

(1899) 12 AHC CK 0009
In the Allahabad High Court

In Re: New Egerton Woollen Mills

Date of Decision : 21-12-1899

Acts Referred:

Citation : (1900) ILR (All) 131

Hon'ble Judges : Knox, J;Banerji, J;Aikman, J

Bench : Full Bench

Judgement

Knox, Banerji and Aikman, JJ.—This is a case stated u/s 46 of Act No. I of 1879 by the Board of Revenue for decision of the question raised in the statement. The statement commences by asking for a ruling regarding the question of the stamp-duty payable on what are termed the New Articles of Association of the New Egerton Mills Company, Limited. It then sets out that an authenticated copy of these so-called "New Articles of Association " was submitted to the Registrar of Joint Stock Companies for registration, and that he impounded them, as he was of opinion that they required to be stamped. The reasons why the Registrar of Joint Stock Companies considered that the document was liable to stamp-duty are that, in his opinion, the New Egerton Woollen Mills Company, instead of altering its existing regulations or making new regulations to the exclusion of those already existing, as they were entitled to do u/s 77 of the Companies Act, had, for the sake of greater convenience and perspicuity, preferred to adopt an entirely new set of articles of association as the regulations of the company, to the exclusion of those before in force, they were therefore the articles of association of the company, and required to be stamped under Article 3 (presumably Article 8) of schedule I of the Stamp Act, 1879. The Board state that they agree with the view thus stated by the Registrar of Joint Stock Companies. Before proceeding further, we would point out that the word "New" is a word imported by the Registrar of Joint Stock Companies into the case. The document, which was presented to the Registrar of Joint Stock Companies, and which is before us, is headed "Articles of Association of the New Egerton Woollen Mills Company Limited," and not "New Articles of Association," as set out in the reference. After carefully considering the provisions of the Indian Companies Act, 1882, and hearing all that has been said to us by the learned Government

Advocate, we are of opinion that there can be no such document under the Indian Companies Act of 1882 as "New Articles of Association." Articles of association are specially referred to in Section 37 and following sections of the Act. The sections provide that a company limited by shares may, when on the eve of incorporation, draw up a memorandum of association, and may link with that document articles of association signed by the subscribers to the memorandum of association, and prescribing such regulations for the company as the subscribers to the memorandum of association deem expedient. If they do not add articles of association so executed to their memorandum of association, in that case the regulations contained in the table marked A in Schedule I to the Indian Companies Act, 1882, shall be deemed to be the regulations of the Company in the same manner and to the same extent as if they had been inserted in the articles of association and the articles had been duly registered. We have not been referred to any section throughout the Act which provides for the framing of new articles of association, and it seems to us that such would really be a contradiction in terms. We can understand a body of individuals who are about to incorporate themselves into a company drawing up and executing articles of association which shall govern them when so incorporated, and we can understand a company when incorporated resolving that there shall be new regulations which shall supersede or modify the articles which were drawn up at the time when the association was first determined upon. This is provided for by Section 76 of the Indian Companies Act, and provision is made in Section 79, whereby any and every resolution to this effect shall be printed and forwarded to the Registrar of Joint Stock Companies and be recorded by him. Bearing all this in mind, we are satisfied that the document which was submitted to the Registrar of Joint Stock Companies was submitted to him u/s 79 to be recorded by him, and not, as he states, for registration. The document was not new articles of association, or articles of association at all within the meaning of the Indian Companies Act. It was a copy of the special resolution passed by the company notifying to the Registrar, and through him to the world concerned, that the regulations of the company, which were covered by the resolution, would be the regulations by which the company would in future be bound, These regulations, even though they were new regulations to the exclusion of all the existing regulations of the company, are, by the second paragraph of Section 76, to be deemed to be regulations of the company of the same validity as if they had been originally contained in the articles of association. The law does not say that they are to be deemed articles of association, but expressly declares that they are to be deemed regulations of the same validity as if they had been contained in the articles of association. The document which has been forwarded to us is certainly not one which falls within Article 8 of Schedule I of the Stamp Act of 1879, and is not liable to stamp-duty as provided by that article. This is our decision. Let the Registrar certify it as our answer to this reference.