



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.12496 of 2011

and

M.P. (MD)Nos.1 & 2 of 2011

WEB COPY

Shri Ramachandran Pillai,
Universal Foods,
Eraviputhoor Kadai,
Kattathurai Post,
Kanyakumari District.

... Petitioner

Vs.

1.Authorised Officer,
Universal Foods,
Eraviputhoor Kadai,
Kattathurai Post,
Kanyakumari District.

2.Recovery Officer,
Office of Recovery Officer,
Employees State Insurance Corporation
Municipal Shopping Complex, Salai Street,
Sindupoonthurai,
Tirunelveli - 627 001.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records relating to the proceedings in No.66/RRC/66-00-030231-000-0009/195/11/08 dated 15.06.20211 by the second respondent and quash the same.

For Petitioner : Mr.Jeen Felix

For Respondents : Mr.N.Dilip Kumar
Standing Counsel for R.2

* * * * *

ORDER

The Writ Petition is filed seeking for issuance of a writ of certiorari to call for the records relating to the proceedings in No.66/RRC/66-00-030231-000-0009/195/11/08 dated 15.06.20211 by the second respondent and quash the same.



2. The case of the petitioner is that the petitioner was a partner of a Cashenut factory named "Universal Food" in the Eraviputhoor Kadai in Kanyakumari District. Due to financial loss, the petitioner had given up the business in the year 2003 and the petitioner was not in charge of the factory and he was involved in the day to day affairs of the factory. While so, he received a letter dated 15.06.20211 from the second respondent claiming an amount of Rs.3,16,285/- from the petitioner as a principal employer for the default in contribution to the Employees State Insurance Corporation for the period from 04/2005 to 09/2006 and the interest upto 31.05.2011. Challenging the same, the present writ petition is filed.

3. Learned Counsel appearing for the petitioner would submit that without conducting any adjudication in respect of payment of contribution of ESI Corporation, mechanically the second respondent passed the impugned order by fixing the responsibility against the petitioner. In fact, the petitioner discontinued the business in the year 2003, however, the impugned order was passed in the year 2011, which is *non-est* in law and hence, the learned Counsel would pray for appropriate orders.

4. This Court also heard the learned Counsel appearing for the second respondent and perused the materials placed on record.

5. On a perusal of the records, it would reveal that the petitioner unit is situated in Kattathurai area and that area is falling within the limits of the second respondent and especially covered under the ESI Act and the said unit situated in the said area is required to pay contribution under Section 40 of the ESI Act and the Rules specified in Rule 51 of the ESI Central Rules, for which there was a show cause notice issued to the petitioner unit and after adjudication and after providing reasonable opportunity, the amount was determined by the original authority to the tune of Rs.3,16,435/- and therefore, for the non-payment of the said dues, the present impugned notice was issued to the petitioner to pay the said amount. However, the fact remains that without challenging the original order determined by the authorities, the consequential order was challenged in the present writ petition, which is not maintainable. Accordingly, the Writ Petition is dismissed. However, liberty is granted to the petitioner to work out his remedy in the manner known to law. No costs. Consequently, the connected Miscellaneous Petitions are also dismissed.

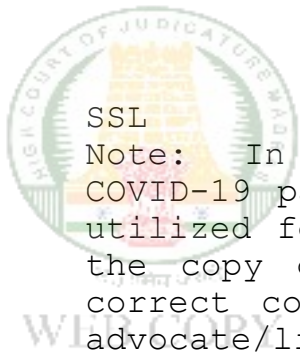
Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



SSL

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.Recovery Officer,
Office of Recovery Officer,
Employees State Insurance Corporation
Municipal Shopping Complex, Salai Street,
Sindupoonthurai,
Tirunelveli - 627 001.

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-14925[F] dated 31/03/2021)

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31.03.2021

RK (26.04.2021) 3P 3C