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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

W H I T E B L A C K
L E G A L

CASE ANALYSIS OF THE CASE “SIDDESHWARI COTTON MILLS PVT. LTD. V. UNION OF INDIA”

AUTHORED BY - DIKSHA PARDHAN

INTRODUCTION

- **NAME OF THE JUDGEMENT** – Siddheshwari Cotton Mills (P) Ltd. v. Union of India and Another
- **CITATION OF THE CASE** – 1989 AIR SC 1019
- **DECIDED ON** – 30 July, 2018
- **BENCH** – Division Bench
- **JUDGE** – Justice R.S. Pathak, C.J., Justice M.N. Venkatachaliah
- **AUTHOR OF THE JUDGEMENT** – Justice M.N. Venkatachaliah

BRIEF BACKGROUND OF THE JUDGEMENT

In this instance, Siddheshwari Cotton Mills (P) Ltd. appealed the Customs, Excise and Gold (Control) Appellate Tribunal's decision under Section 35-L of the Act. Whether the appellant, which produces cotton fabric on power looms exempt from excise duties and additional excise duties, loses the benefit of exemption if the fabric undergoes the process of "calendaring" on a calendaring plant located on the appellant's premises was the question raised in the appeal.

According to Rule 173-Q, the Collector of Central Excise in Calcutta ordered the appellant to pay the duty and assessed a fine. According to the Appellate Tribunal, cotton fabric undergoes calendaring, which disqualifies it from the exemption. The Appellate Tribunal did not clearly consider the factual issue of whether the calendaring procedure employed by the appellant satisfies the need of "any other process" in Section 2(f)(v) of the Act, the Supreme Court noted.

The matter was returned to the Appellate Tribunal by the Court for a new decision on the appeal in light of the correct rule of interpretation to be used in interpreting the phrase "any other process" in Section 2(f)(v). The Court held that the question of whether the appellant's calendaring process belongs to the same genus as the processes contemplated in the section's preceding expressions would have to be reexamined if the phrase "any other process" is understood and construed ejusdem generis.

MATERIAL FACTS OF THE CASE

The appellant, a business that made cotton textiles using power looms, asserted that they were free from paying excise duty. When it was determined that the appellant had produced and marketed calendared cotton fabric that was covered by item 19-1(b) of the Act's First Schedule without paying the necessary amount of excise tax, the Central Excise authorities found that the appellant had broken the law. The Collector of Central Excise in Calcutta warned the appellant and fined him one million rupees in accordance with regulation 173-Q before requiring him to make the payment. The Central Board of Excise and Customs gave the appellant some brownie points because they agreed with some of their points. The appellant filed an appeal with the Appellate-Tribunal challenging the decision to confirm the levy and duty. According to the order issued by the Tribunal on March 16, 1984, which is being challenged in the present proceeding, the appeal was rejected.

Here's a paraphrased version of the provided information:

1. Siddeshwari Cotton Mills (P) Ltd. is engaged in the manufacturing of cotton fabric using power looms, and their products enjoy exemptions from excise and additional excise duties as per Notifications No. 230/77 and 231/77, dated July 15, 1977.
2. The company applied a process called "calendering" to the cotton fabric within their premises.
3. The Collector of Central Excise in Calcutta ordered the company to pay excise duty and imposed a penalty of Rs 1,00,000 based on Rule 173-Q.
4. The central question in the appeal revolved around whether cotton fabric loses its status as "unprocessed" and, consequently, the exemption benefits under the mentioned notifications when it undergoes calendering.
5. The Appellate Tribunal ruled that calendering, even if it doesn't involve other specific processes mentioned in Section 2(f)(v) of the Act, removes the fabric from the exemption.
6. Section 2(f) of the Act, which defines "manufacture," was expanded through an amendment in Act 5 of 1986.
7. The Court sent the case back to the Appellate Tribunal for a fresh review of the appeal, taking into consideration the Court's guidance on the proper interpretation of "any other process" in Section 2(f)(v) and determining whether the specific calendering process used by the company meets the requirements.

