Sirsilk Ltd. And Another vs Textiles Committee & Ors on 12 September, 1988

Equivalent citations: 1989 AIR 317, 1988 SCR SUPL. (2) 880, AIR 1989 SUPREME COURT 317, 1988 STL 53, (1988) 4 JT 592 (SC), 1989 SCC (SUPP) 1 168

Author: A.P. Sen

Bench: A.P. Sen, K.N. Singh

PETITIONER:
SIRSILK LTD. AND ANOTHER

Vs.

RESPONDENT:
TEXTILES COMMITTEE & ORS.

DATE OF JUDGMENT12/09/1988

BENCH:
SEN, A.P. (J)
BENCH:
SEN, A.P. (J)
SINGH, K.N. (J)

CITATION:
1989 AIR 317 1988 SCR Supl. (2) 880
1989 SCC Supl. (1) 168 JT 1988 (4) 592
1988 SCALE (2)975

ACT:
Textile Committee Act, 1963 /Textile Committee Rules 1965: Sections 2(g), 12(1) and 22/Rule 21--Fee-Imposition of-On production of rayon yarn and staple fibre yarn--Constitutional validity of--Words used in statute to be interpreted in popular sense.
%
Statutory Construction: Provision of earlier statute can be made use of for purpose of construing a subsequent statute in case of ambiquity.

HEADNOTE:
A number of textile mills which were engaged in the business of manufacture and sale of rayon yarn and staple

fibre, i.e. man-made fibre, moved the High Courts under article 226 of the Constitution challenging the constitutional validity of the fee imposed upon them by the Textile Committee under rule 21 of the Textile Committee Rules. 1965 made by the Central Government under s. 22 of the Textiles Committee Act, 1963. The levy of fee was challenged on the ground that the Textile Committee was not rendering any service to them by way of inspection or examination of rayon yarn and that the element of quid pro quo was totally absent.

The High Courts of Allahabad. Andhra Pradesh, Gujarat and Madras upheld the validity of the levy, while the Kerala High Court took the contrary view. The parties came up in appeal to this Court. Four similar petitions pending in the High Court of Bombay were also transferred to this Court.

Before the Court, it was contended on behalf of the textile mills (1) the rayon yarn and nylon yarn manufactured by them was made wholly Of filaments and not of fibres and therefore the same are not textiles within the meaning of the definition of textiles' as contained of S.2(g) of the Textile Committee Act. and hence not liable to payment of any fee in accordance with rule 21 of the Textile Committee Rules; and (2) the Textiles Committee rendered no service to the writ petitioners because neither they needed the services of the Committee nor the Committee was in a position to render any service to them.

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PG NO 881

On behalf of the Revenue, the Additional Solicitor General contended (I) the levy under r. 21 of the Rules was not correlated to the power of inspection which the Textiles Committee had under s. 11 of the Act, but was relatable to its power to levy fees under s. 12 for the performance of its functions, powers and duties under s. 4 (2) the avowed object and purpose of the Act, as was clear from s. 3, was `quality control' of all textile and it would be idle to contend that rayon yarn and nylon yarn which were but species of what was known as man-made fibres, otherwise called artificial silk, and had a world market, should be outside the purview of the Act, (3) the Act and the words used therein had to be interpreted not on a technological or specialised scientific plane, but in a popular sense as understood by experts in the sphere of the textile industry and the commercial world dealing with it; and (4) the definition of 'textiles' must be given a broad and liberal construction in furtherance of the object and purpose of the Act.

Dismissing the appeals filed by the textile mills and allowing the appeal filed by the Textile Committee, it was

HELD: (1) In view of the fact that in the writ petitions filled in the High Courts the textile mills had stated that they were actually engaged in the manufacture of rayon yarn and nylon yarn both of which. they averred, were `species of

what was known as man-made fibres'. their contention that rayon yarn and nylon yarn manufactured by them were not `yarn' and therefore did not fall within the definition of textiles under s. 2(g) of the Act could be countenanced. [899E,-F]

(2) There was no explicable reason for the Legislature to have excluded rayon yarn and nylon yarn from the purview of the definition of textiles in s.(2)(g) of the Act. In the premise, the expression `textiles' as defined in s.2(g) of the Act has to be given a broad and liberal construction, in furtherance of the purpose and object of the Act. [901A-B]

(3) The Act and the words used therein have to be interpreted not on a technological or specialised scientific plane but in the popular sense as understood by experts in the sphere of the textile industry and the commercial world dealing with it. [901D-E]

(4) The Industries (Development and Regulation) Act, 1951 treats rayon as well as nylon as textiles made of artificial (man-made) fibres. The Industries (Development and Regulation) Act, 1951 and the Textiles Committee Act may properly be considered to be statutes in pari materia. [905b]

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(5) The Industries (Development and Regulation) Act is an Act earlier in point of time, and there is no reason why if a subsequent statute by the same Legislature can be pressed In aid for the purpose of interpreting, in the event of any doubt, the provisions of an earlier statute, the earlier statute cannot be made use of for the purpose of construing, in the event of ambiguity, the provisions of a later statute. [905E]

(6) Rayon and nylon yarn are not only made of 'other fibre' but are also yarn of 'artificial silk' within the meaning of s. t(g) of the Act. [904D]

(7) The contention that rayon yarn and nylon yarn manufactured by the mills are made wholly of filaments and not of fibres and therefore did not come within the purview of textiles as defined in s. 2(g) of the Act prior to its amendment and therefore were not liable for payment of the fee levied under r. 21 of the Rules, cannot prevail.[905F]

(8) The grievance of the textile mills that there is no inspection of the rayon yarn and nylon yarn manufactured by them at the stage of production is belied by the fact that there is pre-shipment inspection of the fabrics manufactured from such fibres for export. [91OB-C]

(9) When the entire proceeds of the fee are utilised in financing the various projects undertaken by the Textiles Committee, as also the inspection of all textiles including man-made fibres and textile machinery, the appellants cannot be heard to say that there is no reasonable and sufficient correlation between the levy of the fee and the services rendered. [907C]

(10) When the levy of the fee is for the benefit of the

entire textile industry, there is sufficient quid pro quo between the levy recovered and the services rendered to the industry as a whole. [910D]

(11) The conclusion is inevitable that the levy of the fee under r. 21 of the Textiles Committee Rules, 1965 by the Textiles Committee under sub-s. (1) of s. 12 of the Textiles Committee Act, 1963 is valid and constitutionally permissible. [912B-C]

M/s Juggilal Kamalapat Cotton Spinning & Weaving Mills Co. Ltd. v. The Textiles Committee, Bombay, [1972] Tax L.R. 2104; The Travancore Rayons Ltd. r The Textiles Committee, ILR (1972) Ker. 437: Sreeniwasa General Traders & Ors. v. State of Andhra Pradesh, [1983]-3 SC R 843 referred to. The

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Gwalior Rayon Silk Manufacturing (Wvg.) Co. Ltd ., Birlagram Ujjain v. The Textiles Committee, Bombay, AIR 1980 MP 69,overruled.

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 869/73, 863-64/77, 1460/80, 1281/73, and 1133-34/79. From the Judgments and Orders dated 22.1.1973, 18.11.1976 10.4.1980, 30.10.72 and 24.10.1978 of the Hyderabad, Ahmedabad, Allahabad, Kerala, Allahabad High Courts in Writ Appeal No. 154/72, Special Civil Application No. 597/69, 598/69 F.A.F.O. No. 235/1972, S.C.A. No. 13707/1972 & Special Appeal No. 3 and 4/1972.

WITH TRANSFERRED CASE NOS. 351-52, 354-55 of 1983. Transfer Petition Nos. 21, 22, 24 to 26 of 1981 from Bombay High Court.

V.C.Mahajan, G.L. Sanghi, N.R. Khaitan, Alok Sharma, Krishan Kumar, Mrs. P. Shroff, Mrs. A.K. Verma, Joel Peres and S.K. Jain for the Appellants in all the appeals. V.A. Bobde, B.R. Agarwala, Ms. S. Manchanda, Dr. D. Chandrachud and P . H . Parekh for the Petitioners in Transferred Cases.

