

SOVRIN KNIT WORKS ETC.

A

v.

EMPLOYEES' STATE INSURANCE CORPN. AND ANR. ETC.

NOVEMBER 28, 1996

[K. RAMASWAMY AND G.T. NANAVATI, JJ.]

B

*Employees State Insurance Act, 1948: Sections 75(2), 85-B, 94-A and 95-A and Regulations 26, 31-A (As amended in 1979) and 34.*

*Employees State Insurance—Employer's contribution—Procedure for payment—Levy of damages and interest on delayed payment—Delay in contribution by appellant—Establishment—Damages imposed for delay in payment—Damages upheld by Insurance Court—Appeal—Held, Regulation 31-A requires that the employer should submit the cards duly stamped to the Corporation—Regulation 31-A requires that not only the card should be duly stamped but also the same should be produced indicating due compliance of the deposit of the employer's and the employee's contribution with the Corporation—The appellants have failed to prove the compliance, in accordance with the provisions of the act, of the deposit of the contribution as required under the Act—Imposition of damages and interest is valid.*

C

D

*Employees State Insurance Corporation—Delegation of Powers to officers—Validity of.*

E

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 402 (NL) of 1986 Etc.

F

From the Judgment and Order dated 14.8.85 of the Employees State Insurance Court, Faridabad in Case No. 6A of 1984.

S.K. Gambhir for the Appellants.

P.A. Choudhary, K.N. Nagpal and C.V.S. Rao for the Respondents.

G

The following Order of the Court was delivered :

These appeals by special leave arise from the orders of the E.S.I. Court, Faridabad, Haryana. The facts in CA No. 402/86 are sufficient for

H

A disposal of all the appeals. The appellants are establishments covered under the provisions of the Employees' State Insurance Act, 1948 (for short, the 'Act'). They did not pay the contribution for the year 1980-81. Therefore, the Corporation had served the notice on december 31, 1982 calling upon the appellants to pay the damages on delayed payment with interest. The appellants had objected to it by the petition dated February 14, 1983. The Corporation, over-ruling the objections, passed the order on February 18, 1983 imposing the damages in a sum of Rs. 8843. The appellants challenged it by filing application under Section 75(2) of the Act before the Insurance Court. The Insurance Court by its order dated August 14, 1985 has upheld the damages. Since the CA Nos. 2057 & 2058 of 1981 were pending in this Court, they filed the appeal by special leave without availing the appellate remedy in the High Court.

Two contentions have been raised by Sri S. K. Gambhir, learned counsel for the appellants. Firstly, it is contended that under Section 94-A of the Act, Corporation has been empowered to delegate the power to one of the officers but the officer-delegatee has no power to further delegate to any other officer. Therefore, exercise of the power by the officer is bad in law. When we requested Shri S. K. Gambhir to produce the order passed by the Corporation authorising the officer, he is unable to place his hands on the order passed by the Corporation. But he seeks to contend that the Regional Director, one Mr. G.R. Nair was a delegatee officer to whom power was delegated by the Corporation pursuant to its resolution. Therefore, the order is bad in law. Unless we look into the order passed by the Corporation, it is difficult to see whether it is a further delegation. It is seen under Section 95-A of the Act that the Corporation has been empowered to authorise any of its officer. It would be obvious that the Regional Director is one of the officers in the region; necessarily, he is a competent officer to exercise the power under the Act on behalf of the Corporation. It was conceded in the lower court that he was so authorised. So, the officer has power to pass the order imposing damages and interest thereon for delayed payment.

It is then contended that under Regulation 26 and 34 of the Regulation under the Act what is required is to purchase the contribution stamps, affix them and get them cancelled in time. If that is done by the employer then it can be said that the employer has paid the contribution amount in

time. Though Regulation 31-A which was brought in by amendment of 1979, further requires the employer to submit the cards duly stamped to the Corporation that is a mere procedural formality for showing that the amount has been paid in respect of the covered employees. As the cards were duly stamped the action taken by the authority for imposing the penalty is bad in law. We find no force in the contention. A

It is seen that under Regulation 31-A, as amended in 1979, not only the card should be duly stamped but also the same should be produced indicating due compliance of the deposit of the employer's and the employee's contribution with the Corporation. That has not been done. The Insurance Court had found as a fact that the compliance has not been done. The appellants have failed to prove the compliance, in accordance with the provisions of the Act, of the deposit of the contribution as required under Section 85-B of the Act. The appellants committed breach of the provisions entailing imposition of damages and interest on delayed payment. B C

The appeals are accordingly dismissed. No costs. D

T.N.A.

Appeals dismissed.