

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.35698 of 2015

M/s.Perfect Vending India Pvt.
Ltd. 1/46 Pandurangapuram Padi
Chennai- 600 050
By its Managing Director
Mr.Sanjeev Mohan. Petitioner

Vs

- 1 The Recovery Officer
Employees State Insurance Corporation
143 Sterling Road Chennai-600 034.
- 2 M/s.Cognizant TEchnologies
Solutions Ltd. MEPZ Tambaram Sanatorium
Chennai-600 047. Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorari to call for the records of the impugned communication of the 1st respondent herein comprised in TN/RECY/ 45(G)/ 51-87006 dated 06.10.2015 CCR No.56081/56082/ 62705/67400/ 69271 directing the 2nd respondent herein to pay any amount due to the petitioner directly to the 1st respondent on account of the petitioner becoming defaulter of the alleged ESI arrears amount of Rs.19 85 745/- for the period from January 2012 to August 2014 and to quash the same.

For Petitioner : Mr.N.Viswanathan
For Respondents : Mr.S.P.Srinivasan

ORDER

Heard Mr.N.Viswanathan, learned counsel for the petitioner and Mr.S.P.Srinivasan, learned counsel, who accepts notice for the first respondent and with the consent of either side, the writ petition itself is taken up for final disposal.

2. The petitioner, which is a private limited company, incorporated under the Companies Act, 1956, carrying on business with about 450 employees, has challenged a notice issued by the first respondent Corporation to the second respondent, which is in fact a garnishee. Notice under Section 45G of the Employees' State Insurance Act, 1948 (as amended) was issued to the second respondent, from whom the petitioner has to receive payments.

3. The petitioner had earlier approached this Court by filing a writ petition in W.P.No.32956 of 2015, when action was initiated by the authorities functioning under the provisions of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, (hereinafter referred to as the 'Act' in short) and this Court taking note of the fact that the petitioner company was a new management, attempting to revive a company, which had run into severe losses, directed the competent Provident Fund Commissioner of the Employees' Provident Fund Organization to consider the petitioner's review application filed under Section 7-B(1) of the Act. Pending decision on the said review petition, the order, which was impugned in the said writ petition, was directed to be kept in abeyance.

4. Now the petitioner, in this writ petition does not seek to challenge the demand issued by the respondent Organization, namely, ESI Corporation, but would state that they require time to make the payment, as the amount demanded is Rs.19,85,745/- and the petitioner is ready and willing to pay the amount in instalments.

5. The learned standing counsel appearing for the first respondent submitted that the submissions made by the petitioner before this Court may be placed on record and the petitioner may be permitted to approach the authority under the Act for such relief.

6. In the light of the above, while placing the undertaking of the petitioner to pay the entire amount, with request to remit the same in instalments, liberty is given to the petitioner to approach the competent authority under the provisions of the Employees' State Insurance Act, 1948 (as amended) requesting time for payment and also for paying the same in instalments. If any such application is filed, the competent authority shall consider the same on merits and in accordance with law and pass appropriate orders within a period of 10 days from the date of receipt of the said application.

7. The writ petition is disposed of accordingly. No costs. Connected miscellaneous petition is closed.

sd/
ASSISTANT REGISTRAR (CS-II)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

msk

To

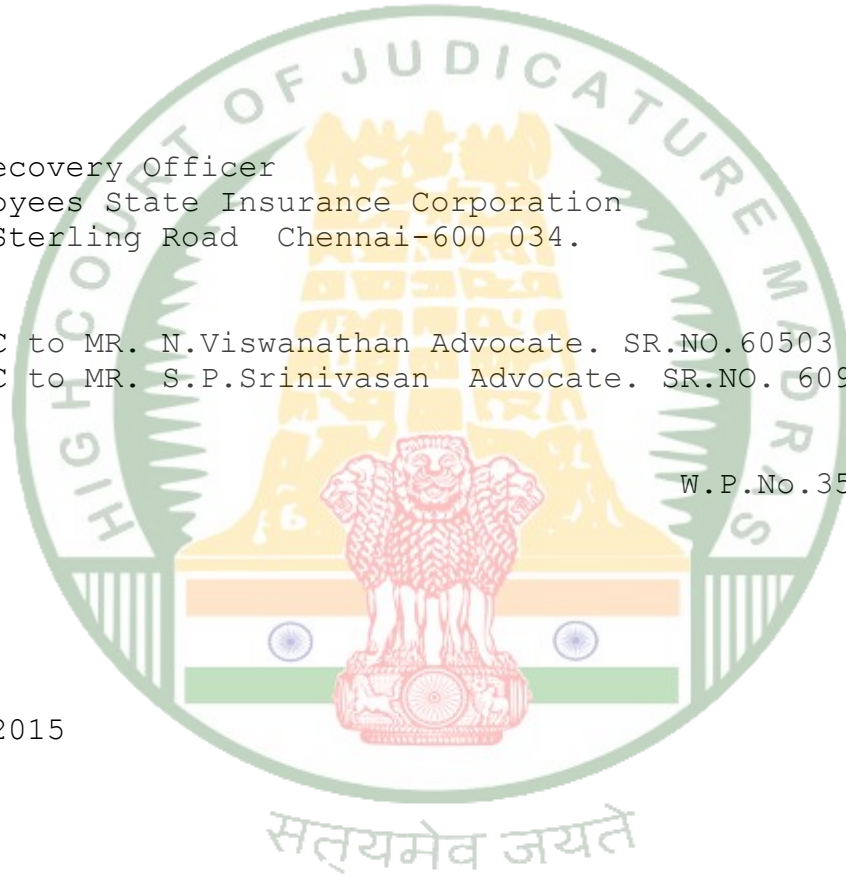
1 The Recovery Officer
Employees State Insurance Corporation
143 Sterling Road Chennai-600 034.

+1 CC to MR. N.Viswanathan Advocate. SR.NO.60503

+1 CC to MR. S.P.Srinivasan Advocate. SR.NO. 60937

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CO-SK
JD 06/11/2015



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