

M/S LAKSHMANI STONE PRODUCTS AND ORS.

A

v.

UNION OF INDIA AND ORS.

JANUARY 30, 2001

[S. RAJENDRA BABU AND S.N. VARIOVA, JJ.]

B

*Employees' Provident Funds and Miscellaneous Provisions Act, 1952—Sections (3)(b), 4,7(1)—Notification issued applying Employees' Provident Funds and Miscellaneous Provisions Act to stone quarries—Appellant carrying on the business of quarrying stone which were thereafter sized either manually by chipping or by using a mechanical crusher before marketing the same—Held, appellant is covered by the Act inasmuch as the dominant activity of the appellant is to quarry the stones and operation of reducing stones into smaller size is a subsidiary and incidental activity—Employees' Provident Fund Scheme, 1952—Mines and Minerals (Regulation and Development) Act, 1952.*

C

D

A notification was issued under Section 1(3)(b) of the Employees' Provident Funds and miscellaneous Provisions Act, 1952 applying the Act to 'stone quarries' producing stone chips, stone set, stone boulders and ballasts. Pursuant thereto, a notification was issued under Section 7(1) of the Act to amend the scheme, namely, the Employees' Provident Fund Scheme, 1952 by inserting identical provisions. Appellant, carrying on the business of quarrying stone and thereafter reducing stones into smaller size, filed a writ petition in the High Court contending that the Employees' Provident Funds and Miscellaneous Provisions Act had no application to 'stone quarry' industry as no notification had been issued including stone quarries in the Schedule to the Act. The said writ petition having been dismissed, appellant has preferred the present appeal.

E

F

Dismissing the appeal, the Court

G

HELD : 1. Appellants are lessors under the State Government under the provisions of Mines and Minerals (Regulation and Development) Act, 1952 to quarry and to crush stones. Dominant activity of the appellant is to quarry the stones and cut or chip them to appropriate size before marketing the same either by manual or mechanical process which is a subsidiary and

H

A incidental activity to the primary activity of running a stone quarry. The operations carried on by one appellant are not disassociated activities but integrally connected with each other and form part of a continuous process. Therefore, the appellants are engaged in a manufacturing process and running an establishment which has been rightly brought within the purview of the Act by issuing notifications to the effect. [691-A-D]

B

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 5827 of 1998.

From the Judgment and Order dated 3.11.92 of the Patna High Court in C.W.J.C. No. 2153 of 1982.

C

H.K. Puri, S.K. Puri, Rajesh Srivastava, Ujjwal Banerjee and Ms. Anindita Gupta for the Appellants.

D

Ms. Bina Madhven, Ajay Sharma, C. Radha Krishna and Arvind Kumar Sharma for the Respondents.

The Judgment of the Court was delivered by

E RAJENDRA BABU, J. A notification was issued on February 12, 1977 under Section 1(3)(b) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as 'the Act') specifying that certain establishments mentioned in the Schedule thereto would be covered by the Act and, *inter alia*, stating that the Act would apply to 'stone quarries' producing stone chips, stone set, stone boulders and ballasts. On February 19, 1977 a notification was issued under Section 7(1) of the Act to amend the scheme, namely, the Employees Provident Fund Scheme, 1952 by F inserting identical provisions. A contention was raised by the appellant in a writ petition filed before the High Court that no notification has been issued under Section 4 of the Act including 'stone quarries' in the Schedule to the Act. In the absence of a notification issued under Section 4 of the Act, it is contented that the Act has no application to stone quarry industry. However, that writ petition was dismissed. This appeal has been filed by leave granted G by this Court.

H The High Court took the view that the appellant was carrying on the business of quarrying stone under a mining lease and it was carried on by blasting stones at quarry by explosives which are thereafter sized either manually by chipping or by using a mechanical crusher resulting in stone

chips. The High Court held that the operations carried on by the appellant are not disassociated activities but integrally connected with each other and form part of a continuous process and the claim of the appellant that it is running a factory was not accepted. The High Court noticed that the appellant runs the establishment of stone quarry which has been brought within the purview of the Act, and inasmuch as the operation of reducing stones into smaller size is subsidiary and incidental operation to the primary activity, that is, running a stone quarry, the High Court took the view that it is an 'establishment' which has been brought within the ambit of the Act by issuing notifications on February 12, 1977 and February 19, 1977. A B

On the facts of the case, admittedly the appellants are lessee under the State Government under the provisions of Mines and Minerals (Regulation and Development) Act, 1952 to quarry and to crush stones. Therefore, the appellants are engaged in a manufacturing process as is rightly held by the High Court. It is clear that dominant activity of the appellant is to quarry the stones and cut or chip them to appropriate size before marketing the same either by manual or mechanical process which is a subsidiary and incidental activity to the primary activity of running a stone quarry. In that view of the matter, we find no substance in this appeal and the same stands dismissed. No costs. C D

M.P.

Appeal dismissed. E