

Dy. Chief Controller Of Imports & ... vs K. T. Kosalram & Ors on 29 September, 1970

Equivalent citations: 1971 AIR 1283, 1971 SCR (2) 507, AIR 1971 SUPREME COURT 1283, 1971 2 SCR 507, 1972 MADLW (CRI) 5, (1971) 2 SC CRI R 364, 1972 (1) MADLJ(CRI) 43, 1972 MADLJ(CRI) 136, 1972 (1) SCJ 189, 1971 CRI APP R (SC) 53

Author: I.D. Dua

Bench: I.D. Dua, Vishishtha Bhargava

PETITIONER:

DY. CHIEF CONTROLLER OF IMPORTS & EXPORTS, NEW DELHI

Vs.

RESPONDENT:

K. T. KOSALRAM & ORS.

DATE OF JUDGMENT:

29/09/1970

BENCH:

DUA, I.D.

BENCH:

DUA, I.D.

BHARGAVA, VISHISHTHA

CITATION:

1971 AIR 1283 1971 SCR (2) 507

1970 SCC (3) 82

CITATOR INFO :

R 1984 SC 684 (50)

ACT:

Imports and Exports Act (18 of 1947), Import Control Order, 1955 and Import Trade Control Policy-Condition in licence for import of goods-Interpretation of-Import of Printing Presses-Condition in licence against sale of printing material-If applicable to printing presses..

HEADNOTE:

Under s. 3 of the Imports and Exports Act, 1947, the Central Government is empowered to provide by Order published in the Official Gazette for prohibiting, restricting or otherwise

controlling the import,, export, carriage or shipment etc., of goods of any specified description. The Central Government made the Import Control Order, 1955. Under cl. 3 of this Order the import of any goods of the description specified in Sch. I of the Order is restricted except under and in accordance with a licence or a customs clearance permit granted by the Central Government. Item 67(1) in Sch. I Part V, contains printing and lithographic material, and a large number of various components of a printing press.

In Part V of the Schedule, known as ITC Schedule of the Import Trade Control Handbook, relevant for the year 1960, published by the Government of India (Ministry of Commerce and Industry) printing and lithographic material are entered at serial no. 67(1). The I.T.C Handbook, which- is published to give information of rules and procedure for the assistance of those interested in imports, emphasises the importance of correct classification with reference to the serial number and part, of the ITC Schedule.

The Government of India, Ministry of Commerce and Industry also publishes from time to time its Import Trade Control Policy. In the publication, relevant for the period April-September 1960, the policy statement shows the list of items licensable to actual users, and item 67(1)(i) dealing with printing machinery (for Newspaper Establishments and quality printers), is shown in App. iv, Part V.

The respondents-who were the Director-in-Charge and other officers of a company publishing a Tamil daily newspaper-and others applied in Form B prescribed in Appendix III of the ITC Handbook, for a licence for importing a printing press. This form is meant for the import of goods by actual users, when the licence is sought for import of goods other than those falling under the capital goods licensing procedure. The respondents stated that the raw material was required by them for printing their newspaper. The ITC number and part were specifically stated to be No. 67(1)(i), Part V. An amendment of the licence was sought by the respondents for importing one more printing press, and while the matter was pending with the Government, negotiations were entered into by the respondents with a third party for the sale of one of the printing presses. One of the presses was ultimately sold and delivered to the third party. According to condition (c) of the licence issued

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to the respondents the licence-bolder had to utilise the goods imported only for consumption as raw material or accessories in his own factory and their sale to or use by other parties was specifically prohibited.

Alleging that the respondents had violated cl. (c) of the licence, the appellant, (Deputy Chief Controller of Imports and Exports) who was authorised by Statute to do so, field a complaint against them for offences under s. 120B I.P.C., s. 5 of the Imports and Exports Control Act and cl. 5(iv) of

the Imports Control Order, 1955.

The respondents justified the sale on the contention that cl. (c) did not cover the printing presses, that this clause postulated that the goods covered by it should be capable of being utilized for consumption as raw material or accessory in a factory, and that a complete printing press is neither raw material nor accessories and that it cannot be said that by fixing a printing press for running it the press is utilised for consumption as raw material or accessory.

