

EXPARATE ORDERS ON I.A.I And II

IA No.I filed under Section 78 of ESI Act by the Applicant to stay the operation of the Orders of the Respondent dated 10.03.2021 at Annexure A and order dated 22.12.2021 at Annexure B passed under Section 85-B of the ESI Act claiming total Rs.2,14,405/- till disposal of the main Petition.

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.

The Applicant has stated that applicant is a small scale industry and engaged less than ten employees. The respondent issued an order dated 10.03.2021 and 22.12.2021 claiming damages of Rs.57,186/- and 1,57,219 respective as per Annexure A and B for

delayed payment of contributions for the period from 9/2011 to 9/2012 and from 9/2013 to 6/2018. Due to appeal pending in ESI 2/2017 about the Coverage of ESI as the establishment had engaged only 8 employees, hence the applicant did not pay the contribution in time. The respondent without considering the same passed order for damages. In ESI 2/2017 the court has ordered for reassessment, but the ESI Corporation after reassessment has wrongly confirmed the original order passed by it. The applicant has paid the contributions, interest and further interests a sum of Rs.3,14,280/-. The applicant has not deducted any share from the employees from September 2011 to June 2018. The ESI corporation has not provided any ESI facilities for the above said period, there was no delay in paying contribution intentionally. The order passed by the respondent is illegal, infructuous and liable to be set aside and if the Order passed by the Respondent is not stayed, the Applicant will suffer great hardship and loss and also prayed 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 Order passed by the Respondent under Section 75(1) (g) of ESI Act. As interim relief, the Applicant has sought for stay of impugned Order passed by the Respondent and to waive the amount to be deposited under Section 75(2-B) of the ESI Act. Due to appeal pending in ESI 2/2017 about the Coverage of ESI as the establishment had engaged only 8 employees, hence the applicant did not pay the contribution in time. The respondent without considering the same passed order for damages.

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

Orders passed by the Respondent dated 10.03.2021 at Annexure A and order dated 22.12.2021 at Annexure B passed under Section 85-B of the ESI Act is stayed subject to condition;

1) The Applicant has to deposit Rs.30,000/- in respect of demand made for Rs.2,14,405/- 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 Respondents through RAPD if Applicant deposits the amount as per the Order.

Call on 31.03.2022.

sd/-
JUDGE,
ESI Court, Mysuru.