

M/S. LAXMI VIDEO THEATERS AND OTHERS

A

v.

STATE OF HARYANA AND OTHERS

JULY 14, 1993

[P.B. SAWANT AND S.C. AGRAWAL, JJ.]

B

*Cinematograph Act, 1952—S.2(a)—Punjab Cinemas (Regulations) Act, 1952, S.2(c)—Punjab Cinemas (Regulation) Rules, 1952—Video parlour exhibiting pre-recorded cassette of cinematograph film through VCR/VCP. Held, is within the definition of 'cinematograph'—Punjab Entertainment Duty Act, 1955, S.3A and Punjab Entertainment Duty Rules 1956, R.8A in the State of Haryana.*

C

*Interpretation of Statutes—Whether "Cinematograph" includes VCR/VCP—Held, it includes any apparatus for representation of moving pictures or series of pictures—The definition must be given a meaning that takes into account subsequent scientific developments—Cinematograph Act, 1952, S.2(c)—Punjab Cinema (Regulation) Act, 1952, S.2(a)*

D

The appellants ran video parlours in the State of Haryana. When they were required to obtain the necessary licence under the Punjab Cinemas (Regulation) Act, 1952 (the Act) and the Punjab Cinema (Regulation) Rules, 1952 (the Rules), they approached the High Court for an appropriate writ declaring that they were not required to obtain such licence. They contended that the VCR used for playing a pre-recorded cassette does not constitute "cinematograph" under S.2(c) of the Cinematograph Act, 1952 and S.2(a) of the Act.

E

F

A learned Single Judge relaying on *M/s. Deep Snack Bar Sonepat v. State of Haryana*, AIR (1984) P&H 377, negated this contention. He also held that separate provisions made for levy of entertainments on video shows in 1984 in S.3A of the Act and Rule 8A of the Rules did not affect the interpretation of the definition of "cinematograph" in S.2(a) of the Act. Letters patent appeals were dismissed *in limine* by a Division Bench.

G

Dismissing the appeal, this Court

HELD : 1. The definition of the expression "cinematograph" con-

H

- A tained in Section 2(c) of the Cinematograph Act, 1952 and Section 2(a) of the Act is an inclusive definition which includes any apparatus for representation of moving pictures or series of pictures. The said definition cannot be confined in its application to an apparatus for representation of moving pictures or series of pictures which was known on the date of the enactment of the said provision. It must be given a meaning which takes into account the subsequent scientific developments in the field. [162-F-G]

*The Senior Electric Inspector v. Laxmi Narayan Chopra & Ors.*, [1962] 3 SCR 146, followed.

- C The VCR/VCP were developed in 1970s and achieve the same purpose as the traditional media for exhibition of moving pictures. There is nothing in the Act which excludes the applicability of the Act to VCR/VCP. [163-C]

- D *M/s. Deep Snack Bar, Sonapat v. State of Haryana*, AIR (1984) P&H 377; *Restaurant Lee v. State of Madhya Pradesh & Ors.*, AIR (1983) MP 146; *Balwinder Singh v. Delhi Administration*, AIR (1984) Delhi 379 and *Dinesh Kumar Hanuman Prasad Tiwari v. State of Maharashtra*, AIR (1984) Bombay 34, affirmed.

CIVIL APPELLATE JURISDICTION : Civil Appeal No.3275 of 1993.

- E From the Judgment and Order dated 26.11.1991 of the Punjab and Haryana High Court in L.P.A. No.1595/91.

And C.A. Nos. 3277, 3276, 3278 & 3279/93.

- F A.P.S. Chauhan, Roopindra Singh, A.S. Puhdir and K.K. Gupta for the Appellants.

S.K. Dholakia, S.M. Jadhav and A.S. Bhasme for the Respondents.

The Judgment of the Court was delivered by

- G S.C. AGRAWAL, J. Leave granted.

Heard learned counsel for the parties.

- H These appeals raise for consideration the question whether a video parlour wherein a pre-recorded cassette of a cinematograph film is ex-

hibited through the medium of video cassette recorder (VCR)/video cassette player (VCP) falls within the ambit of the definition of 'cinematograph' contained in the Cinematograph Act, 1952 and the Punjab Cinemas (Regulation) Act, 1952 (hereinafter referred to as 'the Act').

