



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.421 of 2016

and

CMP (MD) No.5654 of 2016

Sri Anjaneya Vilas Hotel,
3, Mariammal Koil Street,
Virudhunagar, Rep. by its Proprietor,
P.G.Subramanian ... Appellant/Petitioner

Vs.

The ESI Corporation,
Sub Regional Office,
Tallakulam, Madurai. ... Respondent/Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 82 of the Employees State Insurance Act, 1948, to set aside the order passed by the ESI Court, Labour Court, Madurai in ESIOP.No.23 of 2002, dated 08.01.2014.

For Appellant : Mr.S.Karthik
For Respondent : Mr.R.Ravindran

JUDGMENT

The respondent ESI Corporation had passed an order under Section 45 A of the ESI Act, 1948 levying contribution for the period from July 1990 to March 1998.

2.The appellant filed ESIOP.No.23 of 2002 before the Labour Court, Madurai questioning the said order dated 05.02.2002. In fact, along with the said ESIOP.No.23 of 2002, two other petitions namely OP.No.3 of 2002 and 24 of 2002 were also filed questioning the coverage and levy of contribution for an earlier period. It is now stated by the learned counsel appearing for the appellant that those two other petitions were allowed and the matter was remitted to the file of the respondent authority. Even after remand, the respondent authority has passed an order adverse to the appellant. Challenging the same, the appellant has filed this appeal.

3.The principal contention raised by the learned counsel appearing for the appellant is that the documents on which the authority relied upon for passing the order dated 05.02.2002 were not made available to the appellant herein. Therefore, he would



contend that there has been a violation of the principles of natural justice.

4.This appeal is admitted by framing the following substantial question of law :

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Whether the order dated 05.02.2002 is vitiated for having been passed without supplying the documents relied upon therein to the appellant herein?

5.The said substantial question of law has to be necessarily answered in favour of the appellant. Before the authority passes an order, it is his duty to supply all the relied upon documents to the other party. In this case, the respondent had relied upon the inspector's report. The learned counsel for the appellant would strongly contest all the contents of the said document. It is necessary that the relied upon documents are supplied made available to the appellant.

6.I therefore set aside the order dated 08.01.2014 dismissing ESIOP.No.23 of 2002. Consequently the order dated 05.02.2002 passed under Section 45 A of the ESI Act, 1948 is also set aside. The matter is remitted to the file of the respondent. It is open to the respondent to pass fresh orders in accordance with law after furnishing the relied upon documents to the appellant herein. The entire exercise shall be completed within a period of four months from the date of receipt of a copy of this order.

7.This Civil Miscellaneous Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(T & P)

/True Copy/

Sub Assistant Registrar

To

1.The ESI Court, Labour Court, Madurai.

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

+1cc to Mr.R.RAVINDARAN Advocate in SR. No. 89047

+1cc to Mr.S.KARTHIK Advocate in SR. No. 89009

SKM

JS/JC/SAR.1/15.12.2017/2P-5C

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