

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 13535 OF 2024
IN
FIRST APPEAL NO. 1644 OF 2024

M/s. Om Sai Enterprises.

...Appellant.

Versus

The Regional Director, Employees
State Insurance Corporation and Another.

...Respondents.

Mr. Aumkar V. Joshi for the Appellant.
Ms. Seema Chopda for the Respondent.

Coram : Sharmila U. Deshmukh, J.

Date : February 26, 2025.

P. C. :

1. Interim Application has been preferred seeking stay of the impugned judgment and order. The contribution assessed by ESI Corporation is Rs.20,27,025/- along with interest.
2. Learned Counsel appearing for the Appellant submits that at the time of filing Application before the Employees' State Insurance Court [for short "***ESI Court***"], a sum of Rs.2,07,720/- was deposited in the ESI Court and pursuant to the order passed by this Court, Appellant has deposited a further sum of Rs.8 lakh in the ESI Court. He submits that thus almost 50% of the amount has been deposited by Appellant. He submits that by an order of even date, First Appeal has been admitted

and therefore the execution of impugned judgment and order be stayed.

3. Learned Counsel appearing for the Respondent submits that contribution assessed for the period February 2011 to July 2014 and October 2014 to October 2015 was a sum of Rs.20 lakh. She submits that along with interest, the said amount has increased substantially and therefore the Appellant should be directed to deposit the entire amount before the stay is granted taking into consideration the beneficial nature of legislation.

4. During the hearing on admission of First Appeal it was brought to the notice of this Court that show cause notice issued to the establishment is not shown to have been duly served as the packets were returned unclaimed with the remark left. As such there was no opportunity granted to the establishment to submit its explanation to the assessment. During the hearing before ESI Court, certain documents were produced by the establishment. However, the finding of ESI Court does not make reference to the said documents and proceeds on the basis that establishment has failed to produce any document. *Prima facie*, from the findings of ESI Court, there is no proper appreciation of evidence. As such the assessment of sum of Rs. 20 lakh is itself questionable.

5. Pursuant to the order passed by this Court, establishment has

deposited a sum of Rs.8 lakh and before the ESI Court, a sum of Rs. 2 lakh was deposited. As such, 50% of the assessment amount has already been deposited by the Appellant. Considering the findings of ESI Court, the case for grant of stay of impugned judgment and order is made out.

6. In the light of above, execution of the judgment and order dated 13th March 2024 passed by ESI Court is stayed till the final disposal of First Appeal.

7. Interim Application stands disposed of.

[Sharmila U. Deshmukh, J.]