

IN THE HIGH COURT OF ORISSA AT CUTTACK

MA No.778 of 2001

**Employees State Insurance
Corporation**

....

Appellant

-versus-

M/s. Balbir Singh Company

....

Respondent

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
12.07.2022**

Order No

- 7.**
- 1.** This matter is taken up through Hybrid Mode.
 - 2.** Heard Mr. P.P.Ray, learned counsel for the Appellant and Mr. S. Rath, learned counsel appearing on behalf of Mr. S. Patra, learned counsel for the Respondents.
 - 3.** This appeal has been filed by the Appellant-Corporation challenging the judgment dated 27.07.2001 passed by the learned Addl. District Judge-cum- Employees Insurance Court, Rourkela in E.S.I Dispute Case No.7 of 1996.
 - 4.** Mr. Ray, learned counsel for the Appellant submitted that the learned Court below without appreciating the documents exhibited by the Corporation in support of their stand and for realization of the amount from the Respondent, dismissed the said claim vide the impugned order.
 - 5.** It is submitted that as provided under Section 45(2)(b) of the Act, the Inspector of the Corporation is authorized to inspect by entering into any office or establishment and such establishment or

office is to allow the said Inspector to examine all such documents relating to the payment of wages etc.

6. It is submitted that after taking all those documents from the establishment of the respondent in question, the Corporation raised the claim and exhibited all the same before the learned court below, but learned court below without considering the relevancy of those documents in its proper perspective held the respondent not liable to pay the demand.

7. Accordingly, Mr. Ray prayed for interference of this Court. On the other hand Mr. Rath on behalf of Mr. Patra, learned counsel for the Respondent submitted that since no substantial question of law has been raised by the appellant, the appeal is not likely to be entertained by this Court.

8. Heard learned counsel for the Parties.

9. Perused the materials available on record. Even though all the documents were exhibited by the Corporation in support of their stand against the Respondent, in the impugned order it is seen that the learned Court below has not considered the same, save and except the document exhibited vide Annexure-1. Therefore, this Court prima facie is satisfied that learned court below has not considered all the materials available on record, which has been obtained by the Corporation in exercise of the power under Section 45(2)(b) of the Act. Not only that the substantial question of law raised at Para-J of the pleadings as per the considered view of this Court is germane to the issue.

10. In that view of the matter, this Court while inclined to interfere with the impugned order, set aside the same and remand the matter to the learned Court below for fresh disposal. While taking a fresh decision, learned Court below is directed to look into all the documents those were exhibited by the appellant in support of its

stand against the Respondent. Learned Court below is also directed to give reasonable opportunity of hearing to all the parties.

11. Since the dispute relates to the year 1996, learned Tribunal is directed to re-decide the matter by giving opportunity of hearing to both the parties within a period of six weeks from the date of receipt of this order.

12. Accordingly, the MA stand disposed of.

(Biraja Prasanna Satapathy)
Judge

Subrat

