



W.P.No.4179 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2024

CORAM

THE HONOURABLE MRS. JUSTICE N.MALA

W.P.No.4179 of 2024 and
W.M.P.Nos.4486 and 4488 of 2024

C.S.I.St.Stephen's Matriculation School
Represented by its Correspondent
St.Stephen's Church Road
Pallavaram
Chennai-600 043

...Petitioner

Vs.

1.E.S.I.Regional Corporation (Tamil Nadu)
Represented by its Regional Director
Panchdeep Bhawan
143, Sterling Road
Chennai

2.Deputy Director
E.S.I.Regional Corporation (Tamil Nadu)
Panchdeep Bhawan
143, Sterling Road
Chennai.

3.Recovery Officer,
E.S.I.Regional Corporation (Tamil Nadu)
Panchdeep Bhawan
143, Sterling Road
Chennai.



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4. Indian Bank-Pallavaram
6/115 Bajanai Koil Street
Contonement
Pallavaram-600 043.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned attachment order dated 25.01.2024 in No. TN / RECY / 45G / 51001007430001302 /CCR- VARIOUS CLAIMS on the file of the 3rd respondent in respect of the petitioner school and quash the same directing the respondents to revise the payable contribution to ESI based on the actual coverable employees of the petitioner school for the period from 12/ 2010 to 11/2019.

For Petitioner : Mr.Dr.FR.A.Xavier Arulraj
for Father Xavier Associates

For Respondent 1 to 3 : Mr.TNC.Kaushik

ORDER

The writ petition is filed challenging the order dated 25.01.2024 where the bank account of the petitioner was attached and the accounts were freezed. It is seen that the order was passed under Section 45-A on 27.09.2021 and in the said order, the contribution was determined at Rs.23,43,803/-.



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2. The learned counsel for the petitioner states that in the 45-A order, the amount determined was Rs.23,43,803/- but in the impugned attachment order, the amount claimed is Rs.47,00,400/-. The learned counsel states that it is unfathomable as to how the amount escalated to Rs.47,00,400/- from Rs.23,43,803/-. The learned counsel states that as the bank account is freezed, the school is unable to meet its daily expenses and also salary expenses of its staff. The counsel therefore prays that the attachment order may be lifted.

3. The learned counsel for the respondent on the other hand submits that the petitioner has not preferred any appeal against the order 45-A dated 27.09.2021 and therefore the petitioner's submissions are meritless.

4. Heard both the counsels and perused the materials placed on record.

5. Indisputably the petitioner has not challenged the 45-A order but has challenged only the consequential recovery proceeding. Admittedly, the petitioner has a remedy by way of appeal to the Appellate Authority under Section 45A of the ESI Act against the 45A order, but without exhausting the statutory remedy of appeal, the petitioner has filed the writ petition challenging the consequential order only. Under the facts and circumstances of the case, I am of the view that the petitioner should be given an opportunity to file the



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statutory appeal with a condition to deposit Rs.13,00,000/- before the Appellate Authority. Hence, the petitioner is directed to deposit Rs.13,00,000/- before the Appellate Authority and file an appeal within a period of two (2) weeks from the date of receipt of a copy of this order. On such deposit being made, the order of attachment shall be lifted. The Appellate Authority shall pass order in the appeal in accordance with law. It is made clear that in case of default in depositing the amount of Rs.13,00,000/-, the attachment order shall stand revived. The impugned order is set aside and the writ petition is disposed of with the aforesaid direction. Consequently, connected miscellaneous petitions are closed.

22.02.2024

Shl

Index : Yes/No

Internet : Yes/No

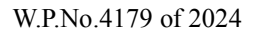
Speaking Order/Non-Speaking Order

Neutral Citation Case : Yes/No

To

1.E.S.I.Regional Corporation (Tamil Nadu)
Represented by its Regional Director
Panchdeep Bhawan
143, Sterling Road
Chennai

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4. Indian Bank-Pallavaram
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N.MALA,J.

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