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CRP.(NPD)No.3184 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2022

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. [NPD] No.3184 of 2015

and M.P.No.1 of 2015

M/s.Ledtex Products Private Limited

Represented by its Director

Sanjay Dhuka

... Petitioner

.vs.

1.Employees State Insurance Corporation,

Represented by its Assistant Director,

No.143, Sterling Road,

Chennai 600 034.

2.The Recovery Officer,

Regional Office,

Employees State Insurance Corporation,

No.143, Sterling Road,

Chennai 600 034.

... Respondents

Prayer: This Civil Revision Petition have been filed under Article 227 of Constitution of India, to set aside the Order dated 10.10.2014 passed in I.A.No.178 of 2014 in E.S.I.O.P.No.8 of 2002 on the file of Principal Labour Court, Chennai filed to condone the delay in filing of the petition to restore the main E.S.I.O.P.No.8 of 2002 dismissed for default on 21.01.2011.



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For petitioner : Mr.A.Arun for
M/s.Raj and Raj Associates

For Respondents : Mr.K.Prabakar

ORDER

The present Civil Revision Petition has been filed to set aside the order dated 10.10.2014 made in I.A.No.178 of 2014 in E.S.I.O.P.No.8 of 2002 on the file of the Principal Labour Court, Chennai to condone the delay in filing of the petition to restore the main E.S.I.O.P.No.8 of 2002 which was dismissed for default on 21.01.2011 .

2. The petitioner had filed the petition in E.I.O.P.No.8 of 2002 to set aside the order of the second respondent issuing prohibitory order under Rule 26(1) of the II Schedule to the Income Tax Act, 1961 read with Section 45C to 45I of ESI Act, 1948 in TN/Recy/ESI-CP-3/51-19256-21 dated 11.01.2002 claiming a sum of Rs.1,16,354.00 for the period from 1982 onwards, passed in pursuance of any orders made under Section 45-A



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as null and void and consequently for an injunction restraining the first and second respondents from proceeding with the recovery action as per Section 45-C to 45I of the ESI Act against the petitioner and the same was dismissed for default on 21.01.2011 on the ground of non appearance of the petitioner. Thereafter, the petitioner has taken out the application for condoning the delay of 1200 days in filing the application for restoring the petition in E.I.O.P.No.8 of 2002. In the affidavit filed in support of the petition, the petitioner would contend that he was not in station due to his business commitments and therefore unable to follow the case and there was no other valid reason stated by the petitioner for not taking steps for more than three years and hence, the application was dismissed. Against which, the present civil revision petition has been filed before this Court.

3. Heard the learned counsel for the petitioner and the respondents.

4. It is a well settled principle laid down by the Hon'ble Supreme Court in **N.Balakrishnan vs. M.Krishnamoorthy** reported in [(1998) 7 SCC 123] that condonation of delay is a matter of discretion of the Court.



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J.NISHA BANU,J.

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Length of delay is no matter, acceptability of the explanation is the only criterion. Based on the above proposition, I do not find any acceptable reasons to interfere in the order passed in I.A.No.178 of 2014 dated 10.10.2014 to condone the long delay.

5. In my considered opinion, the learned Judge has rightly dismissed the same. Accordingly, this Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

21.03.2022

Intex : Yes/No

Internet : Yes/No

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To

The Principal Labour Court,

Chennai.

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