

PETITIONER:
TATA ENGINEERING AND LOCOMOTIVE CO. LTD.

Vs.

RESPONDENT:
THE STATE OF BIHAR & ANR.

DATE OF JUDGMENT: 24/04/2000

BENCH:
Doraiswami raju, V.N.Khare

JUDGMENT:

Raju, J.

The above appeal is against the judgment of a Division Bench of the Patna High Court whereunder the claim of the appellant to quash the notice dated 16.11.95 asking the Vice President of the appellant-company to take licence under the Bihar Saw Mills (Regulation) Act, 1990 (hereinafter referred to as 'the Act) came to be rejected and the Court also declined to grant a declaration sought for that the provisions of the Act and the Rules framed thereunder, namely, the Bihar Saw Mills (Regulation) Rules, 1993 (hereinafter referred to as 'the Rules) are not applicable to them.

The appellant-company is engaged in manufacturing and assembling of vehicles of various descriptions including trucks and light motor vehicles, such as Car, Jeep, etc. at its various factories situate in different parts of the country including the State of Bihar. The activities of the company consist of manufacturing of trucks of various descriptions and size, as also their components. The company, in the course of its manufacturing activities, requires articles and components made of wood for being used as battery base for chassis, gagers for production of tool box, pallet platform, staging platform staging for C.E.D./M.C. wheel carrier, etc. To meet such requirements, the company claims to purchase substantial and huge quantity of wood/ timber from registered dealers having valid licences and the same is used in their own saw mills located inside their factory premises for manufacturing the various wooden components required for their main business. On an inspection made, the company was found to have been running about 5 to 8 saw mills inside their premises and indisputably they have not obtained any licence either under the Act in question or the Forest Act for transport of timber purchased by them, their claim throughout being that they are not carrying on any trade in timber as such, by selling wood to any outsider nor are they engaged in the activities of saw trading as such and that they are not covered under the Act with any liability to take out any licence or pay any licence fee therefor.

The Division Bench of the High Court repelled the contentions of the company and held that the admitted nature of activities of the company are sufficient to attract the

provisions of the Act and the theory of end product use or that they are only incidental to the main business activity of manufacturing automobile vehicles, have no relevance in adjudging their liabilities under the Act and the Rules made thereunder. The definitions contained in the Act of saw mill, saw pit and sawing were held to be of sufficient amplitude to cover the activities of the company. Hence, this appeal.

Shri R.F. Nariman, learned senior counsel, while ably presenting the case of the appellants reiterated the stand taken before the High Court and vehemently contended that the existence of 'saw mills or 'saw pits or the mere activity of 'sawing by themselves are not sufficient to attract the provisions of the Act and the Rules made thereunder - those activities of the company being carried not by way of trade in timber but only as ancillary and incidental to their main business of manufacturing and selling automobiles of various kinds and varieties. The further submission on behalf of the appellant is that it is always necessary to find out the object and reason as well as the reach of the statutory provisions and the general words in the statute/rules would take colour only from the reason for it. Argued the learned counsel further that as long as the activities of the company are not in the course of any trade as such in timber and the machineries installed in the factory premises are for cutting the timber purchased by them lawfully from registered and licensed dealers for manufacturing the various components of the automobiles only the provisions of the Act and the Rules made thereunder had no application to the appellants and consequently, they are neither obliged to take any licence or pay any licence fee nor could they be penalised for not complying with the provisions of the Act. The learned counsel placed strong reliance upon the decision reported in Utkal Contractors & Joinery Private Ltd. vs State of Orissssa [1987 (3) SCR 317], besides inviting our attention at great length to the various provisions of the Act and Rules to demonstrate as to how, in his view, the provisions are inappropriate and inapplicable to the case of the appellants.

