



C.M.A.No.1284 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1284 of 2017

And

C.M.P.No.6628 of 2017

M/s.Carborandum Universal Limited
Represented by its
Principal

... Appellant

Vs.

ESI Corporation
Represented by its
Regional Director
No.143, Sterling Road,
Chennai.

... Respondent

Prayer:

Civil Miscellaneous Appeal filed under Section 82 of the Employees Insurance Act, 1948, to set aside the order dated 06.07.2015 in E.I.O.P.No.262 of 2001 on the file of the Employees Insurance Court (Principal Labour Court), Chennai.

For Appellant : Mr.C.Manohar Gupta
for M/s.Gupta and Ravi
For Respondent : Mr.K.Prabakar



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This appeal has been filed seeking to set aside the order dated 06.07.2015 in E.I.O.P.No.262 of 2001 on the file of the Employees Insurance Court (Principal Labour Court), Chennai.

2.The brief facts of the case is that the appellant filed E.I.O.P.No.262 of 2001 before the Employees Insurance Court (Principal Labour Court), Chennai, seeking to set aside the order passed by the respondent under Section 45 – A of the E.S.I. Act dated 17.04.2000, directing the appellant to pay a sum of Rs.5,42,575.53 as contribution for the period from August, 1988 to March, 1992 and the said E.I.O.P. was dismissed by the Employees Insurance Court. Aggrieved by the same, the appellant has filed this appeal.

3.The learned counsel appearing for the appellant submitted that the respondent by invoking the power under Section 45 – A of the E.S.I. Act issued show cause notice dated 27.11.1996 to the appellant seeking to show cause as to why a sum of Rs.26,44,695.00 be not recovered from the appellant. Thereafter, the appellant appeared for personal hearings through authorized representative and produced relevant records, however, the respondent passed an order dated



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17.04.2000, directing the appellant to pay a sum of Rs.5,42,575.53 as contribution for the period from 01.08.1988 to 31.03.1992 together with interest at the rate of 12% upto 31.08.1994 and at 15% from 01.09.1994. Challenging the same, the appellant filed E.I.O.P.No.262 of 2001 before the Employees State Insurance Court at Chennai under Section 75 (1) (g) of the E.S.I. Act, however, the Employees State Insurance Court mechanically dismissed the petition.

4.The learned counsel appearing for the appellant submitted that provisions of Section 45 – A of the E.S.I. Act can be revoked only in respect of a factory or establishment where no returns, particulars, registers or records are submitted, furnished or maintained in accordance with the provisions of Section 44 of the Act. In the present case, the appellant produced all the records before the respondent with regard to its claim for omitted wages. The learned counsel further submitted that the claim made by the respondent in the year 2000 pertains to the period from 1988 – 1992 and the same is clearly barred by the period of limitation prescribed under proviso to Section 77 (1-A) (b) of the E.S.I. Act. Hence, the Employees State Insurance Court at Chennai ought to have set aside the order dated 17.04.2000 passed by the respondent.



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5.Per contra, the learned counsel appearing for the respondent submitted that there is no limitation for invoking proceedings under Section 45 – A of the E.S.I. Act. The respondent issued show cause notice dated 27.11.1996 to the appellant seeking to show cause as to why a sum of Rs.26,44,695.00 be not recovered from the appellant. Thereafter, the appellant appeared for personal hearings through authorized representative and produced relevant records. Thereafter, the respondent passed the order dated 17.04.2000, directing the appellant to pay a sum of Rs.5,42,575.53 as contribution for the period from 01.08.1988 to 31.03.1992 together with interest at the rate of 12% upto 31.08.1994 and at 15% from 01.09.1994. The Employees State Insurance Court properly appreciated the factual aspects and rightly dismissed the petition filed by the appellant.

6.Heard the arguments advanced on either side and perused the materials available on record.

7.Admittedly, the respondent by invoking the power under Section 45 – A of the E.S.I. Act issued show cause notice dated 27.11.1996 to the appellant seeking to show cause as to why a sum of



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Rs.26,44,695.00 be not recovered from the appellant, pursuant to which, the appellant appeared for personal hearings through authorized representative and produced relevant records. Thereafter, the respondent passed an order dated 17.04.2000, directing the appellant to pay a sum of Rs.5,42,575.53 as contribution for the period from 01.08.1988 to 31.03.1992 together with interest at the rate of 12% upto 31.08.1994 and at 15% from 01.09.1994. Challenging the same, the appellant filed E.I.O.P.No.262 of 2001 before the Employees State Insurance Court at Chennai under Section 75 (1) (g) of the E.S.I. Act, however, the Employees State Insurance Court.

8. There is no limitation for invoking proceedings under Section 45-A of the E.S.I. Act. The respondent issued show cause notice dated 27.11.1996 to the appellant and thereafter, afforded opportunity of personal hearings to the appellant and after considering the records produced by the appellant, passed the order dated 17.04.2000. The Employees State Insurance Court properly appreciated the factual aspects and rightly dismissed the petition filed by the appellant. Hence, the impugned order warrants no interference.



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M.DHANDAPANI,J.

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9.The civil miscellaneous appeal stands dismissed. The order dated 06.07.2015 in E.I.O.P.No.262 of 2001 passed by the Employees Insurance Court (Principal Labour Court), Chennai is confirmed. No costs. Consequently, the connected miscellaneous petition is closed.

12.10.2023

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

1.The Employees Insurance Court (Principal Labour Court),
Chennai.

2.The Regional Director,
ESI Corporation,
No.143, Sterling Road,
Chennai.

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