The trial court convicted some of the accused. The High Court acquitted them on appeal, and dismissed the petition for enhancement of sentence filed by the Public Prosecutor. The Public Prosecutor applied under Art. 134(1) (c) of the Constitution for leave to appeal to this Court but that application was dismissed by the High Court. Special leave to appeal under Art. 136 was applied for by the appellant and was granted.

On the questions: (1) Whether special leave to appeal could be granted to the appellant when he did not move the High Court; and (2) whether the respondents were guilty of the offences charged,

HELD : (1) There is no provision of law which disentitles the appellant, who was the original complaint, from applying for special leave in this Court merely because the Public Prosecutor had applied in the High Court for enhanced punishment and for leave to appeal to this Court, under Art. 134(1) (c). Article 136 and the Supreme Court Rules are also wide enough to empower this Court to grant special leave to the appellant in cases like the present [515 A-C] Management of Hindustan Commercial Bank Ltd. Kanpur v. Bhagwandass, [1965] 2 S.C.R. 265, referred to.

(2) (a) The words used in the licence have to be construed in the background of the scheme of the Import Control Order, 1955, entry No. 67 of Schedule I to that Order and the Import Trade Control Policy. What particular meaning should be attached to words and phrases in a given instrument is usually to be gathered from the context. the nature of the subject matter, the purpose or the intention of the author, and the effect of giving to them one or the other of the permissible meanings, on the object to be achieved. [515 F-H]

There is no item in any of the lists referred to in the Import Control Order, 1955, or the relevant ITC Handbook or the relevant publication regarding Import Trade Control Policy which covers printing presses as a separate item. Printing presses are thus treated by legislative intendment as printing material or printing machinery, and the respondents also proceeded on that footing. This is shown by their use of Form B, and by the reference in their application to serial No. 67(1)(i). They also knew the disability imposed on them by cl. (c) of the conditions in the licence issued to them. The words 'utilised', 'consumption' and

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raw material', in the conditions have to be fitted into the clearly discernible statutory scheme and this is, possible without doing violence to the dictionary meaning of the words. The word "consumption" conveys the idea of using up the goods by fixing them in the factory along with the other components, and the various articles mentioned in Item 67(1) (i) have been intended constitute 'raw material.' [518 A-B; 519 E-F]

(b) Further, the respondents sought as actual users the original licence and the amended licence on the ground that the imported goods were required to meet the increasing demand of circulation of their newspaper. Had they not complied with the procedure meant for the import of goods by actual users they might not have secured the licence. Having secured a licence expressly for the import of goods for their use they cannot be permitted to ignore the condition of actual user on the plea that cl. (c) of the conditions is inapplicable to them. [519 F-H]

Therefore, all the respondents-the individual accused and the company-were guilty of the offences charged. [520 F]

State of West Bengal v. Motilal Kanoria, [1966] 3 S.C.R. 933, followed.

(3) Breach of conditions for import of goods is a serious matter because it prejudicially affects the country's national economy. The view of the High Court is not sustainable on the statutory language and on the Import Control Policy of which the respondents were fully aware, and hence, this Court is justified in converting the acquittal into conviction, under Art. 136 of the Constitution. [520 G-H]

JUDGMENT:

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 178 of 1967.

Appeal by special leave from the judgment and order dated January 5, 1967 of the Madras High Court in Criminal Appeal Nos. 34 to 38 of 1965.

R. N. Sachthey, for the appellant.

H. R. Gokhale, M. K. Ramamurthi, Vineet Kumar and Shyamala Pappu, for respondent No. 1.

A. V. Rangam, for respondent No. 6.

The Judgment of the Court was delivered by Dua, J. A complaint under S. 6 of the Imports and Exports Control Act, 1947 dated 24th February, 1964 was presented by the Chief Controller of Imports and Exports, New Delhi in the court of the Chief Presidency Magistrate, Madras against (1)

K. T. Kosalram, Director-in-charge of Messrs Dina Seithi Ltd., Madras, (2) K. T. Janakiram, Director, Messrs Dina Seithi Ltd., (3) K. Natarajan, Manager, Messrs Mohan Ram Press, Madras, (4) Messrs Dina Seithi Ltd., Madras, (5) Sri T. N. Ramachandran son of S. Natesa Iyer, Madras and (6) T. Natarajan, Manager, Messrs Dina Seithi Ltd., Madras. Accord-

