



W.P.(MD) No.4304 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.03.2025

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) No.4304 of 2025
and
W.M.P.(MD) No.3082 of 2025

John Sekar Santhosh

... Petitioner

Vs.

1.The Deputy Director,
Employees' State Insurance Corporation,
Panchdeep Bhavan, ESIC Complex,
Salai Street, Vannarapettai,
Tirunelveli-627 003.

2.The Recovery Officer,
Employees' State Insurance Corporation,
Panchdeep Bhavan, ESIC Complex,
Salai Street, Vannarapettai,
Tirunelveli-627 003.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order in No. 66-00-043536-000-1001/SRO/TLI/INS dated



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24.01.2025 passed by the 1st respondent, quash the same and consequently directing the respondents to consider the appeal filed under Section 45-AA of the ESI Act dated 08.01.2025.

For Petitioner : Mr.J.Malai Raja
for M/s.Spicy Law Firm

For Respondents : Mr.I.Pinaygash
Standing Counsel

ORDER

This writ petition has been filed aggrieved by an order dated 24.01.2025, whereby the appeal filed by the petitioner under Section 45AA of the Employees' State Insurance Act, 1948 (hereinafter referred to as “the ESI Act”) against the order dated 22.04.2024 passed under Section 45A of the ESI Act was refused to be entertained by the first respondent-Corporation on the ground that the said appeal was filed after 250 days, whereas the limitation prescribed under Section 45AA of the ESI Act is only 60 days.



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2. From the perusal of the impugned order, it is noticed that the petitioner has already deposited an amount of Rs.67,567.50 being 25% of the amount demanded from the petitioner while filing the appeal under Section 45AA of the ESI Act.

3. According to the learned counsel for the petitioner, the original order dated 22.04.2024 passed under Section 45A of the ESI Act was not served on the petitioner and it is only after the proceedings dated 09.10.2024, the petitioner came to know about the proceedings dated 22.04.2024 passed under Section 45A of the ESI Act. He further submitted that the petitioner was not paid any wages during the Covid period, that is from March, 2020 and for quite some time, and therefore, the petitioner's remittance of ESI contributions to the respondent-Corporation does not arise.

4. However, the learned Standing Counsel appearing for the respondents-Corporation submitted that the order dated 22.04.2024 was duly served on the petitioner on 30.04.2024 itself.



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5. This Court has carefully considered the submissions made on either side especially taking into account the fact that the appeal filed by the petitioner was refused to be entertained only on the ground that there is a delay in filing the said appeal by 250 days and also considering the fact that this Court cannot enter into the factual dispute as to the liability of the petitioner to pay contributions towards ESI, is of the considered view that the petitioner should be afforded one opportunity before the appellate authority by duly putting the petitioner on terms and requiring him to deposit 25% more to afford such an opportunity as contemplated under Section 45AA of the ESI Act.

6. Accordingly, the impugned order dated 24.01.2025 is quashed and the petitioner is permitted to re-present the appeal by duly depositing a further sum of Rs.67,567/- in addition to the amount of Rs.67,567.50 already deposited within a period of three weeks from today and on re-presentation of the said appeal, the first respondent shall entertain the said appeal without reference to the period of limitation and dispose of the same on merits.



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7. Accordingly, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

04.03.2025

NCC : Yes/No
Index : Yes/No
Internet : Yes

ABR

To

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MUMMINENI SUDHEER KUMAR, J.

ABR

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