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W.P.No.2567 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :24.07.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.2567 of 2023

and

W.M.P.No.2661 of 2023

M/s. Shanmugaa Construction
Rep by its Partner, R.Ramakrishnan
No.3/432, 1st Floor, 16th Street,
Venkateshwara Nagar,
Kotivakkam, Chennai 600 041

... Petitioner

VS-

1. The Deputy Director–cum–Authorised Officer
Employees State Insurance Corporation
Having Regional Office at
R.S.No.89/2, 1st Floor, Bouvankare Street,
Mudaliarpeta,
Puducherry – 605 004.

2. The Recovery Officer,
ESI Corporation,
RO- Puducherry,
R.S. No.89/2, 1st Floor, Bouvankare Street,
Mudaliarpeta
Puducherry – 605 004.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for records on the file



W.P.No.2567 of 2023

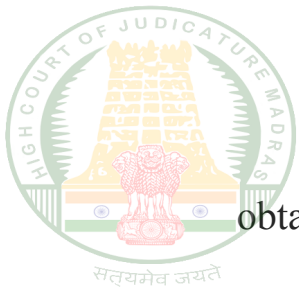
of the 1st respondent pertaining to the order dated 06.07.2022 and the consequential order dated 28.11.2022 bearing No.55000459710001009/C19 and quash the same as without jurisdiction (Prayer amended as per order dated 26.02.2024 in W.M.P.No.13357 of 2023 in W.P.No.2567 of 2023 by NMJ)

For Petitioner : Mr. J. Ravikumar
For Respondents : Mrs. S. Jayakumari
Standing Counsel

ORDER

The petitioner seeks to challenge the order passed by the 1st respondent in its proceedings dated 28.11.2022 in and by which the petitioner has been directed to pay a sum of Rs.6,60,149/- along with interest.

2. The petitioner's case is that they are engaged in the business of civil construction in different places. In the course of its business, the petitioner was awarded a civil work by one M/s.Caplin Point Laboratories Limited having their factory at Puducherry. The petitioner had employed various persons to complete the work. The work had commenced in November 2017 with 8 employees and the petitioner had



W.P.No.2567 of 2023

obtained an ESI code for Puducherry Branch, bearing No.55-00-45971-000-1009/C18.

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3. The petitioner would submit that the ESI contribution with reference to these 8 employees had been paid since November 2017 till October 2018 at which point in time the petitioner had completed the work entrusted to them and the employees had left their services. The 1st respondent had also closed down that unit in November 2018. Thereafter, the petitioner had submitted a letter surrendering the branch code to the 1st respondent dated 11.04.2019. The 1st respondent was also put on notice that the work had been completed in November 2018 and therefore, the ESI code had been surrendered. The said letter has also been received by the 1st respondent.

4. However, nearly 4 years after the surrender of the code to the shock and surprise of the petitioner they had received a show cause notice dated 29.03.2022 calling upon them to appear before the respondent with all documents to explain as to why the contributions have not been made. The petitioner's representative appeared in person



W.P.No.2567 of 2023

with records and had explained to the authority concerned that they had wound up their work at Puducherry in the month of November 2018 itself. The monthly contribution record would clearly show that the employees had left their services. Therefore, the petitioner did not have the liability to pay the ESI Contribution. However, despite this, the impugned order came to be passed by the 1st respondent on 28.11.2022 and therefore, the petitioner is before this Court.

5. Heard the learned counsels on either side and perused the materials available on record.

6. The contention of the petitioner is that they had taken an ESI code only on account of their project at Pondicherry. This project had also come to an end in November 2018 and thereafter, the petitioner was not carrying on business or engaging employees at Pondicherry. A reading of the order issued under Section 45A of the ESI Act dated 28.11.2022 would indicate that the petitioner had appeared once before the respondent and thereafter not appeared. Be that as it may, the petitioner claims to be no longer carrying on business at Puducherry.



W.P.No.2567 of 2025

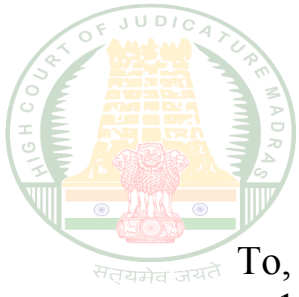
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The ESI code was also surrendered to the 1st respondent which fact was acknowledged by them inasmuch as the letter of surrender has been produced by the 1st respondent in their typed set of papers. The petitioner, therefore, should be afforded an opportunity to submit all the documents.

7. Accordingly, this Writ Petition is allowed and the matter is remitted back to the respondent for fresh consideration. The petitioner shall submit their objections with relevant documents before the respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the respondent shall consider and pass orders within a period of 2 months thereafter by following due process of law. No costs. Consequently, connected miscellaneous petition is closed.

24.07.2025

Index: Yes/No
Speaking order/non-speaking order
Neutral Citation: Yes/No
srn



W.P.No.2567 of 2025

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P.T.ASHA, J.,

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