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W.P.No.32124 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.32124 of 2016

and W.M.P.Nos.27866 & 27867 of 2016

Christian Missions Charitable Trust
Rep by its Secretary
New No.72(Old No.59), Spur Tank Road,
Chetpet,
Chennai-600 031.

. . . Petitioner

Vs.

1. Employees State Insurance Corporation,
Rep by its Regional Director,
ESI Corporation-Regional Office,
No.143, Sterling Road,
Nungambakkam,
Chennai-600 034.

2. Deputy Director,
ESI Corporation-Regional Office,
No.143, Sterling Road,
Nungambakkam,
Chennai-600 034.

. . . Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue an order or direction or writ in the nature of Writ of Certiorari calling for the records pertaining to the impugned demand notice of 11.07.2016 in Ref No.TN/INS/V/51-00-110176-0001099 issued by the 2nd respondent for and on behalf of the 1st respondent and quash the same.



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For petitioner : M/s.C.Mahendran
For Respondents : Mr.K.Prabakaran

ORDER

Aggrieved by the order passed by the 2nd respondent, the petitioner is before this Court.

2. The Petitioner is a society registered under Tamilnadu Societies Registration Act, 1975 wherein the officials of the 1st respondent conducted an inspection during the month of May 2014 and informed the petitioner that their society is coming under the purview of the Employees State Insurance Act. However, the petitioner objected the same vide his representations as the society does not come under the purview of the Employees State Insurance Act. Without considering the same, the 2nd respondent has passed the impugned order claiming a sum of Rs.13,59,500/- from the petitioner towards arrears of contribution for the period from April 2013 and March 2014 and sought to furnish the details of all the employees with Insurance Number. Challenging the same, the petitioner is before this Court.



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3. Learned counsel for the petitioner submits that though the petitioner made several representations seeking exemption from ESI contribution as the society does not deal with any trading or business activities. However, without considering the same, the present impugned order has come to be passed and therefore, the same is liable to be interfered with.

4. Learned counsel appearing for the respondents submits that till date no exemption has been granted by the State Government. In the absence of any exemption, the petitioner has to necessarily pay the ESI contribution to the respondents. Hence, the claim of the petitioner for exemption is not sustainable. Accordingly, he prays for dismissal of this Writ Petition.

5. Learned counsel for the petitioner is not able to place any materials before this Court to counter the aforesaid submission.

6. This Court heard the learned counsel appearing on either side and perused the materials available on record.



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7. In the absence of any exemption from the State Government for ESI Contribution as also the petitioner society is coming under the purview of the Employees State Insurance Act, 1948, the petitioner has to necessarily pay the ESI contribution as claimed by the respondents. Hence, the prayer sought for in this Writ Petition cannot be granted.

8. Accordingly, this Writ Petition stands dismissed. However, the petitioner is directed to pay the ESI contribution by way of six instalments of which the first instalment shall be paid on 15.08.2023 and the subsequent instalment shall be paid on the 5th day of every subsequent month. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

27.07.2023

Index : Yes / No

Internet : Yes / No

NHS



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M.DHANDAPANI, J

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