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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-10-2026

CORAM

THE HON'BLE MR JUSTICE C. SARAVANAN

WP Nos. 5057 & 5063 of 2026
and WMP.Nos.5620, 5626, 5627 & 5618 of 2026

CNR: {HCMA010309752026}

Case QR

Karvy Data Management Services Limited
Having its Registered office at
Varun Towers, 3rd Floor, Survey No.115/P, IT Park Nanakramguda, Financial District, Hyderabad-500 032
Rep. by its Authorized Representative H.Senthil Kumar

..Petitioner(s)
in both writ petitions

Vs

1. Employees State Insurance Corporation
   Regional Office-Chennai,
   ESI Corporation, 143, sterling Road,
   Nungambakkam, Chennai-600 034.

2. The Recovery Officer
   Regional Office-Chennai,
   ESI Corporation, 143, sterling Road,
   Nungambakkam, Chennai-600 034.

3. The Director General
   Employees State Insurance Corporation,
   Panchdeep Bhawan,
   New Delhi-110 002

..Respondent(s)
in both writ petitions

Prayer in W.P.No.5057 of 2026: Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to call for the records relating to the impugned order bearing Memo No. TN/ INS-VII/ 51-52- 029929-

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001-1001/ 102820251511 dated 02.11.2025 issued by the 1st respondent under section 85-B of the E.S.I. Act 1948 and thereby call for the records relating to the impugned Letter Memo No. TN/ INS-VII/ 51-52- 029929- 001-1001/ 102820251454 and Impugned Letter Memo No. TN/ INS-VII/ 51-52- 029929-001-1001/ 102820251448 dated 04.11.2025 issued by the 1st respondent to the 2nd respondent and consequently quash the same

Prayer in W.P.No.5063 of 2026: Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to call for the records relating to the impugned attachment order bearing Memo No.TN/RECY/45G/5152029920011001/CCR No.120526-128527 dated 14.01.2026 issued by the 2nd respondent and consequently quash the same.

For Petitioner(s): Ms.Anila R
for M/s.Deepika Murali
in both writ petitions

For Respondent(s): M/S. DWARAKESH PRABHAKARAN
in both writ petitions

COMMON ORDER

These two writ petitions are being disposed of after dispensing with the counter as no disputed questions of fact arise for consideration. In these writ petitions, the petitioner has challenged the respective orders passed by the 1st and 2nd respondents as detailed below:

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W.P. Nos	Impugned Orders	Date	Issued by
5057 of 2026	Impugned order bearing Memo No. TN/ INS-VII/ 51-52- 029929- 001-1001/ 102820251511	02.11.2025	1st respondent
	Impugned Letter Memo No. TN/ INS-VII/ 51-52- 029929- 001-1001/ 102820251454 and Impugned Letter Memo No. TN/ INS-VII/ 51-52- 029929- 001-1001/ 102820251448	04.11.2025	1st respondent to the 2nd respondent
5063 of 2026	Memo No.TN/RECY/45G/5152029920011001/CC R No.120526-128527	14.01.2026	2nd respondent

2. The impugned orders have been issued to implement the order passed under Section 85-B towards damages, contribution under Section 45-A of the ESI Act, and interest under Section 39 (5) of the ESI Act, 1948. The dispute in these orders pertain to the period between February 2011 – September 2024. The relevant portion of the impugned order is extracted as below:-

> ***" For the above reasons, I. Dy.Asst.Director, in exercise of the powers delegated to me for levy of Damages under Sec.85 (B) of the ESI Act, think fit and accordingly order that damages amounting to Rs.2989/- (Rupees Two Thousand Nine Hundred Eighty – Nine Only) for the wage periods from 01.02.2011 to 30.09.2024 be imposed and you as a Principal Employer are hereby ordered to pay the said damages within a period of 30 days from the date of this order, under intimation to this office failing which this shall caused to be recovered***

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under the provisions of Sec.45-C to 45-I of the Act."

3. There is no dispute that the petitioner company was proceeded under the provisions of the Insolvency & Bankruptcy Code, 2016 (IBC) and Corporate Insolvency Resolution Process was initiated on 15.09.2023 and a Resolution Plan was approved by the National Company Law Tribunal on 13.12.2024 under Section 31 of IBC, 2016.

4. As there is no dispute that part of the demand is for the period prior to CIRP proceedings, the demand of Rs.19,50,201 towards ESI contribution under Section 39 of the ESI Act and the consequential interest under Section 39 (5) for a sum of Rs.13,63,817/- is unsustainable.

5. In other words the total demand of Rs.33,14,018/- (Rs.19,50,201/- + Rs.13,63,817/-) towards the contribution and interest under Section 39 for the period prior to CIRP proceedings has to abate, in the light of Section 53 of the IBC, 2016 and in terms of ratio laid down by the Hon'ble Supreme Court in the case of ***Ghanashyam Mishra & Sons Private Limited Vs Edelweiss Asset Reconstruction Company Limited and others*** reported in ***2021 (9) SCC 657.***

6. The part of the demand towards damages under Section 85-B and interest under Section 39 (5) have been confirmed by the order dated

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02.11.2025 and 04.11.2025 for a sum of Rs.2989/- and Rs.7063/- respectively, is also partly prior to the CIRP and partly towards the period thereafter.

7. According to the learned counsel for the petitioner, the impugned order pertains to period commencing from 01.02.2011 onwards, which are far beyond the period permissible under the second proviso to Section 45-A

8. A specific reference is made to the limitation under Section 45-A as per which no order shall be passed by the respondent Corporation in respect of the period beyond 5 years from the date on which contribution shall be payable.

9. On the other hand it is the contention of the learned counsel for the respondents that there is no limitation under Section 85-B for levy of damages. The learned counsel for the respondents in this connection has placed reliance of the decision of the Hon'ble Supreme Court in the case of ***ESIC Vs C.C.SanthaKumar*** reported in ***(2007) 1 SCC 584***.

10. It is submitted that in view of the above there can be no limitation as far as the levy of damages under Section 85-B of the said Act. It is further submitted that once the contribution is due and determined, interest has to be paid automatically and liability cannot be avoided.

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11. Having considered the submissions of the learned counsel for the petitioner and the learned counsel for the respondents and taking note of the fact that the amount involved insofar as the damages under Section 85-B of the said Act, for a sum of Rs.2989/- and interest under Section 39(5) for the period mentioned above for a sum of Rs.7360/- being meagre, I am inclined to dispose of these writ petitions by holding that the recovery of amounts due for the pre-CIRP period is unsustainable in view of the limitation under Section 53 of the IBC, 2016 and in the light of the ratio laid down by the Hon'ble Supreme Court in the case of ***Ghanashyam Mishra*** referred supra**.**

12. As far as the payment of damages and interest for the period post-CIRP is concerned, the respondents are directed to proceed against the petitioner only after quantifying the amount due for the period post CIRP proceedings. The petitioner shall pay the same as and when such a demand is made.

13. With the above observation and directions these writ petitions are disposed of. No costs. Consequently connected miscellaneous petitions are also closed.

26-10-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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C.SARAVANAN, J.

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