

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.02.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(NPD).No.689 of 2019
and
C.M.P.No.4498 of 2019

M/s.Trial Tex,
rep.by its Parter A. Palanisamy,
S/o.Sivashanmugam,
No.1/A, Sasthiri Nagar,
Angeripalayam Road,
Tiruppur – 641 602.Petitioner

Vs

1.The Joint Regional Director,
Coimbatore Sub Region,
Employees State Insurance Corporation,
Sub Region Office (Coimbatore),
1897, Trichy Road,
Ramanathapuram,
Coimbatore.

2.The Depouty Director,
Employees State Insurance Corporation,
Sub Region Office (Coimbatore),
1897, Trichy Road,
Ramanathapuram,
Coimbatore.

3.The Recovery Officer,
Employees State Insurance Corporation,
Sub Region Office (Coimbatore),
1897, Trichy Road,
Ramanathapuram,
Coimbatore.

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decretal order dated 31.01.2018 passed in I.A.No.244 of 2018 in E.S.I.O.P.No.1 of 2011 on the file of the learned Principal Labour Judge, Employee State Insurance Court, Coimbatore.

For Petitioner : Mr.B. Sasikumar

ORDER

The above Civil Revision Petition is filed challenging the order passed by the learned Principal Labour Judge, in I.A.No.244 of 2018 in E.S.I.O.P.No.1 of 2011, wherein the application filed by the revision petitioner to condone the delay of 823 days was dismissed.

2.The brief facts which are necessary for disposing of this application are as follows:

The revision petitioner had filed E.S.I.O.P.No.1 of 2011 on the file of the learned Principal Labour Judge, Employee State Insurance Court, Coimbatore, to set aside the order passed by the 2nd respondent claiming ESI Contribution of a sum of Rs.4,85,722/- from April 2001 to March 2002 and for an injunction restraining the respondents not to resort to coercive action to recover the said amount.

3.It is seen that when the matter was posted on 25.02.2016 for the arguments of the revision petitioner, he did not appear and therefore, the learned Judge was pleased to dismiss the case for default. Thereafter, the revision petitioner has come forward with the impugned petition in which he would state that he was suffering from stomach pain on account of which he was unable to file the application and the delay of 823

days has arisen. The respondent/Corporation has filed a counter in which they would state that the application is totally bereft of any detail leave alone valid reasons for condoning the delay. The Learned Principal Labour Judge, by order dated 31.10.12018 observed that the revision petitioner had approached the Hon'ble High Court to quash the order passed under Section 45A of the ESI Act which was the subject matter of the suit and this Court by order dated 10.01.2011 had permitted the revision petitioner to challenge the order before the Appellate Authority and that there was a direction to the Appellate Authority not to reject the appeal on the ground of limitation and without insisting on pre-deposit as the petitioner has already deposited 50% of the amount demanded by the respondents and thereafter, the appeal was filed and the counter of the respondent was also filed on 26.06.2013. The petition was posted for enquiry right from 13.08.2015 to 05.02.2016, there was no representation on the side of the petitioner. Finally, on 25.02.2016, the petition was posted for enquiry and the learned Judge dismissed the

application for default by observing that the learned counsel appearing for the petitioner had reported no instructions. Thereafter, the present petition has been filed. Challenging the said order, the revision petitioner is before this Court.

4. Heard the learned counsel appearing for the petitioner.

5. In the affidavit which was filed in support of the petition to condone the delay, the revision petitioner does not show any cause for the delay except for stating that on 25.02.2016, the petitioner suffered from stomach pain, no other reason whatsoever has been given. Further, taking note of the observation made by the trial Court, it is very evident that the only attempt on the side of the revision petitioner is to protract the proceedings. The said conduct cannot be condoned by this Court. I find no infirmity in the order passed by the learned Principal Labour Judge, Coimbatore.

