



C.M.A(MD)No.127 of 2014

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.127 of 2014

The Employees State Insurance Corporation,
Through its Regional Director,
having his office at
No.143, Sterling Road,
Madras.

... Appellant

Vs.

M/s.Bharahath Metal Builders,
Represented by its Managing Partner,
A.Siddeeq Ahmed,
D-11, Developed Plot E State,
Thuvakudi, Trichy – 105.

... Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 82 of the Employees State Insurance Act, 1948, against the decree and judgment of the Employees' State Insurance Cum/Presiding Officer, Labour Court, Thiruchirappall,y passed in E.S.I.O.P.No.12 of 2004 dated 12.07.2012.

For Appellant : Mr.R.Ravikumar
For Respondent : Mr.G.Mohankumar



C.M.A(MD)No.127 of 2014

WEB COPY

JUDGMENT

The ESI corporation has preferred this Civil Miscellaneous Appeal.

2. The contention of the appellant is that the respondent has paid Rs. 2,00,000/- as salary to its workers, but same was concealed. Based on the alleged payment, the ESI corporation has assessed and quantified the amount payable to the ESI Corporation. However, the respondent submitted that the said amount is paid for piecemeal workers. Piecemeal workers will be engaged for a particular period, for example may be for a month, but the said piecemeal workers would not be engaged for a continuous period. As and when the work is over, the said piecemeal worker would get a lump sum amount in a month and he would not have a continuous job. Based on the work, they will be paid and the payment would be made and recorded through receipts. Therefore, the contention of the respondent the said amount cannot be included to calculate the ESI contribution. The explanation submitted by the respondent was accepted by the Tribunal and allowed the petition. Aggrieved over the same, the ESI Corporation had preferred the present appeal.



C.M.A(MD)No.127 of 2014

WEB COPY

3. After hearing the arguments of both sides, this Court is of the considered opinion when it is not a continuous job, when the piecemeal job is over and paid for the said job, they cannot be considered as workers engaged for continuous period, hence they would not come under the scheme of ESI. Unless it is continuous job, they cannot be brought under ESI scheme.

4. Further, the learned Counsel appearing for the appellant submitted if the respondent is paying Rs.6,500/- per month for a period of 12 months, it will come under the slab of TDS. This argument also is negatived by the Tribunal, since the said amount is not paid for entire 12 months, but it is paid only for one month or as and when the job is completed.

5. Therefore, the arguments of the appellant cannot be accepted. The Tribunal has taken the facts correctly and has passed the order. Therefore, this court is not inclined to interfere with the same and this Court is confirming the order passed by the Tribunal. Hence, this Civil Miscellaneous Appeal is dismissed. No costs.

21.06.2024

NCC : Yes / No
Index : Yes / No



C.M.A(MD)No.127 of 2014

Internet : Yes / No

Tmg

To

1. The Employees' State Insurance Cum/Presiding Officer,
Labour Court, Thiruchirappally.

2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A(MD)No.127 of 2014

S.SRIMATHY, J.

Tmg

C.M.A(MD)No.127 of 2014

21.06.2024