



W.P.No.29598 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2023

CORAM :

THE HONOURABLE **DR. JUSTICE D.NAGARJUN**

W.P.No.29598 of 2015

and

M.P.No.1 of 2015

A.L.Ramachandra

...Petitioner

Vs.

1. The Official Liquidator,
High Court of Madras,
Chennai - 600 104.

2. The Sub Regional Office,
Employee's State Insurance Corporation,
Panchadeep Complex, 1897,
Trichy Road, Ramanathapuram,
Coimbatore.

3. The Recovery Officer,
The Sub Regional Office,
Employee's State Insurance Corporation,
Panchadeep Complex, 1897,
Trichy Road, Ramanathapuram,
Coimbatore.

..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari, to call for the records of the impugned notice 27.09.2013 bearing its Ref.No.56000070740000101/CP/92389 passed by the third respondent quash the same.



For petitioner : Mr.M.Aravind Subramaniam
For R1 : Mr.B.Ambili
For R2 and R3 : Mr.C.V.Ramachandra Moorthy

ORDER

This writ petition is filed seeking to quash the impugned notice dated 27.09.2013 bearing Ref.No.56000070740000101/CP/92389.

2. The facts in brief as submitted by the learned counsel for the petitioner are as follows:

2.1. The petitioner was running an industry by the name VTX industries, which supplies luxury home linen in Coimbatore. The petitioner's company was doing well until the financial year 2008. However, after that due to global recession and various other factors, the performance of the company started deteriorating.

2.2. Subsequently, the company took a decision to wind up and accordingly, as per the directions of this Court, an official liquidator took charge of the company and initial wind up procedures as per the orders dated 23.06.2014, all the affairs of the company went into the hands of the



first respondent, the official liquidator.

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2.3. The third respondent had issued an impugned notice dated 27.09.2013 to the petitioner demanding a sum of Rs.1,38,638/- under Sections 45(c) to 45(I) of the ESI Act, of which an amount Rs.70,000/- has been deposited by the petitioner.

3. The second respondent had filed an application before the first respondent however, as per the letter dated 19.02.2022 it was intimated to the second respondent that the second respondent has submitted the claim in FORM 66 belatedly and the second respondent office was advised to re-submit the same after getting the delay condoned by this Court. In response to the same the second respondent has addressed a letter dated 06.10.2022 to the first respondent/Official liquidator stating that though the second respondent has received a notice in letter dated 19.09.2022 from the first respondent, original FORM 66 was not received along with the said letter.

4. Considering the submissions made by both the sides and on



perusal on the records, it is clear that since VTX industries went into liquidation and that the first respondent liquidator has taken control of VTX industries, the impugned notice dated 27.09.2013 demanding the petitioner to pay Rs.1,38,638/- is erroneous. Once the VTX industries has already been liquidated and an official liquidator has already been appointed, the second respondent should have sent the demand to the first respondent and not to the petitioner. Having realized the same, the second respondent has sent a fresh notice to the first respondent but belatedly. Thereby, the second respondent is expected to approach the Court and get the delay condoned and only then if the application is in proper format the first respondent will process the same.

5. Accordingly, this writ petition is allowed and the impugned notice addressed to the petitioner is quashed. Further, the petitioner herein is exonerated from all the liabilities under the ESI Act insofar as VTS Industries, Coimbatore, is concerned. The second respondent, has to settle the demand of dues under the ESI Act in respect of VTX Industries only with the first respondent. Since FORM 66 stated to have not been returned by the first respondent to the second respondent, the first respondent is directed to return FORM 66 as quickly as possible, so that the second



W.P.No.29598 of 2015

respondent will initiate proceedings to condone delay in submitting the application. Consequently, connected writ miscellaneous petition is closed. No costs.

19.12.2023

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Index : Yes/No
Citation : Yes/ No
Internet : Yes/No

To,

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DR. D.NAGARJUN,J.



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