



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.12.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A.(MD)No.257 of 2016
and
C.M.P.(MD).No.3591 of 2016

M/s.Tower Steel (India) Limited,
19, 20, 21, SIDCO Industrial Estate,
kappalore, Madurai-625 008,
Represented by its Managing Director,
D.Thillairaj

... Appellant/Petitioner

Vs.

Employees State Insurance Corporation,
Sub Regional Office,
Madurai-625 020,
Represented by its Director.

... Respondent/Respondent

Prayer: Appeal filed under Section 82 of the Employees' State Insurance Act, 1948, to set aside the award dated 11.12.2014, passed by the Employees' State Insurance Court (I.e. Labour Court), Madurai in E.S.I.O.P.No.11 of 2003.

For Appellant : Mr.R.Aravindan

For Respondent : Mr.R.Ravindran

JUDGMENT

Heard the learned counsel on either side.

2.The appellant is a factory covered under the provision of Employees' State Insurance Act, 1948. An order under Section 45(A) of the Employees' State Insurance Act, 1948, was passed levying a sum of Rs.9,13,719/- as a contribution payable by the appellant. The same was remitted by the appellant. Thereafter, E.S.I.O.P.No.11 of 2003, was filed by the appellant before the Employees' State Insurance Court, Madurai. The appellant prayed for a declaration that the order under Section 45(A) of the Act was illegal and that the provisions of the Employees' State Insurance Act cannot be made



applicable to the appellant. The specific case projected by the appellant was that they are located in Uchapatti village and the provision of the Employees' State Insurance Act have not been made applicable to them till 01.10.2007.

3. The learned counsel appearing for the appellant would fairly submit that the appellant would be liable to pay contribution under the Act only with effect from 01.10.2007 and not for the period anterior there to. The appellant marked Ex.P1 to Ex.P.19 before the Employees' State Insurance Court. The respondent Corporation marked Ex.R1 to Ex.R4. As per Ex.R2, Nilayur Village, was covered vide notification dated 04.05.1968, issued by the Employees' State Insurance Corporation. The said notification also includes the villages Pallakapudupatti as well as Kappalur. The factory is located partly in the Uchapatti Village and partly in the Pallakapudhupatti Village.

4. Admittedly, the appellant's factory is located in Survey No.633 of Uchapatti Village. However in form 1 registration submitted by the appellant to the E.S.I. Corporation, it was mentioned that the appellant's factory is in Pallakapudhupatti Revenue village. But it appears that the same is contrary to record. Therefore a doubt arose and there was an exchange of correspondence between the Employees State Insurance authorities and the appellant. Ex.P.13 to Ex.P.15 are relevant in this case. Employees' State Insurance Corporation also addressed the revenue authorities in this regard. The appellant had denied vide reply dated 04.12.2002 that their factories are located in Uchapatti village and not in Pallakapudhupatti village.

5. It is evident from Ex.P15 read with Ex.R4 namely, G.O.(MS). No.1948, Revenue Department dated 17.09.1976, that survey No.633 of Nilayur village was transferred to form part of Uchapatti Village with effect from 17.09.1976. The appellant had located his factory only in Uchapatti village after purchasing the land vide Ex.P2, dated 09.01.1996. But the land in which the appellant's factory is located was formerly a part of Nilayur Village in Survey No.633. It was the said land that was transferred to form part of Uthampatti village vide G.O.(MS).No.948, Revenue Department dated 17.09.1976. But Nilayur village as a whole was brought under the coverage of Employees' State Insurance Act with effect from 04.05.1968. Therefore, the subsequent de-limitation exercise by the said company would not have any bearing on the earlier coverage made under the Employees State Insurance Act. Therefore the Employees' State Insurance Court rightly held that the action of the Employees' State Insurance Corporation in covering the appellant under the Employees' State Insurance cannot be faulted. I find the reasons assigned by the Employees' State Insurance Court for dismissing E.S.I.O.P.No.11 of 2003 to be sound. No substantial question of law arises for determination in the appeal.



6.This Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Judge, Labour Court (ESI), Madurai.
2. The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

TSG

TE/SKN-RSK/SAR-2 : 07/06/2018 : 3P/4C

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