G. Ramaswamy, Additional Solicitor General, V.C. Mahajan, Harish Salve, D.N. Misra, Mrs. A.K. Verma, T.C. Sharma and C.V. Subba Rao for the Respondents in all the appeals.

G.Ramaswamy, Additional Solicitor General, V.C. Mahajan, S.S. Shroff, P. Shroff, R. Sasiprabhu, T.C. Sharma, C.V. Subba Rao. V.B. Desai, Bharat Sangal and Ms. Madhuri Gupta for the Respondents in all the Transfer Cases. P.H. Parekh and P. Narasimhan for the Intervener. The Judgment of the Court was delivered by SEN, J. In all these appeals except the one by special leave, and the connected transferred cases brought by the appellants, each of which is a company incorporated under the Companies Act, 1956 engageded in the business of manufacture and sale on a very large scale of textiles PG NO 884 generally and also of rayon yarn and staple fibre, both of which form species of what is known as man-made fibre i.e. artificial silk, there is a common question as to the constitutional validity of a fee imposed under r. 21 of the Textiles Committee Rules, 1965 made by the Central Government under s. 22 of the Textiles Committee Act, 1963, by

the Textiles Committee constituted under s. 3 of the Act, on the production of rayon yarn and staple fibre i.e. man- made fibres manufactured by them. These appeals are against the various judgments and orders of the High Courts of Allahabad, Andhra Pradesh, Gujarat and Madras upholding the validity of the levy. The remaining appeal i.e. Civil Appeal No. 1281 of 1973 is preferred by the Textiles Committee against the judgment and order of the Kerala High Court taking the view to the contrary.

The facts in all these cases are more or less similar. It would suffice for our purposes to notice the salient features thereof. To illustrate, the appellant company in Civil Appeal No. 869 of 1973, Messrs Sirsilk Ltd., Hyderabad is a manufacturer of rayon yarn and staple fibre and has established its factory at Sirpur Kagaznagar in the State of Andhra Pradesh for the manufacture of the aforesaid man-made fibres. The Chief Inspecting Officer, Textiles Committee by his letter dated May 19, 1965 directed all the textile mills in India including the appellant to send immediately, the monthwise statements of production for March and April l965 and a cheque in payment of the fees due thereon. However, the Association of Man-made Fibre Industry, Bombay of which the appellant is a member by its letter dated May 25, 1985 advised the textile mills to keep the payment of fees in abeyance, as it had made a representation dated May 26, 1965 on behalf of its members to the Ministry of Commerce, Government of India and to the Textiles Commissioner. Along with its letter, the Association forwarded to all its members a copy of the said representation. By a further letter dated May 29, 1965, the Association advised all the textile mills including the appellant to send a reply to the letter addressed by the Textiles Committee demanding payment of fees to the effect that the Association had already made a represention to the Ministry of Commerce and to the Textiles Commissioner and as soon as a reply was received by them, they would revert to the subject and take such action as might be necessary in the circumstances. In the mean- while, the Textiles Committee by its letter dated August 10, 1965 made a demand for payment of the fees for the months of March to July 1965. The appellant in its reply expressed its inability to pay the fees in view of the pending representation made by the Association on their behalf and more so because the Association had advised the members that PG NO 885 the fee would become payable by the textile mills only in connection with the inspection and examination and must be commensurate with the exact quantum of services rendered by the Committee. The appellant were however informed that one of its members had already remitted the fees. Consequently, the appellant paid a sum of Rs.40,186.37 p. towards the fee for the period from March 1, 1965 to February 28, 1966. It however adopted to the stand that the payment of the fee was under a mistake and under misconception as to its legal rights. It accordingly called upon the Association to take up the matter with the Ministry of Commerce and the Textiles Commissioner and to lodge a strong protest against the illegal exaction of the fee by the Textiles Committee from its members when, in fact, no services of any kind were being rendered.

Thereafter, the Accounts Officer, Textiles Committee by letter dated February 26, 1969 called upon the appellant to remit a sum of RS.33,343.62 p. towards the fee in respect of production of rayon or staple fibre for the period from March 1, 1966 to March 31, 1967. It was also advised to pay the fee upto April 1968. In response thereto, the appellant by its letter dated February 27, 1969 stated that the Association had on behalf of its members addressed a letter to the Secretary, Textiles Committee for certain clarifications and on receipt of the reply, the Association would advise its members as to

the course of action. Eventually,.the Secretary, Textiles Committee by a letter dated March 11, 1970, called upon the appellant that it should remit an amount of Rs.35,138.63 p. being the amount of fee outstanding within ten days failing which the said amount would be recovered as arrears of land revenue under s. 12(2) of the Act. Aggrieved, the appellant moved the High Court of Andhra Pradesh under Art. 226 of the Constitution challenging the validity of the fee and the threatened action for recovery. A learned Single Judge (Parthasarthi, J.) by his judgment dated January 28, 1972 dismissed the writ petition upholding the validity of the levy of the fee. On appeal being preferred by the appellant the judgment of the learned Single Judge was upheld by a Division Bench (Gopuirao Ekbote, CJ and Chennakesava Reddy, J.) by its judgment dated January 22 1973. The High Court of Andhra Pradesh preferred to follow the view expressed by B.N. Lokur, J. of the Allahabad High Court in M/s. Juggilal Kamalapat Cotton Spinning Weaving Mills Co. Ltd. v. The Textiles Committee, Bombay, [1972] Tax. LR 2104, and dissented from the view taken by Issac, J. in The Travancore Rayons Ltd. v. The Textile Committee, ILR 1972 Ker. 437 holding that the Textiles Committee was not entitled to levy any fee under r.4 of the Rules so long as it was not rendering any service by way of inspection or examination of rayon yarn.

PG NO 886 Briefly stated, the facts in transferred cases nos. 351- 352 of 1983 are these. The petitioner in the first case the Century Spg. & Mfg. Co, Ltd., Bombay carry on the business of manufacture of rayon yarn and tyre-cord yarn, both of which form species of what is popularly known as `men-made rayon', while the petitioners in the second Messrs Century Enka Limited, Bombay carry on the business of manufacture of nylon filament yarn. By letter dated May 25, 1968 the Accounts Officer, Textiles Committee, Bombay called upon the petitioner the Century Spg. & Mfg. Co. Ltd. to remit a sum of Rs.5,89,187.46 p. as fees in respect of production of 29,459,373.21 kgs. of rayon yarn for the period from March 1, 1966 to April, 30, 1968. The petitioners were also called upon to pay the fees for April 1968. In reply, the petitioners by their letter dated June 18, 1968 stated that the Association of Man- made Fibre Industry, Bombay had addressed a letter to the Secretary, Textiles Committee for certain clarifications in the matter and on receipt of the reply the Association would be advising its members further. Thereupon, further correspondence ensued between the Textiles Committee on the one hand and the Association on the other. Thereafter, by letter dated February 20, 1969 the Secretary, Textiles Committee intimated the petitioner that it was proposed to initiate immediate action to recover the outstanding fees from the petitioner as arrears of land revenue as contemplated under s. 12(2) of the Act. It was further stated that in order to avoid coercive proceedings the petitioner should pay up the arrears at least upto March 31, 1967 amounting to Rs.3,19,977.11 p.; in any case before March 1, 1969 failing which the Textiles Committee would be constrained to advise the concerned Collector to enforce recovery of the outstanding fees as arrears of land revenue. The petitioner accordingly moved a petition under Art. 226 of the Constitution before the High Court of Bombay for quashing the impugned notice of demand dated February 20,1969 complaining that they had at no time made any application for inspection and/or examination of the yarn they manufacture nor did they ever approach the said Committee to inspect and/or examine yarn manufactured by them. They averred that neither the said Committee nor any one on its behalf had rendered any service whatsoever to them either at their instance or otherwise. Similarly, the petitioner Century Enka Limited moved a petition under Art. 226 of the Constitution the High Court of Bombay contending that the Textiles Committee was not entitled to demand or recover a sum of Rs.78,553.15 p. or any other sum by way of fees on the

