



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1127 of 2026

and

C.M.P.No.11169 of 2026

M/s. TAV Products Private Limited
Rep. By its Managing Director
Mr.T.V.Vijayakumar
No.617/2B, T.H.Road
Tondiarpet, Chennai 600 081.

... Appellant

.Vs.

1.The Employees State Insurance Corporation
Rep.by its Deputy Director
Regional Office (Tamil Nadu)
143, Sterling Road
Chennai 600 034.

2.The Recovery Officer
The Employees State Insurance Corporation
Regional Office (Tamil Nadu)
143, Sterling Road
Chennai 600 034.

... Respondents

Civil Miscellaneous Appeal filed under Section 82 of Employees state Insurance Act, 1948, to set aside the order and decree in E.I.O.P.No.54 of 2011 dated 31.12.2025, on the file of Employees Insurance Court (Principal Labour Court, Chennai).



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For Appellant : Mr.S.Haroon AL Rasheed
for ADVIT Law Chambers

For Respondents : Mr.S.P.Srinivasan, Standing Counsel
for E.S.I Corporation

JUDGMENT

This appeal has been filed challenging the impugned proceedings of the Employees' Insurance Court (Principle Labour Court) Chennai made in EIOP No.54 of 2011 dated 31.12.2025.

2.Heard the learned counsel for appellant and the learned counsel for respondents.

3.The appellant filed the petition under Section 75(1)(d) and (g) of the Employees' State Insurance Act, 1948 [for brevity, hereinafter referred to as 'the Act'] for declaring that the appellant is not liable to pay the contribution under Ref.No.TN/INS/IV/51000766920000009/C-18 (ad)/3092/6-11/7-11 dated 21.07.2011 insofar as it relates to the contribution assessment for the payment under the heads of performance bonus, food allowance and packing cooly and checking charges and to set aside the order dated 21.07.2011 insofar as it relates to the contribution assessment for the payment under these heads.



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4.The specific case of the petitioner is that they are not liable to pay the contribution under the heads of performance bonus, food allowance and packing cooly and checking charges. However, the Employees State Insurance Corporation passed an order under Section 45A of the Act determining the contribution payable at Rs.13,25,944/- for the omitted wages form the period 2006 to March 2010. Consequently, recovery proceedings were initiated. The same was put to challenge before the Employees' Insurance Court (Principle Labour Court) Chennai.

5.The respondents justified the demand made against the appellant and sought for the dismissal of the petition.

6.The Labour Court on considering the stand taken by both sides and on appreciation of evidence came to a conclusion that the demand made by the Employees' State Insurance Corporation is in accordance with law and accordingly the petition came to be dismissed by an order dated 31.12.2025. Aggrieved by the same, the present appeal has been filed under Section 82 of the Act.

7.The matter came up for hearing on 03.06.2026, this Court upon hearing the counsel for appellant passed the following order:



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Learned counsel appearing for the appellant submitted that in respect of employees under a contractor, the policy will be applicable only if the employees work at the place covered within the policy. Since the claimants/employees have worked outside the premises of the contractor, the claim under Section 45A of the Employees' State Insurance Act, 1948, will not arise. He further submitted that the food allowance cannot be termed as "wages" under Section 2(22) of the ESI Act. Dehors the above grounds, he also submitted that without prejudice to the grounds raised in the appeal, the case of the appellant also falls within the Amnesty Scheme/2023-Rev.II dated 24.07.2025, as the Original Petition was pending during that period. He further submitted that the appellant is ready to settle the case.

2. Mr.S.P.Srinivasan, learned counsel appearing for the respondents, seeks time to get instruction with regard to the same.

3. Post the matter on 08.06.2026

8. When the matter was taken up for hearing today, the learned counsel for the appellant submitted that without prejudice to the grounds raised in the appeal, the appellant may be permitted to avail the Amnesty Scheme/2023-Rev.II dated 24.07.2025, which provides for payment of 30% of the assessed amount of contribution along with interest and the damages alone is waived.

