



C.M.A.No.1453 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 15.12.2025

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI,J.

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M/s. Goodsun Industries (P) Limited,
Represented by its Managing Director &
authorised Signatory Mr. R. Jaganathan
S.F. No.6/42, Kallapalayam Village,
Near Kamachi Amman Koil,
Coimbatore

...Appellant

Vs.

M/s. Employees State Insurance Company Limited
Represented by Deputy Director,
E.S.I. Corporation, Sub Regional Office,
No.1897, Trichy Road, Ramanathapuram,
Coimbatore 641 045

... Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 82(2) of the Employees State Insurance Act,1948, against the order dated 21.11.2023 passed in ESIOP No.50 of 2020 on the file of the Employees State Insurance Court, Coimbatore.



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For Appellant : Mr. A.S. Balaji
For Respondent : Ms. G. Narmadha

JUDGMENT

The present Civil Miscellaneous Appeal is filed against the order dated 21.11.2023 passed in ESIOP No.50 of 2020 on the file of the Employees State Insurance Court, Coimbatore.

2. The above said order is challenged by the appellant on the ground that the appellant / factory is not covered under the ESI Act from 01.01.2012 onwards, whereas the contribution was erroneously paid for the period from 01.01.2012 to 31.01.2014. It is submitted that the Employees State Insurance Court failed to appreciate that Section 77(1) A of ESI Act and Regulation 40 (1) of the ESI Regulations are only procedural and not mandatory. While so, the said Court ought to have ordered for refund of the contribution paid erroneously by the appellant for the period from 01.01.2012 to 31.01.2014 and ought not to have dismissed the petition filed for refund on the ground of limitation. Hence, prayed for setting aside the order passed by the ESI Court on 21.11.2023 in ESIOP. No.50/2020.



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3. On the other hand, the learned counsel for respondent/ESI would submit that the petitioner factory is covered under the ESI Act with effect from 01.04.2004 and further submitted that the petition filed under Section 75 (g) read with Regulation 40 is barred by limitation under Section 77(1)(A). The appellant / petitioner has sought for refund of contribution only in the year 2020 for the contribution made from 01.01.2012 to 31.01.2014. Hence, the petition was rightly rejected by the ESI Court on the ground of limitation itself, which calls for any interference by this Court. In support of her contention she has relied upon the judgment of this Court in CMA No.1874/2021 in which it is clearly held that Section 77(1)(A) of the ESI Act provides 3 years period as maximum time to initiate any proceedings under the ESI Act. Hence, prayed for dismissal of the present appeal.

4. Heard on both sides. Records perused.

5. In the present case, the petitioner has approached the Court after a lapse of 6 years and therefore, the ESI Court has no power to entertain the petition beyond the period of limitation prescribed under Section 77(1)(A) of



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the ESI Act. Section 5 of the Limitation Act has no application to the proceedings under Section 75 of the ESI Act. Applying the same principle, as held in C.M.A.No.1874 of 2021, this Court finds the present CMA is devoid of merits.

6. In the result, the Civil Miscellaneous Appeal is dismissed. The order dated 21.11.2023, passed in ESIOP No.50 of 2020, on the file of the Employees State Insurance Court, Coimbatore, is upheld. No costs.

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Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order



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To

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1. The Presiding Officer, Principal Labour Court
Employees State Insurance Court, Coimbatore.
2. M/s. Employees State Insurance Company Limited
Represented by Deputy Director,
E.S.I. Corporation, Sub Regional Office,
No.1897, Trichy Road, Ramanathapuram,
Coimbatore 641 045



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