

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL NO.1074 OF 2022
WITH
INTERIM APPLICATION NO.18515 OF 2022
IN
FIRST APPEAL NO.1074 OF 2022**

Toyo Engineering India Pvt. Ltd. ... Appellant

V/s.

The Employees State Insurance
Corporation Through The Regional
Director ... Respondent

Mr. S.C. Naidu with Mr. Manoj Gujar with Mr. Pradeep
Kumar with Mr. H.D. Pithadia i/by C.R. Naidu & Co. for
the appellant.

Mr. Shailesh S. Pathak with Jay vora
for the respondent.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 6, 2023

P.C.:

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1. Heard the learned advocates for the parties. Admit on the following substantial questions of law:

“(ii) Whether the Dy. Regional Director, who did not hear the Appellant was entitled to pass the impugned orders u/s 45-A both dated 18th August, 2016 without hearing the Appellant?

(iv) Whether the impugned orders under Section 45-A

(both dated 18th August, 2016) demanding contribution in respect of period beyond 5 years from the date on which the contribution became payable is ultra vires Second Proviso to Section 45-A of the ESI Act?

(vii) Whether the Corporation was entitled to invoke jurisdiction under Section 45-A in absence of the jurisdictional conditions laid down in Section 44 for invoking powers for assessment of contribution on “*best judgment basis*”?.”

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1. The learned advocate for the appellant states that the appellant has deposited entire decretal amount before the Tribunal.
2. Since, the entire decretal amount is deposited and appeal has been admitted on substantial questions of law mentioned above, there shall be interim relief in terms of prayer clause (a).
2. The interim application stands disposed of. No costs.

(AMIT BORKAR, J.)