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WP.No.1050 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2023

Coram

The Honourable Mr. Justice **ABDUL QUDDHOSE**

Writ Petition No.1050 of 2023
and W.M.P.No.1041 of 2023

M/s.Aaram Bhuari Hotel,
Rep. by Shahnawaz Buhari,
S/o Haja Mohideen,
No.83, Anna Salai,
Chennai 600 002.
and
residing at New No.21,
1st Cross Street,
Kasturibai Nagar,
Adayar, Chennai 600020.

..... Petitioner

-Versus-

1.The Deputy Director,
Employees State Insurance Corporation,
143, Sterling Road,
Chennai 600 034.

2.The Recovery Officer,
Employees State Insurance Corporation,
143, Sterling Road,
Chennai 600 034.

.... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in No.Ins VIII/51001010380001101/D5 dated 21.12.2022, quash the same and further direct the 1st respondent to conduct an enquiry based on C-18 ADHOC notice dated 21.12.2022.



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For Petitioner : Mr.I.Abrar Md. Abdullah

*For Respondents : Ms.S.Jayakumari,
Standing Counsel*

ORDER

The petitioner apprehends that even without determination of the amount payable towards the ESI contribution by the petitioner, the respondents, under the impugned communication, have attempted to enforce recovery of the alleged amount payable by the petitioner towards ESI contribution. The period for which the respondents have claimed ESI contribution which is the subject matter in this writ petition is November 2021 to November 2022. Only after the amount is determined as per the provisions of Section 45A of the ESI Act, coercive steps can be taken by the respondents against any management for non-payment of ESI contribution.

2. Learned standing counsel for the respondents, on instructions, would submit that the petitioner has approached this Court prematurely as the petitioner has only been called upon to attend the hearing as per the impugned communication dated 21.12.2022. According to her, even before attending the hearing, the petitioner has filed this writ petition prematurely.



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3. This Court is of the considered view that no prejudice will be caused to the respondents if a direction is issued to them that coercive steps shall be taken against the petitioner for the aforementioned period only after the amount payable by the petitioner towards ESI contribution for the said period is determined as per the provisions of Section 45 A of the ESI Act.

4. For the foregoing reasons, this writ petition is disposed of by directing the respondents not to take coercive steps against the petitioner till an order is passed under Section 45A of the ESI Act determining the amount due and payable by the petitioner for the period from November 2021 to November 2022. No costs. Consequently, connected miscellaneous petition is closed.

12.01.2023

Index : Yes / No
Neutral Citation : Yes / No
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To

1.The Deputy Director,
Employees State Insurance Corporation,
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2.The Recovery Officer,
Employees State Insurance Corporation,



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ABDUL QUDDHOSE.J.,

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