(1999) 10 KAR CK 0033

In the Karnataka High Court

Case No : Writ Petition No. 21475 of 1992 connected with Writ Petition No. 36983 of 1993

Karnataka Bank Limited, Bangalore — APPELLANT

Vs

State of Karnataka and Another — RESPONDENT

Date of Decision : 06-10-1999

Acts Referred:

Mysore (now Karnataka) Weights and Measures (Enforcement) Act, 1958 — Section 11
Standards of Weights and Measures (Enforcement) Act, 1985 — Section 24
Standards of Weights and Measures Act, 1976 — Section 2 (z)

Citation : (2000) 2 KarLJ 396 : (2000) 2 KCCR 858

Hon'ble Judges : Tirath Singh Thakur, J

Bench : Single Bench

Advocate : Sri Eshwar Bhatfor Sri B.L. Acharya and Sri Udaya Holla, for the Appellant; Sri K. Vishwanath, Government Advocate, for the Respondent

Judgement

1. The petitioners in these petitions call in question the validity of notices issued by the concerned Inspectors of the Department of Weights and Measures, directing production of weighing instrument used by them for verification and stamping under the provisions of the Karnataka Weights and Measures Act, 1958. The challenge primarily rests on the plea that the petitioner-Bank does not make use of the weighing instrument in connection with any trade or commercial transaction so as to attract the provisions of Section 11 of the Mysore (now Karnataka) Weights and Measures (Enforcement) Act, 1958 under which the notices have been issued.

2. At the hearing today the argument of learned Counsel for the petitioner was slightly different. It was conceded that since Karnataka Weights and Measures (Enforcement) Act, 1958 was no longer in operation with the coming into force of Standards of Weights and Measures (Enforcement) Act, 1985 (Central Act 54 of 1985), the validity of the impugned notices shall have to be examined by reference to the existing statutory provisions. In that view, therefore, the question is whether the impugned notices could be sustained under the

provisions of Section 24 of the Central Act mentioned earlier, relevant portion whereof reads as under:

"24. Verification and Stamping of Weights or Measures:

(1) Every person having any weight or measure in his possession, custody or control in circumstances indicating that such weight or measure is being or is intended or likely to be used by him in any transaction or for industrial production or for protection shall, before, putting such weight or measure into such use, have such weight or measure verified at such place and during such hours as the Controller may, by general or special order, specify in this behalf (hereinafter referred to as the specified place or specified time), on payment of such fees as may be prescribed.

(2) Every weight or measure referred to in sub-section (1) shall be re-verified at such periodical intervals as may be prescribed.

Explanation,--For the removal of doubts it is hereby declared that no periodical re-verification shall be necessary in relation to any weight or measure which is used exclusively for domestic purposes".

3. It is evident from the above, that every person who has in his possession, custody or control of any weight or measure in circumstances indicating that the same may be used or is intended or likely to be used in connection with any transaction or for industrial production or for protection has to, before putting such weight or measure into such use, get the same verified from the authority designated for that purpose. The critical expression that calls for interpretation is-"any transaction or for industrial production or for protection". It is not in dispute that the petitioner-Bank does not use the weighing instrument for any "Industrial production" nor is the Bank engaged in any industrial activity. According to Mr. Vishwanath, the provision was applicable to the Bank in situations where weighing machines are used by it in connection with any transaction that it may enter into with the customers. The expression ''transaction'' has not been defined under the Act. Support was however drawn by Mr. Vishwanath from the meaning given to the said expression in Section 2(z) of the Standards of Weights and Measures Act, 1976 (Act No. 60 of 1976), which reads as under:

"2(z) "transaction" means--

(i) any contract, whether for sale, purchase, exchange or any other purpose, or

(ii) any assessment of royalty, toll, duty or other dues, or

(iii) the assessment of any work done, wages due or services rendered".

