

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2018

CORAM:

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.22595 of 2018

HLF Services Ltd.,
1, Sardar Patel Road,
Guindy,
Chennai - 600 032.
Rep. by its Director

... Petitioner

Vs.

The Assistant Director,
Employees State Insurance Corporation,
No.143, Sterling Road,
Nungambakkam,
Chennai - 600 034.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus, to call for records of the respondent in its Proceedings No.TN/Ins-VI/51-00-092250-000-1017 dated 17.07.2018 passed under Section 45A of the ESI Act, quash the same and further direct the respondent to conduct enquiry afresh by granting opportunity to the petitioner.

For Petitioner : Mr.Anand Gopalan
for M/s.T.Gopalan and Co.

For Respondent : Mr.K.Prabhakaran

O R D E R

Dissatisfied with the order passed by the Authority under Section 45(A) of the ESI Act, 1948, dated 17.07.2018, the Management is before this Court.

2. It is the case of the petitioner that on account of certain delayed payment from its customers, there is delay in remittance of contribution and the petitioner volunteered on its own to remit the same without any enquiry under Section 7A of the Act, but, the respondent by notice dated 23.05.2015, demanded damages for the period of delay.

3. The learned counsel appearing for the petitioner submitted that sufficient opportunity was not given to the petitioner to produce the records and therefore, one more opportunity should be given to the petitioner to produce the records under Section 4B of the Act, before the original authority.

4. The learned counsel appearing for the respondent submitted that sufficient opportunity has been given to the petitioner to produce the documents, but, the same has not been utilized. In fact, on one occasion, a representation has been made by the petitioner that its HR had gone out of station, hence, three weeks time was sought for, but, it has been rejected on the ground that such kind of representation cannot be entertained.

5. However, to show the bona fide, the learned counsel appearing for the petitioner submitted that the Management shall produce the list of documents along with records and there may be a direction to consider the same.

6. It is needless to point out that the original authority has already passed the final order indicating the forum for appeal. The learned counsel appearing for the Management submitted that when the remedy is available either to go before the appellate authority or before the Labour Court under Section 75A of the Act, the Management can choose to avail the remedy by approaching the Labour Court. In such view of the matter, it is open to the Management to produce the documents before the Labour Court and upon such production, the Labour Court shall look into those documents filed on behalf of the Management and decide the matter on merits and in accordance with law.

7. With this direction, the writ petition is disposed of. The petitioner is granted two weeks time from the date of receipt of a copy of this order to produce the documents before the Labour Court and till such time, the respondent shall not take any coercive action.

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Sd/-d/-
Assistant Registrar (CS viii)

//True Copy//

Sub Assistant Registrar

To
The Assistant Director,
Employees State Insurance Corporation,
No.143, Sterling Road,
Nungambakkam,
Chennai - 600 034.

+1cc to M/s.T.Gopalan and Co., Advocate SR.No. 67397
+1cc to Mr. K.Prabhakaran, Advocate SR.No. 67369

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ASK(24/12/2018)



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