



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :21.06.2016

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P(MD)No.1672 of 2011

and

M.P(MD)No.1 of 2011

M/s.Mohan Retreading Company,
Rep. By its Partner C.Chandra Mohan,
35/150, Aruppukottai Main Road,
Avaniapuram, Madurai.
Residing at
7/8 Parijadham Street,
Gokul Nagar,
Viswanathapuram, Madurai.

.. Petitioner

vs.

1.The Recovery Officer,
Sub-Regional Office,
Employees State Insurance Corporation,
4th Main Road, K.K.Nagar, Madurai 20.

2.The Assistant Director/Joint Director(INS-II),
Sub-Regional Office,
Employees State Insurance Corporation,
4th Main Road, K.K.Nagar,
Madurai-20.

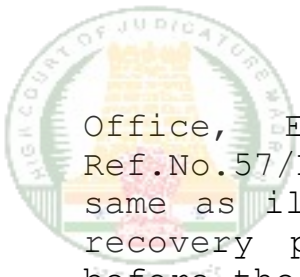
.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for records in Ref.No.57/RRC/20357/SRO/MDU/10, dated 11.01.2011 on the file of the 1st respondent and quash the same as illegal and direct the second respondent to defer the recovery proceedings till the disposal of the appeals pending before the Labour Court, Madurai.

For Petitioner	:Mr.N.Sudalaimuthu for M/s.S.Karunakar
For Respondents	:Mr.P.Ganapathysamy ***

ORDER

<https://hcservices.ecourts.gov.in/Madurai/> Re-treading Company represented by its Partner C.Chandra Mohan has filed this Writ petition challenging the impugned order passed by the Recovery Officer, Sub-Regional



Office, Employees State Insurance Corporation, Madurai, in Ref.No.57/RRC/20357/SRO/MDU/10, dated 11.01.2011, to quash the same as illegal and to direct the second respondent to defer the recovery proceedings till the disposal of the appeals pending before the Labour Court, Madurai.

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2. Heard the learned counsel appearing on both sides.

3. The Petitioner Unit is the manufacturer of retreaded rubber tyres, registered under the Employees State Insurance Act, 1948 on the file of the second respondent. Since the Company was closed for sometime in the year 2010, due to financial constraints, all the employees of the Petitioner Company, were terminated from service and their gratuity were also settled. However, the second respondent Assistant Director/Joint Director(INS-II), Sub-Regional Office, Employees State Insurance Corporation, Madurai, has initiated action for non-payment of contribution against the petitioner Company under Section 45(A) of E.S.I Act.

4. Aggrieved by the same, the petitioner filed E.S.I.O.P.No.61 of 2007 on the file of the Labour Court, Madurai. The same was dismissed on 01.03.2010. However, two other E.S.I.O.P.Nos.22 and 23 of 2011 on the file the E.S.I. Court, Madurai, are pending with an order of stay against the proceedings issued by the second respondent.

5. It is stated that after dismissal of E.S.I.O.P.No.61 of 2001, the petitioner has paid a sum of Rs.1,22,293/- for the period from 16.12.1991 to 30.09.1998. However, the petitioner has also moved an application for restoration of E.S.I.O.P.No.61 of 2001 and the same was also ordered.

6. It is further submitted that in other two cases, a sum of Rs.49,339/- each has been paid without interest since stay was granted in that matters. Therefore, a prayer was made before this Court that the petitioner Company may be permitted to raise all the objections before the E.S.I Court, without prejudice to their rights and contentions.

7. Since the petitioner Company has paid a sum of Rs.1,22,293/- with regard to the first demand involved in E.S.I.O.P.No.61 of 2001, which also includes interest for the period from 16.12.1991 to 30.09.1998 and a sum of Rs.49,339/- each in other two E.S.I.O.P.Nos.22 and 23 of 2011, for the period from 01.04.2008 to 30.09.2008 and from 01.04.2009 to 30.09.2009 respectively, the Writ Petitions stands disposed of and the Petitioner Company is directed to work out their remedy before the E.S.I. Court. Disposal of this Writ Petition will not prevent the petitioner from raising their objections before the E.S.I. Court.



No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

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To

1.The Recovery Officer,
Sub-Regional Office,
Employees State Insurance Corporation,
4th Main Road, K.K.Nagar, Madurai 20.

2.The Assistant Director/Joint Director (INS-II),
Sub-Regional Office,
Employees State Insurance Corporation,
4th Main Road, K.K.Nagar, Madurai-20.

+1CC to Mr.P.Ganapathisamy, Advocate Sr.No.32191

GJM/DB/1.7.16-3p-4c

W.P. (MD) No.1672 of 2011
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