WEB COPY

Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2026

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.23310 of 2025
and
W.M.P.Nos.26185, 26187 & 26188 of 2025
CNR: {HCMA011307802025}

M/s.Emayam Screen Printing
(A partnership dissolved with effect from 31.03.2013)
Represented by its Partner Mr.A.Saffiulla
No.1/1265E, Selvalakshmi Nagar, K.Chettipalayam,
Ayyampalayam Road, Verrapandi,
Tirupur – 641605. ... Petitioner

Vs.

1. Recovery Officer,
   Office of the Employees' State Insurance Corporation
   No.1897, Trichy Road
   Ramanathapuram, Coimbatore.

2. The Deputy Director of ESIC,
   Sub-Regional Office
   Employee's State Insurance Corporation
   No.1897, Trichy Road,
   Ramanathapuram, Coimbatore.

3. The Branch Manager,
   ICICI Bank,
   Tirupur Dharapuram Road Branch
   Eveready Complex, S.F.No.692/2B2, 2B3 & 2B5,
   Dharapuram Road, Pudhur Pirvu,
   Tirupur – 641604. ... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, for

https://www.mhc.tn.gov.in/judis

WEB COPY

issuance of a Writ of Certiorari, calling for the impugned Prohibitory order passed by the first respondent in No.CBE/RECY/CP-4/56001026510000199 dated 08.05.2025 addressed to the third respondent and quash the same as passed contrary to the provisions of the ESI Act, 1948 and also issued in contrary of the principles of natural justice.

For Petitioner : Mr.Samuel Rupesh Rajkumar

For R1 & R2 : No Appearance

For R3 : Mr.V.Adhivarahan

ORDER

This Writ Petition has been filed challenging the impugned Prohibitory Order dated 08.05.2025, bearing Reference No.CBE/RECY/CP-4/56001026510000199 issued by the 1st Respondent / Recovery Officer.

2. By the impugned order, a sum of Rs.5,24,438/-, together with interest thereon at 12% per annum, is sought to be recovered from the petitioner, pursuant to a determination made under Section 45A of the Employees' State Insurance Act, 1948, dated 01.12.2017, for the period from April 2013 to November 2016.

3. The said determination under Section 45A was made in the absence of the petitioner's participation in the personal hearing, which had been

https://www.mhc.tn.gov.in/judis

WEB COPY

scheduled pursuant to a notice issued on 16.01.2017, although the petitioner had replied to the same on 15.02.2017.

4. The case of the petitioner is that the petitioner is a partnership concern and in view of the partnership dissolution deed executed among three partners on 12th July 2013, the partnership firm had been dissolved with effect from 31.03.2013. The learned counsel for the petitioner fairly concedes that after the dissolution of the partnership firm, no intimation was given to the appropriate authorities under the provisions of the Employees' State Insurance Act, 1948.

5. On the other hand, the learned counsel for the 3rd respondent drew attention to the counter-affidavit filed in defense of this writ petition. A reference was also made to the typed set of papers filed along with the counter-affidavit to substantiate that a notice dated 16.01.2017 had indeed been served, to which the petitioner had also replied; therefore, the determination was made under Section 45A of the Employees' State Insurance Act, 1948, on 01.12.2017.

6. It is submitted that no appeal was filed against the determination made under section 45A of the Employees' State Insurance Act, 1948, before the appellate tribunal under Section 45AA of the aforesaid Act, within the

https://www.mhc.tn.gov.in/judis

WEB COPY

limitation period prescribed therein. It is therefore submitted that the attempt of the petitioner to bypass the statutory remedy, long after the expiry of the limitation period to challenge the impugned prohibitory order, does not deserve interference.

7. The learned counsel for the 3rd respondent would submit that the 3rd respondent is merely a proper party, as the accounts of the firm were maintained with the 3rd respondent, which stood in the name of the individual, namely A. Saffiulla.

8. Having considered the submissions made by the learned counsel for the petitioner and the learned counsel for the 3rd respondent, and having perused the provisions of the Employees' State Insurance Act, 1948, and the ESI (Central) Rules, 1950, and considering the scheme of the Act, I am of the view that the impugned recovery prohibitory order issued under Section 45G and 45H of the Act, read with the Second Schedule to the Income Tax Act, 1961, and the rules made thereunder, normally would not deserve interference. This is because the petitioner had an effective and alternative remedy against the determination made under Section 45A on 01.12.2017, and an appeal under Section 45AA of the Act should have been preferred within 60 days from the date of the order.

https://www.mhc.tn.gov.in/judis

WEB COPY

9. It is the case of the petitioner that the determination order dated 01.12.2017 was not received by them. However, the determination was made after considering the petitioner's reply dated 15.02.2017 to the notice dated 16.01.2017. At best, the petitioner may have a case on appeal, subject to establishing it before the appellate forum. However, as of today, the limitation period prescribed under the Act has already expired.

10. Balancing the interests of both the petitioner and the respondents, and considering the amount involved as determined on 01.12.2017 under Section 45A of the Act, I am inclined to dispose of this writ petition by granting liberty to the petitioner to file an appeal before the appellate tribunal under Section 45AA within a period of 30 days from the date of receipt of a copy of this order, subject to a pre-deposit of 50% of the demand made in the impugned order.

11. In the event that the petitioner complies with the above stipulations and files the appeal within the specified time, the appellate authority shall dispose of the same on its merits without reference to limitation.

12. Accordingly, this writ petition stands disposed of. No costs.

https://www.mhc.tn.gov.in/judis

WEB COPY

Connected miscellaneous petitions are closed.

27.10.2026

raja

Neutral Citation : Yes / No

To

1. The Recovery Officer,
   Office of the Employees' State Insurance Corporation
   No.1897, Trichy Road
   Ramanathapuram, Coimbatore.

2. The Deputy Director of ESIC,
   Sub-Regional Office
   Employee's State Insurance Corporation
   No.1897, Trichy Road,
   Ramanathapuram, Coimbatore.

https://www.mhc.tn.gov.in/judis

WEB COPY

C.SARAVANAN, J.

raja

https://www.mhc.tn.gov.in/judis

WEB COPY

W.P.No.23310 of 2025

27.10.2026

https://www.mhc.tn.gov.in/judis