nylon yarn manufactured by them, on the ground that the element of quid pro quo was totally absent inasmuch PG NO 887 as no services at all were rendered by the Committee to them. These two writ petitions were ordered to be transferred to this Court under Art. 139 of the Constitution and numbered as transferred cases nos. 351-352 of 1983. Similar are the facts in other cases. In transferred case no.354/83 Messrs Nirlon Synthetic Fibres & Chemicals Limited, Bombay carry on the business of manufacture of nylon yarn and apparently paid Rs.8,820.40 p. by way of fees on the nylon yam manufactured by them in compliance with the notice of demand issued by the Accounts Officer, Textiles Committee dated February 20, 1969. The petitioner in the other case transferred case no. 355/83 Messrs Garwara Nylons Limited, Bombay also carry on the business of manufacture or nylon yarn and paid Rs.51,738.89 p. by way of fee in compliance with the circular issued by the Chief Inspecting Officer, Textiles Committee, Bombay dated May 19, 1965 and assert that the payment of the said amount was under a mistake. Both these petitioners moved the High Court under Art. 226 of the Constitution challenging the validity of the levy of the fee and prayed for the issue of a writ in the nature of mandamus directing the Textiles Committee to refund the amounts recovered from them. Both these writ petitions were also transferred to this Court under Art. l39 and are numbered as transferred cases nos. 354-355/83. In Civil Appeals Nos. 863-864/77, the appellant Baroda Rayon Corporation Limited, Gujarat are engaged in the business of manufacture of rayon yarn and paid Rs.55,100 towards the fee in compliance with the notice of demand issued by the Accounts Officer, Textiles Committee dated March 9, 1966 for the period from March 1. 1965 to February 28, 1966. They were further called upon by the Secretary, Textiles Committee to remit a sum of Rs.39,211.26 p. towards the arrears upto March 31, 1967. The appellant challenged the recovery of the said amount of Rs.55,100 as well as the threatened demand of a further sum of Rs.39,211.26 p. by the Textiles Committee as being ultra vires by petitions under Art. 226 of the Constitution before the High Court of Gujarat. A Division Bench (S. Obul Reddy, CJ & N.H. Bhatt, J.) by its judgment dated November 18, 1976 upheld the validity of the fee and accordingly dismissed the writ petitions.

The appellant in Civil Appeal No. 1460/80 Messrs Modipon Limited, Meerut are manufacturers of nylon yarn. The Accounts Officer, Textiles Committee by his letter dated June 11, 1960 required the company to pay the arrears of fees for the period from March 1965 to May 1968. The company PG NO 888 brought a suit being Original Suit No. 86/70 in the Court of the II Civil Judge, Meerut for a declaration and perpetual injunction. In the suit it applied for grant of a temporary injunction under Order XXXIX, r. 1 of the Code of Civil Procedure, 1908 restraining the Textiles Committee from recovering the fees on the ground that the nylon yarn manufactured by them did not fall within the definition of 'textiles' under s. 2(g) of the Act. The learned Civil Judge by his order dated May 12, 1972 granted ad-interim temporary injunction but later vacated the same. The appellant accordingly went up in appeal to the High Court. A Division Bench (M.N. Shukla & N.N. Mithal, JJ) by its order dated April 10, 1980 substantially disallowed the application for temporary injunction while making a direction requiring the learned Civil Judge to examine whether the appellant had commenced production since March 1968 and therefore the demand for fee for the period anterior to the commencement of the production could not possibly be sustained. Appellants in Civil Appeals Nos. 1133-34/79 Messrs. J business of manufacture of rayon yarn under the name and style of J.K. Rayon, and of nylon yarn under the name and style of J.K. Synthetics Limited. For the period from March 1965 to February 1966 they paid Rs.49,372.65 p. Thereafter, they fell into arrears. The two

companies filed petitions under Art. 226 of the Constitution before the High Court of Allahabad contending inter alia that the said payments were made under mistake without realising the implications of the Textiles Committee Act or the Rules, and prayed for the issue of a writ in the nature of mandamus directing the Textiles Committee to refund the amount in question. As already stated, B.N. Lokur, J. in Juggilal's case by his judgment dated November 6, 1971 upheld the validity of the levy of the fee and dismissed the writ petitions. On appeal, a Division Bench (Satish Chandra, CJ and Yashoda Nandan, J.) by its judgment dated October 24, 1978 dismissed the appeal.

In Civil Appeal No. 1281 of 1973 the Textiles Committee has come up in appeal against the judgment of a learned Single Judge of the High Court of Kerala (Isaac, J.) who by his judgment dated March 3, 1972 in Travancore Rayons Ltd. held that the levy of the fee by the Committee was without the authority of law and so long as the Committee was not rendering any service by way of inspection and examination of rayon yarn manufactured by Messrs Travancore Rayon Limited, it was not entitled to recover the same.

PG NO 889 In order to appreciate the rival contentions, it is necessary to set out the background in which the Textiles Committee was constituted, the object and purpose of the Textiles Committee Act as also the relevant provisions of the said Act and the Rules made thereunder. The history of the legislation has been set out in the counter-affidavit filed on behalf of the Textiles Committee and is as follows.

The Second world war gave a completely sheltered market for Indian Textiles and created an unprecedented boom for their products. They were, however, for a variety of reasons, unable to with- stand the severe international competition they had to face in foreign markets with the return of normal conditions after the war. Alive to the various problems faced by the Textile Industry in general and the Cotton Textile Industry in particular, the Government of India took timely steps to arrest the crisis by adopting various measures to safeguard production and export of cotton textiles and to assure the efficiency of the Cotton Textile Industry. It was in this context that the Cotton Textiles Fund Ordinance, 1944' was promulgated, establishing a `Fund' for supervising the exports of cloth and yarn and for develop- ment of technical education, research and other matters in relation to the Cotton Textile Industry. The Cotton Textiles Fund Committee which was appointed as the body to perform the various functions imposed under the Ordinance did very useful work during the period from 1945 to 1964 for the improvement of the said industry and so as to enable it to meet the competition of foreign textiles in international market. The Ordinance, promulgated in 1944 establishing the Cotton Textiles Fund Committee, had provisions to safeguard exports of Cotton Textiles only. As more and more items of textiles such as wool. silk, art silk and other man-made fibre fabrics and yarn started finding their way into the international market in increasing quantities. it became necessary for the Government of India to create a homo- genous entity to look after and promote the improvement and safeguard for all such textile items. It was also necessary to take such step in the case of these schemes of the Textile Industry both for improving standards in such industry and because the same were in many ways connected and inter-related with the Textile Industry. Such action and inter-relation arose because of the nature of the commodities and because in many cases composite fibres and textiles were produced and many units engaged in production of such synthetics and other materials were also engaged in the Cotton

Textile Industry. Parliament accordingly enacted the Textiles Committee Act (hereinafter referred to as `the Act') which received the assent of the President on December 3, 1963. It was PG NO 890 meant to re-enact the provisions of the aforesaid Ordinance and to make the same applicable to all textiles including all synthetic fibres i.e. rayon yarn, staple fibre, nylon yarn, man-made fibre commonly known as artificial silk. The avowed object and purpose of the Act, as reflected in the long title, is to provide for the establishment of a Committee for ensuring the. quality of textiles and textile machinery and for matters connected therewith. S. 2(f) of the Act defines `textile machinery' to mean the equipment employed directly or indirectly for the processing of textile fibre into yarn and for the manufacture of fabric therefrom by weaving or knitting and to include equipment used either wholly or partly for the finishing, folding or packing of textiles. S. 2(g) defines `textiles'. This definition as originally enacted read as follows:

> "2(g). `Textiles' means any fabric or cloth or yarn made wholly or in part of cotton, or wool or silk or artificial silk or other fibre. "

By Act No. 51 of 1973, a new definition of `textiles' was substituted w.e .f. January 1, 1975 and it reads:

> "2(.g). 'textiles' means any fabric or cloth or yarn or garment or and other article made wholly or in part of--
>
> (i) cotton; or
>
> (ii) wool;or
>
> (iii) silk;or
>
> (iv) artificial silk or other fibre, and includes fibre.

