

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.07.2025

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.16061 of 2025
and
W.M.P(MD)No.12149 of 2025

M/s.Pee Yes Omega Fabs,
Rep. by Proprietor,
Mr.Subramanian

...Petitioner

Vs

1.The Deputy Director,
Sub-Regional Office (Salem),
39/57, Theerthamalai Vaniga Valagam,
Three Roads, Salem - 636 009.

2.The Recovery Officer,
ESI Corporation, Salem.

3.The Branch Manager,
ESI Corporation,
No.492, Jawahar Bazaar,
2nd Floor, Opp. to Head Post Office,
Karur - 639 001.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a **Writ of Certiorari**, to call for the records relating to the order of the 1st respondent dated 31.01.2023 made in No.63-00-095039-000-0199/INS-I/SRO/SLM/321/20, and consequential order passed by the 1st respondent dated 11.12.2024, made in No.63000950390000199/INS-I/SRO/SLM/C19, and quash the same as illegal, arbitrary and against law.



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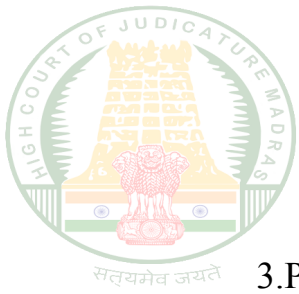
For Petitioner : Mr.N.Shanmuga Selvam
For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader
for R1
Mr.Pinaygash
Standing Counsel for R2 & R3

* * * * *

ORDER

The present writ petition has been filed by one Mr.Subramanian, who is the proprietor of Pee Yes Omega Fabs, challenging the order passed under Section 45-A of the E.S.I. Act, on 31.01.2023.

2.A perusal of the impugned order reveals that it has been passed as against one Omega Fab and not against the petitioner concerned. When the Court enquired about the same, the learned Counsel appearing for the petitioner has submitted that Omega Fab is owned by his wife Saraswathi and he has nothing to do with it. However, a copy of the impugned order has been marked to him. That apart, a summon has been issued to Mr.Subramanian, by the recovery officer under the Income Tax Act, on 14.05.2025. Therefore, the petitioner apprehends that for the 45-A order passed as against Omega Fab, which is owned by his wife, some proceedings are likely to be initiated against him.

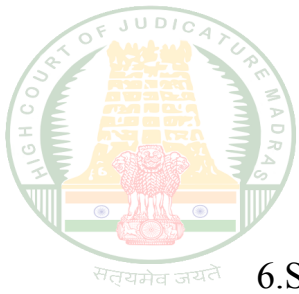


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3.Per contra, the learned Standing Counsel appearing for ESI Corporation has submitted that the husband has not co-operated by providing the bank details of Omega Fab or his wife. In such circumstances, proceedings have to be initiated as against the husband who is the proprietor of Pee Yes Omega Fabs. Only in such circumstances, a copy of the order under Section 45-A of the E.S.I. Act and summons were issued to him under the Income Tax Act.

4.I have considered the submissions made on either side and perused the materials available on record.

5.Admittedly, 45-A order has been passed as against Omega Fab which is owned by Saraswathi, who is the wife of Subramanian. No order under Section 45-A has been passed as against Pee Yes Omega Fabs, which is owned by Mr.Subramanian. In such circumstances, proceedings under the Income Tax Act cannot be initiated as against the writ petitioner concerned or Mr.Subramanian. The proprietor of the Omega Fab, namely, S.Sarawathi, has already preferred an appeal before the appellate Tribunal. By way of abundant caution, Mr.Subramanian has deposited a sum of Rs.50,000/-.



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6. Since the order impugned in the writ petition has already been challenged by the petitioner's wife before the appellate Tribunal, the validity of the said order has to be adjudicated upon by the tribunal. However, In view of the apprehension expressed by the petitioner, the respondent ESI Corporation is directed not to initiate any further proceedings as against the Pee Yes Omega Fabs/Mr.Subramanian.

7. With the above said observations, this Writ Petition stands disposed of. No costs. Consequently, connected Writ Miscellaneous Petition is also closed.

28.07.2025

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



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R.VIJAYAKUMAR, J.

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