
(1989) 11 DEL CK 0018

In the Delhi High Court

Case No : Civil Writ Appeal No's. 1334, 1597, 1899 and 2096 of 1988

Sadar Bazar Electrical Traders Association and Others

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 17-11-1989

Acts Referred:

Essential Commodities Act, 1955 — Section 3, 3(1)

Citation : (1990) 40 DLT 251

Hon'ble Judges : Rabindranath Pyne, J;D.P Wadhwa, J

Bench : Division Bench

Advocate : A.S. Ahluwalia, Sanjiv Ralli, R.K. Jain, R.K. Khanna, S.K. Mishra, S.K. Dubey, P.P. Rao, R. Venkataraman and C. Pragson, for the Appellant;

Judgement

D.P. Wadhwa, J.

(1) The petitioners in all these four writ petitions seek to challenge by the validity of the Household Electrical Appliances (Quality Control) Order, 1981 and the Electrical Appliances (Quality Control) Order 1988, both issued under S. 3 of the Essential Commodities Act, 1955 (for short "the Ec Act"). The two Orders will hereinafter be referred to as "the 1981 order" and "the 1988 order".

(2) The petitioner associations claim to represent persons who carry on their business of assembling house-hold electrical items, electrical traders, and also manufacturers of house-hold electrical appliances. Some of the petitioners themselves either assemble or produce certain items of household electrical appliances or produce components of these items. The respondents numbering four, are common in all these petitions. They are: (1) Union of India through the Secretary, Ministry of Industry, Department, of Industrial Development ;(2) Development Commissioner, Small Scale Industries; (3) Bureau of Indian Standards; and (4) Delhi Administration through the Joint Director (Electrical).

(3) Bureau of Indian Standards ("BIS" for short) is constituted under the Bureau of Indian Standards Act 1986 (for short "the his Act") The bids Act has been

enacted to provide for the establishment of a Bureau for the harmonious development of the activities of standardisation, marking and quality certification of goods and for matters connected therewith incidental thereto. This act repeals Indian Standards Institution(Certification Marks)Act 1952. his under the his Act is a body corporate and takes over the functions of the Indian Standards Institution (for short "ISI") which was a Society registered under the Societies Registration Act 1860 and was established under a certain resolution of the Government of India in 1946. We may note that the functions of the Isi were the subject-matter of discussion in a decision of the Supreme Court in *The Workmen of Indian Standards Institution Vs. The Management of Indian Standards Institution*, .

(4) Validity of the aforesaid two orders has been challenged on various grounds like non-application of mind in promulgating the orders and being ultra virus S. 3 of the Ec Act and their being unconstitutional.

(5) To understand the rival contentions, it will be useful to set out certain relevant provisions of law at this stage itself.

(6) Ec Act was enacted to provide, as the preamble would show, in the interests of the general public, for the control of the production, supply and distribution of, and trade and commerce, in certain commodities. S. 2(a) defines "essential commodity" to mean certain classes of commodities like cattle fodder, coal, drugs, foodstuffs, iron and steel, paper, petroleum, raw cotton ,cotton and woolen textiles, raw jute, component parts and accessories of automobiles, etc. (sub-clauses") to (x)). Sub-clause (xi)is relevant for our purpose and it is as under :-

"(A)"essential commodity" means any of the following classes of commodities-XX Xx Xx XX(xi) any other class of commodity which the Central Government may ,by notified order, declare to be an essential commodity for the purposes of this Act being a commodity with respect to which Parliament has power to make laws by virtue of Entry 33in the List Iii in the Seventh Schedule to the Constitution;"

Relevant portion of Entry 33 in List Iii in Seventh Schedule to the Constitution is as follows:-

"33.Trade and commerce in, and the production, supply and distribution of,-(a) the products of any industry where the control of such industry by the Union is declared by Parliament by law to be expedient in the public interest, and imported goods of the same kind as such products "

The declaration mentioned in the Entry has been made by virtue of S. 2 of the Industries (Development and Regulation) Act, 1951 (for short "the Industries Act"). This Act itself is meant to provide for the development and regulation of certain industries S. 2 is as under :

"2.Declaration as to expediency of control by the Union.--It is hereby declared

that it is expedient in the public interest that the Union should take under its control the industries specified in the First Schedule .

Now, reference may be made to the First Schedule to the Industries Act; the heading No. 5 under Electrical Equipment is as under :

"5. Electrical Equipment :-(1) Equipment for generation, transmission and distribution of electricity including transformers.(2) Electrical motors.(3) Electrical fans.(4) Electrical lamps.(5) Electrical furnaces.(6) Electrical cables and wires.(7) X-ray equipment.(8) Electrical equipment.(9) Household appliances such as electric irons, heaters and the like.(10) Storage batteries.(11) Dry cells".

Under Explanation 1 to this Schedule, the articles specified under this heading shall include their component parts and accessories.

(7) It is not disputed however ,that the Central Government has in exercise of its powers under S. 2(a)(xi) of the Ec Act notified household electrical appliances to be "essential commodity" as per notification S.O.No. 76 dated 4.1.1967.

(8) Under sub-s. (1) of S. 3 of the Ec Act, if the Central Government is of the opinion that it is necessary or expedient so to do for maintaining or increasing supplies of any essential commodity or for securing that equitable distribution and availability at fair prices it may, by order, provide for regulating or prohibiting the production, supply and distribution thereof and trade and commerce therein. Any contravention of such an order entails serious punishment as provided in S. 7 of this Act. Imprisonment may Extend up to 7 years but shall not be less than 3 months and the person contravening the order shall also be liable to fine and the property in respect of which the order has been contravened shall be forfeited to the Government. S. 6 of this Act says that any order made under S. 3 shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

(9) Now, his Act prescribes the functions of his (S. 10) which include the power of the Bureau to establish, publish and promote Indian Standards in relation to any article or process. Ss. 11 and 12 prohibit improper use of Standards Mark. Under S. 14 if the Central Government, after consulting the Bureau, is of the opinion that it is necessary or expedient so to do, in the public interest it may, by order, notify any article or process of any scheduled industry which shall conform to the Indian Standards and direct the use of the Standard Mark under a license as compulsory on such article or process? Scheduled industry" means the industry as meaning under the Industries Act. Contraventions of the provisions of Ss. 11, 12 and 14 entail punishment with imprisonment extending up to a term of 1 year or with fine which may extend to fifty thousand rupees or with both. The property in respect of which the contravention has taken place shall be forfeited to the Bureau as maybe directed by the court trying the contravention of the aforesaid provisions.

