



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-01-2026

CORAM

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WP No. 20534 of 2025

and

WMP Nos.23178, 23179 & 23180 of 2025

McWane India Private Limited,
Represented by its Director,
Mr.Jaison M.Sudhar,
Registered Office and Factory at: 483, Kamaraj Road,
Uppilipalayam Post, Coimbatore - 641 015, India,
Office and Factory at:
B-100, 300-EMC, 3rd Cross,
Sri City, Andhra Pradesh - 517 646, India.

Petitioner

Vs

1. The Recovery Officer,
Sub Regional Office (SRO Coimbatore),
Employees' State Insurance Corporation,
Sub Regional Office (SRO), 1897,
Trichy Road, Panchdeep Bhawan,
Ramanathapuram, Coimbatore - 641 045,
Tamil Nadu.

2.The Deputy Director,
Employees' State Insurance Corporation,
Sub Regional Office (SRO), 1897,
Trichy Road, Panchdeep Bhawan, Ramanathapuram,
Coimbatore – 641 045, Tamil Nadu.

3.Authorised Officer,
Employees' State Insurance Corporation,
Sub Regional Office(SRO), 1897, Trichy Road,
Panchdeep Bhawan, Ramanathapuram,
Coimbatore – 641045, Tamil Nadu.

4.The Regional Director,
Employees State Insurance Corporation,



ESI Corporation Regional Office,
Panchdeep Bhawan, 143,
Sterling Road, Nungambakkam,
Chennai - 600 034, Tamil Nadu.

5.JP Morgan Chase,
Represented by its Branch Manager,
'The Canopy', 2nd Avenue, 2nd Floor,
Mahindra World City Sub Post,
Paranur, Kanchipuram-641 018.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus, calling for the records of the first respondent contained in its Garnishee Order passed under section 45G of the Employee State Insurance Corporation Act, 1948, bearing Ref.No.CBE/RECY/56001155380000699, dated 28.05.2025 (hereinafter referred to as the "Garnishee order") and all proceedings and/or actions in consequence thereto and quash the same as arbitrary, unjust and illegal and consequently direct the first respondent to refund sum of Rs.61,10,983/- recovered from the fifth respondent in furtherance of the Garnishee Order back to the bank account maintained by the petitioner in the fifth respondent together with interest on the said sums.

For Petitioner: Mr.Arun Karthik Mohan

For Respondents: Ms.Shubharanjani Ananth for R1to R4

ORDER

A. The Writ Petition:

The writ petition is filed seeking a Certiorarified Mandamus, calling for the records on the file of the first respondent relating to the garnishee order passed under Section 45G of the Employee State Insurance Corporation Act,

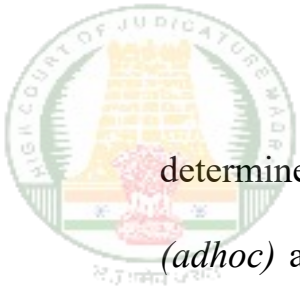


1948, bearing Ref.No. CBE/RECY/56001155380000699, dated 28.05.2025, to quash the same, and consequently to direct the first respondent to refund a sum of Rs.61,10,983/- recovered from the fifth respondent pursuant to the garnishee order back to the petitioner's bank account, together with interest on the said sum.

B. The Case of the Petitioner:

2. The case of the petitioner is that by an order dated 28.01.2020, assessment of the amount payable by the petitioner, towards contribution for the period from 01.01.2015 to 31.08.2019, was determined by the respondents as Rs.60,55,427/-. Respondents found that the employer had paid only a sum of Rs.7,01,437/-, and the balance payable was arrived at Rs.53,53,990/-. Aggrieved by the same, the petitioner filed an appeal under Section 45AA of the Employees' State Insurance Act, 1948(ESI Act). By order dated 27.04.2022, the appellate authority determined the total contribution for the said period from January 2015 to August 2019 as Rs.8,16,763/-. After considering the fact that the employer had already deposited a sum of Rs.5,60,000/-, the appellate authority directed that the balance of Rs.2,56,763/- be paid. The petitioner paid the same on 15.11.2022.

2.1 Thereafter, the authorities once again started recovery proceedings on the ground that even though the original order under Section 45A of the Act



determined the amount as Rs.53,53,990/-, the order was restricted to the *C.18 (ad hoc)* amount alone, as the show cause notice was issued only in respect of the *C.18 (ad hoc)* amount, that is, a sum of Rs.22,37,591/-. No notice was issued for the actual amount, that is, Rs.31,16,399/-. In view thereof, a second set of proceedings was initiated to again recover the balance sum payable, that is, Rs.31,16,399/-.

