



W.P.(MD) No.11667 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.07.2022

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD) No.11667 of 2022
and W.M.P.(MD).No.8251 of 2022

1.M/s.Dharshini Enterprises,
Through its Proprietorix,
Smt.K.S.L.Deepika,
No.54/1, 12th Street,
Bryant Nagar, Thoothukudi – 628 008.

2.Smt.K.S.L.Deepika,
Proprietorix,
M/s.Dharshini Enterprises,
No.54/1, 12th Street,
Bryant Nagar, Thoothukudi – 628 008.

... Petitioners

Vs.

1.The Assistant Director,
Employee's State Insurance Corporation,
Municipal Complex,
Sindhupoondurai,
Tirunelveli District.

2.The Recovery Officer,
Employee's State Insurance Corporation,
Municipal Complex,
Sindhupoondurai,
Tirunelveli District.

... Respondents



W.P.(MD) No.11667 of 2022

PRAYER: Writ petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari and quash the Recovery Notice in 66000418830000999/CP/464422701/21, dated 05.01.2022, on the file of the 2nd respondent.

For Petitioners : Mr.K.A.Raamakrishnan

For Respondents : Mr.C.Karthik

Standing Counsel

ORDER

Heard the learned counsel appearing for the petitioners and the learned Standing Counsel appearing for the respondents.

2. As against the order passed under Section 45 A of the Employees' State Insurance Corporation Act, dated 04.04.2019, the petitioners have a right of appeal under Section 45AA of the ESI Act, wherein, the appeal requires to be filed within a period of 60 days. The learned counsel for the petitioners submitted that owing to the intervening pandemic situation, the petitioners were unable to file the appeal in time and a sympathetic request was made to grant them further time to file the appeal.



W.P.(MD) No.11667 of 2022

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3. The grounds raised in the present writ petition touch upon the merits of the case, which could be addressed in the appeal. By taking into account the peculiar situation of the case, whereby, the Covid-19 pandemic situation had intervened, I am inclined to invoke the extraordinary power of this Court under Article 226 of the Constitution of India, for the purpose of extending the appeal time as provided under Section 45AA of the ESI Act. Since the petitioner is being granted liberty to file an appeal against the original order passed under Section 45A of the ESI Act, the merits and the grounds raised in the present writ petition are not addressed.

4. In the light of the above observations, the petitioner is granted liberty to file an appeal under Section 45AA of the ESI Act, before the appellate authority, within a period of fifteen days from the date of receipt of a copy of this order. On receipt of such an appeal, the appellate authority shall consider the same, on its own merits and pass appropriate orders, as expeditiously as possible. In case, the appeal is not filed within the prescribed time limit, the respondents are at liberty to proceed further in this matter. Since this Court is now granting liberty to the petitioner to challenge the original order under



W.P.(MD) No.11667 of 2022

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Section 45A of the ESI Act, the present impugned order dated 05.01.2022, which is a consequential order for recovery, cannot be sustained and accordingly stands quashed.

5. Since the present order has been passed in the peculiar circumstances of the case, the same shall not be quoted as a precedent for any other similar case.

6. This writ petition stands ordered accordingly. No costs. Consequently, connected miscellaneous petition is closed.

22.07.2022

Index : Yes / No
Speaking Order/ Non Speaking Order

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W.P.(MD) No.11667 of 2022

M.S.RAMESH,J.

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W.P.(MD) No.11667 of 2022

22.07.2022