Per contra, Shri Rakesh Dwivedi, learned senior counsel appearing for the respondent-State, with equal force and vehemence contended that, a careful analysis and consideration of the provisions of the Act, even in the light of the principles of construction suggested for the appellants would make them applicable to the case of the appellants - the object and reason as well as the reach of the provisions being not only to regulate 'The Trade of Sawing but also the establishment and operation of saw mills and saw pits as defined in the Act and further for the protection and conservation of forests and environment in the State, in public interest. The fact that one or the other of the Rules or Forms prescribed and some or the other particulars specified therein may not apply to the appellants is no test, according to the respondents, to exclude its application to the appellants. While inviting our attention extensively to the provisions in the Act and the Rules, it was contended that the provisions of the Act were deliberately couched in the widest possible language to regulate and control, for the protection and conservation of forests and environment, and viewed in the context of the mischief sought to be prevented, the provisions have to be liberally construed in furtherance of the laudable object of the legislation, keeping in view the factual position that

those industries which are located in and around Jamshedpur consume huge volume of wood for commercial and industrial purposes and those areas are surrounded by forests in the State of Bihar and bordering States of Orissa and West Bengal. For the respondents, it has also been pointed out that other industries located in the Jamshedpur, i.e., Tata Iron and Steel Company Ltd, Indian Tubes Company, Tin Plate Company, etc., operating saw mills similarly within their factory premises have taken licences under Section 5 of the Act.

'Saw mill is defined in Section 2 (g) of the Act as follows: 2 (g). Saw mill means the plant and machinery with which and the premises including the precincts thereof in which or in any part of which sawing is carried on with the aid of electrical or mechanical power.

'Saw pit is also defined in Section 2 (h) in the following terms: 2 (h). Saw pit means a place where wood is sawn by manually-operated saws.

Similarly Section 2 (i) defines 'Sawing to mean as hereunder:

2 (i). Sawing with its grammatical variations and cognate expressions means operation of sawing, cutting, converting, fashioning or seasoning wood and includes preservation and treatment thereof either by mechanical process with the aid of electrical or mechanical power or manually-operated saws.

'Wood has also been defined in Section 2 (k) to mean and include trees when they have fallen or have been felled, and all wood of any species whether cut, converted, fashioned, sawn or hallowed out for any purpose or not.

The other relevant provisions to appreciate the submissions of the learned counsel on either side, to which detailed reference had also been made by them, are Sections 5, 9, 10 and 25 as well as Rules No.7 and Form No.D. Section 5 of the Act, which mandates the taking of a licence, reads as follows:

5. Application for licence.- On and from the appointed day-

(a) no person shall establish a saw mill or a saw pit except under the authority and subject to the conditions of a licence granted in that behalf under this Act;

(b) no person shall operate a saw mill or a saw pit in existence on the said date, unless he is granted a licence in that behalf under this Act on an application made by such person within a period of thirty days from such date:

Provided that for the period of thirty days and thereafter the period during which the application is pending for consideration, it shall be deemed as if such person was granted a licence under this Act and he was operating the saw mill or saw pit accordingly.

Section 9, which provides for submission of returns by a licensee, and Section 10, which obligates the keeping of account of stock of wood in saw mill and saw pit, read as follows:

9. Submission of returns - Every licensee shall submit such returns relating to the business of the saw mill or saw pit, as the case may be, and in such forms and to such officers and on such dates as may be prescribed.

10. Keeping of account of stock of wood in saw mill and saw pit - All wood whether sawn or not, found in or brought to the saw mill or saw pit or at the site of sawing at any time or during any period by any person in any manner or by any means for purpose of sawing or for any other purpose shall always be properly accounted for and all relevant evidence, documents, receipts, order and certificate as are necessary to show that the wood is legally obtained, shall be maintained and made available at the time of inspection. It shall be presumed in respect of the stock of wood which is not accounted for satisfactorily that the same has been obtained unlawfully and the stock of wood shall be liable for confiscation.

Section 25 contains the saving clause by virtue of which certain class and category of activities and State Government are exempt from the application of the Act and it reads as follows:

25. Saving - The provisions of this Act or the Rule made thereunder shall not apply to -

(a) the ordinary operations of carpentry not involving saw mill or saw pit operations;

(b) any saw mill or saw pit owned by the State Government.

