(2025) 12 JH CK 1881

In the Jharkhand High Court

Case No : Miscellaneous Appeal No.291 Of 2025

M/s Ankit Electronics represented through is partner Jeet Bhattacharya	APPELLANT
Vs	
Regional Director, Employees State Insurance Corporation	RESPONDENT

Date of Decision : 17-12-2025

Acts Referred:
Employees' State Insurance Act, 1948 — Section 45A, 45AA

Citation : (2025) 12 JH CK 1881

Hon'ble Judges : Gautam Kumar Choudhary, J

Bench : Single Bench

Advocate : Shankar Lal Agarwal, Ayushi, Ashutosh Anand

Final Decision : Disposed Of

Judgement

Gautam Kumar Choudhary, J

1. Instant miscellaneous appeal has been filed against the order dated 16.11.2024 passed in ESI Case No. 04/2021 by the Presiding Officer, Labour Court-cum-Employees State Insurance Court, Jamshedpur whereby and whereunder, the appeal filed under Section 45AA of the ESI Act has been dismissed affirming the determination of contribution of Rs.5,79,150/- under Section 45A of the ESI Act.

2. The applicant's partnership firm was in the business of man power supply for operational job for M/s Tata Steel Limited. The demand was raised against the appellant firm for default in payment of contribution under Section 45A of the ESI Act.

3. As per the case of the ESIC, the appellant firm was covered under the ESI Act w.e.f. 01.10.2005 for employing ten employees and consequently, C-11 dated 16.11.2005 was generated by the employer for allotment of ESI Code number. The demand was raised as the appellant firm failed to respond to the show cause for filing contribution for the period 11/2015 to 07/2016 and 1/2017 to 7/2017.

The appellant did not appear on three consecutive dates i.e. 21.08.2019, 15.10.2019 and 26.04.2020.

4. It is argued by the learned counsel appearing on behalf of the appellant, that notices were never served and the order has been passed levied contribution without hearing. It is contended that the order has been passed without observing the principles of natural justice and also in breach of the statutory requirement of due service of notice.

5. Learned counsel on behalf of the respondent- Insurance Company has vehemently defended the impugned order. It is submitted that the notices were dispatched by Speed Post and despite receipt of the same, the appellant did not appear.

6. Having considered the submission advanced, instant case turns on the short question whether the contributions can been levied on the appellant without the due process of service of notice and opportunity of hearing being given.

7. Although, it has been contended on behalf of the respondent-Employees State Insurance Corporation that the notices were dispatched, but from the impugned order or from the Lower Court Records, there is no evidence that the said notices which were dispatched by Speed Post, were served on the appellant. It was incumbent on the part of the respondent-Employees State Insurance Corporation to have filed and exhibited either the tracking report or the service report on the basis of which the notices were served. In the absence of it, the impugned order/ contribution levied under Section 45A of the ESI Act is not sustainable and is accordingly, set aside.

8. Appellant is directed to appear before respondent no.2 for re-hearing and after giving the appellant opportunity of being heard, order will be passed afresh by the respondent no.2.

9. Appellant to appear on 12th January, 2026, where he will be furnished copy of notice afresh and after hearing the appellant, order will be passed by respondent no.2- Assistant Director, Employees State Insurance Corporation or any competent authority within three months after the appearance of the appellant.

Miscellaneous Appeal is disposed of. Pending Interlocutory Application, if any, is also disposed of.