



WEB COPY

W.P.No.26301 of 2024
and W.M.P.Nos.28734, 28735 & 28736 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.26301 of 2024
and W.M.P.Nos.28734, 28735 & 28736 of 2024

Artic International Private Limited,
Represented by its Authorised Signatory.
K.Simpson Pavulraj
No.980, First Floor,
TNHB Main Road,
Velacherry, Chennai - 600 042.
Tamil Nadu, India.

...

Petitioner

versus

1.Employees' State Insurance Corporation,
Rep. by the Regional Director,
No.143, Sterling Road,
Nungambakkam, Chennai - 600 034.
Tamil Nadu, India.

2.The Recovery Officer,
ESI Corporation,
No.143, Sterling Road,
Nungambakkam, Chennai - 600 034,
Tamil Nadu, India.

3.Axis Bank
Rep. by its Branch Manager,
37-D, Velachery - Tambaram Main Road,
Velachery,
Chennai - 600 042.

...

Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order C19 bearing No.51001150360000999/22120241158-Ins2 dated 21.02.2024 passed by the first respondent and quash the same and direct the respondents to refund a sum of Rs.16,558/- to the petitioner.

For Petitioner : Mr.M.Lenin Samuel

For Respondent Nos.1 & 2 : Mr.T.N.C.Kaushik
for ESIC

ORDER

The Writ Petition has been filed challenging the order of the first respondent dated 21.02.2024 and to direct the respondents to refund a sum of Rs.16,558/- to the petitioner.

2. Heard Mr.M.Lenin Samuel, learned counsel for the petitioner and Mr.T.N.C.Kaushik, learned counsel for the respondents 1 and 2 and perused the materials available on record.

3. Mr.M.Lenin Samuel, learned counsel for the petitioner submitted that the actual amount payable by the petitioner is only Rs.23,000/-, but the respondents' authorities have calculated interest upon



interest and now the dues are shown to the tune of Rs.3,05,535/-. It is further submitted that a sum of Rs.16,558/- has already been withdrawn from the frozen account of the petitioner in the form of a Demand Draft in favour of 'ESI Fund Account No.1'.

4. It is seen that the petitioner is affected only due to the hefty interest that has been added upon the actual interest payable by him. The petitioner has not chosen to file any appeal immediately after he was issued with an order under Section 45-A of the Employees' State Insurance Act, 1948 [EST Act] by determining the dues. Having allowed an order to be passed under Section 45-A of the ESI Act and having not chosen to file any appeal under Section 45-AA of the ESI Act challenging the same, the petitioner has rushed to this Court only after the recovery notice has been issued.

5. It is learnt from the submission of the learned counsel for the petitioner that the petitioner is expecting some waiver in the interest. It is for the respondents' authority to consider the representation, if any, submitted by the petitioner in this regard, if such waiver of interest is within the



discretion. As the petitioner has chosen to file this writ petition without exhausting the statutory remedy contemplated under Section 45-AA of the ESI Act and only challenged the recovery notice, which has been issued subsequent to the determination of the dues properly made under Section 45-A of the ESI Act, this Court does not have the jurisdiction to deal with the matter under Article 226 of the Constitution of India.

6. As the petitioner did not raise any grounds to admit this Writ Petition, it is rejected. Hence, this Writ Petition is **dismissed**. However, the petitioner is at liberty to make any representation to the authorities concerned. On such representation being made, the respondents' authorities shall consider the same and pass appropriate orders in accordance with law. No costs. Consequently, connected Miscellaneous Petitions are closed.

10.09.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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R.N.MANJULA, J.

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