(1994) 02 DEL CK 0062

In the Delhi High Court

Case No : First Appeal No. 181 of 1974

Employees State Insurance Corporation APPELLANT

Vs

Tariq Butt and Another RESPONDENT

Date of Decision : 24-02-1994

Acts Referred:

Employees State Insurance Act, 1948 — Section 1

Citation : (1994) 1 AD 1109 : (1994) 54 DLT 132 : (1994) 29 DRJ 348

Hon'ble Judges : Chander Mohan Nayar, J

Bench : Single Bench

Advocate : A.P. Gupta, for the Appellant;

Judgement

C.M. Nayar, J.

(1) The present First Appeal has been filed against the other dated March 11, 1974, passed by Sh. B.B.Gupta, Employees State Insurance Judge, Delhi, in Suit No. 74 of 1973. The respondents had filed a petition u/s 75 of the Employees State Insurance Corporation Act, wherein, it was alleged that they were carrying on their business in the name and style of Dolphia Apparels from December 29, 1971 to about end of March, 1973. The nature of the business activities of the respondent was to get the clothes tailored for various exporters. The stitching work was got done by them from various artisans on rate contract basis and such employees worked at their own respective residences and at their own times without any direct supervision of the respondents. The respondents had set up a very small office and show room at the residence of respondent no. 2 at D-30 defense Colony, New Delhi.

(2) It is further reiterated that no manufacturing activity was carried on in the premises nor any power was being used and at not time more than 15 workers were in the employment of the respondents. The premises were also not a factory, as defined under the Factories Act. The provisions of E.S.I.C. Act were not extended by the Government by any notification and, Therefore, the

respondents were not covered by the Act. The appellants herein arbitrarily, without giving any reasonable opportunity of being heard, raised a demand of Rs. 3,621.00 against the respondents on account of E.S.I, contribution and in view of the facts, as stated above, no liability could arise on this account.

(3) The Court came to the conclusion on appreciation of facts and perusal of record thatonlyl6persons were working in the premises of the respondents and five were employed on that very day for testing purposes. The Court, accordingly, held that it was established on record that respondents never employed more than 20 persons at any time. The premises of the respondents were, accordingly, held to be not covered by the definition of factory, as given in the Act and the issue was decided accordingly.

(4) I have heard learned counsel for the appellant and also perused the record.

(5) It is clearly indicated that at any stretch of time, the respondents had not employed 20 or more persons and the finding in this reward by the Court cannot be held to be perverse and erroneous. The Court has, on appreciation of evidence, came to that conclusion and no interference is called for in the facts of the present case.

(6) The appeal accordingly fails and is dismissed. No order as to costs.