The appellants have been running video parlours in the State of Haryana wherein pictures are exhibited through the medium of VCRs. They have not obtained any licence for such exhibition of pictures under the provisions of the Act and the Punjab Cinemas (Regulation) Rules, 1952 (hereinafter referred to as 'the Rules') as applicable in the State of Haryana. As they were required to obtain the necessary licence under the Act and the Rules, they moved the High Court of Punjab & Haryana for an appropriate writ declaring that they are not required to obtain such licence. The case of the appellants was that the VCR used for the purpose of playing a pre-recorded video cassette does not constitute 'cinematograph' as defined in clause (a) of Section 2 of the Cinematograph Act, 1952 and the clause (a) of Section 2 of the Act. A learned single Judge of the High Court by his judgment dated May 7, 1991, rejected the said contention of the appellants and dismissed the writ petitions. The learned Judge has, in this regard, placed reliance on the earlier decision of a Division Bench of the said Court in *M/s. Deep Snack Bar, Sonapat & Others v. State of Haryana & Another*, AIR (1984) Punjab & Haryana 377, wherein it was held that a VCR is included within the ambit of the definition of "cinematograph" contained in Section 2(a) of the Act. The learned single judge rejected the contention urged on behalf of the appellants that Section 3-A as inserted in the Punjab Entertainment Duty Act, 1955 in the State of Haryana in 1984 and Rule 8-A inserted in the Punjab Entertainment Duty Rules, 1956 in the State of Haryana in 1984 wherein separate provisions have been made for levy of entertainment duty on video shows indicate that video parlours have not been treated at par with regular cinemas. The learned judge held that the said provisions do not in any way affect the interpretation of the definition of the 'cinematograph' contained under Section 2(a) of the Act. Letters Patent Appeals filed against the said decision of the A learned single judge were dismissed *in limine* by a Division Bench of the High Court by its order dated November 26, 1991. Civil Appeals arising out of SLPs no. 2219, 2255, 2344 and 2348 have been filed against the said orders of the Division Bench of the High Court dismissing the letters patent appeal against the order of the learned single judge. Civil Appeal arising out of SLP(C) NO.4706 has been filed against

A the order of the Division Bench of the High Court dated January 22, 1992 dismissing *in limine* the writ petition filed by the appellant in the said appeal.

B The Cinematograph Act, 1952 has been enacted by Parliament to make provision for certification of cinematograph films for exhibition and for regulating exhibitions by means of cinematograph. The expression 'cinematograph' is defined in Section 2(a) of the said Act as under :

"(c) 'cinematograph' includes any apparatus for the representation of running pictures or series of pictures"

C The same definition of the expression 'cinematograph' is contained in Section 2(a) of the Act.

D The decision of the Division Bench of the High Court of Punjab & Haryana in *M/s. Deep Snack Bar, Sonapat, & Others v. State of Haryana & Another*, (supra) holding that the definition of 'cinematograph' contained in Section 2(a) of the Act, being an inclusive definition, would cover VCR which is used for representation of the motion pictures, is in line with the decisions of the other High Courts wherein also VCR has been held to be covered by the definition of 'cinematograph'. See : *Restaurant Lee & Ors. v. State of Madhya Pradesh & Ors.*, AIR (1983) MP 146; *Balwinder Singh v. Delhi Administration*, AIR (1984) Delhi 379; *Dinesh Kumar Hanuman Prasad Tiwari v. State of Maharashtra*, AIR 1984 Bombay 34.

F We are in agreement with this view. The definition of the expression 'cinematograph' contained in Section 2(c) of the Cinematograph Act, 1952 and Section 2(a) of the Act is an inclusive definition which includes any apparatus for representation of moving pictures or series of pictures. The said definition cannot be confined in its application to an apparatus for representation of moving pictures or series of pictures which was known on the date of the enactment of the said provision. It must be given a meaning which takes into account the subsequent scientific developments in the field in accordance with principle of statutory construction laid down in *The Senior Electric Inspector v. Laxmi Naryana Chopra & Ors.*, [1962] 3 SCR 146. In that case it has been held -

H "...In a modern progressive society it would be unreasonable to confine the intention of a Legislature to the meaning attributable

to the word used at the time the law was made, for a modern A  
Legislature making laws to govern a society which is fast moving  
must be presumed to be aware of an enlarged meaning the same  
concept might attract with the march of time and with the revolu-  
tionary changes brought about in social, economic, political and  
scientific and other fields of human activity. Indeed, unless a B  
contrary intention appears, an interpretation should be given to  
the words used to take in new facts and situations, if the words  
are capable of comprehending them".

(pp.156-157)

The VCR/VCP were developed in 1970s and achieve the same C  
purpose as the traditional media for exhibition of moving pictures. There  
is nothing in the Act which excludes the applicability of the Act to  
VCR/VCP.

The High Court was, therefore, right in holding that VCR/VCP are D  
within the ambit of the definition of 'cinematograph' contained in Section  
2(a) of the Act and the appellants in order to carry on the business of  
running video parlours/or showing pre-reorded cassettes of films through  
the medium of VCR/VCP must obtain a licence in accordance with the  
provisions of the Act and the Rules.

The appeals are accordingly dismissed but with no orders as to costs. E

U.R.

Appeals dismissed.