MHIC310007002025

Presented on	: 19.12.2025
Registered on	: 19.12.2025
Decided on	: 15.06.2026
Duration	: 0Y 5M 26D
Exhibit	: 9

BEFORE THE JUDGE, EMPLOYEES INSURANCE COURT & MEMBER, INDUSTRIAL COURT NO.2, NAGPUR

Misc. Appln. (ESI) No. 62/2025

Shankar S/o Vishwanath Khursunge
Aged about 56 years, Occ: Private,
R/o. House No.1986/264,
Ambazari Road, Sudam Nagar,
Nagpur -440010.

..... Applicant

.. VERSUS ..

Employees State Insurance Corporation,

Panchdeep Bhavan, Nagpur-440018,

Email-dir-nagpur@esicin.in

Through its Assistant Director.

.... Respondent.

In the matter of miscellaneous application under section 75 (2-B) of the ESIC Act, arising out of the application filed under Section 75 of the ESIC Act.

CORUM : P. M. MAIDARGI, MEMBER

APPEARANCE : Mr. R. N. Deshpande Advocate for applicant.
Mr. A. V. Palshikar Advocate for the Respondent.

ORDER

(15.06.2026)

Factual Matrix:-

The applicant has filed the application under Section 75 of the Employees State Insurance Act, 1948 (for short, "ESI Act") challenging the order dated 21.07.2025 issued to various Banks preventing the withdrawal of an amount of Rs.2,83,032/- and order dated 06.12.2019 under Section 45-C to 45-I fastening a liability for an amount of Rs. 1,80,549/- as damages in terms of order passed by the respondent under Section 45-C to 45-I and Section 85 (B) of the ESI Act.

2. In addition to the above main application, the applicant has preferred the instant application and sought waiver of the amount required as the statutory pre-deposit

of 50% as contemplated under Section 75(2B) of the ESI Act.

3. The learned counsel for the applicant submits that the authority has issued an order dated 21.07.2025 regarding non payment of contribution to the respective Banks. However, before passing the impugned order, the applicant was not given opportunity of hearing. Learned counsel submitted that the applicant had never received any notice, and therefore he could not appear before the authority. Learned counsel further submitted that the order dated 06.12.2019 sent to the applicant's address was not served to him.

4. The learned counsel for the applicant further submitted that the authority has totally failed to consider the number of employees working during the period of assessment and erroneously concluded in respect of number of employees resulting in impugned order. He submitted that the authority did not take efforts to investigate the matter from the principal employer, even if the applicant was absent on the date of hearing.

5. It is submitted on behalf of the applicant that the impugned order is arbitrary and not based on proper material. The assessment has been made on an erroneous basis. The applicant is facing financial constraints and would suffer undue hardship if compelled to deposit 50% of the assessed amount. It is, therefore, prayed that the

requirement of pre-deposit be waived or suitably reduced and recovery be stayed.

6. Per contra, the learned counsel for the respondent Corporation submits that the application is not maintainable. According to respondent, this is not a fit case for exercising powers to waive the condition of depositing 50% of contribution amount. It is submitted that the duty of the applicant to furnish the returns regularly. It is also submitted that in place of any change the applicant has to furnish the information as per ESI General Regulation, 1950. It was emphasised that it is the duty of the principal employer to furnish proper returns. It is further submitted that the applicant has failed to demonstrate how the order passed by the respondent are illegal. Lastly, the respondent submitted that the application may be rejected.

7. I have carefully considered the submissions advanced on behalf of both sides and perused the material on record.

8. Under Section 75(2B) of the ESI Act, the applicant is required to deposit 50% of the amount claimed, however, the Court is empowered to waive or reduce the said amount for reasons to be recorded in writing.

9. At this stage, without entering into a detailed adjudication on merits, it is necessary to ascertain whether

a prima facie case has been made out by the applicant. Upon perusal of the impugned order and the documents placed on record, it appears that as per document at Exh. 2/1, (order dated 12.06.2025 passed by the Recovery Officer), the respondent authority instructed the Managers of various Banks to attach the bank account and prevented the withdrawal of the amount lying in the accounts mentioned in the order dated 12.06.2025.

10. The record further demonstrates that prior to issuing the notice dated 12.06.2025, a notice of demand to defaulter had been sent to the applicant on the address mentioned in the notice. The document at Exh. 2/7 reveals that the applicant had given a letter dated 01.03.2024 intimating the closure of business. In the said letter, it was informed to the respondent authority that applicant has no any business activity in the firm w.e.f. December 2019 and therefore, requested to close the ESIC Code. The said letter has been received by the respondent authority on 14.03.2024. The respondent by notice dated 20.03.2023 demanded the applicant to furnish the information in respect of closure of business activity. It is to be noted that the applicant in response to the notice dated 20.03.2024 sent by the respondent, gave a reply on 21.03.2024 and informed the respondent that they have submitted salary/wage record for non compliance period.

11. The respondent's reply placed on record is not supported by any documentary evidence. Also, the respondent failed to show that before passing the impugned order they have considered the reply dated 21.03.2024 and 01.03.2024 given by applicant. Above facts prima facie shows that the respondent has not considered the fact regarding the business activity of the applicant. Therefore, in my opinion, the respondent authority failed to apply its mind before fastening the liability in the form of ESI contribution.

12. The balance of convenience lies in favour of the applicant. In my opinion, recovery of the entire amount at this stage may cause prejudice to the applicant. Whereas the interest of the Corporation can be safeguarded by directing a partial deposit.

13. The applicant has pleaded financial hardship. Considering the nature of the establishment and the circumstances placed on record, this Court is of the view that insisting upon the full statutory deposit may cause undue hardship.

14. Having considered the submissions and perusal of the record, this Court is of the view that the applicant has made out a prima facie case for grant of waiver. The balance of convenience lies in favour of the applicant. Accordingly, the requirement of pre-deposit under Section 75(2B) is reduced to 20%, subject to deposit within one

month, failing which the interim protection shall stand vacated.

15. Accordingly, the requirement of pre-deposit deserves to be reduced.

ORDER

1) The application is partly allowed.

2) The applicant shall deposit 20% of the assessed amount Rs.1,80,549/- within a period of one month from today.

3) In the event of failure to deposit the aforesaid amount within the stipulated period, the interim protection shall stand vacated automatically without further reference to the Court.

4) After compliance of order of the deposit of the said amount, application of the applicant under Section 75 of the ESI Act be registered as per Rule.

Pronounced in open Court on this 15th day of June 2026.

Sd/-

Nagpur. (P. M. Maindargi)
Judge E. I. Court & Member,
Date :- 15/06/2026. Industrial Court No. 2, Nagpur.

Argued on : 15.06.2026
Order typed on : 15.06.2026
Order checked and
signed on : 15.06.2026

GJM/-

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