
(2002) 11 MP CK 0018
In the Madhya Pradesh High Court
Case No : Writ Petition No. 679 of 1998

Gwalior Synthetics Pvt. Ltd.

APPELLANT

Vs

M.P. Electricity Board and others

RESPONDENT

Date of Decision : 19-11-2002

Acts Referred:

Madhya Pradesh Electricity Duty Act, 1949 — Section 3B
Textiles Committee Act, 1963 — Section 2(g)

Citation : (2003) 1 MPJR 301 : (2003) 1 MPLJ 452

Hon'ble Judges : S.S. Jha, J

Bench : Single Bench

Advocate : S.B. Mishra, with A.K. Nirankari, for the Appellant; K.N. Gupta, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

S.S. Jha, J.

Petitioner has filed this petition challenging the order of respondent Electricity Board, whereby his Industry is not being treated as Textile Mill. The electricity duty concession given to Textile Mills is not being given to the petitioner's company. Petitioner's Company has submitted an application for processing of Cotton/Art Silk Fabrics. On the application of petitioner's company license Annexure P/1 was issued to the petitioner by the office of the Textile Commissioner, Bombay.

Learned counsel for petitioner invited attention to the notification issued u/s 3B of M.P. Electricity Duty Act, 1949. Previous notification was superseded and exemption were provided in the schedule, exemption included Textile Mills excluding the spinning mills. Learned counsel for the petitioner submitted that the petitioner is involved in manufacturing of fibre and this fibre forms in Art Silk Fabrics which is manufacturer of Textile. Counsel for the petitioner has referred the definition u/s 2(g) of Textile Committee Act, 1963 and submitted that man made fabrics or Artificial silk is also part of expression "Textile". Petitioner has

also referred other Acts to invite attention of the word "textile". Counsel for the petitioner submitted that the petitioner's unit is entitled for exemption under the notification issued by the Government and respondent Electricity Board has issued notification on recovery of exemption given to petitioner's concern as Textile Unit.

Counsel for the respondents Shri K.N. Gupta, submitted that this question has been covered and decided by the Division Bench of this Court in the case of S.K.M. Fabrics Vs. M.P. Electricity Board and Others, . In para 9 of the judgment the Court while considering the notification has held that the financial condition of spinning and processing units is generally satisfactory and as such, their categorisation along with other general power consumers is correct. But, the financial condition of Textile Industry is not satisfactory. Therefore, they have been given some exemption. It is held that the dispute indicate the financial condition of the consumer and its ability to pay tariff at a particular rate was taken into consideration while classifying processing units separately from manufacturing units. In one case, power is supplied for the purpose of processing cloth. "Purpose for which power is required" is a relevant factor under sub-sections (1) and 2(a) as also sub-section (3) of section 49 of the Act of 1948. In this case it is held that the manufacturing process is different from Textile unit. Counsel for the respondents submitted that this question involved in the case is fully answered by this judgment. In reply counsel for the petitioner has submitted that this judgment is distinguishable and is not applicable in the present case.

The word "textile" is defined in the case of Porritts and Spencer (Asia) Ltd. Vs. State of Haryana, . While considering the meaning of word "textile" it is held the word "textile" is derived from the Latin "texere" which means "to weave" and it means any woven fabric. When yarn, whether cotton, silk, woolen, rayon, nylon or of any other description or made out of any other material is woven into a fabric, what comes into being is a "textile" and it is known as such. It may be cotton textile, silk textile, woolen textile, rayon textile, nylon textile or any other kind of textile. The method of weaving adopted may be the warp and woof pattern as is generally the case in most of the textiles, or it may be any other process or technique. There is such phenomenal advance in science and technology, so wondrous is the variety of fabrics manufactured from materials hitherto unknown or unthought of and so many are the new techniques invented for making fabric out of yarn that it would be most unwise to confine the weaving process to the warp and woof pattern. Whatever be the mode of weaving employed, woven fabric would be "textiles". What is necessary is no more than weaving of yarn and weaving would mean binding or putting together by some process so as to form a fabric. Moreover a textile need not be of any particular size or strength or weight. It may be in small pieces or in big rolls; it may be weak or strong, light or heavy, bleached or dyed, according to the requirement of the purchaser.

Thus, it is clear that unless fabrics or yarn is woven into a cloth or by other means by dyeing or polishing or binding or putting together by some process so as to form a fabric would be a textile. Similar question came for consideration in the case of Ess Dee Carpet Enterprises Vs. Union of India (UOI) and Others, . In this case it is held that weaving means to form a fabric by interlacing yarn on a loom. It also means the method or pattern of weaving or the structure of a woven fabric. The warp means yarn arranged lengthwise on a loom. The fabric which is woven includes the weft which means yarn woven across the width of the fabric through the lengthwise yarn. Thus the activity of the weaving involves passing of the weft through the warp. While doing so even if there are any knots in the yarn still the activity is weaving. The mere fact that there is knotting of the yarn, the fabric which is ultimately produced does not cease to be a textile fabric and it was held that the carpet weavers falls within the meaning of expression "textile" as explained in schedule 1 to Employees' Provident Funds and Miscellaneous Provisions Act (1952) and clause (a) of sub-section (3) of section 1 of the Act.

From the aforesaid judgments it is clear that the petitioner is involved in processing of Cotton/Art Silk Fabrics and for the same purpose electric connection has been supplied to the petitioner and not for Textile Industry. Processing of Cotton/Art Silk Fabrics is not a "textile mill". As such processing does not fall in the definition of textile as held by the Division Bench in the case of S.K.M. Fabrics, Amana, Dewas (supra). Since purpose for which the power was sought by the petitioner is for processing unit and not for manufacturing of textile unit. Respondent has not committed any error in treating petitioner as a unit other than Textile Mill. The recovery sought does not far from any infirmity.

Petition has no merits and is dismissed.