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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 27 of 2019**

*(Arising out of order dated 03.10.2018 passed in Writ Petition (L) No.219 of 2018
by the learned Single Judge)*

M/s. Voslloh Beekey Casting Ltd. 25 & 28 Light Industrial Area, Bhilai, District-
Durg, Chhattisgarh through Mahesh Kumar S/o Shri Ramdas Nagdev, aged
about 45 years, General Manager, M/s. Voslloh Beekey Casting Ltd., 25 & 28
Light Industrial Area, Bhilai, District Durg, Chhattisgarh

---- Appellant**Versus**

1. Employee State Insurance Corporation Regional Office, 107 Ram Nagar, Kota,
Raipur, Chhattisgarh, Through Regional Director, Employee State Insurance
Corporation, Regional Office, 107 Ram Nagar, Kota, Raipur, Chhattisgarh
2. Chief Manager, State Bank of India, S.M.E. Branch, Bhilai, State Bank Premises,
Sector-1, Bhilai, District- Durg, Chhattisgarh

---- Respondents

For Appellant	: Ms. Sharmila Singhai and Shri Kawaljeet Singh Saini, Advocates
For Respondent No.1	: Shri Pradeep Saxena, Advocate
For Respondent No.2	: Shri P.R. Patankar, Advocate

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board**Per Parth Prateem Sahu, Judge****12.02.2020**

1. I.A. No.01 of 2019 has been filed to condone delay of 8 days in filing the
appeal. Considering the reasons assigned in the application, the same is
allowed. Delay of 8 days in filing the appeal is hereby condoned.
2. Challenge in this appeal is to the order dated 03.10.2018 passed in Writ
Petition (L) No.219 of 2018 whereby the writ petition filed by the Appellant
has been disposed off by the learned writ Court.

3. The Appellant has filed writ petition challenging the proceedings initiated before the Appellate Court under the Employees' State Insurance Act, 1948 (hereinafter referred to as 'ESI Act') with the following relief(s) :

“10.1 The Hon'ble Court may kindly be pleased to call for the entire record pertaining to the case of the petitioner.

10.2 The Hon'ble Court may kindly be pleased to quash the impugned garnishee order dated 27.09.2018 (Since the order has not been supplied to the petitioner copy of the same is not being filed and on receipt of the same, the same will be produced before the Hon'ble Court).

10.3 The Hon'ble Court may kindly be pleased to direct the respondent No.1 to refund the amount allegedly recovered in lieu of the impugned order dated 27.09.2018.

10.4 The Hon'ble Court may kindly be pleased to direct the respondent No.1 not to coerce the petitioner for depositing the dues as determined until finalization of the proceedings under Section 75 before the Insurance/Labor Court.

10.5 The Hon'ble Court may kindly be pleased to direct the respondent No.2 not to release the amount of dues as claimed by the respondent no.1 vide order dated 27.09.2018 depriving the petitioner of his legal rights.

10.6 Any other relief, which this Hon'ble Court may deems fit and proper may also be awarded to the petitioner including the cost of the petition.”

4. The learned Single Judge vide impugned order has directed that as more than Rs.78 Lacs has already been recovered from the bank account of the

Appellant, the Appellant need not be required to make further deposit towards statutory deposit as provided under sub-Section (2) of Section 75 of the ESI Act and further directed to ESI Court to decide the case on merits and further recovery of the amount from the Appellant has been made subject to out come of the decision.

5. Learned counsel for the Appellant submits that Appellant has prayed a relief for refund of the amount, which has been already deducted or recovered from his bank account, as much more than the disputed amount is deducted from the bank account, but the learned Single Judge has not considered the said submission and has not passed any order on that prayer made by him.
6. Per contra, learned counsel appearing for the respective Respondents jointly submit that the Appellant has not filed any application for exemption or waiving of mandatory deposit before the Appellate Court promptly and in between, the amount has been recovered from the bank account. The refund from the bank account can only be directed after the decision of appeal filed by the Appellant before the Appellate Forum. They also submit that the order passed by the learned Single Judge is strictly in accordance with law and do not call for any interference.
7. We have heard the learned counsel appearing for the respective parties and perused the record.
8. Undisputedly, the demand notice has been issued for recovery of amount by the Appellate Authority for Rs.1,88,27,604/-. The quantum of amount which is required to be recovered from the Appellant can be ascertained only after decision of the appeal itself on merits. Here, it is a case that an amount of Rs.78 Lacs has been recovered from the bank account of the Appellant, which is less than 50% of the amount mentioned in demand notice and

looking to this aspect, the learned Single Judge has passed the impugned order and given a direction that no further recovery be made to satisfy the mandatory deposit. The quantum of amount can only be determined after final decision of the appeal itself and before the decision of the appeal filed by the Appellant on merits, no order of refund of the amount which has been recovered from the bank account of the Appellant in lieu of demand notice can be directed.

9. For the foregoing reasons, we do not find any merit in the appeal. The appeal being devoid of substance, is liable to be and is hereby dismissed.

Sd/-
(P.R. Ramachandra Menon)
CHIEF JUSTICE

Sd/-
(Parth Prateem Sahu)
JUDGE