While it is not permissible for the Courts to borrow the meaning attached to an expression used in one enactment from that given to it in another enactment, yet, in the light of the specific provisions made in Section 3(o) of the Enforcement Act the word ''transaction'' used in Section 24 of the Enforcement

Act would have the same meaning as is assigned to that expression by Section 2(z) of the Standards of Weights and Measures Act, 1976. Section 3(o) of the Enforcement Act runs thus:

"3(o) Words and expressions used in this Act are not defined but defined in the Standards Act shall have the meanings respectfully assigned to them in that Act".

The expression ''transaction'' would therefore mean any contract whether for sale, purchase, exchange or any other purpose. The words ''any other purpose'' are wide enough to include a transaction entered into by a Bank with its customers whether for the grant of a loan on hypothecation of ornaments and jewels or otherwise. It is not necessary that the transaction must be one relating to trade or commerce only. It is true that in Karnataka Weights and Measures Enforcement Act, 1958, Section 11 which made an analogous provision like Section 24 of the Central Act, weights or measures or weighing or measuring instruments were required to be verified only if they were used in connection with ''"transactions in trade or commerce" but the omission of the words "transaction in trade or commerce" that appeared in Section 11 from Section 24 of the Central Act assumes great significance. Section 24 of the Central Act does not confine the requirement of verification of measuring and weighing instrument to such instruments as may be used in connection with any trading or commercial transactions only. The Central Enactment is in that sense wider in its application and brings within its fold transactions which need not be in the nature of ''trade or commerce'' as understood in common parlance. I, would therefore hold that the impugned notices requiring the production of the weighing instruments for the purpose of verification do not suffer from any illegality to warrant interference.

4. Counsel for the petitioner then argued that the petitioner''s case was covered by the explanation to Section 24, inasmuch as weights and measures used for the domestic purpose were not required to be verified. The expression ''domestic purposes'' appearing in the explanation has not been defined. The dictionary meaning of the expression ''domestic'' shall therefore have to be referred to for the purpose of understanding the true import of the said expression. Chambers 20th Century Dictionary describes ''domestic'' thus:

"belonging to the house; remaining much at home; private; tame; not foreign - a servant in the house; articles of home manufacture; esp. home made cotton cloths.. . ..".

5. Keeping in view the context in which the expression is used, as also the broad purpose underlying the enactment, it is safe to hold that the Parliament intended to exclude from the requirement of verification only such weights and measures as were meant only for domestic use i.e., a purpose other than official. Any use howsoever rare or casual in connection with a transaction involving official business by any establishment whether engaged in a commercial trading or public utility service, like banking, can never be termed as domestic so as to

render the verification of the weighing machines or instruments unnecessary under the Act. The object underlying the Enforcement Act inter alia is to bring country wide uniformity in the use of weight and measures and to ensure protection to the consumers by guaranteeing metallurgical accuracy in commercial transactions. The provisions contained in Section 24 requiring verification of the weights and measures is intended primarily to protect the consumer against possible fraud by use of defective or inaccurate machines in the course of any transaction. Section 24 therefore deserves the widest interpretation so as to promote the object underlying the enactment. The fact that the Bank makes use of the weighing machines in connection with its official business and especially in cases where the customers pledge the ornaments with it for securing loans or other facilities has not been disputed. What was argued was, that the use of weighing machines was meant to assess only on a tentative basis the value of the ornaments. The transactions are finalised as per the submission of the learned Counsel for the Bank, on the basis of the report of the jewellary appraiser nominated by it. This according to the learned Counsel showed that the use of the weighing machine by the Bank was not for the purpose of finalisation of transaction with the customer. It cannot however be denied that the instrument is used by the Bank for official purpose at some stage or the other in the course of the transaction. If a customer approaches the Bank for a loan against the hypothecation of valuable jewellary, the Bank Officers would by reference of the weight on the weighing machine of the Bank determine the possible options and facilities that it can make available to the customer. This option may undergo a qualitative change depending upon the verification that may follow but the use of machine at the initial stage for purpose of evaluation of the options would to a large extent be the basis on which the parties may enter into or withdraw from the transaction. It is therefore difficult to hold that even when the machine is used in connection with any such transaction, such use could still remain a domestic use making verification and stamping of the machine unnecessary.

6. In the result, this petition fails and is hereby dismissed but in the circumstances without any order as to costs.