5 10 ing to the broad allegations in the complaint, on November 28, 1959 accused no. 4 (hereafter called the Company) was registered under the Companies Act, 1956, as a public limited company with the Registrar of Companies, Madras. Accused nos. 1 and 2 who are brothers were both directors of the Company, accused no. 1 being the Director-in-charge attending to its day to day management and administration. He was also authorised to operate its accounts with the banks. The primary object of the Company was publication of a Tamil daily newspaper "Dina Seithi". Accused no. 3 was the Manager of Messrs Mohan Ram Press located in the same building in which the Company was located. Srimati Gomati Devi, wife of accused no. 1 was the sole proprietress of this Press. She had given power of attorney to her husband for operating the bank account of her Press. The daily newspaper (Dina Seithi) used to be printed at this press. Accused no. 5 was a broker engaged in the business of negotiating sale and purchase of printing machinery. Between 1949 and 1951 he was working as Chief Salesman of Printers' House, Madras and before that for about two years he had worked as a salesman with Messrs Standard Printing Machinery Company, Madras. In 1951 he started his independent business as a broker; in addition he also used to work as a correspondent of "Kerala Kaumudi" belonging to the Company. Accused no. 6 was the Manager of the Company and his wife Smt. Sarojini was one of its Directors. On May 5, 1960 accused no. 1 applied on behalf of the Company to the Chief Controller of Imports and Exports, New Delhi, for the grant of an import licence in favour of the Company for importing two secondhand rotary printing presses valued at Rs. 3 lakhs in the category of "Actual Users". The Chief Controller of Imports & Exports, on the recommendation of the Committee constituted for the purpose, issued in the first instance aft import licence for Rs. 1,50,000 (Ex. P-

12). The number of this licence was A-759626/60/AU/CCI/HO and it was dated September 19, 1960. Later, on the request of accused no. 2 on behalf of the Company, the value of this licence was raised to Rs. 3 lakhs on the recommendation of the Press Registrar of India. The licence was returned to the Company on December 16, 1960. The original period of validity of the licence having expired on June 19, 1961 accused no. 2 requested the Licensing Authority on behalf of the Company to extend the period on the ground that the machinery could not be fixed up by the Company's Directors. Under the orders of the Controller in charge of the newsprint sale, the validity of the licence was extended upto March 19, 1962. Oil July 2, 1961 accused no. 1 sought permission of the Licensing Authority on behalf of the Company to import two secondhand rotary presses instead of one already permitted within the licence value of Rs. 3 lakhs under the import 51 1 licence Ex. P/12 on the ground that one more printing press was required for the proposed office at Madurai (Ex. P/15). After securing further necessary information about the machinery proposed to be imported the Chief Controller approved the request with the result that the amended licence for two presses was sent to the Company, on August 16, 1961. On December 19, 1961 the Company as per letter sent by accused no. 1, informed the Chief Controller that one rotary printing press had been imported and the other was expected to arrive by January, 1962. It was requested that in the import licence the description of the goods be changed from "Rotary Press" to "Rotary Press with Stereo equipment

