

(1990) 01 GAU CK 0020
In the Gauhati High Court
Case No : M.A. (F) No. 10 of 1983

Employees State Insurance Corpn.	Vs	APPELLANT
Rajashri Pictures (P) Ltd.		RESPONDENT

Date of Decision : 02-01-1990

Acts Referred:

Employees State Insurance Act, 1948 — Section 1, 75

Citation : (1991) 61 FLR 251 : (1991) 1 LLJ 109

Hon'ble Judges : R.K. Manisana Singh, J

Bench : Single Bench

Advocate : P.N. Goswami and D.C. Chakravarty, for the Appellant; G. Gopal, for the Respondent

Final Decision : Allowed

Judgement

Manisana, J.—This is an appeal from the order of the Employees' Insurance Court, Gauhati is ESI Case 5 of 1981 made on September 21, 1982.

2. The facts giving rise to this appeal, in brief, are these. Regional Office at Gauhati of the Employees' Insurance Court, Gauhati in ESI Case refer to as "the Corporation") is the appellant. The Rajashri Pictures (Private) Limited located at Gauhati is a branch of business of the Rajashri Pictures (Private) Limited, Jaipur, Rajasthan is the respondent. The Government of Assam, in exercise of the power conferred by Section 1(5) of the Employees' State Insurance Act, 1948, for short "the Act", issued a notification dated July 27, 1975 extending the provisions of the Act to the classes of establishments and areas specified in the Schedule annexed thereto. The Regional Director of the Corporation at Gauhati, treating the respondent as covered under the Act, issued a notice dated January 28, 1981 demanding contribution at 7% of the total wages for the period from October, 1976 to April, 1980 amounting to Rs. 6,240.00 and from May, 1980 till date as well as for the period from January 1, 1976 to September, 1976 and requested the respondent to submit Declaration Form to local office and to pay the contribution.

3. After the receipt of the notice, the respondent filed an application u/s 75(1) of the Act before the Employee's Insurance Court raising a dispute that the respondent is not liable to pay the employees contribution on the ground inter alia that the respondent is not a factory nor an establishment to which the Act applies as the employees of the respondent is less than 20 persons, and that the respondent is not covered by the Act. The Corporation and its Regional Director contested the petition stating that the respondent is a branch at Gauhati with its head office at Jaipur in Rajasthan which is engaged in sale or distribution of films in Assam through the respondent and, therefore, the Act is applicable to the respondent as the main establishment at Rajasthan is an establishment which is covered by the Act.

The Court has held that the respondent is not liable to pay contribution as there is no proof that 20 or more persons are employed for wages by the respondent, and the respondent does not fulfil the conditions laid down by the notification dated July 27, 1975 of the Government of Assam. Hence this appeal.

4. The question which arises for consideration is whether the respondent is liable to pay the employees' contribution.

5. Mr. P.N. Goswami, the learned counsel for the appellant, has contended that the respondent is a branch office at Gauhati with its head office at Jaipur, Rajasthan which is engaged in sale or distribution of films in Assam. As the head office is covered by the Act and paying employees contributions, the branch at Gauhati also must pay the contributions although less than 20 persons are employed there.

6. The Act is a beneficial piece of social legislation in the interest of labour in the factories in the first instance and with the power to extend the provisions of the Act, or any of them, to any other establishments. In this view of the matter, I am of the opinion that the provisions of the Act will have to be construed with a view to promoting the scheme of the Act.

7. In the present case, it is not disputed that the main establishment at Jaipur is covered by the Act. The evidence of the respondent indicates that the branch at Gauhati is under the management of a branch manager. There is no material to show that work carried out by the employees at Gauhati Branch is not connected with the work of the main establishment which is covered by the Act. In the absence of such materials, it is presumed that the work carried out by the employees at Gauhati Branch is connected with the work of the main establishment. "Branch" means division or other unit of business of an establishment located at different locations from the main establishment. Therefore, the branch at Gauhati is a part of the main establishment at Jaipur in Rajasthan, and is under the administration of a branch manager for the business of distribution of the films (motion pictures). In this view of the matter, the relationship of the main establishment with employees at Gauhati-Branch is to be connected. In such circumstances, it is held that the employees at Gauhati-

Branch although less than 20 is a part of the organisation of the main establishment at Jaipur. That apart, in the definition of "employee" u/s 2(9) of the Act, employee includes any person employed for wages on any work connected with the administration of any establishment or any branch thereof. For the reasons stated, the branch office at Gauhati is covered by the Act and is liable to pay employee's contribution.

8. For the foregoing reasons, the appeal is allowed and the impugned order dated September 21, 1982 of the Employees' Insurance Court Gauhati is set aside.

9. With the above observations, the appeal is disposed of. No costs.