learned Judge who decided *Gurmit Ram's case* (supra) we have not been able to persuade ourselves to concur in the ratio of that case.

(5) We hold that on the demise of a tenant his successors-in-interest under Proviso to Section 7-A of the Act are collectively entitled to the allotment of land equivalent to the land comprised in their tenancy. Each of them individually is not entitled to the allotment of land equivalent to the land comprised in the joint tenancy.

(6) Consequently, we find no merit in this writ petition and dismiss the same. However, there shall be no order as to costs.

Prem Chand Jain, A.C.J.—I agree.

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*N.K.S.*

FULL BENCH

*Before P. C. Jain, A.C.J., S. P. Goyal & I. S. Tiwana, JJ.*

NIEMLA TEXTILE FINISHING MILLS (P) LTD.,—*Petitioner.*

*versus*

THE INCOME TAX OFFICERS AND ANOTHER,—*Respondents.*

*Civil Writ Petition No.* 4381 *of* 1975

November 30, 1984.

*Income Tax Act (XLIII of 1961)—Section 280-ZB—Industries (Development and Regulation) Act (LXV of 1951)—Section 3(i) and First Schedule, Entry 23—Mere dyeing, printing, singeing or otherwise finishing or processing of fabrics—Whether amounts to 'manufacture or production of textiles'—Assessee carrying on such an activity—Whether entitled to the grant of a tax credit certificate under section 280-ZB.*

*Held*, that the First Schedule to the Industries (Development and Regulation) Act, 1951 specifies the names of the articles which, if manufactured or produced by an industry, would allow to that industry advantage of the provisions of Section 280-ZB of the Income Tax Act, 1961. In other words, only that industry which

is engaged in the manufacture or production of any of the articles mentioned under each of the headings or sub-headings in the First Schedule would be etitled to claim advantage of the provisions of Section 280-ZB of the Tax Act. In Entry 23 of the First Schedule, the heading is 'Textiles (including those dyed, printed or otherwise processed)' and under the sub-headings it has been clarified as to what would 'textile' mean in the manufacture or production of which an industry is engaged. Under sub-heading (1), it is provided that it would be textiles which is made wholly or in part of cotton. It is further provided that it would include cotton yarn, hosiery and rope. An industry which is manufacturing or producing textiles which is made wholly or in part of cotton, or which manufactures cotton yarn, hosiery or rope, whether it is dyed, printed or otherwise processed, would fall within the First Schedule. Similarly, under sub-heading (2), an industry which manufactures textiles which is made wholly or in part of jute would be covered under this entry and it would include an industry which manufacutres jute twine and rope. So is the position under sub-headings (3), (4) and (5). But, in none of the sub-headings it is provided that a company engaged in dyeing, printing, singeing or otherwise finishing or processing of fabrics only would be an industry engaged in manufacture or production of an article. In the entry the emphasis is on what the textile is made of and not on the process of its making, may it be dyeing, printing or processing in any other manner. The acts which are claimed to fall within the meaning of words 'manufacture or production' only result in giving a good finish to a particular article manufactured or produced, and making it a better marketable article, but these acts by themselves do not at all fall within the ambit of the entry. Further, Section 280-ZB provides that it is only that assessee which is engaged in the manufacture or production of any of the articles mentioned in the First Schdule shall be granted tax credit certificate. It cannot be said that an assessee which is only giving a finishing touch to an article to make it more sophisticated and a better marketable is engaged in the manufacture or production of any of the articles mentioned in the First Schedule. The articles which have to be manufactured find reference in Entry 23. Every act which is to fall within the definition of 'manufacture or production' has been detailed and make clear in the entry itself and nothing has been left to a guess or to an interpretation on the basis of the dictionary meanings or other judicial pronouncements interpreting similar words under other statutes. Thus, an assessee who is only doing the work of dyeing, printing, singeing or otherwise finishing or processing of fabrics would not fall within Entry 23 of the First Schedule nor would it be entitled to claim advantage of the provisions of Section 280-ZB.

(Paras 11, 12 & 13).

Niemla Textile Finishing Mills (P) Ltd. *vs.* The Income Tax Officer and another (P. C. Jain, J.)

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*Case referred by Hon'ble Mr. Justice A. S. Bains on 4th January,* 1983 *to a larger bench as the case involved an important question of law. The Division Bench cosisting of Hon'ble the Chief Justice Mr. S. S. Sandhawalia and Hon'ble Mr. Justice A. S. Bains again referred the case to Full Bench on 25th November,* 1983. *The Full Bench consisting of Hon'ble the Acting Chief Justice Mr. Prem Chand Jain and Hon'ble Mr. Justice S. P. Goyal and Hon'ble Mr. Justice I. S. Tiwana decided the case on November* 30, 1984.

