



WP(MD)No.26682 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 23.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**WP(MD)No.26682 of 2022
and
WMP(MD)No.20872 of 2022**

M/s.Kanyakumari Medical Mission Hospital,
rep by its Medical Superintendent,
Dr.S.Rajesh Sathia,
Neyyoor Post,
Kanyakumari District.

... Petitioner

Vs

- 1.The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Labour and Employment Department,
Fort St.George, Chennai.
- 2.The Regional Director,
ESI Corporation,
143, Sterling Road,
Nungambakkam,
Chennai – 34.
- 3.The Deputy Director,
ESI Corporation,
Sub Regional Office,
Tirunelveli.



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4.The Assistant Director,
ESI Corporation,
Sub Regional Office,
Tirunelveli.

5.The Recovery Officer,
The Assistant Director,
ESI Corporation,
Sub Regional Office,
Tirunelveli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus calling for the records relating to the impugned order issued by the 4th respondent vide his proceedings in No.66-00-040864-000-1401/Ins/SRO/TLI/801/22 dated 18.10.2022 and quash the same as illegal and consequently direct the 1st respondent to consider the request of the petitioner for grant of exemption from the date of their application ie., 22.09.2014 in the light of the order made in WP.No.5202 of 2018, dated 29.03.2019 on the file of the Principal Seat of this Court within the time period that is stipulated by this Court.

For Petitioner : Mr.G.Sailendrababu
for Mr.Robert Bruce

For Respondent : Mr.C.Venkatesh Kumar,
No.1 Special Government Pleader
For Respondent : Mr.C.Karthick
Nos. 2 to 5



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ORDER

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The petitioner / a multi speciality hospital claims that they are having branches at various places in Kanyakumari district. They filed this writ petition as against the orders of the authorised officer of the ESI Corporation, Tirunelveli, authorising the recovery officer to initiate necessary recovery proceedings under Section 45 C to 45 I of the Employees State Insurance Act, as against the petitioner. The ESI corporation has already determined the liability of contribution in respect of the employees for the period from October 2014 to May 2015 and an order under Section 45A of the ESI Act was passed on 08.01.2019, calling upon this petitioner to pay a sum of Rs.11,36,161/-. The petitioner neither paid the amount as directed nor challenged the said order. Therefore, consequential proceedings for recovery of the said amount was initiated under Section 45 C to 45 I of the ESI Act and the same is challenged in this writ petition.

2.The learned counsel for the petitioner submits that the petitioner establishment is a multi speciality hospital and they are providing better



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treatment than the ESI corporation and therefore, the petitioner establishment has been exempted from ESI coverage under Section 87 read with 91-A of the ESI Act vide GO(D)No.175, Labour and Employment (L1) Department dated 07.05.2015. However, they have recovered for the period from 08.05.2015 to 07.05.2016. Therefore, the petitioner has filed WP(MD)No.5202 of 2018 seeking a declaration to declare that exemption granted to the petitioner establishment vide GO(MD)No.175, dated 07.05.2015 also holds good from 03.04.2014 and for the consequential demand notice. This court by its order dated 29.03.2019 disposed of the writ petition with a direction to consider the application of the petitioner from the date of their application dated 22.09.2014 and the same according to the petitioner is still pending with the government. Therefore, according to the learned counsel for the petitioner, the recovery for this period is not proper, when the issue is pending before the government.

3.This court considered the rival submissions made and perused the materials placed on record.



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4. Though the petitioner was granted exemption vide GO(MD)No.175, dated 07.05.2015, this exemption was granted only for a period of one year from 08.05.2015 to 07.05.2016. The exemption was also granted to the petitioner establishment for the subsequent years. However the petitioner was not having any exemption for the period from June 2013 to September 2014. Therefore, the ESI corporation after issuing show cause notice has passed an order under Section 45A of the ESI Act and arrived at the contribution liable to be paid by the petitioner by order dated 08.01.2019. This order impugned in this writ petition is a consequential order passed by the ESIC corporation pursuant to the earlier order passed under Section 45A of the ESI Act, dated 08.01.2019. The petitioner has not challenged the order passed under Section 45A of the ESI Act and therefore, this court is not inclined to entertain this writ petition. Accordingly, this writ petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

23.10.2025

Internet : Yes / No

DSK



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B.PUGALENDHI, J.

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