and Turtles". We find from Ex. P/17 and Ex. P/17(a) that it was represented that the Company was incurring heavy demurrage as the cases were lying on the wharf uncleared for want of the required amendment of the licence. This was described as a purely technical amendment in the licence. This request was granted with the approval of the Chief Controller of Imports and Exports. The amended licence was despatched to, the Company on January 3, 1962. According to condition (c) reproduced on the reverse of the import licence the licence-holder had to utilise the goods imported only for consumption in his own factory and its sale to or use by other parties was specifically prohibited. The licence-holder was further prohibited from pledging the imported goods in whole or in part except with a scheduled bank duly authorised to deal in foreign exchange and that also with prior permission of the Licensing Authority. One Dr. K. G. Thomas owned "Kerala Dhvani", a daily newspaper of Kottayam having circulation in the State of Kerala. It has started on August 20, 1959 and C. J. Mani was its general business manager ever since its inception. On November 10, 1960 Dr. Thomas applied to the Chief Controller of Imports and Exports on behalf of his firm for importing a rotary printing press under a Customs Clearance Permit. But this was rejected. On October 25, 1961 he sent another application dated October 3, 1961 on behalf of the firm requesting for an import licence for importing a secondhand rotary press for the period October March, 1962. But this was also rejected. Still another application dated May 10, 1962 for licence for importing two mono typesetting units was also rejected on April 29, 1963. C. J. Mani, the General Manager of this concern was also independently trying to secure a rotary printing press through various parties and firms. Accused no. 5 was known to C. J. Mani and during the former's visit to Kottayam in the first quarter of 1961 he learnt that Dr. Thomas was desirous of securing a secondhand rotary printing press. Sometime in April or May, 1961 accused nos. 2 and 5 visited Kottayam and on meeting Dr. Thomas they told him that accused no. 1 was going to have an import licence for two rotary printing presses but he needed only one, with the result that one R. Hoe & Co eight-page rotary printing press would be available for sale. After some correspondence and discussion between accused no. 5 and C. J. Mani and Dr. Thomas and after a personal meeting between Dr. Thomas and accused no. 1 (at the instance of accused no. 5) the terms of sale of rotary press to Dr. Thomas were finally settled on July 17, 1961. The price was settled at Rs. 2 lakhs ex- godown, Madras, The same day Dr. Thomas paid to accused no. 5 Rs. 15,000 by means of a cheque by way of advance money. Accused no. 5 issued a stamped receipt which was also signed by accused no. 1. On July 19, 1961 the photo prints of the press offered for sale were forwarded by accused no. 5 to Dr. Thomas. On the reverse of these prints were the rubber stamp impressions of the Company. On August 2, 1961 a further sum of Rs. 25,000 was paid by Dr. Thomas for which a receipt was given by accused nos. 1 and 5. Between September 23, 1961 and March 17, 1962 the balance of Rs. 1,76,700 (total being Rs. 2,16,700) was paid by Dr. Thomas in instalments towards the price of the rotary press and its accessories. On September 1, 1961 accused No. 1 had 'opened a letter of credit with a nil margin with the Indian Overseas Bank Ltd., Madras on Messrs Universal Printing Equipment Company, New York- for importing a secondhand rotary press for dollars equivalent to Rs. 1,00,112 against import licence no. A-759626/60/AU/CCI/HQ. On October 28, 1961, the Bank received the relevant import documents and on December 13, 1961 it received from the Company the remittance of the amount in cash towards the letter of credit. On October 20, 1961 Messrs Binny & Co., Madras, the agents of the Shipping Company Messrs Isthmian Lines Inc., U. S. A. had requested the Company to remit Rs. 12,712 being the freight payable at Madras towards the consignment of 19 boxes containing secondhand rotary press due to arrive from New York by s.s. "Steel Vendor" so as to enable them to cable to their

principals at New York to issue the bills of lading to the shippers. A cheque for Rs. 12,712 was accordingly sent by the Company to Messrs Binny & Co., on October 31, 1961. The necessary cable was then sent to New York. The import documents pertaining to the rotary press were sent by accused no. 1 on behalf of the Company to Messrs Natesa Iyer & Co., Clearing Agents, Madras for clearing the goods from the Madras Port by the Indian Overseas Bank Ltd., Pursawalakam, Madras. This invoice was issued by the Universal Printing Equipment Company, Lindhurst in the name of Messrs Dina Seithi Ltd., indicating shipment of the goods imported contained in the 19 boxes bearing marks "Dina Seithi". The customs duty and the clearance charges were paid by the Company. It is unnecessary to state at length further details of the complaint. Suffice it to state that it started functioning from May 20, 1962. In March, 1962 the Deputy Superintendent of Police, Madras, visited the premises of this newspaper and found the rotary printing Press tallying with the description given in the invoice issued to the Company by R. Hoe & Co., New York/London. The number 458 assigned to the press was also found on its major parts. No rotary press imported by accused no. 1 on behalf of the Company was found at its (the Company's) premises. The amount received by cheques and drafts from Dr. Thomas were credited to the account of Messrs Mohan Ram Press of which Smt. Gomati Devi, wife of accused no. 1, was the sole proprietress. On these broad averments it was prayed in the complaint that accused nos. 1 to 3 and 5 and 6 be proceeded against for offences under s. 120-B, I.P.C. read with s. 5 of Imports and Exports (Control) Act, 1947' and also for an offence under s. 5 of the said Act. The Company was alleged to be guilty under s. 5 of the said Act read with cl. (5), sub-cl. (iv) of Imports (Control) Order, 1955. The Chief Presidency Magistrate who tried the complaint acquitted accused no. 6 holding that he had nothing to do with the impugned transaction but convicted the rest. The Company was sentenced to fine only and so were accused nos. 2, 3 and 5; three individual accused persons were directed, in case of default to undergo rigorous imprisonment for three months on each count. Leniency was shown to accused nos. 2, 3 and 5 because they had acted under the directions given by accused no. 1 who was sentenced to rigorous imprisonment for six months under each count and also to pay fine and in default to undergo further rigorous imprisonment for three months.

