

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.01.2018

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.1871 of 2018 and WMP.Nos.2320 and 2321/2018

Kurinji Super Speciality Hospital
rep. by its Managing Director,
Dr.Jayaraman,
Dr.T.J.Salai, Five Roads,
Salem-636 016.

...Petitioner

Versus

The Deputy Director,
Employees State Insurance Corporation,
Sub-Regional Office,
39/57, Theerthamalai Vaniga Valagam,
Three Roads, Salem-9.

... Respondent

Prayer: Writ petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records with respect to impugned order passed by the respondent herein in his Proceedings dated 30.08.2017 in No.63000937340001401/INS/SRO/SLM/C-18 (Adhoc) and quash the same.

For Petitioner : Mr.R.Nalliyappan
For Respondents : Mr.T.N.C.Koushik,
Standing Counsel

O R D E R

The Writ Petition has been filed, challenging the impugned order dated 30.08.2017 issued by the Deputy Director, Employees State Insurance Corporation, Sub-Regional Office, Salem, thereby informing the petitioner that they have not paid contribution of their employees as per the provisions of law and also have not submitted return of contributions from April, 2013 to March, 2016 and also informed the petitioner to appear before him in person or through their authorised representative at SRO, Salem on 15.9.2017 at 11.00 a.m. with necessary documents to explain their case.

2. Subsequently, one another Show Cause Notice dated 30.11.2017 has been issued by the same Deputy Director of Employees State Insurance Corporation calling upon the petitioner to appear for enquiry at 11.00 a.m. on 4.1.2018 at his office with all relevant documents and also to bring a copy

of payment for the contributions accepting the liability for paying the ESI Contributions.

3. The learned Counsel appearing for the petitioner submitted that the petitioner is running a hospital with the help of Doctors and Nurses wherein no manufacturing process is going on. Therefore, it is not proper to fix the hospital employees including Doctors and Nurses under Employees' State Insurance Act. The learned Counsel further submitted that the petitioner has appeared for enquiry. But though the respondent has informed the petitioner to pay a sum of Rs.30,21,964/-, there is no order for the same.

4. Heard the learned Standing Counsel appearing for the respondents.

5. A perusal of the impugned Proceedings dated 30.08.2017 would go to show that under the Calculation Sheet, the respondent has stated below the head of 'Contribution Due payable at 6.5% on Wages as per IR dated 28.6.2017' as Rs.30,21,964/-. Therefore, the contention made by the petitioner that there is no order to pay Rs.30,21,964/- is wrong because an order was already passed on 28.6.2017. Under such circumstances, this Court is not inclined to entertain the Writ Petition. Therefore, the Writ Petition fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed. However, liberty is given to the petitioner to make further representation explaining their case to the respondent.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

tsi

To

The Deputy Director,
Employees State Insurance Corporation,
Sub-Regional Office, 39/57, Theerthamalai Vaniga Valagam,
Three Roads, Salem-9.

+1cc To Mr.T.N.C.Koushik, Advocate in sr.no.6672

+1cc To Mr.R.Nalliyappan, Advocate in sr.no.6814 (14/02/18)

W.P.No.1871 of 2018

RR(CO)

VUM(10.02.2018)