The State Of Goa vs Namita Tripathi on 3 March, 2025

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Bench: B.R. Gavai, Sanjay Karol

2025 INSC 306 REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2025
(@ SPECIAL LEAVE PETITION (Crl.) NO. 1959 OF 2022)

THE STATE OF GOA & ANR. APPELLANT(s)

VERSUS

NAMITA TRIPATHI RESPONDENT(s)

JUDGMENT

K.V. Viswanathan, J.

1. Leave granted.

2. The present Appeal calls in question the correctness of the judgment dated 06.09.2021 passed by the High Court of Bombay at Goa in Stamp Number Main No. 944 of 2020 (F). By the said judgment, the High Court allowed the prayer of the respondent herein and quashed the order dated 04.12.2019 passed by the learned Judicial Magistrate First Class (JMFC) at Panaji in Criminal Case No. LC/19/2019/C. By the said order, the Ld. JMFC had issued process to the respondent pursuant to the complaint filed by the appellants alleging violation by the respondent of the provisions of the Factories Act, 1948 (hereinafter referred to as the 'Act of 1948') and thereby committing offences punishable under Section 92 thereof. FACTS:-

3. The facts lie in a narrow compass. Pursuant to the inspection conducted on 20.05.2019 in the premises of the respondent wherein the business of Professional Laundry Service was carried on, it was found that the respondent did not possess factory approved plans as required under Rule 3 of the Goa Factories Rules, 1985 (hereinafter referred to as the 'Rules') read with Section 6 of the Act of 1948; that the premises were being used as a factory without obtaining a valid factory licence in violation of Rule 4 of the Rules read with Section 6 of the Act of 1948 and that the respondent had not submitted any application for registration and grant of licence in violation of Rule 6 of the Rules read with Section 6 of the Act of 1948. An inspection report was drawn up and the same was

furnished by a covering letter dated 24.05.2019 with the "occupier of the respondent" to report compliance within 15 days.

4. The inspection report set out that at the time of inspection there were more than 9 workers employed; that there was no muster roll maintained for the month of May 2019; and that the manufacturing process of cleaning and washing of clothes was carried on. The report set out the details of the machinery/equipments and the total installed power and set out that the premises amounted to a factory within the purview of Section 2(m)(i) of the Act of 1948 and also observed about the violation, as set out hereinabove, with regard to the absence of registration and licence for use of the premises as factory. The occupier was advised to submit an application for due compliance of the Act failing which they were warned that it will constitute criminal offence punishable under the Act of 1948.

5. The complaint alleged that by the letter of 30.05.2019 signed by the authorized signatory of the respondent a reply was furnished, setting out that the respondent who operated under the name and style of "White Cloud" is a professionally set up laundry comprising of six collection centres around Goa and one central processing unit; that it had 58 employees in the collection centres including 10 workers at the central processing unit; that a similar inspection had been carried out in October 2005 and no further action was taken; that under the Act of 1948, washing and dry cleaning would not constitute "manufacturing process"; that "laundry business" is a service and not a manufacturing activity since the "product" of the business is intangible; that what is rendered is a service and that they are duly registered under the Shops And Establishments Act.

6. The letter also annexed certain judgments to contend that the activity did not constitute the "manufacturing process". It was contended that in view of the above there is no contravention of any of the legal provisions.

7. It transpires that pursuant to the request of 17.06.2019 by the respondent, a personal hearing was also afforded to them and a hearing was indeed given by Shri Vivek Marathe, Chief Inspector, Inspectorate of Factories and Boilers. The complaint further averred that after further correspondence with the respondent since their reply was unsatisfactory, the complainant wrote and obtained information from the Regional Director, Employees State Insurance Corporation (ESIC) that the respondent unit was indeed covered under Section 2(12) of the Employees State Insurance Act (hereinafter referred to as the 'ESIC Act') and have ESIC code no. 32000025050000909 assigned to them. The complaint concluded by stating that since no satisfactory reply was forthcoming the respondent was liable for offences punishable under Section 92 of the Act of 1948.

8. On 04.12.2019, the JMFC Panaji issued summons by recording the following :-

> "Criminal Case No. LC/19/2019/C Perused.
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> The material on record makes out a prima facie case against the accused. Hence, issue process."

9. Aggrieved, the respondent herein moved the High Court of Bombay at Goa seeking to quash and set aside the summons as well as the complaint, primarily on two grounds alleged namely, that the order issuing summons is unreasoned and suffers grave errors of facts and law and it does not reflect application of mind; and that the process of "Dry cleaning of clothes" does not constitute "manufacturing process" as defined under the Act of 1948. It was also averred that business of laundry is in the nature of service and the premises are not manufacturing unit for the purpose of the Act of 1948.

