



WEB COPY

For Petitioner : Mr.R.Bharath Kumar
For Respondents : Mr.S.Muthusamy,
Additional Central Govt.Standing
Counsel for R1

Mr.S.P.Srinivasan, for R2 to R4

ORDER

This writ petition has been filed seeking to quash the impugned proceedings dated 30.01.2020 issued by the third respondent and the proceedings dated 02.03.2022 issued by the 4th respondent same and consequently direct the respondents to consider the petitioner's representation for grant of exemption from remitting ESI contribution for M/s Alwarpet Benefit Fund Ltd.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

3. The respondents 2 and 3 have filed their counter affidavit, wherein, it is stated that before passing of the impugned orders dated 30.01.2020 and 02.03.2022, the respondents have passed an order under Section 45A of the ESI Act, dated 21.05.2020, after affording reasonable opportunity of personal hearing to the petitioner. The above said order, sent to the petitioner was returned with an endorsement "unclaimed/Information delivered" and also it was not challenged by the petitioner before the appropriate forum. Therefore, without challenging the above said order, now the petitioner has filed the instant writ petition, seeking to quash consequent impugned orders, which is not maintainable. It is further stated in the counter affidavit that, challenging the impugned orders, the petitioner can seek remedy before the E.S.I. Court, but without approaching the appropriate forum, the present writ petition, filed before this court is not maintainable.

4. The learned Additional Central Government Standing Counsel appearing for ESI, has also reiterated the above said facts put forth in the counter affidavit. He would also submitted that, if the petitioner Company is aggrieved by the impugned orders, they have to approach the E.S.I. Court and not this court under Article 226 of the Constitution of India. Hence, he prays for dismissal of the writ petition.

5. Inview of the above said submissions made by the counsel for the respondents 2 to 4, this writ petition is dismissed, granting liberty to the petitioner to approach E.S.I. Court,



within four weeks from the date of receipt of a copy of this order. The Registry is directed to return the original orders to the petitioner, if any filed by them, after obtaining copies of the same. Further, in view of the above, the respondents are directed not to take any coercive steps against the petitioner for a period of four weeks from the date of receipt of a copy of this order.

6. With the above observations, this writ petition is dismissed. No costs. Consequently, connected writ miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

mst

To

1. The Secretary to Government of India,
Ministry of Labour and Employment,
Panchadeep Bhavan, CIG Marg,
New Delhi 110 002.
2. The Regional Director,
Regional Office, Employees' State Insurance Corporation,
Panchadeep Bhavan, 143-Sterling Road,
Nungambakkam, Chennai 600 034.
3. The Assistant Director/Authorised Officer,
Regional Office, Employees' State Insurance Corporation,
Panchadeep Bhavan, 143-Sterling Road,
Nungambakkam, Chennai 600 034.
4. The Recovery Officer, Office of the Recovery Cell,
Regional Office, Employees' State Insurance Corporation,
Panchadeep Bhavan, 143-Sterling Road,
Nungambakkam, Chennai 600 034.

+1cc to Mr.R.Bharath Kumar, Advocate, S.R.No.34996

+1cc to Mr.S.P.Srinivasan, Advocate, S.R.No.33839

W.P.No.10273 of 2022

BR(CO)
UMA(27/06/2022)