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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.01.2022

Coram:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.27587 of 2021
and
W.M.P.No.29114 of 2021

M/s.Ampsan Financial Services Pvt. Ltd.,
Formerly M/s.Ampson Insurance Services Pvt. Ltd.,
Rep. by its Authorized Rep. Mr.V.Ganesh, 54 years,
No.26/91, 2nd Floor, 3rd Street, Karpagam Avenue,
Raja Annamalai Puram,
Chennai-600 028.

.. Petitioner

Vs.

The Deputy Director,
Employees State Insurance Corporation,
No.143, Sterling Road,
Nungambakkam, Chennai-600 034.

.. Respondent

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 relating to the impugned order in I.A.No.1/2021 in O.P.SR.No.380 of 2021 passed by the Principal Labour Court, Chennai dated 03.12.2021 and quash the same as unwarranted and direct the Principal Labour Court, Chennai to number the Original Petition without the condition of pre-deposit.

For petitioner : Mr.R.Mansoor Ilahi

For respondent : Mrs.Jayakumari,
Standing Counsel

ORDER

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order in I.A.No.1/2021 in O.P.SR.No.380 of 2021 passed by the Principal Labour Court,



Chennai dated 03.12.2021 and quash the same as unwarranted and direct the Principal Labour Court, Chennai to number the Original Petition without the condition of pre-deposit.

2. The facts in brief are as follows:

(a) The petitioner-Company is a Company incorporated under the Companies Act, 1956, in the year 2009 and are engaged in Insurance Agency activities. They have been duly paying the ESI contributions from the date of enrolment and were filing the necessary documents with the Ministry of Corporate Affairs.

(b) From the year 2016, the petitioner-Company became a non-employee Company having zero employees, as the employees were relieved from service due to lack of business activities and have failed to furnish 'nil' Returns to the respondent.

(c) The petitioner-Company was issued with a show cause notice in Form-C, dated 11.08.2021 calling upon the petitioner-Company to show cause as to why a sum of Rs.7,53,985/- should not be demanded towards the ESI contributions for the period from July 2016 to May 2021 and provided an opportunity of personal hearing on 30.09.2021.

(d) On 30.09.2021, the Authorised Signatory of the petitioner-Company appeared before the Authorised Officer and explained the reason for the non-payment of ESI Contributions and also furnished the Balance Sheets for the same. The Authorised Officer refused to receive the documents and also to record the submissions informing orally that they cannot collect the documents and record the submissions, as they do not have authority for the same and informed that they had adjourned the hearing.

(e) However, there was no intimation from the Authorised Officer. The petitioner-Company was issued with an order dated 29.10.2021 under Section 45-A of the Employees' State Insurance Act, 1948 (as amended) directing to pay Rs.7,20,201/- towards ESI contributions. Though it is stated that opportunity of personal hearing was communicated through e-mail, the same was expected by the petitioner through Registered Post earlier. Aggrieved by the above order of the respondent, the petitioner-Company preferred a petition before the Principal Labour Court, Chennai under Section 75 of the Employees' State Insurance Act, 1948, and along with the said petition, the petitioner-Company has also filed an application for waiver of pre-deposit under Section 75 (2B) of the said Act.

(f) On 03.12.2021, the waiver petition came up for hearing and the impugned order was passed by the Court below directing



the petitioner-Company to deposit 20% of the amount fixed by the respondent, on or before 16.12.2021, failing which, it was observed that the petition will be dismissed. As against the said order dated 03.12.2021, the present Writ Petition is filed.

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3. Heard both sides and perused the materials available on record.

4. Upon perusing the impugned order and on considering the submissions made on either side, this Court finds that no valid or legal ground is made out by the petitioner to entertain this Writ Petition. The Court below has rightly directed the petitioner to deposit only 20% of the amount by waiving the amount to be deposited to some extent, instead of the petitioner statutorily depositing 50% of the amount as mandated under Section 75-2B of the said Act.

5. Hence, this Writ Petition is dismissed. No costs. Consequently, W.M.P. is closed.

Sd/-
Assistant Registrar(CS IV)

True Copy//

Sub Assistant Registrar

CS

To

1. The Principal Judge,
Labour Court, Chennai
2. The Deputy Director,
Employees State Insurance Corporation,
No.143, Sterling Road,
Nungambakkam, Chennai-600 034.

+1cc to Mrs.Jayakumari, Advocate, S.R.No.717

W.P.No.27587 of 2021

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