

\$~7

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ FAO 306/2013

EMPLOYEE STATE INSURANCE CORPORATION

THR REGIONAL DIRECTOR

..... Appellant

Through: Mr. K.P. Mavi, Advocate with
Mr. Paramjit Singh, SSO, ESIC.

versus

M/S VISHWAKARMA PROJECT INDIA PVT LTD

THR ITS DIRECTOR

..... Respondent

Through: Mr. H.S. Sharma, Advocate with
Mr. Anil Sharma and Mr. Abhishek
Bhardwaj, Advocates.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **07.09.2017**

1. After arguments, this appeal is disposed of with the consent order that the impugned judgment dated 30.05.2013 is set aside with the direction that the petitioner in the trial court and the respondent no.1 herein will have exactly one opportunity to lead evidence to show its record of employment such as Salary Register, Employees' Register, Attendance Register etc. etc. Leading of evidence by the respondent no.1, petitioner in the Court below, as regards the employees' record is necessary in order to determine whether at the relevant point of time respondent no.1 had in its employment 10 or more employees with the pay limit not above that as prescribed by Rule 50 of the Employees' State Insurance (Central) Rules, 1950 as applicable at the

relevant point of time. After respondent no.1 is given exactly one opportunity to lead documentary evidence with respect to its employees with it at the relevant point of time, appellant will be given one opportunity to lead evidence in rebuttal, if any. The Employees' State Insurance Corporation Court will then decide the matter afresh in terms of the evidence which is led by the parties and the evidence already on record.

2. Appeal is accordingly disposed of in terms of the aforesaid order, leaving parties to bear their own costs.

3. Parties to appear before the District & Sessions Judge, Central, Tis Hazari Courts, Delhi and the District & Sessions Judge will mark the petition under Section 75 of the Employees' State Insurance Act, 1948 to a competent Court for disposal in accordance with law and the observations made in the present order.

VALMIKI J. MEHTA, J

SEPTEMBER 07, 2017

nn