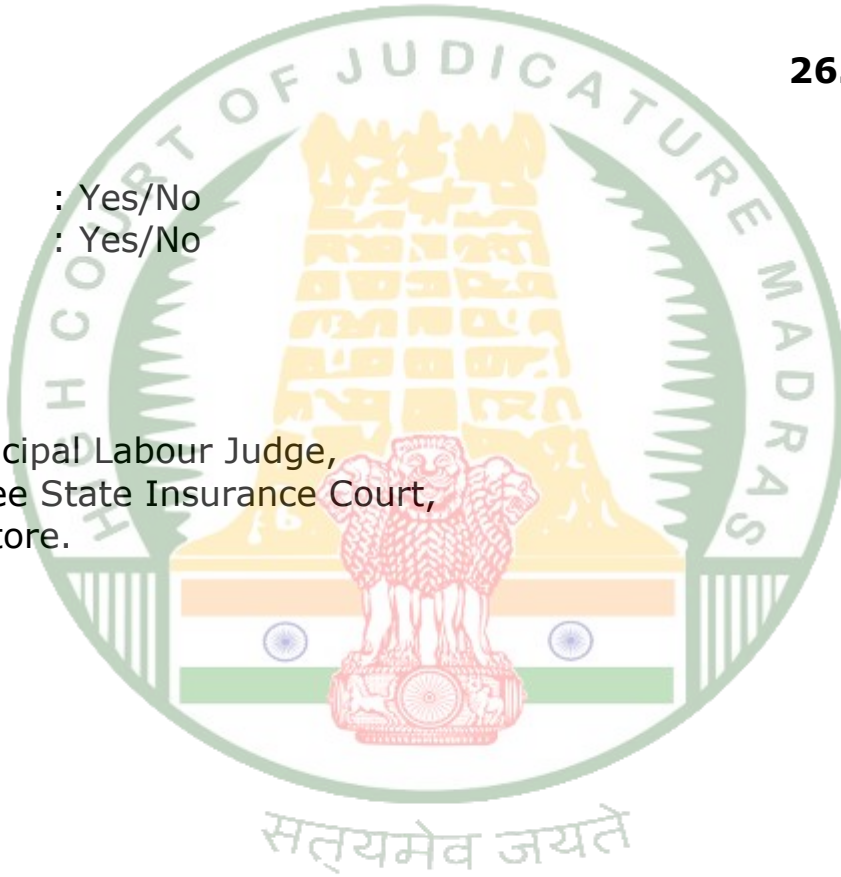
This Civil Revision Petition is dismissed. No costs.
Consequently, connected Miscellaneous Petition is closed.

26.02.2019

Index : Yes/No
Internet : Yes/No
mps

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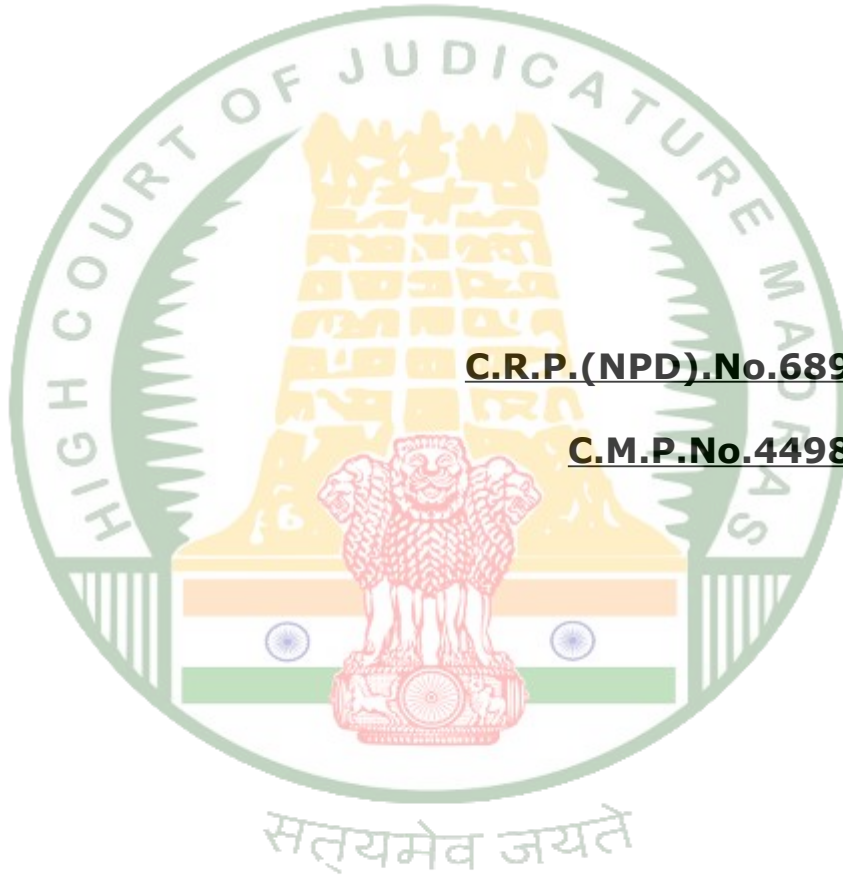
The Principal Labour Judge,
Employee State Insurance Court,
Coimbatore.



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P.T. ASHA, J,

mps



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