

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 order bearing No.73000359420001019/912023235 dated 01.09.2023, claiming contribution of Rs.2,90,483/- for the period from 07/2018 to 03/2023.

IA No.II filed by the Applicant under Section 75(2)(B) of ESI Act to waive off the amount to be deposited under ESI Act till disposal of the main Petition.

The applicant in order to participate in a Tender called by the University of Mysuru to run a canteen, had obtained the ESI Code number from the respondent. The applicant could not get the said tender and could not start any business. The applicant at present is working in M/s. Nammane Interior, Mysuru. The respondent issued show cause notice dated 26.06.2023 directing the applicant to pay ESI contribution and to attend personal hearing on 24.07.2023 and 24.08.2023. The applicant could not attend the personal hearing due to personal inconvenience. The respondent passed order under Section 45-A of ESI Act and directed the applicant to pay contribution of Rs.2,90,483/- for the period from 07/2-18 to 03/2023. The applicant has not done any business during the default period. The calculation made by the respondent on assumed wages and assumed employees is not fair and reasonable. The calculation is incorrect. If the Order passed by the respondent 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 Order passed by the respondent under Section 45-A of the ESI Act. As interim relief, the Applicant has sought for stay of impugned Order 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 not done any business during default period and calculation made by the respondent based on assumed wages and assumed employees is incorrect. 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) of ESI Act is partly allowed until further orders.

IA No.I filed U/s.78 of ESI Act is allowed and Order passed by the respondent bearing No. 73000359420001019/912023235 dated 01.09.2023, claiming contribution of Rs.2,90,483/- for the period from 07/2018 to 03/2023 is stayed until further orders subject to condition;

The Applicant has to deposit Rs.50,000/- (Rupees Fifty Thousand only) in respect of above demand made by the respondent within 15 days from the date of this order with the respondent-Corporation.

ESI.A.2/2024

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

Call on 15.03.2024.

sd/-
JUDGE,
ESI Court, Mysuru.