

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

390

FAO-708-1996 (O&M)

Date of Decision : 09.03.2018

Employees State Insurance Corporation Appellant

Versus

M/s Dashmesh Cotton & Oil Mills 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 by the Employees State Insurance Corporation (ESIC) against the order dated 02.11.1995 whereby the Additional Senior Sub Judge, Gidderbaha partly allowed the application of the respondent and set aside the recovery order passed by the Deputy Regional Director, ESI Corporation, Chandigarh.

The claim of the respondent was that the cotton section of its mill was not exigible to ESI Corporation. By the impugned order the Additional Senior Sub Judge, Gidderbaha partly allowed the application. Since a limited issue has been raised further reference to the facts is not necessary.

The contention of the counsel for the appellant is that before filing the application for setting aside the recovery order it was mandatory for the respondent to have deposited 50% of the amount under Section 75(2) (b) of the ESI Act, 1948. As on today the requirement could have been waived off on an application moved by the respondent but in the present case

no such application had been moved.

None has appeared on behalf of the respondent to contest the case. In the circumstances, this unrebutted assertion has to be accepted, more so since counsel has very fairly conceded that in case the order is set aside, it would be open to the respondent to re-agitate the same after depositing the amount.

Resultantly, the appeal is allowed and the impugned order is set aside.

Appeal is dismissed. No costs.

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

March 09, 2018
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No