

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2018

C O R A M

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

WP.No.9542 of 2018
and WMP.No.11444 of 2018

M/s.Govarthane Fettling,
Rep. by its Proprietor,
No.5/244-A, Thadagam Road,
Kanuvai,
Coimbatore - 108

...Petitioner

Vs.

The Deputy Director,
Employees' State Insurance Corporation,
Sub Regional Office,
1897, Trichy Road, Panchdeep Complex,
Ramanathapuram,
Coimbatore - 641 045.

... Respondent

PRAYER

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the respondent in respect of show cause notice dated 26.02.2018 in Proceeding No.56-56-034814-001-0599/MEC and quash its notice dated 26.02.2018.

For Petitioner : Mr.S.Ravindran, Senior Counsel
for M/s.S.Bazeer Ahamed

For Respondent : Mr.C.V.Ramachandramoorthy

O R D E R

The relief sought for in this writ petition is to call for the records in relation to the Show Cause Notice dated 26.02.2018 in Proceedings No.56-56-034814-001-0599/MEC and quash the same.

2. The learned Senior Counsel appearing on behalf of the writ petitioner states that as per the Scheme introduced by the Employees' State Insurance Corporation" in terms of "Registration Spree", the period upto December 2016 is exempted, and therefore, the writ petitioner is not liable to pay any dues. In other words, the learned Senior Counsel is of an

opinion that the writ petitioner is not liable to pay any dues and in fact, the exemption as contemplated under the Scheme is applicable to the writ petitioner. Further, it is contended that the respondent lacks jurisdiction in respect of very initiation of the proceedings. Further, the impugned notice issued to the writ petitioner seeking explanations/ objections in respect of the demands made in the notice. The writ petitioner also attended the hearings and submitted explanations / objections on 10.04.2018.

3. The grievance of the writ petitioner is that the respondent has not passed any orders and this apart, an opportunity under law was also not provided.

4. No writ petition can be entertained against the notice issued by a competent authority seeking explanations / objections from the persons in a routine manner. Judicial review against a show cause notice are certainly limited and on exceptional circumstances, the writ proceedings can be entertained if any Show Cause Notice is issued by a competent authority having no jurisdiction, incompetency or the allegations of malafides. Even in case of raising allegation of malafides, the authorities against whom such an allegation is raised is to be impleaded as party in the writ petition in his personal capacity. In the absence of any one of these legal cause, no writ can be entertained in a routine manner.

5. In the present case, the learned Senior Counsel contended that the respondent lacks jurisdiction on account of the fact that the period stipulated in the impugned notice is already exempted and therefore, the writ petitioner is not liable for any further action in this regard. However, all these factors are to be considered based on the explanations / objections already submitted and if any to be submitted by the writ petitioner. This Court cannot adjudicate the merits and demerits of the issues which are now subjudice before the competent authority / respondent.

6. Thus, it is left open to the writ petitioner to submit further representation if any, along with the relevant documents to the respondent and in the event of receiving any such documents / representation / objections, the respondent is directed to provide further opportunity of hearing by fixing a date to the writ petitioner and thereafter, take decision by considering the materials available on records and in accordance with law and pass final orders within a period of twelve weeks from the date of receipt of a copy of this Order.

7. With these observations, the writ petition stands disposed of. Consequently, the connected miscellaneous petition is closed. There is no order as to costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

lok

To

The Deputy Director,
Employees' State Insurance Corporation,
Sub Regional Office,
1897, Trichy Road, Panchdeep Complex,
Ramanathapuram,
Coimbatore - 641 045.

+1cc to Mr.C.V.Ramachandramoorthy, Advocate Sr.No.29660

+1cc to Mr.S.Bazeer Ahamed, Advocate SR.no.28731

sm:4.5.2018

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