

**ESI Application no. 44-2015**

**:- ORDER BELOW EXH.2 :-**

1. Read the application, perused the record and heard the Ld. advocate for the applicant. Applicant has preferred an application under section 75 of ESI Act,1948 and challenged the order passed under section 45-A dtd. 24.03.2015 for the recovery of an amount of Rs. 15,41,326/- by the Assessing Authority and to stay the execution of the order of Assessing Authority, the applicant has preferred this present application.
2. The notice to the opponent was duly served and the opponent corporation has given its presence through an advocate and submitted the reply to the main application vide Exh.14 and to this interim relief application at Exh.15.
3. Ld. advocate for the applicant in his arguments submitted that the demand raised by the opponent corporation is false and against the law and also not considered the submissions of applicant regarding Form C-18. Further submitted previously the respondent corporation had issued Form-18 on 10-10-2013 and respondent corporation had demanded contribution amount of Rs. 7,36,014/- for the period from 01.04.2009 to 31-03-2012 on adhoc basis and that amount was deposited by the applicant and after that the respondent corporation had also demanded a sum of Rs. 305/- as damages and Rs. 728/- as interest, which was also deposited by the applicant. Further submitted that thereafter the vigilance team of respondent corporation had inspected the factory of the applicant and inspected the record of applicant from 01.04.2010 to 31.03.2011 and passed order under section 45-A and directed to deposit contribution amount of Rs. 15,41,326/- without considering the submissions of

the applicant. Further submitted that the previous assessment was not considered and without considering the report of S.S.O. and balance sheet in proper way, the respondent corporation had passed the impugned order. Further Ld. advocate for the applicant submitted that according to regular inspection the applicant is ready to deposit a sum of Rs. 1,31,757/- but the Assistant Director of ESI Corporation had passed the order illegally and without considering the Books of Account and submissions of the applicant. Further there is strong prima facie case in favour of the applicant as well as balance of convenience is also in favour of the applicant and if this application is not allowed then irreparable loss will be incurred to the applicant. Further, Ld. advocate for the applicant in his arguments submitted that this Court has ample power to waive the pre- deposit amount as mandated under Section 75 of ESI Act.

4. In this case the reply has been filed by the respondent corporation but at the stage of arguments the Ld. advocate for the respondent corporation was not present and for that reason, the right for submitting arguments from the side of respondent corporation was closed. On perusal of the reply submitted at Exh.15, it reveals that the respondent contended that on the basis of inspection report of Social Security Officer, C-18 letter was issued on 10-10-2013 and assessed and amount of contribution of Rs. 7,36,014 and the applicant unit had paid the requisite amount. Further the inspection under reference was marked for test inspection as per provisions of Section 45(4) of The ESI Act by the competent authority and accordingly inspection was done by Vigilance Officers. Further the Vigilance Team found a lot of omissions in the compliance under the provisions of ESI Act and had prepared a detailed report

and according to that detailed report and after giving full opportunity, competent authority had passed the speaking order under Section 45(A) on 24.03.2015. Therefore, requested to direct the applicant to pay the amount of speaking order and further stated that if Hon'ble Court intends to give stay/relief then requested to direct the applicant to deposit 50% of outstanding dues as per provisions of Section 75 2(B) of ESI Act.

5. On perusal of the record, it reveals that the applicant's establishment was inspected twice. During the first inspection respondent corporation had issued Form-18 on 10-10-2013 and demanded a contribution amount of Rs. 7,36,014/- for the period from 01.04.2009 to 31-03-2012 on adhoc basis . It is not the disputed fact that the said amount was deposited by the applicant and it reveals from the record that the dispute is regarding the inspection conducted by the Vigilance Team. Therefore to analyse the assessment, which is based on the vigilance report, all the books of accounts with relevance entries are required to be considered minutely. Further in view of Section 45 A of ESI Act, the Assessing Authority is empowered to determine the amount of contribution on the basis of information available to them. Further under Section 75 of ESI Act, this Court is empowered to adjudicate the dispute between a principal employer and the Corporation in respect of any contribution or any other dues and the principal employer can raise the dispute in the Employees' Insurance Court but he has to deposit fifty per cent of the amount due from him as claimed by the Corporation. Further the Court may, for reasons to be recorded in writing, waive or reduce the amount to be deposited.
6. In this present case on hand, it is an undisputed fact that on the basis of the

inspection report submitted by the vigilance team, the amount of contribution was determined and it is also not a disputed fact that the applicant had deposited the contribution amount of Rs. 7,36,014/-, when previously assessment was made by the assessing authority of the respondent corporation. Therefore, there is a prima-facie case in favour of the applicant. Further if the opponent is not restrained from recovery at this stage then this will cause irreparable loss to the applicant and balance of convenience also appears to be in favour of the applicant. But the applicant of this case has not submitted any cogent evidence which suggests that while submitting the vigilance report, opportunity to the applicant was not given. Therefore, there is no reason to waive the whole pre-deposit amount as mandated in Section 75 of ESI Act.

7. On perusal of the record and facts stated in the application and considering the fact of two times inspection and also considering the amount deposited by the applicant in view of assessment made previously, this court thinks it a fit case that in spite of 50% of the due amount, if 25% of the amount is ordered to be deposited, then this will serve the justice.

In view of this, the present application is allowed and in the interest of justice, I pass the following order.

**- : ORDER : -**

- Present application is allowed on condition to deposit the 25% of Rs. 15,41,326/- towards the opponent corporation within 30 days from today.
- After deposition of above referred 25% amount towards the opponent corporation, the opponent corporation will be restrained to recover or to take any further action in respect of order passed dtd. 24.03.2015 till

Order below Exh.2

ESI Application no. 44-2015

final disposal of this application.

Order passed and pronounced today on the 6<sup>th</sup> day of October 2025.

Dated :06-10-2025

Place : Kalol

**(Rajender Singh)**  
Judge, Employees' Insurance Court,  
Ahmedabad, sitting at Kalol  
Judge Code: GJ 01085