(10) Bureau of Indian Standards Rules 1987, ("BIS Rules" for short) have been framed by the Central Government in exercise of powers under 37 of the Act.

(11) The first quality control order in respect of household electrical under S. 3 of the Ec Act was made in 1976. It is Household Electrical Appliances (Quality Control) Order 1976. Under clause 3 of this Order, manufacture or store or sale, selling or distributing any household electrical appliance which did not conform with the specified standard was prohibited. In the Schedule to the Order, as many as 55 household electrical appliances were listed and their respective Indian Standards specified. Director of Industries Office in a State was given powers to oversee the operation of the Order. The items in the Schedule included (1) Electric Immersion Water Heaters (IS 368), (2) Electric Irons (IS 366); (3) Electric Stoves (IS 2994); (4) Electric Radiators (IS 369); (5) Switches for domestic and similar purposes (IS 3854); (6) 2 Amps switches for domestic and similar purposes (IS 4949); and (7) 3 Pin plugs and sockets outlets (IS 1293) (These are the seven items subject-matter of the 1988 Order). This Order which was made on 31.5.1976 was first expected to come into force on 1.11.1976 but came into force as from 1.7.1977. Its enforcement, however, was again suspended and it came into aforesaid only on 1.1.1978. These postponements it appears, were done at the instance of trade and industry. Various writ petitions challenging this Order were filed in the Supreme Court and these were disposed of on 4.1.1978 by the following order :- "4.1.1978 : These petitions were called on for hearing today. QUORUM : Hon"ble Chief Justice. Hon"ble Mr. Justice Y.V. Chandrachud Hon"ble Mr. Justice P.M. Bhagwati Hon"ble Mr. Justice V.R. Krishna Bhagwati Hon"ble Mr. Justice S. Murtagi Fazal Ali Hon"ble Mr. Justice D.A. Desai For the Petitioners : -Mr. F.S. Nariman, Senior Adv. M/s S.K. Mehta, K.R. Nagaraja & P.N. Puri Advs. For U.O.I. Mr. S.N. Kaicker, Sol. Gen., Miss A. Subhashini Adv. Upon hearing counsel, the Court passed the following order I

"MR. Kacker informs us that there is already a Notification dated 24/05/1977, which exempts goods meant for export from complying with the I.S.I standards. Therefore, the petitioners' exports are not affected by the impugned notification. So far as the goods which have been manufactured up to 31/12/1977 and meant for internal consumption are concerned, it is agreed between the parties that they will be subject to such safety tests as may be necessary to satisfy the Notification impugned. These tests can be carried out by the petitioners without dismantling the goods. Subject to these directions, these Writ petitions are dismissed."

One of the petitioners before the Supreme Court was Electrical Appliances Manufacturers' Association. Validity of the 1976 Order was, therefore, upheld. This 1976 Order was repealed by Household Electrical Appliances (Quality Control) Order 1981 which came into force on 12.11.1981. This Order was made as the Central Government was of the opinion that it was necessary and expedient so to do for regulating the manufacture, store, sale and distribution of the household electrical appliances. 40 such household electrical appliances were

mentioned in the Schedule to the Order with specified standards. This schedule also contained the 7 item is mentioned above in the 1976 Order. This Order also prohibited manufacture sale, etc., of the household electrical appliances mentioned in the schedule which did not conform to specified standards and provided for certification marks. This Order was more comprehensive than the 1976 Order and its implementation was left with the State Governments. Then in 1987 Electrical Appliances (Quality Control) Order 1987 was promulgated which lifted several items out of 40 items listed in the schedule to 1981 Order and provided for ISI. certification mark on them as compulsory. This 1987 Order, however, was not implemented on account of representations from the industry and was ultimately by a separate notification rescinded. The Central Government then promulgated Electrical Appliances (Quality Control) Order 1988 for more effective control of quality of 7 electrical appliances enumerated above. By another statutory order, the 1981 Order was amended in order to omit the said 7 electrical appliances included in the schedule to 1988 Order from the schedule to 1981 Order. Now, under the 1988 Order, implementation of the Order was given to the his under the his Act. This order directed that no person shall by himself or by any person on his behalf manufacture or store for sale, sell or distribute any electrical appliance which does not conform to the specified standard and it shall be with standard mark of the Bureau. It further provides that sub-standard or defective electrical appliances or raw material or components which do not conform to the specified standard shall be deformed beyond use and disposed of as scrap. As noted above, this Order was issued under S. 3 of the Ec Act and applies to 7 electrical appliances set out in the schedule to this Order and these 7 items have been mentioned above. The Order which is dated 18.3.1988 was to come into force on 1.7.1988 in respect of electric immersion water heaters, electric irons, electric stoves and electric radiators, and in respect of the three remaining items, namely, switches for domestic and similar purposes 2 Amps switches for domestic and similar purposes and 3-pin plugs and sockets outlets, on 1.9.1988.

(12) Both the 1981 Order and the 1988 Order have been challenged in these writ petitions on various grounds. It is stated that the two Orders show complete non-application of mind by the Central Government. Standards which have been laid are so high that it is impossible to achieve those standards which would show arbitrary nature of the Orders and further that the conditions prevalent in the country regarding availability of raw material, standardised or otherwise, and working conditions of the persons who are engaged in the assembly and manufacture of the electrical appliances given in the schedules to the two Orders, which are in the tiny sector (not even small scale sector), availability of laboratory/testing facilities and even the necessity of I.S. specifications have not been kept in view. It is further stated that the Orders are ultra virus S. 3 of the Ec Act and are also unconstitutional Being violative of articles 14, 19(1)(g) and 21 of the Constitution and against the Directive Principles of State Policy and the spirit of the Constitution as enshrined in the preamble thereto. It was said that it

was difficult to know as to what were the considerations that weighed with the Central Government to make the impugned Orders, and that there was no necessity of compulsory .Specification keeping apart the safety aspect of the articles; the .raw material was not available in the country; the Orders would lead to increase in the cost of the articles affecting the trade and the public particularly the middle and lower middle classes; the articles were being manufactured by tiny industry and there were constraints of investment and space; testing facilities were not available; these would result in stoppage of production leaving thousands of persons unemployed; some of the persons engaged in the industry were not manufacturing the articles but were merely assemblers; no standards had been laid for the components which went into the manufacture of the articles; there was no reason to pick out only 7 articles in the 1988Order; last 3 items were not accessories and could not be termed as "essential commodity" within the meaning of the Ec Act; prototype of the article had not been prepared by his to show if the standards laid could be achieved; competing international market was not a relevant consideration and even if it was a relevant consideration it could not be so under the Ec Act- were the various other contentions raised by the petitioners.

