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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 7674 of 2014 (O&M)
Date of Decision: 20.07.2017

M/s GEE GEE Roller Flour Mills Pvt. Ltd.,
Ambala City, through its Director

.... Appellant

Versus

Employee State Insurance Corporation, Panchkula
and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Sanjay Jain, Advocate
for the appellant.

Mr. Vikas Suri, Senior Standing Counsel
for the respondents.

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JASWANT SINGH, J.

1. The Principal employer has filed present appeal, against the order dated 13.05.2014, passed by the designated Employee State Insurance Court, Ambala under the Employee State Insurance Act, 1948 (for short '1948 Act') whereby its application under Section 75 of the 1948 Act, Challenging the order dated 11.01.2007, passed by the Divisional Officer, Employees State Insurance Corporation, Ambala, directing the payment of ESI contribution totaling ₹ 68,676/- for the period from 01.09.2003 to 31.12.2004; and the consequent demand notice dated 13.03.2007 and prohibitory order dated 25.07.2007, has been dismissed.

2. The admitted facts are that the petitioner/principal employer is a Factory, covered under the provisions of the 1948 Act. For the period from 01.09.2003 to 31.12.2004, it had employed 17 employees and deducted the statutory contributions of the employees, however failed to deposit the same

with the ESI Corporation along with the principal employer's share of the statutory contribution. The ESI Corporation thus was constrained to pass an order under Section 45-A of the 1948 Act and thereafter based on the said order, raised a demand notice dated 13.03.2007 for the said amount, as also passed a prohibitory order dated 25.07.2007. The Principal employer by invoking the jurisdiction under Section 75 of the 1948 Act, filed an application before the designated Court, which on the basis of the material placed on record, had proceeded to uphold the demand and orders passed by ESI Corporation.

3. The only argument urged is that an application for statutory registration under ESI Act was made before the ESI Corporation, vide application dated 27.10.2003, however the employer's code number was granted on 17.01.2005 and thus the statutory contributions could not be deposited. The deducted contributions of the employees for the period from 01.09.2003 to 31.12.2004 were returned to the employees and after the registration, the employer has not defaulted in making its statutory contributions.

4. On the other hand, learned Counsel for the respondents submits that in view of the mandatory provisions of Section 1(3) & (4) of the 1948 Act read with Regulation 10B(a) of the Employees' State Insurance (General) Regulations, 1950, the liability of the principal employer for contribution arises immediately after the Act is extended to particular place and to a particular factory, and the registration code is only for the facilitation of maintenance of proper records.

5. I have scrutinized the record and heard arguments of both the counsels. In the present case, it is not in dispute that provisions for

depositing the statutory contributions became enforceable against the principal employer w.e.f. 01.09.2003 upon deduction of employee's Contribution. This fact stands admitted by the appellant in its letter dated 23.03.2007, addressed to the respondent. Hence, the demands raised were legal and proper. The appellant has attempted to deflect from its liability taking plea of late allotment of Registration Code-which was granted on 17.01.2005. The liability accrued from Sept'2003 to Dec'2004 but appellant inspite of getting Code on 17.01.2005 did not comply with requirement of law. The appellant was asked to deposit dues vide letter dated 12.09.2006, 04.12.2006, 11.01.2007 and 22.01.2007. The appellant was also granted opportunity of personal hearing which was duly availed by it. All these facts collectively prove that appellant does not deserve any sympathy and it has intentionally failed to comply with mandate of law. Employee State Insurance Act is a piece of beneficial legislation and its intent and purport should be looked into and complied with.

In view of aforesaid findings, this court finds that appeal is bereft of merits and needs to be dismissed. Accordingly, appeal is dismissed.

July 20, 2017 **(JASWANT SINGH)**
'dk kamra' **JUDGE**

Whether Speaking/reasoned	*Yes/No*
Whether Reportable	*Yes/No*