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W.P.No.1038 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**Dated: 19.01.2024**

**Coram:**

**THE HONOURABLE MRS.JUSTICE N.MALA**

W.P.No.1038 of 2024

and

WMP.Nos.1091 & 1088 of 2024

1. M/s. Somasundaram Mills
2. M/s. Kaleeswarar Mills 'A Unit
3. M/s. Krishnaveni Textiles
4. M/s. Om Paraskthi Mills

Represented by office - in - charge /General Manager (Technical)  
National Textile Corporation Ltd.,  
Southern Regional Office,  
No.35B, Somasundaram Mill Road,  
Coimbatore- 641 009.

...Petitioners

Vs

1. Deputy Director (Recovery) /  
Recovery Officer,  
Employees State Insurance Corporation,



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Panchdeep Bhawan,  
1897, Trichy Road, Ramanathapuram,  
Coimbatore- 641 045.

2. The Branch Manager  
Indian Overseas Bank,  
Dr.Nanjappa Road Branch,  
Coimbatore- 641 018.

...Respondents

A. Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, Calling for the records of the order of the Employees State Insurance Court, Coimbatore in I.A. No.1 of 2022 in ESI.OP.CFR.NO.1813 of 2022 dated 22.02.2023 and quash the same as illegal and consequently direct the Employees State Insurance Court, Coimbatore to number the Case without pre- deposit and dispose the same on merits.

B. Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, Calling for the records of the order of the Employees State Insurance Court, Coimbatore in I.A. No.3 of 2022 in ESI.OP.CFR.No.1813 of 2022 dated 19.04.2023 and quash the same and consequently extent the time for depositing the 25 % amount within the time frame fixed by this Court.



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For Petitioners : Mr.R.Shiva Kumar  
for Mr.K.M.Vijayan Associates

For Respondents : Mrs.S.Jayakumari,  
Standing Counsel

### **ORDER**

Writ petition is filed challenging the order passed by the Employees State Insurance Court, Coimbatore in I.A. No.3 of 2022 in ESI.OP.CFR.No.1813 of 2022 dated 19.04.2023 to quash the same and consequently to extend the time for depositing the 25 % amount within the time frame fixed by this Court.

2. The I.A.No.1 of 2022 was filed under Section 75 (2B) of the ESI Act, to fully waive the conditional deposit of 50% of the disputed amount of Rs.61,97,991/- as claimed by the 1<sup>st</sup> respondent in the impugned order dated 09.11.2021. The said I.A was allowed directing the petitioners to deposit 25% of the disputed amount of Rs.61,97,991/- mentioned in the impugned Order dated 09.11.2021. i.e., the sum of Rs.15,49,498/- within



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one month from the date of the order. The order further stated that the petition would stand automatically dismissed if the payment was not made within the stipulated time. The petitioner's thereafter filed I.A.No. 2 of 2023 seeking extension of time to comply with the order in I.A.No.1 of 2022. In the said I.A.No.2 of 2023 as per the request of the petitioner's, time was extended till 19.04.2023. As the petitioner's were not able to comply with the order within the extended time also, the petitioners filed I.A.No.3 of 2023. The learned ESI Court dismissed the I.A.No.3 of 2023 stating that the petition was devoid of merits as sufficient time was already granted. Aggrieved by the order's passed in I.A.No.1 of 2022 and in I.A.No.3 of 2023 the present writ petition is filed.

Both the counsels consent for the disposal of the main writ petition itself.

3. The learned counsel for the petitioner's states that he has now received the sanction from the head office for depositing 25% amount as ordered in I.A.No.1 of 2022 on 22.02.2023. The learned counsel prays that reasonable time to make the deposit may be granted.



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4. The learned counsel for the respondents on the other hand states that shorter time may be granted as the petitioner failed to make the deposit despite sufficient opportunities given earlier.

5. The learned counsel for the petitioner's states that by way of abundant caution longer period of four (4) weeks is sought to make the deposit.

6. Considering the limited prayer of the petitioner and in the light of the submissions made by the learned counsels, a direction is issued to the petitioners to deposit the 25% of the disputed amount of Rs.61,97,991/- mentioned in the impugned prohibitory Order No.56/5974, 5975, 6261, 7010-11/RRC dated 09.11.2021. i.e., the sum of Rs.15,49,498/- (Rupees Fifteen Lakhs Forty Nine Thousand Four Hundred and Ninety Eight) within a period of four (4) weeks from the date of receipt of a copy of this order. It is needless to state that if the amount is not deposited within the



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stipulated time, the respondents shall be at liberty to take further enforcement action as per law.

In view of the above, writ petition is disposed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

19.01.2024

Index: Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

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To

1. Deputy Director (Recovery) /  
Recovery Officer,  
Employees State Insurance Corporation,  
Panchdeep Bhawan,  
1897, Trichy Road, Ramanathapuram,  
Coimbatore- 641 045.

2. The Branch Manager  
Indian Overseas Bank,  
Dr.Nanjappa Road Branch,  
Coimbatore- 641 018.



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**N.MALA,J.**

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