*Petition Under Articles* 226 *and* 227 *of the Constitution of India praying that the records of the case be called and ;*

(a) *The order of respondent No.* 1 *dated the* 11*th June,* 1973 *Annexure 'P—5' be quashed as also the order of respondent No.* 2 *dated the* 25*th January,* 1975 *Annexure 'P—9' be quashed ;*

(b) *A direction be issued to the respondent to issue the tax credit certificates for the years* 1966-67, 1968-69 *and* 1969-70 *in accordance with Section* 280-*ZB read with paragraph* 4 *of the Tax credit Certificate (Corporation Tax) Scheme,* 1966 ;

*and/or*

(c) *Grant any other relief in the facts and circumstances of the case.*

*It is further prayed that the production of certified copies of Annexure 'P—2' to 'P—9' be dispensed with and the case be ordered to be heard at an early date.*

Bhagirath Dass, Senior Advocate, with Ramesh Kumar and S. S. Grewal, Advocates, *for the Petitioner.*

Ashok Bhan, Senior Advocate, with A. K. Mittal, Advocate, *for the Respondents.*

JUDGMENT

*Prem Chand Jain, A.C.J.*

(1) The question of law that needs our decision may be formulated thus:—

"Would mere dyeing, printing, singeing or otherwise finishing or processing of fabrics amount to the "manufacture

or production of textiles", within the meaning of Entry 23 of the first Schedule of the Industries (Development and Regulation) Act, 1951?"

(2) M/s Niemla Textile Finishing Mills (Private) Limited, Amritsar, is a private limited company engaged in scouring, singeing, milling and finishing of all types of woollen, silken or cotton fabrics. Under section 280-ZB of the Income Tax Act, 1961, (hereinafter referred to as the Act) an assessee is entitled to a tax-credit certificate if the conditions specified therein stand satisfied. It was averred that in the base year of 1965, the petitioner company had been assessed on the 25th of March, 1970, on an income of Rs. 71645 to a tax laibility of Rs. 34672 and thus for the subsequent years of 1966 to 1970 the petitioner—company had become entitled to the tax-credit certificate as envisaged under Section 280-ZB of the Act read with Tax Credit Certificate (Corporation Tax) Scheme, 1966.

(3) The petitioner-company preferred applications for the assessment years 1966 to 1970 before the Income-tax Officer, Amritsar, for taking advantage of Section 280-ZB of the Act and seeking a tax-credit certificate thereunder. All the applications were, however, disposed of by a single order by the respondent Income-tax Officer on the ground that the petitioner was not manufacturing any textiles and it was merely carrying on the process of dyeing on a wage basis which would not amount to the manufacture of textile goods. Aggrieved thereby, the petitioner preferred an appeal before the Commissioner of Income-tax, which was also dismissed by the impugned order dated 22nd February, 1975. The petitioner Company then preferred the present writ petition, which originally came up for hearing before A. S. Bains J. (as he then was). Finding that the point involved in the petition was of considerable importance, the matter was referred for decision by a larger Bench.

(4) After reference, the matter was heard by a Division Bench. On consideration of the entire matter in detail, the Bench found that the view which it was likely to take was in conflict with the observations made in *East India Cotton Manfacturing Company Private Limited* v. *The Assessing Authority-cum-Excise and Taxation Officer, Gurgaon and another*, (1) 489. Consequently, the case was referred for decision by still a larger Bench and that is how we are seized of the matter.

(1) (1972)30 S.T.C. 489.

(5) As was argued before the Bench, Mr. Bhagirath Das, learned counsel for the petitioner, submitted before us that the mere process of dyeing, finishing, scouring and singeing of fabrics and textiles of all kinds, would come well within the ambit of the manufacture or production of textiles, as envisaged by the statute, and, consequently, the petitioner-company would be entitled to the tax-credit certificate under Section 280-ZB of the Act. Reliance in support of his contention was placed on the judgments. *In East India Cotton Manufacturing Company Private Limited* (supra), *Hiralal Jitmal* v. *Commission of Sales Tax* (2) *Commissioner of Sales Tax, U.P., Lucknow* v. *Harbilas Rai and Sons* (3) *and Assessing Authority-cum-Excise and Taxation Officer, Gurgaon and another* v. *East India Common Mfg. Co. Ltd.,* (4).

(6) On the other hand, Mr. Ashok Bhan, Senior Advocate, learned counsel for the Department, submitted that the petitioner-company was not manufacturing any textile goods and that mere dyeing and finishing of manufactured textile goods would not fall within the definition of the word "manufcature or production".

