

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.3.2022

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THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.No.2838 of 2022
and W.M.P.No.2977 of 2022

1 M/s.Srinivas Waste Management Service
Pvt Ltd. Rep. by its Director,
33, 15th Avenue, Ashok Nagar,
Chennai-600 083. ... Petitioner

Vs.

1 The Recovery Officer,
Employees State Insurance Corporation,
Sub Regional Office, 39/57, Theertha Malai
Vaniga Valagam, Salem-636 009.

2 The Commissioner,
Tiruchirappalli City Municipal Corporation,
No.58, Bharathidasan Salai, Contonment,
Tiruchirappalli-620 001. ... Respondents

Prayer : The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, Calling for the records of the 1st respondent in proceedings No.SLM / RECY/ EC-15/ 63-51 -090255- 002-1001 and quash the recovery notice/summons dated 21.12.2021 issued in contrary to the provisions of the Section 45 of the ESI Act 1948.

For Petitioner : Mr.Haroon A.L.Rasheed for
M/s.T.S.Gopalan & Co.

For Respondent No.1 : Mr.T.N.C.Kaushik

ORDER

By the consent of parties, the writ petition is taken up for final disposal.

2. The learned counsel appearing for the petitioner would submit that the respondent has not passed an order under Sec.45A of the Act and the present impugned Recovery order passed against the provisions of law and therefore, the impugned order is liable to be quashed.

3. The learned Standing counsel appearing for the first respondent would submit that the authority will consider the claim of the petitioner and take appropriate decision under Sec.45A of the Act including the ground raised by the petitioner viz., the demand made by the respondent is beyond the period of five years.

4. In such circumstances, this Court is of the view that the impugned order is quashed and remitted back to the first respondent to consider afresh and pass appropriate orders under Sec.45A of the Act by considering the objection made by the petitioner in accordance with law and take appropriate decision as expeditiously as possible preferably within a period of 12 weeks from the receipt of copy of the order, after giving due opportunity to the petitioner.

5. Accordingly, the writ petition stands allowed with the above directions. No Costs. Connected miscellaneous petition is closed.

14.3.2022

Speaking / Non-Speaking order

Internet:Yes/No

Index:Yes/No

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To

- 1 The Recovery Officer,
Employees State Insurance Corporation, Sub Regional Office,
39/57, Theertha Malai Vaniga Valagam, Salem-636 009.
- 2 The Commissioner,
Tiruchirappalli City Municipal Corporation,
No.58 Bharathidasan Salai, Contonment, Tiruchirappalli-620 001.

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D.KRISHNAKUMAR,J.

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