



WP(MD)Nos.10198 & 10199 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **05.08.2022**

CORAM:

THE HONOURABLE **MR.JUSTICE M.S.RAMESH**

W.P.(MD)Nos.10198 & 10199 of 2022

and

WMP(MD)Nos.7236, 7238, 7246 & 7248 of 2022

Arulmigu Kallalagar Temple,
Alagar Kovil through its
Deputy Commissioner /
Executive Officer.

... Petitioner in both WPs

/vs./

- 1.The Director General,
Employees State Insurance Corporation,
New Delhi.
- 2.The Employees State Insurance Corporation,
Through its Regional Director,
Regional Office, K.K.Nagar,
Madurai – 625 020.
- 3.The Deputy Director (INS-II),
Employees State Insurance Corporation,
Sub- Regional Office (Madurai),
2, West Street, K.K.Nagar,
Madurai – 625 020.

... Respondents in both WPs



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PRAYER in W.P.(MD)No.10198 of 2022: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, Certiorari, calling for the records relating to the order of the 3rd Respondent passed in No. 57/RRC/SRO/MDU/74409 dated 09.05.2022 and quash the same.

PRAYER in W.P.(MD)No.10199 of 2022: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the order of the 3rd Respondent passed in No. 57-00-074409-000-0999/INS.II/SRO/MDU/468/15 dated 07.03.2019 and quash the same.

For Petitioner : Mr.S.Manohar (in both WPs)

For Respondents : Mr.I.Pinaygash (in both WPs)

Standing Counsel

COMMON ORDER

The order under Section 45-A of the Employees' State Insurance Act, 1948, (hereinafter referred to as “the ESI Act” for brevity) and the consequential order under Section 45-C to 45-I of the ESI Act, are put under challenge in the present writ petitions.

2.The learned counsel appearing for the petitioner submitted that in the proceedings, prior to passing of the final order under Section 45-A of the ESI Act,



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they were set exparte and that they were not aware of the final order passed under Section 45-A of the ESI Act dated 07.03.2019, until recently. With this submission, the learned counsel submitted that an opportunity may be given to them to challenge the order before the concerned appellate authority, by extending the time limit.

3.Incidentally, after the order under Section 45-A of the ESI Act was passed, the third respondent herein had issued a consequential order dated 09.05.2022 under Section 45-C to 45-I of the ESI Act for recovery of the ESI dues.

4.Apparently, the original order under Section 45-A of the ESI Act is an exparte order. This Court had also taken into account the intervening pandemic period, owing to the Covid-19 virus and therefore, deems it fit to give an opportunity to the petitioner to file an appeal under Section 45-AA of the ESI Act, by keeping the consequential recovery order in abeyance.



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5. In light of the submissions made by the learned counsel appearing for the petitioner and the observations made by this Court, the petitioner is granted liberty to file an appeal under Section 45-AA of the ESI Act, before the appellate authority, within a period of thirty (30) days from the date of receipt of a copy of this order, after depositing 25% of the amount determined in the order passed under Section 45-A of the ESI Act, dated 07.03.2019.

6. The appellate authority shall take up the petitioner's appeal on file, provided the same is presented within thirty (30) days from the date of receipt of a copy of this order, together with deposit of 25% of the amount determined in the order passed under Section 45-A of the ESI Act and dispose of the same, on merits and in accordance with law. Till such time the appeal is taken up on file, the respondents shall not take any coercive action, in consequence to the order dated 09.05.2022 under Section 45-C to 45-I of the ESI Act. This Writ Petitions stands disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.



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7. Registry is directed to return the original impugned orders to the petitioner. Consequently, connected Miscellaneous Petition is closed.

05.08.2022

(1/2)

Index : Yes / No

Internet : Yes / No

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Note to Registry: Registry is directed to return the original orders to the petitioner.

TO:

1. The Director General,
Employees State Insurance Corporation,
New Delhi.
2. The Employees State Insurance Corporation,
Through its Regional Director,
Regional Office, K.K.Nagar,
Madurai – 625 020.
3. The Deputy Director (INS-II),
Employees State Insurance Corporation,
Sub- Regional Office (Madurai),
2, West Street, K.K.Nagar,
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M.S.RAMESH, J.

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Common Order made in
W.P.(MD)Nos.10198 & 10199 of 2022
(1/2)

Dated:
05.08.2022