(7) Before I deal with the merits of the controversy, it would be appropriate to first turn to the statutory provisions of the Industries (Development and Regulation) Act, 1951 (hereinafter referred to as the 'Industries Act'). It is not in dispute that the Industries Act was enacted to bring under the Central control the development and regulation of a number of important Industries, the activities of which affected the economy of the country as a whole and the development of which was governed by economic factors of all India import. The future development on sound and balanced lines of these industries was sought to be secured by the licensing of all new undertakings by the Central Government, Section 2 of the Industries Act, contains a declaration that it is expedient in the public interest that the Union should take under its control the industries specified in the First Schedule. Section 3(i) defines a 'scheduled industry' as meaning any of the industries specified, in the First Schedule. We are not concerned with the other provisions except the First Schedule of the Industries Act, which gives a list of articles and any industry engaged in the manufacture or

(2) (1957)8 Sales Tax Cere 325.
(3) (1968)21 S. T.C. 17.
(4) (1981)48 S. T. C. 239.

production of these articles is to be a scheduled industry within the meaning of the Industries Act. The First Schedule consists of 38 headings, under which there are certain sub-headings and sometimes under these sub-headings there are some other items included. For example, the first heading is 'Metallurgical Industries'. Under this, there are two sub-headings:—

"A. Ferrous, and

B. Non-ferrous."

(8) Now I come to relevant entry No. 23, which is in the following terms:—

"23. TEXTILES (INCLUDING THOSE DYED, PRINTED OR OTEHRWISE PROCESSED):

(1) made wholly or in part of cotton, including cotton yarn, hosiery, and rope ;

(2) made wholly or in part of jute, including jute twine and rope ;

(3) made wholly or in part of wool, including wood tops, wollen yarn, hosiery, carpets and druggets ;

(4) made wholy or in part of silk, including silk yarn and hosiery ;

(5) made wholly or in part of synthetic, artificial (man-made) fibres, including yarn and hosiery of such fibres."

(9) A bare perusal of the aforesaid item shows that its heading is 'Textiles (including those dyed, printed or otherwise processed)' and under this there are five sub-headings. It is, no doubt, true that under the definition clause in the Industries Act 'scheduled industry' is defined as any of the industries specified in the First Schedule, but when it actually comes to specifying the industries, the industries were mentioned with reference to the articles, in the manufacture of which that industry was engaged. This is made very clear and indeed, the language appears to be unambiguous when, while describing the industry, it was described as 'any

industry engaged in the manufacture or production of any of the articles mentioned in each of the following headings or sub-headings'. These words do not leave any room for doubt that what was contemplated by the Legislature was to give a list of articles and industry engaged in the manufacture or production of those articles was to be a scheduled industry within the meaning of the Industries Act.

(10) Further, by the Finance Act, 1965, Chapter 22B, pertaining to tax credit certificates was inserted in the Indian Income-tax Act where in is included Section 280-ZB (the relevant part whereof is in the following terms) which provides for tax credit certificates to certain manufacturing companies in certain cases :—

> "280-ZB. (1) Where any company engaged in the manufacture or production of any of the articles mentioned in the Fisrt Schedule to the Industries (Development and Regulation) Act, 1951, is in respect of its profits and gains attributable to such manufacture or production,—
>
> (i) ..... ..... ..... .....
>
> (ii) ..... ..... ..... .....
>
> and the tax for any such succeeding year exceeds—
>
> (a) in the case referred to in clause (i), the tax payable for the base year ;
>
> (b) in the case referred to in clause (ii), the tax payable for the succeeding base year,
>
> then the company shall be granted a tax credit certificate for an amount equal to twenty per cent of such excess :
>
> Provided that the amount of tax credit certificate shall not for any assessment year exceed ten per cent of such tax payable by the company for that year."

The tax credit certificate scheme under Section 280-ZB of the Tax Act provides for the grant of tax credit certificate to companies

engaged in the manufacture or production of any of the articles specified in the First Schedule to the Industries Act for a period of five years for the assessment years 1966-67 to 1970-71. Thus, it is pre-condition to the grant of tax credit certificates that the articles manufactured or produced by the company finds a place in the First Schedule to the Industries Act.

(11) Now coming to the merits of the case, it may be observed that the words 'manufacture', 'production' and 'textiles' and equally the composite phrase 'manufacture or production of textiles' have neither been defined in the industries Act nor in the Tax Act and it is for this reason that the learned counsel for the petitioner made reference to the dictonary meaning of the aforesaid words and also drew our attention to the several judicial pronouncements dealing with these words under some other statutes. But, as I look at the provisions of the Indusrties Act, the relevant portion of which has been reproduced in the earlier part of the judgment, I find that it would be wholly unnecessary to advert to the ordinary dictionary meaning of these words or as accuring in some other statutes, as the meaning which the legislature intended to give to these words is available in the entry itself. In the instant case, the petitioner-Company wants to avail of the advantage of the provisions of Section 280-ZB of the Tax Act and for that purpose it has to satisfy that it is an industry which is engaged in the manufacture or production of the articles as mentioned in Entry 23 of the First Schedule to the Industries Act, and if the petitioner-Company does not succeed in proving this fact, then certainly, there can be no gain saying that it would not be entitled to the advantage of the provisions of Section 280-ZB. The First Schedule to the Industries Act specifies the names of the articles which, if manufactured or produced by an industry, would allow to that industry advantage of the provisions of Section 280-ZB of the Tax Act. In other words, only that industry which is engaged in the manufacture or production of any of the articles mentioned under each of the headings or sub-headings in the First Schedule would be entitled to claim advantage of the provisions of Section 280-ZB of the Tax Act.

