



W.P.No.16100 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.16100 of 2021

and

WMP.No.17024 & 17026 of 2021

M/s.BEE Cabs India Private Limited
Rep by its director K.V.Kumaresan,
FB, 5th Block Jaoins Kences Retreat,
No.15, Reddy Street, Virugambakkam,
Chennai- 600 092.

... Petitioner

Vs.

1.Employees State Insurance Corporation
Regional office, ESI Corporation,
Panchdeep Bhawan,
No.143, Sterling Road, Chennai- 600 034.

2.The Recovery Officer
ESI Corporation, Regional Office,
No.143, Sterling Road, Chennai- 600 034.

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari, to call for the records pertaining to the impugned order dated 17.02.2020 made by the 1st respondent in ref No.TN/ Ins.II/ C-18 Adh/ 51-00-116278- 000-1006 under section 45-A of the ESI Act, 1948 (As Amended) and the consequential order of



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attachment issued by the 2nd respondent dated 15.06.2021 in ref.No.TN/RECY/ 45G/ 51 51001162780001006 and quash the same as illegal, arbitrary, capricious, abuse of power and on account of mistake of facts.

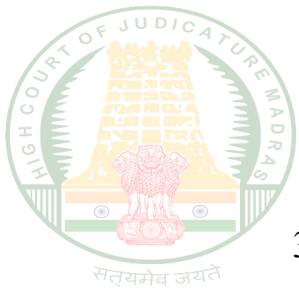
For Petitioner : M/s..R.Veeramani

For Respondent : M/s.T.N.C.Kaushik

ORDER

Challenging the order passed by the 1st respondent dated 17.02.2020 under Section 45A of the ESI Act and the consequent order of attachment dated 15.06.2021, the petitioner is before this Court.

2. The petitioner's case is that the provisions of ESI Act was made applicable to their establishment by order dated 20.05.2016 in respect of 24 employees. They were allotted Code No.510011627800110006. Thereafter, by order dated 02.06.2016 their branch office situate at 25/2, outer ring road, Chinnapanahalli, Bangalore was also covered by the ESI Act and was allotted Sub Code No.50511162780011006. The petitioner would contend that they have been paying all the contributions in respect of the employees under the Sub Code No.50511162780011006.



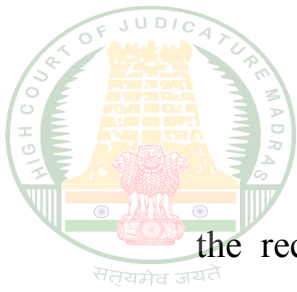
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3. Meanwhile, a show cause notice was issued contending that the petitioner had failed to pay the contributions for the months January 2016 till February 2019 in respect of the main code bearing no.51001162780011006. Thereafter, an impugned order has been passed on 17.02.2020 stating that the petitioner had neither replied nor appeared before the authority. On the basis of this ex parte order, a recovery notice was also issued by the 2nd respondent.

4. It is the contention of the petitioner that originally the Director of the petitioner company was residing in a rented house and in January 2017 had shifted to a new address. The show cause notice was therefore not served on him. The notice sent to the office appears to have been received by other persons and the same was not brought to the notice of the petitioner. The petitioner would contend that there has been no default on their part and it is only on account of the contribution being paid into a Sub Code that the anomaly had appeared. He would submit that had he received the notice, he would have made an appropriate representation before the authority concerned and that by reason of not having been able to submit his objection he had suffered serious prejudice.

5. The learned counsel for the respondent would submit that as per



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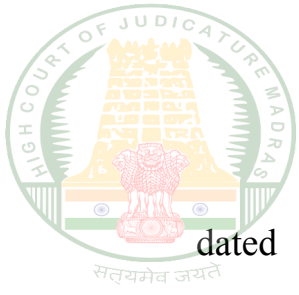
the records, the contributions had not been paid by the petitioner and therefore, they have passed the orders, since the petitioner had not appeared before them.

6. Heard the learned counsel on either side and perused the records.

7. There does not appear to be clarity regarding the payments made and how the corporation had accounted for the same. Though this Court had directed the respondent to clarify this, no satisfactory clarification has been provided, except for the submission that after giving credit for a contribution of Rs.2,35,103/- for the period from January 2016 to February 2019, a sum of Rs.12,12,349/- still remains due and payable under the main code. They have further stated that, based on their records, they are unable to decipher which payments were made toward the main code or the sub-code, and that apart they are unable to arrive at an apportionment between the two.

8. In the above circumstances and taking into account the lack of clarity, it is necessary that the petitioner be heard.

9. Therefore, the Writ Petition stands allowed. The impugned order



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dated 17.02.2020 and the consequential order of attachment dated

15.06.2021 are set aside and the matter is remitted back to the 1st

respondent for fresh consideration. The petitioner shall submit his explanation/objection to the show cause notice dated 17.04.2019 within a period of 3 weeks from the date of receipt of a copy of the order and thereafter the 1st respondent shall pass orders within a period of 2 months.

No costs. Consequently, the connected Miscellaneous Petitions are closed.

30.07.2025

Index : Yes/No
Speaking Order: Yes/No
Neutral Citation : Yes/No
(shr)

To

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