S. 3 of the Act provides for establishment of the Textiles Committee by the Central Government. S. 4 deals with the functions of the Committee. The functions of the Committee as stated in s. 4 generally are to ensure by such measures as it thinks fit, standard qualities of textiles both for internal marketing and export purposes and the manufacture and use of standard type of textile machinery. It reads follows:

> "4. Functions of the Committee--(1). Subject to the provisions of this Act, the functions of the Committee shall PG NO 891 generally be to ensure by such measures, as it thinks fit, standard qualities of textiles both for internal marketing and export purposes and the manufacture and use of standard type of textile machinery.
>
> (2) without prejudice to the generality of the provisions of sub-section (1), the Committee may--

(a) undertake, assist and encourage, scientific, technological and economic research in textile industry and textile machinery,

(b) promote export of textiles and textile machinery and carry on propaganda for that purpose;

(c) establish or adopt or recognise standard specifications for--

(i) textiles, and

(ii) packing materials used in the packing of textiles or textile machinery, for the purposes of export and for internal consumption and affix suitable marks on such standardised varieties of textiles and packing materials;

(d) specify the type of quality control or inspection which will be applied to textiles or textile machinery; (da) provide for training in the techniques of quality control to be applied to textiles or textile machinery;

(e) provide for the inspection and examination of--

(i) textiles;

(ii) textile machinery at any stage of manufacture and also while it is in use at mill-heads;

(iii) packing materials used in the packing of textiles or textile machinery;

(f) establish laboratories and test houses for the testing of textiles;

PG NO 892

(g) provide for testing textiles and textile machinery in laboratories and test houses other than those established under clause (f);

(h) collect statistic for any of the above mentioned purposes from--

(i) manufacturers of, and dealers in, textiles;

(ii) manufacturers of textile machinery; and

(iii) such other persons as may be prescribed;

(i) advice on all matters relating to the development of textile industry and the production of textile machinery;

(j) provide for such other matters as may be prescribed. (3) In the discharge of its functions, the Committee shall be bound by such directions as the Central Government may, for reasons to be stated in writing, give to it from time to time.

S. 7 of the Act provides for constitution of a Fund called the Textiles Fund. Fees recovered under the Act form part of this Fund. The moneys in the Fund are applied for meeting the pay and allowances of the officers and other employees of the Committee and other administrative expenses of the Committee and for carrying out the purposes of the Act. S. 11 confers on the Committee the power of inspection and provides:

"(11) Inspection--(1) The Committee may, on application made to it or otherwise, direct an officer specially authorised in that behalf to examine the quality of textiles or the suitability of textile machinery for use at the time of manufacture or while in use in a textile mill and submit a report to the Committee.

(2) Subject to any rules made under this Act, such an officer shall have power to--

(a) inspect any operation carried on in connection with the manufacture of textiles or textile machinery in relation PG NO 893 to which construction particulars, marks or inspection standards have been specified,

(b) the samples of any article or of any material or substance used in any article or process in relation to which construction particulars, marks or inspection standards have been specified;

(c) exercise such other powers as may be prescribed. (3) On receipt of the report referred to in sub-section (1), the Committee may tender such advice, as it may deem fit to the manufacturer of textiles the manufacturer of textile machinery and the applicant."

S. 12 provides for levy of fees for inspection and examination and reads as follows:

"12. (1). The Committee may levy such fees as may be prescribed--

(a) for inspection and examination of textiles,

(b) for inspection and examination of textile machinery.

(c) for any other services which the Committee may render to the manufacturers of textile and textile machinery:

Provided that the Central Government may by notification in the Official Gazette, exempt from the payment of fees, generally or in any particular case.

(2). Any sum payable to the Committee under sub-s. (1) may be recovered as an arrear of land revenue."

(The section quoted here is as it stood before its amendment by Act 51 of 1973).

S. 22(1) confers on the Central Government power to make rules for carrying out the purposes of the Act. In particular, s. 22(2)(e) empower he Central Government to make rules providing "the scale of fees that may be levied for inspection and examination under s. 12".

PG NO 894 In exercise of the powers conferred by s. 22, the Central Government made the Textiles Committee Rules, 1965. A levy of fee was introduced for the first time w.e.f. March 1, 1965 by virtue of r. 21 of the Rules. The Table forming part of r. 21 under which the fee was levied was in these terms:

"21. Fee for inspection, examination and other services rendered by the Committee--

(1) The Committee may with effect from 1st March, 1965 levy and collect for inspection and examination of textiles and textile machinery specified in col. 2 of the Table below, the fee specified in the corresponding entry in col.

3 of that Table:

TABLE:

Sl. Description of textiles Fee No. and textile machinery

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1 2 3

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1. Cotton cloth where the average 6 paise for every 100 count of yarn used in the cloth square metres manufactu-

is less than 355 red.

2. Cotton cloth where the average 10 paise for every 100 count of yarn used in the cloth square metres manufa-

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   is less than 355. or finer        ctured.
3. Woollen yarn                    2 paise per kg. manufa-
                                   ctured.
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4. Man-made Cellulosic or non-cellulosic filament yarn	2 paise per kg. manufactured.
5. Man-made cellulosic fibre cut to staple length	2 paise per kg. manufactured.
6. Textile machinery	8 paise per Rs. 100ad valorem on the ex-factory price of the machinery manufactured.

"(2) The Committee may levy and collect, for any other service rendered by it to the manufacturers of textiles and PG NO 895 textile machinery such fee as it may fix with the approval of the Central Government."

With effect from the 11th June, 1966, the Table of Fee was revised to reads as under:

TABLE

Sl. Description of textiles and textile machinery | Fee No.

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1 2 3

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1. Cotton cloth where the average count of yarn used in the cloth is less than 35 s.	6 paise for every metres manufactured.
2. Cotton cloth where the average count of yarn used in the cloth is 35 or finer.	10 paise for every square metres manufactured.
3. (a) Woollen yarn (excluding shoddy and carpet yarn)	2 paise per kg. manufactured
(b) Shoody and carpet yarn	1 paise per kg. manufactured
4. (a) Man-made cellulosic or non-cellulosic filament yarn (other than nylon filament yarn)	2 paise per kg. manufactured
(b)Nylon filament yarn	6 paise per kg. manu-

	factured
5. (a) Man-made cellulosic fibre cut to staple length	1 paise per kg. manufactured
(b) Man-made non-Cellulosic fibre cut to staple length.	2 paise per kg. manufactured
6. Textile machinery (assembled)	8 paise per Rs. 100 ad valorem on the ex-factory price of the machinery manufactured
	PG NO 896
7. Cotton yarn for export	2 paise per kg. inspected.
8. Natural silk yarn for fabric for export	50 paise per Rs.100 f.o.b. price of the goods instected.

It must be stated here that Act No. 51/73 introduced a new provision S. 5A as a result of which a cess has been imposed in place of a fee. Sub-s. (1) provides that there shall be levied and collected as a cess for the purposes of this Act a duty of excise on all textiles and on all textile machinery manufactured in India at such rate, not exceeding 1% ad valorem as the Central Government may, by notification in the Official Gazette, fix. Proviso thereto interdicts that no such cess shall be levied on textiles manufactured from out of handloom or power- loom industry. Sub-s. (2) of s. 5A directs that the duty of excise levied under sub-s.

> (1) shall be in addition to any cess or duty leviable on textiles or textile machinery under any other law for the time being in force. Another change brought about was to delete cl. (b) of s. 12, and cl. (c) relettered as cl. (b) and a proviso were inserted, with the word' special' inserted in place of the word 'other'. The new cl. (b) so inserted is in these terms:
>
> (b) for any special service which the Committee may render to the manufacturers or exporters of textiles and textile machinery;

Provided that no fees shall be levied in respect of inspection and examination of textiles on which a duty of excise is leviable under this Act:' All these cases pertain to the period prior to January 1, 1975 i.e. prior to the enactment of Act 51/73. We are here concerned with the validity of the fee as levied under r. 21 of the Rules and the question is whether the imposition can be justified as a fee.

We have had the benefit of hearing Shri V. M. Tarkunde, learned counsel appearing for the appellant J.K. Cotton Spg. & Wvg. Mills Co. Ltd., Shri G.L. Sanghi, learned counsel appearing for the appellant Baroda Rayon Corporation Limited, Shri Vinod Bobde, learned counsel appearing, on behalf of Century Spg. & Mfg. Co. Ltd. and Century Enka Limited, Shri N.K. Khaitan, learned counsel appearing for Sirsilk Limited, Dr. Dhananjaya Chandrachud, learned counsel appearing for Nirlon Synthetics Fibres and Chemicals Ltd. and Garware Nylons Ltd. and Shri Krishna Kumar, learned PG

NO 897 counsel for Modipon Limited. The learned counsel presented their respective points of view with much resource and learning.

