

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2020

CORAM

THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU

W.P.NO.4187 OF 2020

AND

W.M.P.NOS.4947 AND 4950 OF 2020

M/s.Poppys Knitwear Private Limited,
No.127 & 127A, SNVS Compund,
Kongu Main Road,
Tiruppur - 641 607.

... Petitioner

-vs-

The Recovery Officer,
Employees State Insurance Corporation,
1897, Trichy Road, Ramanathapuram,
Coimbatore - 641 045.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records pertaining to the impugned order in Ref.No.56560167910030106/CP/360901/48816 (Form ESI CP 2) dated 29.01.2020 and quash the same.

For Petitioner : Mr.B.Gopalakrishnan
for Mr.S.Gunalan

For Respondent : Mr.G.Bharadwaj,
Standing Counsel

O R D E R

(through video conference)

Heard Mr.B.Gopalakrishnan, Learned Counsel appearing for the Petitioner and Mr.G.Bharadwaj, Learned Standing Counsel appearing for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. It is pointed out by the Learned Standing Counsel appearing for the Respondent that order Ref.No.56560167910030106/CP/360901/48816 dated 29.01.2020, which is impugned in this Writ Petition is a consequential order for recovery in furtherance to the order No.56560167910030106/ME/TPR dated 02.04.2019 passed by the Deputy Director, Employees' State Insurance Corporation (Sub Regional Office), Coimbatore finally

determining the amount of contribution payable by the Petitioner under Section 45-A of the Employees' State Insurance Act, 1948 (hereinafter referred to as the 'Act' for short), and in the absence of any challenge to that parental order, the Petitioner cannot prosecute this Writ Petition for the relief claimed. He relies on the decisions of this Court in Saidapet Co-operative Milk Producers Society Ltd., -vs- Deputy Director, ESI Corporation Regional Officer (Tamil Nadu) (order dated 04.08.2017 in C.M.A.No.469 of 2015) and M/s. Hexaware Technology -vs- Commissioner, Employees State Insurance Corporation, Chennai (order dated 30.10.2019 in W.P.No.29677 of 2018).

3. In view of the aforesaid legal position, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to challenge the order No.56560167910030106/ME/TPR dated 02.04.2019 passed by the Deputy Director, Employees' State Insurance Corporation (Sub Regional Office), Coimbatore by approaching the Employees State Insurance Court under Section 75 of the Act and he has also sent a confirmatory e-mail to that effect, which is placed on record. It is made clear that the Petitioner is not precluded from seeking any interim relief including that related to enforcement of the order impugned in this Writ Petition, before the Employees State Insurance Court in the said proceedings, and that no view is expressed by this Court on the correctness or entitlement of the claim made by the Petitioner in that regard.

4. Accordingly, the Writ Petition is dismissed as withdrawn granting such liberty with the aforesaid observations. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kv/vjt

To
The Recovery Officer,
Employees State Insurance Corporation,
1897, Trichy Road, Ramanathapuram,
Coimbatore - 641 045

+1cc to Mr.G.Bharadwaj, Advocate, S.R.No.26073

W.P.No.4187 of 2020

CP(CO)
CS/12/08/2020