



WEB COPY



W.P.No.18876 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

W.P.No.18876 of 2021

M/s.Hot Chips and Snacks
380A, Palakkad Main Road,
Kuniyamuthur,
Coimbatore - 641 008.

Represented by its Proprietor Mr.Mohammad Nishad
S/o. Mr.E.Ummar

... Petitioner

Vs.

1.The ESI Corporation
1897, Trichy Road,
Panchdeep Complex,
Ramanathapuram,
Coimbatore - 641 045.
Represented by its Deputy Director

2.The Recovery Officer,
Employees State Insurance Corporation
1897, Trichy Road,
Panchdeep Bhavan,
Ramanathapuram,
Coimbatore - 641 045.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned notice of demand dated 23.06.2021 issued by the second respondent in Ref.No.56001155570000011/CP/430796 and quash the same.



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For Petitioner : Mr.T.Arul
For Respondents : Mr.G.Bharadwaraj

ORDER

The writ petitioner, M/s.Hot Chips and Snacks has filed the present writ petition challenging the recovery notice dated 23.06.2021 in Ref.No.56001155570000011/CP/430796 of the second respondent. The contention of the writ petitioner is that they have employed only seven persons in their unit and that the persons namely Jawahar, Naseer and Shahul Hammed are total strangers and therefore, the recovery notice issued by the second respondent is erroneous.

2. Mr.T.Arul, learned counsel for the writ petitioner would contend that he has given explanation to the concerned authority stating that they have employed only seven persons and the same has not been taken into account by them.

3. Per contra, Mr.G.Bharadwaraj, learned counsel for the respondents drew attention of this Court to the list of employees working in the writ petitioner Management which is filed in the typed set of



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papers. According to him, there are ten persons employed and it has been duly signed by the proprietor of M/s.Hot Chips and Snacks. His further contention is that though an order was passed by the second respondent authority on 05.02.2021 directing the respondent to pay a sum of Rs.1,10,418/- towards contribution to all the employees, the said order has not been challenged before this Court. It is his contention that since the writ petitioner is disputing the coverage of Employees State Insurance they have to go before the Employees State Insurance Court under Section 75(1)(g) of the Employees State Insurance Act, 1948. Therefore, he prayed for dismissal of the present writ petition.

4. It is seen from the records that the writ petitioner Management had actually employed ten persons. Moreover, as rightly pointed out by the learned counsel for the respondent, the writ petitioner had not challenged the orders passed by the second respondent dated 05.02.2021 directing the writ petitioner Management to pay Employees State Insurance for all its employees and he has challenged only the Recovery Certificate issued by the second respondent. Since the writ petitioner is disputing the insurance coverage for his employees, they



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have to approach the Employees State Insurance Court under Section 75(1)(g) of the Employees State Insurance Act, 1948. In the circumstances, I do not see any reason to allow this writ petition.

In the result, the Writ Petition is dismissed. No costs.

19.12.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mtl

To

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R. HEMALATHA, J.

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