**24.07.2024**
**Court No.13**
**Item No.60**
**AP**

**FMA 430 of 2024**
**With**
**IA NO: CAN 1 of 2024**

**M/s. Satyam Infra Project and Anr.**
**Vs.**
**The Union of India and Ors.**

Mr. Subrata Bhattacharyya
Ms. Shipra Santra
... For the Appellants.

Mr. Subal Maitra
Mr. Arindam Maitra
... For the Respondents.

1. The appeal is directed against an order dated 10th October, 2023 passed in WPA 22053 of 2023 by a Single Bench of this Court. By the impugned order an order dated 19th June, 2023 passed by the Employees Insurance Court under Section 75(2)(B) of the Employees State Insurance Act, 1948 directing 30 percent of the demand to be deposited as a pre-condition for hearing of the appeal.

2. Learned counsel for the appellants submits that the principal employer/respondent No.5 has, in fact, made entire payment to the ESI authorities. The question of any pre-deposit does not and cannot arise.

3. Learned counsel for the ESI has placed the order dated 19th June, 2023 in Tender Case No.61 of 2022 passed by the Employees Insurance Court.

4. It appears from the said order that there are disputes and differences pending between the appellants and the principal employer with regard to the payment.

5. In those circumstances, the submissions of the appellants against the impugned order on the basis that the entire ESI demand has been received by the respondents cannot be sustained.

6. This Court also otherwise does not find any infirmity with the order of the ESI Court dated 19th June, 2023 directing deposit of 30 percent of the demand, in terms of the Act of 1948. Section 75(2)(B) of the Act of 1948 makes it mandatory upon any employer or deemed employer to deposit 50 percent of the demand as a pre-condition for hearing of any appeal passed by the first authority. The ESI Court has in its discretion reduced the amount from 50 percent to 30 percent.

7. In those circumstances, the impugned order dated 10th October, 2023 is well reasoned and calls absolutely for no interference whatsoever.

8. This Court is of the view that the appeal is speculative and totally devoid of merit and has been filed in the abuse of process of law.

9. Hence, FMA 430 of 2024 shall stand dismissed with cost assessed at Rs.7,500/- payable by the appellants to the respondent ESI authorities.

10. In view of the dismissal of the FMA 430 of 2024, connected pending applications, if any, shall also stand dismissed.

11. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

**(Rajasekhar Mantha, J.)**

**(Ajay Kumar Gupta, J.)**