



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2019

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.22090 of 2012
and M.P.No.1 of 2012

The Tamilnadu Handloom Weaver's
Cooperative Society Ltd.,
Rep. by its Managing Director,
No.350, Pantheon Road,
Egmore, Chennai - 8.

...Petitioner

vs.

1.The Director,
ESI Corporation,
Panchdeep Bhavan,
CIG Road,
New Delhi - 110 002.

2.State of Tamilnadu
Rep. by its Principal Secretary,
Labour and Employment Department,
Fort St.George,
Chennai - 9.

3.The Additional Commissioner/Regional Director,
Employees State Insurance Corporation,
Regional Office,
143, Sterling Road,
Nungambakkam, Chennai - 34.

4.The Recovery Officer,
Employees State Insurance Corporation,
Regional Office,
143, Sterling Road,
Nungambakkam, Chennai - 34.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of a writ of Certiorarified mandamus, call for the records pertaining to the G.O(D) No:657 Labour and Employment (L1) Department dated 21.12.2010 on the file of the 2nd respondent and quash the same and direct the respondents to give exemption to the petitioner



from paying ESI contribution for the period between 01.04.2006 to 31.03.2010.

For Petitioner : Mr.S.Packiaraj
For Respondents : Mr.SP.Srinivasan for R1 ESI
Mr.K.Ravikumar for R2
Additional Government Pleader
Mr.K.Prabakar for R3 & R4

WEB COPY

ORDER

This writ petition has been filed by the petitioner challenging the G.O(D)No.657, Labour and Employment (L1) Department dated 21.12.2010, on the file of the second respondent and consequently direct the respondents to give exemption to the petitioner from paying ESI contribution for the period between 01.04.2006 to 31.03.2010.

2.It is represented by the learned counsel for the petitioner that subsequent to the filing of the writ petition, the Government has waived the payment of ESI contribution by the petitioner which is a co-operative society for the period from 01.04.2006 to 31.03.2010, which is also accepted by the learned Additional Government Pleader. According to the learned counsel for the petitioner, in view of the waiver, the petitioner is entitled for refund of a sum of Rs.15,72,635.35 which was recovered by the third and fourth respondents towards ESI contribution for the period from 01.04.2006 to 31.03.2010.

3.The learned counsel for the petitioner also drew the attention of this Court to a representation dated 06.12.2019 submitted by the petitioner to the fourth respondent, seeking for refund of a sum of Rs.15,72,635.35 together with 10% simple interest. The fact that the representation has been given by the petitioner on 06.12.2019 is accepted by the learned Additional Government Pleader for the second respondent.

4.Heard, Mr.S.Packiaraj, learned counsel for the petitioner, Mr.SP.Srinivasan, learned counsel for the first respondent, Mr.K.Ravikumar, learned counsel for the second respondent and Mr.K.Prabakar, learned counsel for the third and fourth respondents.

5.Since the payment of ESI contribution for the aforesaid period has been waived, this Court directs the third and fourth respondents to consider the representation dated 06.12.2019 submitted by the petitioner seeking for refund of a sum of



Rs.15,72,635.35 allegedly recovered from the bank account of the petitioner on account of non-payment of ESI contribution for the aforesaid period, within a period of 12 weeks from the date of receipt of a copy of this order.

6. With the aforesaid direction, the instant writ petition shall stand disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Assistant Registrar

To

1. The Director,
ESI Corporation, Panchdeep Bhavan,
CIG Road, New Delhi - 110 002.
2. The Principal Secretary,
Labour and Employment Department,
Fort St. George, Chennai - 9.
3. The Additional Commissioner/Regional Director,
Employees State Insurance Corporation,
Regional Office, 143, Sterling Road,
Nungambakkam, Chennai - 34.
4. The Recovery Officer,
Employees State Insurance Corporation,
Regional Office, 143, Sterling Road,
Nungambakkam, Chennai - 34.

+1cc to Mr. SP. Srinivasan, Advocate Sr.No.104643
+1cc to Mr. K. Prabakar, Advocate Sr.No.104389
+1cc to Mr. S. Packiaraj, Advocate SR.No.104116
+1cc to The Government Pleader Sr.No.104544

AKM/22.01.2020/3P-9C/

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