The convicted accused appealed to the High Court at Madras and the State applied for enhancement of sentences. The High Court acquitted all the accused persons with the result that the revision for enhancement necessarily failed. The High Court having declined certificate of fitness under Art. 134 (1) (c) of the Constitution the Deputy Chief Controller of Imports & Exports secured special leave to appeal under Art. 136 of the Constitution against the order of acquittal by the High Court.

In the High Court, though in the memorandum of appeal several grounds were taken, during arguments the appellant's counsel confined his submission mainly to the point that condition (c) of the licence issued to accused no. 4 (Ex. P/12) related only to raw material or accessories and that as such the sale of printing press which was neither raw material nor accessories, did not contravene that clause. The factum of sale of the printing press, to Dr. Thomas (P. W. 16) was not disputed. The High Court accepting this contention held condition (c) in Ex. P/12 to be inapplicable to printing presses and observed that the Licensing Authority had not applied its mind when this condition was inserted in the licence for importing the printing press in question. On this ground the conviction recorded by the trial court was set aside. The appellant's learned counsel in this Court has questioned the correctness of this view and has submitted that it is not sustainable on the statutory

provisions and has resulted in grave failure of justice.

Before dealing with this question we may dispose of a pre- liminary objection to the competency of this appeal at the instance of the Deputy Chief Controller of Imports and Exports, raised by Shri H. R. Gokhale on behalf of the respondents. It has been pointed out that the special leave petition in this Court purports to be filed by the Deputy Chief Controller of Imports & Exports and not by the State. As the State had conducted the prosecution the complainant, it is argued, cannot seek leave nor can he prosecute this appeal. Leave already granted ex parte is, according, to Shri Gokhale liable to be revoked. Reliance has been placed on *Management of Hindustan Commercial Bank Ltd., Kanpur v. Bhagwandass*(1). There the appellant had secured from this Court ex parte special leave to appeal under Art. 136 of the Constitution without first moving the High Court for the necessary certificate and this Court, on objection by the respondent, revoked the special leave as being in contravention of O. 13, r. 2 of the Supreme Court Rules. The respondents' contention before us is that the Public Prosecutor and not the Deputy Chief Controller of Imports & Exports had applied to the High Court for the necessary certificate and, therefore, the Deputy Chief Controller has no locus standi to apply for special leave. Having been granted on an incompetent petition the special leave deserves to be revoked, argues Shri Gokhale. We are unable to uphold this objection. The complaint was filed in the court of the Chief Presidency Magistrate by the Deputy Chief Controller of Imports and Exports under S. 6 of the Imports and Exports (Control Act, 1947. It is not disputed that this officer was, as stated in para 1 of the complaint, duly authorised to make the complaint within the contemplation of s. 6. In the appeals filed by the accused against their conviction the State was impleaded, as represented by the Deputy Chief Controller of Imports and Exports (complainant), as the respondent. It is true that in a petition for enhancement of sentence filed in the High Court the Public Prosecutor was shown as the petitioner and similarly the application for leave to appeal from the judgment of the High Court was (1) [1965] (2) S.C.R. 265.

also filed in that Court by the Public Prosecutor. But that, in our view, does not in any way disentitle the Deputy Chief Controller of Imports and Exports (the original complainant duly authorised by the statute) to apply for special leave to appeal to this Court and to prosecute the appeal., Our attention has not been drawn to any provision of law which can be said to deprive the Deputy Chief Controller the lawfully authorised complainant in this case to seek special leave and prosecute this appeal. In any event Art. 136 of the Constitution and the Supreme Court Rules are wide enough in their language to empower this Court to grant special leave to the Deputy Chief Controller in cases like the present and deal with the appeal on the merits. The preliminary objection must accordingly be repelled.