The conditions of licence which cast certain obligations on the licensee and which are set out in Rule 4, read as follows:

4. Grant of licence - (1) The licensing officer shall grant the licence in Form C.

(2) The licence shall be subject to the following conditions:-

(a) The sawing operations in the saw mill and saw pit shall not be carried out after sunset and before sunrise.

(b) The certified copies of the licence granted under sub-rule (1) shall be displayed at conspicuous place in the saw mill or saw pit.

(c) The licence shall maintain daily account of receipt of wood purchased, sawing and disposal in Form 'D'.

(d) The monthly account of wood received for sawing only shall be maintained in Form 'E'.

(e) The registers of accounts shall, if so required, be produced before the licensing officer or any other officer authorised by him for inspection.

(f) If the licensee or the person incharge of the operation of saw mill or saw pit has reason to believe that the wood brought to the saw mill or the saw pit is illicit, he shall inform the nearest Range Officer of Forests as

early as possible, about the arrival of illicit wood. In no case, the illicit wood shall be sawn.

(g) The expansion of the saw mill or saw pit, or change in its location shall not be carried out without the written permission of the licensing officer.

(3) The licence shall be valid for a calendar year for which it was issued.

(4) The copies of conditions (under whom the licence is being granted) and the copies of forms of accounts (in which receipt of wood, sawing and disposal) shall be showing to the applicant by the licensing officer before grant of the licence. The licensing officer shall explain the conditions and the subject matter of draft to the applicant, if he is unable to read. The licensing officers shall obtain the signature or thumb impression of the applicant, as the case may be, on the application in token of the acceptance of the conditions. The applicant shall be applied with one copy each of conditions and terms, in which account shall be maintained.

(5) In case the licence is lost and smattered the licensee may obtain a certified copy of the licence on payment of rupees one hundred for each saw mill and rupees ten for each saw pit, from the licensing officer.

Rule 7 of the Rules mandates the maintenance of a register in Form No.D and monthly account in Form-E and enjoins upon a licensee to submit a return of those accounts to the concerned Divisional Forest Officer by a date not later than 10th of every month. Form-D pertains to details of purchase of wood for sawing and disposal and Form-E relates to the monthly account of arrival, sawing and disposal of wood received for sawing. All these are designed to assist the Licensing Officer and/or any authorised person, to effectively discharge their duties under Section 8 of the Act and thereby ensure proper compliance with the provisions of the Act, by everyone concerned.

Statutes, it is often said, should be construed not as theorems of Euclid but with some imagination of the purposes which lie behind them and to be too literal in meaning of words is to see the skin and miss the soul. The method suggested for adoption, in cases of doubt as to the meaning of the words used is to explore the intention of the legislature through the words, the context which gives the colour, the context, the subject matter, the effects and consequences or the spirit and reason of the law. The general words and collocation or phrases, howsoever wide or comprehensive in their literal sense is interpreted from the context and scheme underlying in the text of the Act. The decision in Utkal Contractors & Joinery Pvt. Ltd. case (supra) also emphasis the need to construe the words in a provision in the context of the scheme underlying the other provisions of the Act as well, which ultimately was considered to be in tune with the object set out in the statement of objects and reasons and in the Preamble. Apart from the fact that the observations contained in the decision have to be understood in the light of the issue raised and exercise undertaken by the Court therein, the fallacy in the submission on behalf of the appellant lies though not in the principles of construction to be adopted

but in the assumption of the counsel to confine or restrict and construe the law in question to be one made to regulate the trade of sawing, contrary to the very Preamble which reads, To make provisions for regulating in the public interest the establishment and operation of saw mills and saw pits and trade of sawing for the protection and conservation of forest and the environment (emphasis applied).

