

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.05.2018

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

W.P.No.11822 of 2018 and
W.M.P.No.13799 of 2018

Trinity Colour India (P) Ltd.,
represented by Joint Managing Director
Yogesh Kumar A
having registered office at
No.27, Annamalai Layout,
Erode - 638 011. Petitioner

Vs.

1.Employees' State Insurance Corporation
(Sub Regional Office),
rep by its Deputy Director,
No.1897, Trichy Road,
Panchdeep Bhavan,
Ramanathapuram,
Coimbatore - 641 045.

2.State Bank of India
Stressed Assets Management Branch,
rep by its Authorized Officer & Chief Manager,
Red Cross Buildings,
32 Montieth Road, Egmore,
Chennai - 600 008. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorari calling for the entire records of the 1st respondent which culminated in the impugned notice No.56/104963/0199/RRC dated 15.03.2018 and quash the same in so far as it relates to/against the petitioner herein alone as the same is arbitrary, illegal and unsustainable.

For Petitioner : Mr.U.Baranidharan
For Respondents : Mr.S.P.Srinivasan (R1)

O R D E R

The present Writ Petitioner is aggrieved by the notice issued by the ESI demanding Rs.6,10,205/- towards ESI contribution payable by M/s.ICON House Hold Products Pvt. Ltd.

2.The case of the petitioner is that under SARFAESI Act, they purchased the assets of the Company and sought for transfer of the ESI account in the name of their Company viz.,

Trinity Colour India (P) Ltd. The ESI Authority has issued notice of demand alleging the Company, which has been purchased by the petitioner herein through e-auction, is to pay dues of Rs.6,10,205/- and if the petitioner Company fails to pay the amount within 5 days from the date of receipt of the letter, ESI will be constrained to take further coercive action.

3.It is the contention of the Writ Petitioner that they are bona fide purchaser for value from the Bank, which has initiated action under SARFAESI Act against M/s.ICON House Hold Products Pvt. Ltd. While auctioning the property, the Bank has not disclosed this statutory dues and further, it has also made to believe the petitioner that the property is free from encumbrance. Therefore, seeks certiorari to call for the records and quash the letter dated 15.03.2018 demanding ESI contribution of Rs.6,10,205/-, which according to ESI, is liable to be paid by M/s.ICON House Hold Products Pvt. Ltd.

4.The learned counsel appearing for the 1st respondent would submit that the notice issued by the ESI is in consonance with the statute and if the petitioner herein is aggrieved by the said notice, which is impugned before this Court, they have all rights to prefer appeal under Section 75 of the ESI Act.

5.Since there is a statutory remedy available for the petitioner herein where they can canvass the issue what they have putforth before this Court by way of an affidavit, this Court is not inclined to entertain this Writ Petition. Hence, the Writ Petition is dismissed.

6.The petitioner herein is at liberty to challenge the notice dated 15.03.2018 issued by the 1st respondent before the appropriate forum contemplated under the ESI Act.

7.It is brought to the notice of this Court by the learned counsel for the petitioner that immediately on receipt of the letter from the ESI, they have replied through e-mail, explaining the Authority as to why they are not liable to pay the amount demanded in the said notice.

8.This Court is not certain as to whether any order has been passed pursuant to the representation of the petitioner dated 03.04.2018 through e-mail. If the 1st respondent has so far not passed any order on the representation, it is needless to apprehend that the respondents will proceed against the petitioner based on the letter dated 15.03.2018.

9.The petitioner is granted fifteen (15) days time to approach the ESI Court. Till then, the 1st respondent shall not act upon the notice dated 15.03.2018. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Deputy Registrar (Ad.II)

//True Copy//

Sub Assistant Registrar

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To

1.Deputy Director,
Employees' State Insurance Corporation
(Sub Regional Office),
No.1897, Trichy Road,
Panchdeep Bhavan,
Ramanathapuram,
Coimbatore - 641 045.

2.Authorized Officer & Chief Manager,
State Bank of India,
Stressed Assets Management Branch,
rep by its
Red Cross Buildings,
32 Montieth Road, Egmore,
Chennai - 600 008.

+1cc to M/s.S.P.Srinivasan, Advocate Sr.No.33037
+1cc to Mr.V.P.Sengottuvel, Advocate SR.No.33107

AD(CO)
sm:8.5.2018

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