

WEB COPY

WP.No.18531 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.18531 of 2025

and

W.M.P.Nos.20800 & 20801 of 2025

M.Subramanian

Sole Proprietor Of M/S. Rithish Pharmacy,
Shree Apartment,
15, Travellers Bungalow Road,
Coimbatore -641 018.

... Petitioner

Vs.

The Deputy Director

Employees's State Insurance Corporation,
SRO-Coimbatore,
Coimbatore.

... Respondent

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India Calling for the records leading to the issuance of order bearing reference No. 56001191040000999/852021508 dated 05.08.2021 passed by the Respondent herein and quash the same.

For Petitioner : M/s.S.P.Sri Harini

For Respondent : M/s.S.P.Srinivasan



ORDER

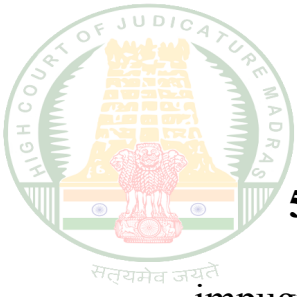
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The only ground on which the order of the respondent is sought to be challenged is that the proper notice and a fair opportunity have not been afforded to the Writ Petitioner.

2. Brief Facts are as follows:-

3. The petitioner is the sole proprietor of a concern in the name and style of M/s.Rithish Pharmacy which is registered under the GST enactments for which purpose a consultant has been engaged to ensure statutory compliance.

4. The petitioner would contend that his business has been wrongly registered under the Employees' State Insurance Act, 1948 (hereinafter referred to as the 'ESI Act'), as the business did not employ 10 or more employees. Without appreciating this fact the respondent had passed the impugned order dated 05.08.2021 under Section 45 A of the ESI Act for contribution due from 01.04.2018 to 31.01.2021.



5. The petitioner would contend that before passing the impugned order proper notice has not been issued. The show cause notices were sent to the business premises of the petitioner which for the most part has been shut since December 2020 and to his incorrect residential address where the petitioner no longer resides. The petitioner came to know about the order only upon the attachment of his savings account on 24.02.2025 whereby the entire demand has been recovered. Therefore, the petitioner has filed the above Writ Petition.

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

7. A perusal of the impugned order would clearly show that the show cause notices which were sent to the petitioner's establishment had been delivered and an acknowledgement received. The notice sent to the address of the principal employer was returned with the postal remarks "Door locked". Since the notice was served on the employer's establishment, it is deemed that the notice has been served on the principal employer. However, the petitioner has not replied to the



show cause notice and has not appeared to represent his case.

Thereafter, yet another communication was sent for hearing date 13.07.2021. This was served on the employer's unit on 20.04.2021 and an acknowledgement received. Once again, the petitioner/employer had not attended the personal hearing on 13.07.2021. Therefore, though sufficient opportunities have been given the petitioner has not appeared before the authority. Therefore, the contention that the petitioner did not have a prior notice of the proceedings is totally false. Since the only ground of challenge is that the notice has not been served on the petitioner and the contrary has been proved, the Writ Petition lacks merit.

8. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

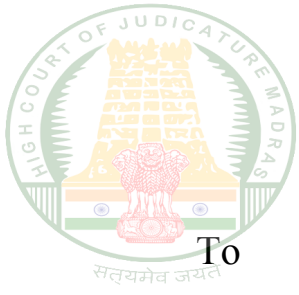
05.06.2025

(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No



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To

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The Deputy Director
Employees's State Insurance Corporation,
SRO-Coimbatore,
Coimbatore.



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P.T. ASHA. J.,

(shr)

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