

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2018

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.29280 of 2017
and
W.M.P.No.31539 of 2017

Dr.Thenmozhi

... Petitioner

-vs-

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Labour and Employment Department,
Fort St. George,
Chennai - 600 009.

2.The Deputy Commissioner,
ESI Corporation, Panchdeep Bhavan,
No.143, Sterling Road, Nungambakkam,
Chennai - 600 034.

3.The Recovery Officer,
ESI Corporation,
Panchdeep Bhavan,
No.143, Sterling Road,
Nungambakkam, Chennai - 600 034.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari calling for the records of impugned order vide TN/RECY/45(G)-51000922570001301 dated 23.06.2017 under Section 45-G of the Employees' State Insurance Act, 1948 passed by the third respondent, quash the same .

For Petitioner :: Mr.R.Vijaya Kumar

For R1 :: Mr.J.Ramesh
Government Advocate

For R2 and R3 :: Mr.S.Jayakumar

O R D E R

The relief sought for in this writ petition is to call for the records in relation to the order passed by the third respondent in proceedings dated 23.06.2017 and quash the same.

2.The impugned order was issued by the Recovery Officer under Section 45-G of the Employee State Insurance Act, 1948. The issue involved in this writ petition is no more res intergra and the Hon'ble Apex Court of India has passed Orders in batch of cases filed in S.L.P.No.28285 of 2009 etc., on 15.03.2016.

3.By following the orders of the Hon'ble Supreme Court of India, this Court also passed a final order on 20.03.2017 in a writ petition in W.P.No.42247 of 2016 as hereunder:

"The only challenge sought to be made in this writ petition is to the coverage of employee state insurance Qua the private educational institution.

2.When the matter is taken up for hearing, learned counsel appearing for respondents 2 and 3 submits that the issue has been dealt with finally by the Apex Court in a batch of cases in SLP No.28285 of 2009 etc., and by order dated 15.03.2016, it has been held that private educational institutions are also bound to pay the employee state insurance contribution.

3.In such view of the matter, the writ petition stands dismissed. However, taking into consideration the pendency of the writ petition and the difficulties expressed by the petitioner, the arrears of ESI contribution as on today is ordered to be paid by the petitioner in 12 equal monthly instalments. It is made clear that the order would cover the past arrears till the months of March, 2017 and thus from the month of April, 2017, the petitioner is bound to pay the ESI contribution on regular basis. No. costs. Consequently, connected Miscellaneous Petitions are closed."

4.In view of the above orders passed by this Court, this Writ Petition is dismissed. However, there shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS IV)

//True copy//

Sub Assistant Registrar

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To

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Labour and Employment Department,
Fort St. George,
Chennai - 600 009.

2.The Deputy Commissioner,
ESI Corporation, Panchdeep Bhavan,
No.143, Sterling Road, Nungambakkam,
Chennai - 600 034.

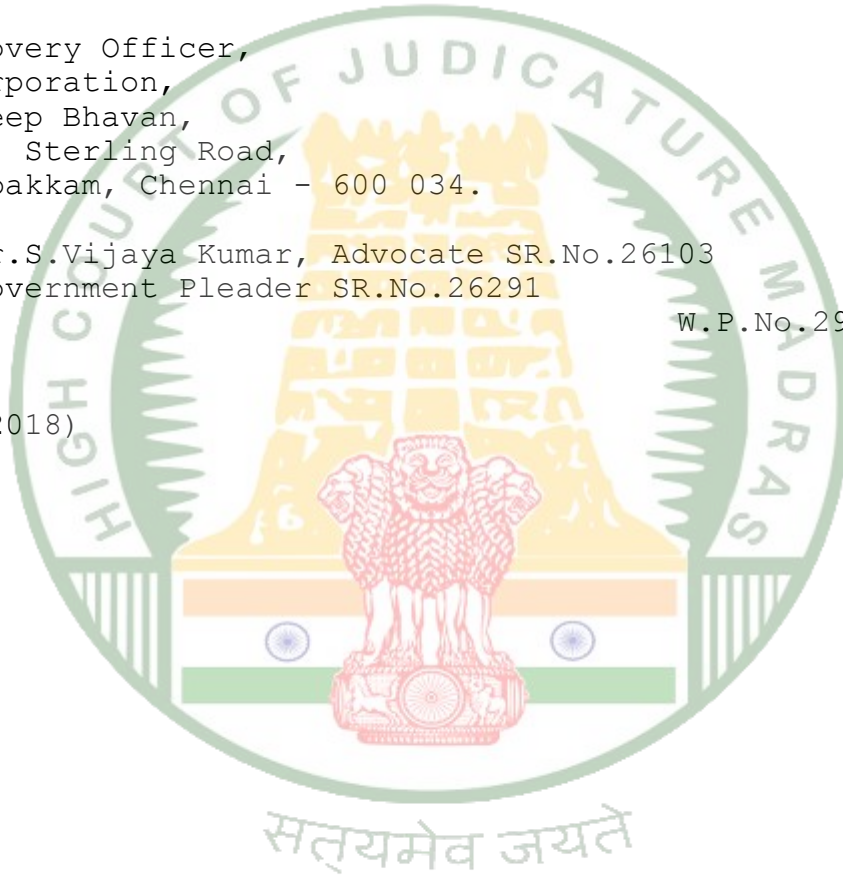
3.The Recovery Officer,
ESI Corporation,
Panchdeep Bhavan,
No.143, Sterling Road,
Nungambakkam, Chennai - 600 034.

+1cc to Mr.S.Vijaya Kumar, Advocate SR.No.26103

+1cc to Government Pleader SR.No.26291

W.P.No.29280 of 2017

GJ(CO)
GN(03/05/2018)



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