Coming to the merits we may for a while again turn to condition (c) of the licence which has already been noticed earlier. It may be recalled that this condition expressly provides that the goods would be utilised only for consumption as raw material or accessories in the licence- holder's factory and no portion thereof would be sold to, or, be permitted to be utilised by, any other party. The goods imported are also not to be pledged with any financier other than banks authorised to deal in foreign exchange, provided that particulars of the goods so pledged are reported in advance to the licensing authority. Under s. 3 of the Imports and Exports Act-, 18 of 1947 the Central Government is empowered to provide by order published in the official Gazette for prohibiting, restricting or

otherwise controlling the import, export, carriage or shipment etc., of goods of any specified description and also the bringing into any port or place in-India of goods of any specified-description intended to be taken out of India without being removed from the ship or conveyance in which they are being carried. The Central Government by Order dated December 7, 1955 made the Import Control Order under ss. 3 and 4A of the said- Act. Clause (3) of this Order provides for restriction on import of certain goods in these words :

"Save as otherwise provided in this Order, no person shall import any goods of the description specified in Schedule 1, except under, and in accordance with, a licence or a customs clearance permit granted by the Central Government or by any officer specified in Schedule II."

Clause 7 of this Order empowers the Licensing Authority suo motu or on application by the licensee to amend the licences granted under this Order in such manner as may be necessary to make them conform to the aforesaid Act or this Order or any other law in force or to rectify any error or omission in the licence : on the licensee's request, however, the licence may be 5 1 6 amended in any manner consonant with the Import and Export Control Regulations. Item no. 67(1) in Schedule 1, Part V, which appears to us to be relevant for this case reads :

"Printing and Lithographic material, namely, presses, lithographic plates, composing sticks, chases, imposing tables, lithographic stones, stereo-blocks, wood blocks, half-tone blocks, electrotpe blocks, process blocks, roller moulds, roller frames and stocks, roller composition, lithographic nap rollers, standing screw and hot presses, perforating machines, gold blocking presses, galley presses, proof presses, arming presses, copper plate printing presses, rolling presses, ruling machines, ruling pen making machines, lead cutters, rule cutters, slug cutters, type casting machines, type setting and casting machines, paper in rolls with side perforations to be used after further perforation for typecasting, rule bending machines, rule mitreing machines, bronzing machines, stereotyping apparatus, paper fold- ing machines, paging machines, but excluding ink and paper and sets of mats when imported as advertising material in connection with composed films."

This item which contains a very large number of various components of a printing press corresponds to item no. 72(2) of the Indian Tariff Act, 1934 which consolidates the law relating to customs duties. Item no. 67(2) in Schedule I speaks of component parts as defined in import tariff item no. 72(3), of machinery specified in cl. (1) excluding those covered by sl. no 6 8 of this schedule. Serial no. 68 refers to rubber blankets for printing presses etc. Item no. 67 (1) would suggest that printing presses are included in the expression "printing and lithographic material." Our attention has not been drawn to any other entry either in Schedule I of the Imports Control Order or in the first Schedule of the Indian Tariff Act which would cover the import of printing presses and payment of customs duty on such import. These two statutes forming parts of the Import Control Scheme may appropriately be considered as throwing some light on each other. The principal argument advanced on behalf of the respondents is that cl. (c) of the conditions of the licence does not cover the printing presses in question because the plain language of this clause postulates that goods

covered by it should be capable of being utilised for consumption as raw material or accessory in a factory. A complete printing press, it is contended, is neither raw material nor accessories and it cannot be said that by fixing a printing press for running it, the press is utilised for consumption as raw material or accessory. This argument, though attractive on first impression seems to us on a deeper thought to be unacceptable. A close scrutiny of the scheme and language of the relevant provisions of the import and export legislation and of the Import Control Policy formulated by the Government leaves no doubt that the argument is unfounded. Clause (c) reads :

" (c) The goods will be utilised only for con-

sumption as raw materials or accessories in the licence-holders' factory and that no portion thereof will be sold to or be permitted to be utilised by any other party or pledged with any financier other than Banks authorised to deal in foreign exchange provided that particulars of goods so pledged are reported in advance to the licensing authority."

