

Date of Decision : 15.5.2018

FAO-1405-1997 (O&M)

....Appellant

M/s. Glacier Products (I) Pvt. Ltd. And others

....Respondents

FAO-1406-1997 (O&M)

....Appellant

M/s. Glacier Products (I) Pvt. Ltd. And others

...Respondents

Mr. Anand Chibbar, Senior Advocate with
Mr. Lalit Thakur, Advocate for the respondents.

AJAY TEWARI, J. (Oral)

These two appeals have been filed by the Employees State Insurance Corporation against two orders of the Employees State Insurance Court whereby the demand for contribution (in FAO No. 1405-1997 for the year 1983 to 1985 and in FAO No. 1406-1997 for the year 1987 to 1988)

was set aside. The respondent No.1 had challenged the order of the appellant. As per the case set up by the respondent No.1 it was regularly paying contribution up till 1983-84 but thereafter it alongwith its employees moved a representation to the Government for exemption on the ground that the dispensary was too far away to be of use to the employees. No medical facilities were extended to the employees and the respondent No.1 had itself made independent arrangements for granting medical facilities to its employees. It was also asserted that the premises was situated outside the municipal limits of Pathankot. It was therefore claimed that assessment made for the year in question be set aside. The Employees State Insurance Court having accepted the plea the Corporation is before this Court.

On a previous date counsel for the respondent No.1 had handed over to the counsel for the appellant a copy of the notification of the Punjab Government by which the respondent had been exempted from the rigorous of the Employees State Insurance Act for the year 1997 on the ground that medical facilities by the appellant were too far away to be of use to the employees of the respondent No.1

Today counsel for the appellant has argued that under Section 87 exemption can be granted for a period not exceeding one year. Consequently, exemption for the year 1997 cannot be related back to the year in question. Counsel for the respondent No.1 is not in a position to deny this fact.

Counsel for the appellant has further argued that no evidence of the alleged seasonal nature of the respondent No.1 has been discussed by the Court and in fact it was only a bald assertion. Further the fact that the

premises were situated outside the municipal limits of Pathankot was also a bald statement without any supporting evidence. Counsel for the respondent No.1 is also not in a position to deny these facts.

I find that the order of Employees Insurance Court is unjustified and illegal. In the circumstances, both the appeals are allowed and impugned orders are set aside.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

**15.5.2018
anuradha**

**(AJAY TEWARI)
JUDGE**

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No