

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**FIRST APPEAL NO. 1070 of 2015****With****CIVIL APPLICATION NO. 6473 of 2015****In****FIRST APPEAL NO. 1070 of 2015****With****CIVIL APPLICATION NO. 10113 of 2015****In****FIRST APPEAL NO. 1070 of 2015****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR.JUSTICE S.G.SHAH**

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?	
2	To be referred to the Reporter or not ?	
3	Whether their Lordships wish to see the fair copy of the judgment ?	
4	Whether this case involves a substantial question of law as to the interpretation of the Constitution of India or any order made thereunder ?	

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KHADI GRAMODHYOG....Appellant(s)**Versus****REGIONAL DIRECTOR & 1....Defendant(s)**

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Appearance:**MR BHARAT SHAH, ADVOCATE for the Appellant(s) No. 1****MR HEMANT S SHAH, ADVOCATE for the Defendant(s) No. 1 - 2**

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CORAM: **HONOURABLE MR.JUSTICE S.G.SHAH**

Date : 30/09/2015

CAV JUDGMENT

1. Heard learned advocate Mr. Bharat Shah for the appellant and learned advocate Mr. Hemant Shah for the defendants. Both the learned advocates have agreed to dispose of this appeal at such admission stage because by judgment and order dated 31.03.2015, practically Employees State Insurance Court has remanded the matter back to the competent authority for passing appropriate order under Section 45A or the ESI Act after extending reasonable opportunity to both the sides to represent their case.

2. More particularly, when appellant is seeking only one clarification with respect to such order of remand that, competent authority shall also consider the issue regarding applicability of the Act considering the activities of the appellant, which is not a commercial one but purely a research activity. It is submitted by learned advocate Mr. B. B. Shah that considering the activity of the appellant being research activity, ESI Act would not be applicable to the appellant and, therefore, they are not to contribute any premium towards the scheme.

3. After hearing both the sides, it becomes clear that the competent Court has, by reasoned order remanded the matter back to the competent authority for passing appropriate order in the suit. Therefore, at present there is no reason to admit such appeal and to keep it pending for couple of years since ultimately there could not be any further order other than remanding the same to the competent authority for doing the needful pursuant to impugned order dated 31.03.2015 in ESI Application No. 30 of

2000 under Section 75 of the ESI Act. Therefore, considering the facts and circumstances and material on record as well as submissions by both the learned advocates, this First Appeal is disposed of with following directions:

3.1 The competent authority under the statute has to reconsider the issue and shall pass appropriate order under Section 48A of the ESI Act after extending reasonable opportunity of hearing to both the sides wherein competent Court shall also consider the issue regarding applicability of the Act upon the appellant. For the purpose, the competent authority shall decide such issue within 3 months from the date of receipt of writ of this order. For the purpose, both the sides are at liberty to raise all issues available to them, since this Court has not entered into merits of the dispute between the parties while disposing the First Appeal as aforesaid.

Disposed of accordingly.

4. In view of disposal of main first appeal, Civil Applications do not survive and the same are disposed of in aforesaid terms.

(S.G.SHAH, J.)

drashti