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Location: HIGH COURT OF ORISSA, CUTTACK
Date: 18-Nov-2026 16:11:17

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.839 of 2023

[CNR No.ODHC010319122023]

Deputy Director,
Employees' State
Insurance Corporation,
Regional Office,
Bhubaneswar .... ***Appellant(s)***

Mr. Amarendra Prasad Ray, Adv.

-versus-

M/s. Hotel Sagar,
Dolamundai, Cuttack .... ***Respondent(s)***

Mr. Sarat Kumar Behera, Adv.

CORAM:
HON'BLE DR. JUSTICE SANJEEB K PANIGRAHI
HON'BLE MR. JUSTICE MURAHARI SRI RAMAN

ORDER
17.11.2026

Order No.
03.

1. This matter is taken up through Hybrid Arrangement (video conferencing/physical mode).

2. This intra-Court appeal is directed against the judgment dated 23rd March 2023, passed by a learned Single Judge of this Court in W.P.(C) No.14216 of 2022.

3. The facts, as adumbrated by the Appellant, are that the Employees' State Insurance Act, 1948 (hereinafter, "the 1948 Act") required the employer of the Respondent-Hotel to register itself within the period prescribed under Regulation 10-B of the Employees' State Insurance (General) Regulations,

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1950 (hereinafter, "the Regulations"). As the employer had failed to do so, a notice in Form C-11, dated 22nd January 1986, was issued, calling upon it to take immediate steps for registration, submit declaration forms, deposit contributions, and comply with the provisions of the 1948 Act so as to avail itself of the benefits provided thereunder. Subsequently, a certificate dated 15th November, 1993 was issued to the Recovery Officer of the Corporation for recovery of Rs.10,241/- being the contribution due for the period from 20th October, 1989 to 4th April, 1990, together with interest calculated up to 31st October, 1993.

4. Upon receipt of the certificate, the Recovery Officer registered it as Certificate Case No.547 of 1993 and issued notice dated 2nd December, 1993 to the Respondent, calling upon it to pay the amount specified in the certificate.

5. Certificates for amounts allegedly due, together with interest, were also issued in respect of subsequent periods. The Recovery Officer registered them as Certificate Case Nos.59 of 1994, 60 of 1994 and 669 of 1996, and issued notices calling upon the Respondent to pay the certified dues.

6. On the Respondent's failure to pay the dues, the Recovery Officer, by order dated 2nd March 2017, invoked Section 45-G of the 1948 Act and directed the Respondent's banker to pay Rs.1,26,165/- including interest calculated up to the date of the order.

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7. Challenging the demands, the Respondent filed ESI Misc. Case No.04 of 2017 under Section 75 of the 1948 Act before the learned District Judge-cum-Employees' Insurance Court, Cuttack.

8. Upon considering the record and the submissions of the parties, the learned District Judge-cum-Employees' Insurance Court, Cuttack observed, *inter alia*, that the order dated 15th November, 1993, passed under Section 45-A of the 1948 Act, had remained undisputed and unchallenged. The application for intervention in the recovery proceeding was accordingly dismissed by judgment dated 14th February 2022.

9. Mr. Amarendra Prasad Ray, learned counsel for the Appellant, submitted that the Writ Petition under Articles 226 and 227 of the Constitution of India was not maintainable in view of Section 77 of the 1948 Act, which prescribes a period of limitation for making application before the Employees' Insurance Court. Relying on *Rikhab Chand Jain v. Union of India & Ors*[1]., he submitted that the learned Single Judge fell in error by entertaining the Writ Petition.

10. Opposing the Appellant's contentions and arguments, Mr. Sarat Kumar Behera, learned counsel for the Respondent, contended that, having entertained the Writ Petition the learned Single Judge exercised its discretion. It is, therefore, fervently prayed that this Court should not entertain the Writ

[1] 2025 INSC 1337

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Appeal for it would not be maintainable to challenge decision of the learned Single Judge passed under Article 227 of the Constitution of India.

11. The learned Single Judge held as follows:

> "10. *Section 77 in the Act, being a special statute, provides for limitation in respect of application to be made to the Insurance Court. Inserted by amendment sub-section (1-A) originally had explanation regarding cause of action in respect of claims for benefit. By subsequent amendment, clauses (b) and (c) were added, respectively regarding claims by the Corporation and claims by principal employer for recovery of contribution from immediate employer. There is no provision, in the explanation under the section, regarding cause of action of an establishment in disputing a claim made by the Corporation. Section 29 in Limitation Act, 1963 saves special periods of limitation provided by, inter alia, special statutes. In the circumstances and where the Supreme Court in Employees' State Insurance Corporation v. F. Fibre Bangalore (P) Ltd., reported in 1997 (1) SCC 625 had said that dispute in respect of demand made by the Corporation has to be asserted by the establishment in the Insurance Court, petitioner having been turned away by the Court, has been rendered remediless. More so because the appeal provision in the Act would only allow appeal on a substantial question of law and, therefore, cannot be said to be continuation of the suit as in a first appeal. There is necessity for finding on facts*

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regarding clubbing of petitioner and his tenant, for imposing coverage.

11. Impugned judgment is set aside and quashed. The application is restored to the Insurance Court. It is expected, there will be expeditious hearing and disposal on remand."

12. The learned Single Judge exercised jurisdiction to entertain the Writ Petition and remanded the matter by restoring ESI Misc. Case No.04 of 2017 to its original file. In the circumstances, rather than delving into the nuances of the maintainability or entertainability of the Writ Petition, and maintainability of writ appeal, it is felt apposite that no prejudice would be caused to either party if the learned District Judge-cum-Employees' Insurance Court, Cuttack is directed to decide the matter on its merits, on the basis of the evidence on record.

13. It is clarified that the learned District Judge-cum-Employees' Insurance Court, Cuttack shall adjudicate all issues raised by the parties, uninfluenced by any of the observations made in this judgment or in the judgment dated 23rd March, 2023 passed by the learned Single Judge in W.P.(C) No.14216 of 2022.

14. With such clarifications, this Writ Appeal stands disposed of. No costs.

15. Pending application (s), if any, shall stand disposed of.

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16. Interim order, if any, shall stand vacated.

(Dr. Sanjeeb K Panigrahi)
Judge

(Murahari Sri Raman)
Judge

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