

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION***

WRIT PETITION NO. 1892 OF 2015

M/s. K. Bhatia Readymades. ... Petitioner.
V/s.
Member, Industrial Court and Judge,
Employees Insurance Court & Anr. ... Respondents.

Mr. S.C. Naidu a/w. A.P. Wachasundar for the Petitioner.
Mr. H.V. Mehta for Respondent 2.

CORAM : N.M. JAMDAR, J.

DATE : 15 FEBRUARY, 2016.

P.C. :-

Rule. Rule made returnable forthwith. The learned Counsel for Respondent No.2 waives service. Respondent No.1 stands deleted at the request of the Petitioner. Amendment to be carried out forthwith.

2. The learned Counsel for the parties after arguing for some time state that the Petition can be disposed of by the following order and no reasons in support be given as the proceedings are being remanded to the original authority and any observations on merits will affect the outcome of the proceedings. The learned Counsel for Respondent No.2 states that he has received instructions as regard this course of action.

3. Accordingly, the order passed by the Deputy Director, Employees State Insurance (ESI) Corporation dated 24 July 2014 is quashed and set aside and the proceedings are restored to the file of the Deputy Director, ESI Corporation be disposed of on merits.

4. In view of the setting aside of the order dated 24 July 2014, the Application filed by the Petitioner under Section 75(2B) of ESI Act, 1948 does not survive and the learned Counsel for the Petitioner states that a formal application for withdrawal of this application will be made to the Employees Insurance Court, Mumbai within period of one week from today.

5. The Petitioner will supply copies of the ledgers, cash books, bills, vouchers, balance-sheets 2009-2010 alongwith salary/wage sheets from August 2008 to November 2013, within period of four weeks from today to the Deputy Director, ESI Corporation.

6. It is clarified that furnishing these documents is the basic understanding between the parties upon which the order of remand is being passed and the Petitioner shall adhere to the same scrupulously.

7. It is the contention of the Counsel for the Respondent Authority that the Petitioner shall also produce similar records in

cases where the Petitioner is carrying out business under the name and style of “Cambridge”. It is the contention of the Petitioner that no business as such is carried out under the name and style of “Cambridge” but it is only a brand name and the business is carried out under the name of K. Bhatia Readymades. It is not necessary to conclude the issue in this order of remand. The Deputy Director, ESI Corporation will consider this submission of the Petitioner and take appropriate steps.

8. The learned Counsel for the Petitioner contends that as against the liability determined under the order of the Deputy Director of Rs.1,00,25,175/- and an amount of Rs.52.24 lakhs has been recovered/deposited with the Deputy Director. The learned Counsel submits that in view of this recovery/deposit of more than 50% of the original claim, further attachment/freezing of the bank account containing Rs.30.00 lakhs is not necessary and be lifted. It will be open to the Petitioner to make this request to the Deputy Director, ESI Corporation who will consider the same keeping in mind the recovery/deposit already made by the Petitioner.

9. All contentions of the parties on merits are kept open. The Petitioner will appear before the Deputy Director, ESI Corporation on 14 March 2016.

10. Rule made absolute in above terms. No costs.

(N.M. JAMDAR, J.)