



W.P.No.7513 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2023

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.7513 of 2023
and W.M.P.No.7613 of 2023

M/s. Sai Supreme Spinners Pvt. Ltd.,
No.164/1, Uruvaiyur, Mangalam Road,
Uruvaiyur Village,
Villianur, Puducherry – 605 110,
Rep. by its Director.

... Petitioner

Vs.

1.The Deputy Director,
Regional Office,
Employees State Insurance Corporation,
Bouvankre Street,
Mudaliarpeta,
Puducherry – 605 004.

2.The Recovery Officer,
Employees State Insurance Corporation,
Bouvankre Street,
Mudaliarpeta,
Puducherry – 605 004.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of



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India, praying to issue a Writ of Mandamus, forbearing the second respondent from proceeding any further in terms of its attachment notice dated 27.12.2022 in proceedings No.PDY/RECY/CP-12/55-00-042785-000-0101 and Garnishee Order dated 24.11.2022 issued to the Branch Manager, State Bank of India, SME Branch Puducherry in proceedings No.PDY/RECY/45(G)/55-00-042785-000-0101 until such time the EIOP filed by the petitioner is decided by the Labour Court, Puducherry and further direct the 2nd respondent to lift the attachment order dated 27.12.2022 issued in respect of mill property 1164/1,m Uruviyur, Mangalam Road, Uruvaiyur Village, Villanur, Puducherry – 605 110.

For Petitioner : Mr.Anand Gopalan
for M/s.T.S. Gopalan & Co.

For Respondents : Mr.G. Bharadwaj

ORDER

Mr.G. Bharadwaj, learned standing counsel, takes notice for the respondents. With the consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

2. As against the order passed under Section 45-A of the



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Employees State Insurance Act, 1948 (hereinafter called as 'the Act'), the petitioner has preferred an appeal under Section 75(1)(g) of the Act before the ESI Court, together with an application seeking for condonation of delay under Section 77(1-A) of the Act. Pending the appeal, the present Garnishee Order dated 24.11.2022 has been passed, which is put under challenge in the present Writ Petition.

3. The learned counsel appearing for the petitioner submitted that since the Tribunal is not vested with a power to pass interim orders to interfere with the Garnishee Order, the petitioner had invoked Article 226 of the Constitution of India. In addition, the learned counsel would also submit that the petitioner is willing to remit 50% of the contributions, as referred to in the Garnishee Order dated 24.11.2022 and they are further willing to furnish Bank guarantee for the remaining 50%. It is also stated that out of the total amount of Rs.23,21,701/-, a sum of Rs.6,00,000/- has already been paid to the respondents/Corporation.



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4. Per contra, the learned standing counsel for the respondents/Corporation submitted that when an appeal is pending before the ESI Court, this Court should not interfere with the prayer sought for by the petitioner and it is always open to the petitioner to seek for condonation of delay and thereafter, for appropriate orders challenging the Garnishee proceedings.

5. This Court has taken note of the fact of the offer by the petitioner to safeguard the demand of the Corporation by remitting 50% of the entire contribution, together with Bank guarantee for the rest 50%.

6. The learned counsel for the petitioner, had also stated that, in view of the attachment of the petitioner's property pursuant to the Garnishee Order, they have been put to serious prejudice and the property's worth is much more than the entire contribution demanded.



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7. By taking into consideration all these aspects, this Court is of the view that the interest of both parties could be secured by passing an order for removal of the attachment and by permitting ESI Court to proceed with the appeal, in the light of the deposits and Bank guarantee furnished.

8. Accordingly, the order of attachment dated 27.12.2022 made under Rule 48 of the Second Schedule to the Income Tax Act, 1961, attaching the petitioner's property in No.164/1, Uruvaiyur, Mangalam Road, Uruvaiyur Village, Villianur, Puducherry – 605 110, is hereby lifted, on condition that the petitioner remits 50% of the total amount computed in the Garnishee Order dated 24.11.2022 and furnishing of Bank guarantee for the remaining 50%, after giving due credit to any other payments that may have been made by the petitioner to the respondents/Corporation. It is made clear that the lifting of the attachment order shall come into force on the date on which the petitioner remits/furnishes Bank guarantee, as aforesaid. The ESI Court shall pass appropriate orders in accordance with the present



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order passed by this Court and shall also endeavour to dispose of an Interim Application in I.A.No.1 of 2023, seeking for condonation of delay, on its own merits and accordance with law, within a period of four (4) weeks from the date of receipt of a copy of this order. The remittance of 50%, as aforesaid, shall be subject to the final decision to be taken in the appeal.

9. With the above directions, the Writ Petition stands disposed of. No costs. Connected miscellaneous petition is closed.

09.03.2023

Speaking/Non-speaking Order
Internet: Yes/No
Index: Yes/No
Neutral Citation: Yes/No

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Note: Issue Order Copy on 13.03.2023



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To

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Puducherry – 605 004.
- 2.The Recovery Officer,
Employees State Insurance Corporation,
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M.S.RAMESH, J.

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