The respondents have sought assistance for their argument principally from the dictionary meaning of the words "consumption", "raw material" and "utilised" used in this clause. "Consumption", it is argued, conveys the idea of destruction of the commodity consumed and "raw material"

according to this submission, must be "utilised" in this sense. In our opinion dictionary meanings, however helpful in understanding the general sense of the words cannot control where the scheme of the statute or the instrument considered as a whole clearly conveys a somewhat different shade of meaning. It is not always a safe way to construe a statute or a contract by dividing it by a process of etymological dissection and after separating words from their context to give each word some particular definition given by lexicographers and then to reconstruct the instrument upon the basis of those definitions. What particular meaning should be attached to words and phrases in a given instrument is usually to be gathered from the context, the nature of the subject matter, the purpose or the intention of the author and the effect of giving to them one or the other permissible meaning on the object to be achieved. Words are after all used merely as a vehicle to convey the idea of the speaker or the writer and the words have naturally, therefore, to be so construed as to fit in with the idea which emerges on a consideration of the entire context. Each word is but a symbol which may stand for one or a number of objects. The context, in which a word conveying different shades of meanings is used, is of importance in determining the precise sense which fits in with the context as intended to be conveyed by the author. The words used in the licence (Ex. P/12) have accordingly to be construed in the background of the scheme of the Import Control Order, 1955, the entry no. 67 of Schedule I to this Order and the Import Trade Control Policy. The word "consumption" as used in cl. (c) in the licence seems to us to convey the idea of using up the goods by L 436 Sup Cl/71 fixing them in the factory along with other components. This is clear from the fact that entry no. 67(1) in Schedule 1 of the Import Control Order does not contain any single item denoting a complete printing press and from the fact that the various articles mentioned in this item seem as if to

have been intended to constitute "raw material". This construction fits in with the scheme and policy of the Import Trade Control as we will presently show. The dictionary meaning of the three words in cl. (c) on which the respondent relies also seems, in our opinion to harmonise with this view.

The Government of India (Ministry of Commerce and Industry) has been publishing from time to time Import Trade Control Handbook on rules and procedure providing for the assistance of those interested in imports up to date information as to the manner in which applications for import licences should be made, the appropriate authority to be addressed in each case, the procedure governing the grant of licences for different classes of goods, the validity and use of import licences and other similar matters. In the Handbook of 1956, which is the relevant Handbook for this case which relates to the licence originally granted in 1960, Schedule I commonly known as the ITC Schedule serves broadly to classify the articles that enter into the import trade. Part V of the Schedule covers 'industrial requirements and it is in this part that the printing and lithographic material including and Other items are entered at sl. no. 67(1), already noticed by us. This Handbook emphasises the importance of correct classification with reference to the serial number and part of the ITC Schedule. In Appendix III of the Handbook application forms are prescribed. Form B is the one which was used by the respondents. This form is meant for the import of goods by actual users not borne on the registers maintained by the Industrial Advisers, Ministry of Commerce and Industry, when licence is sought for import of goods (other than those falling under the capital goods licensing procedure) vide : Government of India, Ministry of Commerce and Industry Order No. 17/55 dated 7th December, 1955. It is expressly stated in the respondents' application Ex. P/ 11 (b) 1 that the raw material was required by them for printing newspaper (Dina Seithi, Tamil Daily) : full particulars of the raw materials required to be imported were given as printing machinery and proforma was attached with the application. ITC number and part was specifically stated to be 67 (1) (i), Part V. It was on the basis of this application that the licence Ex. P/12 was granted subject inter alia to condition (c). The Government of India, Ministry of Commerce and Industry also publishes from time to time Import Trade Control Policy for the various licensing periods. in the publication for the licensing period April-September, 1960 we find the policy statement, showing the list of items licensable to actual users. At p. 360 in Appendix IV, Part V, items 67 (1) (i) and 67 (2) occur. Item 67 (1) (i) reads :

"Printing machinery (for Newspaper Establishments and quality printers)."

Item 67 (2) reads :

"Component parts of printing machinery".

It is obvious that in the respondents' application serial no. 67(1) (i) refers to this item in the Import Trade Control Policy, April-September, 1960, the period relevant for this case. There is no other item

in any one of the lists which covers printing presses as a separate item. This clearly shows that the printing presses are treated by legislative intendment as Printing material or Printing machinery. Form 'B' used in the present case indicates that the Press intended to be imported was not considered to fall under the Capital Goods Licensing Procedure. It seems that it is for all these reasons that in the licence it was provided that these goods would be utilised only for consumption as raw material or accessories in the licence- holder's factory. The words "utilised", "consumption" and "raw material" have to be fitted into the clearly discernable statutory scheme and this is possible without doing violence to the dictionary meaning of these words. The appropriate dictionary meaning of words possessing variable shades of meanings has not to be arbitrarily selected and mechanically applied without considering the setting in which they are, used and the purpose sought to be achieved.

