1961

March 24.

DEVANAGERE COTTON MILLS LTD. DEVANAGERE

v.

THE DEPUTY COMMISSIONER, CHITRADURGA AND ANOTHER

(S. K. DAS, J. L. KAPUR, M. HIDAYATULLAH, J. C. SHAH and T. L. VENKATARAMA AIYAR, JJ.)

Cotton Cess—Assessment—Notice by Deputy Commissioner—Validity—Collector, Meaning of—Interpretation of Statute—Indian Cotton Cess Act, 1923 (14 of 1923), ss. 2(a), 7—General Clauses Act, 1897 (10 of 1897), s. 2(11).

The appellants declined to carry out the requisition by the Deputy Commissioner to submit certain returns on the ground that under the Indian Cotton Cess Act, 1923, which Act became applicable to the State of Mysore by the Part B States Laws Act, 1951, the Collector alone could assess the cess and the Deputy Commissioner not being a "Collector" within the meaning of the Act and not being an officer appointed by the Central Government to perform the duties of the Collector under the Act, the demand for return was "unconstitutional". The case of the appellant was that the General Clauses Act, 1897, was not extended by the Part B States Laws Act, 1951, to the State of Mysore, and, therefore, the definition of "Collector" under the General Clauses Act could not be requisitioned in aid to interpret the expression "Collector" used in the Act.

Held, that the effect of s. 3 of the General Clauses Act, 1897, was to incorporate it as it were an interpretation section in all the Central Acts and Regulations made after the commencement of the General Clauses Act. Whenever a Central Act or Regulation made after March 11, 1897, was enacted, the General Clauses Act became statutorily a part thereof and by its own force applied to the interpretation of every such enactment. Its vitality did not depend upon any territorial extension.

Section 2(a) of the Indian Cotton Cess Act, 1923, does not really give the definition of "Collector", and for determining who the Collector under the Act is, one has to go to the General Clauses Act.

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 89 of 1960.

Appeal from the judgment and order dated April 12, 1957, of the Mysore High Court in Writ Petition No. 15 of 1956.

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Devanagere Cotton Mills Ltd. Devanagere v. The Deputy Commissioner, Chitradurga & Another

M. C. Setalvad, Attorney-General for India, V. L. Narasimhamoorty, S. N. Andley, J. B. Dadachanji, Rameshwar Nath and *P. L. Vohra*, for the appellants.

R. Gopalakrishnan and *T. M. Sen*, for the respondents.

1961. March 24. The Judgment of the Court was delivered by

Shah J.

SHAH, J.—With a view to enable him to assess cotton cess payable by the appellants under the Indian Cotton Cess Act, 1923—hereinafter called the Act—the Deputy Commissioner, District Chitradurga, Mysore State purporting to exercise powers under s. 6 of the Act called upon the managing agents of the appellants by letter dated January 13, 1956, to submit in the prescribed form a statement showing the total quantity of cotton consumed or processed in the factory. The appellants declined to carry out the requisition and filed a petition in the High Court of Mysore for a writ of *mandamus*, prohibition or other appropriate writ, direction or order restraining the Deputy Commissioner, Chitradurga and the State of Mysore from "collecting assessments under the Indian Cotton Cess Act XIV of 1923" in enforcement of the order dated January 13, 1956.

The sole ground urged in support of the petition was that the appellants were bound to furnish returns under the Act to the Collector who alone could assess the cess, and the Deputy Commissioner not being a "Collector" within the meaning of the Act and not being an officer appointed by the Central Government to perform the duties of the Collector under the Act, the demand for returns was "unconstitutional". The High Court rejected the petition and against that order, this appeal is preferred with certificate of fitness granted by the High Court.

The area in which the mill of the appellants is situate was originally part of the Indian State of Mysore. The State of Mysore became a Part B State within the Union of India on the promulgation of the Constitution on January 26, 1950. The Act was one of the many enactments of the Indian Legislature applied

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to the State of Mysore by the "Part B States Laws Act" 3 of 1951. The Act provides for the levy of a cess on cotton and for effectuating that purpose imposes by s. 6 a duty upon the owner of a mill to submit to the Collector monthly returns of cotton consumed or processed in the mill. The authority to assess cess is by s. 7 of the Act vested in the "Collector" which expression in the Act means "in reference to cotton consumed in a mill, the Collector of the district in which the mill is situated or any other officer appointed by the Central Government to perform the duties of a Collector under this Act". The powers of the Collector under the Act can therefore be exercised by the Collector of the district in which the mill is situate or by the officer appointed by the Central Government to perform the duties of a Collector. It is common ground that the Central Government has not issued an order appointing the Deputy Commissioners in the Mysore area to exercise powers under the Act. The power to assess cotton cess in the Mysore State area can therefore be exercised by the Collector and no other officer. The expression "Collector of the district" which is a component of the first part of the definition is not defined in the Act. But the General Clauses Act X of 1897 defines "Collector" as meaning "in a Presidency town, the Collector of Calcutta, Madras or Bombay as the case may be, and elsewhere the Chief Officer-in-charge of the revenue administration of a district". The revenue administration of a district under the Mysore Land Revenue Code is entrusted to the Deputy Commissioner and he is the chief officer-in-charge of the revenue administration of a district. The Deputy Commissioner is therefore a Collector within the meaning of the General Clauses Act.

Counsel for the appellants however contends that the General Clauses Act X of 1897 was not extended by the Part B States Laws Act to the State of Mysore and therefore the definition of "Collector" under the General Clauses Act cannot be requisitioned in aid to interpret the expression "Collector" used in the Act. But the argument proceeds upon a fallacy as to the

true nature of the General Clauses Act. By s. 3 of that Act, in all Central Acts and Regulations made after the commencement of the General Clauses Act, unless there is anything repugnant in the subject or context, the various expressions therein set out shall have the meanings ascribed to them by that Act. The effect of s. 3 is to incorporate it as it were as an interpretation section in all Central Acts and Regulations made after the commencement of the General Clauses Act. Whenever the Central Act or Regulation made after March 11, 1897, is enacted, the General Clauses Act becomes statutorily a part thereof and by its own force it applies to the interpretation of every such enactment. Its vitality does not depend upon any territorial extension.

Existence of a definition of the expression "Collector" in the Act in s. 2(a) is not necessarily indicative of an intention that the General Clauses Act is not to apply to the interpretation of that expression used in that Act. The first part of s. 2, cl. (a) of the Act is in truth not a definition at all: it merely states that the Collector of the district in which the mill is situate is the Collector for the purposes of the Act. For determining who the Collector is, one has to go to the General Clauses Act. It is said that bodily importing the definition of "Collector" in the General Clauses Act into s. 2(a) of the Act results in tautology, because by the definition in the General Clauses Act a Collector (outside the Presidency towns) is an officer-in-charge of the revenue administration of a district. But by the definition in the General Clauses Act, the quality of the power and the duties of the officer concerned are indicated whereas by the use of the expression "of the district" in the definition of Collector in s. 2(a) of the Act, the officer-in-charge of the revenue administration of the district within whose area the mill is situate is indicated. There is in our judgment no tautology, and no ground for not applying the definition of Collector in the General Clauses Act to the interpretation of the Act.

The appeal fails and is dismissed with costs.

Appeal dismissed.