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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 04.01.2022

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THE HON'BLE MR. JUSTICE V.PARTHIBAN

W.P.Nos.28265 & 28273 of 2021

and

W.M.P.Nos.29844 & 29851 of 2021

M/s.Emmanuel Nursery and Primary School,
ESI Code No.51-00-107545-000-1301,
Represented by its Correspondent, Sunitha Joe,
No.3/91, Mettu colony,
Manapakkam, Chennai - 600125.

...Petitioner in both WPs

Vs.

1.The Joint Director,
Employees State Insurance Corporation,
Regional Office (Tamilnadu),
143, Sterling Road, Chennai - 600034.

2.The Deputy Director,
Employees State Insurance Corporation,
Regional Office (Tamilnadu),
143, Sterling Road,
Chennai - 600034.

...Respondents in both WPs

Prayer in W.P.No.28265/2021: Writ Petition filed under Article 226 of Constitution of India, for issuance of writ of Certiorarified Mandamus calling for the records of the impugned order dated 27.10.2020 passed by the 2nd respondent in the proceedings No.TN/Ins/VIII/51-00-107545-000-1301/C18 Adhoc - 1300/15 and to quash the same as invalid and further, directing the respondents herein to drop all further & subsequent proceedings, specifically the notice dated 14.09.2021.

Prayer in W.P.No.29851/2021: Writ Petition filed under Article 226 of Constitution of India, for issuance of writ of Certiorarified Mandamus calling for the records of the impugned notice dated 14.09.2021 in 51001075450001301 / 8520211244 issued by the second respondent and to quash the same as invalid and further, directing the respondents herein to drop all further & subsequent proceedings.



For Petitioner : Mr.D.Baskar

For Respondent : Mr.K.Moorthy, Standing Counsel

...in both WPs

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COMMON ORDER

The writ petitions have been filed challenging the proceedings of the respondent/Corporation demanding arrears of contribution payable by the Employer for the period from January, 2013 to January, 2016, February, 2016 to May, 2021 from the petitioner/establishment. In the writ petitions, several grounds have been raised assailing the demand notice issued by the respondent/Corporation. As a matter of fact, it is also mentioned in the affidavits that the impugned order has been appealed against and nothing is stated in the affidavit as to what happened to the appeal before the Joint Director Regional Office, ESIC, Chennai under Section 45AA.

2.In the meanwhile, the present Writ Petitions have been filed challenging the very same order with reference to the notices issued dated 27.10.2020 & 14.09.2021 asking the petitioner establishment to show cause as to why assessment should not be made as proposed by their earlier communication. What was the earlier communication and what prompted the authority to issue the communication regarding the details of which have not been spelt-out in clear terms in the affidavit.

3.Even otherwise, this Court is of the view that when the appeal is pending against the impugned orders dated 27.10.2010 & 14.09.2021, it is open to the petitioner/establishment to work out its remedies before the Appellate Authority and even thereafter there are remedies available before ESI Court. Without exhausting those remedies, it is not open to the petitioner to directly approach this Court at this stage.

4.When effective alternative remedies are made available in the relevant statute, it is not open to the petitioners to approach this Court and call for its intervention. This Court is of the view that the Writ Petitions are not therefore maintainable at this stage and are liable to be rejected.

5.For the above said reasons, these Writ Petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//



mr
To

1.The Joint Director,
Employees State Insurance Corporation,
Regional Office (Tamilnadu),
143, Sterling Road, Chennai - 600034.

2.The Deputy Director,
Employees State Insurance Corporation,
Regional Office (Tamilnadu),
143, Sterling Road, Chennai - 600034

+2 ccs to Mr.D.Baskar, Advocate Sr.NO. 786

W.P.Nos.28265 & 28273 of 2021
and

W.M.P.Nos.29844 & 29851 of 2021

ev(CO)

A.SK(10.02.2022)