

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.73000348720001301/9282018508 dated 28.09.2018, claiming contribution of Rs.1,78,035/- for the period from 01.05.2016 to 30.06.2018 and 2) order passed by the respondent U/s.45-A of ESI Act vide bearing No. 73000348720001301/9282022352 dated 28.09.2022 claiming contribution of Rs,2,42,550/- for the period from 01.07.2018 to 31.03.2022.

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 Headmistress was entrusted with the day-to-day administration of the school and applicant was not looking after the same. All the correspondence has taken place behind the applicant's back and the applicant was not informed about the receipt of the notices. The applicant came to know about the orders passed by the respondent for payment of contributions for the default period, in total, Rs.5,39,565/-. The actual salary paid to the employees was Rs.45,000/- only. The contribution claimed by the respondent is not correct. If the Order passed by the respondents 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 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 he has paid salary of Rs.45,000/- only and he is not liable to pay contribution as claimed by the respondent herein. 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., bearing Nos. 1) order passed by the respondent under Section 45-A of ESI Act vide bearing No.73000348720001301/9282018508 dated 28.09.2018, claiming contribution of Rs.1,78,035/- for the period from 01.05.2016 to 30.06.2018 and 2) order passed by the respondent U/s.45-A of ESI Act vide bearing No.73000348720001301/9282022352 dated 28.09.2022 claiming contribution of Rs,2,42,550/- for the period from 01.07.2018 to 31.03.2022 are stayed until further orders subject to condition;

ESI.A.1/2024

The Applicant has to deposit Rs.1,25,000/- (Rupees One lakh twenty five thousand 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 28.02.2024.

sd/-
JUDGE,
ESI Court, Mysuru.