

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 15.11.2021 under Section 45-A of ESI Act for Rs.7,13,097/-as per Annexure -A
2. Garnishee order passed u/s 45-G of ESI Act dated 31.10.2022 for Rs.7,51,630/- as per Annexure-B
3. Garnishee order passed u/s 45-G of ESI Act dated 10.11.2022 for Rs.7,51,630/- as per Annexure-C

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.

Applicant has stated that applicant is an educational institute and has engaged 26 employees both teaching and non-teaching staffs for the period from October 2017 to March 2021. The respondent issued notice C-19 (Adhoc) to the applicant institute and it was received in the office of the institution and same was not intimated to the managerial committee and as such the applicant could not attend for personal hearing before the respondent and hence the respondent passed an order claiming contribution for the period from 01.01.2017 to 31.03.2021 for 28 employees as per Annexure-A. The respondent has issued garnishee order dated 31.10.2022 to deduct from the account of the applicant of Rs.7,51,630/- and transfer the same to the account of respondent as per Annexure-B. The respondent has issued garnishee order dated 10.11.2022 to deduct from the account of the applicant of Rs.7,51,630/- and transfer the same to the account of respondent as per Annexure-C. The applicant has paid ESI contribution of various amount and on different dates in all Rs.3,00,000/-. Due Covid-19 Pandemic during the year from 4/2020 to 9/2021, the applicant institute was completely closed and only few employees were working, but the respondent has

wrongly calculated the contributions for all the employees. The respondent has not given sufficient opportunity to establish that the applicant is not liable to pay the contributions. 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 has paid Rs.3,00,000/- to the ESI Corporation. Whether applicant is liable to pay the demanded amount or not can be determined 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 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 partly allowed until further orders and

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 15.11.2021 under Section 45-A of ESI Act for Rs.7,13,097/- as per Annexure -A
2. Garnishee order passed u/s 45-G of ESI Act dated 31.10.2022 for Rs.7,51,630/- as per Annexure-B and

3. Garnishee order passed u/s 45-G of ESI Act dated 10.11.2022 for Rs.7,51,630/- as per Annexure-C, are stayed until further orders subject to condition;

The Applicant has to deposit Rs.50,000/- in respect of demand made for Rs.7,51,630/- 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 Respondents through RAPD.

Call on 31.12.2022.

**JUDGE,
ESI Court, Mysuru.**