On behalf of the appellants and the petitioners, the learned counsel put forth in substance two main contentions, namely: (1) That rayon yarn and nylon yarn manufactured by the writ petitioners before the High Court i.e. appellants and the petitioners before us, are made wholly of filaments and not at all of fibres and therefore are not textiles within the meaning of the definition of `textiles' as contained in s. 2(g) of the Act accordingly are outside the purview of the Act and not liable to payment of any fee in accordance with r. 21 of the Rules as originally framed or as it existed after its amendment w.e.f. June 11, 1966. And (2) That the Textiles Committee rendered no service to the writ petitioners in respect of their production of rayon yarn and nylon yarn and hence it was not within its competence to levy any fee on them under r. 21 of the Rules. According to the writ petitioners, in fact they do not need the services of the Committee and the Committee is also not in a position to render any service to them, not having even laid down standard specifications for the manufacture of rayon yarn or nylon yarn. It was submitted that there was no correlation between the fee charged and the service rendered by the Committee and there is complete absence of the element of quid pro quo, legally essential for levying a fee.

Shri G. Ramaswamy, learned Additional Solicitor General, on the other hand, during his lucid and forceful submissions repelled the arguments. He submitted that the levy under r. 21 of the Rules was not correlated to the power of inspection which the Textiles Committee had under s. 11 of the Act, but was relatable to its power to levy fees under s. 12 for the performance of its functions, powers and duties under s. 4. He contended that the avowed object and purpose of the Act as is clear from s. 3 was `quality control' of all textiles, and it would be idle to contend that rayon yarn and nylon yarn which are but species of what is known as man-made fibres, otherwise called artificial silk and has a world market, should be outside the purview of the Act. He cautioned that we have to bear in mind that the Act is not a scientific treatise on organic and inorganic chemistry but is an Act by Parliament for the benefit of the indigenous textile industry so that it may be able to hold its own in a fiercely competitive international market. He therefore contends that the Act and the words used therein have to be interpreted not on a technological or specialised scientific plane, but in a popular sense as understood by experts in the sphere of the textile industry the commercial world dealing with it. The learned Additional PG NO 898 Solicitor General questioned the correctness of the decision rendered by the Madhya Pradesh High Court in The Gwalior Rayon Silk Manufacturing (Wvg.) Co. Ltd., Birlagram, Ujjain v. The Textiles Committee, Bombay & Anr., AIR (1980) MP 69 as also its interpretation of the definition of `textiles' in s. 2(g) of the Act prior to its amendment by Act No. 51/73 as not including viscose staple fibre. According to him, the whole approach of the High Court in Gwalior Rayon's case in adopting a literal construction of the definition of textiles' in s. 2(g) of the Act prior to its amendment was totally unsupportable. A literal construction of the definition of `textiles' in s. 2(g) of the Act prior to its amendment, it is said, would lead to a manifest absurdity. If that view of the Madhya Pradesh High Court were to prevail, it is urged that the whole purpose and object of the Act would be frustrated. The definition of textiles in s. 2(g) prior to its amendment must be given a broad and liberal construction in furtherance of the object and purpose of the Act. The learned Additional Solicitor General also placed before us a wealth of material showing that a huge infra-structure has been built by the Central Government over the years and it has invested

crores of rupees to make the establishment of the Textiles Committee under s. 3 of the Act meaningful with a view to maintain quality control on all textiles including man-made fibres or artificial silk which have a world market. Finally, the learned Additional Solicitor General strongly relied upon the decision of this Court in Sreeniwasa General Traders & Ors. v. State of Andhra Pradesh & Ors., [1983] 3 SCR 843 for the submission that the validity of the levy has to be sustained as there is broad co-relationship between the imposition of the fee and the nature of the services rendered to the entire textile industry. We shall deal with the contentions advanced by learned counsel for the appellants and the petitioners in seriatim. As to the first contention that the rayon yarn and nylon yarn manufactured by the appellants and the petitioners were filaments and not fibres and therefore did not fall within the ambit of the definition of textiles in s. 2(g) of the Act prior to its amendment, Shri khaitan who,first argued the case of Sirsilk Limited and more particularly Shri Tarkunde appearing on behalf of J.K. Cotton Spg. & Wvg. Mills Co. Ltd., followed by Shri Krishna Kumar appearing for Modipon Limited placed strong reliance on scientific and technological material explaining the manufacturing process of rayon yarn and nylon yarn to contradistinguish the same from fibres. The learned Additional Solicitor General rightly drew our attention to the averments made in paragraph 1 of the writ petitions before the High Court in which each of the appellants and the petitioners has specifically averred that they are manufacturers of rayon, PG NO 899 and submitted that they cannot be heard to say that the product manufactured by them was not rayon made of artificial silk or fibre. The contention of the learned Additional Solicitor General must prevail. The averments in paragraph 1 of the writ petitions are more or less the same. We need only reproduce paragraph 1 of the writ petition filed by Messrs Sirsilk -Limited, and it reads:

> "The petitioners are a Limited Company incorporated under the Indian Companies Act and are having their Registered office at Himayatnagar, Hyderabad-29. The Petitioners, inter alia, carry on the business of manufacture of rayon yarn and staple fibre both of which form species of what is popularly known as "man made yarn".

For the purpose of manufacturing the aforesaid yarns, the petitioners have established their factory at Sirpur Kagaznagar."

To the same effect are the averments made in the writ petitions filed by the appellants M/s. J.K. Cotton Spinning & Weaving Co. Ltd., M/s. Baroda Rayon Corporation Ltd. and M/s. Modipon Ltd. as well as by the petitioners M/s. Century Spinning & Manufacturing Co. Ltd.. Century Enka Ltd., M/s. Nirlon Synthetic Fibres & Chemicals Ltd. and M/s. Garware Nylons Ltd. On their own showing, the appellants as well as the petitioners are actually engaged in the manufacture of rayon yarn and nylon yarn both of which they aver are species of what is known as man-made fibres . In view of this undisputed factual position, the contention that rayon yarn and nylon yarn manufactured by them are `filaments' and not fibre' or that they are not yarn' and therefore do not fall within the definition of textiles under s. 2(g) of the Act prior to its amendment, cannot be countenanced. The main thrust of the argument of learned counsel for the appellants and the petitioners that rayon yarn and nylon yarn manufactured by the appellants and the petitioners are not fibres but filaments, stems from the decision of the Madhya Pradesh High Court in The Gwalior Rayon Silk Manufacturing (Wvg.) Co. Ltd., Birlagram, Ujjain v. The Textile Committee, Bombay

(supra). In the decision, the Madhya Pradesh High Court assumes that a fibre in order to answer the description of yarn, in the ordinary commercial sense must be a spun strand meant for use in weaving, knitting or rope-making. It proceeds upon the basis that although viscose staple fibre was manufactured out of fibre but it had to be subjected to various other operations such PG NO 900 as blending, carding, combing or hackling and spinning before fibre could be converted into yarn. Upon that basis, the Madhya Pradesh High Court held that viscose staple fibre manufactured by the Gwalior Rayon Silk Manufacturing (Wvg.) Co. Ltd. was made wholly of filaments and therefore was not fibre and hence was not yarn and accordingly did not fall within the meaning of the expression textiles as defined in s. 2(g) of the Act. We are afraid, we cannot accept this line of reasoning.

