



W.P.No.28917 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P. No.28917 of 2024 and W.M.P. Nos.31558 & 31559 of 2024

M/s.Fashion Park,
rep. by its Proprietor M.J.Zainul Abdeen

... Petitioner

Vs.

1.The Regional Director,
ESI Corporation, Panchdeep Bhawan,
No.143, Sterling Road,
Nungambakkam,
Chennai - 600 034.

2.The Deputy Director (Ins IV),
ESI Corporation, Panchdeep Bhawan,
No.143, Sterling Road,
Nungambakkam,
Chennai - 600 034.

3.The Recovery Officer,
(Shri. Jitendra Kumar),
ESI Corporation, Panchdeep Bhawan,
No.143, Sterling Road,
Nungambakkam,
Chennai - 600 034.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to
issue a Writ of Certiorari calling for the entire records on the file of the



W.P.No.28917 of 2024

third respondent vide proceedings in TN/RECY/45G/
51001192220000199/CCR-120322 dated 06.08.2024 and quash the same.

For Petitioner : Mr.G.Saravanan

For Respondents : Mr.G.Bharadwaj,
for R1 and R2 for ESIC

Ms.S.Jayakumari,
Standing Counsel for R3 ESIC

ORDER

The petitioner has filed this writ petition, challenging the order of attachment dated 06.08.2024 issued by the Recovery Officer, the third respondent.

2.The learned counsel for the petitioner submitted that the petitioner had not been served with any notice to enable him to put forth his case as regards the recovery notice dated 30.12.2021, passed under Section 45A of the Employees State Insurance Act. The learned counsel for the petitioner further submitted that since the impugned order dated 06.08.2024 has been issued all of a sudden only after the petitioner came to know the earlier assessment order, the impugned order passed by the third respondent is



W.P.No.28917 of 2024

against the principles of natural justice.

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3.The learned Standing Counsel for respondents 1 and 2 and the learned Standing Counsel for the third respondent submitted that Show Cause Notices have been served upon the petitioner and that recovery proceedings under Section 45A of the ESI Act has also been issued on 30.12.2021 and that the petitioner, after having received the said notices, did not sent any reply nor made his appearance and therefore, the above attachment order has been issued under Section 45G of the Act.

4.The petitioner has got a statutory remedy to challenge the order dated 30.12.2021 even atleast after he alleged to have known about the same before the ESI Court. But the petitioner had filed this writ petition, without invoking the statutory remedy. Since the petitioner has got an alternate efficacious remedy, this writ petition is not maintainable.

5.In view of the above observation, this writ petition is dismissed. No costs. Consequently, connected W.M.Ps are closed.

24.10.2024



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W.P.No.28917 of 2024



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W.P.No.28917 of 2024

R.N.MANJULA ,J.

vga

To

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