

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 12188 OF 2018

M/s. S M Square Exports Pvt. Ltd.	...Petitioner
<i>Versus</i>	
Recovery Officer, ESI Corporation, Mumbai and another	...Respondents
....	
Mr. Prithvi Kapur i/b. Rignaya & Asso. for the Petitioner.	
Mr. H.V. Mehta, Advocate for the Respondents.	
....	

CORAM : R. G. KETKAR, J.

DATE : 19th DECEMBER, 2018

P.C.

1. Heard Mr.Prithvi Kapur, learned counsel for the petitioner and Mr.H.V. Mehta, learned counsel for the respondents, at length.
2. This petition takes exception to the order/notice dated 28.9.2018 passed / issued by the Recovery Officer of the Employees State Insurance Corporation (for short, 'Corporation') calling upon the petitioner herein to pay a sum of Rs.24,62,967/- within 15 days of receipt of the order/notice failing which recovery will be made in accordance with the provisions of Section 45(C) to 45(I) of the Employees State Insurance Act, 1948 (for short, 'Act').
3. The learned counsel for the parties have invited my attention to the order dated 24.10.2018 passed by this Court. Mr. Mehta has tendered a photo-copy of the communication dated 20.11.2018

addressed by the Deputy Director of the Corporation to the petitioner herein requesting them to submit following documents :

- (1) Balance sheet, profit & loss account for M/s. S.M. Square Exports Pvt. Ltd. (SMSQ) and for M/s. Rilievi India Pvt. Ltd. for the period 2014-15 to 2016-17.
- (2) Salary and attendance register for both the companies including of contractor's employees for the period of default i.e. 04/2014 to 08/2016.

4. Said communication dated 20.11.2018 is taken on record and marked 'X' for identification. Mr. Mehta states that he has also given copy of this communication to Mr. Kapur.

5. Mr. Kapur, on instructions, assures that within four weeks from today the petitioner will furnish the information to the Corporation of the petitioner company and of M/s. Rilievi India Pvt. Ltd. in terms of communication dated 20.11.2018.

6. Mr. Mehta assures that after receipt of the information of both the companies in pursuance of the communication dated 20.11.2018, the Corporation will take appropriate decision within four weeks therefrom and communicate the same to the petitioner and M/s. Rilievi India Pvt. Ltd.. Till such time the decision is taken, the respondent Corporation will not enforce the order dated 7.3.2018 passed under Section 45A of Act as also the recovery certificate dated 28.9.2018.

7. In view thereof, the petition is disposed of in the following terms:

- (i) The petitioner shall furnish the information to the respondent Corporation in terms of the communication dated 20.11.2018 of the petitioner and of M/s. Rilievi India Pvt. Ltd. within four weeks from today.
- (ii) After receipt of this information, the respondent Corporation will take appropriate decision in accordance with law within four weeks therefrom and communicate the same to the petitioner and M/s. Rilievi India Pvt. Ltd..
- (iii) Till such time the decision is taken, the Corporation will not enforce the order dated 7.3.2018 passed under Section 45A of Act as also the recovery certificate dated 28.9.2018.
- (iv) It is made clear that in case the petitioner does not furnish the information in the aforesaid terms, the respondent Corporation will be at liberty to proceed with the order dated 7.3.2018 and the recovery certificate dated 28.9.2018.
- (v) Order accordingly.

(R. G. KETKAR, J.)

Deshmane (PS)