IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

FAO No.1034 of 2013 (O&M)
Date of decision: 25.05.2015

SHRI JAGDAMBA PAPER MILLS LIMITED AND ORS
….. Appellants
versus
EMPLOYEES STATE INSURANCE CORP. AND ANOTHER
……Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Anurag Jain, Advocate for the appellants
Mr.Vikas Suri, Senior Standing Counsel
for ESIC/respondents

1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

Kuldip Singh, J. (Oral)

Challenged in the present appeal is the order dated 21.1.2013, passed by the learned Civil Judge, Senior Division, Hisar vide which the application filed by the appellants under Section 75 of the Employees' State Insurance Act, 1948 (in short, 'ESI Act') was dismissed.

Learned counsel for the appellants has argued that on 18.12.2000, the ESI Corporation issued them letter that the establishment of the appellants is covered under the ESI Act w.e.f. 1.12.2000. Thereafter, show cause notice was issued on 31.10.2003 for making recovery of the ESI contribution for the period from 1.12.2000 to 31.8.2003. The order was accordingly passed on 30.7.2004. On 31.12.2004, 50% of the amount was deposited and the order was challenged. The Court vide order dated 21.7.2008 set aside the said order with liberty to the ESI Corporation to make the fresh assessment. Thereafter, the fresh assessment was made vide order dated 27.10.2008, vide which interest on the delayed payment was demanded. Also challenged in the application was the verbal order dated 8.4.2009, demanding the damages on the alleged period of delay. I am of the view that there is no substantial question of law involved in the present case. Verbal orders could not challenged,. If any proceedings have been initiated in pursuance to the said order, those proceedings should have been challenged. So far as the interest part is concerned, the appellants were informed on 18.12.2000 that they are covered under the ESI act and therefore, they are required to make entire contribution. Once, the ESI contribution was not paid, the interest is payable from the date the amount became due. Therefore, even though fresh assessment was made in the year 2008, the interest for the period during which the payment was not made, could be recovered and same could be deducted from 50% amount paid on 31.12.2004, as in the later assessment a lesser amount was claimed. It is purely question of fact.

Therefore, the present appeal is found to be without merit and is accordingly dismissed.

25.05.2015 **(Kuldip Singh)**
gk **Judge**