APHC010589392026

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)

THURSDAY, THE 5th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

WRIT PETITION NO: 32305 OF 2026

Between:

1. Suroj Buildcon Private Limited, a company incorporated under the Companies Act, 1956 (CIN U45200PN2013PTC147062), having its registered office at Bungalow No. 3, Liberty Society, Phase-1, North Main Road, Koregaon Park, Pune-411 001, Maharashtra, rep. by its Authorised Signatory, Mr. P. Nageshwar Reddy, Assistant Manager- HR and Admin.

...Petitioner

AND

1. The Deputy Director MEC Branch, Employees State Insurance Corporation, Regional Office- Andhra Pradesh, Panchdeep Bhawan, ESIC Road, Gunadala Vijayawada- 520 004.

2. Employees State Insurance Corporation, Rep. by its Regional Director, Regional Office- Andhra Pradesh, Panchdeep Bhawan, ESIC Road, Gunadala Vijayawada- 520 004.

3. The Revenue Recovery Officer, Employees' State Insurance Corporation, Regional Office- Andhra Pradesh, Panchdeep Bhawan, ESIC Road, Gunadala Vijayawada- 520 004.

4. Canara Bank, Rep. by its Branch Manager, Pune Koregaon Park Branch, Madhuban Building, S.No. 31, Lane No. 5, North Main Road, Koregaon Park, Pune- 411 001, Maharashtra.

5. Bank of Baroda, Rep. by its Branch Manager, Mid Corporate Pune Branch (Code MIDPNE), S.No. 19/15, Erandwane, M.T. Khilade Marg, Off Karve Road, Pune-411 004, Maharashtra.

...Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ Order or Direction more particularly one in the nature of a Writ of Mandamus a declaring the action of the 1 st Respondent in passing the Order No MECN06233046249001100979202611 50 dated 09072026 5 under Section 125 of the Code on Social Security 2020 Section 45A of the Employees State Insurance Act 1948 and the consequential action of the 3rd Respondent in issuing the orders under Section 45G of the Employees State Insurance Act 1948 both bearing No APROAJARROQ 62330462490011009 dated 26.10.2026 i to the 4th Respondent and ii to the 5th Respondent as illegal arbitrary without jurisdiction passed in violation of the principles of natural justice and violative of Articles 14 191g and 300A of the Constitution of India consequently setting aside the said impugned Order No MECN06233046249001100979202611 50 dated 09.07.2026 passed by the 1 st Respondent and the said orders under Section 45G of the Employees State Insurance Act 1948 both bearing No. APROAJARROQ62330462490011009 dated 26.10.2026 issued by the 3rd Respondent to the 4th Respondent and the 5th Respondent and consequently restraining the 1st to 3rd Respondents from issuing any further orders under Section 45G of the Employees State Insurance Act 1948 or initiating any other coercive recovery proceedings against the accounts of the Petitioner with any other bank or financial institution on the basis of the said Order dated 09072026 consequently directing that the Petitioner is not liable to pay or make any contribution under Employer Code No 62330462490011009 for the period from December 2022 to September 2025 pass

IA NO: 1 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of the Order No. MEC/N0:623304624900110 09/7920261150dated 09.07.2026 passed by the 1st Respondent; and the consequential attachment orders under Section 45-G of the Employees' State Insurance Act, 1948, both bearing No. AP/ROA/JA/RRO/Q/62330462490011009 dated 26.10.2026, issued by the 3rd Respondent to the 4th Respondent and to the 5th Respondent, and all further proceedings pursuant thereto, and restrain the 1st to 3rd Respondents from issuing any further orders under Section 45-G of the Employees' State Insurance Act, 1948, or initiating any other coercive recovery proceedings, against the accounts of the Petitioner with any other bank or financial institution, pending disposal of the Writ Petition, and pass

Counsel for the Petitioner: G V S GANESH

Counsel for the Respondents: S SIVA KUMARI

Counsel for the Respondents:

The Court made the following order:

Challenging the order No.MEC/NO:62330462490011009/7920261150 dated 09.07.2026 under Section 125 of the Code on Social Security, 2020/Section 45-A of the Employees' State Insurance Act, 1948 and the consequential action of respondent No.3 in issuing the orders under Section 45-G of the Employees' State Insurance Act, 1948 dated 26.10.2026 (i) to respondent No.4 and (ii) to respondent No.5, the present Writ Petition has been filed.

