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W.P.No.10413 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2023

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THE HONOURABLE MR.JUSTICE **R. HEMALATHA**

W.P.No.10413 of 2021
and WMP.No.11008 of 2021

Sai Ram Matriculation Higher Secondary School,
Rep by its Chief Executive Officer,
North Vadampokki Street,
Thiruvarur 610 001.

... Petitioner

Vs

1.Employees State Insurance Corporation
Rep by its Regional Director
Regional Office, No.143, Sterling Road,
Chennai – 34.

2.The Deputy Director
Employees State Insurance Corporation
No.39/57, Theerthamalai Vaniga Valagam
Three Roads, Salem – 639 009.

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Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondents to consider the application in Ref.No.32/SRMHSS/005/ESIC/2021 dated 24.03.2021 filed under Section 91 C of the ESI Act to write off the contribution for the period from April 2015 to October 2019 in accordance with law and pass orders within the time frame stipulated by this Court.



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For Petitioner : Mr.Balan Haridas

For Respondents : Mr.SP.Srinivasan for R1 and R2.

ORDER

The petitioner herein is the Chief Executive Officer of the Sri Ram Matriculation Higher Secondary School and they have filed the present writ petition to direct the respondents/ESIC to consider their application dated 24.03.2021 filed under Section 91C of the ESI Act to write off the contribution for the period from April 2015 to October 2019 in accordance with law.

2. According to the writ petitioner, the State Government, had issued notifications extending the provisions of Employees State Insurance Act (ESI Act) to Self Finance recognised institutions and that the petitioner school has also paid both employer and employee contribution from January 2020. According to them the employees have not paid any contribution to ESI from April 2015 to October 2019. However, the second respondent has passed an order dated 03.02.2021 under Section 45A of the ESI Act claiming contribution for the said period amounting to Rs.23,97,360/-.



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3. The learned counsel for the writ petitioner would contend that though the writ petitioner submitted a representation to the respondents under Section 91C of the ESI Act to write off the contribution for the period from April 2015 to October 2019 and the same is pending for consideration, the respondent has passed an order under Section 45A of the ESI Act on 03.02.2021 claiming a sum of Rs.23,97,360/-. Therefore, the learned counsel prayed this Court to direct the respondents to consider the representation of the writ petitioner's in reference No.32/SRMHSS/005/ESIC/2021 dated 24.03.2021 filed under Section 91C of the ESI Act.

4. Per contra, the learned counsel for the respondents would contend that the authorities have passed an order under Section 45A of the ESI Act on 03.02.2021 and therefore the question of considering the representation filed under Section 91C of the ESI Act would not arise.

5. It is the admitted case of the writ petitioner that the respondents have passed an order under Section 45A of the ESI Act on 03.02.2021.



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The present writ petition has been filed to consider the representation of the petitioner dated 24.03.2021 filed under Section 91 C of the ESI Act, without challenging the orders passed under Section 45A of the ESI Act, Therefore, the present writ petition itself is not maintainable.

6. Accordingly, this writ petition is dismissed as devoid of merits. However, the writ petitioner is at liberty to challenge the orders dated 03.02.2021 passed under Section 45A of the ESI Act, in accordance with law, if they are so advised. No costs. Consequently, connected miscellaneous petitions are closed.

03.11.2023

Index: Yes/ No

Internet : Yes/No

Speaking/Non-speaking Order

Neutral Citation : Yes/No

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To

1. Employees State Insurance Corporation

Rep by its Regional Director

Regional Office, No.143, Sterling Road, Chennai – 34.

2. The Deputy Director

Employees State Insurance Corporation

No.39/57, Theerthamalai Vaniga Valagam Three Roads,

Salem – 639 009.



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R. HEMALATHA,J.
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