10. By the impugned order, the High Court has quashed the order issuing process after holding that a perusal of the order issuing process, did not reflect any application of mind, and further relying on certain precedents, held as under:-

> "22. In view of this position, the definition of manufacturing process would show that the washing and cleaning has to be with a view to its use, sale, transport delivery or disposal. Whenever any washing or cleaning is done of any article or substance with a view to its use, that is, of use in such a way that a new marketable commodity would come into being known commercially for being used as such or for selling the same and so on, then the process would certainly come within the definition of manufacturing process. To constitute or manufacture there must be a transformation. Mere labour bestowed on an article even if the labour is applied through machinery, will not make it a manufacture, unless it has progressed so far that transformation ensues and the article becomes commercially known as another and different article from that as which it begins its existence. Once it is confirmed that dry cleaning is not within the definition of manufacturing process, Factories Act will not apply."

11. Aggrieved, the appellants are before us in Appeal.

12. We have heard Ms. Ruchira Gupta, learned Advocate for the appellants and Mr. Shivan Desai, learned counsel for the respondent. We have also perused the records including the written submissions filed by the parties.

13. In the above factual background, the question that arises for consideration is, was the High Court justified in quashing the process issued?

ANALYSIS:-

14. The averments in the complaint allege that the respondent has violated the provisions of the Act of 1948 inasmuch as being a factory they have not complied with the provisions of the Act of 1948 on matters set out hereinabove. This position is disputed by the respondent on the ground that their premises do not constitute a factory as defined in the Act of 1948. To answer this question, an examination of the scheme of the Act of 1948 with particular focus on the definition of "factory" under Section 2(m) as well as the definition of "manufacturing process" under Section 2(k) is essential. STATUTORY DEFINITION:-

15. Sections 2(m) and 2(k) of the Act of 1948 read as under.-

"2. Interpretation.—In this Act, unless there is anything repugnant in the subject or context,-

(m) "factory" means any premises including the precincts thereof—

(i) whereon ten or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, or

(ii) whereon twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on,— but does not include a mine subject to the operation of the Mines Act, 1952 (35 of 1952) or a mobile unit belonging to the armed forces of the Union, a railway running shed or a hotel, restaurant or eating place;

(k) "manufacturing process" means any process for—

(i) making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal; or

(ii) pumping oil, water, sewage or any other substance; or

(iii) generating, transforming or transmitting power; or

(iv) composing types for printing, printing by letter press, lithography, photogravure or other similar process or book binding; or

(v) constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels; or

(vi) preserving or storing any article in cold storage;" (Emphasis supplied)

16. A perusal of the definition of "factory" in the Act of 1948 would reveal that any premises including the precincts thereof where ten or more workers are working and in any part of which a manufacturing process is being carried on with the aid of power would be covered therein. The Act of 1948 defines "manufacturing process" to mean any process for making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal.

17. On a plain reading, it is clear that any process involving washing or cleaning any article or substance with a view to its use, sale, transport, delivery or disposal would be covered within the meaning of manufacturing process. The High Court has, on this issue, after relying on the judgment

of Punjab and Haryana High Court in Employees' State Insurance Corporation, Jullundur Vs. Triplex Dry Cleaners and Others, (1982) ILR 2P&H 291 gone on to conclude that the use has to be in such a way that a new marketable commodity should come into being and it should be known commercially for being used as such or for selling the same. According to the High Court, only if these ingredients are fulfilled would the definition of manufacturing process be attracted. The High Court has further held that mere labour bestowed on an article even if the labour is applied through machinery will not make it a manufacturing process unless it has progressed so far, that a transformation ensues and the article becomes commercially known as another and different article from that as which it begins its existence.

OBJECT AND REASONS OF THE ACT OF 1948:-

18. To appreciate the correctness of this finding, we need to examine the object and purpose of the Act of 1948. The Act of 1948 was enacted to regulate the labour employed in the factories. Originally, the Act that was in vogue was the Factories Act of 1934. However, as the Statement of Objects and Reasons of the Act of 1948 indicates the experience of working of the 1934 Act revealed the number of defects and weaknesses. One of the reasons for enactment of the Act of 1948 was to reinforce the provisions with regard to safety, welfare and health of the workers. It was expressly noticed in the Statement of Objects and Reasons that under the 1934 Act, several undertakings were excluded from its scope and it was felt that provisions relating to health, working hours, holidays, lighting and ventilation ought to be extended to all workplaces in view of the unsatisfactory state of affairs as was then prevailing in unregulated factories.

