IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1928 OF 2025

M/s. Capgemini Technology Services
India Limited ....Petitioner
V/S
Employees State Insurance Corporation & Ors. ....Respondents

Mr. S.C. Naidu with Ms. Vasanti Kunder, Mr. V.M. Parkar, Ms. Divya Yajurved and Mr. Pradeep Kumar *for the Petitioners.*
Ms. Seema Chopda *for Respondents/ESIC.*

CORAM: SANDEEP V. MARNE, J.
DATE : 17 FEBRUARY 2025.

P.C.:

1. The Petition challenges order dated 4 November 2024 passed by the learned Judge, Employees Insurance Court, Thane rejecting the application preferred by the Petitioner seeking exemption under provisions of Section 75(2-B) of the Employees State Insurance Act, 1948 (**the Act**).

2. I have heard Mr. Naidu, the learned counsel appearing for the Petitioner and Ms. Chopda, the learned counsel appearing for Respondent-ESIC.

3. It appears that in the initial order passed under provisions of Section 45-A of the Act, the amount demanded was Rs.10,30,98,053/-. Before the Appellate Authority the Petitioner deposited the amount of Rs.2,57,74,513/- representing 25% of the demanded amount. In the Appeal however the demanded amount got reduced to Rs.4,97,64,483/-, 50% of which would have been less than the amount deposited by the Petitioner. However it appears that a fresh notice of demand was issued by the Respondent-Corporation by citing the reason of typographical error and the demand amount was increased to Rs.6,49,08,598/-.

4. Thus the Petitioner has already deposited 50% of the original demanded amount of Rs.4,97,64,483/-. However this aspect is not considered by the learned Judge while passing the impugned order. In the reply filed by the Respondent-Corporation opposing the exemption application, Respondent-ECIS has also confirmed the position that the only shortfall amount now is Rs.66,79,986/-. Considering the position that 50% of the original demanded amount has already been deposited by the Petitioner and the shortfall is only on account of the alleged typographical error on the part of the Respondent-Corporation, in my view, the Employees Insurance Court ought to have exercised the discretion by granting an order of exemption.

5. Consequently the order dated 4 November 2024 is set aside. The Miscellaneous Application (ESI) No.8 of 2023 filed by the Petitioner is allowed in terms of prayers made therein.

6. Writ Petition is **allowed** in above terms. There shall be no order as to costs.

(SANDEEP V. MARNE, J.)

SUDARSHAN RAJALINGAM KATKAM
Digitally signed by SUDARSHAN RAJALINGAM KATKAM
Date: 2025.02.18 10:33:06 +0530