

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**FAO-1705 of 2023(O&M)
Date of Decision: 13.07.2023**

Employees State Insurance Corporation & Anr.

...Appellants

Versus

The Sirsa Bansivatt Coop L/C Society Limited & Ors.

...Respondents

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. H.S. Bhatia, Advocate
For the appellants.**

KARAMJIT SINGH, J.

CM No. 6370-CII of 2023

This is an application for condonation of delay of 182 days in re-filing the appeal. For the reasons mentioned in the application, the same is allowed. Delay of 182 days in re-filing the appeal stands condoned.

CM No. 6372-CII of 2023

This is an application for condonation of delay of 153 days in filing the appeal. For the reasons mentioned in the application, the same is allowed. Delay of 153 days in filing the appeal stands condoned

FAO No. 1705 of 2023

1. The appellants have filed this appeal against the order dated 28.01.2022 which reads as follows:-

“Case file received by way of transfer. It be checked and registered.

Written statement and reply to stay application on behalf of defendants not filed. Adjournment sought. Heard. Allowed. Now to come up on 25.04.2022 for filing written statement and reply to stay application on behalf of defendants.

Till then defendants no.1 and 2 are restrained from effecting any recovery from the plaintiff on the basis of impugned order dated 06.12.2021 and defendants no.3 and 4 are restrained from transferring any amount from the account of plaintiff to the defendant no.1 and 2 on the basis of said order dated 06.12.2021.”

2. The only grievance of the appellants is that the Court of Civil Judge(Sr.Divn.), Sirsa is proceeding ahead with the petition filed by respondents No.1 and 2 under Section 75 of the Employees State Insurance Corporation Act(in short, ESIC Act) without passing any order in an application already filed by the said respondents for waiver of amount to be deposited by the employer under Section 75 (2)(b) of ESIC Act and the stay application filed by respondents No.1 and 2 to restrain the appellants from effecting any recovery on the basis of order dated 06.12.2021. The counsel for the appellants further submits that the appellants are also aggrieved by the fact that interim stay order is also passed in favour of respondents no.1 and 2 by the learned trial Court during the pendency of aforesaid application for waiver of amount to be deposited by the employer. That the trial Court should firstly decide the application filed by respondents No.1 and 2 for waiver of amount to be deposited by employer under Section 75(2)(b) of ESIC Act.

3. I have considered the submissions made by counsel for the appellants.

4. The present appeal is hereby disposed of with direction to the Court of Civil Judge(Sr.Divn.), Sirsa to firstly decide application for waiver of amount to be deposited by employer under Section 75(2)(b) of ESIC Act and then to decide stay application, both of whom are filed by respondents

No.1 and 2, within 30 days of next date fixed in the said Court, without granting unnecessary adjournments, in accordance with law. However, observations, if any, made hereinabove are not to be construed as an expression of opinion on the merits of the case.

(KARAMJIT SINGH)
JUDGE

13.07.2023

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No