

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.NO.1900 OF 2010
AND M.P.NO.1 OF 2010

The Deputy Director
Employees' State Insurance Corporation
143, Sterling Road, Chennai-600 034. ... Appellant/Respondent

Vs.

M/s.P.S.Apparals
No.15, Race Course Road,
Guindy,
Chennai - 600 032. ... Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 82 of E.S.I.Act, 1948, against the order and decreetal order in EIOP No.291/2001 dated 31.07.2008 on the file of the Employees State Insurance Court (Principal Labour Court) Chennai.

For Appellant : Ms.S.Jayakumari
For Respondent : Mr.J.Rajarao

J U D G M E N T

This Civil Miscellaneous Appeal is filed against the order and decreetal order dated 31.07.2008 passed in EIOP No.291 of 2001 by the Employees' State Insurance Court (Principal Labour Court) Chennai.

2. According to the appellant, the payment made to the outsiders for the job work done without the supervision of the respondent also attract contribution and therefore, the appellant passed the order under Section 75 of the Employees' State Insurance Act, 1948, in proceedings No.TN/INS-IV/51-19063-18. After considering the issue, Employees State Insurance Court following the judgment of the Hon'ble Full Bench of this Court in the case of between E.S.I.CORPORATION, REP. BY ITS REGIONAL DIRECTOR, MADRAS AND BETHALL ENGINEERING COMPANY, REP. BY (MRS.) S.V.UMAYAL, PROPRIETRIX [2007 (4) CTC 529] has held that the order passed under Section 75 of the Employees' State Insurance Act, is not sustainable and the payment made to the outside job work does not attract the contribution from the establishment.

3. When the matter is taken up for hearing, the learned counsel appearing for both the parties would submit that the above-said order passed by the Hon'ble Full Bench squarely covers the issue.

4. The learned counsel for the appellant would submit that the matter is taken up on appeal before the Hon'ble Supreme Court and it is still pending. As long as the issue covered by the judgment of the Hon'ble Full Bench of this Court is in force, the order dated 31.07.2008 in E.I.O.P.No.291 of 2001 passed by the Employees' State Insurance Court cannot be interfered with.

5. Since the issue is covered by the judgment rendered by the Hon'ble Full Bench of this Court, the appeal merits no consideration. However, the order will be subject to the result of the appeal pending in the Hon'ble Supreme Court.

6. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(Audit)

//True Copy//

Sub Assistant Registrar

TK
To
The Employees' State Insurance Court
(Principal Labour Court)
Chennai.

Copy to: The Section Officer,
VR Section, High Court, Madras.

+ 1 cc to MR. S. Jayakumari, Advocate Sr.9228
+ 1 cc to Mr.R. Saravanakumar, Advocate Sr.8936

C.M.A.NO.1900 OF 2010

VGII(CO)
EU(05/04/2018)