This Court has on more than one occasion proclaimed the need for strict regulation of wood based industries after identifying the proliferation of such industries to constitute the main cause of degradation of forests, resulting in serious threat to ecology and environment protection. Apparently conscious of the nature of evil to be curbed and the laudable object to be achieved a most liberal and wide definition of 'Sawing of all comprehensive nature has been enacted to rope in all kinds of activities connected with the use and consumption of wood and ultimately classify the users under two different categories depending upon the nature of operation viz., manual operation or operation with the aid of electrical or mechanical power. Section 5 of the Act not only prohibits the establishment of a saw mill/saw pit except under the authority and subject to the conditions of a licence granted but also further interdict the operation of such mill or pit even in existence on the appointed date, with grant of a leeway period to enable the existing mills/pits to apply and obtain the required licence. Keeping in view all these and the provisions contained in Section 10 of the Act, the words 'business of the saw mill or saw pit used in relation to submission of returns have to be construed in its generic sense of calling, occupation or pursuit and not restrict the same to the use of the word in a commercial sense or trade parlance. The object underlying Sections 9 and 10 seem to be to trace the origin or identity as well as source of the timber/wood and keep track of the transit movement of the wood utilised to prevent and effectively check ultimately indiscriminate and illicit felling of trees resulting in deforestation. The decision of this Court relied upon for the appellant, properly construed and the principles laid down therein appreciated and applied in their proper perspective tend to support rather the stand taken for the respondent-State. That the legislature thought of enacting a saving clause in Section 25 to make it clear that nothing in the Act or the Rules shall apply to the ordinary operations of carpentry not involving saw mill or saw pit operations and any saw pit or saw mill owned by the State Government also serve as an indicator of the intention of the legislature to have only an all comprehensive regulations to effectively control, regulate and supervise the transit/movement of the wood from its origin to ultimate utilisation by those who have saw mills/saw pits as defined under the Act.

The attempts made on behalf of the appellant-company to demonstrate that the obligations cast upon a licensee under Sections 9 and 10 of the Act and the Rules made thereunder and Form No.D prescribed are not capable of being complied with by the appellant and it would otherwise be superfluous also for the reason that they purchase the timber/wood needed for their requirements only from registered dealers and they themselves do not deal with or sell the timber as such timber to anyone else but merely utilise the same and thereby consume the timber/wood in the

course of the process of manufacturing the automobiles of various kinds do not either appeal to us or merit our acceptance. Being a bulk consumer of huge quantity of timber/wood, utilising them by carrying on sawing activities in their saw mills though located in their premises driven with electrical and mechanical power, it is but necessary that the appellant-company should obtain a licence under the Act so that the authorities of the forest department can effectively keep track of their purchases and utilisation and thereby ensure that their activities do not in any manner help or encourage even indirectly those engaged in illicit felling of trees in disposing of such ill-gotten timber/wood. The maintenance of the accounts and submission of returns as enjoined under Sections 9 and 10 and the Rules made thereunder will help to effectively enforce the provisions of the Act as also the other legislation in force in order to conserve and safeguard the forests. We find it difficult to agree with the claim of the learned counsel for the appellant that the word 'disposal in Rule 7, should be interpreted to mean only disposal by way of sale of wood in some form or other as wood by drawing inspiration from the columns/heads in Form-D such as 'sales and 'interstate. The word 'disposal is of wide import and would include all acts or process of disposal in the sense of regulating, ordering, conducting or conditioning of something or business and also putting in a particular place or location, anything. If the Form No.D had a column Sale, the licensee need only record that the goods have been consumed by them indicating local consumption in their factory premises and that it was not transported as timber simpliciter outside their factory. Even otherwise, the obligation to maintain and preserve accounts as envisaged in Section 10 of the Act and the Rules made thereunder with particulars specified in Form-E cannot be disowned and this obligation is independent of even the liability to submit returns as envisaged under Section 9. Therefore, we find nothing in the Rules or Forms prescribed to justify any claim of immunity for the appellant from the liabilities and obligations cast upon it under the Act and the Rules.

For all the reasons stated above, we see no merit in the challenge made to the order of the High Court. The appeal, consequently, fails and is dismissed. No costs.