EXPARTE ORDERS ON I.A.I & II

IA No.I filed by the Applicant under Sec.78 of ESI Act to stay the operation of the orders viz., 1) order passed by the respondent under Section 45-A of ESI Act vide bearing No.73000317370001301/61520231140 dated 15.06.2023, claiming contribution of Rs.5,45,045/- for the period from 01.10.2018 to 30.09.2022 and 2) order passed by the respondent U/s.45-G of ESI Act vide bearing No. 73000317370001301 dated 13.12.2023 claiming contribution +interest+cost of Rs,7,35,106/- for the period from 10/2018 to 09/2022.

IA No.II filed by the Applicant under Section 75(2)(B) of ESI Act to waive off the amount to be deposited under Section 75 (2-B) of ESI Act till disposal of the main Petition.

The applicant establishment is an educational institution. The applicant had appointed 22 employees in 07/2011 and subsequently strength of the employees is reduced to 15 employees. Since applicant institution was declared as aided institution by the Govt. of Karnataka w.e.f.11.02.2014 and 7 employees are considered as Govt. employees and they are exempted from ESI coverage. During the period from 10/2018 to 09/2022, the number of employees appointed by the applicant institution varies from 09-12 and their salaries varies from Rs.1,800/- - Rs.9,000/- depending upon the designation of the employee and applicant is liable to pay contribution only to those employees. The respondent has taken number of employees as 22 and their wages as Rs.11,550/- per month per employee and calculation made by the respondent is illegal. The respondent No.2 has issued Garnishee order and the Manager of the Bank has deducted Rs.21,891/- from the account of the applicant/institution and transferred the same to the ESI Corporation. The contribution claimed by the respondent is not correct. If the Order passed by the respondent is not stayed, the Applicant will suffer great hardship and loss and also prayed that the amount to be deposited may be waived. Hence, prayed that IA No.I and II may be allowed.

Heard.

Perused the Records. The Applicant has filed the above case to set aside the Orders passed by the respondent under Section 45-A of the ESI Act. As interim relief, the Applicant has sought for stay of impugned Orders passed by the respondent and to waive the amount to be deposited under Section 75(2-B) of the ESI Act. The applicant has contended that it had employed only 9-12 employees and paid wages ranging from Rs.1,800/- to Rs.9,000/- and applicant is liable to pay contribution only on the actual. Whether applicant is liable to pay contribution or not can be decided only after trial. At this stage, if Order passed by the respondent is not stayed, the purpose of filing the above case will be defeated. No hardship will be caused to the respondent if the Order passed by the respondent is stayed. Hence, it is just and necessary to grant relief to the Applicant as follows;

ORDER

I.A.No.II filed U/s.75 (2-B) is partly allowed until further orders.

IA No.I filed U/s.78 of ESI Act is allowed and Orders passed by the respondent viz., 1) order passed by the respondent under Section 45-A of ESI Act vide bearing No.73000317370001301/ 61520231140 dated 15.06.2023, claiming contribution of Rs.5,45,045/- for the period from

01.10.2018 to 30.09.2022 and 2) order passed by the respondent U/s.45-G of ESI Act vide bearing No. 73000317370001301 dated 13.12.2023 claiming contribution +interest+cost of Rs,7,35,106/- for the period from 10/2018 to 09/2022 are stayed until further orders subject to condition;

The Applicant has to deposit Rs.2,00,000/- (Rupees Two lakhs only) in respect of above demands made by the respondent within 15 days from the date of this order with the respondent-Corporation.

Issue Notice on Application, IA No.I & II and copy of stay order to the respondent through RPAD.

Call on 28.03.2024.

sd/-
JUDGE,
ESI Court, Mysuru.