

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**  
**WRIT PETITION NO.6096 OF 2021**

M/s. Vemb Retail India Pvt. Ltd.                      ]     ...     Petitioner

Vs.

State of Maharashtra & Anr.                      ]     ...     Respondents

...

Mr. Viral Vora for the petitioner.

Mr. P.P. Pujari, A.G.P. for the respondents.

...

**CORAM    : RAVINDRA V. GHUGE, J.**

**DATED     : 02<sup>ND</sup> FEBRUARY, 2022.**

**P.C. :-**

1. By this petition, the petitioner seeks to challenge a discretionary order dated 06/05/2021 passed by the Employees' Insurance Court, Mumbai, considering the application filed by the petitioners for seeking waiver on depositing 50% of the assessed dues of Rs.49,81,081/-. The petitioner has raised a dispute under Section 75 of the Employees' State Insurance Act, 1948 (for short, "**ESI Act**") and moved an application under Section 75-2(B).

2. The learned advocate for the petitioner submits that the business of the petitioner is in doldrums. The business has virtually come to a standstill. The Income Tax Department seeks to recover amounts in crores as purported income tax evasion/dues. Proceedings with regard to the same, are pending before the appropriate forum.

3. In the light of the submissions of the learned counsel, I have gone through the paper-book and the impugned inter-locutory order. The petitioner did not produce the documents like the Muster Roll, the Wage and Salary Register of the Employees and all such documents, which the petitioner ought to have placed before the Employees' Insurance Court, for considering its request for waiver or reduction of amount of deposit.

4. The petitioner has made a request that if the Employees' Insurance Court is not inclined to waive 50% statutory deposit under Section 75-2(B) of the ESI Act, in the alternative, the deposit may be reduced. However, the petitioner did not assist the Employees' Insurance Court and, for the reasons best known to it, suppressed all such documents on the basis of which, it could have demonstrated that its financial condition was so weak that it could not deposit 50% of the amount and it would not be able to deposit even a reduced amount.

5. Even in these proceedings, the petitioner could not point out as to which were the documents that were filed before the Employees' Insurance Court.

6. In view of the above and considering the conduct of the petitioner of not producing the relevant record, to convince the Employees' Insurance Court, has led to the impugned order. In my view, the petitioner is fortunate that the Employees' Insurance Court has reduced the deposit to 30% and, has directed the petitioner to therefore, deposit an amount of only Rs.14,94,325/-.

7. In view of the above, I do not find that the impugned order could be termed as perverse or erroneous. This petition being devoid of merits, is dismissed.

**[RAVINDRA V. GHUGE, J.]**