



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.357 of 2022

Vinay Ashok Samtani,
Director of Coalesce Foods Pvt. Ltd.,
Old No.40, New No. Siddhartha Apartments,
Flat No.19, C.P.Ramaswamy Iyer Road,
Chennai-600 018.

.. Appellant

Vs

1.Employees State Insurance Corporation,
Pachdeep Bhavan - No.143, Sterling Road,
Nungambakkam, Chennai-600 034
rep. by its Regional Director.

2.The Recovery Officer,
Employees State Insurance Corporation,
Pachdeep Bhavan - No.143, Sterling Road,
Nungambakkam, Chennai-600 034.

.. Respondents

Prayer: Appeal under Clause 15 of the Letters Patent against the order dated 03.01.2022 passed by the learned Single Judge in W.P.No.27763 of 2021.

Prayer in W.P.No.27763 of 2021: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the first and second respondents relating to ESI Code No.51001049440001102 and quash the Demand Notice dated 22.09.2021 Ref.No:51001049440001102/CP/448178/CCR-104517 in Form ECIC-CP-2 served in the name of the petitioner herein, as the same is illegal, unlawful and non-est in law.

For the Appellant : Mr.P.Mohan Prasad
for M/s.Viruksham Legal

For the Respondents : Mr.T.N.C.Kaushik
Standing Counsel
for respondent Nos.1 and 2



JUDGMENT
(Delivered by the Hon'ble Chief Justice)

The writ appeal has been filed to challenge the order dated 03.01.2022 passed in W.P.No.27763 of 2021, whereby the writ petition was dismissed in view of the availability of an alternate remedy of appeal under the Employees State Insurance Act, 1948 (for short, "the Act of 1948")

2. We do not find any error in the order of the learned Single Judge not only for the reason that the remedy of appeal exists under the Act of 1948 and in the given facts the writ petition is not maintainable, because the appellant is disputing the demand notice and the cancellation of the account on the factual grounds. It is by stating that one account was created by appellant and the other has been created by the Employees State Insurance Corporation for the established name as Sukh Sagar, which was opened by the appellant only for investment purpose. But we find on the date of inspection in the establishment of Sukh Sagar, more than ten employees were found and, accordingly, a demand notice was issued, while the first account stood in the name of M/s.Coalesce Foods Private Limited. In any case and without taking the aforesaid observation to be final, we dismiss the writ appeal with liberty to the appellant to take the remedy of appeal, if he so desires. No costs. Consequently, C.M.P.No.2897 of 2022 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To:

1.The Regional Director,
Employees State Insurance Corporation,
Pachdeep Bhavan - No.143, Sterling Road,
Nungambakkam, Chennai-600 034.

2.The Recovery Officer,
Employees State Insurance Corporation,
Pachdeep Bhavan - No.143, Sterling Road,
Nungambakkam, Chennai-600 034.

W.A.No.357 of 2022

GMR(CO)
SB(03/03/2022)