(13) Mass of material has been brought on record in support of the rival contentions by the parties but we do not wish to burden this judgment with all that material. We think, it will suffice to give our conclusion on the points raised with our reasons which would also bring out the respective contentions of the parties.

(14) A commodity declared as "essential commodity" under S. 2(a)(xi) of the Ec Act would be an "essential commodity" within the definition as given in clause (a) of S. 2 of that Act and thus would be beyond challenge This would, however, be subject to the condition that that commodity is a commodity with respect to which Parliament has power to make laws by virtue of Entry 33 in List Iii in the 7th Schedule to the Constitution. This we are pointing out as it was argued before us that-(1) switches for domestic and similar purposes (IS 3854), (2) 2 Amps switches for domestic and similar purposes (IS 4949), and (3) 3-pin plugs and socket outlets (IS 1293), could not be termed as "essential commodity" within the meaning of S. 2(a)(xi) of the EC Act as these could not be said to be household appliances falling under heading No. 5, sub-heading (9), of the First Schedule to the Industries Act and these items could not be said to be component parts and accessories of house-hold appliances within the meaning of Explanation 1 to the First Schedule? This argument, we would, however, consider a little later.

(15) During the course of arguments, it was pointed out that the impugned Orders had been laid before both Houses of Parliament after these had been made as required under sub-s. (6) of S. 3 of the Ec Act and the submission ,Therefore, that these Orders were bad having not been placed before the Houses of Parliament was not pressed.

(16) The argument that before making the impugned Orders the Central Government did not form the requisite opinion as required under S. 3 of the EC Act was strenuously pressed by Mr. R.K. Jain who led the arguments on behalf of the petitioners, it cannot be disputed that power under S. 3(1) to make Orders could be exercised only if the condition precedent prescribed therein was satisfied and that was that the Central Government should be of the opinion that it was necessary or expedient to regulate the production of any essential commodity for one of the purposes mentioned therein. In *Hamdard Dawakhana (Wakf), Delhi and Another Vs. Union of India (UOI) and Others*, the Supreme Court held that the power to regulate the production of an essential commodity would include the power to regulate the production of essential commodities which might operate either qualitatively. Reference was made to an earlier decision of the Supreme Court in *M/s Amrit Banaspati Co. Ltd. v. State of Uttar Pradesh* (Criminal Appeal No. 141 of 1989, decided on 30.11.1960), where the court, while dealing with the provisions of the Vegetable Oil Products Control Order 1987 issued under S. 3(1) of the EC Act, had definitely ruled that a qualitative regulation in respect of the production of an essential commodity was permissible under S. 3(1) of the EC Act. It was contended that there was no recital in the impugned Order of 1988 to show that the Central Government formed the requisite opinion before making the Order. A distinction was sought to be drawn with reference to the 1981 Order which recited the opinion of the Central Government that it was necessary and expedient to regulate the manufacture, storage, sale and distribution of the household electrical appliances mentioned in the Order. In *Chinta Lingam and Others Vs. Government of India and Others*, certain control Orders issued under S. 3(2)(d) of the EC Act were under challenge. One of the grounds of challenge was that the requisite opinion of the Central Government within the meaning of S. 3(1) of the said Act was not to be found in any of the Orders. The court observed as under:-

"WE are unable to see the necessity of reciting the requisite opinion within S. 3(1) of the Act in the Control Orders. It is implicit in the recital in the Control Orders that they were being made under S. 3 of the Act that the Central Government had formed the requisite opinion within sub-s. (1) of that section. This disposes of the first four contentions."

This contention of the petitioners, Therefore, has to be negated.

(17) Bill that still does not conclude the matter on this point. It was asserted that once in the affidavit the petitioners have stated that the requisite opinion had not been formed and, in fact, could not have been formed on the available material, it was for the Central Government to justify on affidavit that such an opinion had been validly formed. Though the affidavit of the Central Government was silent on this aspect, we, however, permitted the Central Government to bring on record, on affidavit, if the records justified formation of the opinion. An affidavit was filed and some relevant documents from the files were also brought on record. In the affidavit and the documents so filed, there was no reference to the

provisions of the Industries Act .Mr. Jain, on behalf of the petitioners, referred to various provisions of the Industries Act and particularly to Ss15 and 16 which gave power to the Central Government to cause investigation to be made into scheduled industries or industrial undertakings and then for issuing of necessary directions ,and contended that formation of necessary opinion before making the impugned Orders was thus lacking.

(18) We are, however

(19) Reference at this stage may again be made to the decision of the Supreme Court in Hamdard Dawakhana's case (supra) on two points:(1) In the absence of any specific averment made in the 1988 Order that the Central Government had formed the necessary opinion, no presumption could be drawn that such opinion had been formed at the relevant time but it would be open to the Government to prove that such an opinion had been formed at the relevant time, and it could not be suggested that failure to mention that fact expressly in the Order itself would preclude the Government from proving the said fact independently; and (2) the fact that the impugned Orders could have been made under the his Act or the Industries Act ,would not invalidate the Orders as having been issued under the Ec Act.In this case there was challenge to a Fruit Products Order issued under. 3(1) of the Ec Act, and it was contended that the Fruit Products Order issued under S. 3(1) of the Ec Act was invalid because its relevant provision indicated that it was an Order which could have been appropriately issued under the Prevention of Food Adulteration Act 1954. The court was of the view that if S. 3(1) of the Ec Act authorised the Central Government to regulate the qualitative and quantitative production of essential commodities, it was idle to contend that the regulations imposed by the Fruit Products Order in respect of the fruit products were outside the purview of S. 3(1).The court negated the contention that the Fruit Products Order was invalid inasmuch as it purported to tackle the problem of adulteration of fruit products which could be covered under the Prevention of Food Adulteration Act .We, Therefore, find no force in the submission, of the petitioners that the impugned Orders could have been made under the his Act or the Industries Act which specifically dealt with the development of industry and standardization of goods and the impugned Orders thus were invalid.

