

EXPORTE ORDER ON I.A.I & II

IA No.I filed by the Applicant under Sec.78 Act to stay the operation of the Orders passed by the Respondents viz.,

(1) Order u/s 45-A of ESI Act dated 07.09.2016 as per Annexure A for Rs.1,44,788/-

(2) Order u/s 45-A of ESI Act dated 03.07.2017 as per Annexure B for Rs.1,28,700/-

(3) Order u/s 45-A of ESI Act dated 15.03.2018 as per Annexure C for Rs.,1,12,613/- in all total Rs.3,86,101/-

(4) Notice u/s 45-G of the ESI Act dated 24.02.2016 as per Annexure D in total claiming amount is Rs.4,11,502/-

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 a reputed educational conglomerate registered under the Karnataka Societies Registration Act 1960 and case is pending about ESI coverage of educational institutions and the applicant is the member of KUSMA and the W.A is pending before the Hon'ble High Court in No.4812 to 4814/2012. Hence, the applicant is not paying contribution. The respondent without giving proper opportunity to the applicant, passed an Order

u/s 45-A of ESI Act. The respondent has issued show cause notice dated 27.04.2017 to pay the contribution amount on adhoc basis from 01.09.2015 to 31.12.2016 and instructed the applicant to appear for personal hearing on 11.05.2017. The respondent issued show cause notice dated 03.01.2018 to pay contribution amount on adhoc basis from 01.01.2017 to 31.10.2017. The applicant has not engaged 15 employees, but the respondent has taken number of employees as 15 and have taken the assumed wages at the rate of Rs.8,250/- per employee. The respondent claimed coverage for the period 01.03.2014 to 31.08.2015 at Rs.1,44,788/- and the period from 01.09.2015 to 31.12.2016 at Rs.1,28,700/- and the respondent claimed from 01.01.2017 to 31.10.2017 amount of Rs.11,550/- per employee total Rs.1,12,613/- in all the respondent claimed Rs.4,11,502/-. The respondent failed to verify the documents maintained by the application. 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 & 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 75 of the ESI Act. As interim relief, the Applicant has sought for stay of impugned Order passed by the Respondent and to waive off the amount to be deposited under Section 75(2-B) of the ESI Act. Applicant has contended that contribution claimed by the respondent is not proper as the case is pending before the Hon'ble High Court of Karnataka in W.A.No.4812 to 4814/2012 and the applicant has not employed 15 employees.

Whether applicant is liable to pay the demanded amount or not can be determined only after trial. At this stage, if Orders 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 Respondent is stayed. Taking into consideration above said facts, it is just and necessary to grant relief to the Applicant as follows;

ORDER

Order passed by the respondents viz.,

- (1) Order u/s 45-A of ESI Act dated 07.09.2016 as per Annexure A for Rs.1,44,788/-
- (2) Order u/s 45-A of ESI Act dated 03.07.2017 as per Annexure B for Rs.1,28,700/-
- (3) Order u/s 45-A of ESI Act dated 15.03.2018 as per Annexure C for Rs.1,12,613/- in all total Rs.3,86,101/-
- (4) Notice u/s 45-G of the ESI Act dated 24.02.2016 as per Annexure D in total claiming amount of Rs.4,11,502/- by the respondent is stayed till disposal of the case subject to condition;

The Applicant has to deposit Rs.1,00,000/- in respect of demand made for Rs.4,11,502/- 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 if Applicant deposits the amount as per the Order.

Call on 16.05.2022.

**Judge,
ESI Court, Mysuru.**

