

**EXPARTE ORDERS ON I.A.Nos.I & II**

IA No.I filed by the Applicant under Sec.78 of ESI Act to stay the operation of the Orders of the Respondent viz., Order u/s 85-B of ESI Act dated 11.01.2023 claiming damages of Rs.70,417/- 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 is owning service station. The applicant tried to get the establishment covered under ESI in the year 2018, as the code number was not generated, the applicant did not try for the same. The respondent issued notice C-18 dated 06.04.2021 claiming contributions for the period from 28.11.2018 to 31.03.2020 of Rs.94,884/- and called for personal hearing on 07.07.2021 and on 03.08.202, but the applicant could not appear for personal hearing as she had some personal problems. The respondent passed order u/s 45-A of ESI Act calling contributions of Rs.94,884/- for the period from 28.11.2018 to 31.03.2020 for 10 employees on adhoc basis. The applicant has paid ordered amount and also interest, further interest plus recovery cost in all Rs.1,23,608/-. Further, the respondent passed an order on 11.01.2023 claiming damages of Rs.70,417/- for the period from 11/2018 to 3/2020. The order of the respondent is perverse and not based on the facts of the case. If the Order passed by the respondent is not stayed and amount to be deposited not waived off, the Applicant will suffer great hardship and loss. 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

of the ESI Act. As interim relief, the Applicant has sought for stay of impugned Order passed by the Respondent and to waive off the amount to be deposited under Section 75(2-B) of the ESI Act. It is the contention of the Applicant establishment that applicant has paid the contributions and interest to the ESI corporation and applicant is not liable to pay any damages and orders passed by the respondent claiming damages is liable to be set aside. The applicant has produced the challan for having paid the contributions and interest. Whether applicant is liable to pay the damages or not can be decided only after trial. At this stage, If the 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. Taking into consideration above said facts, it is just and necessary to grant relief to the Applicant as follows;

**ORDER**

Order passed by the Respondent u/s 85-B of ESI Act dated 11.01.2023 claiming damages of Rs.70,417/- is stayed until further orders.

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 is allowed until further orders.

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

Call on 03.07.2023.

**JUDGE,  
ESI Court, Mysuru.**