(20) The immediate question that arises for consideration is if the switches, plugs and sockets are essential commodities under the Ec Act there cannot be any dispute that the electric irons, heaters (stoves),immersion water heaters and radiators are all household or domestic electrical appliances and thus would be essential commodities under S. 2(a)(xi) of the Ec Act. Sub-heading (9) of heading 5 of the First Schedule to the Industries Act, which takes into account an industry engaged in manufacture or production of "household appliances such as electric irons, heaters and the like" would certainly not mean to include switches, plugs and sockets. An electrical appliance is commonly understood as a device or instrument or even a machine working on electricity for household work and

would include in its meaning even a refrigerator or a vacuum cleaner. Switches, plugs and sockets cannot certainly be termed as household appliances. Then the argument was that these could be termed as component parts and accessories of household appliances. We do not think they are even component parts as these are not parts of the appliances, i.e. they do not go into the manufacture of the appliances. Their use is entirely different. The question that arise is if these are accessories. No argument appears to be needed to show that sockets ,switches and plugs cannot be termed as accessories to the household appliances .An accessory is something added for convenience sake or, as in the present case, to make the household appliance more useful. An accessory is not essential in itself but merely adds to the convenience or effectiveness or usefulness of something else. It is something which is not a necessary part of something larger but which makes it more beautiful, useful and effective,etc. One normally uses the expression "the accessories for a car include the stereo ,radio, air conditioner or even a heater". Webster's New International Dictionary defines "accessory" as an object or device that is not essential in itself but adds to the beauty, convenience, effectiveness of something else.

(21) Mr. A.S. Ahluwalia, learned counsel for the petitioner in one of the petitions, raised yet another argument. He referred to the constitution of the I.S.I, wherein in Section 4 there is provision for constitution of Divisions and Division Councils. One of the functions of a Division Council is to create sectional committees which are to prepare standards. Mr.Ahluwalia said the specifications for switches, plugs and sockets have been fixed by Electrical Wiring Accessories Sectional Committee and those for electrical appliances like electric iron, immersion water heater by the Electrical Appliances Sectional Committee. His argument was that plugs, sockets and switches were electrical wiring accessories and thus were not accessories of electrical appliances. He also referred to sub-heading (6) of heading No. 5 of the First Schedule to the Industries Act which is : Electrical cables and wires. He said Explanation to Schedule I of the Industries Act Act referred to above, would make plugs, sockets and switches accessories of electrical cables and wires. There is yet another point. Electrical cables and wires are also essential commodity in view of S.O. 2532 dated 24.7.1970issued under S. 2(a)(xi) of the Ec Act and there is also the Electrical Cables and Wires Control Order 1970 issued under S. 3(1) of the Ec Act controlling the manufacture and pricing of the electrical cables and wires. Now. these electrical cables and wires are not covered under the 1988 Order. There appears to be no reason why J.S.I, certification mark is not compulsory on the electrical cables and wires used in the four electrical appliances mentioned in the Order and there should be only compulsory certification mark on the plug on the other end of the cable or wire from any electrical appliance.Mr. Ahluwalia said that in the trade as well plugs, sockets and switches were considered as electrical wiring accessories and not as accessories of electrical appliances. Reference in support of the argument that plugs, sockets and switches are not accessories may be made to a decision of the Supreme Court in State of Bihar Vs. Bhagirath Sharma and Another, , in which it

was stated that motor tires and motor tubes did not fall within the term "Component parts and accessories of automobiles" falling under. 2(a)(iii) of the Ec Act. Following this judgment of the Supreme Court, a learned single Judge of the Karnataka High Court in H.A. Hajee Ismail and Others Vs. The State of Karnataka and Others, was of the view that tires and tubes could not be said to be the component parts and accessories of automobiles. We do not think, however, that in Bhagirath Shama's case (supra), the Supreme Court in terms held that tires and tubes of motor vehicles were not component parts and accessories of automobiles. In Bhagirath Sharma's case the Supreme Court considered the effect of two Orders issued by the State of Bihar under S. 3 of the Ec Act. In the first order, item No. 1 in the schedule, read as-

"I Component parts and accessories of automobiles".

In the subsequent Order, there was an item which read-

"11.tires and tubes of cars, buses, jeeps, vans, trucks, automobiles of any category whatsoever, tractors and tractor-trolleys".

The Supreme Court, Therefore, confined its interpretation of the item "Component parts and accessories of automobiles" to the facts of the case before it in view of the subsequent Order. The court held as under :-

"6.In this background even assuming that from a broad point of view, "tires and tubes of motor cars" may be considered, to covered by the general expression "component parts and accessories of automobiles" when construed in its widest import, on comparison of the scheduled items of the Order with the items in the other Notifications mentioned and considered in the earlier decision of the High Court (In Crl. Misc. Case No. 1479/1968), can it not be reasonably and rationally assumed that it was not intended by the draftsman to extend the Order to "tires and tubes of motor cars". In our view, the drafting precedents furnished by the other Notifications considered in the earlier decision of the High Court in Crl. Misc. Case No. 1479/1968 do indicate that the draftsman did not intend the scheduled items in the Order as in force in May, 1969 to cover "tires and tubes of motor cars".

Even independently of this aspect, the Supreme Court was of the view that the item No. 1 of the Order did not lay down an ascertainable standard of guilt by unambiguously specifying the tires and tubes of motor cars as scheduled item.

(22) There appears to be no indication in the records produced by the respondents that the Central Government ever formed an opinion or even bids was of the view that three items, i.e. switches, sockets and plugs, were accessories to four other items. An article as an accessory cannot be an essential commodity standing alone. It has to go along with the principal item of an electrical appliance. Each of the first four items is complete without the lead wire and the plug attached to it. Plug then goes into the socket. Plug and socket go hand in hand. There is one Is mark for both of them. Switch is there handy to

put off or on the electric current. Switch can be even dispensed with. The impugned Order's do not make the use of the switch compulsory but if switch is to be used it must be of Is specifications. If one buys an electrical appliance of the like mentioned in the Orders, he may get along with it lead wire and the plug but certainly not the socket and the switch and thus these can never be accessories. The first four items of 1988Order cannot be used at all at least without the lead wire which cannot be accessory and on that argument has to be the component part of the four items. But, this is nobody's case. The plug without the lead wire (either as an accessory or component part) cannot be used and it cannot, Therefore, be a part of accessory of its own. Socket and switch can never be accessories as when one goes to buy any of the four items no one thinks of buying sockets and/or switches as accessories to those items. As noted above, plug would rather go with socket than as an accessory of any of the four items. Then we were told during the course of arguments that there was I.S.I, specification for molded plugs as well. These are, however, not covered under the 1988Order. We have been unable to understand the logic behind it. If the four items are manufactured or sold with the molded plug there would not be any contravention. Again, if any of these items is sold without any plug, there is no contravention. Can it be said that if any of these items is sold with a plug not having the I.S.I. specifications as mentioned in the 1988Order there would be contravention of the Order?

