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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.6680 OF 2018**

M/s. C. Mahendra Exports Ltd.

...Petitioner

vs

Employees State Insurance Corporation

Panchdeep Bhavan And Anr.

...Respondents

.....

Mr. Mahesh A. Shukla, for the Petitioner.

Mr. H. V. Mehta, for Respondent Nos. 1 and 2.

.....

**CORAM : S.C. GUPTE, J.**

**DATED: JULY 23, 2018**

**P.C. :**

. Heard learned Counsel for the parties. Rule. Rule taken up for hearing forthwith by consent of Counsel.

2. This petition challenges an interim order passed by the Employees' Insurance Court in an application challenging an order passed by the Employees' State Insurance Corporation under Section 45-A of the E.S.I. Act, 1948 ("Act"). The application on which the impugned order was passed was for withdrawal of attachment of bank account/property of the applicant establishment and permission to allow it to operate its bank accounts and also for refund of the amount recovered by the Corporation. Whereas the question of refund can always be agitated in the main challenge to the order passed by the Corporation under Section 45-A of the Act, the immediate grievance of

the Petitioner is that whilst defreezing its bank accounts, it has been asked to furnish a bank guarantee of Rs.48,450/-. Learned Counsel for the Petitioner submits that there is no occasion for such condition being imposed on the Petitioner for defreezing of its bank accounts.

3. It does appear that there has been a recovery of about Rs.4.20 crores made by the Corporation from the Petitioner herein. This is against the contribution amount of Rs.2.56 crores. The Corporation's case is that in addition to the amount recovered towards principal dues, even interest is chargeable to the Petitioner. The interest is said to be in the sum of Rs.1,54,45,860/-. Since practically this entire interest has been included in the recovery already made, there is no occasion for any further amount to be secured by the Petitioner. In any event, the very order passed under Section 45-A is the subject matter of challenge before the Employees State Insurance Court. In the premises, the condition of bank guarantee will have to be waived.

4. Accordingly, Rule is made absolute by doing away with the condition of bank guarantee of Rs.48,450/- under the impugned order dated 26 February 2018. This part of the impugned order is quashed and set aside. The bank accounts of the applicant at Mumbai shall be defreezed unconditionally.

5. At the request of learned Counsel for the Petitioner, the hearing of Application (ESI) No.47 of 2016 is expedited. The Employees' Insurance Court shall dispose of this application as expeditiously as possible and preferably within six months from today.

6. Both parties shall remain present before the Employees' State Insurance Court on 31 July 2018 and produce an authenticated copy of this order, whereupon the Court shall issue necessary directions for hearing of the application.

7. It is clarified that maintainability of the application on account of the first application filed by the Petitioner herein and withdrawn later, shall also be one of the issues to be considered by the Employees' State Insurance Court in the application.

Smita  
Johnson  
Gonsalves

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( S.C. GUPTE, J. )