

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 26TH DAY OF FEBRUARY 2015/7TH PHALGUNA, 1936

Ins.APP.No. 102 of 2011

IC.55/2007 OF EMPLOYEES INSURANCE COURT, ALAPPUZHA.
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APPELLANT(S)/APPLICANTS:

**MRS.SANDHYA, PROPRIETRIX,
M/S.TOTAL INSTRUMENTATION,
KARTHIKA, SOUTHERN GAS ROAD,
NEAR ELOOR GRAMA PANCHAYATH OFFICE,
UDYOGAMANDAL, COCHIN-683501.**

**BY ADVS.SMT.A.K.PREETHA
SRI.C.ANIL KUMAR**

RESPONDENT(S)/OPPOSITE PARTY:

- 1. THE REGIONAL DIRECTOR,
EMPLOYEES STATE INSURANCE CORPORATION,
PANCHDEEP BHAVAN, THRISSUR - 680 001.**
- 2. SHRI.SHIVAKUMAR S.,
S/O.SHIVASANKARA PILLAI,
KRISHNA VIHAR, YMA ROAD,
THRIPUNITHURA - 682 330.**

R1 BY ADV. SRI.P.SANKARANKUTTY NAIR, SC

**THIS INSURANCE APPEAL HAVING COME UP FOR ADMISSION
ON 26-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

P.B.SURESHKUMAR, J.

Insurance Appeal. No.102 OF 2011

Dated this the 26th day of February, 2015

JUDGMENT

The decision of the Employees Insurance Court, Alappuzha in I.C.No.55/07 is under challenge in this appeal. The applicant in the proceedings before the Insurance Court is the appellant.

2. The applicant is an establishment engaged in conducting calibration tests for the instruments and equipments used by industrial establishments. Based on the reports submitted by the Insurance Inspectors, the Employee's State Insurance Corporation, hereinafter referred to as 'the Corporation' for short, called upon the applicant to comply with the provisions of the Employee's State Insurance Act, 1948, hereinafter referred to as 'the Act' for short. The notice issued to the applicant intimating coverage of the establishment was challenged by the applicant before the Insurance Court in the proceedings referred to above. The Insurance Court dismissed the application and hence this appeal.

3. It is not disputed that what was challenged before the Insurance Court by the applicant was only the notice issued by the Corporation directing the applicant to comply with the provisions of the Act. The contributions payable in respect of the employees of the applicant were not determined pursuant to the said notice as provided under Section 45A of the Act. This Court in ***Muthoot Pappachan Consultancy & Management Services v. ESI Corporation [2012 (3) KLT 452]*** held that such notices cannot be challenged in proceedings under Section 75 of the Act before the Insurance Court, indicating thereby that the issue as to whether the establishment is liable to be covered or not is an issue to be decided after affording the parties an opportunity of hearing while determining the contributions payable by the establishment in respect of their employees. In the light of the said judgment of this Court, the application of the appellant before the Insurance Court was premature.

4. In the result, the impugned order is set aside and I.C.No.55/07 is dismissed as premature without prejudice to the right of the appellant to raise all the contentions available to them in the

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proceedings, if any, initiated in future.

The appeal is disposed of as above.

P.B.SURESHKUMAR, JUDGE

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