



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) .Nos.2791 & 3365 of 2015

and

M.P. (MD) .Nos.1,1, 2 and 2 of 2015

Mangalore Ganesh Beedi Works,
D.No.11-110 J, Anna Nagar,
Alangulam-672 851,

Represented by its Manager. ...Petitioner in W.P. (MD) .No.2791 of
2015

Muruga Home Industries,
No.4, Ambai Main Road,
Kulavanigapuram,
Melapalayam Post,
Tirunelveli-627 005,

Represented by its Managing Director

...Petitioner in W.P. (MD) .No.3365 of
2015

Vs.

1.The State of Tamil Nadu,

Represented by its
Principal Secretary to Government,
Labour and Employment (L1) Department,
Secretariat, Chennai.

2.The Regional Director,

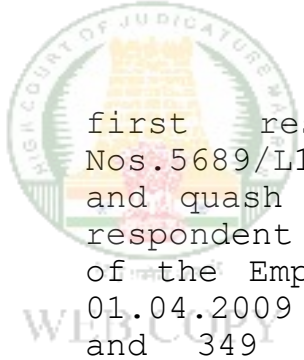
Employees' State Insurance Corporation,
147, Sterling Road, Nungambakkam,
Chennai-600 034.

3.The Joint Regional Director,

Employees' State Insurance Corporation,
Salai Street, Vannarapettai,
Tirunelveli-627 003.

... Respondents in both Writ Petitions

Common Prayer: Writ Petitions filed under Article 226 of the
Constitution of India, to issue a Writ of Certiorarified Mandamus,
calling for the records relating to the impugned G.O.(D).Nos.349 and
155, 348 and 165, Labour and Employment dated 14.11.2011
17.04.2012, 14.11.2011 and 26.04.2012 respectively issued by the



first respondent as well as his consequential Letter Nos.5689/L1/2014-15 and 2528/L1/2014-15 dated 09.10.2014, 18.12.2014 and quash the same as illegal and consequently direct the first respondent to grant exemption to the petitioner from the provisions of the Employees' State Insurance Act, 1948, for the period from 01.04.2009 to 31.03.2013 in the light of G.O.(D).Nos.679, 350 327 and 349 Labour and Employment dated 14.12.2009, 25.07.2013, 24.07.2014 and 25.07.2013 respectively.

In Both Writ Petitions

For Petitioners : Mr.M.Jerin Mathew
for Mr.M.E.Ilango
For Respondents : Mr.K.Saravanan for R1
Government Advocate
: Mr.K.C.Ramalingam for R2 & R3

COMMON ORDER

Heard the learned counsel on either side.

2.By consent of both the parties, the main Writ Petition itself is taken up for final disposal.

3.The petitioners in both the Writ Petitions are Beedi manufacturers. The petitioners have questioned the impugned Government Orders, whereby, the claim for exemption from the operation of the Provisions of the Employees' State Insurance Act, 1948 has been negatived. It is not in dispute that the petitioners/ Establishments enjoyed exemption immediately prior to the period in question. It is also not in dispute that for the period following the rejection period also, exemption was granted by the Government.

4.The learned counsel appearing for the petitioner has produced the relevant Government Orders before this Court.

5.The learned Standing Counsel appearing for the Corporation pointed out that the question of granting retrospective exemption will not arise. In the case of the petitioner in W.P.(MD).No.3365 of 2015, the application was submitted belatedly and therefore, he wanted this Court to sustain the impugned orders of rejection. But as rightly pointed out by the learned counsel for the petitioner and as observed by this Court by order dated 21.06.2011 made in W.P. (MD).No.17572 of 2010 etc, batch when the service conditions of the employees have not changed either before or after the period in question, the Government must give some special or new reason to refuse the exemption. In this case, no such special or new reason to refuse exemption is found in the impugned Government Orders. When the Writ Petitioners were granted exemptions for the period subsequent to the one on hand there is simply no reason to refuse exemption for the intervening period also. In this view of the matter, Government orders made in the Writ Petitions are quashed.



6. The Writ Petitions stand allowed accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

/True Copy/

Sd/-
Assistant Registrar (CSII)

Sub-Assistant Registrar

To

The Principal Secretary to Government,
State of Tamil Nadu,
Labour and Employment (L1) Department,
Secretariat, Chennai.

+2 ccs to Mr.M.E.Ilango, Advocate, SR.Nos.48961 and 48962

+2 ccs to Mr.K.C.Ramalingam, Advocate, SR.Nos.49128 and 49130

tsg
RL/6C/3P/KK/SAR2/6/3/2018

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