There is another very cogent factor in this case, namely, that the respondents, when they sought licence for the import of printing press expressly represented that the imported goods were required to meet the increasing demand of circulation of their newspaper. This indeed was the sole round for importing the press. The amended licence was, also secured by the respondents so as to enable them to import two printing presses on the ground that one press was required for their Madurai office as well. Licence for both the printing presses was obtained for actual use by them for their newspapers. Had they not complied with the procedure meant for the import of goods by actual users, they might not have secured the necessary licence. Having secured a licence expressly for the import of goods for their use they may not be permitted to ignore the condition of actual user on the plea (which by no means seems to be virtuous) that cl. (c) is inapplicable to actual users.

5 20 The respondents on their own showing clearly knew their dis- ability under the conditions imposed by cl. (c) of the licence. Knowing full well the condition prohibiting the transfer of the press to other persons the respondents as the correspondence to which our attention has been drawn shows were actually negotiating for the sale of one of the presses during the period when the procedure in regard to its import was being carried out. On July 2, 1961 amendment of the licence was sought so as to import one more printing press and on July 17, 1961 its resale was actually finalised and a part of the price also received. These facts do not need any comment on the intention and bona fides of the respondents. It is unnecessary to go into the evidence on this point because, as already noticed, it is not disputed that one of the printing presses was actually sold to Dr. Thomas prior to its arrival in India. The amendment of the licence also appears to have been sought with the object of reselling the second press. The only argument urged namely that condition (c) was inapplicable to-the present case having been repelled, the appeal, in our view, must succeed and the order of the High Court reversed. The validity of condition (c) in the licence has not been questioned and in our opinion rightly in view of the decision of this Court in *M/s. Ramchand Jagdish Chand v. Union of India*(1). There is neither any legal nor equitable justification for reselling the printing press.

The suggestion faintly thrown that the Company was the holder of the licence and, therefore, the other respondents (accused persons) should not be held liable is also without merit. On the facts found and on the authority of *State of West Bengal v. Motilal Kanoria* (2) all the respondents (the individual accused persons along with the Company) are guilty.

The argument that the High Court having acquitted the respondents on a view which is a possible view this Court should not convert acquittal into conviction under Art. 136 of the Constitution has not appealed to us. The view of the High Court does not seem to be sustainable on the statutory language and on the Import Control Policy of which the respondents were fully aware. Their own application is proof positive of their awareness of the true position and the breach of the conditions of the licence on their part was deliberate. Indeed, as observed earlier, the permission for the import of the second press was apparently sought with the object of its resale. Breach of conditions for import of goods is a serious matter because it prejudicially affects our country's national economy. The import licence for the second press having, in our view, been sought on false representation with (1) [1962] 3 S.C.R. 72. (2) [1966] 3 S. C. R.

933. the object and purpose of its resale the breach of the licence was, therefore, fully intended and designed. The respondents are guilty of malpractices and of abuse of the import licence with the object of making money. We, however, think that in view of the fact that this litigation has been pending since a long time, it would meet the ends of justice if we impose merely fine and do not sentence anyone to imprisonment. The final result is that the order of the High Court is set aside and accused nos. 1, 2, 3 and 5 are convicted under s. 120-B, I.P.C. and s. 5 of the Imports & Exports Act, 1947 read with cl. 5 of the Import Control Order, 1955 and each of the accused nos. 2, 3 and 5 are sentenced to pay a fine of Rs. 2,000/- under each count. Accused no. 1 who is the principal culprit and who was sentenced by the trial court to imprisonment and fine is sentenced to pay a fine of Rs. 5,000/- under each count. In default of payment of fine the defaulting accused persons will undergo rigorous imprisonment for three months. The Company is convicted only under s. 5 of the Imports & Exports Act read with cl. 5 of the Import Control Order and sentenced to pay a fine of Rs. 2,000/-.

V.P.S. Appeal allowed.

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