EXPARTE ORDER ON I.A No.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.

1. Order passed by the respondent dated 21.12.2017 under Section 45-A of ESI Act for Rs.68,640/- as per Annexure -A
2. Order passed by the respondent dated 21.12.2017 under Section 45-A of ESI Act for Rs.1,08,108/- as per Annexure-B
3. Order passed by the respondent dated 30.08.2022 under Section 45-A of ESI Act for Rs.47,160/- as per Annexure-C
4. Garnishee order passed u/s 45-G of ESI Act dated 10.08.2022 for Rs.2,91,179/- as per Annexure-D
5. Order of attachment of immovable property dated 01.09.2022 for Rs.2,03,517/- as per Annexure-E 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.

Applicant has stated that applicant is running two high schools. The respondent had issued two notices on 8.11.2017 and directed to pay ESI contributions w.e.f. 5/2016 to 12/2016 and from 1/2017 to 9/.2017 for 16 employees. The respondent has not visited the applicant's school at any point of time. The respondent has issued two notices u/s 45-A of ESI Act dated 21/12/2017 to pay contribution for the period from 1.5.2016 to 31.12.2016 for Rs.68,640/- and from 1/2017 to 9/2017 for Rs.1,08,108/- for 16 employees as per Annexure A and B. The respondent has issued notice dated 12.07.2022 to the applicant claiming contribution for the period from 10/2017 to 3/2022d and directed the applicant to attend for personal hearing on 12.08.2022 and 24.08.2022 and the applicant has appeared before the ESI authority and produced certain documents. The respondent without considering the same passed orders claiming contributions as per Annexure C dated 30.08.2022 for the period 01.10.2017 to 30.09.2018. The respondent issued garnishee order dated 10.08.2022 u/s 45-G of ESI Act as per Annexure-D. The Respondent No.3 has already deducted Rs.89,000/- from the account of the applicant and transfered the same to the account of the ESI corporation. The respondent No.2 has passed an order of attachment of immovable property dated 01.09.2022 as the applicant failed to pay the amount as per Annexure-E. If the Orders 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 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 75 of the ESI Act. As interim relief, the Applicant has sought for stay of impugned Orders passed by the Respondent and to waive off the amount to be deposited under Section 75(2-B) of the ESI Act. Applicant has produced documents to show that applicant's schools are aided in the year 2014 itself. Further, the Respondent No.3 has already deducted Rs.89,000/- from the account of the applicant and transferred the same to the account of the ESI corporation. Whether applicant is liable to pay the demanded amount or not can be determined only after trial. As per bank statement the respondent has recovered partial amount from the applicant bank account. 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 Orders passed by the Respondents are stayed. Taking into consideration above said facts, it is just and necessary to grant relief to the Applicant as follows;

ORDER

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 and;

1. Order passed by the respondent dated 21.12.2017 under Section 45-A of ESI Act for Rs.68,640/- as per Annexure -A
2. Order passed by the respondent dated 21.12.2017 under Section 45-A of ESI Act for Rs.1,08,108/- as per Annexure-B
3. Order passed by the respondent dated 30.08.2022 under Section 45-A of ESI Act for Rs.47,160/- as per Annexure-C
4. Garnishee order passed u/s 45-G of ESI Act dated 10.08.2022 for Rs.2,91,179/- as per Annexure-D
5. Order of attachment of immovable property dated 01.09.2022 for Rs.2,03,517/- as per Annexure-E, are stayed until further orders.

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

Call on 09.11.2022.

sd/-
JUDGE,
ESI Court, Mysuru.