

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 02.03.2021
CORAM
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
C.M.A.No.3227 of 2014

1. Employees State Insurance
Corporation Limited through
Its Deputy Director.

2. The Recovery Officer,
Regional Office, Employees
State Insurance Corporation

.. Appellant

vs.

M/s. Golden Dragon Chinese Restaurant
by its Proprietor S.P. Jagannathan
Santham Complex, Sarada College Road,
Salem.

.. Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 82 of
ESI Act, 1948, against the order dated 11.12.2003 passed in
E.S.I.O.P.No.38 of 2000 on the file of the Labour Judge, Salem.

For Appellants : M/s.K.Prabakar

For Respondents : Mr.D.Shivakumaran

O R D E R

The Fair and Decretal order dated 11.12.2003 passed in
E.S.I.O.P.No.38 of 2000 is under challenge in the present Civil
Miscellaneous Appeal.

2. The substantial question of law raised in the appeal on
hand by the appellants is that was it correct for the lower
Court to hold that the provisions of the Employees State
Insurance Act have no application to the respondent?

3. The said question cannot be construed as an acceptable
substantial question of law. Section 82 of the ESI Act
contemplates that " an appeal shall lie to the High Court from
an order of an Employees? Insurance Court if it involves a
substantial question of law". Thus, in the absence of any
substantial question of law, no appeal is entertainable and such
a substantial question of law must be an acceptable and capable
of being adjudicated with reference to the question of law.

4. The learned counsel appearing for the appellants made an attempt to elaborate the facts and circumstances and further, made a request to consider those facts which became final. In other words, the learned counsel for the appellants solicited the attention of this Court with reference to the deposition of P.W.1 by stating that more than 10 employees were working in the first respondent Establishment during the relevant point of time in the year 1996/1997. However, those factual aspects were well considered by the trial Court and a clear finding was arrived. Thus, this Court cannot go into those facts nor construe those facts as acceptable substantial question of law within the meaning of Section 82 of the Act. If at all the authorities are of the opinion that some irregularities are found, then they are at liberty to initiate further action by following the procedures contemplated under the statute. However, the order in question in the present appeal was passed in the year 2003 and further, the inspection pertains to the year 1996/1997. Therefore, this Court is not inclined to entertain the appeal. Accordingly, the order dated 11.12.2003 passed in E.S.I.O.P.No.38 of 2000 stands confirmed and consequently, Civil Miscellaneous Appeal stands dismissed. No costs.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub-Assistant Registrar

ssb

To

The Judge,
Labour Court, Salem

सत्यमेव जयते

+1cc to Mr.V.Sekar, Advocate, SR.NO. 13779

+1cc to Mr.K.Prabakar, Advocate, SR.NO. 12677

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AK-II(CO)
KKN 22.04.2021

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