

P. Narayan Rao Vs. State

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Court : Orissa

Decided On : May-25-1965

Reported in : (1970)IILLJ171Ori

Judge : S.K. Ray, J.

Appellant : P. Narayan Rao

Respondent : State

Judgement :

S.K. Ray, J.

1. The accused-petitioner is the manager of the factory named Orissa Timber Trading Company situated in Mal-Godown, Cuttack. He was prosecuted for offences under Sections 85(e) and 85(g) of the Employees' State Insurance Act, on the footing that the Orissa Timber Trading Company is a factory within the meaning of Section 2(12) of the Act and that the accused-petitioner being manager is the principal employer as defined under Sub-section (17) of Section 2 of the said Act.

2. Paras 5 and 6 of the prosecution report succinctly state the prosecution case against the accused. They are quoted herein below:

5. That under Regulation 26 of the Employees' State Insurance (General) Regulations 1950, every principal employer is required to submit to the Corporation the contribution cards duly affixed with the contribution stamps along with the return of contribution cards form No. 6 within 42 days of the expiry of the respective contribution period.

6. That the contribution cards duly affixed with contribution stamps along with return of contribution card on form No. 6 have not been submitted within the statutory time limit by the accused person for the contribution period ended on 25.5.63 for set-C and 27.7.63 for set-A and 28.9.63 for set-B in respect of their employees. They are therefore liable to be prosecuted for commission of these offences under Sections 85(e) and 85(g) of the Article.

The accused-petitioner thus failed to submit the contribution card in form No. 6 duly affixed with contribution stamps within the statutory limit.

3. There are three classes of contribution periods. For the class known as set-C the contribution period ended on 25.5.63 and for the class known as set-A the contribution period ended on 27.7.63 and for the class known as set-B the period ended on 28.9.63. Under Regulation 26 of the Employees' State Insurance (General) Regulations, 1950, the accused should have submitted the contribution cards duly affixed along with the return of the contribution card within 42 days of the expiry of the respective contribution periods. According to Regulation 26, Clause (c), there is default only after the expiry of 42 days of the termination of contribution period and it is only when such default occurs that the offence can be said to have been committed for failure to submit the contribution cards. Therefore, according to the prosecution report an offence can be said to have been committed after the expiry of 42 days from 25.5.63 for set-C, Similarly for set-A, the offence can be said to have been committed only on the expiry of 42 days from 27.7.63 and for set-B on expiry of 42 day? from 28.9.63. If that is so, then the time O! six months provided under Section 86(3) for filing prosecutions would commence to run only on the expiry of 42nd day from 25.5.63, 27.7.63 and 28.9.63 in respect of sets C, A and B respectively, In that view when the prosecution has been filed on 16-12-63 it cannot be said that the same is out of

time.

4. The only question raised was one of limitation and that has failed as discussed above. The revision has accordingly no merit and is dismissed.

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