**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

116 CWP-13933-2026
Date of Decision : May 06, 2026

EMPLOYEES STATE INSURANCE CORPORATION AND ORS.

-PETITIONERS

V/S

LD. ADDITIONAL CHIEF JUDICIAL MAGISTRATE CUM CIVIL JUDGE AND ANR.

-RESPONDENTS

117 CWP-13936-2026

EMPLOYEES STATE INSURANCE CORPORATION AND ORS.

-PETITIONERS

V/S

LD. ADDITIONAL CHIEF JUDICIAL MAGISTRATE CUM CIVIL JUDGE AND ANR.

-RESPONDENTS

118 CWP-13939-2026

EMPLOYEES STATE INSURANCE CORPORATION AND ORS.

-PETITIONERS

V/S

LD. ADDITIONAL CHIEF JUDICIAL MAGISTRATE CUM CIVIL JUDGE AND ANR.

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Amrinder Singh Sidhu, Advocate
for the petitioners.

Mr. Pawan Kumar Mutneja, Sr. Advocate, with
Mr. Viranjeet Singh Mahal, Advocate
for the respondent No.2.

***

KULDEEP TIWARI, J. (ORAL)

1. All these writ petitions are amenable for being decided through

a common verdict on account of their assailing similar orders and involving an identical question of law. For the sake of convenience and brevity, the facts are being extracted from CWP-13933-2026.

2. The petitioners assail the ad interim order dated 14.01.2026 passed by the respondent No.1- Civil Judge (Senior Division), Jhajjar, on an application preferred by the respondent No.2 (hereinafter referred to as “the Establishment”) under Section 49(2) of the Code of Social Security, 2020 (hereinafter referred to as “the Security Code”), whereby the Establishment has been exempted from depositing 50% contribution of the assessed amount, and the lien on its bank account has been directed to be lifted until further orders.

3. The challenge to the impugned order is primarily predicated upon the proviso appended to sub-section (2) of Section 49 of the Security Code. Learned counsel for the petitioners contends that the impugned order is legally unsustainable, inasmuch as it neither records any reasons, as mandated by the proviso, for waiving the statutory requirement of depositing 50% of the amount assessed by the petitioners under Section 45-A of the Employees’ State Insurance Act, 1948 (hereinafter referred to as “the ESI Act”) vide order dated 13.03.2019, nor was it passed after affording any opportunity of hearing to the petitioners, rather was passed *ex parte*. Further, placing reliance upon the interim order dated 16.01.2026, it is submitted that the petitioners had duly caused appearance in the statutory appeal preferred by the Establishment under Sections 49 and 50 of the Security Code and had sought time to file a reply, which was granted, and the matter stood adjourned to 03.03.2026.

4. Consequently, learned counsel for the petitioners submits that the impugned order deserves to be set aside, and the matter be remanded to the civil court for fresh adjudication. It is further submitted that, in the event of remand, the petitioners undertake not to effect any further recovery until the application(s) are adjudicated afresh.

5. Mr. Viranjeet Singh Mahal, Advocates, records his appearance on behalf of the Establishment (in all writ petitions) under separate validly executed Vakalatnamas instituted before this Court today. Mr. Pawan Kumar Mutneja, learned senior counsel, opening the arguments on behalf of the Establishment, submits that the petitioners, instead of filing their reply before the civil court, have directly approached this Court. It is contended that the petitioners have an efficacious remedy of seeking vacation of the interim relief upon filing their reply, which has not been availed. It is further argued that the balance of convenience and equity lies in favour of the Establishment, and the impugned order has been rightly passed. According to the learned senior counsel, the reasons recorded by the civil court are sufficient and in conformity with the mandate of Section 49(2) of the Security Code. It is also contended that no prejudice has been caused to the petitioners by exempting the Establishment from depositing 50% contribution of the assessed amount.

6. Learned senior counsel further submits that the assessed amount is grossly excessive and disproportionate to the wages payable to the employees of the Establishment, and that an amount of approximately ₹9,01,00,000/- has already been withdrawn from the its accounts. It is further submitted that the statutory appeal preferred under Section 45-AA of

the ESI Act before the appellate authority (petitioner No.2) on 10.05.2019 was decided after an inordinate delay of over 06½ years, i.e. on 24.12.2025, and that too without affording an opportunity of hearing to the Establishment. It is also contended that interest for the said delayed period is now sought to be levied upon the Establishment. Learned senior counsel has also addressed arguments on the merits of the original assessment order.

