

ORDERS ON I.A.I & II

IA No.I filed by the Applicant to stay the operation of the order viz., Order u/s 85-B of ESI Act claiming damages of Rs.88,594/- dated 08.11.2021 at Annexure F.

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.

Applicant has stated that applicant is a educational institution running under no profit motive and to provide education to the public and needy. The respondent has issued notice dated 05.09.2018 calling upon the applicant to pay Rs.94,466/- towards contribution for the period from 2011 to 2016. In pursuance to the notice the applicant paid the contribution as per Annexure-B. Being not satisfied with the payment of contribution, the

respondent issued another notice claiming Rs.32,148/- towards interest. The applicant has paid interest of Rs.32,148 and also Rs.23,236 as per Annexure D. Being not satisfied the respondent issued one more notice on 17.08.2021 to pay Rs.88,594/- towards damages. The claim of damages by the respondent corporation is highly illegal and opposed to law, it is nothing but double jeopardy and penalizing the applicant without any fault. The order passed by the respondent corporation is perverse and not based on the facts of the case. If the Order passed by the Respondent is 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.

Perused the Records. The applicant has filed the above case u/s 75(1) (g) of ESI Act to set aside the Order dated 08.11.2021 passed under Section 85-B of 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 the applicant establishment is promptly complying with all the applicable statutes ever since its inception and the applicant has paid contribution as well as interest to the respondent corporation, claiming damages is nothing but jeopardy and penalizing the applicant. If stay is not granted the very purpose of filing the application will be defeated. 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

The Order passed by the respondent corporation u/s 85-B of ESI Act dated 08.11.2021 at Annexure- F is stayed subject to the condition that the Applicant has to deposit Rs.10,000 [Ten thousand only] with the to 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 respondent through RPAD, returnable by: 30.12.2021

**Judge,
ESI Court, Mysore.**