19. The defects in the 1934 Act were sought to be remedied by laying down clearly in the Bill itself the minimum requirements regarding health (cleanliness, ventilation and temperature, dangerous dust and fumes, lighting and control of glare, etc.) safety (eye protection, control of explosive and inflammable dusts, etc.) and general welfare of workers (washing facilities, first-aid, canteens, shelter rooms, creches, etc.). The Act provided formulation of Rules by the State Government to the effect that every factory should be registered and should take license for working, which is to be renewed at periodic intervals; approval of plans, designs and specifications of the proposed construction of factory and so on. The Act of 1948 was further amended in 1976 to strengthen the provisions with regard to the safety measures to promote the health and welfare of the workers employed in factories. A further amendment was made in 1987 for dealing with safeguards to be adopted against use and handling of hazardous substances by the occupiers of factories and the laying down of emergency standards and measures.

20. The Statement of Objects and Reasons of the Act of 1948 along with the amendments are extracted hereinbelow:-

> "Statement of Objects and Reasons.- The existing law relating to the regulation of labour employed in factories in India is embodied in the Factories Act, 1934. Experience of the working of the Act has revealed a number of defects and weaknesses which hamper effective administration. Although the Act has been amended in certain respects in a piecemeal fashion whenever some particular aspect

of labour safety or welfare assumed urgent importance, the general framework has remained unchanged. The provisions for the safety, health and welfare of workers are generally found to be inadequate and unsatisfactory and even such protection as is provided does not extend to the large mass of workers employed in work places not covered by the Act. In view of the large and growing industrial activities in the country, a radical overhauling of the Factories law is essentially called for and cannot be delayed.

The proposed legislation differs materially from the existing law in several respects. Some of the important features are herein mentioned. Under the definition of "Factory" in the Act of 1934, several undertakings are excluded from its scope but it is essential that important basic provisions relating to health, working hours, holidays lighting and ventilation, should be extended to all workplaces in view of the unsatisfactory state of affairs now prevailing in unregulated factories. Further, the present distinction between seasonal and perennial factories which has little justification has been done away with. The minimum age of employment for children has been raised from 12 to 13 and their working hours reduced from 5 to 4½ with powers to Provincial Governments to prescribe even a higher minimum age for employment in hazardous undertakings.

The present Act is very general in character and leaves too much to the rule making powers of the Provincial Governments. While some of them do have rules of varying stringency, the position on the whole is not quite satisfactory. This defect is sought to be remedied by laying down clearly in the Bill itself the minimum requirements regarding health (cleanliness, ventilation and temperature, dangerous dusts and fumes, lighting and control of glare, etc.) safety (eye protection, control of explosive and inflammable dusts. etc.), and general welfare of workers (washing facilities, first-aid, canteens, shelter rooms, creches, etc.) amplified where necessary, by rules and regulations to be prescribed by Provincial Governments. Further, the present Act leaves important and complex points to the discretion of inspectors placing heavy responsibility on them. In view of the specialised, and hazardous nature of the processes employed in the factories it is too much to expect Inspectors to possess an expert knowledge of all these matters. The detailed provisions contained in the Bill will go a long way in lightening their burden.

Some difficulties experienced in the administration of the Act, especially relating to hours of employment, holidays with pay, etc., have been met by making the provisions more definite and clearer. The penalty clauses have also been simplified. An important provision has also been made in the Bill empowering Provincial Governments to require that every factory should be registered and should take a license for working to be renewed at periodical intervals. Provincial Governments are further being empowered to require that before a new factory is constructed or any extensions are made to an existing one, the plans designs and specifications of the proposed construction should receive their prior approval.

> It is expected that the Bill, when enacted into law, will considerably advance the condition of workers in factories. The substantial changes made in the existing law are also indicated in the Notes on Clauses [omitted] Opportunity has also been taken to arrange the existing law and to revise expressions, where necessary.
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> Statement of Objects and Reasons of Amending Act 94 of 1976.- The main object of the Factories Act, 1948 is to ensure adequate safety measures and to promote the health and welfare of the workers employed in factories, Government are, therefore, initiating various measures from time to time to ensure that adequate standards of safety, health and welfare are achieved at all work places. In particular, in the context of the need to secure maximum production and productivity an appropriate work culture conducive to safety, health and happiness of workers has to be evolved in the factories.
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> To achieve these objectives more effectively it has become necessary to amend the Factories Act. The amendments proposed to be made in the Act by the Bill mainly relate to (1) the modification of the definition of the term "worker", so as to include within its meaning contract labour employed in any manufacturing process, (2) improvement of the provisions in regard to safety and appointment of safety officers, (3) reduction of the minimum number of women employees, for the purpose of providing creches by employers, from fifty to thirty and (4) provisions for inquiry in every case of a fatal accident.

