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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2024

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.11056 of 2020
and
W.M.P.No.13451 of 2020

Kirorimal Kashiram Marketing and Agencies Pvt.Ltd.,
Represented by its Managing Director,
Arun Kumar Aggarwal,
No.60, Anderson Street,
Chennai – 600 001.

... Petitioner

Vs.

1.The Insurance Ombudsman,
4th Floor, 453 (Old No.312),
Anna Salai, Teynampet, Chennai – 600 108.

2.United India Insurance Company Ltd,
Regional Office:Non-Motor Claims Hub,
Silingi Buildings, 134, Greams Road,
Chennai – 600 006.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the entire records pertaining to the impugned letter dated 05.02.2020 in Ref:CHN-G-051-1920-0230 passed by the 1st respondent and quash and consequently direct the 1st respondent to adjudicate the claim of the petitioner.



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For Petitioner	: Mr.B.Janakiram
For R1	: Mr.J.Michael Visuvasam
For R2	: Mrs.Harini
	for M.B.Gopalan & Associates

ORDER

This writ petition has been filed challenging the order dated 05.02.2020 passed by the Insurance Ombudsman, Chennai.

2. The learned Counsel for the petitioner/company would submit that they made a claim under Marine Cargo Open Policy, which is repudiated based on incorrect facts and circumstances. Thus, the petitioner/company approached the Insurance Ombudsman and the Ombudsman quashed the order passed by the 2nd respondent-Insurance Company.

3. He would further submit that the Ombudsman without even considering the fact that the petitioner is a micro enterprise company, rejected the claim, by stating that the petitioner/comapny is not falling under the purview of the Insurance Ombudsman adjudication.



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4. The petitioner/company has now produced before this Court, the Registration Certificate to establish that the petitioner-company is a micro enterprise, in terms of Rule 4 of the Insurance Ombudsman Rules, 2017. Thus, the Ombudsman has got jurisdiction to adjudicate the issues raised by the petitioner/company against the repudiation of the claim of the 2nd respondent-Insurance Company.

5. The learned counsel for the 1st respondent made a submission that the petitioner/company had not produced any such Registration Certificate at the time of filing the petition, before the 1st respondent and therefore, there is no infirmity in respect of the order dated 05.02.2020.

6. The learned counsel for the 2nd respondent would oppose by stating that the petitioner/company had tampered the rice bags which was identified during the inspection conducted by the Authorities of the 2nd respondent-Insurance company. Thus, the repudiation is in accordance with the terms and conditions of the Policy and thus, the writ petition is to be rejected.



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7. The case of the petitioner/company was not adjudicated on merits, before the Insurance Ombudsman. The appeal was rejected merely on the ground that the petitioner/company is not falling within the purview of the Insurance Ombudsman's adjudication. Now, the petitioner/company has produced a copy of the Registration Certificate to establish that the petitioner/company is a micro enterprise, registered under Rule 4 of the Insurance Ombudsman Rules, 2017. Thus, the petitioner/company is entitled for a liberty to adjudicate the issues on merits before the Insurance Ombudsman.

8. In view of the facts and circumstances, the order impugned passed by the Insurance Ombudsman in Reference No.CHN-G-051-1920-0230 dated 05.02.2020 is set aside and the petitioner is at liberty to submit a fresh application along with the Registration Certificate and other relevant documents enabling the Insurance Ombudsman to adjudicate the issues on merits and pass appropriate orders by affording opportunity to all the parties.



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With the above directions, the Writ Petition stands allowed. No costs.

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Connected miscellaneous petition is closed.

24.01.2024

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Index : Yes / No

Speaking order / Non-Speaking Order

Neutral Citation : Yes / No

To

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S.M.SUBRAMANIAM, J.

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