
**Mr. Soumya Majumder,
Ms. Sanjukta Dutta.****... for the appellant.****Mr. T. K. Chatterjee,****... for the respondents.**

The instant appeal was filed assailing an order no. 12 dated 29th November 2023 passed in Tender Case No. 77 of 2023 by the learned Judge, Employees' Insurance Court, West Bengal, Kolkata by which the appellant was directed to put in 45 percent of the claimed amount by 30th January 2024 as a condition for restrain upon the respondents in taking any coercive action against the appellant.

According to the appellant, the Industrial Establishment discontinued its operation on and from 31st March 2018, which would further be corroborated from the document annexed at page 16 of the application.

Admittedly, there has been a default in discharging the statutory liability imposed upon the appellant under the Employees' State Insurance Act, 1948 and the demand was raised by the Corporation together with an interest and penalty, which, according to the appellant, is exorbitant and not in commensurate with the closure of the Industrial Establishment. There was no dissent on the part of the appellant when the instant appeal was moved before us on the percentage as directed by the Employees' Insurance Court, but the appellant felt aggrieved on the total quantum of the claimed amount.

We, therefore, directed both the parties to sit together in order to arrive at the figure, which is

acceptable to both of them. Both the Counsels appearing for the respective parties echoed that they have exchanged their calculation and the Counsel for the appellant candidly submits that her client has accepted the calculation submitted by the Employees' Insurance Court wherein the total amount as on 31st January 2024 is arrived at Rs. 17,01,089/-.

Since the said amount does not appear to be in dispute and it is concededly submitted by the appellant that so far as the percentage as directed by the Employees' Insurance Court is not assailed in the instant appeal, we, therefore, proceeded to dispose of the appeal as well as the connected application by modifying the impugned order that the appellant shall deposit the 45 percent of the claimed amount i.e. Rs. 17,01,089/- within 15th February 2024 with the respondents and in the event the said amount is deposited within the time stipulated herein above, the restrain order passed by the Employees' Insurance Court shall continue until further order.

With these observations, the appeal and the connected application being CAN 1 of 2023 are disposed of.

There shall, however, be no order as to costs.

(Harish Tandon, J.)

(Madhuresh Prasad, J.)

