

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 497 OF 1992

M/s. Standard Steelsales	... Appellant
Vs.	
The Regional Director, E.S.I. Corporation, Mumbai	... Respondent

Mr. Rajesh Gehani, Advocate for the appellant.
Mr. H.V. Mehta, Advocate for the respondent.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **17th December, 2015**

P.C.:

This Appeal is filed by a partnership firm against the judgment and order dated 25th October, 1991 passed by the Judge, Employees' Insurance Court, Mumbai in Application (E.S.I.) No. 40 of 1986 under section 75 of the E.S.I. Act, 1948. By the said order, the order dated 23rd March, 1986 was set aside and the matter was remanded for reassessing the amount of contribution after going through the account books of the applicant for the relevant period. Being aggrieved by the said order, the appellant/original applicant filed this Appeal.

2. The appellant is a partnership firm dealing with iron and steel items and working as a merchant. On 24th September, 1982, inspector from the ESI Corporation visited the premises and found 4 employees working in the

premises and 33 mathadi workers were present. On the basis of that, show cause notice was issued by E.S.I. Corporation and on 20th March, 1986 an order was passed under section 45 of the E.S.I. Act directing payment of contribution of Rs.31,581/- along with interest of Rs.3789.70 covering the period from October, 1982 to February, 1985.

3. Perused the record, impugned orders passed by the learned Judges of the subordinate Courts and heard the submissions of learned counsel for both the sides. After considering the submissions, it is found that in the year 1982 four workers were employed by the partnership firm and 33 mathadi workers were present in the premises and this fact is disputed by the partnership firm. Assuming, 33 mathadi workers were present on the premises, they are exempted for the purpose of payment of contribution under the E.S.I. Act, as they are not in continuous employment. It appears from the submissions of learned counsel for the appellant that the employer has already paid an amount of Rs.1,206/- for the period from 24th September, 1982 to 23rd September, 1983 on coverage of four employees and they are ready to pay further contribution for the period from 23rd September, 1983 till 20th February, 1985 as claimed by the Corporation and coverage will be ceased with effect from 21st February, 1985. The fact of payment of Rs.1,206/- by the employer for four employees is not dispute. In view of this, the Appeal is disposed of with

following order:

- (i) First Appeal is partly allowed.
- (ii) The E.S.I. Corporation is directed compute the principal amount and interest till payment for the period from 24th September, 1983 to 20th February, 1985 within a period of 8 weeks from today after giving an opportunity of hearing to the employer.
- (iii) The coverage would cease with effect from 21st February, 1985.

(MRIDULA BHATKAR, J.)