2.2 Aggrieved by the same, the petitioner filed W.P.No.22318 of 2024. The writ petition was disposed of by holding that the appellate authority's order was for the entire assessment. However, in the final paragraph, without quashing the recovery proceedings, the petitioner was directed to get a clarification from the appellate authority. The petitioner did not move the appellate authority for clarification, but instead moved the writ Court itself for clarification on the ground that the final paragraph was meant for the respondents and not for the petitioner and therefore contended that the reference to the petitioner was an error. However, the clarification petition in W.M.P.No.4040 of 2025 came to be disposed of by an order dated 20.02.2025. The clarification order mentioned that since the petitioner was clear that the appellate authority's order covered the entire amount, the petitioner need not file any clarification petition.



2.3 When the matter stood thus, once again the proceedings impugned in this writ petition, namely the garnishee order dated 28.05.2025, was passed, pursuant to which the money was recovered from the bank account and the petitioner is before this Court.

2.4 The learned counsel for the petitioner would submit that the issue has been finally determined by the appellate authority by way of the order under Section 45AA and thereafter by this Court in the earlier round of writ petition, and therefore the respondents are in error in issuing recovery proceedings once again.

C. The Respondents' case:

3. Per contra, the learned counsel appearing on behalf of the respondent authorities would submit that the appeal under Section 45AA could have been filed only against the determination made under Section 45A. It can be seen from the operative portion of the Section 45A order that the authorities ultimately restricted the same only with reference to the *ad hoc* amount and not with reference to the actuals. Therefore, any adjudication by the appellate authority can only relate to the *C.18 (ad hoc)* amount of Rs.22,37,591/- and cannot relate to the balance amount of Rs.31,16,399/-. To mean it for the entire amount will be beyond the jurisdiction and remit of the appellate authority.



3.1 In any event, when recovery proceedings were earlier initiated in respect of the balance sum of Rs.31,16,399/-, the petitioner approached this Court by way of the earlier writ petition in WP No.22318 of 2024. The prayer made was to quash the recovery order dated 18.06.2024. The petitioner was only given a limited relief to move a clarification petition. The petitioner did not choose to file any appeal against the Order. Thereby the recovery order became final.

3.2. The petitioner chose to move a clarification application before this Court. In the clarification petition, it was only observed that if the petitioner was very sure, he need not move the appellate authority. Therefore, on a reading of both the order passed in the writ petition as well as the clarification order, it can be seen that ultimately no relief was granted to the petitioner. Therefore, the said judgment binds the parties and the recovery order was not interfered with by this Court. The second round of proceedings challenging the further proceedings in the nature of a garnishee order is barred by the principles of *res judicata*, and therefore this writ petition is liable to be dismissed.

3.3 There is difference between the C.18 notice relating to the *ad hoc* payment and the C.18 notice with reference to the actuals. The learned counsel



relied upon the judgment of the Hon'ble Division Bench in Writ Appeal No.2171 of 2023 (*Deputy Director, Employees State Insurance Corporation and others versus the Management of SRTC Tech Solutions Pvt. Ltd.*), more specifically relying upon paragraphs 10 and 14 of the said judgment. Thus the petitioner was successful in canvassing only the C.18 (*adhoc*) amount before the appellate authority. The respondents are very much at liberty to claim the C.18 actuals and the earlier appellate order will not in any manner govern the same.

D. Discussion & Findings:

4. I have considered the rival submissions made on either side and perused the material records of the case.

4.1 In this case, for the period from January 2015 to August 2019, an order under Section 45A was passed on 28.01.2020, and the relevant portions are extracted hereunder for ready reference:-

“Wages for the coverable employees as per the statement submitted by the employer for the period 01/2015 to 03/2015 and from 04/2018 to 08/2019 is as follows.

01/2015 to 03/2015	: Rs. 213215
04/2018 to 03/2019	: Rs. 3041869
04/2019 to 08/2019	: Rs. 582905
Total:	----- 3837989 -----



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So the total wages involved is Rs.82447082 + 3837989 + 3857136 + 3018202= Rs.93160409/-and the Contribution payable by the employer is Rs.6055427/-. Whereas the employer has paid Rs.701437/- for the period from 01/2015 to 08/2019. So the balance payable is Rs. 5353990/-

So the contribution payable is determined as Rs.5353990/- for the period from 01.01.2015 to 31.08.2019. The assessment of contribution made is fair, reasonable, legal and according to law. However, since the adhoc claim is issued for an amount of Rs.2237591/-, 45 A order is restricted to C.18(adhoc) amount and for the balance amount a separate C.18 (Actual) claim for Rs.3116399/- is being issued.

