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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2024

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THE HON'BLE DR.JUSTICE D.NAGARJUN

W.P.No.8859 of 2024

and

W.M.P.Nos.9862 & 9864 of 2024

M/s Jaya Matriculation Higher
Secondary School
(Under the Management of
Jaya Educational Trust)
Rep.by its Correspondent
CTH Road, Tiruninravur,
Thiruvallur District - 602 024.

... Petitioner

Vs.

1. Employees' State Insurance Corporation
Rep.by its Regional Director
143, Sterling Road, Panchdeep Bhavan
Chennai - 600 034.



2. Recovery Officer,
Employees' State Insurance Corporation
Rep.by its Regional Director,
143, Sterling Road, Panchdeep Bhavan
Chennai - 600 034.

3. Indian Bank
Rep. by its Branch Manager
Pattabiram Branch, No.89,
T.H.Road, Pattabiram,
Chennai - 600 072.

4. Indian Overseas Bank
Rep. by its Branch Manager,
CTH Road, Thirunindravur,
Chennai - 602 024.

... Respondents

Prayer : Writ Petition has been filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Certiorari calling for the records relating to the impugned orders of attachment dated 15.03.2024, 19.03.2024 and 20.03.2024 issued by the 2nd respondent to 3rd and 4th respondents vide No.TN/RECY/45G/51001012750001302/CCR Nos:Various CCR under section 45-G of the ESI Act and to quash the same.



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For Petitioner : Mr.P.Muthusamy

For R1 & R2 : Ms.G.Narmadha for
G.Bharadwaj

ORDER

This writ petition is filed challenging the impugned orders of attachment dated 15.03.2024, 19.03.2024 and 20.03.2024 issued by the 2nd respondent to 3rd and 4th respondents vide No.TN/RECY/45G/51001012750001302/CCR Nos:Various CCR under section 45-G of the ESI Act and to quash the same.

2. It is submitted by the learned counsel for the petitioner that the petitioner Educational Institution was established to cater to the needs of the students of the locality and to impart good education. The petitioner school is a self financing Institution without any grant or aid given either by the State Government or by the Central Government and that the petitioner institution is being run purely on charity basis. That being so, the State Government issued a notification vide Labour and Employment Department Notification No.II(2) LE/265/268 and published in Government Gazette dated 04.06.2008 specifying its intention to extend the ESI Act 1948 to the Educational



Institutions under Section 1(5) of the said Act. A Full Bench of this Court has dealt with the said notification and decided in favour of the ESI Corporation.

3. Thereafter, respondent ESI Corporation started issuing demand notices to private institutions in respect of arrears to be paid. Many institutions challenged the demand notices sent by the respondent Corporation by way of writ petitions and this Court granted interim stay and the writ petitions are pending.

4. The petitioner had also filed W.P.No.4804 of 2022 seeking to waive the contribution, interest, costs and damages and the said writ petition was disposed of permitting the petitioner to pay the contribution alone in eight equal installments and in respect of other demands such as interest, costs and damages, the petitioner was directed to send representations seeking waiver of the same. Accordingly, the petitioner sent a representation on 23.03.2022 to the 1st and 2nd respondents. However, the said representation was rejected on 10.05.2022.



5. Thereafter, the second respondent issued an order of attachment dated 15.03.2024 vide No.TN/RECY/45G/51001012750001302/CCR Nos:Various CCR under section 45-G of the ESI Act directing the fourth respondent to deduct the amount from the account of the petitioner and credit in the ESI account. Likewise, two attachment orders dated 19.03.2024 and 20.03.2024 vide No.TN/RECY/45G/51001012750001302/CCR Nos:Various CCR under section 45-G of the ESI Act directing the third respondent to deduct the amount from the account of the petitioner and credit the same in the ESI account. According to the petitioner, without communicating the disposal of its representation, it is arbitrary to pass such attachment orders. Hence, the present writ petition for the relief aforesaid.

6. Mr.P.Muthusamy and Ms.G.Narmadha, who have taken notice for respondent Nos.1 and 2 have submitted that the petitioner has to pay more than 2,25,83,834/- and that the petitioner has challenged the orders passed under Section 45-A of the ESI Act on 02.08.2022 only in 2024 by filing a petition EIOP SR NO. 76/2024 before the ESI Court. The recovery proceedings relating to the said period is now sub-judice before the ESI Court and is subject to the outcome of the verdict in EIOP. It is further submitted



that the petitioner has paid the contribution amount alone for the earlier period based upon the order passed by this Court in the writ petition filed by the petitioner in ten installments. The interest amount relating to the said period amounting to Rs.20,67,798/- remains unpaid and the same is recoverable. Learned Standing Counsel would submit that the petitioner has not committed any default in respect of the payment of principal amount in ten installments. It is submitted that the amount due and payable by the petitioner is towards interest that had accrued on account of non payment of contribution during the pandemic period.

7. In view of the above discussion and considering the submissions made by both sides and on perusal of the records, it is clear that there is no dispute in respect of payment of Rs.20,67,798/- towards interest. However, the petitioner's counsel requests that some time may be granted to clear the arrears of Rs.20,67,798/-.

8. In view of the above, the impugned orders dated 15.03.2024, 19.03.2024 and 20.03.2024 are set aside. The petitioner is directed to pay a sum of Rs.20,67,798/- in six monthly equated installments, the first



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installment of which shall be paid on or before 10.04.2024. The petitioner is further directed to pay the rest of the five installments on or before the 10th of every succeeding month. In case, the petitioner commits default in payment of any one of the installments, the respondents will be at liberty to proceed according to law, in respect of balance of amount at once and these orders stand vacated. Consequently connected miscellaneous Petition is closed. No costs.

02.04.2024

Index : Yes/No

Neutral Citation : Yes/No

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Note : Registry is directed to issue
copy of the order on 05.04.2024.



To

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