



W.P.No.8227 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 25.04.2025

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THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.8227 of 2021

and

WMP.Nos.8782, 8783 & 19897 of 2021

M/s. TNPL Contractors Associations,
Rep. by its President – R.Karthikeyan,
Door No.166/4, TNPL Road, Aathikapallam,
Kagithapuram, Karur – 639 136.

...Petitioner

Vs.

1. The Deputy Director,
Sub Regional Office (Salem),
Employees' State Insurance Corporation,
39/57, Theerthamalai Vaniga Valagam,
Three Roads, Salem – 636 009.

2. The Recovery Officer.
Office of the Recovery Officer,
Regional Office (SRO – Salem),
Employees' State Insurance Corporation,
ESI Corporation, 39/57, Three Roads,
Salem – 636 009.

...Respondents

Petition filed under Article 226 of the Constitution of India to
issue a Writ of Certiorarified Mandamus calling for the records of the 1st
respondent in Proceeding No.63000951200001001/INS-I/SRO/SLM/545/19



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and quash its order dated 07.12.2020 and the consequential attachment order of the 2nd respondent in Ref.No.63000951200001001/CP/413279 dated 11.03.2021 and further direct the 1st respondent to hold enquiry under Section 45A of the ESI Act in respect of demand for contribution from the petitioner in terms of show cause notice dated 29.10.2019.

For Petitioner : Mr.S.Ravindran, Sr.C,
for Mr.P.Nehru

For Respondents : Mr.G.Bharadwaj, Standing Counsel

ORDER

This Writ petition has been filed seeking quashment of the order of the 1st respondent bearing Proceeding No.63000951200001001/INS-I/SRO/SLM/545/19 dated 07.12.2020 and the consequential attachment order of the 2nd respondent in Ref.No.63000951200001001/CP/413279 dated 11.03.2021 and to consequently direct the 1st respondent to hold enquiry under Section 45A of the ESI Act in respect of demand for contribution from the petitioner in terms of show cause notice dated 29.10.2019.

2. The case of the petitioner is that the petitioner Association is a society registered under the Societies Act and it was supplying labourers as



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a short term arrangement, who subsequently work for a different contractor, though it was not employing a single person on its rolls. During the period February 2016 to April 2016, the Petitioner supplied manpower to TNPL as a short term arrangement in respect of Data entry and Lab Assistants, for which contribution was duly paid by the Petitioner. For the period May 2016 to August 2017, one M/s.Ravi Kumar, Contractor carried out the above job and paid ESI contribution and for the period September 2017 to August 2018, one M/s.Emerald, Contractor carried out the above job and paid ESI Contribution. While so, disregarding the above factual position, the 1st respondent issued notice dated 29.10.2019 claiming contribution of Rs.37,34,552/- on adhoc basis for the period May 2016 to May 2018 from the Petitioner. Due to Covid-19 pandemic, the Petitioner could not attend the hearing posted on 12.03.2020. While so, without any material and without hearing the petitioner, the 1st respondent, by order dated 07.12.2020 claimed contribution of Rs.37,34,552/- from the Petitioner and in terms of the above order, the 2nd respondent issued a notice of attachment dated 11.03.2021. Challenging the same, the petitioner has come up with this Writ petition.



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3. Learned counsel for the petitioner submitted that, no fair opportunity was given to the petitioner before determining the amount under Section 45A of the ESI Act and the petitioner association is a very small organisation and it has not recruited any such persons as mentioned in the impugned order. However, learned counsel for the petitioner fairly submitted that, in order to show its bonafide, the petitioner is ready to deposit a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) as suggested by this Court and this Court may remand the matter back to the 1st respondent by setting aside the impugned orders and the 1st respondent shall take up the matter afresh and pass appropriate orders after hearing the petitioner.

4. Per contra, the learned counsel appearing on behalf of the respondents submitted that, ample opportunity was given to the petitioner before passing the impugned order, however, it is the petitioner who failed to utilise the same and failed to appear for enquiry even after receiving the notice. While so, claiming that no opportunity was given in wholly unsustainable. Accordingly, he prayed for dismissal of this Writ petition.



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WEB COPY 5. Heard learned counsel on either side and perused the materials available on record.

6. Though very many grounds have been raised by the learned counsel on either side at the time of arguments, in view of the fair submission made by the learned counsel for the petitioner, this Court is inclined to set aside the impugned orders on condition that, the petitioner shall deposit a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) before the 1st respondent within a period of four weeks from the date of receipt of a copy of this order and upon receipt of the said amount, the 1st respondent shall take up the matter for fresh consideration and pass appropriate order on merits and in accordance with law within a period of eight weeks thereafter, after affording sufficient opportunity of hearing to the petitioner and aggrieved persons, if any. Further, the petitioner is at liberty to withdrawn the above said amount deposited by it, if it succeeds in the case.



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WEB COPY 7. With the above observations and directions, this Writ petition stands allowed and the impugned orders dated 07.12.2020 and 11.03.2021 passed by the 1st and 2nd respondents respectively are set aside. No costs. Consequently, the connected miscellaneous petitions are closed.

25.04.2025

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NCC : Yes / No
Speaking Order : Yes / No
Index : Yes / No

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