



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.11.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A.(MD)No.241 of 2016
and
CMP(MD)No.3347 of 2016

M/s.Jei Savitha Spinning Mills Pvt. Ltd,
221, Sankarankovil Road,
Solapuram - 626 139,
Rajapalayam Taluk,
Rep.by its Managing Director,
G.S.Velayutharaj

... Appellant

Vs.

Employees State Insurance, (SRO),
Sub Regional Office,
4th Main Road, K.K.Nagar,
Madurai - 625 020,
Rep.by its Assistant Director.

... Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 82 of the ESI Act, 1948 against the order dated 26.05.2015 made in ESIOP. No.52 of 2006 on the file of the Employees State Insurance Court (Labour Court), Madurai.

For Appellant : Mr.M.Elanchezhian
For Respondent : Mr.K.C.Ramalingam

JUDGMENT

Heard the learned counsel on either side.

2.The establishment has filed this appeal questioning the order of dismissal dated 26.05.2017 passed by the Labour Court, Madurai in ESIOP.No.52 of 2006.

3.The appellant establishment is covered by the provisions of the ESI Act, 1948. Based on the inspection report of the Social Security Officer stating that there are 62 employees of the establishment and that contribution was not been paid properly, the respondent issued show cause notice. Even though opportunity of personal hearing was afforded, it appears that the appellant



herein did not avail the same. But they had remitted the contribution to the tune of Rs.29,936/-. Without taking note of the said payment, the respondent passed an order under Section 45 A of the Act on 15.05.2006. The appellant was called upon to pay a sum of Rs.99,743/- for the period of April 2005 to September 2005. This was questioned by the appellant by filing ESIOP.No.52 of 2006.

4.In the claim petition, a specific plea was taken in paragraph.7 that even though actual contribution of Rs.29,936/- was remitted, the same was not taken into account and in the counter in Paragraph.8, the said claim was also accepted. The Labour Court did not chose to interfere with the order passed under Section 45 A of the Act. Questioning the same, this appeal has been filed.

5.This Court admits this appeal by framing the following question of law.

Whether the finding of the court below are correct in law in upholding the order of the respondent when the appellant has filed the statement of accounts which was marked as Ex.P.3 and Ex.P.5 for proving the actual remittance of Rs.29,936/-?

6.It is seen that though Ex.P3 statement of accounts was filed by the appellant and Ex.P.5 showing remittance of challans was also marked and proved, the Labour Court chose to sustain the order passed under Section 45 A of the Act.

7.When the establishment filed relevant materials, the same will have to be taken into account. In this case, the Labour Court ignored the said material. I therefore answer the said substantial question of law in favour of the appellant. The impugned order passed by the Labour Court is set aside. Consequently, the order passed under Section 45 A of the Act is also set aside. The matter is remitted to the file of the respondent. The respondent is directed to take into account the remittance made by the appellant establishment and workout the contribution payable by the appellant.

8.This appeal is accordingly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-I)

/True Copy/



To

1. The Labour Court
(Employees State Insurance Court),
Madurai.

2. The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.K.HEMAKARTHIKEYAN, ADVOCATE IN SR No. 88100

+ 1 CC TO Mr.K.C.RAMALINGAM, ADVOCATE IN SR No. 88055

SKM

TE/MR-KKR/SAR-2 : 06/12/2017 : 3P/5C

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