The Madhya Pradesh High Court was clearly wrong in giving to the expression 'textiles' in s. 2(g) of the Act a narrow and restricted meaning. The reasoning of the Madhya Pradesh High Court is best stated in the words of G.P. Singh, CJ. speaking for himself and C.P. Sen, J:

> "According to this definition, textiles meant "any fabric or cloth or yarn made wholly or in part of cotton, or wool or silk, or artificial silk or other fibre". The use of the word `means' in the definition gives rise to the inference of its being restrictive and exhaustive. Further, it is clear that what was embraced by the definition before 1st January 1975 was any fabric or cloth or yarn and not any fibre. The definition made a distinction between yarn and fibre. The same distinction appears in Section 2(f) in the definition of `textile machinery' which expression is defined to mean the equipment employed "for the processing of textile fibre into yarn .. ". The Act does not contain any definition of 'yarn' and hence it has to be understood in its ordinary sense to mean 'any fibre, or wool, silk, flax, cotton, nylon etc. spun into strands for weaving, knitting or making thread". [Webster's New World Dictionary]."

The learned Chief Justice then added:

> "A fibre in order to answer the description of `yarn' in the ordinary commercial sense must be a spun strand meant for use in weaving, knitting or rope-making Commr. of Sales Tax U.P. v. Sarin Textile Mills, AIR 1975 SC 1262 at p. 1263. It is true that yarn is manufactured out of fibre but various operations such as blending, carding, combing or hackling and spinning have to be performed for converting fibre into' yarn (See the New Encyclopaedia Britannica, 15th Edition, Vol. 18, p. 173.)"

PG NO 901 There was no explicable reason for the legislature to have excluded rayon yarn and nylon yarn from the purview of the definition of textiles in s. 2(g) of the Act prior to its amendment. The expression `textiles' has been defined in s. 2(g) of the Act in a way as to include not only yarn but also man-made fibres or artificial silk. In the premises, the expression `textiles' as defined in s. 2(g) of the Act has to be given a broad and liberal construction, in furtherance of the purpose and object of the Act. The Madhya Pradesh High Court was clearly in error in construing the expression `textiles' as defined in s. 2(g) of the Act, prior to its amendment in a narrow and restricted sense. The particular words used by the legislature i.e. the terms `yarn, man-made fibres, otherwise known as artificial silk' had to be understood according to the common commercial understanding of the

terms used, and not in their scientific or technical sense. The High Court failed to bear in mind that the Act is not a scientific treatise on organic or inorganic chemistry but is an enactment by the Parliament for the benefit of the indigenous textile industry, so that it may be able to hold its own in a fiercely competitive international market. In these circumstances, the Act and the words used therein have to be interpreted not on a technological or specialised scientific plane but in the popular sense as understood by experts in the sphere of the textile industry and the commercial world dealing with it. We find no discernible reason for Parliament to have left out man-made fibres like viscose staple fit re. rayon yarn and nylon yarn from the purview of the definition of textiles in s. 2(g) of the Act prior to its amendment particularly when synthetic fibres have a world market and India has entered into competitive international trade in all textiles in a large way. We were referred to several Encyclopaedias, authoritative treatises, text-books and hand books viz., Encyclopaedia Britannica, both Micropaedia and the 15th Edn., `Textile Terms and Definitions', 5th Edn. published by the Textile Institute, Manchester in 1963, 1968 Book of American Society for Testing and Materials, Part 24, Mercury Dictionary of Textile Terms, Standard Handbook of Textiles by A.J. Hall, Handbook of Textile Fibres, 4th Edn. by J. Gordon Cook, Manmade Fibres by Mark-Atlas and Cernia, Vol. 2, Textile Fibres by Mathews, 6th Edn. and Survey of Man- made Fibre Industry by Dr. A.S. Kapur. These Encyclopaedias and technological books contain a wealth of information collected by knowledgeable, and distinguished men who have acquired distinction in their own spheres of academic and are made use of not only by our own Courts but by Courts of PG NO 902 other countries where English language is in vogue. The words `fibre' and `filament' are not defined either in the Act or the Rules thereunder. The meaning assigned to `fibre' in Webster's New Twentieth Century Dictionary of English Language, 2nd Edn. is a "filament and thread like part of a substance as a filament of spun glass, wool, or hornblende". Even a `filament', according to this Dictionary, consequently constitutes `fibre'. `Artificial silk', according to the Oxford Concise Dictionary, 6th Edn., 1976 means rayon.

In Encyclopaedia Britannica 14th Edn. Vol. 7, p. 257 under the heading `Fibres, Man-made', the following passage occurs:

> "Man-made fibre consists of two broad grounds, based upon the origin of the fibre-forming substance. The first group, of which rayon and acedate are examples, are produced by modifying natural fibre-forming materials such as cellulose. The second group, frequently called synthetics and including such fibres as nylon and polyester, are produced from synthetic chemicals ..... "

Again there occurs a passage at p. 260 of the same volume in the following terms:

> "In man-made fibres, the importance of rayon is similar to that of cotton among the natural fibres."

Under the heading Synthetic fibres" sub-heading "Polyamide fibres" at p. 263 it is stated:

> "Polyamides are polymers, or chain-like structure of linked molecular units, containing recurring amide groups as integral parts of the main polymer chains.

> Synthetic polyamide fibres form nylon, a major textile fibre."

In Encyclopaedia Britannica, Vol. 18 under the heading "Development of the textile industry" sub-heading production of yarn', at p. 172, we notice the following passage:

> "Yarn is a strand composed of fibres, filaments (individual fibres of extreme length), or other materials, either natural or man-made, suitable for use in the construction of interlaced fabrics. such as woven or knitted types."

PG NO 903 This passage again indicates that in the textile industry `filaments' are treated as individual fibres of extreme length.

Similarly, in Chamber's Encyclopaedia, Vol. 5 at p. 613, the term `fibre' is explained thus:

> "Fibre, a term used for a thread-like element of animal or vegetable tissue .....and any thread or filament used in the manufacture of textile materials. The range of fibres used for making fabrics was restricted to naturally occurring substances until the introduction of man-made fibres. These include regenerated fibres, such as those made from cellulose, and truly synthetic fibres, such as nylon, Terylene, and Courtelle."

At p. 616 of the same volume under the heading "Artificial Fibres", it is stated:

> "Artificial fibres can be divided into two main groups; regenerated and synthetic. In the first class a further sub- division can be made between fibres made from regenerated cellulose, i.e. viscose, acetate and cuprammonium protein such as Fibrolane. Fibres in the second class are strictly synthetic in the sense that they are built up from simple chemical compounds into the complex molecular structure required. They are classified according to their chemical composition: polyamides (nylon and perlorn) ..... In Encyclopaedia Britannica, Micropaedia, Vol. VIII at P. 442 under the heading `rayon' the following passage occurs:
>
> "Rayon, generic term for man-made textile fibre produced from the plant substance cellulose. Developed in an attempt to produce silk chemically, the fibre was originally known by such terms as artificial silk and wood silk, but in 1924 it was given the coined name rayon. Anitrocellulose type, first produced commercially in France in 1891 in the form of a nitrocellulose fibre, it was later discontinued because of its high flammability. Rayon is described as a re-generated fibre because the cellulose is converted to a liquid compound and then back to cellulose in the form of fibre. The cellulose, obtained from soft woods or from the short fibres adhering to cotton seeds (linters), is chemically PG NO 904 treated to form a solution that is forced through tiny holes in a nozzle (spinnerets). This process of forcing a solution through spinneret holes is called spinning; the same term is applied to the production of yarn by twisting together fibres that may be of natural man-made origin. Emerging in the

> form of filament, a fibre of great length, the rayon is hardened by drying in air or by chemical means. The filament is sometimes out into shorter pieces having uniform length, called staple, and twisted together to make yarn.
>
> (Emphasis supplied) The passages quoted above clearly show that even in the sphere of textile technology distinction between `fibre' and `filament' has reached a vanishing point. They further show that both nylon and rayon are `artificial silk' yarn in contra-distinction to genuine silk. We accordingly uphold the view expressed by the High Courts of Allahabad, Andhra Pradesh, Gujarat and Madras and hold that rayon and nylon yarn are not only made of 'other fibre' but are also yarn of `artificial silk' within the meaning of s. 2(g) of the Act. The view to the contrary by the Madhya Pradesh High Court does not lay down correct law.
>
> Other considerations lead us to the same conclusion. The Industries (Development and Regulation) Act, 1951 enacted by Parliament received the assent of the President on October 31, 1951. In the Statement of Objects and Reasons appended to the Bill which became the Act. it is stated: "The Bill brings under Central control the development and regulation of a number of important industries, the activities of which affect the country as a whole and the development of which must be governed by economic factors of all India import .. The Bill confers on Government power to make rules for the registration of existing undertakings, for regulating the production and development of the industries in the Schedule and for consultation with Provincial Governments on these matters."

