
(1961) 08 SC CK 0026

In the Supreme Court Of India

Case No : Civil Appeal No. 433 of 1960??Civil Appeal No. 433 Of 1960

The Management of Pakshiraja Studios

APPELLANT

Vs

The Workers in Pakshiraja Studios represented by the
Secretary, Commercial and Allied Employees"s Union

RESPONDENT

Date of Decision : 29-08-1961

Acts Referred:

Citation : AIR 1966 SC 1410 : (1961) 3 FLR 369 : (1961) 2 LLJ 380

Hon'ble Judges : P. B. Gajendragadkar, J;K. N. Wanchoo, J;K. C. Das Gupta, J

Bench : Full Bench

Final Decision : Dismissed

Judgement

K.C. Das Gupta, J.—This appeal by special leave is by the Management of Pakshiraja Studios against the Award in an industrial dispute regarding bonus. The employees based their claim on the total profits of the working of the Studios, taking into account both the strictly studio line and the line of picture production. This was resisted by the Management, whose contention is that the "studio" business is totally distinct from the business of production and distribution of pictures, and that the employees who have claimed bonus having no connection with the business of production and distribution of pictures their claim must be considered on the results of the working of the strictly studio business alone. It was the common case of the parties that if the results of the working of the studio line alone are considered, the employees were not entitled to any bonus; but if the total results of the entire working of the Pakshiraja Studios, including both the Studio working and the production and distribution of pictures be taken into consideration, the profits left a sufficient surplus to justify the payment of bonus.

2. The Tribunal therefore rightly addressed itself to the question whether the Pakshiraja Studios when engaged in the production and/distribution of pictures was a distinct industrial unit for the purpose of bonus payment from the Pakshiraja Studio engaged in proper studio work. Applying the principles laid

down by this Court in several cases the Tribunal answered this question in the negative and came to the conclusion that the total results of the working of all the activities of the Pakshiraja Studios as disclosed in the documents M-2 and M-12 had to be considered in adjudicating on the claim of bonus. On that basis, it awarded bonus "equivalent to six months basic wages."

3. The only question raised before us to whether Pakshiraja Studios as engaged in the pure studio business and as engaged in the production and distribution of pictures, form one single industrial unit or two distinct industrial units. There can be no doubt that there can be a studio, which carries on studio business pure and simple -- earning money by "shooting" pictures for producers, by "recording" for talking pictures, by way of, hire for "setting" by processing films" by preparing "still photos", and such other activities, without engaging itself in the production and distribution of the same. There is equally no doubt that there are many studios which are engaged in purely studio activities. Producers of films take the assistance of such studios, for producing films, and have to pay for the service of the studios, irrespective of the profits and losses. There is nothing however to prevent the owner of a studio himself turning a producer, and using his own studio for the same service as an independent producer might have done. When the owner of a Studio turns producer, it is for him to decide, whether he will keep his studio business and the production business separate and distinct or mingle them. If he mingles them, these several sides of his business activities become one unit, vis-a-vis the employees; and he will not be heard to say the high profits of say, the production side, will be disregarded, in deciding whether there is an available surplus. At the same time, if there are heavy losses, in one of the lines, say, production side, the employees will not be heard to say that these losses should be kept out of account in deciding the question of available surplus.

4. The question whether two or more units of business under the same ownership form one industrial unit or more has often arisen before the industrial courts. In *Management of Pratap Press, New Delhi Vs. Secretary, Delhi Press Workers' Union and Its Workmen*, : the Court pointed out that the most important of the tests which are helpful in deciding the questions are:--"that of functional 'integrality' and the question of unity of finance and employment and of labour" and that in all such cases the Court has to consider with care "how far there is 'functional integrality' meaning thereby such functional interdependence that one unit cannot exist conveniently and reasonably without the other and the further question whether in matters of finance and employment the employer has actually kept the two units distinct or integrated."

5. Applying these principles, we find that while the several lines of activities carried on by the Pakshiraja Studios should exist independently of each other, it is quite clear that the owner decided to mix them up. There is, in the first place, one capital fund for the two lines of business, there being one bank account; one cash book is maintained. Separate staff is not maintained. There is one

accountant for both the production side and the studio side; the administrative staff is also the same. It is true that a studio account was prepared separately from the picture trading account. But that is of little relevance on our present question. A good businessman, having several lines, in a single business unit will often think it worthwhile to examine the comparative success of the different lines. Thus a merchant dealing in both male and female attire may find it worthwhile to have separate statements showing his profits and loss on the two lines. It would be unreasonable to say that he was thereby turning the business into two different businesses. It appears that in the General Ledger of the Pakshiraja Studios, there were among other accounts, one account in the name of the "Processing Revenue", one in the name of "Shooting Hire Revenue", one in the name of "Recording Hire Revenue". The receipts on all these accounts making up a total of Rs. 2,76,792-4-0 are shown on the Receipt of the Trading Account for the Studio business, while the expenses of the Studio and the consumption of stores, are shown on the expenditure side of the same account. A separate balance-sheet is prepared for the picture side. The "trading account" of this sets out the losses on three pictures produced by the studio for the owner and the profits on three pictures produced by the studio for the same owner and show the net profit as Rs. 11,60,834-14-8.

6. On behalf of the appellant, great emphasis has been laid on this fact of the trading account of the studios, and the trading account of the pictures having been separately prepared, and the further fact that this separate balance-sheet "of the picture business was filed before the income tax Officer". We are not however concerned with what happened before the income tax Officer. If there had been any loss on either the Studio line or on the production line, and the owner had still kept the two separate in his income tax statements, that might have been of some assistance to show that he himself treated the two lines as separate and distinct. That however is not the position here. Consequently, the fact that a separate balance-sheet of profit and loss account for the "picture" side was produced before the income tax Officer cannot furnish any reason for thinking that the owner was keeping the picture side separate from the studio side. Whatever tendency this fact that separate balance-sheets were prepared for these different lines of business might have had by itself to show that these were distinct units, is totally nullified by the numerous circumstances set out by the Tribunal, some of which have been mentioned above, viz., the fact that one single Bank Account was maintained; no separate staff was maintained for the production side; there is one accountant for the two sides of the business; the administrative staff was also the same.

7. We have therefore come to the conclusion that the Tribunal has applied the correct principles for the decision of the question before it--whether the studio line of Pakshiraja Studios was distinct from the production and distribution side of the same, and has come to the correct conclusion in holding that they were not distinct, but together form one single industrial unit. The award of bonus was therefore fully justified. We therefore dismiss the appeal. No order as to costs.