

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.12905 OF 2017

ORDER:

Heard Sri MD.Saleem, learned counsel for the petitioner and Sri Pasham Srinivasulu, learned Standing Counsel for Employees' State Insurance Corporation appearing for the respondents.

2. This Writ Petition is filed by Kavali Municipality, represented by its Commissioner, Kavali, SPSR Nellore District. The challenge in the present writ petition is to the notice, dated 24.03.2017, issued by the Employees' State Insurance Corporation, in Form No. ESI CP 2 bearing reference No.62000322710001019/CP/211561, directing the petitioner to pay an amount of Rs.3,010,102/- as per the order, dated 29.06.2016, passed by the Deputy Director, Authorized Officer, Employees' State Insurance Corporation.

3. According to learned counsel for the petitioner, the petitioner Municipality filed a statutory appeal under Section 45 AA of the Employees' State Insurance Act, 1948 (for short, 'the Act') on 06.08.2016. According to the learned counsel, despite reminders issued by the petitioner Corporation, the appeal is not being taken up.

4. On the other hand, it is submitted by learned Standing Counsel for the respondent Corporation that the appeal filed by the petitioner Municipality is incompetent in view of non-adherence to the condition of deposit of 25% of the contribution amount ordered as per Section 45 AA of the Act. Non-deposit of said amount stipulated in the said provision is not disputed by petitioner Municipality. Eventually, it is submitted by learned counsel for

the petitioner Municipality that the petitioner Municipality may be granted one month time to pay 25% of the amount as stipulated under Section 45AA of the Act.

5. Having regard to the nature of controversy and having heard the submissions of Sri Pasham Srinivasulu, learned Standing Counsel for Employees' State Insurance Corporation, this Court is of the considered opinion that the ends of justice would be served if the petitioner/Municipality is granted one month time for deposit of 25% of the amount as stipulated under Section 45 AA of the Act, which is a condition precedent for maintaining the appeal by the appellate authority.

6. Accordingly, the Writ Petition is disposed of, directing the petitioner to pay 25% of the contribution amount as stipulated under Section 45 AA of the Act, within one month from the date of receipt of a copy of this order. It is made clear that in the event of failure to make such payment within the time so stipulated, it is open for the respondents to proceed in accordance with law. No coercive steps shall be taken against the petitioner for a period of thirty (30) days.

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

A.V.SESHA SAI, J

APRIL 12, 2017

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Date: 12.04.2017

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