The First Schedule of this Act sets out the various industries which it declared that it was expedient in the public interest that the Union should take under its control. Cl. (7) of Item No. 19 which bears the heading "Chemicals (other than Fertilisers)" is "man-made fibres including regenerated cellulose-rayon, nylon and the like." Cl. (5) of Item No. 23 which bears the heading "Textiles (including those dyed, printed or otherwise processed)" is "made wholly or in part of synthetic, artificial (man-made) PG NO 905 fibres, including yarn and hosiery of such fibres." This Parliamentary Act thus treats rayon as well as nylon as textiles made of artificial (man-made) fibres. The Industries (Development and Regulation) Act, 1951, and the Textiles Committee Act, with which we are concerned, may properly be considered to be statutes in pari materia. According to Sutherland:

> "Statutes are considered to be in pari materia to pertain to the same subject-matter when they relate to the same person or things, or to the same class of persons or thing, or have the same purpose or object (Statutes and Statutory Construction, Vol. 2, p. 535, 3rd Edn.)"

The object of either of these two Acts is to protect and to assist in the development of Textile Industry inter alia.

> "Assistance in ascertaining the meaning of an enactment may be obtained by comparing is language with that used in earlier statutes relating to the same subject" (Craies on Statute Law, P. 140, 1971 Edn.) Maxwell-also in "The Interpretation of Statutes" (1976 Edn. p. 66) states that:
>
> "light may be thrown on the meaning of a phrase in a statute by reference to a specific phrase in an earlier statute dealing with the same subject-matter."

The Industries (Development and Regulation) Act, 1951 is an Act earlier in point of time and we see no reason why if a subsequent statute by the same Legislature can be pressed in aid for the purpose of interpretating in the event of any doubt, the provisions of an earlier statute, the earlier statute cannot be made use of for the purpose of construing, in the event of ambiguity, the provisions of a later statute.

For all these reasons the contention that rayon yarn and nylon yarn manufactured by the appellants and the petitioners are made wholly of filaments and not of fibres and therefore did not come within the purview of textiles as defined in s. 2(g) of the Act prior to its amendment and therefore they were not liable for payment of the fee levied under r. 21 of the Rules, cannot prevail.

The various activities undertaken by the Textiles Committee for the development of the textile industry and the promotion of textile exports which have expanded considerably, and the duties entrusted to the Committee to ensure the quality of all textiles whether made wholly or partly of cotton wool, silk, artificial fibre or silk, particularly when Indian Textiles by and large and artificial silk or man-made fibres like rayon yarn, viscose staple fibres and nylon yarn as well as fabrics made of artificial silk, are facing ever increasing competition in PG NO 906 the international market from other exporting countries like Japan, China etc. and the production and export of textiles having substantially increased, the legislature thought it necessary to make adequate provision and accordingly created a Textiles Fund under s. 7 of the Act to meet the expenditure of the Textiles Committee which necessarily has to be on a larger scale. At the time when the Textiles Committee was established under s. 3, the legislature accordingly provided for the establishment of a Textiles Fund constituted under s. 7 of the Act from out of which the expenditure of the Committee has to be defrayed. Sub-s. (1) of s. 7 provides that the Committee shall have a Fund to be called the Textiles Fund and there shall be credited thereto various items specified in cls. (a) to (d), apart from all the moneys standing to the credit of the Cotton Textiles Fund established under the repealed Ordinance, immediately before the date on which the Textiles Committee came to be established, which by virtue of s. 24(2)(a) stood transferred to and formed part of the Textiles Fund, and such sums of money as the Central Government after due appropriation made by Parliament in that behalf, pays to the Committee in each financial year by way of grant, loan or otherwise for purposes of enabling the Committee to discharge its functions under the Act. There are only two other sources of income. One of the main sources of revenue, as indicated in cl. (c), is the income derived from the levy of the fee under r. 21 of the Rules, and the other that indicated in cl. (d) viz. all moneys received by the Committee by way of grant, gift, donation, contribution, transfer or otherwise. After the imposition of the duty of excise as a cess by s. 5A of the Act introduced by Act No. 51/73, the income derived from such cess becomes another source. Sub-s. (2) of s. 7 provides that the moneys in the Fund shall

be applied for (a) meeting the pay and allowances of the officers and other employees of the Committee and administrative expenses of the Committee, and (b) carrying out the purposes of the Act. Sub-s. (3) of s. 7 provides that all moneys in the Fund shall be deposited in the State Bank of India or be invested in such securities, as may be approved by the Central Government. From these provisions, it is amply clear that all the income derived from the levy of the fee under r. 21 of the Rules has to be credited to the Textiles Fund and the said income is utilised in defraying the expenditure of the Textiles Committee in carrying on its manifold duties. No part of the fee levied under r. 21 goes into the Consolidated Fund of India. It is only by s. 5F introduced by Act No. 51/73 which provides that proceeds of the duty of excise collected under s. 5A reduced by the cost of collection as determined by the Central Government, shall PG NO 907 first be credited to the Consolidated Fund of India and the Central Government may, after due appropriation made by Parliament by law, pay to the Committee from out of such proceeds, such sums of money as it thinks fit for being utilised for the purposes of the Act. We are not here concerned with the duty of excise recovered as a cess under s. 5A but only with the question whether levy of the fee under r. 21 is sustainable as a fee. That is to say, whether- there is sufficient quid pro quo between the levy of the fee and the services rendered. It has not been suggested that any part of the fees levied under r. 21 can be diverted to any other purpose. When the entire proceeds of the fee are utilised in financing the various projects undertaken by the Textiles Committee, as also the inspection of all textiles including man-made fibres and textile machinery, the appellants cannot be heard to say that there is no reasonable and sufficient correlation between the levy of the fee and the services rendered. The learned Additional Solicitor General drew our attention to the various averments made in the counter-affidavit filed on behalf of the Textiles Committee as well as the Government of India showing the extent of income from the fee levied under r. 21 and the expenditure of Textiles Committee in each financial year. From the material on record it is amply clear that the levy of the fee under r. 21 is not commensurate with the expenditure incurred by the Textile Committee. It is not in dispute that the Textiles Committee has over the years built up a huge infrastructure and the Central Government has spent crores of rupees to make the legislation effective and meaningful and to bring about an overall improvement in the quality and standard of the textiles including man-made fibres or artificial silk so that our country may continue to retain its rightful place in the world market in a fiercely competitive international trade. For a proper appreciation of the point involved, it is necessary to set down the activities of the Committee in discharge of its functions conferred upon it by s. 4 of the Act. The Committee with a view to maintaining and stepping up the export of Indian Textiles, has introduced a number of pre-shipment inspection schemes covering a wide range of textiles to ensure that only quality textiles and yarns are exported from India. Inspection and certification of Art Silk and Wollen Textiles have also been undertaken by the Committee in pursuance of various Export Incentive Schemes introduced by the Government from time to time. The Committee has set up an Inspectorate with a large technical staff qualified in the various disciplines of textile technology. The Inspectorate has carried out inspection of various types of textiles large quantities. Inspection of mill-made cotton cloth and mill-made cloth yarn has been PG NO 908 made compulsory and export thereof without a certificate issued by the Committee has been banned. In order to carry out the inspection as expeditiously and smoothly as possible, the Committee besides its head office at Bombay has established its regional offices at fourteen different textile centres, namely, at Ahmedabad, Amritsar, Bangalore, Calcutta, Coimbatore, Indore, Kanpur, Ludhiana, Madras, Madurai, Nagpur, New Delhi, Sholapur and Surat. Besides these, wherever

necessary, the Committee staff are also attached to the textile mills at other places to render immediate service to the mills and exporters on the spot. The learned Additional Solicitor General placed before us the counter-affidavit of Shri C.G. Shivdasani, Acting Secretary of the Textiles Committee. It is averred under the heading 'Inspection' that for ensuring standard qualities of textiles and to satisfy that they have the characteristics necessary for satisfactory performance, necessary tests such as identification of fibres, fibre composition, fibre finances, shrinkage, chemical degradation, resistance to milldew and fungus etc. are carried out quite often by the Committee. A statement showing the income and expenditure of the Textiles Committee for the period commencing from March l, 1965 and ending with March 31, 1971 as well as the estimated budget for the years 1971-72 to 1973-74 are set out to verify the ratio between the fee collected and the expenditure incurred for achieving the object and purpose of the Act. The statements are as detailed below:

> EXPENDITURE AND FEES REALISED DURING THE PERIOD FROM 1.3.1965 T O 31.3.71 Accounting Revenue Capital Market Fees Year Expenditure Expenditure Research Realised on Inspectorate. on Inspectorate.

