

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**Writ Petition (L) No. 242 of 2016**

M/s Bundela Security & Consultants Pvt. Ltd. Director, L 38,  
Yadunandan Nagar, Tifra, Bilaspur, District Bilaspur Chhattisgarh

**---- Petitioner**

**Versus**

1. Employee State Insurance Corporation Through Regional Director  
Employees State Insurance Corporation 107, Jagannath Chowk,  
Ramnagar, Road, Kota, Raipur Chhattisgarh.
2. Recovery Officer, Employees State Insurance Corporation Raipur  
Chhattisgarh.

**---- Respondents**

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For Petitioner  
For Respondents

Shri SP Kale, Advocate.  
Shri Pradeep Saxena, Advocate.

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**Hon'ble Shri Justice P. Sam Koshy**

**Order On Board**

**02/01/2017**

1. Learned counsel appearing for the petitioner submits that identical petition of similar facts have been disposed of this court on 09.12.2016 in Writ Petition (L) No.233 of 2016, and therefore, the present petition may also be disposed of in the same terms.
2. The facts in brief is that, the petitioner in the present case preferred a case before the Employees Insurance Court i.e. Labour Court, Bilaspur against the assessment of the petitioner's establishment to pay an amount of Rs.2,15,478/- for the period from August, 2008 to March, 2010 towards interest for late payment of the contribution under the Employees State Insurance Act, 1948 (for short, the Act).
3. The petitioner had filed an application under Section 75 of the Act and had challenged the impugned notice of recovery issued on 05.03.2014.

The case was registered as case No.32/ESI/2014.

4. Initially the Labour Court vide order dated 28.04.2014 had granted interim relief of maintaining status quo till the next date of hearing. Thereafter, notices were issued to the respondent-Employees State Insurance Corporation, who in turn, has entered appearance and filed reply also. It is submitted that along with the application under Section 75 of the Act, the petitioner's establishment has also filed an application for grant of stay of the notice issued by the respondents.
5. The matter was fixed for consideration of the said stay application and it was being listed for couple of dates of hearing on the said application. However, abruptly on 07.09.2016 the court below without considering the application for grant of stay and without deciding the same had directed the petitioner to comply with the mandatory provisions of Section 75(2)(B) of the Act. This according to the petitioner was bad in law for the reason that the court below ought to have first decided the application for grant of stay before passing an order for compliance of the mandatory provisions.
6. Counsel for the petitioner submits that the facts of the case are similar and identical to the facts in WPL No.233 of 2016 which has been decided on 09.12.2016. According to him, in the said case also, this court has set aside the order of Labour Court and had remitted the matter back for considering the application for grant of stay first and then to decide whether the provisions of Section 75(2)(B) of the Act has to be complied with or not in the facts of the case.
7. The contentions and the submissions made by the petitioner are not disputed by the counsel for the respondents.

8. In view of fact that this court has already in case of M/s Radhaswami Plastic Vs. Employees State Insurance Corporation & Ors. (WPL No. 233 of 2016, decided on 09.12.2016) have sent the matter back for re-consideration on the application for grant of stay before insisting for compliance of Section 75(2)(B) of the Act, this petition is also disposed of in similar terms.
9. Accordingly, in the opinion of this court ends of justice would meet if the petitioner is granted another opportunity of hearing before the court below on the application for grant of stay which is pending consideration before the court below.
10. The impugned order dated 07.09.2016 is set aside. The Labour Court is directed to hear the application for grant of stay first pending before it and thereafter pass an appropriate order in accordance with the Act.
11. It is made clear that on the next date of hearing when the matter would be taken up by the court below, the petitioner shall submit its arguments on the application for grant of stay which is pending consideration before it.
12. With the aforesaid observations, the writ petition stands allowed and disposed off.

Sd/-

(P. Sam Koshy)  
**Judge**