

Order Below Ex.2 in E.S.I. Application No.5 of 2024

1. The applicant has filed the main application at Ex.1 under Section 75 of the ESI Act, whereby the applicant has challenged the order passed by the opponent Corporation on 14th September, 2022 under Section 45A of the ESI Act.
2. Along with the main application, the applicant has also preferred an application at Ex.2 requesting for staying the implementation and execution of the order dated 14.09.2022 passed under Section 45A of the ESI Act.
3. Heard learned Advocate Mr. V.S. Patil appearing on behalf of the applicant. Also heard learned Advocate Mr. Jigar K. Purani appearing on behalf of the opponent Corporation.
4. Learned Advocate Mr. V.S. Patil has argued that, the applicant unit is sick unit and it is under the control of the Industrial Investment Corporation Ltd. It is further argued that, various units of the applicant

are situated in non implemented area. Therefore, the applicant is not liable for the payment of any contribution amount as decided by the competent authority of the opponent Corporation. Therefore, it is argued that, the recovery proceedings initiated related to the aforesaid order be stayed without directing the applicant to deposit any amount in the matter.

5. So far as the opponent Corporation is concerned, its learned Advocate Mr. J. K. Purani has argued that, applicant has stated in its petition that, it is a sick unit, but the applicant has never informed about the same to the opponent Corporation and no such evidence is ever produced before the Corporation or before this Hon'ble Court. It is further argued that, there appears admission on the part of the applicant that, sufficient opportunity was provided to the applicant and the applicant was also informed through post as well as through email. The applicant was also called upon thrice for personal hearing and on dated 23rd August, 2022 Shri Ketan Shah also appeared before the competent authority but no documentary evidence were produced by

the applicant. Therefore, it is argued that, if the Hon'ble Court consider it just and proper, it may grant stay in the matter subject to depositing of 50% due amount.

6. Now upon going through the pleadings of the applicant, it appears that, the main contention raised by the applicant is with regard to sick unit. But, it appears that, in support of the said contention, the applicant has not produced any kind of documentary evidence. Therefore, at this juncture, the said contention cannot be considered.

7. The applicant has also contended that, some of the areas where its units are situated are not functioning in implemented area. In this connection, learned Advocate Mr. Patil has also produced a print copy derived from the website of ESI Corporation, which shows the implementation/extension of the ESI Act. In this connection, upon going through the documentary evidence produced by the opponent Corporation at Mark 10/4, which is a letter dated 23.09.2022 of the applicant addressed to the opponent Corporation, it appears that, the

applicant has informed the opponent Corporation that, its establishment is working outside of implemented area and in support of the same, the applicant had also enclosed letter of GIIC. Upon going through a copy of letter dated 13th May, 2022 of GIIC, Ahmedabad, it appears that, S.Y.P. Agro Ltd. is situated at Santej, Taluka Kalol, District Gandhinagar and also at Budasan, Taluka Kadi District Gandhinagar as well as at Rajpur, Taluka Kalol, District Gandhinagar. In this connection, upon going through the documentary evidence produced at Mark 11/1, which speaks about the implemented area of the ESI Act, it appears that, village of Budasan, Taluka Kadi is covered under the ESI Act, but other two places like Santej, Taluka Kalol as well as Rajpur, Taluka Kalol are not seen in the said list. Therefore, these two places where the manpower was supplied are out of the coverage area of the ESI Act. Therefore, there appears a fit case to exercise judicial discretion to waive some of the amount at the time of granting stay order in the matter. It is humble opinion of this Court that, if applicant unit is directed to deposit 25% of the contribution amount, the interest of justice would be survived. As such following order is passed:-

ORDER

1. The execution and implementation of the order dated 14.09.2022 passed by the competent authority of the opponent Corporation under Section 45A is hereby stayed, but the applicant is directed to deposit 25% of the contribution amount of Rs.4,87,006/- i.e. Rs.1,21,751/- (Rupees One Lakh Twenty One Thousand Seven Hundred Fifty One) within a period of 30 days from the passing of this order.

2. No order as to costs.

Pronounced in open Court to-day i.e. on 15th April, 2025.

(R.G.Devdhara)

JUDGE

Employees State Insurance Court,

Ahmedabad

GJ00442