

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 23.10.2017
CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.26956 of 2017
and W.M.P.Nos.28762 to 28764 of 2017

R.K.Productions P.Ltd.
Rep. by its Director Kastoori Raja
16/5, Raja Mannar Street
T.Nagar Chennai 600 017

[Petitioner]

Vs

- 1 Employees State Insurance Corporation
Rep. by its Director
Regional Office
CIN No. U92111TN2004PTC053023
143 Sterling Road Nungambakkam Chennai 600 034
- 2 Employees State Insurance Corporation
Rep. by its Deputy Director/
Authorized Officer 143 Sterling Road
Nungambakkam Chennai 600 034
- 3 Recovery Officer
Employees State Insurance Corporation
143 Sterling Road Nungambakkam Chennai 600 034

[Respondents]

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorari calling for the records pertaining to the impugned order passed by the Dy. Director/ Authorized Officer Employees State Insurance Corporation (Second Respondent) Under Ref. No.51-00-106367-000-1201/192017451 dated 19.05.2017 and quash the same

For Petitioner : Mr.G.Veerapathiran

For Respondents : Mr.C.V.Ramachandramoorthy

O R D E R

Heard the learned counsel for the petitioner and Mr.C.V.Ramachandramoorthy, learned Standing Counsel appearing for the respondents.

2. This writ petition has been filed challenging the impugned order passed by the 2nd respondent) dated 19.05.2017.

3. A perusal of the impugned notice dated 19.05.2017 issued by the Deputy Director clearly shows that the petitioner has been directed to give their explanation, as mentioned in paragraph 4, wherein it is stated that the respondent has proposed to determine and recover the amount of contribution payable in respect of the employees of the petitioner Establishment under Section 45 A of the Act as under:-

S.No.	Nature of Dues	Period	No.of employees	Average Wages	Basis for Calculation (6.5% * No.of Employees * Average wages * No. of Months)	Amount of contribution
1	Defaulted Employer	11	20	8250	6.5% * 20 * 8250 * 11	117975
Total						117975

4. The learned Standing Counsel appearing for the respondents submitted that freezing of the account of the petitioner has not been done by the Employees State Insurance Corporation. A reading of paragraph No.10 of the affidavit shows that Company's Account Number xxxx 5711 has been marked as "Debit Freeze: as the company's name has been struck off by Registrar of Companies under Section 248(5) of the Companies Act, 2013. Further, the learned Standing Counsel submitted that it is not known as to whether the order under Section 45 A of the Act has been passed till now. If there is no such order is passed, the petitioner shall give their explanation within a time frame and on such explanation being received, the same will be considered. In case if any order is passed under Section 45 A of the Act, then the petitioner has to work out their remedy in the manner known to law, by filing an appeal.

5. In view of the above, two weeks' time is granted to the petitioner to file their objections and on receiving the same, the authorities are directed to consider the same and pass appropriate orders on merits. As rightly pointed out by the learned Standing Counsel for the respondents, if an order under

Section 45 A of the Act has already been passed, the petitioner is directed to work out their remedy in the manner known to law, by filing an appeal against the order passed under Section 45 A of the Act.

With the above directions, the writ petition stands disposed of. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

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- 3 Recovery Officer
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+1 cc to Mr.G.Veerapathiran Advocate sr 74782
+1 cc to M/s.C.V.Ramachandramurthy Advocate sr 75048

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W.P.No.26956 of 2017

pvs(co)
aa04/12/2017

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