



W.P.No.160 of 2021
and W.M.P.No.215 of 2021

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

W.P.No.160 of 2021
and W.M.P.No.215 of 2021

M/s.Future Retail Limited,
Represented by its Authorised Signatory,
Mr.N.N.Rajesh Kumar Gupta,
Having its Registered Office at
Knowledge House, Off Jogeshwari -
Vikhroli Link Road, Shyam Nagar,
Jogeshwari (East), Mumbai – 400 060.

... Petitioner

Vs.

1.The Additional Commissioner and
Regional Director, Appellate Authority,
Employees State Insurance Corporation,
Regional Office (Tamil Nadu),
143, Sterling Road, Chennai – 600 034.

2.The Assistant Director,
Employees State Insurance Corporation,
Regional Office (Tamil Nadu),
143, Sterling Road, Chennai – 600 034.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first respondent to reopen the appeal in No.TN/Ins-VI/51-35-006126-002-1002 filed under Section 45-AA of the Employees State Insurance Act, 1948 by the petitioner on 20.02.2020, afford a fair and reasonable opportunity of being heard to the writ petitioner and dispose the same on merits following the principles of natural justice.

For Petitioner : Mr.V.V.Sivakumar
For Respondents : Ms.S.Jayakumari

ORDER

When the matter is taken up for hearing today, it was brought to the notice of this Court that the writ petitioner, due to Covid-19 Pandemic situation, was not in a position to attend the personal hearing before the first respondent Authority and this was not taken into consideration while passing orders dated 23.10.2020 of dismissal of the appeal filed by the present writ petitioner.

2. Mr.V.V.Sivakumar, learned counsel for the writ petitioner



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would contend that the writ petitioner had deposited a sum of Rs.45,80,004/- being 25% of the Award amount and that the employer was not given any opportunity to appear before the first respondent Authority.

3.Per contra, Ms.S.Jayakumari, learned counsel for the respondents would contend that the petitioner was given ample opportunities to putforth their contentions and that they did not avail the same. Therefore, the first respondent Authority was right in passing orders under Section 45 AA of ESI Act, 1948.

4.In the instant case, the writ petitioner prays only for giving them an opportunity. It is true that during the year 2020 there was a lockdown due to Covid-19 Pandemic situation and the first respondent Authority had passed an order even without hearing the present writ petitioner. Therefore, in the interests of justice, the matter is remitted back to the first respondent Authority to consider the submissions putforth by the writ petitioner. The first respondent Authority is directed



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5.With the above direction, this Writ Petition is allowed. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

24.11.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mtl

To

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R. HEMALATHA, J.

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