



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2021

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.21555 OF 2021

AND

W.M.P.NO.22757 OF 2021

M/s.K.Rajmani & Sons,
Rep. by Proprietor Mr.R.Shanmugam,
No.24, Diwan Kandappa Nagar,
Periya Mudhaliar Chavady,
Vanur Taluk,
Tamilnadu - 605 104.

... Petitioner

-Vs-

1. The Recovery Officer,
Employees State Insurance Corporation,
Panchdeep Bhawan,
143, Sterling Road,
Chennai - 600 034.
2. The Assistant Director/Authorised Officer,
Employees State Insurance Corporation,
Panchdeep Bhawan,
143, Sterling Road,
Chennai - 600 034.

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, prayed to issue a Writ of Certiorari to call for the records of the second respondent and quash the order dated 20.09.2019 bearing the No.TN/Ins-II/C18Adh/51-00-114733-000-0699.

For Petitioner : Mr.A.Kripakaran

For Respondents : Mr.S.P.Srinivasan

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.



2. Among the various grounds raised by the petitioner firm challenging the order passed under Section 45A of the ESI Act, 1948 dated 20.09.2019, one of the grounds is that the firm has been assigned with two employer code numbers, namely Employer Code: 51001147330000699 and Employer Code: 51001147340000669, for which purpose the petitioner had requested the Authorities to cancel the duplicate code and reset the password for the other code.

3. It is in this connection, the learned counsel for the petitioner would submit that, since they had been paying the contributions under the Employer Code No: 51001147340000669, they were not aware of the order passed under Section 45A of the Act.

4. The submission of the learned counsel for the petitioner seems to be based on factual aspects and this Court exercising its powers under Article 226 of the Constitution of India, will not venture to appreciate such factual aspects. The petitioner herein had not invoked Section 45AA of the ESI Act for the purpose of filing an appeal within a period of 60 days, as contemplated therein. Nevertheless, since the ground raised by the petitioner in the present writ petition prima facie appears to be one which requires adjudication, I am of the view that the petitioner could be granted an opportunity to approach the Appellate Authority, by relaxing the limitation prescribed under Section 45AA of the Act.

5. In the light of the above observations, the petitioner herein is granted liberty to file an appeal against the present impugned order dated 20.09.2019, before the Appellate Authority under Section 45AA of the Act, within a period of 30 days from the date of receipt of a copy of this order. Till such time the appeal is filed within the time prescribed by this Court, the respondent shall not take any coercive action pursuant to the order passed under Section 45A of the Act, dated 20.09.2019.

6. Accordingly the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ata/hvk



To

1. The Recovery Officer,
Employees State Insurance Corporation,
Panchdeep Bhawan,
143, Sterling Road,
Chennai - 600 034.
2. The Assistant Director/Authorised Officer,
Employees State Insurance Corporation,
Panchdeep Bhawan,
143, Sterling Road,
Chennai - 600 034.

+2ccs to Mr.V.S.Senthil Kumar, Advocate, S.R.No.52231
+1cc to Mr.S.P.Srinivasan, Advocate, S.R.No.52216

W.P.NO.21555 OF 2021 AND
W.M.P.NO.22757 OF 2021

SRA (CO)
PBS/20/10/2021