



WEB COPY

WP No. 34819 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-10-2025

CORAM

THE HONOURABLE MRS.JUSTICE N. MALA

**WP No. 34819 of 2025
and WMP.Nos.38992 and 38993 of 2025**

M/s.Everwin Security Services Pvt Ltd
Represented by its Managing Director
Flat No.3, Vignesh Apartment,
No.85, 3rd Main Road, Gandhi Nagar,
Adyar, Chennai 600 020.

Petitioner(s)

Vs

1.Employees State Insurance
Corporation,
Rep.by its Deputy Director,
Tamil Nadu Regional Office
143, Sterling Road, Chennai 600 034.

2.The Branch Manager
Indian Bank, Indira Nagar Branch
1st Avenue, Indira Nagar, Adyar,
Chennai 600 020.

Respondent(s)



PRAYER

Calling for the records in Order bearing Reference No.TN/RECY/45(G)/51-001047850000999/CCR-97178 dated 28.07.2025 issued by the 1st respondent quash the same and direct the 1st respondent to refund a sum of Rs.24,92,443/- (Rupees Twenty Four Lakhs Ninety Thousand Four Hundred and Forty-three only) debited from the Petitioners Account No.6025133949, Indian Bank, Indira Nagar Branch, Chennai dated 29.07.2025.

For Petitioner(s): Mr.J.Satheesh

For Respondent(s): Mr.M.Nirmalkumar, for R1
Mr.K.Vasu Venkat, for R2

ORDER

(1)The Writ Petition has been filed to quash the order dated 28.07.2025 of the 1st respondent and consequently, direct the 1st respondent to refund a sum of Rs.24,92,443/- debited from the petitioner's Bank account on 29.07.2025.

(2)The petitioner/Company was incorporated in the year 2012, and is engaged in the supply of man power and materials required for establishments. The petitioner contends that ever since it commenced its activity, it was remitting contributions in respect of its employees. While so, the 1st respondent, on 08.10.2020, passed an order under Section 45-A of the ESI Act, claiming a sum of Rs.48,12,647/- for the Financial Years 2016-17, 2017-18 and 2018-19



and Rs.63,73,734/- towards contributions with interest. The petitioner challenged the 45-A order before the Principal Labour Court, at Chennai, in EIOP.No.21/2021 and on 17.05.2022, the Labour Court granted an order of interim stay. However, the said EIOP.No.21/2021, was dismissed for default on 07.07.2025. Pursuant to the dismissal, the 1st respondent, passed the impugned attachment order on 28.07.2025, and recovered a sum of Rs.24,92,443/- from the petitioner's Bank account, on 29.07.2025. Aggrieved by the impugned Attachment Order, the petitioner has filed the above writ petition for the aforesaid relief.

(3)The learned counsel for the petitioner submitted that when the impugned order of attachment was passed, the limitation for filing application for restoration of EIOP.No.21 of 2021 did not lapse. The learned counsel therefore submitted that the impugned attachment order and the consequent recovery of Rs.24,92,443/- from the petitioner's Bank account, in the interregnum was illegal. The learned counsel prayed that since the recovery was illegal, the petitioner was entitled for the refund of the same.

(4)The learned counsel for the 1st respondent, on the other hand submitted that



when the impugned order of attachment was passed on 28.07.2025, proceedings were not pending before the Labour Court since EIOP.No.21 of 2021, was dismissed for default on 07.07.2025. The learned counsel further submitted that the OP was restored only on 08.02.2025, and therefore, in the absence of any pending proceedings, the Attachment Order was valid. The learned counsel therefore submitted that the prayer for refund of the amount was unsustainable and the writ petition deserved to be dismissed.

(5) Heard both sides and perused the materials placed on record.

(6) Admittedly, the Section 45-A order was passed by the 1st respondent, on 08.10.2020, directing the petitioner to pay contribution of Rs.48,12,647/-. The said order was challenged by the petitioner by way of appeal in EIOP.No.21 of 2021, before the Principal Labour Court, Chennai. In EIOP.No.21 of 2021, the Principal Labour Court, Chennai, granted an interim stay on 17.05.2022. Thereafter, the Appeal was dismissed for default on 07.07.2025. Thereafter, on 28.07.2025, the impugned order was passed by the 1st respondent, attaching the Bank account of the petitioner and further, a sum of Rs.24,92,443/- was recovered. Pursuant to the attachment and



recovery, the petitioner filed an application for restoration of the appeal on 31.07.2025, and the same was restored on 01.08.2025. Now, the issue to be decided is whether the recovery of the amount Rs.24,92,443/- on 29.07.2025, under the impugned order, is illegal and if so, whether the petitioner is entitled for refund of the same.

(7) Admittedly, the Appeal in EIOP.No.21/2021, was dismissed for default on 07.07.2025, and as per the provisions of the Civil Procedure Code, which is applicable to the proceedings under the ESI Act, the petitioner had 30 days time to file restoration application. However, even before the expiry of the statutory period of 30 days, the 1st respondent passed the impugned Attachment Order and recovered a sum of Rs.24,92,443/-. The 1st respondent has taken a technical plea that on the date of the impugned Attachment Order, no proceedings were pending before the Principal Labour Court, and hence there was no illegality in attaching the Bank account of the petitioner and recovering a part of the liability. This Court is not inclined to accept the highly technical and specious plea. When specific period of limitation for restoration of appeal, is provided under the statute, the respondent is bound



to wait for the expiry of the statutory period of limitation before proceeding with further coercive action. Hence, this Court is of the considered view that the action of the respondent in resorting to coercive steps for recovery of the dues even before the limitation period for applying for restoration expired cannot be approved and hence, is held be illegal.

(8) In any event, it is seen that the ESI appeal has now been restored and the matter is pending before the Principal Labour Court. Hence, this Court deems it appropriate to direct the petitioner to approach the Principal Labour Court, before which the comprehensive relief of quashing the Section 45-A order is pending for the relief prayed in this writ petition. It is trite that when proceedings for comprehensive relief are pending before the statutory appellate authority, this Court should not interfere for merely granting interim relief. Hence, the writ petition is disposed of with liberty to the petitioner to approach the ESI Court which shall consider the petitioner's prayer for refund of the amount recovered pursuant to the illegal order of attachment, in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.



29-10-2025

pvs/AP

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. The Deputy Director,
Employees State Insurance
Corporation,
Tamil Nadu Regional Office
143, Sterling Road, Chennai 600 034.

2. The Branch Manager
Indian Bank, Indira Nagar Branch
1st Avenue, Indira Nagar, Adyar,
Chennai 600 020.



WEB COPY

WP No. 34819 of 2025



N.MALA J.
pvs/AP

WP No. 34819 of 2025

29-10-2025