

ORDERS ON I.A.I & II

IA No.I filed by the Applicant to stay the operation of the orders namely;

- 1. Notice to Show cause why a warrant of arrest should not be issued under Rule 73(1) Of the Second Schedule of Income Tax, issued by the respondents vide order dated 20.1.2021,*
- 2. Garnishee Order dated 08.02.2021,*
- 3. Garnishee Order dated 08.02.2021 and*

IA No.II filed by the Applicant under Section 75(2)(B) of ESI Act to waive off the amount to be deposited before this court by the Applicant.

In the Affidavits, it is stated that the applicant is a registered educational institution commenced in the year 2003 and the Government has extended the provisions of ESI coverage to the applicant's education institution also and the applicant's institution was enrolled and remitting the ESI contribution from March 2011 to March 2021. The respondents further allotted another code number for the best reasons known to them and demanding the ESI Contribution by issuing additional ESI code number. The applicant's institution at the time of hearing explained the situation, but the respondent has not heeded to its request. Due to Pandemic Covid-19 situation the school was closed

and just it is reopened and no fees is being collected from the students as yet to get stabilized at least to a certain extent. The Applicant's institution will be put to greater hardship, as 1000 of students pursuing their education in the institution and their future would be at stake. The respondent corporation has issued notice dated 15.03.2016 demanding to pay sum of Rs.4,46,558/- towards contribution of ESI for the period from 16.03.2011 to 31.10.2015 with interest of 1,86,836/- at 12% per annum from 03.11.2015 in total Rs.6,33,894/-. In the meanwhile impugned Garnishee Order under Section 45-G of ESI Act was issued. Due to Pandemic Covid-19 no student was attending the school. There is a financial crisis to the educational institution during the covid-19 pandemic. In spite of these situations the respondent is claiming damages. Due to erroneous allotment of code number it is not possible for the applicant institute to comply the order and the establishment have not functioned almost for 10 months. At the instance of the respondents' applicant institution would be closed and the future of the students would be a stake. The respondent has issued two different codes of ESI to the applicant institution.

Perused the Records. The applicant has filed the above case to quash the two garnishee Orders dated 08.02.2021 and entire proceedings passed by the Respondents under the ESI Act. As interim relief, the applicant has sought for stay of impugned Order passed by the Respondents and to waive the amount to be deposited

under Section 75(2-B) of the ESI Act. It is pertinent to note that the Applicant has contended that it is not liable to pay the demanded amount and the calculation made by the respondents is not proper and demand made by the ESI is contrary to Law and another wrong code is allotted to the institution. If stay is not granted the very purpose of filing the application will be infructuous. Considering the above said circumstances, if Stay is granted no hardship would be caused to respondents. As such, the Order passed by the Respondents is liable to be stayed. Accordingly, I pass the following,

ORDER

Orders passed by the respondent viz.,

1. Notice of Show cause why a warrant of arrest should not be issued under Rule 73(1) Of the Second Schedule of Income Tax, issued by the respondents vide order dated 20.1.2021,

2. Garnishee Order dated 08.02.2021,

3. Garnishee Order dated 08.02.2021 and

4. Orders at Annexures - D, F & G are stayed subject to the condition that the Applicant has to deposit Rs.1,00,000/- [One lacs only] with the respondent corporation within 15 days from the date of the order.

Issue Notices of Application, IA-1 & 2 and Copy of Stay Order to the respondents-1 to 4 through RPAD, returnable by: 27.10.2021.

**Judge,
ESI Court, Mysore.**