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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 8653/2016
EMPLOYEE STATE INSURANCE CORPORATION

..... Petitioner

Through: Mr. A.K. Verma, Advocate

Versus

M/S DCM LTD & ANRRespondents

Through: Mr. Harvinder Singh and Mr.
Rohit Agarwal, Advocates for
respondent No.1
Mr. Ankit Sharma, Advocate for
respondent No.2

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

01.05.2017

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Impugned order of 3rd October, 2015 not only stays the impugned orders of 24th September, 2014 and 25th March, 2015, but also directs that any consequent proceedings pursuant to impugned orders shall automatically remain stayed.

Learned counsel for petitioner submits that respondents had voluntarily deposited the amount payable under the impugned orders and under the guise of obtaining stay of impugned orders what has been sought is the stay of the Demand Notice of 19th May, 2015 vide which damages of ₹54 lacs odd have been levied on account of delayed payment of dues under the impugned orders. Learned counsel for petitioner submits that the levy is not of damages, but is of interest on delayed payment and unless respondents deposit 50% of amount demanded vide

Notice of 19th May, 2015, case of respondents ought not to be decided by trial court.

On the other hand, learned counsel for respondents supports the impugned order and submits that once impugned orders have been stayed, then as a necessary consequence Notice of 19th May, 2015 has to be stayed. Thus, it is submitted that there is no infirmity in impugned order and that the case is at evidence stage before trial court and the case can be expeditiously decided.

Upon hearing and on perusal of impugned order and the material on record, I find that the Demand Notice of 19th May, 2015 is an offshoot of impugned orders and since the impugned orders have been stayed, so as a necessary consequence thereof, the interest on delayed payment has to be kept in abeyance till the legality of impugned orders is decided by trial court.

Finding no infirmity in impugned order, this petition is dismissed with direction to trial court to decide the pending ESI No.1/2015 expeditiously. It is expected that trial court shall make all endeavours to decide the pending case within this calendar year.

Parties to appear before trial court on the date fixed i.e. 22nd May, 2017. Trial court record be remitted back forthwith through a special messenger.

This petition is disposed of with aforesaid directions.

(SUNIL GAUR)
JUDGE

MAY 01, 2017

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