by a medical board, or by a medical appeal tribunal or by the Employees' Insurance Court."

(10) A perusal of Section 75 would indicate that once a conclusion is reached that a particular establishment is covered under the Act then any dispute between the Corporation and the employer has to be decided by the E.S.I. Court under Section 75(1) (g). Subclause (3) of Section 75 creates a bar upon the jurisdiction of the Civil Court to decide or deal with any question or dispute as mentioned in Section 75 (1) of the Act. In view of these provisions, in my considered view, Civil Court will have no jurisdiction to decide the matter in dispute and all disputes between the Corporation and the plaintiff shall have to be decided by the E.S.I. Court. Learned Counsel for the respondent argued that the respondent is a voluntary organisation having no object to profit making and, therefore, it would not be covered under the E.S.I. Act. I do not find any substance in this submission because the legislature enacted this Act for the benefit of the employees of the factory or the establishment irrespective of the fact whether it has an object of profit making or no. The distinction which is sought to be drawn between the establishments having the object of profit making and where there is no object of profit making in an establishment for making the present Act applicable is irrelevant and foreign to the objectives for the enactment of the Act.

(11) For the foregoing reasons, the revision petition is accepted; order of the trial Court is set aside and it is held that the Civil Court shall have no jurisdiction to try the present suit and the parties should seek their remedy in the appropriate forum. No costs.

J.S.T.

Before Hon'ble A. L. Bahri & N. K. Kapoor, JJ.

M/S JINDAL STEEL CORPORATION,—*Petitioner.*

versus

EXCISE AND TAXATION OFFICER AND ANOTHER,—*Respondents.*

Civil Writ Petition No. 6577 of 1993.

20th January, 1994.

Constitution of India, 1950—Arts. 226 and 227—Haryana General Sales Tax Rules, 1975—Rl. 69 proviso sub-rule (1)—Ex parte best judgment assessed by effecting substituted service on petitioner Whether justified—Held that service not valid—Required to be made on address communicated by the assessee if business had closed down.

Held, that in correct perspective, if the rule is read, it would show that substituted service of an assessee was required to be made on the address communicated by the assessee, if the business had been closed. No doubt, alternative places are mentioned for effecting substituted service on the assessee, but these are to be taken into consideration whether they are applicable. It is not disputed in the written statement filed by the respondents that the assessee had communicated his Delhi address to the Assessing Authority after closing the business at Faridabad. No doubt, as mentioned in the impugned orders, registered notices were sent at Delhi Address of the petitioner, which were received back undelivered as the assesse was not available. However, for effecting substituted service, notices were not sent at Delhi address of the petitioner. Such service was sought to be effected only at Faridabad address, where obviously the petitioner was not residing and had closed the business and had communicated about his Delhi address to the authorities. If the substituted service had been effected at Delhi address of the petitioner, probably we might not have interferred. Thus, while allowing the writ petition, we remit the case to the Assessing Authority, Faridabad for fresh decision in accordance with law.

(Para 3)

Amita Gupta, Advocate, *for the Petitioner.*

R. K. Joshi, Addl. A.G., Punjab, *for the Respondents.*

JUDGMENT

A. L. Bahri, J.

(1) This writ petition has been filed by M/s Jindal Steel Corporation in the peculiar circumstances, where *prima facie* injustice appears to have been meted out to the Corporation. The petitioner-Corporation was working at Faridabad. The assessment years for which orders have been passed against the petitioner were 1985-86 and 1986-87. The firm was a registered dealer under the Haryana General Sales Tax Act. In 1986 the business of the petitioner firm at Faridabad was closed and intimation was sent to the authorities under the Act,—*vide* letter Annexure P-2. The Assessing Authority subsequently passed an *ex parte* best judgment assessment order. The appeal filed against the aforesaid order was dismissed. The matter was then taken to the Tribunal, who also did not interfere in the order of the Assessing Authority. Annexure P-6 is the order passed by the Tribunal, dated January 27, 1993. These orders have been impugned in this writ petition filed under Articles 226 and 227 of the Constitution.

(2) On notice of motion having been issued, written statement has been filed on behalf of the respondents, contesting the claim of the petitioner.

(3) The sole question for consideration in this case is as to whether the Assessing Authority was justified in framing *ex parte* best judgment assessment by effecting substituted service on the petitioner corporation at Faridabad address ? Rule 69 of Haryana General Sales Tax Rules, 1975, reads as under :—

"R. 69—service of Notice—

(1) Notices under the Act or these rules shall be served by the one of the following methods :—

(a) by delivery by hand of a copy of the notice to the addressee or to any other agent duly authorised in this behalf by him or to a person regularly employed by him in connection with the business in respect of which he is registered as dealer, or to any adult male member of his family residing with the dealer ;

(b) by registered post :

Provided that if upon an attempt having been made to serve any such notice by either of the above said methods, the authority concerned has reasonable grounds to believe that the addressee is evading service of notice, or that for any other reason which in the opinion of such authority is sufficient that notice cannot be served by any of the above mentioned methods, the said authority shall after recording the reasons therefore cause the notice to be served by affixing a copy thereof—

(i) if the addressee is a dealer, on some conspicuous part of the dealer's office or the building in which the dealer's office is located, or upon some conspicuous part of the place of the dealer's business last intimated to the said authority by the dealer or the place where he is known to have last carried on business ; or

(ii) if the addressee is not a dealer, on some conspicuous part of his residence or office the building in which his residence or office is located and such service shall be deemed to be as effectual as if it has been made on the addressee personally :

Provided further that, whether the officer, at whose instance the notice is to be served is, on enquiry, satisfied that the said office, business place or residence is known not to exist or is not traceable such

officer may by order in writing, dispense with the requirement of service of the notice under the last preceding proviso."

It is sub-rule (i) under the proviso, which is relevant for consideration. In correct prospect, if the rule is read, it would show that substituted service of an assessee was required to be made on the address communicated by the assessee, if the business had been closed. No doubt, alternative places are mentioned for effecting substituted service on the assessee, but these are to be taken into consideration whether they are applicable. It is not disputed in the written statement filed by the respondents that the assessee had communicated his Delhi address to the Assessing Authority after closing the business at Faridabad. No doubt, as mentioned in the impugned orders, registered notices were sent at Delhi address of the petitioner, which were received back undelivered as the assessee was not available. However, for effecting substituted service, notices were not sent at Delhi address of the petitioner. Such service was sought to be effected only at Faridabad address, where obviously the petitioner was not residing and had closed the business and had communicated about his Delhi address to the authorities. If the substituted service had been at Delhi address of the petitioner, probably we might not have interferred. Thus, we consider it appropriate to allow one more opportunity to the petitioner to fight the case on merits, as the allegation in the petition is that the petitioner is in possession of ST-15 A forms, on the basis of which relief could be claimed by him; in other words for non-production of the same, the assessment has been framed. Thus, while allowing the writ petition, we remit the case to the Assessing Authority, Faridabad, for fresh decision in accordance with law. The petitioner would be at liberty to produce ST-15.A forms before the Assessing Authority. Parties through their counsel are directed to appear there on February 21, 1994.

J.S.T.

Before Hon'ble R. P. Sethi & Satpal, JJ.

SATISH AND OTHERS,—*Petitioners*

versus

HARYANA PUBLIC SERVICE COMMISSION & OTHERS,
—*Respondents*

Civil Writ Petition No. 8584 of 1994

18th January, 1994

Constitution of India—Articles 284 & 285—Public Service Commission—Purpose of—Examination conducted—Cancellation of result—Validity of such cancellation.