(1967) 03 P&H CK 0014

In the Punjab And Haryana At Chandigarh

Amir Chand Gupta APPELLANT

Vs

Employees' State Insurance Corporation RESPONDENT

Date of Decision : 21-03-1967

Acts Referred:
Employees State Insurance Act, 1948 — Section 82

Citation : (1969) 1 LLJ 162

Hon'ble Judges : D.K. Mahajan, J

Bench : Single Bench

Judgement

D.K. Mahajan, J.—This is an appeal u/s 82 of the Employees'' State Insurance Act, 1948. It is directed against the order of the Employees'' Insurance Court deciding the preliminary issue against the appellant. The preliminary issue was-whether this Court had jurisdiction to decide that the action taken by the respondent before the Collector under Sections 73D and 73F of the Employees'' State Insurance Act was or was not justified? The Corporation came to the conclusion that a sum of Rs. 3,921 was due from the appellant, Swastika Woollen Mills, Panipat, as employers'' special contribution u/s 73B of the Employees'' State Insurance Act. The appellant was asked to pay this amount; and having failed to do so, steps have been taken to recover it u/s 73D which provides that the employer''s special contributions payable under this Chap. V-A was to be recovered as if it were the arrears of land revenue. The present petition was filed by the Swastika Woollen Mills on the ground that the amount could not be recovered u/s 73D without the amount having been determined by the Employees'' Insurance Court, The tribunal has based its decision on the case G.T.R. Company (Private), Ltd. v. Certificate Officer, 24-Parganas 1965 L.L.J. 380, which is directly in point. Sri S.S. Mahajan, who appears for the appellant, has raised the contention that the Corporation has no jurisdiction to determine the amount and recover the same u/s 73D of the Act without first having recourse to the Employees'' Insurance Court. After going through the scheme of Chap. V-A, I am of the opinion that this contention is not correct. The Corporation tentatively determines the liability as well as the amount payable as the employer''s special contribution. But, if the employer wants to question the determination or the quantum, he has the right to do so u/s 73B read with Section 75. The contention of Sri Kapur, learned counsel for the Corporation, that he could only apply to the Employees'' Insurance Court after making the payment as required by the Revenue Recovery Act, is not well-founded. There is no such limitation placed for the determination of the dispute either by Section 73B or Section 75. Section 73D merely provides the mode of recovery. However, in the present case, we are not concerned with the question any more because there is no application by the appellant u/s 73B read with Section 75. Therefore, the decision of the tribunal is correct and no fault can be found with it.

2. For the reasons recorded above, this petition fails and is dismissed; but there will be no order as to costs.