(23) Reference may usefully be made to the term accessories of various items in the Customs Tariff Act 1975. Chapter 85 of this Act, deals with Electrical/electronic machinery and equipment and parts thereof. Heading85.16 contains various sub-headings which record domestic electrical appliances like electric iron, etc. Heading 85.09 refers to Electro-mechanical domestic appliances with self-contained electric motor like vacuum cleaners, food grinders and mixers and other appliances. Sockets, plugs and switches fall under headings 85.35 and 85.36. Sockets, plugs and switches are not treated either as parts of electrical appliances or accessories thereof. Rather the use of sockets, plugs and switches is for making the connection of the domestic electrical appliances to the electrical circuits and they would thus appear to be accessories of electric wiring equipment and not of the domestic electrical appliances.

(24) As we view that the last three items are now sought to be justified as accessories and so within the definition of the term "essential commodity? as appearing in the Ec Act. It was not the case of the respondents and as noted above, we find no discussion in the records produced before us that the respondents themselves ever considered these three items as accessories. Infact, it appears that they themselves have been considering these items independent of the first four items and not as their accessories.

(25) As discussed above, an accessory is something subsidiary to something more important and the test is if the appliance is complete in itself even without the accessory. We are, Therefore, of the opinion that a plug, a socket and a

switch cannot be considered as accessories to household appliances and would thus not be an "essential commodity" under the Ec Act. That being so, these three items cannot be subject-matter of any Order under S 3(1) of the Ec Act.

(26) From the affidavit filed by the Central Government and the documents including the nothings from the files of the Central Government brought on recorded we find that a great deal of thought had been gone into before the Central Government formed its opinion that it was necessary or expedient to make the 1976 Order, 1981 Order and then the 1988 Order. Press notes had also been issued from time to time informing the public and the trade and industry of the desire and necessity to impose strict standards on the household appliances.

(27) The Government had been considering the need for quality control on domestic and electrical appliances for use in houses since 1958. I.S.I. had also been pressing the Government for introduction of compulsory certification marks on these products. At one stage, when the Government was examining various proposals for ensuring the manufacture and supply of intrinsically safe domestic electrical instrument, the Law Ministry opined that the provisions of Ss. 15 and 16 of the Industries Act were not available to control the production of smaller undertakings and the provisions of the EC Act alone could be used for statutory action. This led to declaring the domestic electrical appliances as an essential commodity under the Ec Act. A Committee was constituted to examine the matter in detail and it recommended for enforcement of quality control and observed that quality control was imperative for production of quality goods obviously give a fillip to the small scale units to boost their exports for which there were tremendous opportunities in the neighbouring countries. In August 1969, the I.S.I. "Certification Marks Advisory Committee passed the following resolution and forwarded the same to the Government :-

"In the interest of the safety of consumers, I.S.I. should approach the Government of India for issue of executive order prohibiting manufacture and sale of domestic electrical appliances and fittings not conforming to the related Indian Standards".

The matter was still examined further with a view to deciding-

(i) how soon the enforcement of the Quality Control could be effected and how smoothly so that it would cause the least dislocation on this account on the economics of existing manufacturers ; (ii) whether State Governments who have the machinery for enforcements of the provisions of the proposed Order, should not bear the expenditure involved on the enforcement of this highly desirable measure which is essential to safeguard the interests of the consumers.

Ultimately, the 1976 Order was issued on 31.5.1976 but enforced only from 1.7.1978. The postponement, as seen above, was on the basis of representation received from the trade and industry. It was specifically brought to the notice of all concerned that ultimate aim of the Government was to insist on I.S.I,

certification by all manufacturers of domestic electrical appliances. As a first step it was required of them that they conformed to I.S.I. standards. Then working of the 1976 Order was reviewed from time to time, again in consultation with trade and industry. The Committee was constituted of representatives of the Ministries, Development Commissioner, Small Scale Industries, Indian Standards Institution, State Governments, manufacturers ./dealers. It was noticed that there were complaints that market was being flooded with sub-standard electrical appliances and the Government was concerned about the safety in the use of domestic electrical appliances which were being used by housewives, many of them being illiterates or semi-literates. Mr. S.K. Misra, appearing for the Central Government, submitted that the Government, in such a situation had to rise to its responsibility and the ultimate aim was to make I.S.I. marking compulsory for all such products as it was apparent that substandard quality goods would pose a major hazard to life and limb. He said that a great deal of risk was involved in the household electrical appliances particularly from those low price varieties used by housewives who were not generally educated. From the records we find that a series of meetings were held for the enforcement of quality standards in consumer goods including the household electric appliances. Various alternatives were considered in these meetings and the alternative to enforce strictly the quality control order relating to household electrical appliances was accepted in preference to that of de-reservation of electrical products and household inelegances reserved for the small scale sector. The Central Government had in its view various difficulties pointed out by the manufacturers like-(1) testing facilities were inadequate; (2) components of electrical appliances conforming to the I.S.I standards were not readily available; (3) small scale and cottage sector units would not be able to bear the burden of investment needed for setting up the required testing facilities, etc. Considering all these factors, the Central Govt., decided to adopt step by step approach and in the first instance only a few selected electrical appliances had been brought under compulsory marking. Sufficient time had been given to the manufacturers to prepare themselves for compulsory marking before the impugned Orders came into effect. The 1976 Order had already been in force for the last many years and no manufacturer could really take the plea that he needed more time to prepare himself for the implementation of the impugned Orders. In fact, at no point of time any manufacturer or manufacturers' association ever disputed the standards laid by the I.S.I. and the only plea earlier raised was that more time was needed to conform to the requirements of the impugned Orders,

