

(2003) 08 CAL CK 0004

Calcutta High Court

Case No: C.O. No. 1511 of 2003

Employees" State Insurance
Corporation

APPELLANT

Vs

Hooghly Mills Company Ltd.

RESPONDENT

Date of Decision: Aug. 13, 2003

Acts Referred:

- Employees State Insurance Act, 1948 - Section 75(2B)

Citation: (2004) 1 LLJ 5

Hon'ble Judges: Girish Chandra Gupta, J

Bench: Single Bench

Advocate: Saumitra Banerjee, for the Appellant;

Final Decision: Allowed

Judgement

Girish Chandra Gupta, J.

The disputed amount was over Rs. 14 lakhs. The opposite party employer prayed for waiver of the requirement of deposit of at least 50 per cent of the disputed amount. Proviso to Section 75(2-B) of Employees" State Insurance Act authorises the Court to pass an order of waiver of compulsory deposit, but such a discretion can be exercised for reasons to be recorded.

2. The learned Court below, in this case, has directed the opposite party herein to deposit a sum of Rs. 2,18,000 but no reasons have been indicated for exercise of this discretion. In the absence of reasons, this exercise of discretion is prima facie vitiated.

3. Notice of this application was directed to be given by this Court on July 23, 2003. Notice was duly given and has been received by the opposite party on July 25, 2003, as would appear from the A/D cards annexed to the affidavit of service filed herein by the petitioner. It is, thus clear that inspite of sufficient notice the opposite parties have chosen to remain absent. This Court is of the view that the impugned order

cannot be sustained being in excess of jurisdiction and in a sense without jurisdiction too. The impugned order is therefore, set aside. This application is allowed.