



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 03.01.2022

Coram:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.27763 of 2021
and
W.M.P.No.29326 of 2021

Mr.Vinay Ashok Samtani,
Director of M/s.Coalesce Foods Pvt. Ltd.,
Old No.40, New No. Siddhartha Apartments,
Flat No.19, C.P.Ramaswamy Iyer Road,
Chennai-600 018.

.. Petitioner

Vs.

1. Employee State Insurance Corporation,
Pachdeep Bhavan - No.143, Sterling Road,
Nungambakkam, Chennai-600 034,
Represented by its Regional Director.

2. The Recovery Officer,
Employees State Insurance Corporation,
Pachdeep Bhavan - No.143, Sterling Road,
Nungambakkam, Chennai-600 034.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the first and second respondents relating to ESI Code No.51001049440001102 and quash the Demand Notice dated 22.09.2021 Ref.No:51001049440001102/CP/448178/CCR-104517 in Form ECIC-CP-2 served in the name of the petitioner herein, as the same is illegal, unlawful and non-est in law.

For petitioner : Mr.P.Mohan Prasad
for M/s.Viruksham Legal

ORDER

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the first and second respondents relating to ESI Code No.51001049440001102 and quash the Demand Notice dated 22.09.2021 Ref.No:51001049440001102/CP/448178 CCR-104517 in Form



ECIC-CP-2 served in the name of the petitioner herein, as the same is illegal, unlawful and non-est in law.

2. The present Writ Petition has been filed against the demand notice dated 22.09.2021 issued by the respondents and the consequential communication, dated 11.11.2021 issued by the ESI Authority. According to the petitioner, the demand of Rs.7,30,855/- was without basis and the same is being disputed on the basis of certain factual averments.

3. When the Writ Petition came up for admission, when this Court specifically confronted the learned counsel as to why the appeal provision as provided under the Employees' State Insurance Act, has not been exhausted before approaching this Court, there is no plausible answer forthcoming except saying that the claim itself is illegal and baseless.

4. This Court is unable to countenance such plea on the part of the petitioner herein for the reason that when appeal remedy is provided under the relevant Act, the same being efficacious, it is not open for the petitioner to approach this Court by-passing the said remedy.

5. When the relevant Act provides for an effective alternative remedy, such remedy has to be availed of by the aggrieved party and approaching this Court without availing of the said remedy, is gross abuse of process of this Court. Only in exceptional cases, this Court would directly entertain any Writ Petition against the order of the any Authority and that would be in the rarest of rare cases and not in the matter of routine, Writ Petitions could be directly entertained.

6. This Court does not think that the grounds raised in the present Writ Petition call for any interference by this Court directly.

7. For the above stated reasons, this Writ Petition is dismissed on the ground that there is appeal remedy available to the petitioner in the relevant Act itself. No costs. Consequently, W.M.P. is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar



CS

To

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

+1cc to Mr.P.Mohan Prasad, Advocate, S.R.No.799

W.P.No.27763 of 2021

AK-II(CO)
CT 19/01/2022