



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.01.2022

CORAM:

THE HONOURABLE MRS.JUSTICE S.ANANTHI

CMA (MD) No.1113 of 2021 &

CMP (MD) No.10658 of 2021

WEB COPY

M/s.Cheran Spinning Mills,
Represented by its Personal Manager,
Shri.S.Kuppusamy,
V.Pudukottai Village, Minikkampatti,
Vedasanthur Taluk,
Dindigul District - 624 711.

At Present

M/s.Cheran Spinning Mills,
Represented by its Administrative Officer,
Shri.M.Selvaraj,
V.Pudukottai Village, Minikkampatti,
Vedasanthur Taluk,
Dindigul District - 624 711. ... Appellant/Petitioner

(Cause title accepted vide Court order dated 16.02.2021 in CMP (MD) No.1219/2021 in CMA (MD) SR.No.5474/2021)

vs.

The Joint Director,
Employees State Insurance Corporation (SRO),
4th Main Road, K.K.Nagar, Madurai - 20. ... Respondent/Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 82 of the ESI Act, 1948 to set aside the order of the Employees State Insurance Court (Labour Court), Madurai in ESIOP.No.51/2012 dated 29.08.2019 and allow the appeal.

For Appellant :Mr.V.O.S.Kalaiselvam

For Respondent :Mr.I.Pinaygash

J U D G M E N T

The appellant filed this appeal to set aside the order of the Employees State Insurance Court (Labour Court), Madurai in ESIOP.No.51/2012 dated 29.08.2019 and allow the appeal.

2. ESIOP.No.51/2012 was filed by M/s.Cheran Spinning Mills, represented by its Personal Manager, S.Kuppusamy to set aside the

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order passed by the respondent on 26.05.2011 under Section 45(A) of the ESI Act. The said ESIOP was dismissed by the ESI Court (Labour Court), Madurai on 29.08.2019. Against the said order, the present appeal has been filed.

3. The learned counsel appearing for the appellant / petitioner would contend that the appellant / petitioner mill was partitioned in the year 2015. The present Management took over the mill during the said partition. Before partition, the mill was represented by S.Kuppusamy, the Personal Manager. At present, the mill is represented by the Administrative Officer, M.Selvaraj. The learned counsel would submit that the present Management had no knowledge of the order passed by the respondent on 26.05.2011 under Section 45(A) of the ESI Act and the consequential proceedings in ESIOP.No.51/2012. The respondent issued Form C-19 notice on 27.11.2020 and only then, they came to know about the order passed in ESIOP.No.51/2012. Hence, they have filed this appeal. He would submit that the respondent without considering the records furnished on the side of the mill, had proceeded to pass orders on adhoc basis which is erroneous. The lower Court had also confirmed the same in ESIOP.No.51/2012. Therefore, he prayed that one more opportunity may be given to produce the relevant documents and the order passed in ESIOP ought to be set aside.

4. The learned counsel appearing for the respondent would submit that the order passed by the lower Court is well reasoned and it need not be disturbed.

5. Though it is claimed that the present Management took over the mill by partition that took place during April 2015, they have not produced any partition deed to that effect. Further, the present Management was also a partner in the mill before partition. A perusal of the order passed by the respondent on 26.05.2011 under Section 45(A) of the ESI Act shows that notice was sent to the appellant / petitioner mill for personal appearance on 17.12.2009. Mr.S.Kuppusamy, the then Personnel Manager who appeared before the Sub Regional Office (Madurai), Employees' State Insurance Corporation on 15.12.2009 did not file any document on their side. Hence, the respondent proceeded to pass orders on merits and fixed the total contribution at Rs.3,64,650/-. ESIOP.No.51/2012 was filed by the then Personnel Manager Mr.S.Kuppusamy. In the ESIOP proceedings, no documents like Attendance Register, Salary Register were produced on the side of the mill to prove that the amount fixed by the Corporation is very high. Even in this appeal, no document was filed by the appellant / petitioner. When partition took place and property was handed over to the present Management, all the liabilities would also be transferred to the present Management, who own the property. The order under Section 45(A) of the Act was passed in the year 2011. The order in ESIOP proceedings was passed in the year 2019. Now, the learned counsel prays for one more



opportunity to produce the documents. This Court is of the opinion that the appellant / petitioner failed to prove their case when they had sufficient opportunity. The matter is pending from the year 2011. At least, while filing this appeal, the present Management of the mill ought to have produced the relevant documents to prove their case. This Court finding no merit in this appeal, is inclined to dismiss the appeal.

6. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed. The order of the Employees State Insurance Court (Labour Court), Madurai in ESIOP.No.51/2012 dated 29.08.2019 is confirmed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1.The Judge,
Employees State Insurance Court
(Labour Court), Madurai.

2.The Joint Director,
Employees State Insurance Corporation (SRO),
4th Main Road, K.K.Nagar, Madurai.

Copy to:
The Section Officer,V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.V.O.S.KALAISELVAM, Advocate (SR-289[F] dated 05/01/2022)

+1 CC to M/s.I.PINAYGASH, Advocate (SR-278[F] dated 05/01/2022)
CMA (MD)No.1113 of 2021
03.01.2022

MGJ(20.01.2022) 3P 7C