



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 6340 OF 2024

Employees State Insurance Corporation
(Through its Deputy Director)
Sub Regional Office, P-82 Panchdeep Bhawan,
Chikalthana, Aurangabad 431 003

.....PETITIONER
(Orig. Respondent)

VERSUS

Ms. Randen Engineering Pvt. Ltd.
(Through its Authorized Signatory)
K-95, MIDC Waluj, Aurangabad

.....RESPONDENT
(Orig. Applicant)

Mr. A. S. Usmanpurkar, Advocate for the Petitioner
Mr. B. R. Kawre, Advocate for Respondent

CORAM : ROHIT W. JOSHI, J.

DATED : 28TH JULY, 2025

ORAL JUDGMENT :-

- . Rule. Rule made returnable forthwith.
2. Heard finally with consent of parties.
3. The present petition is filed by Employee State Insurance Corporation, challenging order dated 07.07.2023, passed by the Member, Industrial Court and Presiding Officer, Employee State Insurance Court, Aurangabad on application at Exhibit 14 in Application (ESI) No.3 of 2022. By the said order, the petitioner is directed to deposit amount of

Rs.27,85,175/- with the said Court. This amount was recovered by the petitioner from the bank account of the respondent, pursuant to an order passed under Section 45G of the Employees' State Insurance Act, 1948 (hereinafter referred to as ESIC Act).

4. The petitioner had vide order dated 19.09.2022, passed under Section 45-A of the ESIC Act, 1948 determined contribution payable by the respondent under the ESIC Act for period from August, 2017 to March, 2021 at Rs.26,17,912/-.

5. The respondent filed application under Section 75 of the said Act, challenging the said order dated 19.09.2022. The said application came to be registered as Application (ESI) No.3 of 2022. In this application, the respondent filed an application vide Exhibit 2 for grant of stay to effect and operation of the order dated 19.09.2022.

6. Section 75(2-B) provides that no dispute shall be raised by an 'establishment' unless 50 percent of the amount claimed by ESIC is deposited with the ESIC Court. Proviso to Section 75(2-B) confers power on ESIC Court to waive or reduce the deposit.

7. The respondent had filed an application vide exhibit 8

praying for waiver of the deposit. Vide order dated 16.11.2022, the respondent was directed to deposit 50 percent of the claim amount excluding the amount towards incentive, travelling and conveyance as well as miscellaneous charges. It will be pertinent to mention that this application is not decided and the said deposit is ordered to be made till the appearance of the respondent keeping the point of deposit open.

8. In compliance of this order dated 16.11.2022, the respondent/establishment has deposited sum of Rs.5,96,641/- with the ESIC Court. Subsequently, the petitioner has passed a garnishee order under Section 45G of the Act and served the same on the banker of the respondent/establishment, namely; HDFC Bank. The said garnishee order is dated 09.02.2023. Pursuant to this order, the garnishee HDFC Bank has made remittance of amount of Rs.27,85,175/- to the petitioner/corporation from the account of the respondent/establishment.

9. In this backdrop, the respondent/establishment filed application seeking stay to the order dated 09.02.2023 and also recovery certificate dated 23.12.2022 (Exhibit 12). The

learned ESIC Court has passed ad-interim-order on Exhibits 2 and 12 on 17.02.2023, *inter alia* granting stay to the effect and operation of both the orders till further orders. The applications at Exhibit 2 and 12 are still pending in as much as the order dated 17.02.2023, are not final orders passed on the said applications. The respondent/establishment filed another application dated 16.03.2023 for refund of the amount. This application is partly allowed by the learned ESIC Court vide order dated 07.07.2023. By this order, the petitioner/Corporation is directed to deposit amount of Rs.27,85,175/- with the ESIC Court within a period of 45 days.

10. The learned Counsel for the petitioner/Corporation states that the amount was already recovered on 16.02.2023, prior to order dated 17.02.2023 when ad-interim-stay was granted to the recovery certificate and garnishee order dated 15.02.2023 and therefore, the learned ESIC Court should not have ordered recovery of the amount.

11. As stated above, the entire amount allegedly recoverable from the respondent/establishment is recovered by the petitioner/Corporation. The parties jointly submit that the proceedings are at an advanced stage and the matter is

posted for final arguments on 14.08.2025.

12. In the light of above said statement, the learned ESIC Court is directed to decide the proceedings finally before 31.09.2025. Both sides make a statement that they will not seek adjournment before the ESIC Court. The amount of Rs.27,85,175, which is recovered by the petitioner/ Corporation will be refunded to the respondent/establishment, in the event the application under Section 75 is allowed alongwith interest at such rate as may be determined by the learned ESIC Court.

13. Having regard to the fact that entire amount is already recovered by the petitioner/corporation, the learned ESIC Court is also directed to refund amount of Rs.5,96,641/- deposited by the respondent/establishment with it in terms of order dated 16.11.2022, passed below Exhibit 8, with accrued interest, if any.

14. In view of the aforesaid, Writ Petition is **disposed** of accordingly.

15. Civil Application, if any, stands disposed of.

(ROHIT W. JOSHI, J.)