ISSUES FRAMED BY THE COURT

The issues framed by the court in the case of Siddheshwari Cotton Mills (P) Ltd. v. Union of India and Another are as follows:

1. Whether the process of calendering employed in the present case belongs to the same genus as the processes envisaged in the preceding expressions in Section 2(f)(v) of the Central Excises and Salt Act, 1944?
2. Whether cotton fabric ceases to be "unprocessed" cotton fabric if it is subjected to calendering and loses the benefit of exemption under Notifications Nos. 230/77 and 231/77 dated 15-7-1977?

REASON –

The issues framed by the court are based on the question raised in the appeal, which is whether cotton fabric loses its exemption from duty if it undergoes the process of calendering. The court also needs to determine whether calendering belongs to the same category as the processes mentioned in the Act.

ARGUMENTS FROM THE PETITIONER

The following are the arguments put forward by the side of petitioner –

1. The petitioner argued that the process of calendering should not be considered as a process that takes cotton fabric out of the exemption under Notifications Nos. 230/77 and 231/77. They contended that it is not necessary for the process of calendering to belong to the same genus as the processes specifically enumerated in Section 2(f)(v) of the Central Excises and Salt Act, 1944.
2. The petitioner submitted that the definition of "manufacture" in Section 2(f) of the Act was amended by Act 5 of 1986, which gave it an extended meaning. They argued that the extended meaning should be applied in this case and that the process of calendering should be considered as falling within the definition of "manufacture".
3. The petitioner contended that the Appellate Tribunal had not specifically examined whether the process of calendering adopted by the appellant satisfied the requirement of "any other process" in Section 2(f)(v) of the Act. They argued that this aspect should be examined afresh.

4. The petitioner emphasized that "unprocessed" cotton fabric produced on power looms without spinning or processing operations was covered by the exemption under Notifications Nos. 230/77 and 231/77. They contended that because calendering does not include spinning or processing operations, it should not be viewed as a procedure that removes cotton cloth from the exemption.
5. The petitioner requested the Court to remit the matter to the Appellate Tribunal for a fresh disposal of the appeal in accordance with law, taking into consideration the arguments raised by the petitioner.

ARGUMENTS FROM RESPONDENTS

1. The process of calendering should be considered as a separate and distinct process from the manufacturing process of cotton fabric on power looms. Calendering involves the use of a calendering plant and is not an inherent part of the power loom manufacturing process. Therefore, the cotton fabric subjected to calendering should not be considered as "unprocessed" cotton fabric and should not be exempt from duties of excise.
2. The purpose of the exemption under Notifications Nos. 230/77 and 231/77 is to promote the manufacturing of cotton fabric on power looms without spinning or processing plants. The intention of the legislature was not to provide exemption for cotton fabric that undergoes additional processes like calendering. Therefore, the appellant should not be entitled to the benefit of exemption.
3. The definition of "manufacture" in Section 2(f) of the Central Excises and Salt Act, 1944 includes an extended meaning, which encompasses processes like calendering. The process of calendering can be considered as a form of manufacturing and should not be treated as part of the exempted manufacturing process of cotton fabric on power looms.
4. The Appellate Tribunal had correctly interpreted the provision of Section 2(f)(v) of the Act, which includes the term "any other process." The process of calendering falls within the scope of this provision and should be considered as a process that takes the cotton fabric out of the exemption. Therefore, the levy of duty imposed on the appellant by the Collector of Central Excise, Calcutta, was justified.

5. The purpose of imposing duties of excise is to generate revenue for the government. Exempting cotton fabric that undergoes additional processes like calendering would result in a loss of revenue for the government. Therefore, the appellant should not be allowed to claim exemption for cotton fabric subjected to calendering.

CONCRETE JUDGEMENT AND RATIO DECIDENDI

CONCRETE JUDGEMENT (JUDGEMENT IN PERSONAM)

According to Central Government Notification No. 230/77 CE dated 15-7-1977 issued under Rule 8(1) of the Central Excise Rules, 1944, "unprocessed" cotton fabric falling under sub-item (1) of Item 19 of the First Schedule to the Act and produced on power looms (without spinning or processing plants) installed and used with the permission of the Textile Commissioner is exempt from the entirety of the excise duty. The same applies to Notification No. 231/77 CE, which was issued on July 15, 1977, which exempts such cotton fabric from paying the additional excise duty. M.N. Venkatachaliah and J. Messrs Siddeshwari Cotton Mills (P) Ltd. filed this appeal under Section 35-L of the Central Excises and Salt Act, 1944 (Act), in opposition to the appellate order of the Customs, Excise and Gold (Control) Appellate Tribunal, New Delhi, dated 16-3-1984. The appeal raises the brief question of whether the appellant, which produces cotton fabric on power looms and is otherwise exempt from excise duties and the additional excise duties.

