

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.21588 OF 2017

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, came to be filed seeking to issue a Writ of Certiorari calling for records leading to proceedings dated 13.06.2017 issued by the 3rd respondent, quash the same and consequently direct the second respondent to take up the appeal and decide the same on merits.

Heard the learned counsel for the petitioner and the learned Standing Counsel for ESIC.

As seen from the record, the third respondent passed order dated 01.02.2017 under Section 45-A of the Employees State Insurance Act, 1948, directing the petitioner to pay Rs.55,44,289/- towards contributions for the period from 01.01.2014 to 31.12.2014 and 01.02.2015 to 30.06.2016 within a period of fifteen days therefrom. As against the said order, the petitioner preferred an appeal before the second respondent under Section 45-AA of the Act, which came to be rejected on the ground that the same was filed beyond the period prescribed under the Act, vide impugned order dated 13.06.2017. Challenging the same, present Writ Petition is filed.

Learned counsel for the petitioner mainly submits that though the order was passed by the third respondent-Deputy Director on 01.02.2017, the same was served on the petitioner only on 10.02.2017 and the present appeal came to be filed within sixty days thereafter i.e. on 07.04.2017 as required under law. Thus,

the order passed by the authority in returning the appeal as barred by limitation is unsustainable.

Learned Standing Counsel for ESIC would submit that having regard to the factual aspects involved, the petitioner may be directed to re-present the appeal, in which event, the authorities may be directed to consider the same.

Having regard to the rival submissions made across the Bar, the Writ Petition is disposed of directing the petitioner to re-present the appeal, within a period of one week from today, in which event the same shall be disposed of on its own merits, in accordance with law. Further, 25% of the amount said to have been paid by the petitioner at the time of filing the appeal, shall be adjusted towards the present proceedings.

Miscellaneous petitions pending in this writ petition, if any, shall stand closed. There shall be no order as to costs.

C. PRAVEEN KUMAR, J

03.07.2017

Note : Issue C.C. today.

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