



W.P.(MD)No.7744 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

**W.P.(MD)No.7744 of 2025
and W.M.P.(MD)Nos.5871 & 5872 of 2025**

1.Radha Card Shop,
Rep by its Partner,
T.Salish John George,
S/o. E.J. George,
No. 41, Balmore Road,
Head Post Office Junction,
Nagercoil, Kanyakumari District-629 001.

2.A.Mahalakshmi

... Petitioners

Vs.

1.The Assistant Director, ESIC,
Panchdeep Bhawan,
ESIC Complex, Salai Street,
Vannarpettai, Tirunelveli District -627003.

2.The Recovery Officer, ESIC,
Panchdeep Bhawan,
ESIC Complex, Salai Street,
Vannarpettai, Tirunelveli District -627003.



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3. Punjab National Bank,
Rep by its Branch Manager,
Natesan Palace, 82-83,
Balamore Road, Nagercoil,
Kanyakumari District.
4. Canara Bank,
Rep by its Branch Manager,
Po Box No.3, 38 College Road,
Nagercoil, Kanya Kumari District.
5. State Bank of India,
Rep by its Branch Manager,
No.14B, Distillery Road,
Nagercoil, Kanyakumari District.
6. Bank of Baroda,
Rep by its Branch Manager,
Nagercoil Branch,
34C, Balamore Road,
Nagercoil, Kanyakumari District.
7. Indian Bank,
Rep by its Branch Manager,
165, Womens Christian College Road,
Nagercoil, Kanyakumari District.
8. Federal Bank,
Rep by its Branch Manager,
7 PWD Road, Near Bharath Petroleum,
Chidambara Nagar,
Nagercoil, Kanyakumari District.



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9.Tamil Nadu Mercantile Bank Ltd.,
Rep by its Branch Manager,
229 A, Charles Miller Street,
College Road, Nagercoil,
Kanyakumari District

10.Kotak Mahindra Bank,
Rep by its Branch Manager,
20 , Kalvittal Ciyral Centre,
Port Road, Krishnankovil,
Vadiveeswaram Village,
Nagercoil, Kanyakumari District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the Impugned Order issued Under Section 45 A in No.66-00-041913-000-1002/45A/1267-18/127/19 dated 09.07.2019 and the consequential Impugned demand Notice in No.66-00-041913-000- 1002/Ins/SRO/TLI/963/22 dated 26.10.2022, on the file of the Respondent No.1 and the consequential Impugned Garnishee orders in 66000419130001002/RRC/SRO/TLI dated 26.09.2024 on the file of the Respondent No.2 and quash the same as illegal.

For Petitioners : Mr.M.Mahaboob Fazil

For Respondents : Mr.N.Dilipkumar for R1 & R2

Mr.K.K.Udayakumar for R5

Mr.C.Karthick for R7



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ORDER

This Writ Petition has been filed seeking Writ of Certiorarified Mandamus to call for the records pertaining to the impugned Order issued Under Section 45A in No.66-00- 041913-000-1002/45A/1267-18/127/19 dated 09.07.2019 and the consequential impugned demand Notice in No.66-00-041913-000-1002/Ins/SRO/TLI/963/22 dated 26.10.2022, on the file of the Respondent No.1 and the consequential impugned Garnishee orders in 66000419130001002/RRC/SRO/TLI dated 26.09.2024 on the file of the Respondent No.2 and quash the same as illegal.

2. Heard the learned counsel for the petitioners and the respective learned counsel appearing for the respondents.

3. As against the order dated 09.07.2019 passed under Section 45A of the Employees' State Insurance Act, 1948 (hereinafter referred to as “the ESI Act”), the petitioners had an effective alternative remedy of appeal provided under Section 45AA of the ESI Act, but the petitioners instead of availing the



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said remedy, approached this Court by filing the present Writ Petition that too only after the respondents Corporation initiated steps for recovery of the amounts due under the said order by issuing garnishee orders etc. Though the Respondents Corporation has taken steps for recovery of the amounts due under the order dated 09.07.2019, no amounts could be recovered as on date, in spite of issuing garnishee orders.

4. Considering the fact that the petitioners has an effective alternative remedy under Section 45AA of the ESI Act and the limitation prescribed for filing an appeal has already been expired long back, this Court is of the considered view that the interest of both parties can be safeguarded by permitting the petitioners to avail the remedy of appeal available under Section 45AA of the ESI Act, subject to the petitioners depositing an amount of Rs.5 lakhs from out of the total due amount of Rs.9,57,812/- within a prescribed time.



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5. As this Court is not inclined to go into the merits of the case, this

Writ Petition is disposed of permitting the petitioners to avail the remedy of appeal under Section 45AA of the ESI Act, subject to condition of depositing an amount of Rs.5 lakhs with the respondents 1 and 2, within a period of three weeks from today. In case, if the petitioners comply with the condition of depositing Rs.5 lakhs within three weeks from today and file an appeal before the appellate Tribunal against the order dated 09.07.2019, the said appeal shall be entertained without reference to the period of limitation prescribed under the provision of the ESI Act. In case, if the petitioners fail to comply with the requirement of depositing Rs.5 lakhs within three weeks from today, the respondents 1 and 2 are at liberty to take all necessary steps for recovery of the dues in accordance with law. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

26.03.2025

Neutral Citation: Yes / No
Index : Yes / No
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MUMMINENI SUDHEER KUMAR, J.

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