



C.M.A.(MD).No.267 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.267 of 2020

The Deputy Director (Ins.II),
Employees' State Insurance Corporation,
Sub-Regional Office,
2nd West Street, K.K.Nagar,
Madurai – 600 020.

... Appellant/ Respondent

-vs-

M/s.Viswabharathi Textiles (P) Ltd.,
Represented through its Factory Manager,
Shri B.Radhakrishnan,
Unit I, Trichy Road,
Vadamadurai,
Dindigul District.

... Respondent/ Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 82 of the E.S.I.Act, 1948, against the order dated 20.06.2019 of the Labour Court (Employees' State Insurance Court or, in short, E.S.I.Court) Madurai in E.S.I. OP No.34 of 2011.

For Appellant : Mr.P.Ganapathisamy

For Respondent : Mr.V.O.S.Kalaiselvam



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J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the E.S.I. Corporation challenging the order passed by the Labour Court, Madurai in E.S.I.O.P.No.34 of 2011.

2. The E.S.I. Act was extended to Vadamadurai Area with effect from 01.08.2001 by way of a notification issued by the Central Government on 20.06.2001. The said extension was challenged by the Trade Union and their employees under various proceedings. However, writ petition in W.P.No. 24848 of 2007 was dismissed on 03.10.2007. The Management had filed M.P.No.1 of 2012 seeking clarification whether the dismissal of the writ petition would have a retrospective effect or employer has to pay the contribution amount from the date of dismissal of the writ petition alone. The said Miscellaneous Petition filed by the Management was disposed of on 28.02.2013 with a clarification that the employer would be liable to pay the contribution amount from October 2007 onwards.

3. Even while the clarification petition was pending before the High Court, the E.S.I. Corporation has chosen to pass an order under Section 45-A



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of the E.S.I. Act demanding a sum of Rs.42,65,190/- (Rupees Forty Two Lakhs Sixty Five Thousand One Hundred and Ninety only) for the period covering from August 2001 to March 2007. This order was challenged by the employer in E.S.I O.P.No.34 of 2011. The E.S.I. Court, after perusing the order of this Court, dated 28.02.2013 in M.P(MD) No. 1 of 2012 in W.P(MD) No.24848 of 2007 had arrived at a finding that as per the clarification in the order issued by the High Court, the demand for contribution can be made only from October 2007. The present demand being for the period covering August 2001 to March 2007 is not legally sustainable. On the said ground, the E.S.I. Court had allowed the petition. Challenging the said order, the present appeal has been filed by the E.S.I Corporation.

4. This Court in the judgment in C.M.A.(MD)No.686 of 2019 dated 01.06.2023, has categorically held that in view of the clarification order passed by the High Court on 28.02.2013, the said employer would be liable to pay the contribution only from October 2007 onwards. Therefore, this Court is not inclined to interfere in the above said order in the appeal. Therefore, the appeal filed by the E.S.I. Corporation lacks merit.



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5. Accordingly, this Civil Miscellaneous Appeal stands dismissed.

There shall be no order as to costs.

20.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Labour Court,
(Employees' State Insurance Court or, in short, E.S.I.Court),
Madurai.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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