



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CMA.No.3670 of 2021
and
CMP.Nos.10 & 12 of 2022

FHA Apparels,
Rep. by its Manager,
Mr.Jothiba Devappa Rajai,
S.F.No.456/2, Avinasilingampalayam,
Tirupur Main Road,
Avinashi - 641 654,
Tirupur District.

...Appellant / Petitioner / Petitioner

Vs.

E.S.I. Corporation,
Rep. by its Deputy Director,
No.1897, Trichy Road,
Coimbatore - 45.

...Respondent / Respondent / Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 82 of the Employees' State Insurance Act, 1948 read with Section 151 of the Civil Procedure Code, 1908, against the order dated 18.01.2021 in I.A.No.1 of 2020 in E.S.I.O.P.CFR.No.1434 of 2020 passed by the Employees State Insurance Court, [Principal Labour Court], Coimbatore.

For Appellant : Mr.A.Deivasigamani

For Respondent : Mr.G.Bharadwaj

J U D G M E N T

The petitioner has filed ESIOP.CFR.No.1434 of 2020, challenging an order under Section 45-A of the Employees' State Insurance Act. The petitioner sought for waiver of the pre-conditional deposit of 50% of the amount levied as contribution. The ESI Court allowed the application partly and directed the petitioner to deposit 25% of the contribution, which worked out



to Rs.2,56,930/- on or before 11.01.2021. On 11.01.2021, the petitioner sought for extension of time by filing a petition. The said petition was returned on the ground that it was not accompanied by an affidavit. thereafter, on 18.01.2021, the petitioner filed a memo along with a demand draft for Rs.2,56,930/-. The same was returned on the ground that the order was not complied with in time.

2.It is seen from the records that the petitioner had, in fact, sought for extension of time within the time granted by the ESI Court. Unfortunately, the said petition was not accompanied by an affidavit therefore, the petition was returned. In the meantime, the petitioner has produced a demand draft for the amount that was directed to be deposited by the ESI Court. No doubt, the ESI Court correct in concluding that the order has not been complied with in time. I am of the opinion that the ESI Court should have taken a pragmatic view and accepted the deposit because the delay was only one week.

3.Considering the same, the deposit made on 18.01.2021 is treated as in proper compliance with the order of the ESI Court dated 14.12.2020. This civil miscellaneous appeal is therefore allowed, the production of Demand Draft dated 18.01.2021 for a sum of Rs.2,56,930 is taken as proper compliance with the order dated 14.12.2020 and IA.No.1 of 2020 will stand allowed. The ESI Court will restore the ESIOP.CFR.No.1434 of 2020 and dispose it of in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

kkn

To:-

The Employees State Insurance Court,
Principal Labour Court,
Coimbatore.

+1cc to Mr.A.Deivasigamani, Advocate, S.R.No.3748

+1cc to Mr.G.Bharadwaj, Advocate, S.R.No.3485

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KG(CO)
SU(07/03/2022)