Statement of Objects and Reasons of Amending Act 20 of 1987.-The Factories Act, 1948 provides for the health, safety, welfare and other aspects of workers in factories. The Act is enforced by the State Governments through their Factory Inspectorates. The Act also empowers the State Governments to frame rules, so that the local conditions prevailing in the State are appropriately reflected in the enforcement. The Act was last amended in 1976 for strengthening the provisions relating to safety and health at work, extending the scope of the definition of "workers", providing for statutory health surveys, and requiring appointment of safety officers in large factories.

2. After the last amendment to the Act, there has been substantial modernisation and innovation in the industrial field. Several chemical industries have come up which deal with hazardous and toxic substances. This has brought in its train problems of industrial safety and occupational health hazards. It is, therefore, considered necessary that the Act may be appropriately amended, among other things, to provide specially for the safeguards to be adopted against use and handling of hazardous substances by the occupiers of factories and the laying down of emergency standards and measures. The amendments would also include procedures for sitting of hazardous industries to ensure that hazardous and polluting industries are not set up in areas where they can cause adverse effects on the general public. Provision has also been made for the workers' participation in safety management.

3. Opportunity has been availed of to make the punishments provided in the Act stricter and certain other amendments found necessary in the implementation of the Act

4. The Bill seeks to achieve the above objects." (Emphasis supplied) THE ACT OF 1948:-

A STATUTE TO AMELIORATE THE CONDITIONS OF WORKMEN

21. This Court dealing with the legislative intent of the Act of 1948 in Balwant Rai Saluja & Anr. v. Air India Ltd. & Ors., (2014) 9 SCC 407 held as under:-

"28. The 1948 Act is a social legislation and it provides for the health, safety, welfare, working hours, leave and other benefits for workers employed in factories and it also provides for the improvement of working conditions within the factory premises. Section 2 of the 1948 Act is the interpretation clause. Apart from others, it provides the definition of "worker" under Section 2(l) of the 1948 Act, to mean a person employed, directly or through any other agency, whether for wages or not, in any manufacturing or cleaning process." (Emphasis supplied)

22. In S.M. Datta v. State of Gujarat & Anr., (2001) 7 SCC 659, this Court held as under:-

"19. ... The Factories Act, 1948 cannot but be ascribed to be a beneficial piece of legislation and the requirement of Section 61, in particular, sub-sections (1) and (2) of Section 61 can be easily deciphered since the intent stands clear enough to indicate that an adult worker must know his daily placement and daily workings beforehand — this placement beforehand is the requirement of the statute in Section 63 and in the event of non-compliance, there is a liability for being prosecuted. We have in the complaint a statement that Form 14 does not stand completed. We have also in the complaint the number of working hours on a day but the requirement of Form 14, the Inspector alleges does not stand fulfilled. It is too early at this stage, however, to contend that the aforesaid statement does not stand to reason and the complaint needs to be quashed at this stage of the proceeding." (Emphasis supplied) SOME RELEVANT PROVISIONS FROM THE ACT OF 1948:-

23. A bare perusal of the Act of 1948 would also reveal that Section 6 provided for the approval, licensing and registration of factories in accordance with the Rules made by the State Government, the obligation of the occupier to issue notice was provided under Section 7; the prescription of general duties of the occupier was provided under Section 7A; the general duties of manufacturers were provided under Section 7B; the provisions for appointment of inspectors were made under Section 8 and their powers specified in Section 9.

24. Chapter III of the Act of 1948 deals with health and obliges the factories premises to be kept clean (Section 11), disposal of wastes and effluents (Section 12), ventilation and temperature (Section 13), regulation of dust and fume (Section 14), artificial humidification (Section 15), regulations of overcrowding in rooms (Section 16), provision for lighting (Section 17), provision for drinking water (Section 18) and

provision for latrines and urinals (Section 19).

25. Chapter IV deals with safety aspects, namely, fencing of machinery (Section 21), regulation of work on or near machinery in motion (Section 22), provision with regard to employment of young persons on dangerous machines (Section 23) and so on. Apart from other salient features in Chapter IV, precautions in case of fire (Section 38), safety of buildings and machinery (Section 40), maintenance of buildings Section 40A are provided for. An exclusive Chapter IV-A deals with provisions relating to hazardous processes.

26. Chapter V deals with welfare measures for workers; Chapter VI deals with working hours of adults and provides for weekly hours (Section 51), weekly holidays (Section 52), daily hours (Section 54) and night shifts (Section 57), extra wages for overtime (Section 59) and so on. In the same Chapter, Section 62 provides for maintenance of register of adult workers.