(28) As noted above, against the 1976 Order various writ petitions were filed in the Supreme Court. One of the petitioners therein was an association of electrical appliances' manufacturers called Electrical Appliances Manufacturers Association. In an affidavit filed by Mr. R.C. Gupta, Hony. General Secretary of the said Association, it was contended, inter-alia. that It was not possible for any small manufacturer of household electrical appliances to have elaborate laboratory for testing to I.S.I. specifications the component parts and the raw materials; the

component parts and raw materials were not available according to required standards; certain raw materials like spying steel and bimetal required for the manufacture of thermostats and thermal cut-outs were not being manufactured indigenously and these had to be imported and that the quality and specifications of these imported raw materials differed from time to time; it was impossible to comply with the control Order and that it imposed an unreasonable restriction on the fundamental rights of the manufacturers because the manufacturers could not afford to have huge laboratory costing over lakhs of rupees and to employ qualified technical engineers to operate the laboratory for the purpose of carrying out tests; infrastructural arrangements for carrying out various tests as per the required standards were not available in the country as sufficient number of laboratories fully equipped with complete instruments and technical staff to carry out the tests were not in existence; the control Order violated the fundamental rights of the manufacturers under article 19(1)(g) of the Constitution and that the Government did not apply its mind in the matter inasmuch as electric irons, heaters, geysers, etc. were manufactured by small producers in the country and were in plentiful supply with the producers competing with each others both on quality and price and were also available at reasonable prices; and lastly, the control Order was ultra virus S. 3 of the Ec Act.

(29) The present petitions are replete with almost the same arguments. The correspondence that was exchanged between the Central Government, Indian Standards Institution, trade and industry (particularly, Backlite Electrical Moulders Association (Registered) and Delhi Small Scale Domestic Appliances Manufacturers" Association), State Governments, meetings at various levels and other nothings on the files, unmistakably show that there have been extensive parleys before the impugned Orders were made and it cannot be said, Therefore, that the Central Government did not apply its mind or did not form its opinion before making the Orders. The trade and industry had only been asking for extension of time in enforcement of the Orders for its members to get prepared for compulsory I.S.I. markings. The Delhi Small Scale Domestic Electrical Appliances Manufacturers" Association in its letter dated 6.3.1978 wanted two years time to equip itself for carrying out the requisite tests. In fact, in this letter the Association supported the Government decision to have safety as well as quality control of the domestic electrical appliances. Similarly, the Backlite Electrical Moulders Association(Regd.) in its letter dated 31.12.1977m view of the problems listed in the letter ,wanted the Order of 1976 to be postponed for a period of six months before safety requirements of I.S.I. specifications could be imposed and the Association wanted three years more time for its members to be in a position to market their products strictly as per I.S.I. Specifications. One of the writ petitions (W.P. No. 2096/88) is now filed by this Association, ft could not be said that the other Association, i.e. Delhi Small Scale Domestic Electrical Appliances Manufacturers" Association, was not a representative body of the members manufacturing domestic electrical appliances. As noted above, one of the writ petitions in the Supreme Court was filed by this Association. It appears

that the petitioner in Writ Petition No. 1899/88, i.e. All India Heating Elements Manufacturers Association, was perhaps not in existence even at that time. It cannot, Therefore, be that a new Association could take up the same points all over again in a case like the present one.

(30) The argument that fundamental rights of the petitioners guaranteed under article 19(1)(g) have been infringed by the impugned Orders is of no avail because any such right is subject to all reasonable restrictions imposed in the interest of general public as envisaged in clause (6) of article 19 of the Constitution. This argument was based on the plea that many persons in the trade might well have to shut down their business as they would be unable to afford huge outlay for installing facilities, getting more space and employing experts. Reference was made to guidelines by the Municipal Corporation of Delhi for licensing of factories. It is mentioned therein that for a small entrepreneur desirous to set up trade/industry on a very limited scale, facility of license has been extended within the dwelling unit of the entrepreneur and trades which were specified with are restricted power load of 1 kilowatt were permissible under this category called household category. The pre-requisite for grant of license under this category is that the applicant should normally be residing at the premises where the trade is proposed to start. It is stated that one of the trades falling under this category is that of domestic electrical appliances. Power is restricted to kilowatt and the maximum number of workers permissible is four. The household license is permissible on all floors except the basement and the maximum covered area should not be more than 200 sq. ft. Reference was also made by the petitioners to a booklet styled as Industrial Profile Delhi 1988 issued by the Department of Industries, Delhi Administration, wherein it is mentioned that in respect of sophisticated industries like household electrical appliances, registration is being granted in all areas of Delhi (conforms/non-conforming and rural areas) without production of M.L.C. and without taking into account the provisions of the Master Plan. In Narendra Kumar and Others Vs. The Union of India (UOI) and Others, , there was challenge to the non-ferrous Metal Control Order 1958 issued under S. 3 of the Ec Act. The effect of this Order was that it completely eliminated the dealers from the trade in imported copper ,and henceforth any actual consumer of the commodity would have to get it direct from the importer at price landed cost plus 3" thereof and the channel of distribution through the dealer would disappear. The question was whether this total elimination of a dealer from trade in imported copper was within the saving provisions of article 19(6) of the Constitution or whether such total elimination was a mere "restriction" on the rights under articles 19(1)(f) (prior to the omission of this sub-clause) and 19(1)(g) or went beyond" restriction .The court observed as under :

"It is reasonable to think that the makers of the Constitution considered the word "restriction" to be sufficiently wide to save laws? inconsistent" with Art. 19(1) or "taking away the rights" conferred by the Article, provided this inconsistency or taking away was reasonable in the interests of the different matters mentioned in

the clause. There can be no doubt Therefore that they intended the word "restriction" to include cases of "prohibition" also. The contention that a law prohibiting the exercise of a fundamental right is in no case saved, cannot Therefore be accepted. It is undoubtedly correct, however, that when ,as in the present case, the restriction reaches the stage of prohibition special care has to be taken by the Court to see that the test of reasonableness is satisfied. The greater the restriction, the more the need for strict scrutiny by the Court.(19) In applying the test of reasonableness, the Court has to consider the question in the background of the facts and circumstances under which the order was made, taking into account the nature of the evil that was sought to be remedied by such law, the ratio of the harm caused to individual citizens by the proposed remedy, to the beneficial effect reasonably excepted to result to the general public. It will also be necessary to consider in that connection whether the restraint caused by the law is more than was necessary in the interests of the general public "

The Supreme Court, after examining the provisions of the impugned Order before it, Therefore, held that clause 3 of the Order even though it resulted in the elimination of the trader from the trade, was a reasonable restriction in the interest of the general public.

