

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 25.03.2021
CORAM
THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
C.M.A.No.2412 of 2013

M/s.Data Logics India Private Limited,
2nd Floor, SIET College Avenue,
310, Anna Salai,
Teynampet,
Chennai 600 018,
Rep by its Managing Director

...Appellant/Petitioner

Vs.

Employees State Insurance Corporation,
143, Sterling Road,
Nungambakkam,
Chennai 600 034,
Rep by
1.The Deputy Director
2.The Recovery Officer

...Respondent/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 82 of the Employees' State Insurance Act, to set aside the order of the Principal Labour Court, Chennai dated 13.05.2011 in E.I.O.P.No.18 of 2003.

For Appellant : Mr.Anand Gopalan for
M/s.T.S.Gopalan and Co.

For Respondent : Mr.A.E.Lakshmi Narayanan for
Mr.K.Prabakar

JUDGMENT

This civil miscellaneous appeal is filed to set aside the order of the Principal Labour Court, Chennai dated 13.05.2011 in E.I.O.P.No.18 of 2003.

2. At the first instance, the learned counsel for the appellant made a submission that M/s.Data Logics India Private Limited is a Company registered under the Companies Act. However, the Managing Director of the Company is owning a proprietary concern under the name and style of Data Logics. Admittedly, both the offices are functioning in the same building.

3. Though the learned counsel for the appellant states that the two establishments are different entities, the findings of

the ESI officials reveals that the appellant Company is also owned by a person who is a proprietor in the Data Logics. Thus, the same is to be considered as same establishment for determining the contribution payable under the ESI Act.

4. It is contended that even presuming that the two establishments are one and the same, the number of coverable employees are not decided with reference to the prevailing situation in two establishments. The learned counsel for the appellant further contended that these grounds were not raised before the Labour Court by either of the parties. Though the documents were filed, the issue with reference to the coverable employees had not been raised by the parties nor decided by the Labour Court, enabling this Court to arrive a firm opinion regarding the contribution payable by the appellant.

5. The learned counsel for the respondent ESI Corporation objected the contention by stating that both the establishments are one and the same and one is the private limited company and the other is the proprietary concern and therefore, the establishments are to be treated as one for the purpose of determining the contribution payable under the Act. However, the learned counsel for the respondent also is of the opinion that the documents though submitted before the Labour Court, the issue regarding the coverable employees are not raised by either of the parties and therefore, it was not decided by the Labour Court.

6. This being the submissions made on behalf of the appellant and the respondent, this Court is of the opinion that the Labour Court has to decide the issue relating to the coverable employees with reference to the documents already filed by the respective parties before the Labour Court. In this regard, the parties to the lis are permitted to file the additional documents if any, before the Labour Court and the Labour Court has to admit the documents and adjudicate the issues relating to the coverable employees as defined under the ESI Act. Accordingly, the case is to be remanded back to the Labour Court for adjudication of left out issues and dispose of the matter afresh.

7. In this view of the matter, the judgment and decree dated 13.05.2011 passed in E.I.O.P.No.18 of 2003, is set aside and the matter is remanded back to the Labour Court for fresh adjudication of the issues and dispose of the matter as expeditiously as possible on merits and in accordance with law and by affording an opportunity to all the parties concerned, within a period of six months from the date of receipt of a copy of this order.

8. Accordingly, C.M.A.No.2412 of 2013, stands allowed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gsk

To

1.The Principal Labour Court, Chennai.

2.The Deputy Director and the Recovery Officer,
Employees State Insurance Corporation,
143, Sterling Road,
Nungambakkam, Chennai 600 034.

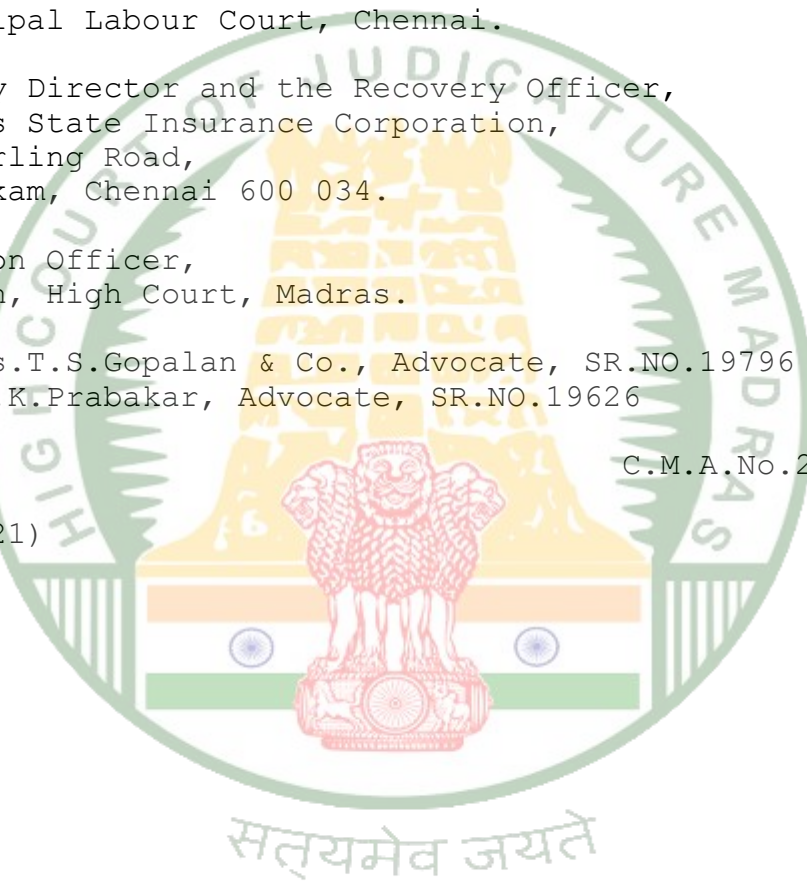
3.The Section Officer,
VR Section, High Court, Madras.

+1 cc to M/s.T.S.Gopalan & Co., Advocate, SR.NO.19796

+1 cc to Mr.K.Prabakar, Advocate, SR.NO.19626

C.M.A.No.2412 of 2013

LN(CO)
NS(10/05/2021)



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