

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09-04-2018

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.16913 of 2017

And

W.M.P.Nos.18373 and 18374 of 2017

Management of
Evershine Wood Packaging Private Limited,
Survey No.93, 13 and 136 Pondur Road,
Aranery Village,
Sriperumbudur,
Kancheepuram District - 602 105
Represented by its Manager
Mr.A.Veeramani ... Petitioner

Vs.

1.The Deputy Director,
Regional Office (Tamil Nadu),
Employees' State Insurance Corporation,
143, Sterling Road,
Chennai-600 034.

2.The Branch Manager,
State Bank of India,
Sriperumbudur Branch,
Sriperumbudur 602 105,
Kancheepuram District.

3.The Presiding Officer,
Principal Labour Court /
Employees' State Insurance Court,
Chennai.

4.The Recovery Officer,
Office of the Recovery Officer,
Employees' State Insurance Corporation,
143, Sterling Road,
Chennai-600 034.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus, forbearing the first respondent from proceeding with any recovery proceedings

against the petitioner pursuant to the order passed under Section 45-A dated 5.11.2008 in proceedings No.TN/INS.V/51-83686-91/2804 pending disposal of I.A.No.143 of 2017 in EIOP 99/2008 on the file of the third respondent.

For Petitioner : Mr.Haroon for
M/s.T.S.Gopalan and Co.

For Respondents-1&4 : Mr.T.N.C.Kaushik,
Standing Counsel for ESI.

O R D E R

The relief sought for in this writ petition is to forbear the first respondent from proceeding with any recovery proceedings against the petitioner pursuant to the order passed under Section 45-A of the Employees' State Insurance Act, 1948 dated 5.11.2008 in proceedings No.TN/INS.V/51-83686-91/2804 pending disposal of I.A.No.143 of 2017 in EIOP 99/2008 on the file of the third respondent.

2. The learned counsel, appearing on behalf of the writ petitioner, states that the EIOP 99/2008 was filed by the petitioner-management and the said petition was dismissed for non-prosecution. The learned counsel for the writ petitioner further states that on account of certain valid reasons, the counsel for the writ petitioner was unable to appear before the third respondent and thereafter an interlocutory application in I.A.No.143 of 2017 was filed to condone the delay in filing the petition to restore the EIOP.

3. The grievances of the writ petitioner is that during the pendency of I.A.No.143 of 2017, the respondents had initiated action for recovery under Section 45-G of the Act. Thus, the petitioner is constrained to move the present writ petition.

4. This Court has directed the writ petitioner to deposit 50% of the demand amount by way of an interim order. The learned counsel for the writ petitioner states that the order has been complied with and the 50% of the amount had been deposited with the respondent-Corporation. Since the writ petitioner has complied with the order by depositing 50% of the amount with the respondent-Corporation, the learned counsel for the writ petitioner states that no further actions are to be initiated by the respondents till the final disposal is taken in I.A.No.143 of 2017 and the application filed to set aside the order of dismissal of EIOP 99/2008.

5. At the outset, during the pendency of these two applications, no further actions are to be initiated by the respondents against the writ petitioner. The fact remains that the EIOP 99/2008 was dismissed for non-prosecution. The writ petitioner filed I.A.No.143 of 2017 to condone the delay in filing the petition to set aside the ex parte order. Both the applications are pending. During the pendency of these two applications, pursuant to the directions of this Court, the writ petitioner had already deposited 50% of the amount with the respondent-Corporation.

6. This being the factum of the case, this Court is of an opinion that the writ petitioner deserves some consideration till the disposal of I.A.No.143 of 2017. Accordingly, the respondents are directed not to initiate any further actions for recovery or otherwise against the writ petitioner during the pendency of I.A.No.143 of 2017 in EIOP No.99/2008. Further, the third respondent-Presiding Officer, Principal Labour Court, Chennai, is directed to dispose of the applications filed by the writ petitioner in I.A.No.143 of 2017 and the petition filed to set aside the ex parte order, as early as possible, preferably within a period of four months from the date of receipt of a copy of this order.

7. Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

Svn
To

1.The Deputy Director,
Regional Office (Tamil Nadu),
Employees' State Insurance Corporation,
143, Sterling Road,
Chennai-600 034.

WEB COPY

2.The Branch Manager,
State Bank of India,
Sriperumbudur Branch,
Sriperumbudur 602 105,
Kancheepuram District.

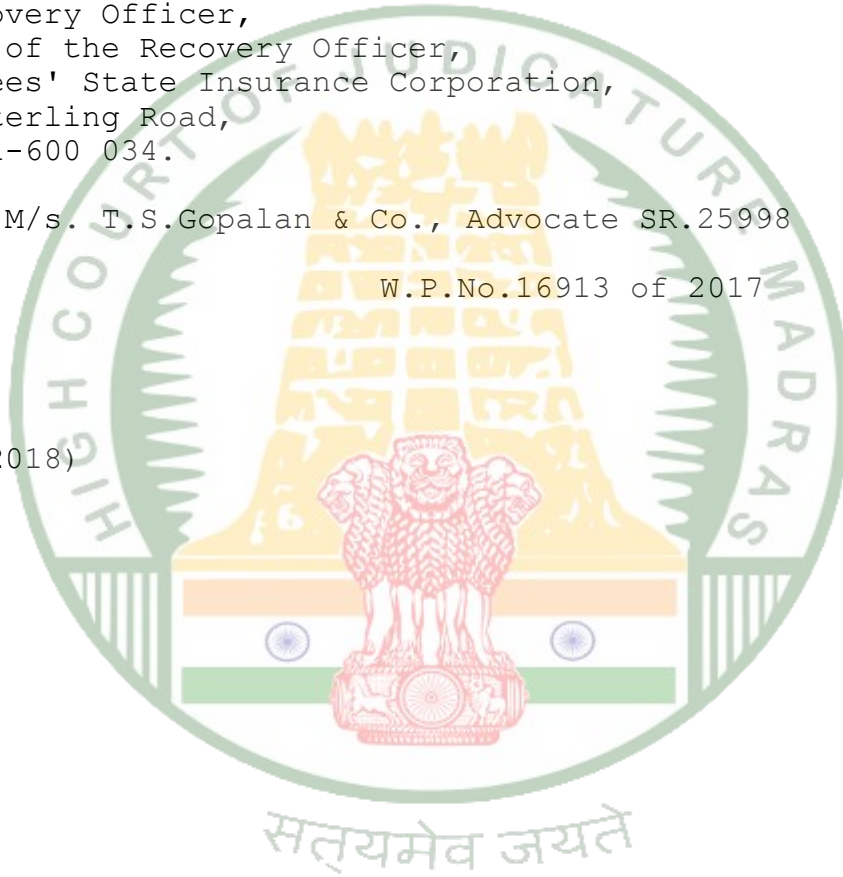
3.The Presiding Officer,
Principal Labour Court /
Employees' State Insurance Court,
Chennai.

4.The Recovery Officer,
Office of the Recovery Officer,
Employees' State Insurance Corporation,
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+ 1 cc to M/s. T.S.Gopalan & Co., Advocate SR.25998

W.P.No.16913 of 2017

KAN(CO)
EU(25/04/2018)



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