27. Chapter VII deals with the employment of young persons;

Section 67 proscribes employment of any child under the age of 14 years from working in a factory; Section 71 provides working hours for children above the age of 14 years and Section 73 provides for maintaining a register of child workers. Chapter VIII deals with annual leave with wages. Thereafter, in Chapter X dealing with penalties and procedure, general penalty for offences is provided in Section 92, which reads as under:-

"92. General penalty for offences.- Save as is otherwise expressly provided in this Act and subject to the provisions of Section 93, if in, or in respect of, any factory there is any contravention of any of the provisions of this Act or of any rules made thereunder or of any order in writing given thereunder, the occupier and manager of the factory shall each be guilty of an offence and punishable with imprisonment for a term which may extend to two years or with fine which may extend to one lakh rupees or with both, and if the contravention is continued after conviction, with a further fine which may extend to one thousand rupees for each day on which the contravention is so continued:

Provided that where contravention of any of the provisions of Chapter IV or any rule made thereunder or under Section 87 has resulted in an accident causing death or serious bodily injury, the fine shall not be less than twenty- five thousand rupees in the case of an accident causing death, and five thousand rupees in the case of an accident causing serious bodily injury."

28. Section 93 deals with liability of owner of premises in certain circumstances provided therein. Section 105 provides for cognizance of offences and states that no Court shall take cognizance of any offence except on complaint by, or with the previous sanction in writing of, an inspector and Section 105(2) provides that no

Court below that of a Presidency Magistrate or of a Magistrate of the first class shall try any offence punishable under this Act.

29. The above conspectus of the legal provisions, discussed hereinabove, clearly demonstrate that the Act of 1948 is a welfare statute aimed at ameliorating the conditions of the workmen employed in factories. It is a beneficial legislation intended to protect workers from occupational hazards by seeking to impose upon owners and occupiers certain obligations for protecting the workers and securing their employment in conditions conducive to their health and safety.

APPLICABLE RULES OF INTERPRETATION: -

30. Acts of this nature which are social welfare legislation and intended to benefit the large community of workers ought to be interpreted in a manner to give efficacy to legislative intent. This approach has been adopted in catena of judgments by this Court. This Court in Works Manager, Central Railway Workshop, Jhansi v.

Vishwanath & Ors., (1969) 3 SCC 95 held as under:-

"11. The Factories Act was enacted to consolidate and amend the law regulating labour in factories. It is probably true that all legislation in a welfare State is enacted with the object of promoting general welfare; but certain types of enactments are more responsive to some urgent social demands and also have more immediate and visible impact on social vices by operating more directly to achieve social reforms The enactments with which we are concerned, in our view, belong to this category and, therefore, demand an interpretation liberal enough to achieve the legislative purpose, without doing violence to the language. The definition of "worker" in the Factories Act, therefore, does not seem to us to exclude those employees who are entrusted solely with clerical duties, if they otherwise fall within the definition of the word "worker". Keeping in view the duties and functions of the respondents as found by the learned Additional District Judge, we are unable to find anything legally wrong with the view taken by the High Court that they fall within the definition of the word "worker". Deletion of the word "whatsoever" on which the appellant's counsel has placed reliance does not seem to make much difference because that word was, in our view, redundant." (Emphasis supplied)

31. This Court in Allahabad Bank & Anr. v. All India Allahabad Bank Retired Employees Association, (2010) 2 SCC 44 held as under:-

"16. We shall proceed to examine the point urged by the learned counsel for the appellant. Remedial statutes, in contradistinction to penal statutes, are known as welfare, beneficent or social justice oriented legislations. Such welfare statutes always receive a liberal construction. They are required to be so construed so as to secure the relief contemplated by the statute. It is well settled and needs no restatement at our

hands that labour and welfare legislation have to be broadly and liberally construed having due regard to the directive principles of State policy. The Act with which we are concerned for the present is undoubtedly one such welfare oriented legislation meant to confer certain benefits upon the employees working in various establishments in the country." (Emphasis supplied)

32. In Lanco Anpara Power Ltd. v. State of U.P. & Ors., (2016) 10 SCC 329, this Court held as under:-

"44. The sentiments were echoed in Bombay Anand Bhavan Restaurant v. ESI Corpn., (2009) 9 SCC 61, in the following words: (SCC p. 66, para 20) "20. The Employees' State Insurance Act is a beneficial legislation. The main purpose of the enactment as the Preamble suggests, is to provide for certain benefits to employees of a factory in case of sickness, maternity and employment injury and to make provision for certain other matters in relation thereto. The Employees' State Insurance Act is a social security legislation and the canons of interpreting a social legislation are different from the canons of interpretation of taxation law. The courts must not countenance any subterfuge which would defeat the provisions of social legislation and the courts must even, if necessary, strain the language of the Act in order to achieve the purpose which the legislature had in placing this legislation on the statute book. The Act, therefore, must receive a liberal construction so as to promote its objects." RULE OF 'PLAIN MEANING':-

