

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.35269 of 2015

ORDER:

Heard.

The petitioner questions the order passed by the 1st respondent on 19-01-2015 under Section 45-A of the Employees State Insurance Act, 1948 (for short 'the Act') and also consequential two demand notices, dated 08-09-2015.

As the amount determined under the aforesaid order is not paid, the petitioner was given demand notices, dated 08-09-2015 seeking to recover contribution with interest.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

It is not in dispute that the aforesaid order can be questioned by the petitioner in an appeal under Section 45-AA of the Act and the petitioner can as well raise all his contentions disputing the coverage under the Act in such appeal.

In view of efficacious alternative remedy, I do not see any reason to exercise extraordinary jurisdiction of this Court.

The petitioner, however, apprehends that in view of demand notices, dated 08-09-2015, referred to above, the amount may be recovered by way of destraint orders and hence, seeks indulgence of this Court to that extent.

Keeping in view the balance of convenience and the facts and circumstances of the case, I deem it appropriate to dispose of the writ petition with the following directions:-

The petitioner is at liberty to question the impugned order before the appellate authority under Section 45-AA of the Act, provided the appeal is filed within two weeks from today. Pending consideration of such appeal, Exs.P-3 to P-6 shall not be enforced against the

petitioner, subject to the condition that the petitioner shall deposit 50% of the total due amount i.e., Rs.1,89,505/- (Rupees one lakh eighty nine thousand five hundred and five only) on or before the end of November, 2015 with the 2nd respondent. On compliance with the aforesaid condition, the appeal, which is directed to be filed by the petitioner, shall be considered on its own merits by the appellate court and would be disposed of in accordance with law, after hearing the parties.”

Accordingly, the writ petition is disposed of. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

VILAS V.AFZULPURKAR, J

Date: 02-11-2015

Prv

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