



C.M.A.No.434 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.434 of 2020
and C.M.P.No.2560 of 2020

1. The Employees State Insurance Corporation,
Represented by its Assistant Director,
No.143, Sterling Road, Chennai – 600 034.
2. The Recovery Officer,
Regional Office, Employees State Insurance Corporation,
No.143, Sterling Road, Chennai – 600 034. ...Appellants

Vs.

1. M/s.Ledtex Products Private Limited,
Represented by its Director Mr.Sanjay Dhurga,
No.182/1, Lake View Road,
West Mambalam, Chennai – 600 033.
2. J.P.Leathers,
No.1, Ramanujam Street, Thiruvalluvar Nagar,
Pammal, Chennai – 600 075. ... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 82(2) of the ESI Act, to set aside the order passed in EIOP No.54 of 2006 dated 16.07.2019 on the file of the Employees Insurance Court(Principal Labour Court Chennai).



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For Appellant : Mr.S.P.Srinivasan

For Respondents : Mr.C.Harsharaj for
M/s.Raj & Raj Associates for R1

No Appearance [R2]

JUDGEMENT

This appeal has been filed to set aside the the order passed in EIOP No.54 of 2006 dated 16.07.2019 on the file of the Employees Insurance Court(Principal Labour Court Chennai).

2. Heard the learned counsel appearing for the appellants and the learned counsel appearing for the first respondent.

3. It is the case of the petitioner that against non payment of contribution for the period from 01.12.1999 to 31.03.2004, the appellants initiated action against the second respondent demanding the amount of arrears payable by him.

4. It is the case of the first respondent herein that the second



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respondent has not done any job work for the first respondent company during the period under claim. The third respondent had paid the contribution directly to the appellants inspite of the same, the appellants demanded payment of contribution by issuing show cause notice dated 26.09.2005 claiming a sum of Rs.2,39,387/- for the period from 01.12.1999 to 31.03.2004.

5. The notice was issued to the first respondent to appear before the second appellant on 21.07.2005 which later was received by the first respondent herein only on 22.07.2005. Therefore, by letter dated 23.08.2005, the first respondent herein requested the appellants herein for further enquiry but without conducting any enquiry the order had come to be passed against which the first respondent preferred a petition before the Employees Insurance Court below.

6. While this Court perused the case on hand, the petitioner was examined as P.W.1 and Ex.P1 to Ex.P5 were marked. The respondents were examined R.W.1 and R.W.2 and Ex.R1 to Ex.R5 were marked.



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7. The facts in the present case are not in dispute. Claiming contribution in respect of the aforesaid period notice was issued to the first respondent to appear before the second appellant on 21.07.2005 which was received by the first respondent only on 22.07.2005. It clearly evidenced that the said notice was received by the first respondent herein after the date fixed for the enquiry. In the aforesaid backdrop the first respondent herein had sought for further time for his appearance in the enquiry. However, without considering the same, the order has come to be passed which clearly shows that no opportunity was granted to the first respondent herein to appear for enquiry which is in violation of principles of natural justice. No document is placed before the Court by the appellants herein to substantiate that opportunity was given to the first respondent herein.

8. In the absence of opportunity being granted, the facts in the present case has been rightly appreciated and the Court below has set aside the notice of demand dated 26.09.2005 which does not warrant any interference.

9. Accordingly, this Civil Miscellaneous Appeal is dismissed. No



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costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

Speaking order / Non-speaking order

Netruial Citation Case : Yes / No

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To

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

2. The Section Officer, V.R.Section, High Court, Madras.



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M.DHANDAPANI, J.

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