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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2022

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THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.NO.33439 OF 2018

Monotech Systems Limited,
Represented by its Sr. Manager-HR, R.Ganesan,
Registered office: 3rd Floor, city Centre,
No. 66, Thirumalaipillai Road,
T.Nagar,
Chennai-600 017.

... Petitioner

-vs-

1. The Assistant Director,
Employees State Insurance Corporation,
Regional Office:
ESI Corporation, Panchdeep Bhavan,
143, Sterling Road,
Chennai-600 034.
2. The Recovery Officer,
Employees State Insurance Corporation,
Regional Office:
ESI Corporation, Panchdeep Bhavan,
143, Sterling Road,
Chennai-600 034.

... Respondents

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of Recovery passed by the Second Respondent in his proceedings No. 51001000590001002/CP/283240/CCR-82307 dated 07.11.2018 received by the Petitioner on 17.11.2018 and quash and consequently direct the Respondents to refund Rs. 1,66,161/- (Rupees One Lakh Sixty Six Thousand One Hundred Sixty One only) with interest which was recovered from the Petitioners illegally on 04.12.2018 from the Petitioners ICICI Bank account No. 602605051582 on 04.12.2018 by direct debit the same.



For Petitioner : Mr.M.Abdul Razack

For Respondents : Mr.S.P.Srinivasan

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O R D E R

Heard Mr. M.Abdul Razack, Learned Counsel for the Petitioner and Mr. S.P.Srinivasan, Learned Counsel for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. It is pointed out by Learned Counsel for the Respondents that Order No. 51001000590001002/CP/283240/CCR-82307 dated 07.11.2018 passed by the Second Respondent, which is impugned in this Writ Petition, is a consequential order for recovery in furtherance to the Order No. TN/INS/VIII/ 51-00-100059-000-1002018 Actual dated 03.03.2017 passed by the Deputy Director, Employees' State Insurance Corporation, Regional Office, Chennai finally determining the amount of contribution payable by the Petitioner under the provisions of the Employees' State Insurance Act, 1948 (hereinafter referred to as 'the ESI Act' for short), which has been received by the Petitioner on 15.03.2017 as per the postal acknowledgment card produced, and in the absence of any challenge to that parental order, the Petitioner cannot prosecute this Writ Petition for the relief claimed. He relies on the decisions of this Court in Saidapet Co-operative Milk Producers Society Ltd., -vs- Deputy Director, ESI Corporation Regional Officer (Tamil Nadu) (Order dated 04.08.2017 in C.M.A. No. 469 of 2015) and M/s. Hexaware Technology -vs- Commissioner, Employees State Insurance Corporation, Chennai (Order dated 30.10.2019 in W.P. No. 29677 of 2018).

3. In view of the aforesaid legal position, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to challenge the Order No. TN/INS/VIII/ 51-00-100059-000-1002018 Actual dated 03.03.2017 passed by the Deputy Director, Employees' State Insurance Corporation, Regional Office, Chennai by approaching the Employees State Insurance Court under Section 75 of the ESI Act. He has also made an endorsement to that effect in the court record. It is made clear that for the purpose of reckoning limitation for availing the aforesaid remedy, the period from the date of filing of the Writ Petition, viz., 10.12.2018, till the date on which certified copy of this order is made ready by the Registry, shall be excluded. Further, the Petitioner is not precluded from seeking any interim relief including that related



to enforcement of the order impugned in this Writ Petition, before the Employees State Insurance Court in the said proceedings, and that no view has been expressed by this Court on the correctness or entitlement of the claim made by the Petitioner in that regard.

4. In fine, the Writ Petition is dismissed as withdrawn granting such liberty with the aforesaid clarifications. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Assistant Director,
Employees State Insurance Corporation,
Regional Office:
ESI Corporation, Panchdeep Bhavan,
143, Sterling Road,
Chennai-600 034.
2. The Recovery Officer,
Employees State Insurance Corporation,
Regional Office:
ESI Corporation, Panchdeep Bhavan,
143, Sterling Road,
Chennai-600 034.

+1cc to M/s.S.P.Srinivasan, Advocate, S.R.No.25266

+1cc to M/s.M.Abdul Razack, Advocate, S.R.No.25137

W.P.No.33439 of 2018

RGN(CO)
RLP(09/05/2022)