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W.P.Nos.10570,10575 and 10578 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2024

CORAM :

THE HONOURABLE **DR. JUSTICE D.NAGARJUN**

W.P.Nos.10570, 10575 and 10578 of 2024

and

W.M.P.Nos.11602,11604 and 11610 of 2024

In W.P.No.10570 of 2024

Peri Software Solutions Pvt Ltd.,
Rep. By its Authorized Signatory,
Sasikumar,
No.4 9th Avenue, Ashok Nagar,
Chennai – 600 083.

... Petitioner

Vs.

1. Recovery Officer,
Employees' State Insurance Corporation
143, Sterling Road,
Chennai – 600 034.

2. State Bank of India,
Rep. By its Branch Manager,
Ashok Nagar Branch,
No.1, Housing Board Shop Complex,
Ashok Nagar, Chennai – 600 083.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari, call for the records of the 1st respondent herein in proceedings No.



W.P.Nos.10570,10575 and 10578 of 2024

TN/RECY/45G/51000873170000911/CCR No:78351-119057 and quash
the order dated 26.03.2024.

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In W.P.No.10575 of 2024

Peri Software Solutions Pvt Ltd.,
Rep. By its Authorized Signatory,
Sasikumar,
No.4 9th Avenue, Ashok Nagar,
Chennai – 600 083.

... Petitioner

Vs.

1. Recovery Officer,
Employees' State Insurance Corporation
143, Sterling Road,
Chennai – 600 034.

2. ICICI Bank,
Rep. By its Branch Manager,
Ashok Nagar Branch,
Plot No.C251, old No.13 New Door No.30,
4th Avenue, Brindaban Extension,
Ashok nagar, Chennai – 600 083.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari, call for the records of the 1st respondent herein in proceedings No. TN/RECY/45G/51000873170000911/CCR No:78351-119057 and quash the order dated 26.03.2024.



W.P.Nos.10570,10575 and 10578 of 2024

In W.P.No.10578 of 2024

WEB COURT

Peri Software Solutions Pvt Ltd.,
Rep. By its Authorized Signatory,
Sasikumar,
No.4 9th Avenue, Ashok Nagar,
Chennai – 600 083.

... Petitioner

Vs.

1. Recovery Officer,
Employees' State Insurance Corporation
143, Sterling Road,
Chennai – 600 034.

2. Axis Bank,
Rep. By its Branch Manager,
Ashok Nagar Branch,
72, 4th Avenue, Sarvamangala Branch,
LIG Colony, Ashok nagar,
Chennai- 600 083.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari, call for the records of the 1st respondent herein in proceedings No. TN/RECY/45G/51000873170000911/CCR No:78351-119057 and quash the order dated 26.03.2024.

For petitioner	:	Mr.L.Muralikrishnan
for all W.Ps		
For R1	:	Mr.S.P.Srinivasan
		Standing Counsel
For R2	:	No appearance



W.P.Nos.10570,10575 and 10578 of 2024

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In view of the commonality of the issues involved, these writ petitions are considered and decided by this common order.

COMMON ORDER

These writ petitions are filed seeking for issuance of certiorari to quash the orders dated 26.03.2024 passed in proceedings No. TN/RECY/45G/51000873170000911/CCR No: 78351-119057, TN/RECY/45G/51000873170000911/CCR No: 78351-119057 and TN/RECY/45G/51000873170000911/CCR No: 78351-119057 respectively and quash the order dated 26.03.2024.

2. The facts in brief as per the affidavit enclosed in these writ petitions are as follows:

2.1. The petitioner's company is a global consulting technology services company and an authorized agent of M/S. ELCOT for providing manpower on contractual basis for data entry operators and other categories, viz., accountants, assistants, system administration etc. While



so, the petitioner's company raises bills on these organizations in respect of every employee outsourced to such organizations, which includes their salary, PF contributions, ESI contribution, service charges and service tax payable. Though, the bills are raised by the petitioner company they are settled by the Government only after 30-35 days whereas the salary payable by the petitioner to the employees is on 3rd of every succeeding month but as the Government organizations or Departments do not settle the bills immediately, the petitioner's company could not pay the salary to the employees on time. Further, due to this, the petitioner was unable to pay the ESI contributions and PF contributions on time and for some periods, only part of the amount was paid and eventually, this has laid the reason for the delay and part payment of contributions towards EPF and ESI.