If such cotton fabric is calendering, does it lose its status as "unprocessed" cotton fabric? That is the issue at hand in the appeal. The Tribunal rendered a decision in favour of the applicant and sustained the imposition of the duty.

The Court remanded the matter to the Appellate Tribunal for a new decision on the appeal in light of the ruling by this Court regarding the proper rule of construction to be applied in interpreting the phrase "any other process" in Section 2(f)(v) and to consider whether the specific calendaring procedure adopted by the appellant would satisfy that requirement. As a result, this appeal is granted, the decision under appeal is reversed, and the Appellate Tribunal is given a further opportunity to decide the 1984 Appeal No. 151 of 1984 in line with the law.

RATIO DECIDENDI (JUDGEMENT IN REM)

Ejusdem generis, which means "of the same kind or nature," denotes a constructional principle that gives words in a statute that are otherwise broad but are associated in the text with more restricted words a restricted operation and limits them to things that belong to the same class or genus as those

that came before them. The linguistic implications and verbal context of the words that come before such phrases limit their applicability when they follow a list, string, or family of terms that describe genus. However, the previous words or statements must be able to convey the sense that they designate a class.

ANALYSIS OF THE CASE

The High Court dismissed the appellant's preceding appeal after ruling that Cotton Calendering fell under the definition of "manufacturing" as defined by the Act and that, as a result, the appellant was required to pay the excise. The appellants, Siddeshwari Cotton Mills Private Limited, appealed the judgement regardless of the Hon'ble High Court's ruling, challenging it and Section 2(f)(v) of the Central Excise Act of 1944.

The cotton cloth was subjected to a plain-calendering technique, which the appellant claimed did not comprise "any other process" as defined by Section 2(f)(v) of the Act, even though it was a procedure in the broadest sense possible. The Court ruled that the phrase "any other processes" in Section 2(f)(v) should be interpreted in accordance with the principle of Ejusdem Generis, which suggests that roadways would be included in the class of groups that share a gene, such as cars, buses, trucks, and so on.

Despite the fact that the subject was indeed the matter in issue, the technique of calendering adhered to and was a component of the phrase "Any other procedures," as well as the appellant was thus required to pay the charges levied/ imposed on it. Section 2(f)(v) language's "any other processes" refers to all other sorts of methods outlined in the statute. Since it is in the identical type/gene, calendering was incorporated.

The Tribunal, where the appeal was first filed, rejected it on the grounds that neither the term "any other process" used in Section 2(f)(v) explicitly stated that the aforementioned term should be taken into consideration when using the same gene or the same kind of process, nor that processes of the same kind were explicitly mentioned in the act.

It was argued in the court that, though calendering is a process, it does not meet the criterion of "any other processes" indicated in section 2(f)(v) which include "bleaching, mercerising, dyeing, printing, water-proofing, rubberising, shrink-proofing, and organdic processing."

The Tribunal in which the appeal was originally filed did not specifically hold an examination of

the calendering process and whether or not this particular process is of the type or the same class adopted, classified/used by the appellant shared the same gene that had been possessed by the other processes expressly mentioned in the particular statute and therefore should be understood by using the term calendering according to the court.

The main notion was that the following generic statements were only meant to protect against unintended exclusions in objects of the kind mentioned previously, not to incorporate to a whole other class. This was an assumption, and it's only valid until two or more terms in a legislation or two acts contradicted each other. The statute's previous words/expressions have restricted meanings, but they should be open to the concept of adhering to or reflecting a class or group. The ejusdem generis method will not be employed to interpret the act when no such group or class can be found. The terms connected to manufacturing that are employed under Section 2(f)(v), given above, encompass operations that impart a change in the fabric's enduring nature by adding any sort of chemical, or to change the fabric's appearance or any other such modification.

Empire Industries v. Union of India,¹ was cited by the court. "As previously stated, procedures of the type embraced by the challenged Act were not so alien or foreign to the concept of 'manufacturing' that they could not be included in that concept."

