

16.03.2021
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Sl. 66

WPA 6351 of 2020
CAN 1 of 2020 (Old CAN 4900 of 2020)

In re : KRSS Metals Private Limited ... petitioner

Mr. Mrityunjoy Goswami

Mr. P Goswami

.....for the petitioner

Mr. S Banerjee

.....for the respondent nos. 1 to 3

The grievance of the petitioner is directed against a sum of Rs. 2,25,134/- lying in a fixed deposit from the current account of the petitioner in terms of an order dated 17th February 2020 passed by this Court in WP 2445(W) of 2020.

It appears from the petition that the petitioner company had defaulted in paying the statutory dues to the respondent authorities. In the circumstance, the respondent ESI authorities initiated proceeding under section 45A of the ESI Act 1948.

Pursuant to an order dated 17th February 2020 the earlier writ petition was disposed of by a Single Judge of this Court. The petitioner was directed to create fixed deposit with the Bank of Baroda as condition precedence for the petitioner filing an appeal under the Act.

It is submitted on behalf of the petitioner that the petitioner had filed an appeal in the interregnum. The petitioner now seeks liberty to withdraw the fixed deposit

amount lying with the Bank of Baroda, Manicktala Branch for the sum of Rs. 2,25,134/-.

It is submitted on behalf of the respondent authorities that the petitioner is a habitual defaulter of ESI dues and during the pendency of this writ petition also has defaulted once again in the payment of ESI dues for a subsequent period. The respondent authorities have subsequently initiated proceeding afresh against the petitioner establishment in view of such subsequent default.

I have considered the submissions made on behalf of the parties. I find from the earlier direction passed in WP 2445 (W) of 2020 that the fixed deposit to be created by the petitioner was a condition precedent for the petitioner to file an appeal before the statutory authorities. The petitioner has now filed an appeal against the statutory authority impugning the earlier order passed under section 45 A of the said Act. I am of the view that there is no scope for refunding or releasing the sum of Rs. 2,25,134/- lying in the fixed deposit with the Bank of Baroda.

I direct the ESI authorities to appropriate the amount lying in the fixed deposit towards the outstanding dues of the petitioner on account of outstanding ESI dues payable by the petitioner establishment.

With the aforesaid directions, WPA 6351 of 2020 stands disposed of. The connected applications, if any, also stand disposed of.

I make it clear that in the event the petitioner company succeeds in the appeal the ESI authorities will give due adjustment to the petitioner, if the facts and circumstance so required after adjusting all dues payable by the petitioner establishment to the ESI authorities.

Urgent certified copy of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Ravi Krishan Kapur, J.)