

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.1759 of 2013

The Employees' State Insurance Corporation,
rep. by its Deputy Director
143, Sterling Road,
Nungambakkam, Chennai 600 034. Appellant/Respondent

Vs.

M/s. Concord Creations
Rep.by its Partner
N.S.Narayanan
37, Hyder Garden, 4th Street,
Mangalapuram, Perambur,
Chennai 600 012. Respondent/Petitioner

Prayer : Civil Miscellaneous Appeal filed under Section 82 of the Employees' State Insurance Act, 1948, to set aside the order dated and decreetal order in EIOP No.70/2003 dated 30.01.2010 on the file of the Employees State Insurance Court (Principal Labour Court) Chennai.

For Appellant : M/s.S.Jayakumari

For Respondent : M/s.R.Jaya Prakash

J U D G M E N T

Aggrieved over the order dated 30.01.2010 in E.I.O.P.No.70 of 2003 passed by the Employees State Insurance Court (Principal Labour Court), Chennai, the Employees' State Insurance Corporation has preferred this appeal.

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 45(A) of the Employees' State Insurance Act. 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 reported in 2007 (4) CTC 529 has held that the order passed under Section 45(A) 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 30.01.2010 in E.I.O.P.No.70 of 2003 passed by the Employees State Insurance Court cannot be interfered with.

5. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. However, the order will be subject to the result of the appeal pending in the Hon'ble Supreme Court.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

dpq

To

The Employees State Insurance Court
(Principal Labour Court), Chennai.

Copy To

The Section Officer,
VR Section, High Court, Madras. (2 Copies)

+1cc to M/s.S.Jayakumari, Advocate, S.R.No.

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SSV(CO)
CS/25/04/18