

04.01.2024.
Court No.13
Item No. 288
ap

W.P.A. No. 26408 of 2023

**M/s. Taj Construction & Anr.
Versus
Employees State Insurance Corporation & Ors.**

Mr. Uddipan Banerjee.

...For the petitioners.

Mr. Shiv Chandra Prasad.

...For the respondents.

1. The petitioners are aggrieved by an order dated 24th February, 2023 passed by the Employees' Insurance Court, West Bengal, Kolkata under Section 75(2B) of the Act of 1948.

2. In terms of Section 75(2B) of the Act of 1948, the challenge to any assessment made under Section 45A before the Employees' Insurance Court cannot be entertained unless 50% of the demand is deposited by the employer with the Court.

3. In exercise of power under the proviso to Sub-Section (2B) of Section 75 of the Act of 1948, the Employees' Insurance Court has permitted the petitioners to deposit 40% of the assessed dues of Rs.18,20,735/-.

4. Counsel for the petitioners is aggrieved by the same. He submits that when the authority assessed the petitioner under Section 45A initially, an ad hoc determination of the outstanding dues of Rs.1,55,348/- was assessed against the petitioner.

However, on a detailed consideration, after inspection of the books of the employer was made, the outstanding dues were arrived at Rs.18,20,735/-.

5. The Employees' Insurance Court's order, permitting the petitioners to deposit 40% instead of statutory requirement of 50% under Section 75(2B) of the Act of 1948 has been passed after due hearing of both the parties.

6. This Court finds no infirmity or violation of any Rules by the Employees' Insurance Court. The order is neither perverse nor suffers from any other vices. There is no violation of the principles of natural justice.

7. In the above circumstances, this Court is of the clear view that the impugned order calls for absolutely no interference whatsoever. The petitioners shall strictly abide by the conditions and mandate of pre-deposit of 40% of the claimed amount of Rs.24,14,221/- being the principal dues of Rs.18,20,735/- plus interest with the Court within a period of one month from date.

8. In the event of non-deposit as directed hereinabove, the appeal being Tender Case No. 22 of 2023 shall stand automatically dismissed.

9. With the aforesaid directions, the instant writ petition shall stand disposed of.

10. There will be no order as to costs.

11. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)