

IN THE HIGH COURT OF JUDICATURE AT MADRAS

16.04.2019

CORAM

THE HON'BLE MR.JUSTICE V.PARTHIBAN

W.P.NO.4609 OF 2019

AND

W.M.P.NOS.5212 AND 5213 OF 2019

M/s.Aakash Pure Aqua Tech Private Limited,
rep.by its Managing Director P.Suresh

... Petitioner

vs.

1. The Deputy Director(R),
Employees State Insurance Corporation,
Sub Regional Office,
39/57, Theerthamalai Vaniga Valagam,
Three Roads,
Salem-636 009

2. The Recovery Officer,
Employees State Insurance Corporation,
Sub Regional Office,
39/57, Theerthamalai Vaniga Valagam,
Three Roads,
Salem-636 009

..... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records relating to the proceedings of the first respondent in Proceedings No.63000736940000999/INS-II/SRP/SLM/189/16-17 dated 18.07.2017 and the consequential proceedings in No.SLM/RECY/45 (G)/63-000-73694-000-0999/CCR No.4451, dated 11.10.2018 and to quash the same.

For Petitioner

.. Mr.S.Raveekumar

For Respondents

.. Mr.G.Bharatwaj

ORDER

Challenging the proceedings of the first
respondent/Deputy Director, Employees' State Insurance

Corporation, dated 18.07.2017 and the consequential recovery proceedings of the second respondent/Recovery Officer, dated 11.10.2018, under the provisions of the Employees' State Insurance Act, 1948 (hereinafter referred to as 'ESI Act'), the present writ petition has been filed.

2. When the matter is taken up for hearing, the learned counsel for the respondent Corporation would submit that the petitioner has not exhausted the appeal remedy provided under Section 45-AA of the Act and straight away approached this Court. Therefore, the learned counsel would submit that the writ petition is liable to be dismissed as not maintainable.

3. At this, the learned counsel for the petitioner would submit that there are certain inconsistencies in the order passed by the authority and therefore, the extraordinary jurisdiction of this Court has been invoked without exhausting the appeal remedy, as provided under the Statute.

4. This Court is unable to appreciate the submission made by the learned counsel appearing for the petitioner. Whatever objections raised before this Court can very well be canvassed before the Appellate Authority under the provisions of the ESI Act and certainly it is not open on the side of the petitioner to bypass the appeal remedy provided under the Statute and approach this Court directly, by invoking extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. The petitioner can urge all the points in favour of their defence in response to the claim made by the respondent/authority in the appeal.

For the above said reasons, this Court finds that the writ petition is not maintainable in view of the appeal remedy available under the Statute. Hence, the writ petition stands dismissed. No costs. Connected miscellaneous petitions are dismissed.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

msk

To

1. The Deputy Director(R),
Employees State Insurance Corporation,
Sub Regional Office,
39/57, Theerthamalai Vaniga Valagam,
Three Roads,
Salem-636 009
2. The Recovery Officer,
Employees State Insurance Corporation,
Sub Regional Office,
39/57, Theerthamalai Vaniga Valagam,
Three Roads,
Salem-636 009

+1cc to Mr.G.Bharatwaj, Advocate, S.R.No.37573
+1cc to Mr.S.Raveekumar, Advocate, S.R.No.37529

W.P.No.4609 of 2019

PA (CO)
CS/23/05/2019



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