16.04.2024
Sl. No. 07.
D/L.
Mithun
Ct.No.23.

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 2579 of 2024

M/s. VTR Marketing Private Limited & Anr.
Vs.
The Employee's State Insurance Corporation & Ors.

Mr. Rananeesh Guha Thakurata,
Mr. Francis Samson Correa,
Mr. Sunny Nandy,
Mr. Tamal Singha Roy,
Ms. Sneha Singh,
Ms. Yamini Tiwari
..for the petitioners.
Mr. Arindam Maitra
…for respondent No.1 to 5.
Mr. Ayan Kumar Boral
…for the respondent No.7.

The writ petitioners have challenged an order dated 21st October, 2021 passed by the Additional Commissioner and Regional Director of the Employees' State Insurance Corporation (in short 'ESIC') under the provision of Section 45AA of the Employees State Insurance Corporation Act, 1948 (hereinafter referred to as the ESIC Act). The matter appears to have a chequered history. The authorized Officer under the ESIC Act had passed an order on 29th May, 2018 by holding that a sum of Rs.8,54,997/- was due from the employer (petitioners) for default in respect of the period 1.11.2014 to 31.12.2016, 01.01.2017 to 31st May, 2017 and 01.11.2017 to 30.11.2017. The petitioners say that in a Certificate Case, the principal default amount was computed as 8,54,997/- for the period 11, 2014 – 11, 2017. Interest up to 6th August, 2018 on the said sum Rs.8,54,997/- was fixed at Rs.2,18,189/-. The aggregate whereof is Rs.10,73,186/-. The petitioners say that entire amount has been recovered by the ESI Authority and, as such, nothing is due and payable by the petitioners to the ESI Authority for the period in question. That apart in any event, this Court in a previous writ petition filed by the petitioners being WPA 4812 of 2020 by an order dated 22nd March, 2021 had directed the appeal preferred by the petitioners challenging the order under Section 45A to be heard without pressing the question of limitation. The appeal was preferred and the order dated 21st October, 2021 being the order impugned is the order passed in appeal.

The petitioners also say that the order impugned is not only devoid of reasons but also suffers from violation of the provisions of natural justice. The petitioners had appeared before the order impugned was passed but failed to represent on the date of passing of the order impugned as a consequence whereof the order under challenge was passed. The contribution in connection with the period from November, 2014 to November, 2017 has been held to have correctly assessed and computed taking into account the aggregate wages period. The petitioner has not been able to show that the figure or the basis of computation is incorrect. Due to failure on the part of the petitioners to pay such sum an interest component of Rs.2,18,189/- was charged up to 6th August, 2018. The amount further got increased to Rs.13,70,138/- from Rs.10,73,186/- (Rs.8,54,997 + Rs.2,18,189/-). The Appellate Authority in its order dated 21st October, 2021 has only held that the principal sum assessed under 45A by the Controlling Authority amounting to Rs.8,54,997/- is a correct figure. The computation of interest on such sum is only an arithmetic exercise I do not find any infirmity in the said order. The amount in excess of Rs.8,54,997/- has been realised on account of interest as applicable under the statue. The failure on the part of the petitioner to appear upon being put to notice cannot be held to be violation of principles of natural justice.

The writ petition, therefore, fails and, is accordingly disposed of without interfering with the order impugned.

Since I have not called for affidavit, the allegations contained in the writ petition are deemed to have not been admitted by the respondents.

(Arindam Mukherjee, J.)