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## ESI CONTRIBUTION MANDATORY FOR COVERED ESTABLISHMENTS

The Andhra Pradesh High Court (**HC**), in the *Jaya Venkatarama* case,<sup>1</sup> held on May 9, 2025, that factories or establishments covered under Employees' State Insurance Act, 1948 (**ESI Act**) cannot be exempted from mandatory ESI contribution obligations.

### Brief Facts

Purchur Cotton Growers Cooperative Spinning Mills Ltd. (**Factory**) was set up in 1989 at Inkollu, Andhra Pradesh. It was later purchased by Jaya Venkatarama Industries Limited (**JVI**) in 2002. In 2004, JVI received notice from the ESI Corporation (**ESIC**) demanding JVI to pay Rs. 89,373 as contribution for the period from April to October 2003. Despite JVI's reply, ESIC initiated recovery proceedings on 16 June 2004 and issued demand notice on 17 June 2004. Subsequently JVI filed application before the Employees Insurance Court (**ESI Court**). After examining the evidence, it rejected JVI's application, following which JVI filed an appeal before the HC.

### JVI's Contentions

JVI, in its application before the ESI Court contended that the Factory based out of Inkollu which did not fall within the purview of the ESI Scheme. Additionally, there was no ESI dispensary near the Village. Hence ESIC had no grounds for seeking social security measures such as the ESI. In the appeal, JVI further stated that the Factory got no notification of being covered under the ESI Act and should have had reasonable opportunity to evidence the non-availability of medical facilities at the village. Therefore, inclusion of ESI is unwarranted on JVI. Additionally, JVI contended that its employees were covered under private insurance and further questioned whether application for granting exemption under Section 87 of the ESI Act<sup>2</sup> was mandatory.

<sup>1</sup> *M/S Jaya Venkatarama Industries Limited v. The ESI Corporation & Four Others*, APHC010687162011.

<sup>2</sup> As per Section 87, Government can exempt factories or establishments from the scope of ESI Act provided they receive similar or superior benefits offered under the ESI Act.

## ESIC's Contentions

In the application before the ESI Court, ESIC contended that the Factory engaged more than 10 employees and falls under Sections 1(3) and 2(12)<sup>3</sup> of the ESI Act and that the absence of ESI dispensary was irrelevant. In the appeal, ESIC contended that the HC's power is limited to questions of law as per Section 75 of the ESI Act,<sup>4</sup> which does not arise in the ESI Court's order as it only dealt with question of facts. Hence the appeal should be dismissed.

## HC's Judgement & Reasoning

The HC:

- While dismissing the appeal, reiterated that the JVT's Factory was covered under the provisions of the ESI Act irrespective of the insurance cover to its employees under the Workmen's Compensation Act, 1923.<sup>5</sup>
- Affirmed that lack of ESI dispensary was irrelevant and does not exempt the Factory from ESI contribution.<sup>6</sup>
- Exemption under Section 87 was a factual verification and an independent cause of action.<sup>7</sup>
- Held that no exemption from ESI contribution could be granted when the premises of the Factory fell within the purview of the ESI Act.<sup>8</sup>

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<sup>3</sup> Section 2(12) defines factory as manufacturing premises where ten or more persons are employed or were employed in the last 12 months.

<sup>4</sup> Section 75 enlists the grounds of disputes on which the ESI Court can adjudicate and states that the civil court does not have the jurisdiction to adjudicate any liability that is determined by the ESI Court under the ESI Act.

<sup>5</sup> Paragraph 16 of the Judgement.

<sup>6</sup> *Ibid*.

<sup>7</sup> Paragraph 17 of the Judgement.

<sup>8</sup> Paragraph 18 of the Judgement.