2. Heard Sri Tagore Yadav, learned counsel, representing Sri G.V.S.Ganesh, learned counsel for the petitioner and Smt S.Siva Kumari, learned standing counsel for the Employees' State Insurance Corporation appearing for respondent Nos.1 to 3.

3. Learned counsel for the petitioner, in elaboration to what has been stated in the writ affidavit, contended that the petitioner had paid contributions up to November 2022 and that no employees were engaged at the site thereafter. Respondent No.1, by letter dated 04.09.2025, informed the petitioner of the non-filing and non-payment of contributions from December 2022. Subsequently, a show-cause notice dated 07.11.2025 was issued under Section 45-A of the ESI Act, proposing to determine contributions of Rs.66,28,776/- for the period from December 2022 to September 2025, to which the petitioner submitted its reply dated 06.12.2025. Thereafter, respondent No.1, by letters dated 10.12.2025 and 04.02.2026, fixed hearings

on 30.12.2025 and 26.02.2026, respectively, and called for relevant documents. The petitioner furnished the documents by email dated 22.06.2026. He further contended that, despite furnishing the required documents, respondent No.1, by the impugned order dated 09.07.2026, confirmed the entire proposed contribution of Rs.66,28,776/- on the ground that Form 24AS, the work termination/completion letter and salary ledgers had not been submitted. Consequently, respondent No.3 issued separate recovery orders under Section 45-G of the ESI Act to respondent Nos.4 and 5. He further contended that the petitioner, being a construction agency, was not liable to pay ESI contributions in respect of construction site workers, as the extension of the ESI Scheme to such workers had been stayed by the Hon'ble Supreme Court by order dated 06.07.2018 in SLP(C) No.13351 of 2018. He further submitted that the impugned order was passed without considering the material furnished by the petitioner and without affording an effective opportunity of hearing, in violation of the principles of natural justice. Hence, prayed to set aside the impugned order dated 09.07.2026 passed by respondent No.1 and the consequential orders dated 26.10.2026 passed by respondent No.3.

4. On the other hand, learned Standing Counsel appearing for respondent Nos.1 to 3 submitted that the petitioner, without availing the efficacious alternative remedy of appeal available under Section 45-AA of the ESI Act, 1948, before the competent appellate authority, had approached this Court. Hence, prayed to dismiss the Writ Petition.

5. Having considered the submissions made by learned counsel on either side and on perusal of the material available on record, it is evident that the petitioner has an alternative remedy of appeal against the impugned order before the appropriate forum/authority.

6. The main grievance of the petitioner is that despite furnishing the requisite documents, which were duly acknowledged by the respondents, respondent No.1 failed to consider the same and proceeded on the ground that the petitioner had not submitted any documents. Whether the documents furnished by the petitioner were duly received and considered while passing the impugned order, can appropriately be examined by the appellate authority. The mere allegation that the documents were not considered does not, by itself, warrant bypassing the statutory appellate remedy, particularly when the petitioner has an efficacious remedy available under the Act.

7. In view of the availability of an efficacious alternative remedy, this Court, without expressing any opinion on the merits of the case, is inclined to dispose of the writ petition with the following directions:

> The petitioner is at liberty to avail the remedy of appeal under the ESI Act, 1948, within a period of two (2) weeks from the date of receipt of a copy of this order. If such an appeal is filed within the stipulated period, the appellate authority shall consider the same on its own merits, duly taking into consideration the documents and material furnished by the petitioner, and pass

appropriate orders in accordance with law, after affording an opportunity of hearing to both parties. Till two weeks granted by this Court for prefering the appeal, the respondents shall not take any coercive steps for recovery of the amount pursuant to the impugned order.

8. Accordingly, he Writ Petition is disposed of. There shall be no order as to costs.

As a sequel, miscellaneous petitions pending, if any in the Writ Petition, shall stand closed.

JUSTICE RAVI CHEEMALAPATI

Dated: 05.11.2026

C.C today

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THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

WRIT PETITION NO: 32305 OF 2026

Date: 05.11.2026

C.C today

MP