

04.07.2025
Item No.9
Ct. No. 30
Aloke

WPA 14417 of 2025

**Big Appetite Hospitality Private Limited & Anr.
Vs
The Employees' State Insurance Corporation**

Mr. Rashmi Bothra
Ms. Sucheta Mitra
Ms. Ranjana Seal

... for the petitioners

1. Affidavit-of-service filed be kept with the record.
2. The petitioners have preferred the present writ application challenging the order dated 19.12.2024 passed by the appellate authority.
3. The said order is as follows:-

"Sir/Madam,

Your appeal dated 11.11.2024 has been perused by the Appellate Authority but it has been rejected on the grounds of failure to pay 25% of the contribution claimed through order u/s 45A within 60 days. There is no enabling provision to condone such delay and you are requested to comply against the Order U/s 45A dated 17.09.2024.

This is issued with the permission of the Additional Commissioner & Regional Director.

Yours faithfully,

*Signed by
Authorised Officer"*

4. It appears that the petitioners did not comply with the mandatory provisions for preferring

an appeal and challenging such an order, the petitioners have approached this Court stating that the amount as claimed in the order under Section 45A is not to be paid by the petitioners as there is no such due and, as such, 25% of the contribution was not deposited.

5. **Section 45AA of the ESI Act, lays down:-**

“45AA. Appellate authority.-If an employer is not satisfied with the order referred to in section 45A, he may prefer an appeal to an appellate authority as may be provided by regulation, within sixty days of the date of such order after depositing twenty-five per cent. of the contribution so ordered or the contribution as per his own calculation, whichever is higher, with the corporation:

Provided that if the employer finally succeeds in the appeal, the Corporation shall refund such deposit to the employer together with such interest as may be specified in the regulation.”

6. Considering that the appeal was not entertained as the petitioners have failed to comply with the mandatory provisions as laid down in that Act, and in the interest of justice, the writ application is disposed of with liberty granted to the petitioners to make the mandatory deposit as required under Section 45AA of the ESI Act within 60 days from the date of this order.

7. The period of limitation is accordingly extended for a period of 60 days, in the interest of justice and if such mandatory deposit is made, the

appellate authority shall revive the appeal and decide the same in accordance with law.

8. **The writ application stands disposed of.**

9. Connected applications, if any, stand disposed of.

10. Interim order, if any, stands vacated.

11. Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon usual undertakings.

(Shampa Dutt (Paul), J.)