



WEB COPY



W.P.No.11340 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2024

CORAM :

THE HONOURABLE **DR. JUSTICE D.NAGARJUN**

W.P.No.11340 of 2024
and
W.M.P.Nos.12434 and of 2024

M/s.Loocust Incorp Apparel Export Pvt.Ltd.,
Rep. By its Managing Director,
T.A.Balasubramaniam

.... Petitioner

Vs.

1. The Deputy Director,
The Employee's State Insurance Corporation,
Sub Regional Office,
1897, Trichy Road, Panchdeep Bhavan,
Ramanathapuram, Coimbatore – 641 045.
2. The Recovery Officer,
The Employee's State Insurance Corporation,
Sub Regional Office,
1897, Trichy Road, Panchdep Bhavan,
Ramanathapuram, Coimbatore – 641 045.

...Respondent

PRAYER :Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records of order No.56-56-106314-003-0106/ME/SRO under Section 45 A of the Employee's State Insurance Act, 1948 dated 01.12.2021 passed by the first respondent and order No.56/56/106314/003/0106/RRC/2024 dated 19.02.2024.



WEB COPY



W.P.No.11340 of 2024

For petitioner : Mr.A.R.Karthik Lakshmanan
For respondents : Mr.S.P.Srinivasan
Standing Counsel for ESI

ORDER

This writ petition is filed seeking for a certiorari calling for the records of order No.56-56-106314-003-0106/ME/SRO under Section 45 A of the Employee's State Insurance Act, 1948 dated 01.12.2021 passed by the first respondent and order No.56/56/106314/003/0106/RRC/2024 dated 19.02.2024.

2. The petitioner is a garment manufacturing company and is duly registered as an establishment under the Employees State Insurance Act, 1948. The petitioner has borrowed huge amounts but due to Covid – 19 pandemic the petitioner's company could not sell its goods thereby, there was a huge loss. As the petitioner's company could not sustain, the entire plant was closed on 31.03.2020 and the rental agreement dated 02.01.2016 with the landlord on 31.03.2020.

3. It is submitted by the learned counsel for the petitioner that the ESI contributions were made without any default and that the closure of the petitioner's company was informed to the Assistant Director,



Employee's State Insurance Corporation, Coimbatore on 14.02.2023. It is further submitted that the respondent in the absence of the petitioner and the enquiry was concluded and impugned orders dated 01.12.2021 were passed under Section 45 A of the Employee's State Insurance Act, 1948 directing the Managing Director of the petitioner's organization to remit a sum of Rs.20,88,240/- within 60days of the receipt of order.

4. It is submitted further that on account of the fact that the petitioner's company was closed on 31.03.2020, the impugned orders were not served on the petitioner. On 19.02.2024, the second respondent issued reminder notice cum Demand notice directing the petitioner to pay a sum of Rs.31,17,586/- towards ESI contributions and interest within five days mentioning that coercive action would be taken if payment was not paid. The impugned second Demand Notice dated 19.02.2024 was however served on the petitioner on 27.02.2024 on which the petitioner company has remitted a sum of Rs.1,65,869/- by way of DD.

5. It is submitted by the learned counsel for the petitioner that the demand of payment of Rs.29,61,717/- due for a period from April



2020 to January 2021 is being disputed by the petitioner, thereby the petitioner's management has sent a detailed representation on 27.03.2024 stating that the petitioner's Corporation was closed on 31.03.2020 while mentioning that the petitioner had paid the contribution, interest to a tune of Rs.16,51,869/- in respect of the previous period dues and that there was no default committed by the petitioner in payment of ESI contribution. Aggrieved by the same, the present writ petition is filed.

6. Heard the learned counsel for the petitioner as well as the learned counsel representing the ESI Corporation. Since the petitioner has been disputing the demand of Rs.29,61,717/- for a period from April 2020 to January 2021 and that since the petitioner has submitted a detailed representation on 27.03.2024 and also the petitioner counsel has submitted that he paid all the contributions and there are no dues at all. Further, the petitioner's Corporation was closed on 31.03.2020 and he has paid an interest to a tune of Rs.16,51,869/- in respect of the previous dues and that there was no default at all.

7. The ESI Corporation should have disposed of the petitioner's representation dated 27.03.2024 suitably by following the due process. Further, the petitioner should have approached the



W.P.No.11340 of 2024

appellate authorities and questioned all his grievances against the respondent.

8. At this stage, the learned counsel for the petitioner requested this Court to grant liberty to the petitioner to approach the appellate authorities under the Act and the same is considered.

9. In view of the above, this writ petition is disposed of with a liberty to the petitioner to file application before the appellate authority and the appellate authority is in turn directed to dispose of the same by following the due process of law, as quickly as possible.

24.04.2024

vca

Internet : Yes/No
Index : Yes/No
Citation : Yes/No

Dr.D.NAGARJUN,J

vca

To,

1. The Deputy Director,



W.P.No.11340 of 2024

The Employee's State Insurance Corporation,
Sub Regional Office,
1897, Trichy Road, Panchdeep Bhavan,
Ramanathapuram, Coimbatore – 641 045.

2. The Recovery Officer,
The Employee's State Insurance Corporation,
Sub Regional Office,
1897, Trichy Road, Panchdep Bhavan,
Ramanathapuram, Coimbatore – 641 045.

W.P.No.11340 of 2024
and
W.M.P.Nos.12434 and of 2024

24.04.2024