

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2020

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.748 of 2020
and
W.M.P.Nos.907 & 908 of 2020

Blue Star Tours and Travels,
Represented by its Proprietor,
S.Senthilkumar,
No.72/26, Halls Road,
Egmore,
Chennai - 600 008. Petitioner

vs

1. Employees State Insurance Corporation
(Regional Office), Tamilnadu,
Rep. by its Deputy Director,
(Authorised Officer),
143, Sterling Road, Nungambakkam,
Chennai - 600 034.
2. The Recovery Officer,
Employees State Insurance
Corporation,
143, Sterling Road, Nungambakkam,
Chennai - 600 034. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus to call for the records in he proceedings of the first respondent TN/RECY/45G/51 51001211540000704/ CCR- 90603 dated 01.01.2020 and quash the same and to direct the respondents not to proceed with any recovery or auction proceedings consequent upon the impugned order.

For Petitioner : Mr.R.Chandrasekar
For Respondents: Mr.SP.Srinivasan,
Standing Counsel

O R D E R

Challenge made in this Writ Petition is against the proceedings of the 2nd respondent dated 01.01.2020 attaching

the Bank account maintained by the petitioner with State Bank of India, Chinthadripet Branch, Chennai, for recovering a sum of Rs.1,09,421/- toward ESI contribution, interest and cost.

2. The grievance of the petitioner is that the impugned proceedings was issued without issuing any prior notice to the petitioner and permitting them to file any reply. According to the writ petitioner, they have only two number of employees working in their office and therefore, they will not come under the purview of ESI Act, 1948. Based on the above contentions, this Court entertained the Writ Petition and granted interim stay of the impugned proceedings for a period of three weeks.

3. Mr.S.P.Srinivasan, learned Standing Counsel took notice for the respondent and sought time to get instructions. Accordingly, the matter was adjourned and listed again today for further hearing.

4. The respondents, today, filed a counter affidavit wherein it is stated that already an order under Section 45A of the ESI Act was passed on 04.03.2019 and the same has been received and acknowledged by the petitioner. It is further stated that the said order was passed after affording opportunity of personal hearing to the petitioner which they failed to utilise. Therefore, the learned counsel submitted that the present writ petition filed against the consequential proceedings without challenging the order under Section 45A is not maintainable.

5. Learned counsel for the petitioner is not in a position to dispute the above contentions. On the other hand, perusal of the order passed under section 45A of the said Act dated 04.03.2019 would show that already the petitioner is suffering with such an order and therefore, unless and until the said order is challenged, the present writ petition, challenging the consequential proceedings, is not maintainable.

6. Accordingly, the Writ Petition is dismissed. However, the dismissal of this Writ Petition will not stand in the way of the writ petitioner to challenge the order passed under section 45A of the ESI Act, 1948, in the manner known to law before the appropriate Forum. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

vsi

<https://hcservices.ecourts.gov.in/hcservices/>

To

1. The Deputy Director,
(Authorised Officer),
Employees State Insurance Corporation
(Regional Office), Tamilnadu,
143, Sterling Road, Nungambakkam,
Chennai - 600 034.

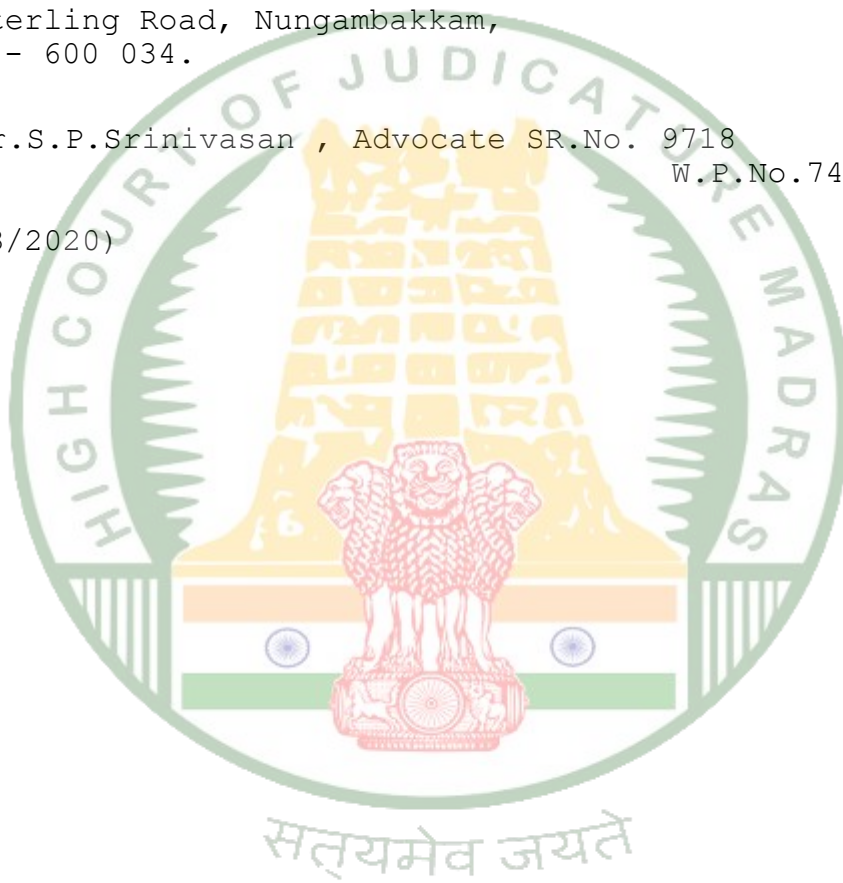
2. The Recovery Officer,
Employees State Insurance
Corporation,
143, Sterling Road, Nungambakkam,
Chennai - 600 034.

+1cc to Mr.S.P.Srinivasan , Advocate SR.No. 9718

W.P.No.748 of 2020

RGN

A.SK(04/03/2020)



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