



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.08.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P(MD).No.13693 of 2016

and

W.M.P. (MD).No.10195 of 2016

Patil Rail Infrastructure Pvt.Ltd.,
rep.by its General Manager,
Mr.J.D.Prince Arumairaj,
Madurai.

... Petitioner

Vs.

1.The Assistant Director (INS-II),
Employees State Insurance Corporation,
Sub-Regional Office,
4th Main Road, K.K.Nagar, Madurai-625 020.

2.The Joint Director,
Employees State Insurance Corporation,
Sub-Regional Office,
4th Main Road, K.K.Nagar, Madurai-625 020.

3.The Recovery Officer,
Sub-Regional Office, (Madurai),
Employees State Insurance Corporation,
2nd West Street, K.K.Nagar,
Madurai-625 020.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari to call for the records relating to the impugned order issued by the 3rd respondent in his proceedings no. SRO/MDU/RRC/57/20981 dated 19.07.2016 and quash the same as illegal.

For petitioner : Mr.M.Pandiarajan

For respondents : Mr.P.Ganapathysamy

ORDER

The petitioner herein seeks to quash the impugned order passed by the third respondent, in and by which, notice has been issued to the petitioner-Company under Section 45 (C) to 45(I) of E.S.I.Act.



2. It is the case of the petitioner that pursuant to the inspection conducted by the respondents and allotment of ESI Code, from the year 2008 onwards, the petitioner has been regularly paying the contributions in respect of the factory employees. In spite of this, the first respondent had passed an order on 06.10.2008, demanding a sum of Rs.2,05,936/- and indicating that the petitioner-Company is liable to pay the ESI contribution as per Section 45(C) to 45(I) of E.S.I.Act, from the date of coverage onwards, i.e. from October 2007 to December 2007. Challenging the same, the petitioner preferred E.S.I.OP.No.122/08 before the Presiding Officer, Labour Court and, on 24.03.2016, the said petition was dismissed for default, whereupon, I.A.No.227/16 was filed for restoration and the same is pending. While so, on 19.07.2016, R.3 has issued the impugned attachment notice, hence, the present Writ Petition.

3. However, this Court is unable to consider the case of the petitioner for the reason that the petitioner has already approached the Labour Court and filed a petition challenging the notice dated 06.10.2008 and thereafter, for the best reasons known to him, it came to be dismissed for default by the Labour Court, on 24.03.2016. After a period of five months, the petitioner filed a restoration petition and the same is admittedly pending. Having approached the Labour Court way back in the year 2008, where, the petitioner-Company could not get any favourable order, it is not just and proper to approach this Court, that too, when the restoration application filed by the petitioner is pending. Therefore, this Court cannot entertain this Writ Petition, as the Writ Petition is totally bereft of any merit, whatsoever.

4. Consequently, this Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Record)

/True copy/

Sub Assistant Registrar

To

1.The Assistant Director (INS-II),
Employees State Insurance Corporation,
Sub-Regional Office,
4th Main Road, K.K.Nagar,
Madurai-625 020.



2.The Joint Director,
Employees State Insurance Corporation,
Sub-Regional Office,
4th Main Road, K.K.Nagar,
Madurai-625 020.

3.The Recovery Officer,
Sub-Regional Office, (Madurai),
Employees State Insurance Corporation,
2nd West Street, K.K.Nagar,
Madurai-625 020.

+1cc to Mr.P.GanapathiSwamy, Advocate Sr.No.41117

ssm

sm:SS2:14/09/2016:3P/5C

W.P (MD) .No.13693 of 2016

01.08.2016