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

+ **FAO 116/2022**

**DIRECTOR EMPLOYEE STATE INSURANCE
CORPORATION**

..... Appellant

Through: Mr.A.K. Verma, Advocate with
Mr.A.Bansal, SSO (Legal/AR) of the
appellant.

versus

**GUJARAT COOPERATIVE MILK MARKETING
FEDERATION LTD**

..... Respondent

Through: Mr.Abhishek Singh, Mr.J.Amal
Anand and Ms.Kirtika Chhatwal,
Advocates.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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09.05.2022

CM.APPL No.21910/2022

1. Allowed, subject to all just exceptions.
2. Application is disposed of.

CM.APPL No.21911/2022 (Delay)

1. The present application has been filed under Section 151 CPC on behalf of the appellant seeking condonation of delay of 153 days in filing the appeal.
2. Issue notice.
3. Mr. Abhishek Singh, learned counsel for the respondent, accepts notice and fairly concedes that the present appeal has been filed within limitation period in terms of the decision of the Supreme Court in In Re: Cognizance for Extension of Limitation, **Suo Motu Writ Petition (Civil)**



No.3/2020.

4. In view of the above, the application is allowed and the delay of 153 days in filing the appeal is condoned.
5. The application is disposed of.

CM.APPL No.21912/2022 (Delay)

1. The present application has been filed under Section 151 CPC on behalf of the appellant seeking condonation of delay of 59 days in refiling the appeal.
2. Issue notice.
3. Mr. Abhishek Singh, learned counsel for the respondent, accepts notice and fairly does not oppose the present application.
4. In view of the above, the application is allowed and the delay of 59 days in refiling the appeal is condoned.
5. The application is disposed of.

FAO 116/2022 & CM.APPL No.21909/2022

1. By way of present appeal filed under Section 82 of the Employee State Insurance Corporation Act, 1948 (hereinafter, referred to as the 'ESIC Act'), the appellant has assailed the judgment dated 06.02.2021 passed by the learned JSCC/ASCJ/GJ (West), Tis Hazari Courts, Delhi in ESIC No.15/2016.
2. Mr. A.K. Verma, learned counsel for the appellant, has contended that the impugned judgment incorrectly held that the exemption granted by the Government of Gujrat vide Notification dated 27.07.2001, issued under Section 90 of the ESIC Act, was applicable to the respondent, who is admittedly not a local authority. It is submitted that only a Notification issued under Section 87 of the ESIC Act would be applicable to the



respondent, however, the operation of such Notification is also limited to a period not exceeding one year.

Without prejudice to the above, it is also submitted that prior to the grant of exemption, there was no consultation with the ESI Corporation as required under Section 90 of the ESIC Act and that the concerned Court has gone into the issue without appreciating the dictum in Zuari Cement Limited v. Regional Director, Employees' Insurance Corporation, Hyderabad and Others reported as **(2015) 7 SCC 690**.

3. Issue notice.
4. Mr. Abhishek Singh, learned counsel for the respondent, accepts notice and seeks some time to file the Reply. Let the Reply be placed on record before the next date of hearing.
5. Re-notify on 23.08.2022.

MANOJ KUMAR OHRI, J

MAY 9, 2022/v

[Click here to check corrigendum, if any](#)