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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 8015/2019**

BSES YAMUNA POWER LIMITED

..... Petitioner

Through: Mr. Sandeep Prabhakar, Adv. along
with Mr. Vikas Mehta, Adv.

versus

EMPLOYEES STATE INSURANCE CORPORATION AND ORS.

..... Respondent

Through: Mr. V.K. Singh, Mr. Prachi Singh and
Ms. Nisha Hans, Advs. for ESIC along with
Mr.Arvind Kumar Bansal,
Mr. Shlok Chndra and Mr. Rishabh Tomar, Advs.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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16.01.2020

CM No.33234/2019 (stay)

1. Vide order dated 26.07.2019, this Court had stayed the operation of the assessment order dated 15.05.2019, the respondent has not filed any reply to the said application till date.
2. In these circumstances, the interim order dated 26.07.2019 is made absolute. Consequently, the operation of the assessment order shall remain stayed during the pendency of the present petition.
3. The application is disposed of.

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4. By the present petition, the BSES Yamuna Power Limited assails the assessment order dated 15.05.2019 issued by respondent no.1.

5. Though counter affidavit is yet to be filed, learned counsel for the said respondent at the outset submits that the writ petition itself is not maintainable as the petitioner has an alternate efficacious remedy of appeal under Section 75 of the Employees State Insurance Act, 1948.

6. On the other hand, learned counsel for the petitioner while contending that in the peculiar facts of the present case when the impugned order is wholly without jurisdiction and has been passed in blatant violation of the order passed by this Court on 01.03.2006 in WP (C) 3013/2005, the present writ petition is the only efficacious remedy available with the petitioner. He submits that this Court had specifically directed the Government of NCT to decide the petitioner's exemption application and further directed that till the said application is decided the Employees State Insurance Corporation should not take any further action against the petitioner but even though the said application remains undecided till date, still assessment order has been passed.

7. Having considered the rival submissions of the parties, I am of the view that at this stage it cannot be said that the writ petition is not maintainable. This question regarding the maintainability of the writ petition will be determined only after the pleadings are completed by the parties.

8. Learned counsel for the respondent prays for and is granted further six weeks' time to file counter affidavit. Rejoinder thereto, if any, be filed within four weeks thereafter.
9. At request, list on 07.07.2020.

REKHA PALLI, J.

JANUARY 16, 2020

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