

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2081 OF 2017

Office Notes, Office Memorandum - Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr.P.M.Bhagat for the petitioner

Mr.P.M.Palshikar for the respondent

CORAM : K. K. TATED, J.

DATE : FEBRUARY 23, 2017

P.C.:

1 Heard the learned counsel for the parties.

2 By this petition under Article 227 of the Constitution of India the Petitioner challenges the judgment dated 3.9.2014 passed by Employees Insurance Court, Maharashtra, Mumbai in Misc. Application No.(ESI-EXEM.) No.36 of 2013 u/s 75(2B) of the E.S.I. Act r/w-Rule 13 of the Bombay Employees Insurance CourtS Rules, 1959 rejecting petitioner's application from exemption to deposit the amount at the time of filing the appeal.

3 In the present proceeding, the petitioner filed Misc.E.S.I. Application under section 75(2B) of the E.S.I. Act, 1948 challenging the notice in Form C-18 dated 2.4.2013 for Rs.23,74,849/- for the period April 2007 to January 2013 and

subsequent recovery notices dated 6.5.2013 for Rs.32,50,666/- and Section 45A order dated 3.5.2013 for Rs.45,271/- for the period April 2009 to March 2010.

4 The petitioner at the time of filing E.S.I. Application deposited sum of Rs.14,00,000/- with the respondent as per order dated 5.9.2013 passed by Employees Insurance Court, Mumbai below Exhibit- 1 in Misc. Application (ESI-EXEM.) No.36 of 2013.

5 During the course of argument, the learned counsel for the petitioner submits that he received instruction from his client that they are ready and willing to deposit further sum of Rs.3,00,000/- with the respondent within four weeks from today to comply the provisions of E.S.I. Act for filing the Appeal. To that effect, he has given in writing on Farad. Same is taken on record and marked 'X' for identification.

6 In view of the submission made by the learned counsel for the petitioner and as petitioner is ready and willing to deposit further sum of Rs.3,00,000/-, I am of the opinion that petitioner may be permitted to proceed with his Appeal according to law. Hence, without giving reasons in detail for setting aside the impugned order dated 3.9.2014, following order is passed:

a) Order dated 3.9.2014 passed by Employees

Insurance Court, Maharashtra, Mumbai in Misc. Application No.(ESI-EXEM.) No.36 of 2013 is set aside.

b) Petitioner is permitted to deposit further sum of Rs.3,00,000/- with the respondent within four weeks from today.

c) If amount is deposited within stipulated time as stated hereinabove, Employees Insurance Court, Maharashtra, Mumbai is directed to hear the petitioner's Application under section 75 (2B) of the ESI Act, 1948 dated 4.9.2013 on its own merits.

d) If amount is not deposited within stipulated time as stated hereinabove, Writ Petition shall stand dismissed without referring back to the court.

e) Writ Petition stands disposed of accordingly.

JUDGE