

13.03.2025  
Item No.5  
Ct. No. 30  
Aloke

**WPA 5384 of 2025**

**Shaktigarh Textile & Industries Limited & Anr.  
Vs  
Additional Commissioner/Regional Director,  
Employees State Insurance Corporation & Ors.**

Mr. Soumya Majumdar, Id. Sr. Adv.  
Ms. Amrita Pandey  
Mr. Ghanshyam Pandey  
Ms. Bipasha Jaiswal  
... for the petitioners

Mr. Rajib Ray  
... for the respondents

1. The present writ application has been preferred against an order dated 6<sup>th</sup> February, 2025 passed by the Joint Director (Revenue), ESI Corporation, the respondent no. 2 herein.

2. The learned senior counsel appearing for the petitioners has brought notice of this Court to the said order. He has submitted that the petitioner had duly placed a representation and a request for waiver of any interest and damages vide a letter dated 02.01.2025 stating therein the various grounds for which there was delay on the part of the petitioners. The basis of the said delay was explained in detail and the financial hardship was subsequently explained in the said letter.

3. It appears from the order under challenge that though the petitioners subsequently prayed to appear before the authority concerned, none of the

grounds on which the waiver was prayed for was even discussed in the order.

4. It appears from paragraph 3 of the said written request of waiver dated 02.01.2025 that the authority concerned had also granted 10 months EMI facility for settlement of dues for the period from 2/2024 to 6/2024 and 8/2024 to 10/2024. In spite of granting the said EMI facility to the petitioners which could have been allowed considering the financial problems of the petitioners, surprisingly the authority went ahead claiming damages for the period prior to the damages for which instalments had been granted. The period being from August 2023 to January 2024 that is just prior to the period for which instalments had been granted.

5. Learned counsel for the ESI Corporation submits that in spite of being given opportunity the petitioners failed to place their case and, as such, the authority concerned rightly directed payment of damage.

6. This Court on considering the submissions of both sides is of the view that, when a detailed representation was before the authority, it was the duty of the authority to consider the said representation in its letter and word on the basis of records, in accordance with law, even if the person making the representation was not before it to support the said contention.

In the absence of the person making the prayer/representation, the duty of the authority increases. More so, when it is the duty of the authority to pass a reasoned order, in accordance with law, which should always include whatever materials is placed before it. The same is to be discussed and decided prior to coming to a final finding.

In the present case, the authority concerned vide its order under challenge though, has referred to the request, has not discussed/or considered the said grounds on which waiver has been prayed for.

7. Accordingly, in the interest of justice, the order under challenge dated 6<sup>th</sup> February, 2025 passed by the Joint Director (Revenue), ESI Corporation, the respondent no. 2 herein, is hereby **set aside**.

8. It is directed that the authority concerned shall hear the matter afresh and also consider the representation dated 02.01.2025 submitted before the authority in accordance with law and pass a reasoned order by giving a hearing to all the parties concerned including the petitioners herein.

9. It is made clear that in case the petitioners fail to appear on the next date as directed, the authority concerned shall proceed in accordance with law and by discussing and considered the

representation already on record and on deciding the same, pass a reasoned order in accordance with law.

10. The matter is remitted (back) to the authority concerned to decide the issue within a period of two months from the date of communication of this order. The authority concerned shall serve due notice to the parties concerned prior to conducting the hearing.

11. WPA 5384 of 2025 is accordingly disposed of.

12. There will be no order as to costs.

13. All connected applications, if any, stand disposed of.

14. Interim order, if any, stands vacated.

15. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

**(Shampa Dutt (Paul), J.)**