



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:31.01.2022

CORAM

THE HON'BLE MR. JUSTICE V.PARTHIBAN

W.P.NO.1561 OF 2022

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W.M.P.NOS.1678 & 1680 OF 2022

Pachamuthu College of Arts & Science for Women,
Rep by its Secretary Mr.B.Sangeeth Kumar,
No.2/275, Krishnagiri Main Road,
Semmandakuppam, Old Dharmapuri,
Dharmapuri District - 636 701.

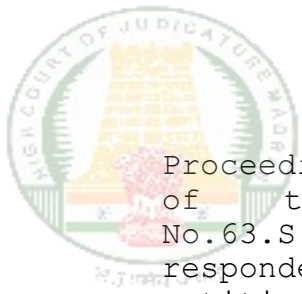
...Petitioner

Vs.

1. The Government of India,
Rep by its Secretary,
Ministry of Labour and Employment,
Shram Shakti Bhawan,
Rafi Marg, New Delhi - 110 001.
2. Employees' State Insurance Corporation,
Rep by its Deputy Director,
Sub Regional Office (Salem)
39/57, Theerthamalai Vaniga Valagam,
Three Roads, Salem - 636 009.
3. The Deputy Director (Rev),
Employees' State Insurance Corporation,
Sub Regional Office (Salem)
39/57, Theerthamalai Vaniga Valagam,
Three Roads, Salem - 636 009.
4. The Deputy Director (Inspection),
Employees' State Insurance Corporation,
Sub Regional Office (Salem)
39/57, Theerthamalai Vaniga Valagam,
Three Roads, Salem - 636 009.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus, calling for the records of the respondents relating to the orders in Proceeding No. 63000931190001303 / INS /SRO/SLM/219 /2012, dated 05.07.2018, Proceeding No.63000931190001303/INS/SRO /SLM/219/2012, dated 05.07.2018 of the second respondent herein,



Proceeding No.63000931190001303/INS.I/SRO/SLM, dated 24.11.2021 of the third respondent herein and Proceeding No.63.S.11.27.2021.INSPN, dated 29.12.2021 of the fourth respondent herein and quash the same and consequently permit the petitioner herein to pay ESI Contribution from 01.02.2021 onwards by getting fresh ESI Code Number.

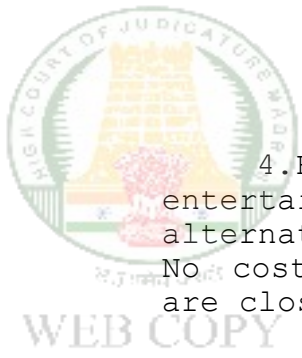
For Petitioner .. Mr.Kandhan Duraisami
For Respondents.. M/s.P.J.Anitha,
C.G.S.T.C.
(for R.1)
Ms.Jeyakumari (for R.2 to R.4)

ORDER

The Writ Petition was filed challenging the demand notices issued in terms of the provisions of the ESI Act by the respondent / Corporation dated 05.07.2018 & 24.11.2021. According to the petitioner / institution that a demand prior to the Notification dated 01.02.2021 is illegal. The petitioner is therefore willing to make any contribution after the coming into force of the Act from 01.02.2021 and not for the period earlier.

2.The learned counsel who represented the petitioner reiterated the above brief facts and also stated that the demand is per se illegal and liable to be set aside. When this Court confronted the learned counsel as to the fact of availability of appellate remedy under the provisions of ESI Act, the learned counsel replied stating that the order being ex- facie illegal, this Court can directly entertain the writ petition.

3.This Court is unable to countenance such submission by the learned counsel for the petitioner that whatever be the objection, such objection can always be examined by the appellate forum provided under the provisions of the ESI Act. Such remedies which are effective and expeditious, cannot be bypassed and the parties cannot be allowed to approach this Court directly on the stated ground. When the statute provides for appellate remedies, the parties need to avail such remedies and as a matter of convenience, the appellate forum can always appreciate the factual aspect as well as the legal contention. Therefore, the efficacious remedy lies before the Appellate Authority and not before this Court.



4. For the above said reasons, this Court is not inclined to entertain the Writ Petition on the ground of availability of alternative remedy and hence the Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar(J)

//True Copy//

Sub Assistant Registrar

mrm

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39/57, Theerthamalai Vaniga Valagam,
Three Roads, Salem - 636 009.

+1cc to Mr.Muthumani, Advocate, S.R.No.5551
+1cc to M/s.P.J.Anitha, Advocate, S.R.No.5976

W.P.No.1561 of 2022

KKV/11/02/2022