33. Reverting to the statutory provisions, it is clear on a plain reading of Section 2(k) of the Act of 1948 that 'washing or cleaning' of any article or substance with a view to its delivery is clearly covered by the phrase "manufacturing process". Where the words of statute are clear, the plain meaning has to be given effect. We have no doubt in our mind that the business of laundry carried on by the respondent involving cleaning and washing of clothes including dry cleaning would be squarely covered by the expression "manufacturing process". Admittedly, they employed more than 9 workers in the centralized processing unit and also used the aid of power.

34. The plain meaning rule was explained by this Court in Jeewanlal Ltd. & Ors. v. Appellate Authority under the Payment of Gratuity Act & Ors., (1984) 4 SCC 356, which reads as under:-

"11. In construing a social welfare legislation, the court should adopt a beneficent rule of construction; and if a section is capable of two constructions, that construction should be preferred which fulfils the policy of the Act, and is more beneficial to the persons in whose interest the Act has been passed. When, however, the language is plain and unambiguous, the Court must give effect to it whatever may be the consequence, for, in that case, the words of the statute speak the intention of the Legislature. When the language is explicit, its consequences are for the Legislature and not for the courts to consider. The argument of inconvenience and hardship is a

> dangerous one and is only admissible in construction where the meaning of the statute is obscure and there are two methods of construction. In their anxiety to advance beneficent purpose of legislation, the courts must not yield to the temptation of seeking ambiguity when there is none." (Emphasis supplied) APPLICATION OF THE MISCHIEF RULE:-
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> 35. To reinforce our holding, we may usefully refer to the definition of "manufacturing process" as was defined in the Factories Act of 1934 under Section 2(g) thereof which reads as follows.

"2(g) "manufacturing process" means any process-

(i) for making, altering, repairing, ornamenting, finishing or packing, or otherwise treating any article or substance with a view to its use, sale, transport, delivery or disposal, or

(ii) for pumping oil, water or sewage, or

(iii) for generating, transforming or transmitting power."

36. It is very clear that Section 2(g) of the 1934 Act did not have the words 'washing, cleaning' and they have been specifically brought in the Act of 1948 with a clear object of bringing into the fold of the Act undertakings excluded from the scope of the 1934 Act as discussed in the Statement of Objects and Reasons set out hereinabove.

37. Dealing with the mischief rule, this Court in Steel Authority of India Ltd. & Ors. v. National Union Waterfront Workers & Ors., (2001) 7 SCC 1 held as under:-

> "66. For a proper examination of these issues, a reference to Section 10 which provides for prohibition of employment of contract labour and clauses (b), (c), (e), (g) and (i) of Section 2(1) of the CLRA Act which define the terms "contract labour", "contractor", "establishment", "principal employer" and "workman" respectively will be apposite. To interpret these and other relevant provisions of the CLRA Act, to which reference will be made presently, we may, with advantage, refer to Craies on Statute Law [6th Edn., by S.G.G. Edgar, p. 96] quoting the following observation of Lindley, M.R. in Mayfair Property Co., Re [(1898) 2 Ch 28, 35 in regard to the rule in Heydon's case [(1584) 3 Co Rep 7a : 76 ER 637] :
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> "In order to properly interpret any statute it is as necessary now as it was when Lord Coke reported Heydon's case [(1584) 3 Co Rep 7a : 76 ER 637] to consider how the law stood when the statute to be construed was passed, what the mischief was for which the old law did not provide, and the remedy provided by the statute to cure that mischief." (Emphasis supplied) ERROR IN EXTRAPOLATING THE MEANING FROM THE CENTRAL EXCISE ACT:-

38. The reasoning of the High Court that a transformation has to ensue and the new article must come into being and that it should be commercially known as another and different article is a totally erroneous finding. The High Court has clearly ignored the plain language of the Section and has been completely oblivious about the welfare nature of the Statute. The High Court has extrapolated the definition of "manufacture" as is in vogue in the Central Excise Act 1944. Under the Central Excise Act of 1944, a statute traceable to the definition of "manufacture" in Section 2(f) reads as under:

> "(f) "manufacture" includes any process—
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> (i) incidental or ancillary to the completion of a manufactured product;
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> (ii) which is specified in relation to any goods in the Section or Chapter Notes of the Fourth Schedule as amounting to manufacture; or
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> (iii) which, in relation to the goods specified in the Third Schedule, involves packing or repacking of such goods in a unit container or labelling or re-labelling of containers including the declaration or alteration of retail sale price on it or adoption of any other treatment on the goods to render the product marketable to the consumer;

and the word "manufacture" shall be construed accordingly and shall include not only a person who employs hired labour in the production or manufacture of excisable goods, but also any person who engages in their production or manufacture on his own account;" The High Court has been carried away by the interpretation given by courts while interpreting the Central Excise Act.

