ÞITEM NO.13 COURT NO.2 SECTION XV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil)...../2010
CC 19145/2010

(From the judgement and order dated 14/12/2009 in FAO No. 342/2009 of the HIGH COURT OF DELHI AT N. DELHI)

E.S.I CORPORATION TR.REGIONAL DIRECTOR. Petitioner(s)

VERSUS

GIRDHARI LAL BATRA PROP.M/S B.B.ENG. Respondent(s)
(With I.A.1 (c/delay in filing SLP,c/delay in refiling SLP)

Date: 03/01/2011 This Petition was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE ALTAMAS KABIR
HON'BLE MR. JUSTICE CYRIAC JOSEPH

For Petitioner(s) Mr.Manish Kumar Saran,Adv.

For Respondent(s)

UPON hearing counsel the Court made the following
O R D E R

Delay condoned.

We have heard learned counsel for the petitioners on the validity of the impugned order of the High Court. Learned counsel for the petitioners based his submissions mainly on the decision of this Court in ESI Corporation vs. CC Santhakumar, (2007) 1 SCC 584, which had been noticed by the High Court, but had not been taken into consideration while passing the final order. In CC Santhakumar's case, this Court had occasion to consider the provisions of Section 77(1-A)(b) of the Employees State Insurance Act, 1948 and had occasion to observe that the limitation prescribed by virtue of such provision could not be read to apply to Section 45A as it would defeat the very purpose for computing the

contribution under Sections 45A and 45B. However, the provisions of Section 45A which deals with the determination of contribution was amended in 2010 to include a proviso, which came into effect from 1.6.2010, which indicates that no order is to be passed by the Corporation in respect of the period beyond five years from the date on which the contribution becomes payable. The change in the legal position, therefore, strikes at the very foundation of the submission made by learned counsel for the petitioners. The Special Leave Petition is, therefore, dismissed on the said ground.

(S.Sarangi)
A.R.-cum-P.S.

(Juginder Kaur)
Court Master