

Employees State Insurance Corporation, Chandigarh and another  
*v.* The D. M. Oil & General Industries, Khanna (G. C. Mital, J.)

---

N. K. S.

*Before G. C. Mital, J.*

EMPLOYEES STATE INSURANCE CORPORATION, CHANDI-  
GARH AND ANOTHER,—*Appellants.*

*versus*

THE D. M. OIL & GENERAL INDUSTRIES, KHANNA,—*Respon-*  
*dent.*

*First Appeal From Order No. 183 of 1976.*

December 22, 1981.

*Employees State Insurance Act (XXXIV of 1948)—Section  
2(12)—extraction of oil from groundnut—Whether incidental to or*

*connected with the process of decortication of groundnut—Factory engaged in such business—Whether can be said to be a 'seasonal factory' and as such exempt from the provisions of the Act.*

Held, that if a factory has to extract oil and gets unshelled groundnuts, then it would first have to do the job of decortication and then it would be taken through the process of extraction of oil and in this sense decortication may be called a manufacturing process, incidental to or connected with the extraction of oil but the reverse would certainly not be true. A factory may carry on the business of decortication of groundnuts which would be a complete process by itself. After decortication, it can sell the shelled groundnuts. In that case, the factory would not be covered by the Act because it would be considered a 'seasonal factory'. But if after decortication, the shelled groundnuts are subjected to the process of extraction of oil by the concern which carries on decortication, then by no stretch of imagination can the oiling process be called incidental to or connected with the decortication of groundnuts. The inevitable result is that both the processes are independent of each other and a factory is not exclusively engaged in one or more of the processes mentioned in the definition of 'seasonal factory' and as such is not covered by the definition of seasonal factory given in section 2(12) of the Employees State Insurance Act, 1948 and hence cannot claim exemption from the operation of the said Act.

(Para 4).

*First Appeal from the order of the Court of Shri M. S. Luna, Senior Subordinate Judge Acting as Employees' State Insurance Court, Ludhiana dated the 2nd March, 1976 accepting the petition and restraining the respondents from realising the disputed amount, and leaving the parties to bear their own costs.*

K. L. Kapoor Advocate, for the Appellant.

A. N. Mittal, Advocate, for the Respondent.

#### JUDGMENT

Gokal Chand Mital, J. (Oral):

(1) The substantial question of law which arises for consideration in this appeal is whether extraction of oil from groundnut would be incidental to or connected with the process of decortication of groundnut and, therefore, would be covered by the definition of 'seasonal factory' as contained in section 2(12) of the Employees State Insurance Act, 1948 (hereinafter called the Act) and hence would not be covered by the Act.

2. On 21st September, 1967, M/s D. M. Oil and General Industries applied to the Employees State Insurance Corporation

Employees State Insurance Corporation, Chandigarh and another  
v. The D. M. Oil & General Industries, Khanna (G. C. Mital, J.)

(hereinafter called the Corporation) that their factory is covered by the Act and, therefore, code number may be allotted. The prayer was granted and the mills paid contributions with effect from 18th September, 1967. The Corporation was of the opinion that since on 1st April, 1966, the number of employees was more than 20, contributions should have been paid with effect from that date and issued demand notice for a sum of Rs. 3,197.99 from 1st April, 1966 to 18th September, 1967. The demand was challenged by the mills by filing application under Section 75 of the Act, which was allowed by the Employees Insurance Court after recording a finding that the work done by the mills was of a seasonal character as the extraction of oil was a subsidiary process incidental to decortication of groundnuts and the demand made by the Corporation was set aside. This is Corporation's appeal.

3. After hearing the learned counsel for the parties, I am of the view that the mills were clearly covered by the Act. The definition of 'seasonal factory' is as follows :—

“Seasonal factory” means a factory which is exclusively engaged in one or more of the following manufacturing processes, namely cotton ginning, cotton or jute pressing, decortication of groundnuts, the manufacture of coffee, indigo, lac, rubber, sugar (including *gur* or tea or any manufacturing process which is incidental to or connected with any of the aforesaid processes;

(and includes a factory which is engaged for a period not exceeding seven months in a year—

- (a) in any process of blending, packing of tea or coffee; or
- (b) in such other manufacturing process as the Central Government may, by notification in the Official Gazette, specify).

The expressions ‘manufacturing process’ and ‘power’ shall have the meaning respectively assigned to them in the Factories Act, (1948) (63 of 1948).”

The word “exclusively” has specific significance and if one or more of the manufacturing processes detailed above are carried on then the factory would be a ‘seasonal factory’ and exempt from the operation of the Act. If one or more of the manufacturing processes, detailed in the definition, along with any other manufacturing

process is carried on, then the factory would not be considered as a seasonal factory and would fall within the definition of "factory" as contained in section 2(12) of the Act.

4. The next question would be whether extraction of groundnut oil is incidental to or connected with the process of decortication of groundnuts. To my mind, it is the other way around. If a factory has to extract oil and gets unshelled groundnuts, then it would first have to do the job of decortication and then it would be taken through the process of extraction of oil and in this sense decortication may be called a manufacturing process, incidental to or connected with the extraction of oil but the reverse would certainly not be true. A factory may carry on the business of decortication of groundnuts which would be a complete process by itself. After decortication, it can sell the shelled groundnuts. In that case, the factory would not be covered by the Act because it would be considered a 'seasonal factory'. But if after decortication, the shelled groundnuts are subjected to the process of extraction of oil by the concern which carries on decortication, then by no stretch of imagination can the oiling process be called incidental to or connected with the decortication of groundnuts. It is the admitted case that the mills are carrying on the process of decortication as also extraction of groundnut oil. Hence I am of the view that the court below was in error in considering the process of extracting oil as the subsidiary process of decortication. The inevitable result is that both the processes are independent of each other and since the respondent mills are not exclusively engaged in one or more of the processes mentioned in the definition of 'seasonal factory', it cannot be called a seasonal factory and hence cannot claim exemption from the operation of the Act.

Admittedly, the number of employees engaged by the mills being 20 or more, the case is fully covered by the definition of 'factory' and hence would be subjected to the provisions of the Act. Accordingly, the claim made for the period from 1st April, 1966 to 17th September, 1967 during which the number of employees was 20 or more, was quite justified and the mills were liable to pay contributions.

For the reasons recorded above, this appeal is allowed, the order of the court below dated 2nd March, 1967 is set aside and the order passed by the Regional Director of the Corporation demanding contributions is restored with costs.