

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.04.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.34646 of 2013
and
M.P.Nos.1 & 2 of 2013

The Pondicherry Co-operative Wholesale
Stores Ltd., No.P.44,
Rep.by its Managing Director
Mr.T.Chanemougam
288, Mahatma Gandhi Road,
Puducherry - 605 001. ...Petitioner

vs

The Regional Director,
Employees State Insurance Corporation,
No.178, Ansari Duraisamy Nagar,
100 Feet Road,
Puducherry - 605 004 ... Respondent

Prayer: Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorari,
calling for the records pertaining to the order dated 29.11.2013
vide No.55-00-013089-000-1002/3866 passed by the respondent
under Section 85-B of Employees State Insurance Act 1948 and to
quash the same.

For Petitioner : M/s.R.Sreedhar

For Respondent : Mr.C.V.Ramachandramurthy

O R D E R

The relief sought for in this writ petition is to call for
the records in relation to the order passed by the respondent
under Section 85-B of the Employees State Insurance Act, 1948
dated 29.11.2013.

2.The order under Section 85-B of the Employees State
Insurance Act, 1948 was issued to recover the damages for the
belated remittance of contributions. However, the learned
counsel appearing for the writ petitioner brought to the notice
of this Court that against the original order of recovery of

contributions, an Appeal in C.M.A.No.464 of 2014 was filed before the High Court of Madras and the said C.M.A is pending for adjudication. However, the recovery of damages would arise depending on the order to be passed in the said C.M.A. It is needless to state that in the event of the C.M.A stands allowed, the writ petitioner may not be liable to pay the damages under Section 85-B of the Employees State Insurance Act, 1948. Contrarily, if the C.M.A is dismissed, then the writ petitioner would be made liable to pay the damages as claimed under Section 85-B of the above said Act in proceedings dated 29.11.2013. Thus, the recovery of damages would be depending on the order to be passed in the C.M.A.No.464 of 2014.

3.Thus, no further adjudication on merits is required in respect of the grounds raised in the present writ petition.

4.Accordingly, this Court is of an opinion that a separate adjudication in respect of the damages claimed in the impugned order need not be considered at this point of time and the respondents are directed to keep the impugned order in abeyance till the final disposal of the C.M.A.No.464 of 2014.

5.Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

The Regional Director,
Employees State Insurance Corporation,
No.178, Ansari Duraisamy Nagar,
100 Feet Road,
Puducherry - 605 004

+1cc to Mr.R.Sreedhar, Advocate, S.R.No.24498

W.P.No.34646 of 2013

RJ(CO)

RRK(27/04/2018)