

Item No.2.

IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

HEARD ON: 27.02.2023

DELIVERED ON: 27.02.2023

CORAM:

THE HON'BLE MR. JUSTICE T. S. SIVAGNANAM
AND
THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA

M.A.T. 1918 of 2022
With
I.A. No.CAN 1 of 2023
With
I.A. No.CAN 2 of 2023

**Employees State Insurance Corporation & Ors.
Vs.
Yaduka Agrotech Pvt. Ltd.**

Appearance:-

Mr. Shiv Ch. Prasad **for the appellants.**

JUDGMENT

(Judgment of the Court was delivered by T.S. SIVAGNANAM, J.)

Re: **I.A. No.CAN 2 of 2023**

1. We have heard Mr. Shiv Chandra Prasad, learned Advocate appearing for the appellants.

2. This is an application praying for condonation of delay of 35 days in preferring the instant appeal.

3. Having heard the learned counsel for the appellants and having also perused the affidavit filed in support of the application, we are satisfied that sufficient cause has been shown for not preferring the appeal within the period of limitation.

4. Hence, the application being I.A. No.CAN 2 of 2023 is allowed and the delay in filing the appeal is condoned.

Re: M.A.T. 1918 of 2022

5. This intra-Court appeal is directed against the order dated 28th September, 2022 in WPA No.19073 of 2022. The learned Single Bench after considering the order passed by the appellate authority dated 5th September, 2022 came to the conclusion that the order has been passed in a mechanical manner and the pre-requisites for a reasoned order are missing and therefore, the matter was remanded back to the appellate authority constituted under Section 45AA of the Employees' State Insurance Act, 1948 to rehear the respondent/ writ petitioner and pass fresh orders. The learned Writ Court also directed that the order of

injunction, which was granted during the pendency of the writ petition shall continue till the disposal of the appeal by the appellate authority.

6. In our considered view, the direction issued by the learned Writ Court cannot be faulted and in any event, the respondent / writ petitioner is entitled to an adequate opportunity to put forth its submissions, which has to be dealt with by the appellate authority while passing the final orders.

7. Therefore, we are not inclined to interfere with the order of remand passed by the learned Writ Court. In the result, the appeal fails and dismissed. Connected application being I.A. No. C.A.N. 1 of 2023 is also dismissed.

8. There shall be no order as to costs.

9. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM, J)

I agree,

(HIRANMAY BHATTACHARYYA, J.)

NAREN/PALLAB (AR.C)