For the above reasons, I.V.Md.ABDUL KAREEM DEPUTY DIRECTOR in exercise of the powers delegated to me by the ESI Corporation think fit and accordingly order that the contribution totaling to Rs.2237591/- (Rupees twenty two lakhs thirty seven thousand five hundred and ninety one only) for the period from 01.01.2015 to 31.08.2019 are finally determined and Shri Kavithamani, is hereby ordered to pay the amount within a period of 60 days from the date of this order failing which this shall be caused to be recovered under Section 45-C to 45-I of the ESI Act, through the recovery process.

This order is issued without prejudice to the right of the corporation to claim additional contribution if any detected as a result further verification of the employer's records for the above period under Sec 45(4) of the ESI Act and Regulation 102 of the ESI (General) Regulations 1950.



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Under Section 45-AA of the ESI Act 1948, if an employer is not satisfied with the order referred to in Section 45-A, he may prefer an appeal to an appellate authority as provided under Regulation 31-D within sixty days of the date of such order after depositing twenty five percent of the contribution so ordered or the contribution as per his own calculation whichever is higher with the corporation.”

4.2 Thus, it can be seen that the order determined the liability for the period January 2015 to August 2019, and the total liability determined was Rs.60,55,427/-. It categorically mentioned that the assessment of contribution was fair, reasonable and in accordance with law. However, since the show cause notice was issued only with reference to the ad hoc claim of Rs.22,37,591/-, the Section 45A order was restricted to the *ad hoc* amount and for the balance amount, a separate claim was stated to be issued. It is to be noted that thereafter the authorities issued a communication dated 28.01.2020, and it is essential to extract paragraph No.2 of the said order which reads as under:-

2. It is regretted that you have so far not paid the contribution as per provision of law for the period (s) given below/and as pointed out in this office/insurance inspectors.

S.No.	Month & year	Defaulting Amount
01	45-A Order assessed period 01/2015 to 08/2019	53,53,990(Assessed amount)
02	Amount claimed vide 45-A order dated 28.01.2020	22,37,591
	Balance Payable	31,16,399/-



4.3 It is also essential to note the first paragraph of the appellate authority's order, which starts as if it is considering the contribution ordered to be paid, namely the sum of Rs.22,37,591/- which is extracted here under:-

“M/s.McWane India Private Limited an establishment situated at 483, Kamarajar Road, Uppilipalayam, Coimbatore – 641 015 and registered under the ESI Act, 1948, under code No.56-00-115538-000-0699 were ordered to pay contribution of Rs.22,37,591/- on the wages paid for the period from 01/2015 to 08/2019 as determined by order under Section 45-A of the Act, passed on 28.01.2020.”

The paragraph No. 4 of the same order is reads thus:-

“4. I have entrusted the case to Social Security Officer at ESI Corporation to verify the records including Attendance Register, Wages Register, Ledgers, Books of Accounts, Bills and Vouchers are to be verified in detail to assess the contribution on actual basis and to submit a detailed report. The following details of the report are appended.”

4.4 Even the calculation was made by way of a tabular column for each year from 2015–2016 to 2017–2018 and it can be seen that the total salaries for each year were taken into account and at the end of the calculation, the following finding was arrived at:-

“Hence the total amount of contribution due for the period from 01/2015 to 08/2019 is Rs.8,16,763/-”

and the following is the operating portion of the order:-



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“6. In view of the above, after careful consideration of all the facts and verification of the records of the Social Security Officer of this office, it is hereby confirmed that a sum of ₹.8,16,763/- (Rupees Eight lakhs sixteen thousand seven hundred and sixty three only) is statutorily due as contribution and payable by the employer for the period from 01/2015 to 08/2019. The amount of contribution determined works out which is fair, reasonable and according to law.

7. The employer has already deposited the 25% of ordered amount i.e., Rs.5,60,000/-the same may be adjusted with the determined contribution of ₹. 8,16,763/- and thus the balance amount of contribution of Rs.2,56,763/- (Rupees Two lakhs fifty six thousand seven hundred and sixty three only) is finally payable by employer. The appeal of appellant is disposed off with the above mentioned directions. No further appeal or correspondence will be entertained in this regard.”

4.5 Thus, leaving out the form, in substantially what was decided was the appeal against the contribution totally assessed as Rs.60,55,427/-. A careful perusal of the appellate Order does not read as if it is confined only to C-18-Adhoc claim alone, but in respect of the amount including actual also. Further, when recovery proceedings were initiated, challenging the recovery order dated 18.06.2024, the petitioner filed W.P.No.22318 of 2024. The writ petition was disposed of by an order dated 17.10.2024. It is essential to extract paragraphs 4 to 6 of the said order:-

“4. The grounds of appeal filed by the petitioner does not appear that the appeal is only in respect of the adhoc so ordered to be paid by the appropriate authority. In fact, in the order passed under



Section 45-AA, it has been specifically stated that a sum of Rs.2,56,763/- is finally payable by the employer. In the absence of any specific mention in the appeal order and that it pertains only to the adhoc payment, it cannot be presumed that the appeal order has been passed only as an interim measure in respect of adhoc payment and not for the entire assessment.

