

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2021

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.1683 of 2018

and

C.M.P.No.13181 of 2018

Joint Director,
Employees State Insurance Corporation,
143, Sterling Road, Nungambakkam,
Chennai - 600 034. ..Appellant/Respondent

Vs.

Navodaya Mass Entertainments Limited,
82, Varadarajapuram, Darkas Ward II,
Chennai - 600 044,
represented by its Company Secretary. ..Respondents/Petitioner

Prayer : Civil Miscellaneous Appeal filed under Section 82 (2) of the ESI Act, praying to set aside the fair order and decree passed in E.I.O.P.No.307 of 2004 dated 23.03.2015 on the file of the Employees Insurance Court (Principal Labour Court Chennai), Chennai as arbitrary, Illegal and contrary to the ESI Act.

For Appellant : Mr.S.P.Srinivasan

For Respondents: Mr.Anand Gopalan
For M/s.T.S.Gopalan & Co.

J U D G M E N T

The learned counsel for the appellant mainly contended that based on the erroneous documents filed by the respondent Company, the E.S.I. Court passed an order.

2. The facts as well as the documents filed by the respondents are not co-relating. In order to substantiate the said contention, the learned counsel for the appellant relied on the list of exhibits marked on the side of the petitioner which relates to the years 2008 and 2013 - 2014. However, the order under Section 85 (B) of the Act was passed with reference to the years 1995 and 2001.

3. On perusal, even in Paragraph No.12 of the judgment a reference is made by the E.S.I.Court regarding Ex.R2 impugned order. Ex.R2 relates to the year 2007. However, Ex.R4 referred relates to the year 2014. Therefore, there are certain factual contradictions which all are brought to the notice of this Court. On such factual contradictions as well as the documents referred are to be clarified by the E.S.I.Court where the case was dealt with the reference to the facts and circumstances as raised between the parties.

4. Accordingly, the judgment passed in E.I.O.P.No.307 of 2004 dated 23.03.2015 is set aside and matter is remanded back to the E.S.I. Court for re-adjudication and clarify the facts and circumstances and pass a fresh orders by affording an opportunity to all the parties in accordance with law within a period of six months from the date of the receipt of a copy of this order.

5. Accordingly, C.M.A.No.1683 of 2018 stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Pns.

To

1.The Joint Director,
Employees State Insurance Corporation,
143, Sterling Road,
Nungambakkam, Chennai 34.

2.The Employees Insurance Court
(Principal Labour Court Chennai),
Chennai.

+1cc to Mr.Srinivasan, Advocate, S.R.No. 13121
+1cc to Mr.Gopalan and co, Advocate, S.R.No. 13020

C.M.A.No.1683 of 2018

MG(CO)
GN(19/03/2021)