



W.P.Nos.32319 & 32320 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07..06..2023

Coram

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

Writ Petition Nos.32319 & 32320 of 2013
and
M.P.Nos.1 of 2013

W.P.No.32319 of 2013

M/s.Rifah Shoes Private Private Limited,
Rep. by its Managing Director,
Sri.C.Suhail Ahmed,
No.2/2C, M.C.Road,
Govindapuram,
Ambur 635 802, Vellore District.

..... Petitioner

-Versus-

1.The Regional Director,
Employees' State Insurance Corporation,
Employees' State Insurance Corporation,
No.143, Sterling Road,
Nungambakkam, Chennai 600034.

2.The Deputy Director (TN-INS-II),
No.143, Sterling Road,
Nungambakkam, Chennai 600034.

3.The Recovery Officer (CP-1),
Employees' State Insurance Corporation,
No.143, Sterling Road,
Nungambakkam, Chennai 600 034.

..... Respondents



W.P.Nos.32319 & 32320 of 2013

Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent pertaining to the impugned order, No.TN/Ins.II/51-00-023523-000-0202/C18 Adh.217/13, dated 23.07.2013 issued against the petitioner demanding a sum of Rs.7,37,880/- as total contribution for period from 09/2012 to 04/2013 and to quash the same as arbitrary, illegal and against the principles of natural justice and consequently, direct the 2nd respondent to determine the contribution payable by the petitioner to the respondents for the period 09/2012 to 04/2013 after giving opportunity to the petitioner.

W.P.No.32320 of 2013

M/s.Rifah Shoes Private Private Limited,
Rep. by its Managing Director,
Sri.C.Suhail Ahmed,
No.2/2C, M.C.Road,
Govindapuram,
Ambur 635 802, Vellore District.

..... Petitioner

-Versus-

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..... Respondents



W.P.Nos.32319 & 32320 of 2013

Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent pertaining to the impugned order, No.TN/Ins.II/51-51-023523-001-0202/C18 Adh.216/13, dated 23.07.2013 issued against the petitioner demanding a sum of Rs.3,51,780/- as total contribution for period from 09/2012 to 04/2013 and to quash the same as arbitrary, illegal and against the principles of natural justice and consequently, direct the 2nd respondent to determine the contribution payable by the petitioner to the respondents for the period 09/2012 to 04/2013 after giving opportunity to the petitioner.

For Petitioner : *Mr.R.Munuswamy for*
petitioners in both WPs

For Respondents : *Mr.K.Prabakar for RR1 to 3*
in both WPs

COMMON ORDER

Both these writ petitions challenge the orders passed by the 2nd respondent under Section 45A of The Employees' State Insurance Act, 1948 (as amended).

2. The petitioner in both the writ petitions are one and the same establishment which is situated at MC Road, Govindapuram, Ambur, Vellore District.

3. According to the respondent corporation, the petitioner establishment is liable to pay contribution in terms of Section 40 of the Employees' State



W.P.Nos.32319 & 32320 of 2013

Insurance Act, 1948 r/w Regulations 29 & 31 of the Employees' State Insurance (General) Regulations, 1950. It was alleged that the petitioner did not pay the contributions and therefore, two separate notices were issued on 26.06.2023.

4. Admittedly, the said show cause notices were received by the petitioner establishment. However, two separate replies were sent by the petitioner to the respondents stating that being the period of Ramzan, he is unable to appear immediately and requested one adjournment. The said letters dated 18.07.2013 were received by the 2nd respondent on 22.07.2013. Yet, the 2nd respondent proceeded to pass two separate orders on 23.07.2013 stating that no response was received from the petitioner nor was any reply sent to the show cause notices. These orders have been put to challenge in the present writ petitions.

5. Heard both sides.

6. I find that the statements made by the 2nd respondent that the petitioner did not respond to the show cause notices is contrary to the records.

7. Mr.R.Munuswamy, learned counsel for the petitioner would contend taking me through the typed set of papers that the petitioner had, in fact, dispatched its letters seeking adjournment by Registered Post with Acknowledgement Due on 18.07.2013 itself and they were received by the 2nd



W.P.Nos.32319 & 32320 of 2013

respondent on 22.07.2013. But, for the reasons best known to him, the 2nd

respondent had proceeded to pass orders as if no reply was given. He would further point out that on 29.07.2013 the petitioner has paid a sum of Rs.4,03,741/- and Rs.1,34,076/- for the amounts covered under the writ petitions in W.P.No.32319 & 32320 of 2013 respectively.

8. Substantial amounts having been made, I am inclined to set aside the impugned order for the violation of principles of natural justice and remit the matters to the 2nd respondent for consideration afresh.

In the result, the writ petitions stand allowed and the impugned orders are set aside. The date of hearing shall be on 04.07.2023. The date is fixed by this Court so that neither the petitioner nor the 3rd respondent can plead that they were not aware of the date of hearing. The 2nd respondent shall hear the matters and pass appropriate orders on merits and in accordance with law. Such orders shall be communicated to the petitioner soon thereafter within a period of 15 days. No costs. Consequently, connected MPs are closed.

07..06..2023

Index : yes / no

Neutral Citation : yes / no

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Note: The Registry is directed to upload the order on the website on 08.06.2023.

To



W.P.Nos.32319 & 32320 of 2013

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W.P.Nos.32319 & 32320 of 2013

V.LAKSHMINARAYANAN, J.

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W.P.Nos.32319 & 32320 of 2013

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