

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.1.2015

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THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

W.P.No.1933 of 2015
and M.P.Nos.1 to 3 of 2015

Airports Authority of India,
rep by its Executive Director,
Chennai Airport - Project
Chennai Airport,
Chennai-600 016 Petitioner

vs

1. Joint Director (Appellate Authority),
E.S.I - Regional Office (Tamil Nadu),
143, Sterling Road,
Chennai-600 034
2. Assistant Director,
E.S.I - Regional Office (Tamil Nadu),
143, Sterling Road,
Chennai-600 034
3. Social Security Officer,
ESIC - Branch Office,
ESIC Dispensary,
I floor,
G.S.T. Road,
Pallavaram, Chennai-600 044
4. The Recovery Officer,
Office of the Recovery Officer,
ESI Corporation,
143, Sterling Road,
Chennai-600 034

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5. The Branch Manager,
State Bank of India,
Meenambakkam,
Airport Branch, Kancheepuram District
Tamil Nadu - 600 027

6. The Branch Manager,
Canara Bank,
Grounds Floor,
Airports Authority of India,
Meenambakkam,
Chennai-600 027

..... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order dated 18.8.2014 in No.TN/Ins-III/51-00-104184-000-1099/ on the file of the 2nd respondent and the consequential order dated 1.12.2014 in No.TN/Ins-III/51-00-104184-000-1099, on the file of the 1st respondent and the proceedings dated 23.1.2015 in No.TN/RECY/45G/51-104184/CCR-67649, on the file of the 4th respondent and quash the same, directing the 1st respondent to condone the delay of 34 days in filing the Appeal of the petitioner u/s 45 AA of ESI Act, 1948 and decide the said Appeal on merits.

For petitioner : M/s FR.A. Xavier Arul Raj

For respondents: Mr.P. Chandrasekar
1 to 4

Mr.P. Chandrasekar, learned counsel takes notice for the respondents.

2. By consent of both sides, the main writ petition has been taken up for final hearing at the admission stage itself.

3. The above writ petition has been filed seeking for a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order dated 18.8.2014 in No.TN/Ins-III/51-00-104184-000-1099/ on the file of the 2nd respondent and the consequential

order dated 1.12.2014 in No.TN/Ins-III/51-00-104184-000-1099, on the file of the 1st respondent and the proceedings dated 23.1.2015 in No.TN/RECY/45G/51-104184/CCR-67649, on the file of the 4th respondent and quash the same, directing the 1st respondent to condone the delay of 34 days in filing the Appeal of the petitioner u/s 45 AA of ESI Act, 1948 and decide the said Appeal on merits.

4. Since the first respondent has no power to condone the delay in filing the appeal beyond 60 days from the date of order i.e., 18.8.0214 under Sec/45 AA of Employee State Insurance Act, the first respondent refused to condone the delay and had returned the Demand Draft, produced by the writ petitioner.

5. Mr.P. Chandrasekar, learned Central Government Standing counsel appearing for the respondents fairly submits that the petitioner may be given an opportunity to prosecute the appeal and they may be directed to file the appeal within a stipulated time.

6. Having regard to the submissions made by the learned counsel on either side, the order of the first respondent, refusing to condone the delay of 34 days in filing the appeal under Sec.45-AA of ESI Act is set aside and the petitioner is given an opportunity to file the appeal, however, within a stipulated time.

7. Accordingly, the petitioner shall file an appeal before the first respondent under Sec.45-AA of ESI Act against the impugned order within a period of three weeks from the date of receipt of a copy of this order and on receipt of the appeal, the first respondent shall decide the same on merits and in accordance with law.

8. With the above observation, the writ petition is disposed of. No costs. Consequently, connected Mps are closed.

28.01.2015

Being Mentioned

This matter having been posted on 6.2.2015 for being mentioned perusing to the order of this Court dated 28.1.2015 and made in herein and in the presence of Mr.FRA.Xavier Arulraj, Advocate, for the petitioner and of Mr.P.Chandrasekar, Advocate for R1 to R4 and this Court made the following Order:-

Heard both sides.

At the instance of the learned counsel for the petitioner, the matter has been listed under the caption 'for being mentioned'.

The learned counsel appearing for the petitioner submitted that since the fourth respondent by this order dated 23.1.2015 had frozen the Bank Account of the petitioner with the State Bank of India, Minambakkam, Airport Branch of the Canara Bank, Airports Authority of India, Minambakkam, the petitioner is not in a position to deposit 25% of the arrears mentioned in the order dated 23.01.2015. The learned counsel submitted that if this order is kept in abeyance till 10.2.2015, the petitioner would deposit 25% of the arrears today [6.2.2015] itself and that the petitioner would file the appeal on or before 10.2.2015.

Having regard to the submissions made by the learned counsel for the petitioner, the order dated 23.01.2015 passed by the fourth respondent /recovery officer is kept in abeyance till 10.2.2015, on condition the petitioner depositing 25% of the arrears before the first respondent today itself. The petitioner shall also file the appeal on or before 10.2.2015.

The order passed today is incorporated in the order dated 28.1.2015 and the Registry is directed to issue fresh copy of the order to the learned counsel for the petitioner today.

gms/ns

6.2.2015

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

sr

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To

1. Joint Director (Appellate Authority),
E.S.I - Regional Office (Tamil Nadu),
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Chennai-600 034
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6. The Branch Manager,
Canara Bank,
Grounds Floor,
Airports Authority of India,
Meenambakkam,
Chennai-600 027

2 cc to M/s. FR.A. Xavier Arul Raj, Advocate, sr.6430

1 cc to Mr.T.N.C.Koushik, Advocate, Sr. 6321

W.P.No.1933 of 2015

MG (CO)
kk 29/1
pmk.6.2.2015

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