2.2. While so, a problem arose with TANGEDCO where the work order with the petitioner's company was canceled and TANGEDCO had not paid the retention amount and security deposit which was due to the petitioner's company. The petitioner's company preferred a W.P.No.34272 of 2022 and the same is pending before this Court. As TANGEDCO owes huge money to the petitioner's company and other



organizations as well, the petitioner's company was not in a position to pay the ESI and P.F. contributions on time. Subsequently, Employees State Insurance Corporation issued proceedings dated 18.01.2019 to pay the differential contribution for the period from June 2017 to Nov 2018 within a period of 15 days. The petitioner's company explained its difficulties to ESI but the same was not accepted. Hence, the petitioner preferred W.P.No.6944 of 2019 and the same was disposed on 31.10.2023 by this Court directing the petitioner's company to pay the entire amount demanded by the first respondent in three equal installments commencing from November 2023. Due to the pandemic 19 the petitioner's company was financially hit but inspite of it Rs.10,00,000/- was paid *vide* demand draft dated 24.01.2024 out of total liability of Rs.64,23,268/-.

2.3. Due to various reasons, the petitioner's company has committed default in payment towards Provident Fund Contributions hence, proceedings were initiated against the petitioner's company. The petitioner company preferred W.P.No.8239 of 2021 and this Court by order dated 30.03.2021 directed the petitioner's company to pay a sum of Rs.1,50,000/- per month. However, due to various reasons, which are not



within the control of the petitioner, petitioner company has committed default in payment once again. The first respondent issued impugned proceedings dated 26.03.2024 attaching the bank accounts of the petitioner company and the petitioner company received proceedings on 03.04.2024 and hence, prayed for quashing the order passed by the first respondent.

3. Heard both sides and perused the materials available on record.

4. ESI Corporation has issued proceedings dated 18.01.2019 to the petitioner's company to pay the differential contribution for the period from June 2017- Nov 2018 within a period of 15 days. The petitioner's company explained its difficulties to ESI but the same was not accepted. Hence, the petitioner preferred W.P.No.6944 of 2019 and the same was disposed on 31.10.2023 by this Court directing the petitioner to pay the amount demanded by the first respondent in three equal installments commencing from November 2023. Due to the pandemic 19 the petitioner's company was financially hit but inspite of it Rs.10,00,000/- was paid *vide* demand draft dated 24.01.2024 out of total liability of



Rs.64,23,268/-. The first respondent issued impugned proceedings dated 26.03.2024 to the bankers of the petitioner for attaching the bank accounts of the petitioner and the petitioner received the same only on 03.04.2024.

5. In pursuance to the orders passed by this Court on 31.03.2021, in W.P.No.6944 of 2019 the petitioner had paid an amount of Rs.10,00,000/- and subsequently, committed default. The present writ petitions are filed seeking for similar relief to that of W.P.No.6944 of 2019 permitting the petitioner to pay the balance amount in instalments.

6. The petitioner's company stated to have filed a petition for extension of time in W.P.No.6944 of 2019 for payment of balance ESI contributions in S.R.No.29253 of 2024 and the same is stated to have not been numbered and not listed. If there is any delay in getting the M.P. numbered and listed then the petitioner is expected to mention before the appropriate Bench for getting it numbered and listed and however, the petitioner company has not taken any steps in this regard.

7. In view of the above, the relief sought for by the petitioner in



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all the above said writ petitions has already been granted by this Court in

W.P.No.6944 of 2019 wherein the petitioner company was permitted to pay the outstanding ESI and PF contributions under instalments.

However, the petitioner company has committed default in payment of instalments. Once this Court has permitted the petitioner to pay the dues to the first respondent in instalments and if the petitioner has committed default of payment of instalment, the remedy is not in filing this writ petition. The petitioner company is expected to file an application in W.P.No.6944 of 2019 and seek for extension of time to pay the balance of instalment. Accordingly, these writ petitions are dismissed at the admission stage itself. Connected W.M.P is closed. No costs.

18.04.2024

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Internet	:	Yes/No
Index	:	Yes/No
Citation	:	Yes/No



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DR. D.NAGARJUN,J.

vca

To:

1. Recovery Officer,
Employees' State Insurance Corporation
143, Sterling Road,
Chennai – 600 034.
2. Branch Manager,
State Bank of India,
Ashok Nagar Branch,
No.1, Housing Board Shop Complex,
Ashok Nagar, Chennai – 600 083.
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Plot No.C251, old No.13 New Door No.30,
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4. Branch Manager
Axis Bank,
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