(31) We are Therefore, of the opinion that the impugned Orders are not hit by article 19(1)(g) of the Constitution notwithstanding the fact that manufacturers of domestic electrical appliances are eligible to get municipal license under the provisions of the Delhi Municipal Corporation Act and also to get registration as a small scale industry unit from the Delhi Administration. Both the impugned Orders have been issued in public interest. Provisions of Art. 21 of the Constitution were also pressed into service by the petitioners. No doubt ,the expression "personal liberty" in article 21 has been held to be of widest import covering a variety of rights which go to constitute the personal liberty of a man, but we do not think it can be extended so as to take within its ambit any right which would be immediate cause of danger to life and property of others or would pose a major hazard to life and limb. There can be no compromise on this. We have been told that the 1988 Order applied to 7 items because these items were much in vogue compared to the other items. The further argument that the Order of 1988 did not cover double-stroke multiple stove for which in fact there was no I.S.I standard or did not cover switch and a socket if manufactured as one unit, is certainly of no avail though we have held that switches and sockets are not essential commodities. We are also of the opinion that it is not for the Government to provide allsorts of facilities to the manufacturers and industry must also itself wake up to its responsibilities and produce appliance which are safe, durable and perform well so that a consumer gets proper price for the buy. It was argued that it was the interest of the consumer which was kept in view by the Government or that of the I.S.I. and the interest of producer was not taken into account. We do not think it was a correct statement to make. The Government was quite concerned with the availability of raw material which goes

into the manufacture of the electrical appliances and import of some of the items which were not available indigenously or were in short supply was allowed freely. In fact, this is one of the reasons why the compulsory J.S.I. marking has been resorted to step by step. Then the question arose that the small manufacturers could ill afford to import of their own various components. The Government through the National Small Industries Corporation Ltd.(NSIC) came up with a scheme called M.T.B. Plan (Material Technology Brand Plan) to help the industry in the import of raw material. It was then contended that this scheme covered only those persons who were registered as a small scale industry with the respective Directorates of Industry. During the course of hearing, we issued notice to Nsic to see if units which were not registered could also be helped. Proceedings of 8/05/1989 would be relevant .We reproduce the same as under :-

"CW1899/88Mr. Mac, learned counsel for the National Small Industries Corporation Limited, stated that under the M.T.B. plan raw material is to be imported provided the consumers are registered with the Director of Industries as a small scale industry. Mr. Jain, learned counsel for the petitioner, however, expressed the difficulty that some of the consumers were having their industries in non-conforming areas and it might not be possible for them to get registration from the Director of Industries. He brought to our notice letter dated 7/12/1988 written by Mr, O.P. Sachdeva, Assistant Directed of industries (CT), to the effect that the consumers should first get J.S.I, certification before they could get registration. Officers of the Department of industries, Delhi Administration, namely, Shri V.K. Kaplir, Joint Director, and Shri O.P. Sachdeva, Assistant Director ,are present. They have brought to our notice a booklet titled Industrial Profile Delhi 1988" issued by the Department of Industries, Delhi Administration, wherein it is stated that industries which were located in non-conforming areas and even in houses could be registered but they say this applies only to new industries. They are, however, prepared to make a statement that in case the consumers in the present case make an application to the Department stating that earlier they were manufacturing goods with "Q" certification and that now they wanted to have the goods manufactured with 1.S.I. certification, they would be granted provisional certificate of registration as small scale industrial unit. Mr. Mac states that on the basis of the provisional certificate, the N.S.I. could give effect to that in terms of the scheme envisaged in the M.T.B . Plan. Mr. Jain, however, then contends that the goods (raw materials) so imported by N.S.I.C. should be duly certified by the Bureau of Standards that they conform to the specifications given in the relevant Order. This, the respondents are not prepared to agree to .It is stated that it is not the function of the B.T.S. to do such certification .In this view of the matter, it appears that we will have to hear arguments in this petition as our attempts to find out a via media have not proved to be fruitful."

(32) Thus, it cannot be said that units engaged in the production or assembly of domestic electrical appliances would not be able to get the requisite raw materials. In fact, the Association should come forward to help its members and

import raw materials for them and also provide necessary testing facilities, if required by the members. The contention of the petitioners that raw material was not freely available or was not indigenously produced in the country was seriously disputed by the respondents. Facts and figures were brought on record to support each others' point of view. In these proceedings with whatever available material on record, it is not possible for us to go into these disputed facts particularly when as noticed, above imports have been freely allowed.

(33) It was then contended that there were certain components which go into the manufacture of electrical appliances for which there is no I.S.I. standard and further that the I.S.I. did not itself first produce a prototype of the domestic electrical appliances in respect of which compulsory I.S.I. marking was required. We do not find any force in this argument as well. It is nobody's case that the standard prescribed by I.S.I. cannot be reached. If there is no I.S.I. specification for any particular component a manufacturer/assembler is supposed to use a component of good quality so that the results which are required are achieved.

(34) I.S.I. (now BIS) is an expert body constituted of highly qualified persons and is widely based. It associates with it representatives of trade and industry and others. Rule 3 of its Rules gives the constitution of the bureau. It consists of concerned Ministers of the Central Government-Secretary to the Govt. of India; Director-General of the Bureau (ex-Officio); four Members of Parliament; and various other persons such as 24 from various Ministries and Departments of the Central Government dealing with important subjects of interest to the Bureau; 31 from each State Government and Union territory; 10 from consumers or recognised consumer associations; 2 representing farmers or their association; 31 from trade and industry and their associations; 10 from scientific and research institutions; 10 from technical, educational and professional organisations; and lastly chairmen of the Advisory Committees under the Rules. A great deal of consultation and tests are gone into before standards are approved and recommended. These standards are also further subject to change with the experience gained or suggestions made/received. Mr. P.P. Rao, learned counsel for the bids described the procedure for preparation of Indian standards. Work of Formulation of standards is carried out in association and with the active involvement of all concerned interests, i.e. users, manufacturers, technologists, regulatory agencies, Govt. technical organisations, testing and research laboratories and consultants. Government departments which are concerned with the industrial policy such as D.G.T.D., C.E.A., and R.&D. associations like C.S.I.R. and similar bodies other are represented. It was pointed out that in spite of large number of Indian standards being available, level of adherence to these standards was extremely low, the main reason for such an apathy being a general lack of awareness of the prescribed standards and there being not enough teeth in the law to enforce those standards. In brief, the procedure for preparation of national standard is that on receipt of a proposal, the work of formulation of standards is initiated by collecting the available information about the work already done at international and other national levels and within the country at industry

