



113

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CR-8045-2025 (O&amp;M)

Date of decision : 14.11.2025

Regional Director, Employees State  
Insurance Corporation and another

...Petitioners

Versus

Sran Construction Company

...Respondent

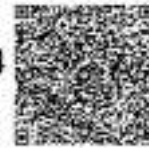
**CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Adarsh Malik, Advocate,  
for the petitioner.

**HARPREET KAUR JEEWAN, J.**

1. Petitioner-Employees' State Insurance Corporation, Punjab (*hereinafter referred to as 'the Corporation'*), has filed the present Revision Petition under Article 227 of the Constitution, impugning the order dated 18.04.2025, passed by the Civil Judge (Senior Division), Chandigarh-Employees State Insurance Court, Mohali/Chandigarh (*for short, 'the ESI Court'*), whereby the application filed by the Contractor-respondent has been allowed and delay of 782 days has been condoned, while raising a challenge by the respondent to the order dated 15.12.2022 under Section 45A of the Employees' State Insurance Act, 1948 (*for short, 'the Act'*).

2. The facts, in brief, are that the respondent was allotted ESI Code as it was covered under the Act. The respondent is alleged to have worked under a contract of Water and Sanitation Engineering Department, Punjab from 01.06.2016 till 31.03.2022. The petitioner issued show-cause notice for payment of contribution of the share of



the employer in accordance with Section 40 of the Act. The aforesaid notice was received back undelivered with the remarks “refused” (Annexure P-6). Thereafter, an order under Section 45A of the Act (Annexure P-2) was passed and a sum of Rs.2,56,410/- for the period from 07/2018 to 06/2022 was determined recoverable from the respondent as contribution of its share. The respondent did not file any appeal against the said order, however, challenged the same by way of filing petition under Section 75 (2B) of the Act. Along with the said petition, an application under Section 5 of the Limitation Act, 1963 was also filed, whereby delay of 782 days was condoned by the ESI Court by passing the impugned order.

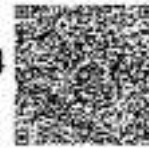
3. Learned counsel for the petitioner contends that the ESI Court has not taken into consideration that before passing the order under Section 45A of the Act, notice was issued to the respondent, but it has refused to accept the notice, which amounts to acceptance of the notice, as such, no case is made out for condoning such a long delay of 782 days. It is further pointed out that the order passed under Section 45A of the Act is appealable, but no such appeal has been preferred by the petitioner.

4. I have considered the aforesaid contentions and perused the paper-book.

5. It is not in dispute that personal service of the respondent was not effected before the order of recovery (Annexure P-2) was passed.

6. It is also not disputed that though the demand order (Annexure P-2) is appealable under the provisions of Section 45AA of

the Act, however, it is also equally true that the respondent has a



remedy to approach the ESI Court under the provisions of Section 75 (2B) of the Act, which reads as under:-

*“2B No matter which is in dispute between a principal employer and the Corporation in respect of any contribution or any other dues shall be raised by the principal employer in the Employees' Insurance Court unless he has deposited with the Court fifty per cent. of the amount due from him as claimed by the Corporation: Provided that the Court may, for reasons to be recorded in writing, waive or reduce the amount to be deposited under this sub-section.”*

7. It is also noticed that in case the remedy of appeal is invoked under Section 45AA of the Act, the employer is required to deposit 25% of the contribution so ordered, whereas in case the employer avails his remedy under Section 75 of the Act, he is required to deposit 50% of the contribution so ordered by the impugned order as per Subsection 2B of Section 75 of the Act.

8. In such circumstances, the respondent-employer has opted to pay more amount by not availing the remedy of appeal, as such no prejudice has been caused to the petitioner-Corporation.

9. Learned counsel for the petitioner has also informed that the petitioner shall be entitled to receive simple interest @ 12% per annum on the amount which is determined to be paid by the employer-respondent under the provisions of Section 39(5)(a) of the Act, in case the respondent-Contractor fails in his claim before the ESI Court. Subsection 5(a) of Section 39 of the Act reads as follows:-

*(5) (a) If any contribution payable under this Act is not paid by the principal employer on the date on which such contribution has become due, he shall be liable to pay simple interest at the rate of twelve per cent. per annum or at such higher rate as may be specified in the regulation till the date of its actual payment: Provided that higher interest specified in the regulations shall not exceed the lending rate of interest charged by any scheduled bank.*



10. In view of the above, this Court feels that it would be in the interest of justice that the matter is adjudicated on merits as the delay on the part of the respondent-employer would be compensated to the petitioner-Corporation by way of claiming interest in view of the provisions of Section 39(5)(a) *ibid*.

11. As a result of the above discussion, this Court is of the considered opinion that no irregularity or illegality has been committed by the ESI Court by passing the impugned order, as such, no interference is called for.

12. Consequently, present petition is dismissed.

13. Nothing observed hereinabove shall be construed as an expression of opinion on merits of the controversy.

14. Pending miscellaneous application(s), if any, shall also stand disposed of.

14.11.2025

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[HARPREET KAUR JEEWAN]  
JUDGE

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|-------------------------------|-----|----|
| Whether speaking / reasoned : | Yes | No |
| Whether Reportable :          | Yes | No |