



WEB COPY



W.P.No.26512 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24.01.2024

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.26512 of 2021

and

WMP.No.27953 of 2021

The Universal,
(Office Maintenance)
Represented by its Proprietor,
K.Manoharan, No.07/16,
Syrian Church Road No.2,
Coimbatore-641001

...Petitioner

Vs

1.The Deputy Director,
Employee's State Insurance Corporation,
1897, Trichy Road,
Coimbatore-641045.

2.The Recovery Officer,
Employee's State Insurance Corporation,
1897, Trichy Road,
Coimbatore-641045.

...Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records relating to the order dated 12.08.2021 passed in ESIOP No.19/2020 by the Presiding Officer, Principal Labour Court, Coimbatore and quash the same.

For Petitioner : Mr.A.Ashok Kumar



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For Respondents : Mr.C.V.Ramachandramurthy

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ORDER

Writ petition is filed challenging the order passed in ESIOP No.19 of 2020 dated 12.08.2021.

2. The petitioner is a proprietary concern engaged in extending manpower supplies for cleaning and maintaining of companies. The petitioner is covered by the ESI Act with common code No.56-00-100929-000-1001/INS.III/SRO. The company paid contributions as per the act till April 2014, and from May 2014 the petitioner stopped out sourcing manpower. On 01.05.2014 the petitioner informed the respondent at Kattur branch, Coimbatore regarding the closure of its business and the same was also informed to its bankers. At the time of inspection by the Social Security Officer on 27.05.2014, the petitioner handed over a letter of closure. While so, the 1st respondent under Section 45-A of the ESI Act passed an order on 21.06.2018 demanding a sum of Rs.5,49,120/- towards contribution for the period from 01.05.2014 to 31.12.2016. The petitioner challenged the said order under Section 75 of the ESI Act, 1948 before the ESI Court in



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E.S.I.O.P.No.19/2020. The ESI Court on consideration of the entire materials on record dismissed the petition confirming the order dated 21.06.2018. Aggrieved by the order passed by the ESI Court the petitioner has filed the above writ petition.

3. When the writ petition was taken up for hearing the learned counsel for the respondents raised a preliminary objection that the petitioner has not exhausted the alternate remedy of appeal under Section 82(2) of the ESI Act.

4. The learned counsel for the petitioner in the light of the objection taken by the learned counsel for the respondents submitted that liberty may be given to the petitioner to file an appeal under Section 82(2) of the ESI Act and further pleaded that time taken in prosecuting the writ petition may be condoned for the purpose of limitation.

5. It is seen that the petitioner has alternative remedy under Section 82(2) of the ESI Act by way of an appeal. The petitioner is given liberty to



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file an appeal under Section 82(2) of the ESI Act. The petitioner is further directed to file the appeal within two (2) weeks from the date of receipt of a copy of this order. If the appeal is filed within the time stipulated above, the time spent in prosecuting the writ petition from 12.08.2021 to the date of receipt of a copy of this order shall be condoned. In case the petitioner fails to file the appeal within the aforesaid stipulated time, it would be open to the Appellate Court to consider the delay aspect also.

6. Registry is directed to return the impugned order dated 12.08.2021 to the writ petitioner so as to enable the petitioner to file the appeal.

Accordingly writ petition is disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

24.01.2024

Index:Yes/No
Speaking order:Yes/No
Neutral Citation:Yes/No
dsn
To

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Employee's State Insurance Corporation,
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Coimbatore-641045.

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2.The Recovery Officer,
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N.MALA,J.

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