

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA, CHANDIGARH

LPA No.818 of 2015

Date of Decision : 06.07.2015

M/s Belmaks Private Limited

.....Appellant

Vs.

State of Haryana and Others

.....Respondents

CORAM : HON'BLE MR.JUSTICE S.S.SARON
HON'BLE MR.JUSTICE RAMENDRA JAIN

Present:- Mr.Shiv Kumar, Advocate for the appellant.

Mr.Kuldeep Sharma, DAG Haryana.

Mr.Vikas Suri, Advocate for respondents No.2 and 3.

S.S.SARON, J.

Sh.Vikas Suri, Advocate, learned counsel for respondents No.2 and 3 has filed affidavit of Sh.Parshotam Kumar, Branch Manager, Employees' State Insurance Corporation, Panchkula, Haryana. The same is taken on record.

The present appeal has been filed by M/s Belmaks Private Limited, against the order dated 20.05.2015 passed by learned Single Judge, by which the writ petition filed by the appellant has been dismissed. A further prayer has been made to quash the impugned recovery order dated 08.05.2015 (Annexure P-3) passed by Recovery Officer, Employees' State Insurance Corporation, Faridabad-respondent No.3.

The appellant in terms of the impugned order has been relegated by the learned Single Judge of this Court to the remedy of

availing appeal under Section 45AA of the Employees' State Insurance Act, 1948 ('ESI Act' for short).

It was contended on behalf of learned counsel for the appellant that recovery order dated 08.05.2015 (Annexure P-3) had been passed without affording an opportunity of hearing to the appellant inasmuch as the notice dated 09.02.2015 stated to have been issued by Recovery Officer (respondent No.3) was not received. Therefore, there had been a violation of the principles of natural justice. It was submitted that a writ petition would be maintainable where there has been violations of the principles of natural justice as held by the Supreme Court in **"Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai' 1999(1) R.C.R. (Civil) 220**. It was further submitted that demand raised by the Recovery Officer (respondent No.3) in fact was against M/s Panthers Security Services, which was the principal defaulter and a notice was issued to the appellant on account of alleged business terms with it. In fact, the appellant had no dealings with M/s Panthers Security Services.

A reference was made to the letter dated 11.05.2015 (Annexure P-5) addressed to the Regional Director, Employees State Insurance Corporation (respondent No.2) stating that the appellant had no business relations with M/s Panthers Security Services for the last 7 years. In this regard it was submitted that verification of their books of accounts i.e. copies of balance sheet from March 2012 to April 2014 which had been attached showed that they had not business relations as such.

Learned counsel for the appellant had prayed for time to

submit records as to when the business relations with M/s Panthers Security Services were severed 7 years earlier as mentioned in the letter dated 11.05.2015 (Annexure P-5).

In terms of the affidavit that has been filed, it has been stated that a garnishee order has been passed on 01.07.2015 (Annexure R-2/3) by the Recovery Officer(respondent No.3) by which notice/order dated 09.02.2015 has been revoked and order dated 08.05.2015 (Annexure P/3) has been issued to banks.

In view of the said order dated 01.07.2015 (Annexure R-2/3), learned counsel for the appellant submits that he may be allowed to withdraw the present LPA. Besides, pursuant to the order dated 08.05.2015 (Annexure R-2/4) a sum of Rs.14,66,297/- has been transferred vide demand draft dated 01.02.2015 in terms of order dated 01.07.2015 in the account of M/s Belmaks Pvt. Ltd.- appellant.

In view of the said order, learned counsel for the appellant submits that he may be allowed to withdraw the present appeal as his grievance has been redressed.

In the circumstances, the appeal is dismissed as withdrawn.

(S.S.SARON)
JUDGE

06.07.2015
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(RAMENDRA JAIN)
JUDGE