

HIGH COURT OF ANDHRA PRADESH::AT AMARAVATI

MAIN CASE No.W.P.No.9492 of 2026

PROCEEDING SHEET

Sl. No.	Date	ORDER	OFFICE NOTE
	28.04.2026	<u>MRK, J:</u> <u>I.A.No.1 of 2026</u> The learned counsel for the petitioner Sri N.V.Sumanth, submits that the petitioner established a bakery under the name and style of “M/s.Amigos Pizzeria”, at Plot No.494, Magunta Layout, Main Road, Nellore, in the year 2004 on rental basis from Smt.R.S.Reddy. The said establishment worked up to 31.03.2008 only. All the employees of the said establishment are duly relieved from work with effect from 31.03.2008. 2. He also submits that petitioner’s establishment obtained ESI code vide No. 6200000638000009 under the ESI Act, 1948(Act) and he has paid all statutory requirements also. 3. He further elaborates that after vacating the said premises by the petitioner on 31.03.2008, it seems that the owner of the said premises given the very same premises to another person, namely Vadla Suresh Kumar, wherein the said V. Suresh Kumar is operating similar bakery business under the name and style of “M/s.Amigos Pizzeria Inn”.	

		Contn... 4. He further submits that the said "M/s.Amigos Pizzeria Inn" (second establishment) is having a different PAN number and VAT registration as well as GST registration. So, according to him, both the establishments are different and distinct from each other. 5. Learned counsel states that on 08.09.2023, the 4th respondent passed orders U/s.45-G of ESI Act and the same was not served upon him. However, he came to know about the same through his banker. After coming to know about the notice dated 08.09.2023, he preferred written objection dated 29.09.2023 to 4th respondent through postal service by stating all factual aspects and also brought to the notice of 4th respondent that, he has not received any notice from the 2nd respondent Corporation Authorities. In proof of the same, he relied upon Ex.P2 and P3. 6. Counsel for the petitioner further asserts that after receiving the said explanation, the 4th respondent kept the same aside without taking any action. At last, after lapse of three years, the 4th respondent passed the impugned order dated 11.03.2026, where under the 4th respondent addressed a letter to the 5th respondent bank on 11.03.2026 directing the bank as a deemed Contd...	
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		Contn.... defaulter for an amount of Rs.7,42,500/- which includes cost for recovery and further interest up to 08.09.2023 under the provisions of the Act, the said proceedings are challenged in the instant lis. 7. Counsel for the petitioner primarily submits that the respondent authorities before passing the impugned order dated 11.03.2026 nor 08.09.2023 not issued any prior notice in terms of first proviso of Section 45-A of ESI Act, 1948. 8. The counsel also submits that the authorities have not passed any determination orders under Section 45-A of the Act, which is pre-requisite before initiating provisions under the Act. In the absence of determination of orders, all it's consequential proceedings are without jurisdiction. Added to that, he stressed the point that in the impugned order dated 11.03.2026 and 08.09.2023 of 4th respondent, the authorities have not referred about Section 45-A of determination orders. 9. He also asserted that the authorities proceedings for the alleged dues for the period 2008-18, which are time barred in terms of second proviso to Section 45-A(1) of the Act. 10. He also asserted several other grounds saying that there is no clarity in the impugned orders on the ground that said orders reveal account No.32 (or) Any Account With PAN No.AJWPK4257A (or) Any Account With PAN NO.ADHPV50826 (or) any account.	
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		Contn... 11. On the other hand, learned Standing Counsel Ms.S.Siva Kumari, who is appearing for E.S.I.Corporation submits that, in terms of the impugned notice dated 11.03.2026, the 5th respondent bank credited the amount to the ESI authorities. 12. The learned Standing Counsel for 5th Respondent bank seeks time to get comprehensive instructions in the lis. 13. As rightly contended by the petitioner's counsel the impugned order dated 11.03.2026 and the order dated 08.09.2023 of 4th respondent not referred about Section 45-A of determination orders. 14. In view of well settled principles in <i>Hem Kumar Gogoi Vs. Employees State Insurance Corporation and Others</i>¹, coupled with another facet in the lis, as no prior notice served on the petitioner before passing orders by the 4th respondent hit by violation of principles of natural justice as held in <i>Krishnadatt Awasthy Vs. State of Madhya Pradesh and others</i>², there shall be interim direction as prayed for, for a period of twelve (12) weeks. However, the respondents are hereby directed to file their comprehensive counters. Contd....	
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¹ (2017) 1 Gouhati Law Reports 137

² (2025) 7 SCC 545

Contn...

15. In the interest of justice, the petitioner is directed to implead "M/s.Amigos Pizzeria Inn", represented by its proprietor as party respondent.

16. Post after eight (08) weeks.

MRK,J

I.A.No.2 of 2026

Heard the learned counsel for the parties.

The 5th respondent is directed to unfreeze the savings account of the petitioner.

MRK,J

Rns

