



WEB COPY



W.P.No.6430 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2024

CORAM

THE HONOURABLE MRS. JUSTICE N.MALA

W.P.No.6430 of 2024 and
W.M.P.Nos.7152 and 7150 of 2024

Udayam Enterprises
by its Proprietor, N.Kumar
36, Kamarajar Nagar, Mannurpet
Chennai – 600 050.

...Petitioner

Vs.

1. The Assistant Director / Authorised Officer,
Regional Office, Employees State Insurance Corporation
ESI Corporation, Pradeep Bhavan
143, Sterling Road, Chennai – 34.
2. The Recovery Officer,
Employees State Insurance Corporation
Pradeep Bhavan
143, Sterling Road, Chennai – 34.
3. The Branch Manager
State Bank of India
Avadi Branch, 101,
MTH Road, Avadi, Chennai
4. The Branch Manager
Canara Bank,
Ambattur, Chennai

...Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, call for records of the second respondent in TN/RECY/45G/51001085440000999/CCR/No.75521-117196 dated 10.01.2024 and quash the same.

For Petitioner : Ms.P.C.Geethammal

For R1 and R2 : Mr.G.Bharadwaj
Standing Counsel

ORDER

The writ petition is filed challenging the attachment order dated 10.01.2017.

2. When the matter came up for hearing, the learned counsel for the respondents submits that the petitioner has not chosen to challenge 45A order dated 03.03.2016 for the period 01/2014 to 04/2015 and order dated 10.01.2017 for the period 05/2015 to 04/2016 and order dated 15.11.2022 for the period 10/2017 to 08/2020. The learned counsel therefore submits that the writ petition filed challenging only the consequential attachment order without challenging the 45-A order cannot be entertained.



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3. The learned counsel for the petitioner submits that the petitioner has no notice of 45A order, and therefore the petitioner was not in a position to challenge the same. The said fact is disputed by the learned counsel for the respondent.

4. The learned counsel for the petitioner therefore submits that the petitioner may be given liberty to challenge the aforesaid 45A order before the ESI Court under section 75G of the Act.

5. Considering the limited prayer of the petitioner, the writ petition is disposed of with the liberty to the petitioner to challenge the 45A order before the ESI Court within a period of two (2) weeks from the date of receipt of a copy of this order.

6. It is made clear that the attachment order impugned in this writ petition will be limited to 50% of the total demand of Rs.6,43,504/- which is Rs.3,21,752/- (Rupees three lakhs twenty one thousand seven hundred and fifty two only). The said 50% amount of Rs.3,21,752/- shall be appropriated towards the mandatory deposit under section 75(2-B) of the Act for entertaining the appeal. On appropriation of the 50% amount as aforesaid, the attachment order shall be revoked by passing appropriate orders.



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7. Needless to say, the ESI Court shall consider the case on merits and in accordance with law. There shall be no order as to costs. Consequently connected miscellaneous petition is closed.

15.03.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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To

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N.MALA,J.

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