

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2020

CORAM

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P. No. 15973 of 2020

Cambridge Matriculation and Higher
Secondary School,
Rep. by its Correspondent
J.M.Mahalakshumi,
148, Lloyds Road,
Royapettah,
Chennai-14.

... Petitioner

-vs-

1. The Deputy Director,
Employees State Insurance Corporation,
Regional Office,
Panchadeep Bhawan,
143 Sterling Road,
Nungambakkam,
Chennai-34.

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

3. The Branch Manager,
State Bank Of India,
Balaji Nagar Branch,
233 Royapettah High Road,
Chennai -14.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the entire records relating to the first respondent vide No. 51000923720001302/4320191122 and 51000923720001302/4320191153 dated 05.04.2019 and the order of the second respondent dated 11.12.2019 vide proceedings No.

TN/RECY/45G/51/51000923720001302/CCR 76533-84491 and to quash the same and consequently direct the second respondent to order refund of the said amount of Rs.3,99,600/- to the petitioner with interest @ 12% per annum calculated from June 2020 to till date of refund to the petitioner.

For Petitioner: Mr.Vijayakumar
for Mr.P.C. Harikumar

For Respondent: Mr. Bharadwaj
Standing Counsel

O R D E R

The prayer sought for in this Writ Petition is for a Writ of Certiorarified Mandamus to call for the entire records relating to the first respondent vide No. 51000923720001302/4320191122 and 51000923720001302/4320191153 dated 05.04.2019 and the order of the second respondent dated 11.12.2019 vide proceedings No. TN/RECY/45G/51/51000923720001302/CCR 76533-84491 and to quash the same and consequently direct the second respondent to order refund of the said amount of Rs.3,99,600/- to the petitioner with interest @ 12% per annum calculated from June 2020 to till date of refund to the petitioner.

2. The petitioner is a recognized private unaided school i.e., self financing institution, which has also been brought under the E.S.I. Act i.e., provisions of the Employees State Insurance Act. Accordingly, the respondents 1 & 2 / E.S.I passed an order of attachment for the alleged non payment of E.S.I. contribution, on 11.12.2019 against the petitioner / institution. Subsequently, notice also had been given on 09.09.2020 for hearing, by fixing the hearing date on 07.10.2020.

3. It seems that, on 07.10.2020, the petitioner did appear and putforth the case.

4. After having heard the learned counsel appearing for the petitioner, the respondents 1 & 2 / E.S.I., according to the petitioner, had not come forward to pass any order of determination under Section 45-A of the E.S.I. Act. Therefore, the petitioner challenging the attachment order has filed this Writ Petition.

5. When this case came up for hearing, at the admission stage on 05.11.2020, Mr. Vijayakumar, learned counsel appearing for the petitioner had fairly submitted that, after filing the Writ Petition, subsequently it seems that, the petitioner has received some communication which probably might be a determination order under Section 45-A of the E.S.I. Act and if

so, after getting a clarification in this regard, he will report before this Court.

6. Accordingly, when the matter is taken up for hearing today, the learned counsel appearing for the petitioner has submitted that, the determination order under Section 45-A of the E.S.I. Act was passed on 22.10.2020 and the same has been served on the petitioner. In view of the same, in order to challenge the said determination order, the petitioner wants to workout his remedy by filing an appropriate appeal before the appellate forum under the provisions of the Act and therefore, noting the said development, the Writ Petition can be disposed of.

7. Mr. Bharadwaj, learned Standing counsel appearing for the respondents 1 & 2 / E.S.I has also endorsed the said development and he would submit that, since determination order under Section 45-A has been passed, the same has to be adjudicated, if at all the petitioner got grievances over the same, only before the appellate authority. Therefore, the present Writ Petition can be disposed of accordingly.

8. I have considered the said submissions made by the learned counsel appearing for both parties and have perused the materials placed before this Court.

9. In view of the said development having been taken place, where, the determination order under Section 45-A of the E.S.I. Act, since has been passed by the respondents 1 & 2 / E.S.I on 22.10.2020 and the same has been admittedly served on the petitioner and the petitioner also in this regard wants to work out his remedy by approaching the appellate forum, having regard to all these developments and by recording the same, this Court is inclined to dispose of this Writ Petition as no further order is required to be passed in this Writ Petition as has been sought for. Accordingly, this Writ Petition is disposed of. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Deputy Director,
Employees State Insurance Corporation,
Regional Office,
Panchadeep Bhawan,
143 Sterling Road,
Nungambakkam,
Chennai-34.

2. The Recovery Officer,
Employees State Insurance Corporation,
Regional Office,
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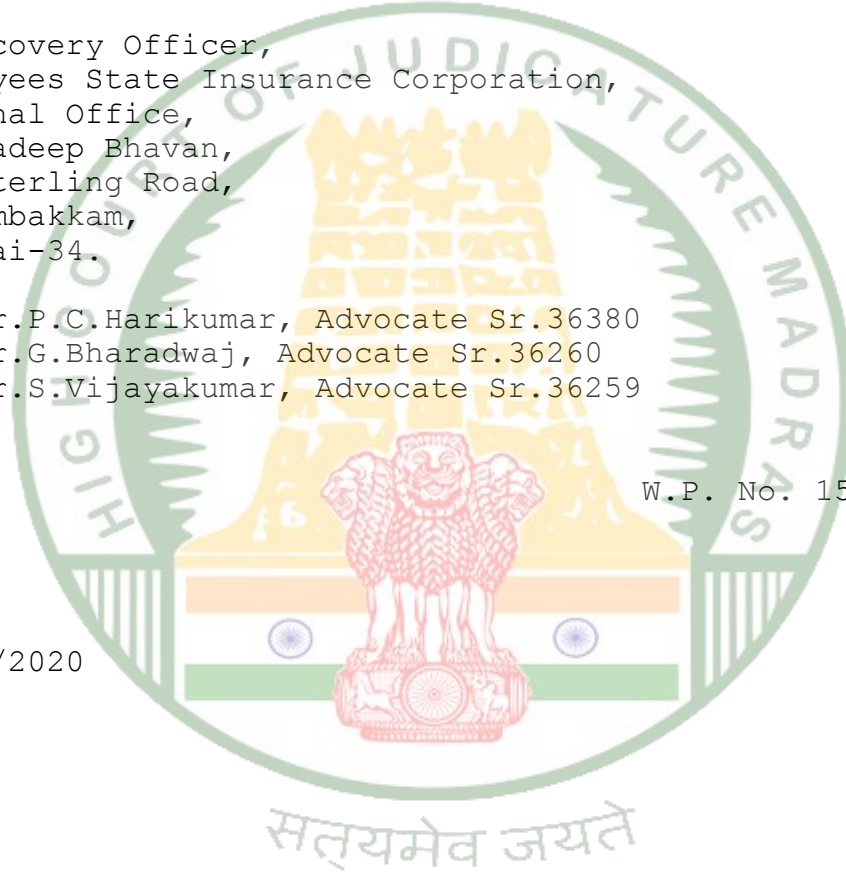
+1cc to Mr.P.C.Harikumar, Advocate Sr.36380

+1cc to Mr.G.Bharadwaj, Advocate Sr.36260

+1cc to Mr.S.Vijayakumar, Advocate Sr.36259

W.P. No. 15973 of 2020

ssd[co]
srg 07/12/2020



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