March 1965 00.89 lakhs --lakhs 0.08 lakhs-lakhs 1965-66 17.71" 0.64 " 2.00" 21.90"

1966-67	23.05"	1.28"	2.32"	44.00"
1967-68	24.29"	0.91"	2.05"	30.38"
1968-69	24.73"	0.60"	2.66"	34.79"
1969-70	28.95"	1.87"	3.82"	32.39"
1970-71	34.62"	3.14"	4.55"	29.79"

Total:-- 154.24" 8.44" 17.48" 193.25"

PG NO 909 STATEMENT SHOWING THE ESTIMATED REVENUE AND CAPITAL EXPENDITURE AND REVENUE FOR THE YEARS 1971 72 TO 1973-74 Year Estimated Revenue Capital Expenditure Estimated Expenditure on on Inspectorate Fees Inspectorate.

Realisable

1971-72(RE)	37.35 lakhs	22.66 lakhs	53.35 lakhs
1972-73(BE)	43.78"	19.93"	53.76"
1973-74	52.00"	30.00"	55.00"

Total 133.13 " 72.59" 162.11"

Under the heading `Collection of Fees', the necessary averments are there showing that the entire amount of fees levied and collected under r. 21 of the Rules is utilised in meeting the expenses of the Committee on account of pay and allowances of the officers and other employees of the Committee and for carrying out the purposes of the Act. The following is the table showing the fees realisable, fees actually realised and the total expenditure of the Inspectorate during the period from April 1, 1965 to March 31, 1971:

---------- Period Fees Fees Total Expenditure on the Realisable Realised Inspectorate, (in lakhs)

1.3.65 to
31.3.71 Rs.290.51 Rs.193.25 Revenue Rs.154.24
Capital Rs.8.44
Total Rs.162.68
(Actuals)
1.4.71 to
31.3.72 Rs.53.35 Rs.31.03 Revenue Rs.37.35
Capital Rs.22.66
Total Rs.60.61
(Revised Estimate)
1.4.72 to

31.3.72 Rs. 53.76 Rs.31.00 Revenue Rs.43.73 (Estimated) Capital Rs.19.93 Total Rs.63.71 (Budget Estimates)

Total Rs.397.62 Rs.255.28 Rs.286.40

PG NO 910 On these facts, there is no doubt whatever that the entire proceeds of the amount collected by way of fee under r. 21 of the Rules are spent in carrying on the functions of the Textiles Committee. It cannot be doubted that the activities of the Committee in furtherance of the object and purpose of the Act are to ensure the quality of all textiles whether made wholly or partly of cotton, wool, silk, artificial fibre or silk. The functions of the Committee should generally be to ensure standard qualities of textiles for internal as well as external marketing and manufacture and use of standard type of textile machinery. The grievance of the appellants and the petitioners that there is no inspection of the rayon yarn and nylon yarn manufactured by them at the stage of production is belied by the fact that there is pre-shipment inspection of the fabrics manufactured from such fibres for export. The provision for the levy of fees for inspection and examination of textiles under s. 12(1)(a) of the Act or the levy of the fee under r. 21 of the Rules cannot be

challenged on the ground that there is no reasonable relationship between the levy of the fee and the services rendered by the Committee to the entire textile industry to which the appellants and the petitioners before us owning large textile mills belong. When the levy of the fee is for the benefit of the entire textile industry, there is sufficient quid pro quo between the levy recovered from the appellants and the petitioners and the services rendered to the industry as a whole. In the premises, the principles laid down by this Court in Sreeniwasa General Traders are clearly attracted. One of us (Sen, J.) speaking for the Court had observed:

> "The traditional view that there must be actual quid pro quo for a fee has undergone a sea change in the subsequent decisions. The distinction between a tax and a fee lies primarily in the fact that a tax is levied as part of a common burden, while a fee is for payment of a specific benefit or privilege although the special advantage is secondary to the primary motive of regulation in public interest. If the element of revenue for general purpose of the State predominates, the levy becomes a tax. In regard to fees there is, and must always be, correlation between the fee collected and the service intended to be rendered. In determining whether a livy is a fee, the true test must be whether its primary and essential purpose is to render specific services to a specified area or class; it may be of no consequence that the State may ultimately and indirectly be benefitted by it. The power of any legislature to levy a fee is conditioned by the fact that it must be by and large PG NO 911 a quid pro quo for the services rendered. However, correlationship between the levy and the services rendered or expected is one of general character and not of mathematical exactitude. All that is necessary is that there should be a "reasonable relationship" between the levy of the fee and the services rendered. If authority is needed for this proposition, it is to be found in the several decisions of this Court drawing a distinction between a `tax' and a `fee'. See The Commissioner, Hindu Religious Edowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt [1954] SCR 1005; H.H. Sudhundra Thirtha Swamiar v. Commissioner for Hindu Religious and Charitable Endowments, Mysore, [1963] Suppl. 2 SCR 302; The Hingir- Rampur Coal Co. Ltd. v. State of Orissa, [1961] 2 SCR 537; H.H. Shri Swamiji of Shri Admar Mutt v. Commissioner Hindu Religious and Charitable Endowments Department, [1980] 1 SCR 368; South Pharmaceuticals and Chemicals, Trichur v. State of Kerala, [1982] 1 SCR 519 and Municipal Corporation of Delhi v. Mohd. Yasin, [l963] 2 SCR 999.
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> There is no generic difference between a tax and a free. Both are compulsory exactions of money by public authorities. Compulsion lies in the fact that payment is enforceable by law against a person in spite of his unwillingness or want of consent. A levy in the nature of a fee does not cease to he of that character merely because there is an element of compulsion or coerciveness present in it. nor is it a postulate of a fee that it must have direct relation to the actual service rendered by the authority to each individual who obtains the benefit of the service. It is now increasingly realised that merely because the collections for the services rendered or grant of a privilege or licence are taken to the consolidated fund of the State and not separately appropriated towards the expenditure for rendering the service is not by itself

> decisive. Presumably, the attention of the Court in the Shirur Mutt case was not drawn to Article 226 of the Constitution. The Constitution nowhere contemplates it to be an essential element of fee that it should be credited to a separate fund and not to the consolidated fund. It is also increasingly realised that the element of quid pro quo in the strict sense is not always a sine qua non for a fee. It is needless to stress that the element of quid pro quo is not necessarily absent in every tax."

PG NO 912 See also M/s. Amar Nath Om Prakash & Ors. v. State of Punjab & Ors., [1985] 2 SCR 72; City Corporation of Calicut v. Thachambalath Sadalinan & Ors., [1985] 2 SCR 1009; I.T.C. Ltd. & Ors. v. State of Karnataka & Ors., (per Fazal Ali & Mukharji, JJ) (1985) SUPP1. SCR 476 and Om Parkash Agarwal & Ors. v. Giri Raj Kishori & Ors., [1986] 1 SCR 149. Viewed from this perspective, the conclusion is inevitable that the levy of the fee under r. 21 of the Textiles Committee Rules, 1965 by the Textiles Committee under sub-s. (1) of s. 12 of the Textiles Committee Act, 1963 is valid and constitutionally permissible. All the appeals and connected writ petitions filed by the textile mills in India must fail and are dismissed with costs. Civil appeal No. 1281 of 1973 preferred by the Textile Committee, Bombay against the judgment and order of the Kerala High Court dated March 3, 1979, is however allowed and the writ petition filed by the respondent, M/s. Travancore Rayons Limited is dismissed with costs. R.S.S.