39. Dealing with the features of manufacture under the Central Excise Act, 1944, this Court in Crane Betel Nut Powder Works vs. Commr. of Customs & Central Excise, Tirupathi & Anr., (2007) 4 SCC 155 observed as under:-

> "31. In our view, the process of manufacture employed by the appellant Company did not change the nature of the end product, which in the words of the Tribunal, was that in the end product the "betel nut remains a betel nut". The said observation of the Tribunal depicts the status of the product prior to manufacture and thereafter. In those circumstances, the views expressed in Delhi Cloth & General Mills Co. Ltd. [AIR 1963 SC 791 and the passage from the American judgment (supra) become meaningful. The observation that manufacture implies a change, but every change is not manufacture and yet every change of an article is the result of treatment, labour and manipulation is apposite to the situation at hand. The process involved in the manufacture of sweetened betel nut pieces does not result in the manufacture of a new product as the end product continues to retain its original character though in a modified form." [See also in this Context Kores India Ltd., Chennai v. Commissioner of Central Excise, Chennai, (2005) 1 SCC 385 (paras 11 and 12)]

40. However, the above judgments under the Central Excise Act can have no application since the Act of 1948 defines the expression "manufacturing process" which definition is different from the one under the Central Excise Act.

41. Where a statute under consideration itself defines for the purposes of the said Act a certain phrase, a court of law is bound to apply the term as defined except in exceptional cases where the opening part of a definition, 'anything repugnant in the subject or context' applies. Recently, this Court in Independent Sugar Corporation Ltd. v. Girish Sriram Juneja & Ors., 2025 SCC OnLine SC 181 held as under:-

> "49. Lord Atkinson in Corp. of the City of Victoria v. Bishop of Vancouver Island [1921 SCC OnLine PC 75] observed:
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> "In the construction of statutes, their words must be interpreted in their ordinary grammatical sense, unless there be something in the context, or in the object of the statute, in which they occur, or in the circumstances in which they are used, to show that they were used in a special sense different from their ordinary grammatical sense."
>
> 50. That words in the statute are to be understood in their natural, ordinary and popular sense. This has been underscored by Justice Frankfurter, in the following opinion:
>
> "After all legislation when not expressed in technical terms is addressed to common run of men and is therefore to be understood according to sense of the thing, as the ordinary man has a right to rely on ordinary words addressed [Wilma E. Addison v. Holly Hill Fruit Products, 322 US 607 (1944)]."
>
> 51. The above pronouncements make it clear that when the words used are clear, plain and unambiguous, the courts are duty-bound to give effect to the meaning emerging out of such plain words. The intention of the legislature must be gathered from the language used and also, the words not used. It becomes imperative to understand those words in their natural and ordinary sense, and any interpretation requiring for its support addition or substitution or rejection of words as meaningless, must ordinarily be avoided." ACTIVITY OF THE RESPONDENT – A MANUFACTURING PROCESS:-

42. The Act of 1948 defines "manufacturing process" and we clearly find that "washing, cleaning" and the activities carried out by the respondent with a view to its use, delivery or disposal are squarely attracted. The contention of the respondent that dry cleaning does not make any product usable, saleable or worthy of transport, delivery or disposal has only to be stated to be rejected. "Manufacturing process" has been defined to mean any process for washing or cleaning with a view to its use, sale, transport, delivery or disposal. The linen deposited with the launderer is, after washing and cleaning, delivered to the customer for use. The ingredients of the section are fully

satisfied. There is nothing in the Act of 1948, which is repugnant in the subject or context, constraining us to jettison the definition. Hence, we reject the findings of the High Court and hold that the activity carried out which on facts is not disputed is clearly covered by the definition of "manufacturing process" under Section 2(k) which, in turn, would bring the premises in question of the respondent under the definition of "factory" under Section 2(m). If that were so, the complaint lodged against the respondent could not have been quashed.

43. The High Court has been carried away by the holding of the Punjab and Haryana High Court in Triplex Dry Cleaners (Supra). The said case has no application for the following reasons: Firstly, that case was under the Employees State Insurance Corporation Act, and that too before the definition of "manufacturing process" as defined in the Act of 1948 was incorporated in the ESIC Act. The definition under the ESIC Act prior to 1989 merely defined a "factory" under Section 2(12) in the following terms.

