



C.M.A.No.3073 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2024

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.3073 of 2021

and

C.M.P No.17434 of 2021

Saudagar Sons Apparels (P) Ltd.,
Rep. by its Managing Director
Farouk Ashraf Saudagar
carrying on business at
P.B.No.7, Avinasilingampalayam
Palangarai
Avinashi-641 654.
Tiruppur District.

... Appellant

..Vs..

E.S.I Corporation
Rep. by its Deputy Director
Having office at
1897, Trichy Road
Coimbatore-45.

...Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 82(2) of Employees' State Insurance Act 1948 read with Section 151 of Civil Procedure Code 1908 against the order dated 21.01.2021 made in E.S.I.O.P No.6 of 2017, on the file of the Employees State Insurance Court, (Principal Labour Court), Coimbatore.



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For Appellant : Mr.A.Deivasigamani

For Respondent : Mr.S.P.Srinivasan

J U D G M E N T

This appeal has been filed by the appellant aggrieved by the order of the Employees' State Insurance Court (Principal Labour Court, Coimbatore) dated 21.01.2021 made in E.S.I.O.P No.6 of 2017.

2. According to the appellant, the establishment closed down their operations from the month of March 2013 due to financial crisis and their names have also been struck off from the Registrar of Companies' records and therefore, they are not liable to pay ESI contribution as demanded by the respondent Corporation for the period from 01.04.2013 to 31.07.2016.

3. Learned counsel for the appellant has placed before this Court by way of additional typed set of papers and documents for the purpose of establishing that the appellant had closed down their business operations in March 2013 itself and their names have also been struck off from the



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Registrar of Companies' records. However, the said documents were not placed on record before the Employees State Insurance Court as seen from the impugned award. Under the impugned order, the Employees State Insurance Court held that the appellant is liable to pay ESI contributions for the period from 01.04.2013 to 31.07.2016. Since the documents which have been filed by the learned counsel for the appellant by way of additional typed set of papers were not placed on record before the Employees State Insurance Court and those documents on a *prima facie* consideration are vital for the appellant to disprove the claim of the respondent Corporation that the appellant is liable to pay ESI contributions for the period from 01.04.2013 to 31.07.2016, this Court is of the view that in the interest of justice, the impugned order has to be set aside and the matter is remanded back to the very same Employees State Insurance Court for fresh consideration on merits and in accordance with law by permitting the appellant to file additional documents to substantiate their claim that due to their closure with effect from March 2013, they are not liable to pay contribution for the period from 01.04.2013 to 31.07.2016 which the Employees State Insurance Court has directed the appellant to pay under the



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impugned order.

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4. For the foregoing reasons, the impugned order of the Employees State Insurance Court (Principal Labour Court, Coimbatore) dated 21.01.2021 passed in E.S.I.O.P No.6 of 2017 is hereby set aside and this Civil Miscellaneous Appeal is disposed of by remanding the matter back to the very same Employees State Insurance Court for fresh consideration on merits and in accordance with law by permitting both the parties to file additional documentary evidence to substantiate their respective contentions and the Employees' State Insurance Court is directed to pass final orders within a period of four months from the date of receipt of a copy of this judgment. Consequently, connected Miscellaneous Petition is closed. No costs.

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Index:Yes/No
Internet:Yes/No
Speaking/Non-speaking order
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- To
1. Employees State Insurance Court, (Principal Labour Court), Coimbatore.
 2. The Section Officer
V.R.Section, High Court of Madras.

ABDUL QUDDHOSE, J.



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