

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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**FAO-1566-1997 (O&M)
Date of Decision : 21.5.2018**

**Employees' State Insurance Corporation through its Regional Director
....Appellant**

vs.

**M/s Gulzar Industries, Jamalpura
....Respondent**

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. H.S.Bhatia, Advocate
for the appellant.

None for the respondent.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the judgment of the Civil Judge Junior Division, Malerkotla allowing a suit for declaration for permanent injunction which was filed by the respondent against the appellant.

The primary contention raised by the learned counsel for the appellant is that in order challenging an assessment under Section 45-A (of the Employees' State Insurance Act, 1948 as in the present case) could not have been challenged by civil suit and only could have been challenged by way of application to be filed under Section 75 of the ESI Act and once that suit itself was not maintainable, the present appeal should be allowed.

In my considered opinion, the fact of the matter is that against the decision of the Civil Judge the first appeal lies before the District Judge.

The contention which is being sought to be raised in this Court could well have been raised before the District Judge also. It is not the case of the appellant that the District Judge could not have ruled on this.

In the circumstances, the appeal has to be dismissed as not maintainable.

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

(AJAY TEWARI)
JUDGE

21.5.2018
anuradha

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