IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.07.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.19567 of 2025
&
W.M.P.Nos. 21897, 21901 & 27120 of 2025

M/s.Sri Sai Industries
Rep By Its Proprietor, Mr.M.Ramkumar,
No. 8a,New No. 16, Ii Main Road,
Jaganatha Nagar, Arumbakkam,
Chennai -600 106. ...Petitioner

Vs.

1.Employees State Insurance Corporation,
Tamilnadu Regional Office,
No. 143, Streling Road,
Chennai -600 034.

2.The Recovery Officer,
Esi Corporation,
No. 143, Sterling Road,
Chennai -600 034. ...Respondents

Prayer: Writ Petition is filed under Section 226 of the Constitution of India for issue of Writ of Certiorari, to call for records from the file of 2nd respondent dated 26.03.2025 made in Ref. No. TN/RECY/45G/51001056250000999/CCR-VARIOUS CLAIMS and quash the same.

For Petitioner : Mr. S.Anburaja

For Respondents : M/s. G.Narmadha

ORDER

The above Writ Petition is filed for the following relief:

"To call for the records from the file of the 2nd respondent dated 26.03.2025 made in Ref.No:TN/RECY/45G/51001056250000999/CCR-VARIOUS CLAIMS and quash the same".

2.The petitioner establishment is a micro industrial unit and comes under the coverage of the Employees State Insurance Act, 1948, herein after called the Act. They have been liable to pay contribution with effect from 01.04.2013. It is the contention of the petitioner that they have been regularly making the contribution to the ESI fund. The number of employees never exceeded five.

3.It is the further case of the petitioner that though they had registered as a small scale industries in the year 2009, however manufacturing started only in the month of April, 2013. The respondent / corporation has now arbitrarily fixed the number of employees as ten and assumed wages to be a sum of Rs.5500/- per month per employee for ten employees for the period of June 2009 to April 2010.

4.Therefore, the respondent arrived at a total contribution of Rs.2,21,650/- for the period from May 2010 to March 2013. C - 18 Adhoc dated 10.07.2014 was issued directing the petitioner to pay the above sum. An ex parte order under Section 45 A of the Act determining the amount of Rs.2,21,650/- had been passed which is liable to be set aside. This order has been passed without giving adequate opportunity to the petitioner to put forth their contention particularly with reference to the number of employees, wages and the consequent ESI contribution.

5.The petitioner had challenged the same by filing ESI.OP.No.14 of 2015 on the file of the Principal Labour Court, Chennai. At the time of granting stay the petitioner was directed to deposit 10% of the demand amount.

6.The respondent had filed a counter contending that the petitioner had been provided with notice and communication and that the petitioner had not cooperated in the proceedings. However, though the said contention was refuted by the petitioner the Labour Court dismissed the petition filed by the petitioner stating that they have not proved their case.

7.Thereafter, the 2nd respondent without issuing a demand notice had passed an order of attachment under Section 45 G of the Act dated 26.03.2025 for an amount of Rs.5,98,539/- to the petitioner's banker M/s.Union Bank of India, Mugappair Branch. Therefore, aggrieved by the same, the petitioner has filed the above Writ Petition.

8.The grievance of the petitioner is that they have not been given an adequate hearing and orders have been passed without hearing their side. However, considering the fact that the orders have more or less attained finality and in the light of their present financial condition, the learned counsel for the petitioner had sought for permission to pay the amount in installments. He would also submit that there is a sum of Rs.3,00,000/- deposited with their bank, which sum has already been attached and the same can be adjusted towards the outstanding.

9.The learned counsel for the respondent had opposed the request by stating that the petitioner had been given a long rope and the outstanding are of the year 2009 and would seek to have the writ petition dismissed.

10.Heard the learned counsels on the either side and perused the records.

11.That the petitioner company has been suffering from financial crisis has not been denied by the respondent. It is also an admitted fact that pursuant to the orders of this Court granting a conditional stay amounts have been deposited with the Bank. Therefore, in the interest of Justice it would be apposite to dispose of the Writ Petition with the following directions:

"(a)The amounts that is now in deposit in the bank shall be withdrawn by the respondent corporation and adjusted towards the outstanding dues of the petitioner.

(b)The balance amount shall be paid in four equated monthly installments.

(c)The payments shall commence from 01.09.2025.

12.The Writ Petition is disposed of with the above observations. Consequently, the connected miscellaneous petitions are closed. No costs.

14.07.2025

Index : Yes/No
Internet : Yes/No

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P.T. ASHA, J,

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