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W.P.No.29051 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.29051 of 2024 and
W.M.P.Nos.31689 & 31691 of 2024

P.Prabakaran

... Petitioner

Vs.

1.The Employees State Insurance Corporation,
Rep by its Deputy Director,
Sub Regional Office,
No.1897, Trichy Road, Panchdeep Complex,
Ramanathapuram,
Coimbatore 641 045.

2.The Employees State Insurance Corporation,
Rep by its Recovery Officer,
Sub-Regional Office,
No.1897, Trichy Road, Panchdeep Complex,
Ramanathapuram, Coimbatore 641 045.

3.Kotak Mahindra Bank Limited,
Rep by its Branch Manager,
Ground & Mezzanine Floor,
No.572/3 & 5, 573/1A, Block No.1,
The Echo Point Plaza,
Avinashi Road, Kalapatti,
Coimbatore 641 014.

4.Indusind Bank Limited,

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Rep by its Branch Manager,
Ground Floor,
No.C1, Rengas Triyambhara,
Kalapatti Road,
Coimbatore 641 014.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the orders passed by the first respondent Corporation vide Order No.56001089630000606/ 32420151157 dated 26.03.2015 under Section 45A of the ESI Act, 1948 and the consequential prohibitory orders passed by the second respondent on 27.12.2023 vide No.CBE/RECY/CP-4/56/108963/0606 to the respondents 3 and 4 and to quash the same as illegal, arbitrary, without the authority of law and consequently, direct the first respondent to conduct an enquiry to decide the liability of the petitioner in paying the said contribution in accordance with law.

For Petitioner : Mr.N.Manoharan for
Mr.G.C.Nelson Britto

For Respondents : Mr.G.Bharadwaj for R1 & R2

ORDER

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, to call for the records of the orders passed by the first respondent Corporation vide Order No.56001089630000606/ 32420151157 dated 26.03.2015 under Section 45(A) of the ESI Act, 1948



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and the consequential prohibitory order passed by the second respondent on 27.12.2023 vide No.CBE/RECY/CP-4/56/108963/0606 to the respondents 3 and 4 and to quash the same and consequently, direct the first respondent to conduct an enquiry to decide the liability of the petitioner in paying the said contribution.

2. Heard Mr.N.Manoharan, learned counsel for the petitioner and Mr.G.Bharadwaj, learned counsel for the respondents 1 & 2 and perused the materials available on record.

3. Mr.N.Manoharan, learned counsel for the petitioner submitted that the copy of Section 45(A) proceedings have not been served on him and he came to know that only from the Bank after the Bank informed him about the prohibitory order.

4. Mr.G.Bharadwaj, learned counsel for the respondents 1 and 2 submitted that the petitioner has already preferred an appeal over the order dated 26.03.2015 by invoking Section 45(AA) along with a Petition to condone the delay in filing the appeal and the delay condonation



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petition has already been dismissed.

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5. It appears that the authority concerned was not convinced with the submission of the petitioner that he did not receive the copy of the order. Hence, it is not possible for him to prefer any appeal within the period of limitation.

6. The learned counsel for the petitioner submitted that the petitioner is about to challenge the order rejecting the petition filed for condoning the delay in preferring the appeal before the appropriate authority. He has further submitted that he is prepared to pay the contribution determined by order dated 26.03.2015 and in that event, the first respondent shall consider to de-freeze the accounts in order to enable the petitioner to run his business.

7. The petitioner ought to have made such a contention before the first respondent authority. Admittedly, this Court does not have any jurisdiction to entertain any appeal against the order made under Section



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45(A) of the ESI Act. Since the order dated 27.12.2023 is consequent to the order passed on 26.03.2015, it is upto the petitioner to make similar request by submitting a representation before the first respondent authority by making any payments as submitted before this Court. On such representation, the first respondent shall consider the consequences of not allowing the petitioner to operate any of his accounts including his family members' account and pass appropriate orders. If the petitioner is so advised, he can also file an application before the first respondent authority to allow him to make the payments in instalments.

8. With the above observations, this Writ Petition is disposed. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
gsk

17.10.2024

R.N.MANJULA, J.

gsk

To
1.The Deputy Director,
The Employees State Insurance Corporation,
Sub Regional Office,



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No.1897, Trichy Road, Panchdeep Complex,
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2.The Recovery Officer,
The Employees State Insurance Corporation,
Sub-Regional Office,
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