



W.P.No.13911 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2022

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.13911 of 2014

and

M.P.No.1 of 2014

Balusserly Benefit Chit Fund (P) Ltd.,
Represented by its Director,
No.66, Old No.30, Singarachari Street,
Triplicane, Chennai - 600 005.

...Petitioner

Vs

1.Employees State Insurance Corporation,
Rep. by its Regional Director,
143, Sterling Road,
Nungambakkam, Chennai - 34.

2.Recovery Officer,
Employees State Insurance Corporation,
143, Sterling Road,
Nungambakkam, Chennai - 34.

3.Vijaya Bank,
Represented by its Branch Manager,
Triplicane Branch,
Triplicane, Chennai - 5.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India,
praying to issue a Writ of Mandamus, forbearing the respondents from acting



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in any manner to recover alleged ESI contributions of Rs.3,14,119/- or any other amount from the petitioner pursuant to the 2nd respondent's Notice No. TN/RECY/45(G)-51-8991/CCR-31551 dated 09.05.2014 issued under Section 45G of ESI Act, 1948.

For Petitioner : Mr.A.Sikkandar

For R1 & R2 : Mr.G.Bharatwaj

For R3 : M/s.Ramalingam & Associates

ORDER

Pursuant to the determination of ESI contribution from the petitioner Company, action was initiated under Section 45G of the Employees' State Insurance Act, which came to be challenged by the petitioner before the Employees State Insurance Court, Chennai, (hereinafter referred to as 'the ESI Court) in E.S.I.O.P.No.207 of 2005. Pending the proceedings before the ESI Court, the present Writ Petition has been filed seeking for issuance of Writ of Mandamus, forbearing the respondents from recovering the ESI contributions to the tune of Rs.3,14,119/-.

2. The amount involved in the present Writ Petition is a part of the proceedings in E.S.I.O.P.No.207 of 2005. On 02.02.2021, the proceedings in



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E.S.I.O.P.No.207 of 2005 came to be partly allowed and while holding that the notice of attachment was illegal and arbitrary, the proceedings was set aside and the petitioner Company was declared to have come under the meaning of a "shop".

3. In view of the final orders passed in E.S.I.O.P.No.207 of 2005, the present prayer cannot be entertained, since the cause of action is covered under the final order passed by the ESI Court, dated 02.02.2021. Accordingly, the present Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

29.09.2022

Index:Yes/No

Speaking order/Non-speaking order

hvk



WEB COPY

To

- 1.The Regional Director,
Employees State Insurance Corporation,
143, Sterling Road,
Nungambakkam, Chennai - 34.
- 2.The Recovery Officer,
Employees State Insurance Corporation,
143, Sterling Road,
Nungambakkam, Chennai - 34.



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M.S.RAMESH,J.

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