



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2021

CORAM

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

W.P. Nos. 32195 and 32196 of 2012
and
M.P. Nos. 1 and 1 of 2012

Chairman-cum-Managing Director,
Tamil Nadu Civil Supplies Corporation Ltd.,
No. 12, Thambusamy Road,
Kilpauk,
Chennai - 600 010.

...Petitioner in both W.P.s

-vs-

1. The Government of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Labour and Employment Department,
Secretariat,
Fort St. George,
Chennai - 600 009.
2. The Employees State Insurance Corporation,
Rep. by its Regional Director,
No. 143, Sterling Road,
Nungambakkam,
Chennai - 600 034.
3. The Deputy Director,
Employees State Insurance Corporation,
No. 143, Sterling Road,
Nungambakkam,
Chennai - 600 034.

...Respondents in both W.P.s

Prayer in W.P. No. 32195 of 2012:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the notice dated 06.11.2012 bearing No. TN/Ins-VI/51-00-036330-000-1002-A on the file of the Third Respondent and quash the same.

Prayer in W.P. No. 32196 of 2012:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the notice dated 06.11.2012 bearing No. TN/Ins-VI/51-00-036330-000-1002-B on the file of the Third Respondent and quash the same.



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For Petitioner : Mr. C.Munusamy (in both W.P.s)
For Respondents : Mr. Harsha Raj,
Counsel appearing for the Government
(for R1 in both W.P.s)
Mrs. S.Jeyakumari, Standing Counsel
(for R2 and R3 in both W.P.s)

C O M M O N O R D E R
(through video conference)

Heard Mr. C.Munusamy, Learned Counsel for the Petitioner, Mr. Harsha Raj, Learned Counsel representing the First Respondent and Mrs. S.Jeyakumari, Learned Standing Counsel appearing for the Second and Third Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner in this Writ Petition, viz., Tamil Nadu Civil Supplies Corporation Limited, had admittedly obtained exemption from the applicability of the provisions of the Employees' State Insurance Act, 1948 (hereinafter referred to as 'the E.S.I. Act' for short) for the period from 01.07.1972 to 30.06.2010 and again from 25.07.2011 to 24.07.2013. The application made by the Petitioner for exemption under Section 87 read with Section 91-A of the E.S.I. Act for the intervening period from 01.07.2010 to 30.06.2011 had been rejected by the First Respondent by Letter No. 16698/L1/2010-2 dated 22.10.2010 and reiterated by another Letter No. 2406/L1/2011-2 dated 28.03.2011. Thereafter, the Third Respondent by Order No. TN/Ins.VI/51-00-036330-000-1002-A and Order No. TN/Ins.VI/51-00-036330-000-1002-B dated 06.11.2012 under Section 45-A of the E.S.I. Act determined that Rs. 3,71,192/- and Rs. 2,81,724/- were the contribution payable by the Petitioner for its employees for the period from July 2010 to December 2010 and January 2011 to June 2011 respectively, which are assailed in these Writ Petitions.

3. Though the Petitioner has an effective alternative remedy to challenge the said orders either in an appeal under Section 45-AA of the E.S.I. Act before the Appellate Authority or in an application under Section 75 of the E.S.I. Act before the Employees' Insurance Court, the Petitioner has not resorted to such procedure and there is no explanation in the affidavit filed in support of the Writ Petition for not having availed alternative remedy.

4. The only contention of the Petitioner in this Writ Petition is that the application for exemption from the applicability of the E.S.I. Act was pending before the First Respondent and in the meanwhile, the impugned orders determining



the liability of the Petitioner under Section 45-A of the Act, have been passed by the Third Respondent. Such plea is patently misconceived inasmuch as the application for exemption made by the Petitioner for the relevant period had already been rejected by the First Respondent and also reiterated much before the impugned orders have been passed. In such circumstances, there does not appear to be any merit to entertain these Writ Petitions.

5. Having regard to the fact that the Petitioner is an undertaking established and funded by the Government of Tamil Nadu and had been exempted from the provisions of the E.S.I. Act for the period prior and after the relevant period for which contributions have been determined in the impugned orders and the likelihood of the beneficiaries availing any of the benefits under the E.S.I. Act is remote, the Petitioner is not precluded from making representation to the concerned authority for writing off the contribution amounts claimed in the impugned orders treating it as 'irrecoverable' in terms of Section 91-C of the E.S.I. Act and if the same is made, it shall be examined on merits and in accordance with law.

In the result, these Writ Petitions are dismissed with the aforesaid observations. Consequently, the connected Miscellaneous Petitions are closed. No costs.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

kv/skr

To

1. The Principal Secretary to the Government of Tamil Nadu,
Labour and Employment Department,
Secretariat,
Fort St. George,
Chennai - 600 009.
2. The Regional Director,
Employees State Insurance Corporation,
No. 143, Sterling Road,
Nungambakkam,
Chennai - 600 034.



3. The Deputy Director,
Employees State Insurance Corporation,
No. 143, Sterling Road,
Nungambakkam,
Chennai - 600 034.

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+1cc to M/s.S.Jayakumari, Advocate, Sr.No.42855

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JP II (CO)
KKV/07/09/2021