

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15133 of 2021

Winsome International Limited a company incorporated under Indian Companies Act 1956 having its registered office at 5th Floor, 16A Brabourne Road, Kolkata 700001, proprietor of M/S Rameshwara Jute Mills, Muktapur, P.O. Navrang, Samastipur, Bihar through its President (Works) cum Authorized Signatory Jitendra Kumar Singh, aged about 49 years, S/O Late Ramashanker Singh, resident of Dalhousie Mill Quarter No. 8, G.T. Road, Champadani, Champadani M, Hoogly West Bengal- 712222

... .. Petitioner/s

Versus

1. The Union of India through Secretary, Ministry of Labour and Employment, Government of India.
2. The Secretary, Ministry of Labour and Employment, Government of India, New Delhi.
3. The Employees State Insurance Corporation through its Regional Director, Bihar, Panchdeep Bhawan, Bailey Road, Patna 800001.
4. The Regional Director, Bihar, Employees State Insurance Corporation, Panchdeep Bhawan, Bailey Road, Patna 800001.
5. The Recovery Officer, E.S.I. Corporation, Bihar, Panchdeep Bhawan, Bailey Road, Patna 800001.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Siddhartha Prasad, Advocate
For the Respondent/s : Mr. (Dr.) K.N. Singh (ASG)
Mr. Rakesh Kumar Sinha, CGC
Mr. (Dr.) Anshuman, Advocate
Mr. Sudhir Kumar Bijpria, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

6 07-10-2021 Heard learned counsel for the parties.

2. The petitioner is a Public Limited Company and proprietor of M/s Rameshwara Jute Mills. It has approached this Court against prohibitory orders dated 23.07.2021/ 28.07.2021, issued by the Recovery Officer, Employees' State Insurance



Corporation, Bihar (for short the Corporation) under Rule 26(1) (i) of 2nd Schedule of the Income Tax Act, 1961 read with Sections 45C to 451 of the Employees' State Insurance Act, 1948 (for short ESI Act), whereby the Recovery Officer has, by separate prohibitory orders, directed the Branch Managers of the respective branches of State Bank of India, Canara Bank, Indian Bank, ICICI Bank and HDFC Bank to freeze the petitioner's account for default in payment of arrears and interest payable under sub-section (5)(a) of Section 39 of the ESI Act. The arrears have been determined to the tune of Rs. 30,66,631=00.

3. Mr. Siddhartha Prasad, learned counsel appearing on behalf of the petitioner has submitted that the petitioner does not dispute the determination of arrears by the Recovery Officer. He further submits that the petitioner is willing to clear all such arrears with statutory interest if this Court allows the petitioner to pay the same in instalments because of the acute financial crisis which the petitioner is presently facing.

4. Learned counsel representing the Corporation on oral instructions has submitted that the petitioner may be allowed to pay the arrears in instalments with interest with clear stipulation that it shall be required to pay damages too, in accordance with law. He has further submitted that the petitioner



should submit a bank guarantee also for rest of the amount after payment of first instalment, if the Court directs the Corporation to allow the petitioner to operate his aforesaid Bank accounts.

5. In the facts and circumstances of the case and in the light of the submissions advanced on behalf of the parties, it is deemed expedient and in the interest of justice to dispose of this application with following directions :-

(i) Let the petitioner pay first instalment of Rs. 6 lakhs within one month from today.

(ii) On payment of first instalment, the impugned order issued by the Recovery Officer shall become temporarily inoperative. It will be duty of the Recovery Officer to send necessary communication to the Bankers in this regard.

(iii) Rest of the amount shall be paid by the petitioner in five equal monthly instalments.

(iv) If the petitioner fails to pay any of the instalment, the orders, which are under challenge, operation of the orders impugned shall be restored and communications in this regard shall be made to the concerned Banks by the Corporation.

(v) It goes without saying that the petitioner shall be required to clear the entire arrears with interest with the payment of last instalment.

(vi) The Corporation shall be at liberty



to determine damages, if permissible, in accordance with law, after payment of last instalment.

(Chakradhari Sharan Singh, J)

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