

22.04.2022

EXPARTE ORDER ON I.A.I & II

IA No.I 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.

IA No.II filed by the Applicant under Sec.78 of ESI Act to stay the operation of the Orders passed u/s 85-B of ESI Act dated 23.03.2022 claiming damages of Rs. Rs.5,44,101/- and also the order dated 29.03.2022 claiming damages of Rs.30,730/-, in total 5,74,831/- till disposal of the above case.

Applicant has stated that applicant is a well established educational institution and has employed only 8-9 teachers. The teachers were engaged only for a stipulated period and given payment for teaching hours and they never came under purview of the ESI Act. The applicant institution has paid Rs.15,73,717/- entire outstanding due from September 2016-2019-20 even though the applicant was in financial constraints due to pandemic. The respondent has issued the above said notices for payment of damages, which is illegal, arbitrary and against the principles of natural justice. If the Order passed by the respondents are not stayed and amount to be deposited not waived off, the Applicant will suffer great hardship and loss. Hence, prayed that IA No.I & 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. Applicant has contended that it has paid contribution of Rs.15,73,717/- and is not liable to pay the damages as claimed by the respondent corporation. Whether applicant is liable to pay the demanded amount or not can be

determined 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. Taking into consideration above said facts, it is just and necessary to grant relief to the Applicant as follows;

ORDER

IA No.I 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 and IA No.II filed by the Applicant under Sec.78 of ESI Act to stay the operation of the Orders passed u/s 85-B of ESI Act dated 23.03.2022 claiming damages of Rs. Rs.5,44,101/- and also the order dated 29.03.2022 claiming damages of Rs.30,730/- in total Rs.5,74,831/- till disposal of the above case, is stayed until further orders.

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

Call on 18.06.2022.

Judge

ESI Court, Mysuru.