

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 4599 of 2018

and

W.M.P. Nos. 5664 and 5665 of 2018

M/s.Sitaram Energy and Logistics Ltd.
Rep. By its Manager Mr.Pravin Maheswari
Plot No.126, I Cross, Bharathi Nagar
Karaikal - 609 602. Petitioner

-vs-

1. The Employees State Insurance Corporation
Rep. By its Deputy Director (Rev)
Regional Office, Puducherry
No.178, 100 Feet Road, Ansari Duraisamy Nagar
Puducherry - 606 004.
2. M/s. Oil & Natural Gas Corporation Limited
Rep. By its General Manager - Logistics
Cauvery Asset, Neravy Office Complex
Karaikal - 609 604. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records on the file of the Respondents pertaining to the impugned order of the First Respondent dated 05.02.2018 bearing Ref. No. 55-00-042853-000-0906 and quash the same.

For Petitioner : Mr. T.Sai Krishnan

For Respondents: Mr. A.E.Lakshminarayanan
For Mr. K.Prabakar (For R1)

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O R D E R
(through video conference)

Heard Mr. T.Sai Krishnan, Learned Counsel for the Petitioner and Mr. A.E.Lakshminarayanan for Mr. K.Prabakar, Learned Counsel for the First Respondent, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner is a contractor supplying labour to the 'establishment' of the Second Respondent at Cauvery Asset, Karaikal. The First Respondent by a letter no. 55-00-042853-000-0906 dated 05.02.2018 addressed to the Second Respondent informed that the Second Respondent is not absolved of its liability under the Employees State Insurance Act, 1948 (hereinafter referred to as 'the Act' for short) in respect of the employees engaged through the Petitioner, who would have to be covered for insurance under the Act. The Petitioner has filed this Writ Petition challenging the said order on the premise that the site of the Second Respondent where the labour supplied by the Petitioner are employed is a 'mine', which is exempted under Section 2(12) of the Act.

3. It is highlighted out by the Learned Counsel appearing for the First Respondent that the nature of the grievance sought to be ventilated by the Petitioner in this Writ Petition falls within the purview of the disputes which could be adjudicated by the Employees' Insurance Court under Section 75(1)(g) of the Act.

4. In response to that contention, Learned Counsel for the Petitioner states that inasmuch as the Petitioner had not raised the question that is sought to be canvassed in this Writ Petition before the First Respondent earlier, a representation in this regard would be made and depending upon its outcome, the Petitioner would pursue further remedy. He has also filed a memo dated 27.07.2020 to that effect, which is placed on record.

5. Having regard to the aforesaid rival contentions made on behalf of the parties, this Court, without expressing any view on the correctness or otherwise of the merits of claim made, leaves it open to the Petitioner to work out its rights before the proper forum in the manner recognized by law. It is made clear that having due regard to the pendency of this Writ Petition, for the purpose of reckoning limitation for pursuing any legal remedy by the Petitioner, the period from the date of filing of the Writ Petition, viz., 26.02.2018 till today, viz., 27.07.2020 shall be excluded.

6. Accordingly, the Writ Petition is disposed on the aforesaid terms. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

Maya

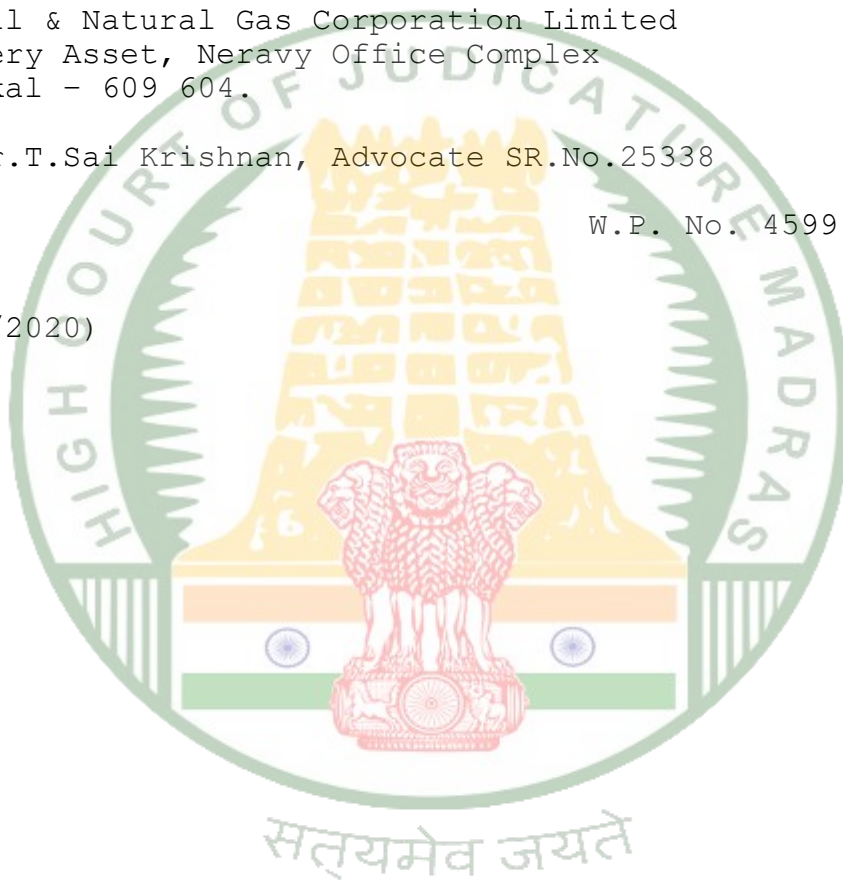
To

1. The Deputy Director (Rev)
The Employees State Insurance Corporation
Regional Office, Puducherry
No.178, 100 Feet Road, Ansari Duraisamy Nagar
Puducherry - 606 004.
2. The General Manager - Logistics
M/s. Oil & Natural Gas Corporation Limited
Cauvery Asset, Neravy Office Complex
Karaikal - 609 604.

+1cc to Mr.T.Sai Krishnan, Advocate SR.No.25338

W.P. No. 4599 of 2018

BR(CO)
GMY(07/08/2020)



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