

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

CIVIL APPEAL NO(s). 2776 OF 2006

VIRGILIO VELHO

Appellant (s)

VERSUS

DY. REGIONAL DIRECTOR, E.S.I. CORPN.

Respondent(s)

Date: 21/04/2010 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU
HON'BLE MR. JUSTICE A.K. PATNAIK

For Appellant(s) Mr. Arun R. Pednekar, Adv.for
Mr. V.N. Raghupathy, Adv.

For Respondent(s) Mr. V.J. Francis, Adv.
Mr. Anupam Mishra, Adv.

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

The Appeal is allowed in terms of the signed order.
No costs.

(Parveen Kr. Chawla)
Court Master

(Sneh Bala Mehra)
Court Master

[signed order is placed on the file]
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2776 OF 2006

Virgilio Velho

..Appellant

versus

Dy. Regional Director, E.S.I. Corpn.

..Respondent

O R D E R

Heard learned counsel for the parties.

This Appeal has been filed against the impugned judgments of the Division Bench as well as learned Single Judge of the High Court of Bombay at Goa dated 19th August,

2003 and 15th January, 1999.

In this case, the appellant is the employer who filed a petition under Section 75 of the Employees' State Insurance Act, 1948 (for short 'the Act') challenging the demand notice issued under Section 45-A of the Act. The E.S.I. Court held that the employees working in the premises of the appellant are not his employees but the employees of the trading concerns who are operating from the said premises. This is a finding of fact but it has been interfered with by the High Court in an appeal filed under Section 82 of the Act. Section 82 of the Act states that an appeal lies to the High Court from the order of the ESI Court if it involves a substantial question of law. Hence, the High Court could not have validly interfered with with

-2-

the finding of fact recorded by the ESI Court.

Accordingly, this appeal is allowed, the impugned judgments of the Division Bench as also of the learned Single Judge are hereby set aside and that of the ESI Court is restored. No costs.

.....J.
[MARKANDEY KATJU]

NEW DELHI;
APRIL 21, 2010

.....J.
[A.K. PATNAIK]