7. Rebutting the submission regarding delay in the adjudication of the appeal under Section 45-AA of the ESI Act, learned counsel for the petitioners draws the attention of this Court to the order (Annexure P-3) passed by the appellate authority and submits that sufficient opportunity was afforded to the Establishment to deposit 25% of the assessed amount. It is contended that the appeal remained pending for over 06 years solely on account of the Establishment's failure to deposit the statutory amount, and was ultimately dismissed on account of non-deposit of the statutory amount. Therefore, the delay is attributable entirely to the Establishment. The relevant extract of the order (Annexure P-3) reads as under: -

> "*In connection with the subject cited above, kindly refer to your application No. NIL dated 10.05.2019, through which you filed an appeal under Section 45AA on 10/05/2019 before the Appellate Authority against the order dated 13.03.2019 issued under Section 45A for an amount of 39,06,17,781/-. However, you have not deposited 25% of the determined amount.*
>
> *It is to be noted that you were given sufficient opportunities for a personal hearing, and based on the records produced by you, a speaking order was issued under Section 45A determining the contribution. Therefore, your request for a waiver of the pre-deposit of 25% of the determined amount is not tenable. The two essential conditions for filing an appeal under Section 45AA are, namely, filing the appeal within 60 days and depositing at least 25% of the*

determined amount."

8. This Court has heard learned counsel for the contesting litigants and made a studied survey of the record.

9. What emerges from a perusal of the record is that the cause of action for the Establishment to prefer an appeal under Sections 49 and 50 of the Security Code stemmed from the dismissal of its earlier appeal under Section 45-AA of the ESI Act on account of non-deposit of the statutory 25% of the assessed amount. The said appeal was accompanied by an application under Section 49(2) of the Security Code, which was decided by the civil court on the same day vide the impugned order dated 14.01.2026, whereby the Establishment was exempted from depositing 50% contribution of the assessed amount and the lien on its bank account was ordered to be lifted until further orders.

10. A survey of the impugned order reveals that the sole reason assigned by the civil court for granting the relief (*supra*) is that the salaries of the employees and payments to stakeholders were due, and that the petitioners were acting with haste in withdrawing amounts from the company's accounts.

11. In order to gauge the legality of the impugned order, it is imperative to examine it in the light of sub-section (2) of Section 49 of the Security Code. The said provision imposes a statutory bar on the employer from raising any dispute before the Employees' Insurance Court unless 50% of the amount claimed by the Corporation has been deposited. The proviso thereto empowers the Court to waive or reduce the said requirement, subject to reasons being recorded in writing. Section 49(2) is extracted hereunder:-

"49(2). No matter which is in dispute between an employer and the

> *Corporation in respect of any contribution or any other dues under this Chapter shall be raised by the employer in the Employees' Insurance Court unless he has deposited with that Court fifty per cent. of the amount due from him as claimed by the Corporation:*
>
> *Provided that the Employees' Insurance Court may, for reasons to be recorded in writing, waive or reduce the amount to be deposited under this sub-section."*

12. It is thus evident that although there is a mandatory pre-deposit condition, the same may be waived or reduced by the court concerned, but recording reasons is a *sine qua non* for granting such waiver. The object of requirement of deposit of 50% of the assessed amount is to discourage frivolous litigation by establishment/employer and also to secure partial security of assessed dues. It maintains balance between establishment's right to challenge the assessment order and insurance corporation insisting in depositing 50% of the assessed amount. The basic intent of this provision is to regulate access to adjudication, not the merit of the dispute. However, in the present case, the civil court has not assigned any cogent reason while granting such waiver to the Establishment. Instead, it has merely recorded the hardship pleaded by the Establishment in paying salaries and making other payments. In the considered opinion of this Court, if the Establishment was facing hardship in disbursing salaries to its employees and making payments to stakeholders, the civil court could have considered relaxing the lien on its bank account to that limited extent. However, such hardship alone could not constitute the sole basis for exempting the Establishment from depositing 50% contribution.

13. In view of the above, this Court is of the considered opinion that the impugned order suffers from non-compliance with the statutory mandate of Section 49(2) of the Security Code and has been passed in

violation of the principles of natural justice, inasmuch as no opportunity of hearing was afforded to the petitioners. Accordingly, **the impugned orders (in all the writ petitions) are set aside**, and the matter is remanded to the civil court/Employees' Insurance Court for fresh adjudication of the application(s) under Section 49(2), after affording due opportunity of hearing to all concerned and in strict compliance with the statutory requirements of Section 49(2). The parties are directed to appear before the civil court on 07.05.2026 at 11:00 a.m., and the application(s) shall be decided within a period of 15 days from today.

14. Also, in view of the hardship stated to have been faced by the Establishment, the petitioners are directed to file their reply(ies), if any, within 03 days from today before the civil court/Insurance Court.

15. Needless to say, nothing observed hereinabove shall be construed as an expression on the merits of either the appeal(s) or the application(s) filed by the Establishment.

16. This Court is also sanguine that the petitioners shall honour the assurance given by learned counsel that no further recovery shall be effected until fresh adjudication of the application(s).

17. All these writ petitions stand disposed of accordingly.

18. A photocopy of this order be placed on file of each connected case.

(KULDEEP TIWARI)
JUDGE

May 06, 2026
devinder

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