"(12) "factory" means any premises including the precincts thereof-

(a) whereon ten or more persons are employed or were employed for wages on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on, or

(b) whereon twenty or more persons are employed or were employed for wages on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power or is ordinarily so carried on. but does not include a mine subject to the operation of the Mines Act, 1952 or a railway running shed"

44. It was only with effect from 20.10.1989, Section 2(14AA) was introduced in the ESIC Act which reads as under:-

> "(14AA) "manufacturing process" shall have the meaning assigned to it in the Factories Act, 1948;"

45. Triplex Dry Cleaners (Supra) was decided by a learned Single Judge of the High Court of Judicature at Punjab and Haryana on 22.10.1981 when Section 2(14AA) was not in the statute. This is precisely why this Court in Employees' State Insurance Corporation Vs. Triplex Dry Cleaners and Others, (1998) 1 SCC 196 held as under in Para 6 while dismissing the appeal of the Employees' State Insurance Corporation.

"6. We, however, hasten to point out that we are here concerned with the show-cause notice dated 21-1-1978. At that point of time, Section 2(14-AA) had not been inserted in the Act which defines manufacturing process as having the same meaning which is assigned to it under the Factories Act, 1948. This provision was inserted with effect from 20-10-1989. We, therefore, express no opinion with regard to the applicability of the Act to an establishment engaged in the business of dry cleaning after 20-10-1989 inasmuch as Section 2(14-AA) attracts the applicability of Section 2(k) of the Factories Act, 1948 which defines manufacturing process which may conceivably include the

process of repairing, washing or cleaning of any article with a view to its use. However, insofar as this appeal is concerned, inasmuch as it relates to a period prior to 20-10-1989 when there was no such definition of manufacturing process applicable to the Act, it must fail and is accordingly, dismissed. There will be no order as to costs." (Emphasis supplied) This present case arises squarely under the Act of 1948 and hence with the definition of the Statute in the Act of 1948 clearly contemplating 'washing, cleaning' there is no scope for applying Triplex Dry Cleaners (Supra). Equally the judgment in Super Cleaners Vs. Employees State Insurance Corporation, 2006 SCC OnLine Bom 1660, will have no application since, it stands similar to the situation in Triplex Dry Cleaners (Supra).

46. Recently in J.P. Lights India v. Regional Director E.S.I. Corporation, Bangalore, 2023 SCC OnLine SC 1271, applying the amended Section 2(14 AA), this Court, while dealing with servicing of electrical goods, had the following to say. This Court, speaking through Hima Kohli J, pithily set out the statement of law as under.

"7. It is apparent from a perusal of the definition of the word "Factory", as used in the ESI Act that it means any premises including precincts wherein ten or more persons are employed or were employed on any day of the preceding twelve months, and in any part of which a manufacturing process was being carried out or ordinarily so carried out, with an exception of a mine or a railway running shed.

8. Section 2(14AA) of the ESI Act defines the expression "manufacturing process" as one, defined under the Factories Act, 1948. The said Act defines the expression "manufacturing process" under Section 2(k) that is sub- divided into six sub-heads. For the purposes of the present case, Section 2(k)(i) is relevant which makes it clear that a "manufacturing process" may include 'any process amongst others for altering or repairing or treating/adapting any article for its use or disposal'.

9. In the instant case, the appellant-firm is in the business of selling electrical goods in a shop. Admittedly, the shop premises is used not only for selling goods, but also to service electrical goods. That being the position, it is clear that the appellant-firm falls under the definition of a "Factory" and is using a "manufacturing process", as contemplated under both the Statutes."

47. One additional factor to be noticed in this case is that the respondent is registered as a factory under the ESIC Act for the same premises. We have, however, not gone by the mere factum of registration but have independently arrived at the above conclusion based on the interpretation of the provisions of the Act of 1948.

48. The only other argument advanced is that the order issuing process is a cryptic order and does not reflect any application of mind. We may have been inclined to consider this submission except that in view of the categorical findings rendered by us hereinabove any exercise of remitting the complaint and asking the Magistrate to exercise his powers afresh, would be futile. Hence, we have refrained from adopting that course of action.

49. For the reasons set out hereinabove, we allow the appeal and set aside the order of the High Court in Stamp Number Main No. 944 of 2020 (F) dated 06.09.2021. The consequence would be that the complaint filed by the appellants along with the order issuing process of 04.12.2019 would stand restored to file of the learned JMFC, Panaji and shall be proceeded with in accordance with law.

.....J. [B.R. GAVAI] .....J. [K. V. VISWANATHAN] New Delhi;

3rd March, 2025.