
(1994) 06 BOM CK 0016
In the Bombay High Court
Case No : F.A. No. 104 of 1980

Walchandnagar Industries Ltd.

APPELLANT

Vs

Employees' State Insurance Corporation

RESPONDENT

Date of Decision : 28-06-1994

Acts Referred:

Employees State Insurance Act, 1948 — Section 1(5)

Citation : (1999) 3 LLJ 193

Hon'ble Judges : D.R. Dhanuka, J

Bench : Single Bench

Advocate : P.R. Ramaswami, for the Appellant;

Final Decision : Dismissed

Judgement

D.R. Dhanuka, J.—Walchandnagar Industries Limited has filed this appeal against the order passed by the Employees' State Insurance Court, Poona on August 18, 1979, in Application (ESI/LCP)No. 9 of 1978.

2. The appellant filed the above referred application before the Employees' State Insurance Court, Pune u/s 75 of the Employees' State Insurance Act. The only question which, arises for consideration of this Court in this appeal is as to whether the appellant is covered under the Employees' State Insurance Act. The appellant has its factory at Walchandnagar, Taluka Indapur District Pune. The said factory is not covered under the provisions of the Act as the provisions of the Act are not applicable in the area where the factory is situate. The question before the Court is as to whether the commercial establishment of the applicant is a "shop" and is accordingly covered by and under the provisions of the said Act. The trial Court by its well considered judgment dated August 18, 1979, has taken the view to the effect that the offices of the applicant at Pune falls within the term "shop" for the purposes of the said Act.

3. The learned counsel for the appellant has been fair enough to invite the attention of the Court to the recent judgment of the Supreme Court in the case

of AIR 1994 1154 (SC) . In particular, the learned counsel has invited the attention of the Court to paras 11, 12 and 13 of the said judgment. The Employees' State Insurance Act, 1948 is a beneficial legislation. Having regard to the ratio of the said judgment the expression "shop" is liable to be construed widely and the commercial establishment of the appellants would fall within the term "shop" as understood in its popular meaning. In the above referred case, the Supreme Court held that the office premises of an advertising agency was liable to be considered as shop for purposes of the Act. By this judgment, the Supreme Court reversed the narrower view taken by some of the High Courts, in the decision referred to therein.

In view of the clear pronouncement of the Supreme Court in the above referred case, I have reached the conclusion that there is no merit in the appeal.

The appeal is dismissed.

Having regard to the facts and circumstances of the case there shall be no order as to costs.