 to 561 of 1975.

Dr. Anand Prakash, Ms. Kitty Kumaramangalam and C.V. Subba Rao for the Appellant.

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G.B. Pai, Dr. Shankar Ghosh, D.N. Mishra and Ms. Mridula Ray for the Respondents.

The Judgment of the Court was delivered by

K. JAGANNATHA SHETTY, J. These appeals by special leave are directed against the judgment of the Karnataka High Court rejecting the claim of the appellant-Corporation for covering the factories the respondents under the provisions of the Employees' State Insurance Act, 1948 (the Act).

Section 1(4) excludes "seasonal factory" from the scope of the Act. The "seasonal factory" is defined under Section 2(12) of the Act which is extracted hereunder:

"Seasonal factory means a factory which is exclusively engaged in one or more of the following manufacturing processes, namely, cotton, ginning, cotton or jute pressing. decortication of groundnuts, the manufacture of coffee, indigo, lac, rubber, sugar (including gur) or tea or any manufacturing process which is incidental to or connected with any of the aforesaid processes."

The factories of the respondents were excluded from the operation of the Act since they were declared to be the

seasonal factories within the meaning of the above stated definition. There is no dispute on this aspect.

By Amending Act 44 of 1966 which came into force with effect from 28th January 1968, the definition of "seasonal factory" has been amended. The definition as amended reads:

"Seasonal factory means a factory which is exclusively engaged in one or more of the following manufacturing processes, namely, cotton ginning, cotton or jute pressing, decortication of groundnuts, the manufacture of coffee, indigo, lac, rubber, sugar (including gur) or tea or any manufacturing process which is incidental to or connected with any of the aforesaid processes and includes a factory which is engaged for a period not exceeding seven months in a year--

(a) in any process of blending, packing or re-packing of tea or coffee; or

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(b) in such other manufacturing process as the Central Government may, by notification in the Official Gazette, specify;

The expressions "manufacturing process" and "power" shall have the meaning respectively assigned to them in the Factories Act, 1948".

After the said amendment, the Employees' State Insurance Corporation called upon the respondents to pay the contributions payable under the Act and threatened to take coercive steps to recover the arrears under the Revenue Recovery Act and prosecute them. Challenging the validity of the demand made, the respondents approached the Employees' Insurance Court, inter alia contending that the amendment to the definition of the expression "seasonal factory" brought out by the Amending Act 44 of 1966 has not altered the position of the seasonal factory as obtained prior to the amendment and Section 1(4) of the Act would still continue to exclude such factory from the operation of the Act. The Employees' Insurance Court accepted the respondent's plea. The Karnataka High Court has also agreed with the view taken by the Employees' Insurance Court. The Corporation has now appealed to this Court.

The sole question for consideration is whether the respondents' factories in view of the amendment to the definition of 'seasonal factory' have lost the benefit of exclusion from the Act. The High Court on this aspect has observed that the purpose of the amendment was to enlarge and not to restrict the statutory concept of 'seasonal factory' and the position of respondents establishments as seasonal factories under and for the purpose of the Act remained unaltered even after the amendment.

The view, taken by the High Court seems to be justified. The statement of Objects and Reasons of the Bill which later became the Act 44 of 1966 indicates that the proposed amendment was to bring within the scope of the definition of 'seasonal factory', a factory which works for a period of not exceeding seven months in a year- (a) in any process of blending, packing or repacking of tea or coffee; or (b) in such other manufacturing process as the Central Government may, by notification in the Official Gazette, specify. The amendment therefore, was clearly in favour of the widening the definition of 'seasonal factory'. The amendment is in the nature of expansion of the original definition as it is clear from the use of the words 'include a factory'.

The amendment does not restrict the original definition of "seasonal factory" but makes addition thereto by inclusion. The word "include" in the statutory definition is generally used to enlarge the meaning of the preceding words and it is by way of extension, and not with restriction. The word 'include' is very generally used in interpretation clauses in order to enlarge the meaning of words or phrases occurring in the body of the statute; and when it is so used, these words or phrases must be construed as comprehending, not only such things as they signify according to their natural import but also those things which the interpretation clause declares that they shall include. (See: (i) Stroud's Judicial Dictionary, 5th ed. Vol. 3, p. 1263 and (ii) C.I.T. Andhra Pradesh v. M/s Taj Mahal Hotel, Secunderabad, [1971] 3 SCC 550 (iii) State of Bombay v. The Hospital Mazdoor Sabha & Ors., [1960] 2 SCR 866 at 875.

In view of these well accepted statutory construction, the decision of the High Court does not call for interference.

In the result the appeals and the special leave petition fail and are dismissed with costs.

S.B. Appeals and petition
dismissed.