



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 875 OF 2015

IN

FIRST APPEAL NO. 964 OF 2016

Patil Safe Company.

...Applicant/Appellant.

Versus

The Regional Director and Another.

...Respondents.

Mr. Meelan Topkar for the Appellant.

Mr. S. S.Pathak and Mr. T. R. Yadav for the Respondents.

Coram : Sharmila U. Deshmukh, J.

Date : April 3, 2025.

P. C. :

1. Civil Application has been filed seeking stay of the judgment and order dated 30th November 2013 passed by the Employee's State Insurance Court.
2. Learned Counsel appearing for the Appellant submits that First Appeal is already admitted. He submits that the documentary evidence on record indicates that though hearing was held on 3rd May 1991 for the purpose of coverage, there was no speaking order. He would further submit that subsequently in the year 1998, notices were issued in respect of the contribution for the period 3rd January 1990 to 30th November 1990 which were not pursued and thereafter in the year 2001 two notices of hearing were issued out of which one notice was in

respect of same period, i.e., 3rd January 1990 to 30th November 1990. He submits that as the hearings were held for two different periods at different dates, a request was made for combining the hearings, which request was rejected and it was presumed that the Appellant has nothing to say and the contribution came to be assessed. He submits that the ESI Court has failed to take into consideration all these aspects and has upheld the assessment of contribution, which is required to be stayed.

3. *Per contra* learned Counsel appearing for the Respondent-Corporation would submit that notices were issued for hearings and as neither the Appellant attended the hearing nor produced any document, the contribution has been rightly assessed. He submits that as the Application has been dismissed, the contributions should be directed to be deposited in this Court as a condition of stay.

4. Considering that the notices for attending the hearings was issued to the Appellant, the Applicant was aware that in the absence of his representation, the contribution would be assessed. It was incumbent upon the Applicant to produce necessary material to assist the Corporation in assessing the contribution. As the ESI Act is a social welfare legislation, it would be appropriate if the stay is granted subject to deposit of the contribution assessed by the Corporation. As per records, for the period 3rd January 1992 to 31st March 1992 the

Corporation has assessed a sum of Rs.84,333/- and for the period 1st April 1998 to 30th September 2000, a sum of Rs.41,828/-. Hence, the Interim Application is allowed subject to deposit of amount of Rs. 1,26,161/- in this Court within a period of eight weeks from today.

5. Interim Application stands disposed of.

[Sharmila U. Deshmukh, J.]