BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.10.2025

CORAM :

**THE HON`BLE MR.JUSTICE B.PUGALENDHI**

WP.(MD)No.10211 of 2023
and
WMP.(MD)No.9054 of 2023

The South Tamil Nadu Beedi
Manufacturers Association,
No.6/84, Nehruji Road,
Melapalayam,
Tirunelveli-627 005
Rep.by its Secretary ... Petitioner

Vs.

1.The Government of Tamil Nadu
Rep by its Secretary to Government,
Labour Welfare and Skill Development
(L1)Department,
Secretariat, Fort St.George,
Chennai-600 009.

2.The Regional Director,
Employees State Insurance Corporation,
No.143, Sterling Road,
Nungambakkam, Chennai-600 034.

3.The Assistant Director,
Employees State Insurance Corporation,
Sub-Regional Office,
Salai Street, Vannarapettai,
Tirunelveli-627 003.

4.Tirunelveli District Beedi Workers
Federation Union,
No.6/83, Nehruji Road,
Melapalayam,
Tirunelveli-627 005. ... Respondents

**Prayer :** Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings of the first respondent in G.O.(D)No.159 dated 07.04.2022 and quash the same as illegal and consequently direct the first respondent to grant exemption from the provisions of ESI Act to the members of the petitioner Association for the period from 25.11.2021 to 24.11.2022.

For Petitioner : Mr.M.Jerin Mathew

For R1 : Mr.C.Venkatesh Kumar,
Special Government Pleader.

For R2 & R3 : Mr.N.Dilipkumar

## ORDER

The petitioner is an establishment engaged in the manufacture and sale of beedi. They had been granted exemption from the operation of the Employees' State Insurance Act, 1948 ("ESI Act") for several years, upon applications made under Section 87 thereof. For the relevant period in question, the petitioner once again sought renewal of such exemptions; however, their request was rejected. Aggrieved thereby, the petitioner has filed the present writ petition.

2.Section 87 of the ESI Act empowers the appropriate Government to grant exemption to any factory or establishment from the operation of the Act, subject to such conditions as may be specified in the notification. As per the first proviso to the said section, such exemption can be granted only if the employees in the said factory or establishment are in receipt of benefits substantially similar or superior to those provided under the Act. The provision also contemplates that an application for renewal shall be made at least three months prior to the expiry of the existing exemption, and that the appropriate Government shall take a decision thereon within two months from the date of receipt of such application.

3.It is not in dispute that the petitioner's establishment had been enjoying exemption benefits on a year-to-year basis, pursuant to the order passed by the competent authority under the Act. For the subject period, namely, 25.11.2021 to 24.11.2022 the petitioner submitted application seeking renewal of exemption. The same, however, came to be rejected under the impugned order dated 07.04.2022. This order is the subject matter of challenge in the present writ petition.

4.Learned counsel for the petitioner submitted that the establishment has been extending to their employees benefits which are substantially similar and, in fact, superior to those available under the ESI Act. On that basis, they had been consistently granted exemption for earlier years. It was therefore contended that there was no justification for the respondents to deny renewal of exemption for the present period.

5.Per contra, the learned Special Government Pleader submitted that the issue is no longer *res integra*. Reliance was placed on the judgment of a Division Bench of this Court in W.A. (MD) No.204 of 2019, dated 29.09.2023, wherein it has been categorically held that exemption under Section 87 can only be considered on a year-to-year basis and cannot be claimed as a matter of right. It was further held that the Management is under an obligation to establish, through records, that they continue to provide benefits to their employees which are substantially similar or superior to those under the Act, failing which renewal cannot be granted.

6.This Court paid it's anxious considerations to the rival submissions made on either side and perused the materials placed on record.

7.On a careful consideration of the submissions made and the materials placed, this Court finds that the controversy stands squarely covered by the series of decisions rendered by this Court, including ***WA(MD)No.204 of 2019, dated 29.09.2023*** [***Regional Director, ESI and Another v. Mangalore Ganesh Beedi Works and Another***], ***WP(MD)No.206 of 2025, dated 26.06.2025*** [***The Proprietor, M/s.T.N.Abdul Kader Noor Said Beedi Company v. Government of Tamil Nadu and Others***], and ***WP(MD)No.23169 of 2024, dated 16.05.2025*** [***DD.160 Dindigul District Cooperative Milk Producers Union Ltd v. Principal Secretary to Government and Another***].

8.The consistent view is that the benefit of exemption under Section 87 of the Employees' State Insurance Act, 1948, can be considered only upon satisfaction of the statutory conditions for each year and cannot be claimed as a matter of right based on past exemptions or on parity with similarly placed establishments.

9.Section 87 empowers the appropriate Government to grant exemption only if it is established that the employees of the factory or establishment are, for the relevant period, in receipt of benefits substantially similar or superior to those provided under the Act. The provision further contemplates renewal only upon timely application and upon due scrutiny of the records produced. Section 91-A, as amended, also makes it clear that any exemption shall operate prospectively from the date of notification and that there is no concept of automatic or continuing exemption under the Act.

10.In the present case, the petitioner has not sought exemption retrospectively, but has relied on the fact that for earlier years similar exemption orders were issued and that comparable establishments were extended the same benefit. However, such a plea of parity cannot override the express statutory requirement under Section 87 that the Management must, for each period, independently demonstrate that their employees continue to receive benefits substantially similar or superior to those under the Act. The exemption granted to other establishments or for prior periods cannot, by itself, confer any right upon the petitioner.

11.The rejection of the petitioner's application, therefore, cannot be termed arbitrary or mechanical. The authority has rightly insisted that the claim for exemption must be supported by specific proof of benefits for the relevant year, and that prior exemptions do not entitle the petitioner to an automatic renewal. The principle of equal treatment invoked by the petitioner has no application in the absence of material parity on factual and statutory compliance.

12.In view of the above, this Court finds no ground to interfere with the impugned order. The writ petition fails and is accordingly dismissed. No costs. Connected miscellaneous petitions, if any, stand closed.

**25.10.2025**

NCC : Yes/No
gns

To

1.The Government of Tamil Nadu
Rep by its Secretary to Government,
Labour Welfare and Skill Development
(L1)Department,
Secretariat, Fort St.George,
Chennai-600 009.

2.The Regional Director,
Employees State Insurance Corporation,
No.143, Sterling Road,
Nungambakkam, Chennai-600 034.

3.The Assistant Director,
Employees State Insurance Corporation,
Sub-Regional Office,
Salai Street, Vannarapettai,
Tirunelveli-627 003.

**B.PUGALENDHI,J**

gns

WP.(MD)No.10211 of 2023

25.10.2025