(12) Now coming to Entry 23 of the First Schedule, I find that the heading is 'Textiles (including those dyed, printed or otherwise processed)'. This, by itself, may have created certain problems, but the matter again has not been left vague as under the sub-headnigs it has been further clarified as to what would 'textile'

mean in the manufacture or production of which an industry is engaged. Under sub-heading (1), it is provided that it would be textiles which is made wholly or in part of cotton. It is further provided that it would include cotton yarn, hosiery, and rope. To emphasize, an industry which is manufacturing or producing textiles which is made wholly or in part of cotton, or which manufactures cotton yarn, hosiery, or rope, whether it is dyed, printed or otherwise processed, would fall within the First Schedule. Similarly, under sub-heading (2), an industry which manufactures textiles which is made wholly or in part of jute would be covered under this entry and it would include an industry which manufactures jute twine and rope. So is the position under sub-headings (3), (4) and (5). But, in none of the sub-headings it is provided that a company engaged in dyeing, printing, singeing or otherwise finishing or processing of fabrics only would be an industry engaged in manufacture or production of an article. In the entry the emphasis is on of what the textile is made of and not on the process of its making, may it be dyeing, printing or processing in any other manner. The acts which are claimed to fall within the meaning of words 'manufacture or production' only result in giving a good finish to a particular article manufactured or produced, and making it a better marketable article, but these acts by themselves do not at all fall within the ambit of the entry. The petitioner-Company as is evident from the finding of the Income-tax Officer, is only carrying on the process of dyeing on a wage basis.

(13) Further, Section 280-ZB provides that it is only that company which is engaged in the manufacture or production of any of the articles mentioned in the First Schedule that it shall be granted a tax credit certificate. Can it be said that the company which is only giving a finishing touch to an article to make it more sophisticated and a better marketable is engaged in the manufacture or production of any of the articles mentioned in the First Schedule? Obviously, no. The articles which have to be manufactured find reference in Entry 23. To avoid any confusion or vagueness every act, which is to fall within the definition of 'manufacture or production' has been detailed and made clear in the entry itself and nothing has been left to a guess or to an interpretation on the basis of the dictionary meanings or other judicial pronouncements intrepreting similar words-under other statutes. In this view of the matter, I find that a company only doing the

work of dyeing, printing, singeing or otherwise finishing or processing of fabrics would not fall within Entry 23 of the First Schedule nor would it be entitled to claim advantage of the provisions of Section 280-ZB. The question posed for our decision is answered accordingly.

(14) Before parting with the judgment it may be observed that various judgments, to which reference has been made in the referring order, were also cited before us, but I am not referring to anyone of them as the same have no bearing, in the light of my discussion, on the issue. It would be wrong and dangerous to import into the consideration of the entries in the First Schedule of the Indusrties Act, things which are germane to the consideration of an entry under entirely a different statute, especially when the purpose and object of the Lgeislature are also different. Further the necessity of making reference arose as a doubt was expressed by the referring Bench on the correctness of the judgment of this Court in *East India Cotton Manufacturing Company Pvt. Ltd.* vs. *The Assessing Authority-Cum-Excise and Taxation Officer, Gurgaon and another,* (supra). But that question again does not arise as the judgment in *East India Cotton Manufacturing Company Pvt. Ltd.* case (supra) was under the Sales-tax Act, which has no bearing so far as the case in hand is concerned.

(15) For the reasons recorded above, this petition fails and is dismissed, but in the circumstances of the case, we make no order as to costs.

*N. K. S.*

FULL BENCH

*Before D. S. Tewatia, J.M. Tandon & K. P. S. Sandhu, JJ.*

BHARPOOR SINGH AND ANOTHER,—*Petitioners.*

*versus*

THE STATE OF PUNJAB,—*Respondent.*

*Criminal Misc. No. 4399-M of 1983.*

December 6, 1984.

*Opium Act (I of 1878)—Section 9(a)—Code of Criminal Procedure (II of 1974)—Section 156—Recovery of opium—Sample sent for chemical analysis by the Investigating officer—Such sample*