9. Per contra, the learned Standing Counsel appearing for Employees' State Insurance Corporation submitted that the Amnesty Scheme will not apply to the appellant since it was confined only to those cases filed upto



31.03.2025 and whereas the appeal in this case was filed in the year 2026 and therefore the appellant cannot avail the scheme.

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10. The learned Standing Counsel further submitted that Ex.P.6 to Ex.P.8 does not in any way absolve the liability of the appellant to pay the contribution and therefore the order passed by the Principal Labour Court, Chennai does not warrant the interference of this Court.

11. This Court has carefully considered the submissions made on either side and the materials available on record.

12. This Court is inclined to first consider as to whether the appellant is entitled to avail the Amnesty Scheme issued by the Employees' State Insurance Corporation dated 24.07.2025. If ultimately, this Court holds that the appellant is not entitled to avail the Amnesty Scheme, this Court will go into the merits of the case and test the order passed by the Labour Court.

13. A careful reading of the new Amnesty Scheme 2025 issued by the Employees' State Insurance Corporation dated 24.07.2025 makes it clear that it can be availed only with respect to cases filed under Section 75 and 82 of the ESI Act upto 31.03.2025 subject to various terms and conditions.



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14.The main objection that was raised by the learned Standing Counsel for ESI Corporation is that even though the petition under Section 75 of the Act, was filed by the appellant before 31.03.2025, what has to be taken into consideration is whether the present appeal was filed before 31.03.2025 and in the absence of the same, the Amnesty Scheme cannot be availed by the appellant.

15.It is now too well settled that the appeal is nothing but continuation of original proceedings. The entire proceedings comes to an end only on the final disposal of the appeal. Considering the object for which the Amnesty Scheme has been brought forth by the ESI Corporation, a wider interpretation has to be given since it ultimately benefits the employer who can avail this scheme and make the payment as per the terms and conditions provided under the scheme and bring the dispute to an end.

16.In the case in hand, the respondent Corporation has determined the sum of Rs.13,25,944/- towards contribution under eight heads of accounts for the period from 2006 - 2010. Out of these eight heads, the dispute itself confines only to three heads viz: (a) Food allowance (b) Labour charges under packing cooly and checking charges and (c) Performance bonus.



Insofar as the other heads are concerned, the appellant *vide* communication dated 25.08.2011 has already paid a sum of Rs.2,07,659/-.

17.The petition was filed by the appellant under Section 75 of the Act and this petition was filed as early as in the year 2011. This petition came to be dismissed only on 31.12.2025 and by which time the Amnesty Scheme had come into force on 24.07.2025. The appeal filed under Section 82 of the Act is only a continuation of the original proceedings and therefore the Amnesty Scheme can be availed even during the pendency of the appeal.

18.As per the terms of the Amnesty Scheme, the employer is expected to file a petition before the High Court where the litigation is pending and if the Court allows, the matter can be settled as per the scheme.

19.In the case in hand, the appellant has filed a memo before this Court on 03.06.2026 expressing their intention to avail the Amnesty Scheme dated 24.07.2025. Considering the limited scope of the dispute and to put an end to the dispute without any further delay, this Court is inclined to permit the appellant to avail the Amnesty Scheme dated 24.07.2025.



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20. In view of the above, the appellant will have to apply for the Amnesty Scheme in the proforma prescribed by the E.S.I. Corporation and on receipt of the request, the E.S.I. Corporation shall permit the appellant to pay the amount as contemplated under sub Clause (iv) of Clause A (ii) Amnesty Scheme dated 24.07.2025, and the interest shall also be calculated as contemplated under sub Clause (v). The damages alone shall stand waived. This process shall be completed within a period of four (4) weeks from the date of presenting the request along with the proforma by the appellant. The appellant shall present the requisition along with proforma within a period of two (2) weeks from the date of receipt of copy of the order.

21. In the light of the above discussion, it is not necessary for this Court to go into the merits of the case and this appeal itself can be disposed of in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

01.07.2024

Index : Yes/No
Speaking Judgment/Non-speaking Judgment
Neutral citation: Yes/No
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N.ANAND VENKATESH, J.

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