

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2016

CORAM :

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.43286 of 2016

Welfab Engineers
Rep. by its Partner D.Gopalakrishnan
178, Annapoorna Layout,
New Sidhapudur,
Coimbatore - 641 044. Petitioner
vs.

1. The Recovery Officer
Employees State Insurance Corporation,
Sub Regional Office,
1897, Trichy Main Road, Panchdeep Complex,
Ramanathapuram,
Coimbatore - 641 045.
2. The Director & Additional Commissioner
ESI Corporation,
II West Street,
K.K.Nagar, Madurai - 625 020.
3. The Branch Manager
Indian Bank,
Sidhapudur Branch,
Coimbatore - 641 044. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus, to call for the records and quashing the order No. CBE/RECY/CP-3/ 560001044380001001, dated 22.07.2014 issued by the Recovery Officer, ESI Corporation, Coimbatore and direct the first respondent to issue order to the third respondent to defreeze the current account of the petitioner.

For petitioner : Mr.R.Ramachandran

For respondent : Mr.S.P.Srinivasan for R1 and R2

O R D E R

Without challenging the original order, the present writ petition has been filed only challenging the consequential order.

2. The petitioner is an Engineer concern involved in manufacturing of Engineering components and during the years 2011 and 2012, he was manufacturing Engineering Components to cater the needs of one M/s. Aparajitha Corporate Services Limited based at Madurai. Therefore, M/s. Aparajitha Corporate Services Limited, Madurai, had paid the ESI deductions of the employees of the petitioner concern during the years 2011 and 2012 to the second respondent / ESI Corporation, Madurai. One Mrs. Usha, one of the partners of the petitioner concern and the wife of Mr.D.Gopalakrishnan, was succumbed to the ailment on 13.08.2014. It is also stated that she was taking care of the entire finance and administration of the petitioner concern. After her demise, while the petitioner was looking after the said work left by his wife, it is stated that the Recovery Officer, ESI Corporation, Coimbatore, has issued Prohibitory Order, dated 22.07.2014 / impugned herein under Rule 26(1) (i) of the Second Schedule to the Income Tax Act, 1961 r/w Section 45(C) to 45(I) of the ESI Act, 1948, addressing to the Indian Bank, Sarojini Street, Coimbatore / third respondent herein, to freeze the accounts of the petitioner concern and thereby, the said authority restrained the Bank from making any payments out of their account, with a further direction to the Bank to transfer an amount of Rs.1,72,613/- to the ESI Corporation. It is stated that the said amount was already cleared and paid by the main contractor firm M/s. Aparajitha Corporate Services Limited, Madurai, with whom the petitioner concern was a sub-contractor during the years 2011 and 2012. However, the petitioner has not produced any document with regard to the payment to the ESI Corporation. Besides, he has not challenged the original order on the ground that the same was placed by his wife. Therefore, this Court is not inclined to entertain the present impugned order challenging only the consequent prohibitory order.

Thus, the present writ petition is wholly misconceived and hence, the same is dismissed as devoid of any merit. No costs. Consequently, connected miscellaneous petition is also dismissed.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

tsvn

To

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+lcc to Mr.R. Ramachandran, Advocate, S.R.No.74700
+lcc to Mr.S.P. Srinivasan, Advocate, S.R.No.74168

ks (CO)
md(18/01/2017)

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