

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2017

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THE HON'BLE Mr. JUSTICE **M.M.SUNDRESH**

W.P.No.5123 of 2017

M/s Ninety Nine Beedi Factory,
Rep., by its Manager Mr.Hashim,
8, Commissary Bazaar,
Vellore-632 004.

.. Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep., by its Principal Secretary,
Labour and Employment (L1) Department,
Fort St. George, Chennai-600 009.

2.Employees State Insurance Corporation,
Rep. By its Assistant Director,
Regional Office(Tamil Nadu),
143, Sterling Road, Chennai-600 034.

.. Respondents

Writ Petition is filed under Article 226 of The Constitution of India praying to issue a writ of mandamus to directing the first respondent to grant exemption from the provisions of the ESI Act, 1948 for the period between 01.04.2013 to 31.03.2014 as sought by the petitioner vide its representation dated 29.01.2013.

For Petitioner .. Mr.P.V.Balasubramaniam

For respondents .. Mr.M.Elumalai,
Government Advocate for R1

Mr.K.Prabakar for R2

ORDER

The petitioner involved in manufacturing of Beedi. It made an application/representation seeking exemption from the provisions of Employees State Insurance Act, 1948, for the period from 01.04.2013 to 31.03.2014 as early as on 29.01.2013. Since the said representation was not disposed of, the petitioner sought for the status through an application dated 23.09.2014 under Section 6 of the Right to Information Act, 2005. A reply was given by the first respondent stating that the application seeking exemption has not been rejected and the petitioner was given exemption for the period from 01.01.2013 to 09.01.2014 and thereafter, from the year 2015 onwards. Seeking a direction to the first respondent to dispose of the petitioner's representation dated 29.01.2013, the present writ petition has been filed.

2. Challenging the rejection made in the year 2012, a writ petition was filed in W.P.No.18446 of 2014, which is still pending with the interim order.

3. The learned counsel appearing for the petitioner submits that taking note of the pendency of the request for exemption, the same be directed to be considered within a reasonable time.

4. The learned counsel appearing for the second respondent would submit that proceedings have been initiated against the petitioner by the second respondent, which is culminated in the recovery proceedings and as per Section 91-A of the Employees State Insurance Act, 1948, there is a time limit provided. The petitioner seeks retrospective exemption.

5. By way of a reply, the petitioner submits that their case does not involve retrospective exemption. What is required is grant of exemption from 01.01.2013 to 09.01.2014 on the application made on 29.01.2013.

6. This Court is not willing to go into the merits of the case. However, taking note of the fact that the application dated 29.01.2013 made by the petitioner seeking exemption for the period from 01.01.2013 to 09.01.2014 is still under consideration, the petitioner

is directed to give another copy of the said application to the first respondent within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the first respondent is directed to dispose of the said application dated 29.01.2013 made by the petitioner within a period of eight weeks thereafter.

7.The writ petition stands disposed of accordingly. No costs.

27.04.2017

Index:Yes/No
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To

1.The Principal Secretary,
Government of Tamil Nadu,
Labour and Employment (L1) Department,
Fort St. George, Chennai-600 009.

2.The Assistant Director,
Employees State Insurance Corporation,
Regional Office(Tamil Nadu),
143, Sterling Road, Chennai-600 034.

M.M.SUNDRESH, J.

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