

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2022

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.14528 OF 2022
AND W.M.P.NO.13722 OF 2022

Indrayani Biotech Limited
represented by its Director Mr.G.Swaminathan
Block No.1, Module No.32, Sidco Electronics Complex,
Thiru.Vi.Ka.Industrial Estate,
Guindy, Chennai - 600 032. ... Petitioner

Vs.

1. The Deputy Director,
Employees State Insurance Corporation,
No.143, Sterling Road,
Nungambakkam, Chennai - 600 034.
2. The Recovery Officer,
Employees State Insurance Corporation,
No.143, Sterling Road,
Nungambakkam, Chennai - 600 034. ... Respondents

PRAYER:

This Writ Petition has been filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarifi to call for the records relating to proceedings bearing No.TN/Ins.VIII/51-00-091688-000-0607/C18 Adhoc dated 01.04.2015 of the 1st respondent and to quash the same.

For Petitioner : Mr.K.Elangoo
For Respondents: Mr.G.Baradwaj

O R D E R

The relief sought for in the writ petition is to call for the records relating to proceedings bearing No.TN/Ins.VIII/51-00-091688-000-0607/C18 Adhoc dated 01.04.2015 of the 1st respondent and to quash the same.

2.Brief facts of the case: The Helios Solutions Limited, was

a Company, had been doing business in the field of Electrical and Electronic installations and it had employed 32 persons in the year 2012 by paying statutory dues in accordance to law. The strength of the employees came down to 14 in the year 2014 as there is no business. According to the strength of the employee the company had been remitting the statutory dues to the concerned authority. Without taking the correct strength and their contribution, the respondents have erroneously worked out statutory dues, based on the year 2012, strength of the employees in the company. Before the necessary legal action, the factory was flooded in the year 2015 and hence, it suffered heavy damages and hence, the said Helios Solutions Limited had to close the business and reported the same to the respondents and thereafter, it has decided to amalgamate with Indrayani Biotech Limited (petitioner herein) along with another Company. Before the amalgamation proceedings could be completed, the entire world was hit with covid pandemic situation, as a result, the said amalgamation process got delayed. Thereafter, the National Company Law Tribunal, Division Bench at Chennai has passed an order under Section 232 of Companies Act amalgamating Helios Solutions Limited with Indrayani Biotech Limited. Thereafter, the 2nd respondent has served the impugned notice on the erstwhile company calling upon it to pay a sum of Rs.1,37,280/- along with interest and the erstwhile company has also appeared before the second respondent and explained their position, however, their request has not been considered. Hence, the writ petition.

3.The learned counsel for the petitioner would submit that though this writ petition has been filed to quash the proceedings bearing No.TN/Ins.VIII/51-00-091688-000-0607/C18 Adhoc dated 01.04.2015 of the first respondent, now the petitioner undertakes to pay the demand amount as per the impugned order passed by the respondents by way of 12 instalments.

4.The learned counsel for the respondents submitted that they have no serious objection for payment of aforesaid amount by way of instalments.

5.Heard the learned counsel on either side and perused the materials placed on record.

6.In view of the undertaken given by the petitioner that the amount will be paid by way of ten equal monthly instalments, this Court is inclined to pass the following order:

(i) The petitioner/Management is directed to pay the amount of Rs.5,82,761/- as on date, in ten equal monthly instalments to the respondents without any default.

(ii) the first instalment will commence from 01.07.2022 and the remaining instalments shall be paid by the petitioner on or before 10th day of every succeeding English calendar month. If any default on the side of the petitioner regarding the payment, the respondents are permitted to proceed in accordance with law.

(iii) Till such time, the impugned proceedings bearing No.TN/RECY/EC-15/51-51000916880000607/CCR-73173-96768 dated 01.04.2015 of the 1st respondent is kept in abeyance.

7.With the above directions, this Writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Director,
Employees State Insurance Corporation,
No.143, Sterling Road,
Nungambakkam, Chennai - 600 034.
2. The Recovery Officer,
Employees State Insurance Corporation,
No.143, Sterling Road,
Nungambakkam, Chennai - 600 034.

+1cc to Mr.K.Elangoo, Advocate, S.R.No.35468
+1cc to Mr.G.Baradwaj, Advocate, S.R.No.35172

W.P.No.14528 of 2022
and W.M.P.No.13722 of 2022

GSM(CO)
PM/18/07/2022