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W.P. No.14652 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2025

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.14652 of 2022

and

W.M.P. Nos.13848, 13849 and 13852 of 2022

V. Parimala W/o. Vaidhiyalangam. .. Petitioner

vs.

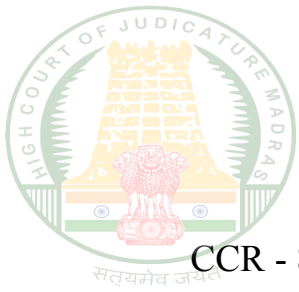
1. The Deputy Director,
Employees' State Insurance Corporation,
"Panchadeep Bhavan",
143, Sterling Road, Nungambakkam,
Chennai-600 034.

2. The Recovery Officer,
Employees State Insurance Corporation,
"Panchadeep Bhavan",
143, Sterling Road, Nungambakkam,
Chennai-600 034.

3. The Bank Manager,
Bank of India,
Palavakkam Branch,
East Coast Road, Palavakkam,
Chennai - 600 041.

.. Respondents

PRAYER: The Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari calling for the records relating to the 2nd respondent in Proceedings No.TN/RECY/45G/51 51001142870000506 /



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CCR - 88611 to 108711 dated 26.05.2022 and quash the same.

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For Petitioner : M/s. S. Sairaman

For Respondent : Mr.P.B. Benjamin George [for R3]
Mr. C.V. Ramachandramurthy
[for R1 & R2]

ORDER

This Writ petition has been filed by the petitioner to quash the proceedings in No.TN/RECY/45G/51 51001142870000506 / CCR - 88611 to 108711 dated 26.05.2022

2. The learned counsel appearing for the petitioner would submit that initially the petitioner was running a Man Power Supply & Labour Contracting Company in the name & style of V.P.K. Enterprises and the company was registered as a Small Scale Industry in the Employees State Insurance Corporation in the year 2015. In the year 2017, due to financial loss, the petitioner wound up the company and thereafter, no activities took place in the company and the same was informed to the Employees State Insurance Corporation personally. Therefore, the petitioner need not pay the contribution to the 1st respondent. While so, the petitioner's husband raised a loan from Shriram City Union Finance Limited, Chennai and the same was credited to the petitioner's Savings Account maintained in the 3rd respondent

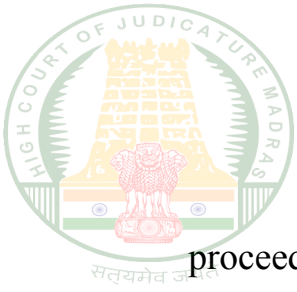


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bank. The petitioner was informed through the 3rd respondent about the impugned order passed by the 2nd respondent dated 26.05.2022. The impugned order was passed under Section 45(G) of the State Employees' Insurance Act and the said Section is a consequential provision and can be invoked only after determination of contribution under Section 45A of the Act. No order under Section 45A has been ordered after giving opportunity to the petitioner. Therefore, the order passed by the 2nd respondent is against law. Moreover, the petitioner did not receive any communication from the Corporation and she received information only from the bank about the impugned order. The impugned order passed by the 2nd respondent is affecting the petitioner's right of being heard and it is violation of principles of natural justice. No proceedings under Section 45A of the Act was served to the petitioner. Therefore, the impugned order passed by the 2nd respondent is liable to be quashed.

3. The learned Standing counsel appearing for the respondents 1 and 2 would submit that the petitioner has an efficacious and alternative remedy in the form of approaching the Employees' Insurance Court as per Section 75 of ESI Act, 1948. However, the petitioner has directly approached this Court invoking the extraordinary Writ jurisdiction. Moreover, the appeal



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proceedings are also available to prefer an appeal before the High Court on the substantial question of law. The petitioner has not challenged the order passed under Section 45-A of the Employees' State Insurance Act. The recovery actions are strictly in the nature of execution of proceedings. Therefore, the Writ petition is not maintainable. The assessment orders were passed after giving sufficient opportunity to the petitioner. Therefore, the petitioner was aware of all the contribution claims and damages claims. The petitioner had not challenged the claims before the Employees' State Insurance Court. The petitioner has not produced any document to show that their company was closed in the year 2017. The impugned order is an Attachment Notice and it was issued on 26.05.2022 after the expiry of the statutorily mandated period of 15 days from the issuance of the related Notices of Demand. The petitioner had received all the demand notices but had failed to make the payments. The petitioner was given opportunity of being heard before passing relevant assessment orders under Section 45A of Employees State Insurance Act and the petitioner has not challenged that order. Therefore, the present Writ petition is liable to be dismissed.

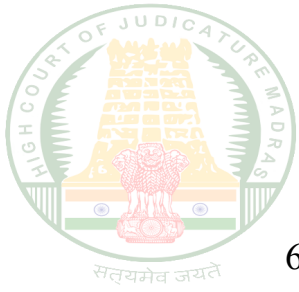
4. Heard both sides and perused the entire materials available on record.



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5. In this case, the petitioner challenged the Attachment Notice issued by the Employees' State Insurance Authorities dated 26.05.2022 passed under Section 45(G) of the Act. Already, an assessment order was passed under Section 45A of the Act by the Employees' State Insurance Authorities and no appeal was filed by the petitioner. According to the petitioner, no notice was served to them and without hearing her, the order was passed under Section 45A of the Act. Even assuming that no opportunity was given to the petitioner before passing the order under Section 45A of the Act, she has not exhausted the appeal remedy under Section 75 of the Employees State Insurance Act and without exhausting that remedy, the petitioner has filed a petition challenging the consequential order passed under Section 45(G) of the Act. Therefore, as rightly contended by the learned counsel appearing for the respondents that when the alternative and efficacious remedy is available to the petitioner under Section 75 of the ESI Act, without exhausting the same, she straight away filed a petition by challenging the attachment order. Therefore, the petitioner is at liberty to challenge the order before the competent Court. The petitioner is entitled for the benefit of Section 14 of Limitation Act for a period of pendency of the present Writ petition.



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6. With the above said directions, this Writ petition is dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

27.06.2025

Index : Yes/No
Speaking order/non-speaking order
mjs

To

1. The Deputy Director,
Employees' State Insurance Corporation,
"Panchadeep Bhavan",
143, Sterling Road, Nungambakkam,
Chennai-600 034.

2. The Recovery Officer,
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