In Tribhuban Parkash Nayyar v. Union of India,² the court said: "this rule reflects an attempt to reconcile incompatibility between the specific and general words, in view of the other rules of interpretation, that all words in a statute are given effect, if possible, that a statute are given effect if possible, that a statute is to be construed as a whole and that no words in a statute are presumed to be superfluous."

According to UPSE Board v. Hari Shanker,³ "The actual meaning of the rule of ejusdem generis is that Following specific and special phrases, terms of a general character are to be taken as limited to objects of the same kind. However, the law must be applied sensibly and not taken too far According to the appellant's counsel, the plain and ordinary procedure of calendering adds no texture to the type of cotton fiber and does not modify the physical look of the cotton fiber. However, it was argued that rolling cotton fiber between rulers alters the cotton fiber's transitory look.

¹ [1985] Suppl. 1 SCR 292,

² [1970] 2 SCR 732

³ AIR 1979 SC 65

The respondent's attorney argued that because the appellate tribunal had not specifically looked into this issue and recorded its conclusion, it would be appropriate to remand the case to the appellate tribunal for a new decision on the appeal in light of this Court's ruling regarding the proper rule of construction to be used in the appellate tribunal's decision.

The phrase "any other processes" appears in the language of Section 2(f)(v), and it relates to all of the many kinds of methods that are mentioned in the act. Calendering was included due to the fact that it is in the same type or genus as before. Calendering is a process, it does not fit the criteria of "any other processes" as mentioned in section 2(f)(v), which includes "bleaching, mercerizing, dyeing, printing, water-proofing, rubberizing, shrink-proofing, and organic processing.

It is not essential for the calendering process in this instance to belong to the same genus as those named in Section 2(f) so in order to remove from the exemption (v), cotton fabric. Even if calendering does not take part in the other processing precisely mentioned in the preceding expressions in Section 2(f), it would be adequate if it is a "process" of cotton fabric (v). Due to this, the Appellate Tribunal³ likewise did not give much thought to the alternative perspective on whether the appellant's calendering method genuinely shared the same element or characteristics the other processes that were specifically mentioned.

The generic declarations were merely designed to prevent against unintentional exclusions in objects of the kind indicated previously; they were not meant to incorporate to an entirely different class⁴. This was an assumption, and its applicability will be limited. When attempting to interpret the act, the ejusdem generis technique will not be utilized because there will be no such group or class present.

The processes that impart a change in the fabric's enduring nature by adding any form of chemical, to change the fabric's appearance, or to make any other modification of this kind are included in the manufacturing terms used under Section 2(f)(v), as mentioned above.

In this instance, the terms organic processing, bleaching, printing, shrink proofing, water proofing, rubberizing which comes before "or any other process" phrase refer to procedures that give the fabric a lasting character change through the use of chemicals or other methods. One or both these incidents must be shared by "any other procedure" in the section. "Unprocessed" is the word which

⁴ Act 26 of 1971

is mentioned in the exempting notification has drawn down the meaning with reference to the phrase mentioned, “any other process” which refers to what constitutes manufacture if interpreted in the widest sense possible.

CONCLUSION

It can thereby be concluded that the rule of ejusdem generis indicates an effort to resolve incompatibility between the specific and general phrases. It states that a statute is to be construed as a whole and that no words in a statute are deemed to be redundant.

The processes that the challenged Act has included are not so unusual or foreign to the definition of "manufacture" that they cannot be classified as such. As a result, "any other process" under Section 2(f)(v) that falls under the umbrella of the expanded definition of "manufacture" must likewise possess the same quality. This is so because procedures like bleaching, mercerizing, dyeing, printing, water-proofing, rubberizing, shrink-proofing, and organdie processing affect the cotton fabric in ways that allow it to become a commercially distinct item. These procedures are thus not unrelated to the idea of manufacture.

It was decided that it was appropriate to remit the matter to the Appellate Tribunal for a new decision on the appeal regarding the proper rule of construction to be applied in determining what is meant by "any other process" in Section 2(f)(v) and to consider whether the specific calendaring adopted by the appellant would satisfy this aspect, which necessitates investigation because the Appellate-Tribunal had not specifically examined this aspect and recorded its findings. The challenged ruling is subsequently revoked as a result of the appeal's success, and the Appellate Tribunal will now have another opportunity to determine appeal No. 151 of 1984 in accordance with the law.

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