

12.12.2022
Item No. 17
BR

CRR 650 of 2004
With
CRAN 1 of 2004

In the matter of : Kailite Industries (Lamps)
Pvt. Ltd. & Ors.

Mr. Dipankar Dhar ,
Mr. Rudra Dhar
.... For the petitioner

This criminal revision is directed against an order passed in Criminal Appeal No. 3 of 2002 passed by learned Additonal Sessions Judge, 1st Court, Alipore, South 24-Parganas affirming thereby the judgment and order of conviction passed by learned 4th Court of Judicial Magistrate in Sealdah in Complaint case No. C-61 of 1999 . By the impugned judgment the accused persons were found guilty for committing offence within the meaning of Section 14(A)(1) of the Employees Provident Fund and Miscellaneous Provisions Act,1952 and directed to suffer imprisonment for one month and to pay fine of Rs. 500/- with a default clause.

Mr. Dipankar Dhar, learned counsel representing the petitioners submits that admittedly there was delay in depositing the contribution to the fund on the part of the employer and such belated payment was made on 20th January, 1999. In normal situation employees' for employer's contribution would have been Rs. 5506/-. They had to pay penal charges amounting to Rs. 27, 476/- together with interest and other incidental charges and in all, the petitoners being the employers paid a sum of of Rs. 34,667/-. The petition of complaint was filed subsequent thereto on 21st January, 1999. Section 6 of

the Employees Provident Fund and Miscellaneous Provisions Act 1952 indicates statutory obligation of the employer to pay their share for the employees and Section 14 speaks of penalties for non-compliance of the statutory mandate .

In this case admittedly after the employers paid the dues, petition of complaint was filed , therefore there was no reason to make the petitioners culpable for causing any infraction to the statutory mandate as laid down under Section 6 of the Employees Provident Fund and Miscellaneous Provisions Act,1952. According to Mr. Dhar this issue was brought the notices of learned trial Court by filing an application which was not considered even by learned Appellate Court. Be that as it may, in my humble opinion , the petitioners cannot be held liable for punishment within the meaning of Section 14 (A) (1) of the said act. I am inclined to reverse the judgment passed by learned appellate Court affirming the order of conviction. Consequently , the petitioners are found not guilty with the charges and they acquitted. They be discharged from the bail bonds.

The criminal revision is disposed of. Application if any stands disposed of.

A copy of the judgment be sent down to the learned trial Court for information and necessary action.

Urgent certified copy if applied for therefore be made available upon compliance of requisite formalities.

(Siddhartha Roy Chowdhury, J.)