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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 1468/2018
M/S PREHARI PROTECTION SERVICES PVT LTD..... Petitioner
Through Dr. Surender Singh Hooda, Adv.

versus

EMPLOYEES STATE INSURANCE CORPORATION & ANR
..... Respondent
Through Mr. Saurabh Chadda, Adv. for R1.
Mr. Santosh Kumar Rout, Adv. for
R2.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER
% **10.01.2019**

Vide the proceedings dated 03.12.2018, it is indicated that the learned counsel for the petitioner had submitted that all the documents relating to the wages of workers for the relevant period have been filed alongwith this petition and the respondent corporation may take a relook and make reassessment of the contributions made by the petitioner for which time had been sought on behalf of the respondents (apparently on behalf of the respondent no. 1) to seek instructions and an opportunity was given to file a reply in relation thereto. Coercive action in the meantime had been restrained till today vide order dated 03.12.2018 against the petitioner.

Learned counsel for the ESIC i.e. the respondent no. 1 submits that the ESIC is willing to make a reassessment in the matter in relation to the
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demand issued under Rule 83 of the 2nd Schedule of the Income Tax Act, 1961 read with Section 45-C to 45-I of the ESI Act, 1948 as amended issued vide Ref. No. 111702106900/001 dated 02.09.2015.

It has been submitted on behalf of the petitioner that the premises of the petitioner were robbed on 06.08.2013 and during the robbery the offenders *inter alia* had taken away some physical records of the petitioner and that on 21.09.2013, a raid of the premises of the petitioner was conducted by the CBI and several documents and records pertaining to the record of the employees and wages which were necessary for assessment of the ESI contribution that had to be made by the petitioner, had also been seized vide the seizure memo dated 21.09.2013 in relation to Case No. 23(A)/2013 dated 19.09.2013 under Sections 120B, 420, 468, 471 of the IPC, 1860 r.w.s. 13(2) and 13(1)(d) of the PC Act, 1988.

It is also *inter alia* submitted through the petition under consideration that the petitioner has since received back the records from the CBI and the police and some of the records have been reconstructed on the basis of the available records and information of the petitioner and that the petitioner has also submitted also a representation dated 09.10.2015 in relation to the recovery notice which has not yet been considered by the ESIC. It has also been submitted on behalf of the petitioner that the petitioner is willing to make the payments of all demands towards the ESIC demand in relation to the appropriate reassessment that would be made on the basis of the records of the petitioner that have been received back by the petitioner from the CBI.

Since the ESIC has submitted that it is willing to take a relook and make a reassessment of the demand issued to the petitioner vide notice dated 02.09.2015, subject to production of relevant record by the petitioner before the ESIC, the petitioner is directed to produce all relevant records in relation to the statutory ESIC dues that it has to pay in relation to the demand notice dated 02.09.2015 within a period of seven days from today before the ESIC concerned and for the period from 31.07.2014 to 07.01.2015, October, 2012 to July, 2013, and for the period 2008-2009 to 2011-2012 and on behalf of the ESIC reassessment thereof would be made within a period of fifteen days.

In view thereof till such reassessment is made by ESIC, the amount of Rs.8,72, 33,057/- and interest payable thereon attached in terms of the letter dated 05.01.2018 of the Recovery Officer of the ESIC, Ministry of Labour & Employment, Government of India, New Delhi to the Bank Manager (Attaching Officer), Bank of Baroda, B-1, Community Centre Janakpuri, New Delhi – 110058 in relation to the certificate No. D/CDO/B.E./11170210090011001 dated 30.07.2014, 07.01.2015 and 18.12.2014, is directed to be detached.

The petition is disposed of accordingly.

Copy of the order be given Dasti, as prayed.

ANU MALHOTRA, J

JANUARY 10, 2019/MK