

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.4743 OF 2016
IN
FIRST APPEAL NO.98 OF 2017**

The Regional Director, ESIC and Ors. ...Appellants/Applicants
Versus
M/s. Top Security Limited ...Respondent

.....

Mr. H.V. Mehta for the Appellants.

Mr. B.K. Ashok with R. Manoj I/b. M/s. Bekay Legal for the Respondent
No.1.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 22nd FEBRUARY, 2019.

P.C.:-

Heard the learned counsel for the Applicant and the Respondent. By this application, the Applicant has sought following reliefs:-

- “a) To quash and set aside the clause 3 of the order dated 6.8.2016 in Application (ESI) No.44 of 2013;
- b) This Hon'ble Court be pleased to direct the Ld. Trial Court to pay Rs.1 crore with accrued interest to the Applicant Corporation on any condition that this Hon'ble Court may deem fit and proper.
- c) interim and/or ad-interim reliefs in terms of prayer (b) above be granted.
- d) The Applicants further pray to this Hon'ble Court as huge amount of additional contribution is yet to be paid, the hearing of the First Appeal may please be expedited in the interest of justice.”

2. The Applicant herein has challenged the impugned order dated 6th August, 2016 in Application (ESI) No.44 of 2013. By the impugned order the learned Judge of the Employees Insurance Court, Mumbai has quashed and set aside order under Section 45 (a) of the ESI Act, 1948 determining amount of contribution Rs.13,37,83,859/- for the period from April, 2008 to March-2009. The Respondent herein had deposited an amount of Rs.1 Crores during the pendency of the said application under Section 75(2) (b) of the ESI Act.

3. The notice having been quashed the amount deposited by the Respondent cannot be ordered to be paid to the Applicant herein particularly at the interim stage. In the light of above no grounds made out for granting reliefs at prayer clause (a), (b) and (c). Prayer clause (d) is granted. Hearing of the appeal is expedited.

4. The learned counsel for the Respondent, waives service of notice on behalf of the Respondent-State. Paper book to be filed within a period of four months.

5. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)