IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12969 OF 2026

Arihant Industrial Corporation Ltd. **... Petitioner**

Versus

Regional Director Employees

State Insurance Corporation And Ors. **... Respondents**

Mr. Vijay P. Vaidya *a/w Mr. Mahendra Agvekar for Petitioner.*

Mr. Anand S. Kulkarni *(Through V.C.) for Respondents.*

CORAM : SANDEEP V. MARNE, J.

DATE : 6 OCTOBER 2026.

P.C. :

1) The Petition challenges Order dated 17 June 2025 passed by the learned Judge, Employees' Insurance Court, Thane rejecting the Application (ESI) No. 2 of 2014 filed by the Petitioner as barred by limitation. In Application (ESI) No. 2 of 2014, filed under Section 75 read with Section 77 of the Employees' State Insurance Act, 1948 ("**the ESI Act**"), the Petitioner had challenged Order dated 5 September 2006 passed under Section 45-A of the ESI Act, as well as Order dated 29 May 2014 and the prohibitory Order dated 17 June 2014.

2) I have Mr. Vaidya, the learned counsel appearing for the Petitioner and Mr. Kulkarni, the learned counsel appearing for Respondents.

MANE SONALI DILIP Digitally signed by MANE SONALI DILIP Date: 2026.10.08 11:15:04 +0530

3) In the present case, it appears that an amount of Rs.10,62,935/- was ascertained by the Regional Director on the basis of report of the Inspector vide Order dated 15 May 2000. The Petitioner requested for revisit of the Inspector and liberty to produce documents. Accordingly, it appears that the Inspector revisited the premises and thereafter, the Deputy Director issued a Corrigendum on 24 February 2003, ascertaining the due amount at Rs.1,002 + 1,421 against the Petitioner. Petitioner accordingly paid the amount of Rs.2,423/- on 12 May 2003. However, three years later, the ESI once again proceeded to ascertain the due amount as Rs.10,62,935/- and issued show cause notice to the Petitioner. Petitioner responded by letter dated 8 May 2006 inviting the attention of the Assistant Director to the re-verification conducted by the Inspector. Ignoring the Corrigendum dated 24 February 2003, the Assistant Director proceeded to order under 45-A of the ESI Act on 7 September 2006, directing the Petitioner to pay contribution of Rs.10,62,935/- for the period 1995 to 1997.

4) The Petitioner was apparently not vigilant in immediately filing an appeal against Section 45-A order dated 7 September 2006. It is the contention of the Petitioner that it visited the office of the Assistant Director for bringing to his notice the Corrigendum issued based on re-verification conducted by the Inspector and believed that the matter stood closed. I find substance in the said plea raised by the Petitioner since the Respondent ESI did not initiate any proceedings for recovery of the amount for next eight long years. The notice of demand was issued eight years later on 29 May 2014. After receipt of notice of demand, the Petitioner made a detailed representation dated 4 June 2014 to ESI pointing out the re-verification conducted by the Inspector

and the Corrigendum issued to the original demand. However, since the Respondent failed to withdraw the order dated 7 September 2006, the Petitioner was required to file application under Sections 75 and 77 of the ESI Act before the Court.

5) The learned Judge has not appreciated the above chronology of events and has erroneously rejected the application by holding that the same was filed eight years after passing of order dated 7 September 2006. In the entire order passed by the learned Judge, there is no whisper about Petitioner's stand that the original demand raised on 5 May 2000 was reduced vide Corrigendum dated 24 February 2003. The learned Judge ought to have appreciated the plea raised by the Petitioner that he had visited the office of ESI after receipt of Section 45-A Order dated 7 September 2006 and had attempted to impress upon Respondent that the original demand was reduced and that the reduced amount was already paid by the Petitioner. The learned Judge has also not appreciated the position that Respondent-ESI itself maintained silence for over eight years and did not issue notice for demand.

6) The learned Judge ought to have made some enquiry as to why, in respect of Order dated 7 September 2006, demand notice was issued on 29 May 2014. According to Petitioner, this delay in issuing notice of demand is essentially attributable to Petitioner impressing upon the concerned officer the fact that the original demand was reduced by way of Corrigendum and that the reduced demand amount had already paid by the Petitioner. In my view, therefore, the impugned order passed by the learned Judge clearly suffers from the vice of non

application of mind to the relevant aspects of the case. The case does not involve a circumstance where Petitioner slept over his remedy. He did point out to the concerned Officer of ESI that the Corrigendum was issued. Though the concerned Officer of ESI did not issue any demand notice after being apprised of the fact of issuance of Corrigendum, subsequently, notice for demand was blindly issued in the year 2014. This was the reason for the Petitioner to approach the learned Judge by filing Application (ESI) No. 2 of 2014. In my view, therefore, delay in approaching the Employees' Insurance Court has been appropriately explained in the facts and circumstance of the present case. An opportunity deserves to be granted to the Petitioner to prosecute the Application on merits. In the event, the learned Judge arrives at a conclusion that a Corrigendum was indeed issued and issuance of such Corrigendum renders Section 45-A Order illegal, the Petitioner may not be required to pay any further amount. Therefore, adjudication on merits of the Application (ESI) No. 2 of 2014 would be necessary.

7) In view of the above discussion, the impugned order dated 17 June 2025 is unsustainable and liable to be set aside.

8) The Petition accordingly succeeds in part and I proceed to pass the following order:

ORDER

i) Order dated 17 June 2025 passed by the learned Judge, Employees' Insurance Court, Thane is set aside.

ii) The delay in filing Application (ESI) No. 2 of 2014 is condoned.

iii) Application (ESI) No. 2 of 2014 is remanded to the Employees' Insurance Court to be heard and decided on merits.

9) With the above directions, the Writ Petition is partly allowed and **disposed of**. There shall be no order as to costs.

10) The interim order granted by this Court on 8 August 2025 shall continue to operate during the pendency of Application (ESI) No. 2 of 2014.

[SANDEEP V. MARNE, J.]