



कर्मचारी राज्य बीमा निगम  
(अम और रोजगार संरक्षण, भारत सरकार)  
EMPLOYEES' STATE INSURANCE CORPORATION  
(Ministry of Labour & Employment, Government of India)



पंचदीप भवन, सी.आई.जी. मार्ग, नई दिल्ली-110002  
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F.No. T-11/13/37/01/2022 Rev.II

Dated: 10.01.2023

To,

All AC & RD/Director I/c/JD I/c/DD I/c  
ROs/SROs, ESI Corporation

**Sub: Judgement dt.17.11.2022 in SLP No.16380/2022 in the matter of  
ESIC Vs. Nitinbhai Vallabhai Panchasara - regarding**

Sir,

I am directed to enclosed herewith a copy of the judgement of the Hon'ble Supreme Court of India in the above mentioned SLP wherein the Hon'ble Supreme Court has held that the section 39(5) (a) of the ESI Act by which ESIC is entitled to claim interest from the date of contribution due and payable till the actual payment.

A dispute arose between ESIC Vs. M/s Nitinbhai Vallabhai Panchasara on claiming of contribution and interest thereon on delayed payment of ESI Contribution u/s 39(5) of ESI Act. The demand of interest leviable u/s 39 (5)(a) was challenged by the employer before E.I. Court, Rajkot vide Application No.9/2012. The said case was listed on 04.07.2019 and Hon'ble Court accepted partially the application of the employer and held that ESI Corporation to recover the interest of two years only. Subsequently being aggrieved and dissatisfied with the said judgement, ESI Corporation filed R/First appeal no.297/2022 before Hon'ble High court of Gujarat at Ahmedabad which went against ESIC.

Thereafter an SLP No.16380/2022 was filed by ESIC before Hon'ble Supreme Court of India, which was listed on 17.11.2022 for final hearing & decision. Hon'ble Supreme Court of India allowed the said SLP filed by ESIC holding that the employer is liable to pay the interest u/s39(5)(a) of the ESI Act from the date of contribution due and payable till the actual payment.

Keeping in view of the above decision, copy of the judgement is circulated herewith for necessary action and strict compliance while claiming interest as per u/s 39(5)(a) of the ESI Act.

This issues with the approval of the Insurance Commissioner (Rev).

Encls: As above

Yours faithfully,

Signed by Niraj Kumar

Date: 16-01-2023 11:15:04

Reason(Niraj Kumar)

**Asstt. Director (Rev)**

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