

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 30/11/2004

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THE HON'BLE MR.JUSTICE P.SATHASIVAM  
and  
THE HON'BLE MR.JUSTICE AR.RAMALINGAM

C.M.A. No.530 of 2004  
to  
C.M.A.533 of 2004  
and  
C.M.P.No.2664 to 2667 of 2004

M/s.Arasan Engineering Enterprises,  
rep. By A.Shivaji,  
No.167, Peters Road,  
Chennai-14. Appellant

-Vs-

Regional Director,  
Employees State Insurance  
Corporation,  
143, Sterling Road,  
Chennai-34. Respondents

Appeals against the orders dated 31.10.2003 passed in C.M.P.Nos.25, 26, 29 and 30 of 2003 respectively in unnumbered

!For appellant : Mrs.R.V.Chitra

^For respondent : Mr.V.K.Vijayaraghavan  
:COMMON JUDGEMENT

(Judgment of the court was delivered by P.SATHASIVAM,J.)

By consent of both the parties, the main appeals themselves are taken up for disposal.

2. Aggrieved by the orders dated 31.10.2003 of the Employees State Insurance Court at Chennai, M/s.Arasan Engineering Enterprises has filed the above appeals. It is further seen that pursuant to the notice of recovery and consequent demand, the appellant herein filed petitions under section 151 CPC for stay of the same in E.S.I.O.Ps before the Employees State Insurance Court. Inasmuch the petitioner therein has not complied with the provisions of the E.S.I. Act and not remitted any amount under section 75(2B) of the Employees State Insurance Act, the Insurance Court has not acceded to the request and refused to grant stay as claimed. Aggrieved by the said identical four orders, the appellant has filed the above appeals.

3. Heard the learned counsel appearing for the appellant as well as the respondent.

4. On going through the relevant provision viz., sub-section 2B of section 75, it is clear that if there is dispute between the principal employer and the Employees State Insurance Corporation in respect of any contribution or other dues, the same have to be raised in the Employees Insurance Court on deposit of 50% of the amount due from the person concerned as claimed by the Corporation. However, the proviso appended to sub-section 2B of section 75 enables the Employees Insurance Court to waive or reduce the amount to be deposited by giving reasons to be recorded in writing.

5. On going through the various averments made in the petition filed before the Employees State Insurance Court and the grievance expressed therein, we are of the view that ends of justice would be met by permitting the petitioner therein/appellant herein to deposit 30% of the amount demanded in the recovery proceedings within a period of six weeks from today. On such deposit being made within the time stipulated above, the Employees State Insurance Court at Chennai is directed to dispose of the O.Ps filed by the petitioner/appellant on merits in accordance with law after affording opportunity to all the parties concerned. 6. The civil miscellaneous appeals are disposed of with the above direction. In view of the above direction, recovery of the balance amount shall be kept in abeyance awaiting the decision to be taken in the above matters. No costs. The connected C.M.Ps are closed.

Index: Yes

Internet: Yes

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To 1. The Employees State Insurance Court, Chennai.

2. Regional Director, Employees State Insurance Corporation, 143, Sterling Road, Chennai-34.

3. The Section Officer, V.R. Section, High Court, Chennai.

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