5. If the impugned order creates doubts in the minds of the petitioner that the order has been passed only in respect of the adhoc payment ordered to be paid, the petitioner ought to have filed a clarification petition to clarify the same before the appellate authority and get an order to that effect. Hence the petitioner is at liberty to file a clarification petition before the appellate authority and the appellate authority shall dispose the same within a period of four weeks from the date of receipt of such petition received from the petitioner.

6. With the above observations, this writ petition is disposed. No costs. Connected miscellaneous petitions are closed.”

4.6 Thus, it is clear that in paragraph No.4 of the order, this Court has categorically given a finding that the appellate authority's order was in respect of the entire assessment. However, in paragraph No.5, the relief granted was to seek clarification before the appellate authority. When the petitioner again moved W.M.P. No.4040 of 2025, the following order was passed:-

This petition is filed to clarify the observation/directions in para No.5 of the order in so far as the use of the word petitioner instead of respondent has inadvertently crept in the order dated 17.10.2024 in WP.No.22318 of 2024.



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2. *The learned counsel for the petitioner who has filed this clarification petition submitted that the appellate authority's order is very much clear and the petitioner does not require any clarification. It is only the respondent who has raised doubts about the order of the appellate authority. The concluding order passed in the writ petition in W.P.No.22318 of 2024, dated 17.10.2024 is as under:*

"5. If the impugned order creates doubts in the minds of the petitioner that the order has been passed only in respect of the adhoc payment ordered to be paid, the petitioner ought to have filed a clarification petition to clarify the same before the appellate authority and get an order to that effect. Hence, the petitioner is at liberty to file a clarification petition before the appellate authority and the appellate authority shall dispose the same within a period of four weeks from the date of receipt of such petition received from the petitioner."

3. *So the clarification needs to be made by the petitioner only if the petitioner gets any doubt as to the orders passed by the appellate authority. The petitioner is very much clear about the orders, there is no obligation caused on the petitioner to file any clarification petition before the appellate authority. Since the order passed by this order is very clear, it does not require any further clarification. Hence, this miscellaneous petition is closed.*

4.7 Thereafter, the present garnishee order was passed. When by the proceedings, it can be seen that both sides have contributed to the procedural uncertainties in the appeal, in the earlier round of litigation, etc., this Court in exercise of the jurisdiction under Article 226 has to take an approach of prioritising substantial rights over formal objections and technicalities. The original authority under the ESI Act, after going through the actuals as well as



the *ad hoc* claim, ultimately decided the total contribution payable for the period from January 2015 to August 2019. The appellate authority also similarly decided the total contribution, which included the actuals and was not restricted to the *ad hoc* claim alone and it determined the entire amount payable for the said period. Therefore, essentially the contribution stood finally determined at a total sum of Rs.8,16,763/- and not at Rs.60,55,427/-. Both parties will also be governed by the determination in the earlier writ petition in WP No.22318 of 2024 that the appellate authority's order pertained to the entire assessment. Even though the relief of quashing the recovery order was not granted, it is not as if the relief was refused to the petitioner on merits. Therefore, when the petitioner was directed to get clarification and thereafter it was decided that the petitioner need not file any clarification petition, it cannot be said that the issue was decided against the petitioner on merits so as to hold that the subsequent writ petition challenging the further order is barred by *res judicata*. The rights of the parties determined by the earlier order are that the appellate authority's order relates to the total determination in respect of the period and not only to the *ad hoc* determination alone.

4.8 In that view of the matter, though the issue of the garnishee order cannot seen as in contempt of the earlier order as finally no relief is given, but still on a careful consideration of the order of the appellate authority as well as



the earlier order of this Court, it can be seen that the petitioner is not liable to pay any further sum. As such, the relief sought has to be granted to the petitioner.

E. The Result:

5. In view thereof, the writ petition is ***allowed*** on the following terms:

(i) The impugned garnishee order bearing Ref.No.CBE/RECY/56001155380000699, dated 28.05.2025 stands quashed and the amount, if any, recovered from the account shall be refunded to the petitioner, however, without interest.

(ii) The said exercise shall be carried out within a period of three weeks from the date of receipt of a web copy of this order, without waiting for the certified copy.

(iii) Consequently, connected miscellaneous petitions are closed. No costs.

08-01-2026

Neutral Citation:Yes

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To

1. The Recovery Officer,
Sub Regional Office (SRO Coimbatore),
Employees' State Insurance Corporation,
Sub Regional Office (SRO), 1897,
Trichy Road, Panchdeep Bhawan,
Ramanathapuram, Coimbatore - 641 045,
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