



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A. (MD)No.454 of 2019

WEB COPY

The Employees State Insurance
Corporation, through its Joint Director
Sub-Regional Office, 4th main road,
K.K.Nagar, Madurai -20.

... Appellant

Vs.

M/s.Prabhu Spinning Mills (P) Ltd.,
Nagampatti,
Vedasandur, Dindigul District.

... Respondent

PRAYER: Civil Miscellaneous Appeal is filed, under Under section 82 of ESI Act, 1948, against the order dated 27.03.2019 passed in ESI OP No.86 of 2009, by the Labour Court (Employees' State Insurance Court), Madurai.

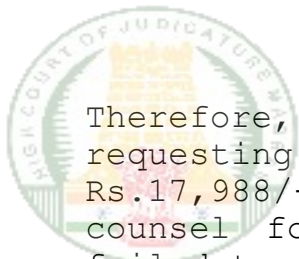
For Appellant : Mr.R.Ravindran
For Respondent : Mr.M.Elanchezian

JUDGMENT

This appeal is directed against the order dated 27.03.2019 made in E.S.I.O.P.No.86 of 2009, on the file of the ESI Court (Labour Court), Madurai.

2.The case of the appellant is that they have issued a notice to the respondent, dated 14.10.2009 claiming a sum of Rs.17,988/- as interest for the belated payment of ESI contribution for the period from October 2007 to July 2008. The petitioner have made the payment of ESI contribution vide challan dated 28.07.2008. Further, the learned counsel for the appellant has contended that in terms of Rule 31-A of the ESI (General) Regulations, 1950, an employer, who is liable to pay contributions in respect of any employee, shall pay the contributions within 21 days of the last day of the calender month in which the contributions fall due.

3.By referring the above provision, the learned counsel for the appellant would contend that every month the respondent is liable to pay the ESI contribution on or before 21st day of every English Calender month. But in the present case, the respondent failed to make the ESI contribution on or before the said period, whereas for the period starting from October 2007 to July 2008, the respondent had remitted the ESI contribution vide challan dated 28.07.2008.



Therefore, they issued show cause notice, dated 14.10.2007 requesting the respondent to pay the interest amount of Rs.17,988/- for the belated payment of ESI contribution. The learned counsel for the appellant further contended that the ESI Court failed to consider these aspects and wrongly set aside the form C-18 (interest), dated 14.10.2007, by order dated 27.03.2019. Aggrieved by the said order, the appellant/respondent has filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the respondent would contend that they have already remitted the ESI contribution on 28.07.2008 for the period of October 2007 to July 2008. Therefore, there is no need for payment of interest. But he admitted the fact that they have not remitted as per Rule 31-A of the ESI (General) Regulations, 1950, as stated above.

5.Heard the learned counsel for the appellant and perused the materials available on record.

6.In the present case, the revision petitioner issued a notice, dated 14.10.2007 to the respondent claiming interest of Rs.17,988/- for the delay in making the payment towards the ESI contribution for the period from October 2007 to July 2008. As admitted by both parties, the contribution was made on 28.07.2008. However, this aspect was not considered by the Court below and therefore, the order dated 27.03.2019, impugned in this appeal is liable to set aside. Accordingly, the same is set aside holding that there was a delay in payment of ESI contribution for the period from October 2007 to July 2008 and hence, the respondent is liable to pay the interest of Rs.17,988/-, as claimed by the appellant by notice dated 14.10.2009.

7.In the result, this Civil Miscellaneous Appeal is allowed. No costs.

Sd/-

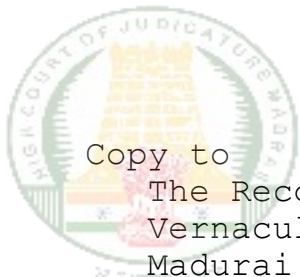
Assistant Registrar (writs)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Labour Court Judge,
ESI Court
(Employees' State Insurance Court),
Madurai.



Copy to
The Record Keeper,
Vernacular Section, (2 copies)
Madurai Bench of Madras High Court,
Madurai.

WEB COPY

+1 CC to Mr.K.HEMAKARTHIKEYAN, Advocate (SR-87167[F] dated 17/09/2019)

+1 CC to Mr.R.RAVINDRAN, Advocate (SR-86766[F] dated 16/09/2019)

**Order made in
C.M.A(MD) No.454 of 2019
13.09.2019**

rj2

MK (01.10.2019) 3P 6C