



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.04.2021

C O R A M

WEB COPY

THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P. (MD) No.17124 of 2012

and

M.P.(MD)No.1 of 2012

M/s.Jainarayana Fire Works,
Kanjampatty, Vembakottai Post,
Sivakasi Taluk, Virudhunagar District,
Through its Principal Employer,
T.Rengasamy.

... Petitioner

Vs.

1.The Authorised Officer/
Deputy Director,
Employees State Insurance Corporation,
Sub Regional Office,
4th Main Road, K.K.Nagar,
Madurai.

2.The Recovery Officer,
Employees State Insurance Corporation,
Sub Regional Office, 4th Main Road, K.K.Nagar,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a writ of Certiorari, to call for the records relating to the impugned order passed by the second respondent in his proceedings in No.57-00-029620-000-0303/INSI/SRO/MDU/283/12, dated 28.11.2012 respectively and quash the same.

For Petitioner : Mr.T.Kumar-NA
For Respondents 1 & 2 : Mr.P.Ganapathysamy

ORDER

There is no representation for the Petitioner, when the matter is called at 11.25 a.m. today (i.e., 20.04.2021).

2. Heard Mr.P.Ganapathysamy, Learned Counsel for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.



3. The Petitioner made an application under Section 75 of the Employees State Insurance Act, 1948 (hereinafter referred to as 'ESI Act' for short) before the Employees State Insurance Court (hereinafter referred to as 'ESI Court' for short) against the order No.57-00-029620-000-0003/INS.I/SRO/MDU/283/12 dated 23.07.2012 passed by the First Respondent under Section 45-A of the ESI Act. According to the Petitioner, as revealed from the contents of the affidavit filed in support of the Writ Petition, there was no presiding officer in the ESI Court at that time and as such the aforesaid application could not be numbered and no orders had been passed in that application. In the meanwhile, the Second Respondent by order No.57-00-029620-000-0303-INS.I/SRO/MDU/283/12 dated 28.11.2012 had required the Petitioner to pay the amount due towards Employees State Insurance Contribution, failing which it has been informed that recovery would be made under the Provisions of ESI Act. In that backdrop, the Petitioner had filed this Writ Petition challenging the order No.57-00-029620-000-0303-INS.I/SRO/MDU/283/12 dated 28.11.2012. This Court at the time of admission, by an interim order dated 03.01.2013 granted stay of the impugned order.

4. It is brought to the notice of this Court by the Learned Counsel for the Respondents that the aforesaid application filed by the Petitioner under Section 75 of the ESI Act, has been taken on file as E.S.I.O.P.No.29 of 2013 before the ESI Court, Madurai, which is pending.

5. In view of the same, the Respondents shall await orders to be passed by ESI Court, Madurai in E.S.I.O.P.No.29 of 2013 and shall not take any coercive steps against the Petitioner for recovery of the amount in pursuance of the order No.57-00-029620-000-0303-INS.I/SRO/MDU/283/12 dated 28.11.2012 till the orders are passed in that application and communicated to the parties. It is made clear that ESI Court, Madurai is not precluded from passing any order, interim or final, which may deem proper in accordance with law following the prescribed procedure after hearing the parties.

6. Accordingly, the Writ Petition is disposed with the aforesaid clarification. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



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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.

W.P. (MD) No.17124 of 2012
20.04.2021

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