association level. For this purpose, bibliography is prepared and the available literature consulted, where appropriate comparative analysis is done before standards formulation is attempted. While available international or national standards are there as the basis for the first preliminary draft, factors like availability of desired raw materials, technological capability of the different segments of Indian industry, and environmental conditions of use within the country are taken into account and to this extent the proposed draft is modified from the original international standard. The preliminary draft is examined critically by the concerned Sectional Committee of the Bureau of Indian Standards consisting of experts in the related area of technology and representatives of all concerned interests, for required changes/improvements. All decisions in the technical committee are taken by consensus and at no stage views of one cross-section through numerical majority "are forced on the others. Where consensus is not reached, matter is deferred for consideration at a later stage. The aspect where consensus could not be attained is investigated in greater detail. One advantage of starting with international standard as the basis is that it finds ready acceptance with the more important users. It is for the manufacturers to explain about difficulties, if any, in attaining performance levels prescribed in comparable international standards. In India organized and enlightened users act as a major pulling force for the manufacturers to achieve performance levels comparable to what is available abroad and for periodic up radiation. However, because of wide variation in the technological competence and resources available to the entire cross sections of industry quite often it is very difficult to put forward a viewpoint which would be acceptable to all. Further due to varying capabilities of manufacturers belonging to different sectors (small, medium and large), especially in cases of products under consideration, it is extremely difficult to lay down performance/quality requirements in Indian standards that would be within the capabilities of large, medium and tiny sector units. In spite of this constraint, with pressure from organized users as also the need in to upgrade technological near levels, the performance level invariably agreed to is near about the same as that prescribed at international level.

(35) As seen above, procedure for laying down standards is quite complex and we do not think a court of law should go into the question if the standard is right or wrong as we find a court is ill-equipped to go into this question of extreme technical nature. When an expert body is constituted under a statute and makes its recommendations and Central Government can act on the recommendations without more.

(36) It was conceded that safety angle is most important but then it was contended that once this angle was taken care of, other things would become irrelevant as otherwise the industry would go into the hands of big industrial houses and many persons would lose their jobs. Safety, no doubt, is an important factor but then durability and performance of a product cannot be overlooked. These are important as well. All these cannot be sacrificed at the altar of supposed unemployment or even on the ground of increase in the cost of

the product and thus making the product out of the reach of many persons as was contended. There is a strong consumer movement these days. Consumers are complaining of supply of sub-standard goods .. If ultimately the performance and durability of the product are good and safety is also taken care of, it may finally turn out to be cheaper than buying a product of not a good quality. We cannot accept the contention of the petitioners that the standards laid are high and could not be achieved and are thus arbitrary. It is nobody's case that the standards laid could not be achieved or that they were laid in vacuum or did not take into account reality of things like availability of the raw materials in the country, lack of infra structural facilities, etc. The Consumer Protection Act, 1986 has been enacted to provide for better protection of the interests of the consumers. One of the objects which this Act seeks to achieve is to promote and protect the rights of consumers such as the right to be protected against marketing of goods which are hazardous to life and property. It was submitted by the petitioners that application of all the three tests, i.e. type, acceptance and routine tests, was not necessary on an electrical appliance and that routine test was sufficient to testify the safety of the appliance. It was submitted that there has been no casualty from use of an appliance after the routine test. We cannot entertain such an argument. It is unthinkable that there must be some casualties before an order is made for application of all the tests. Routine tests constitute (1) protection against electric shock, (2) high voltage and (3) earthing connection. Type tests constitute various tests comprising 21 in number, like operation under overload conditions, moisture resistance mechanical strength, finish, measurement of heating up time, measurement of temporary distribution, etc. Acceptance tests constitute as many as 10 tests and these may overlap type tests as well. When an expert body like I.S.I, insists on all three categories of tests, there is no justification whatsoever for the court to take a different view so that the appliance sold in the market is fully safe, its performance is good and it remains in use for longer period. It was pointed out by the respondents that a large number of approved laboratories are available in the country for testing purposes.

(37) It is not that the Central Government has come up suddenly with the impugned Orders. As seen above, since 1950s, certification by I.S.I, marks on the products was sought to be made compulsory step by step. Trade and industry had always been associated and it was merely asking for time and the Central Government in deference to its wishes was postponing the enforcement of the Orders. This could not go on indefinitely and in fact, we find that the Central Government has been quite indulgent to the trade and industry in making and then enforcing the Orders. The 1981 Order is being challenged only now because in the 1988 Order I.S.I, standards are sought to be enforced by authority of law by the B.I.S. and at the pain of severe penalty. There is substance in the submission of Mr. P.P. Rao that the 1988 Order is in fact continuation of the 1981 Order prescribing certain additional requirements like that the 7 items in the 1988 Order out of 40 in the 1981 Order shall bear I S.I. marks in addition to

conforming to specified standards. The petitioners did not earlier challenge the 1981 Order and it has been in force for all these eight years and we feel it is too late in the day for them to do so now and as such the 1988 Order also is beyond challenge on the ground of laches as well subject of course to what we have held about plugs, switches and sockets. This is apart from the fact that we have not found the standards prescribed to be unreasonable. The petitioners cannot be heard to say that they have any fundamental right to manufacture goods not conforming to the standards laid or to carry on business in goods not up to the standards prescribed. Right of personal liberty does not extend to endanger the life of others in manufacturing and selling electrical appliances not of the standards prescribed, and which are unsafe. Restrictions which the impugned Orders impose are reasonable and are in the larger public interest. There is no violation of any fundamental right of the petitioners nor do the Directive principles of State Policy stand violated. Except what has been stated above, we find no merit in any other submission of the petitioners.

(38) The view which we have taken about plugs, switches and sockets is not because standards prescribed Therefore are not valid but only because they do not fall within the definition of "essential commodity" under S. 2(a)(xi) of the Ec Act being not the accessories of electrical appliances, namely, immersion water heater, electric iron, stoves and radiators. They can at best be wiring accessories but then wires and cables have to be brought within the ambit of the impugned Orders. Unless an order under S. 3(1) of the EC Act covers the principal item, it cannot cover merely an accessory of that principal item.

(39) In the result, these writ petitions partly succeed. The Electrical Appliances (Quality Control) Order 1988 in so far as it covers (1) Switches for domestic and similar purposes (IS 3854); (2) 2 Amps switches for domestic and similar purposes (IS 4949); and (3) 3-pin plugs and socket outlets (IS 1293), is quashed, and to that extent Rule is made absolute. Otherwise these writ petitions fail and are dismissed. We leave the parties to bear their own costs.