



कर्मचारी राज्य बीमा निगम  
(श्रम एवं रोजगार मंत्रालय, भारत सरकार)  
EMPLOYEES' STATE INSURANCE CORPORATION  
(Ministry of Labour & Employment, Govt. of India)



मुख्यालय  
Headquarters  
पंचदीप भवन सी०आई०जी रोड , नई दिल्ली-110002  
PANCHDEEP BHAWAN, C.I.G. MARG, NEW DELHI-110 002  
Phone: 011-23604700 Email : dir-gen@esic.nic.in  
Website : www.esic.nic.in / www.esic.in

No. T-11/13/56/02/2020 Rev.II

Dated: 16.08.2022

To,

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

**Sub: Clarification on instruction dt.08.11.2021 in SLP No. 811/2021 titled  
ESIC V/s M/s. Texmo Industries- regarding**

Sir,

Please refer to the instruction No. T-11/13/56/02/2020 Rev. II dt. 08.11.2021 issued on the above subject. Various references from Employers have been received regarding difficulties faced by stakeholders in implementing the judgement dt. 08.03.2021 of the Hon'ble Supreme Court of India.

In this regard, it is reiterated that the queries raised by employers related to the judgement dt. 08.03.2021 have been examined and legal opinion was obtained from legal Counsel. As per the legal opinion, the judgement holds good with effect from 08.03.2021. If any request for refund is received by RO/SRO, decision thereof may be taken by arranging inspection (after approval of Competent Authority) of the unit on case to case basis.

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

Encl: Copy of Legal Opinion

Yours faithfully,

**(MOHIT RAJA)**  
**DY. DIRECTOR (REV.)**

Copy to: Website Content Manager with the request to upload on the website of ESI Corporation.

# **MANISH KUMAR SARAN**

ADVOCATE-ON-RECORD  
SUPREME COURT OF INDIA

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Dated: 16.03.2022

## **Legal Opinion**

Querist: ESIC, Headquarter, New Delhi.

**Query: A.** Judgment and order dated 08.03.2021 as passed in SLP (Civil) No. 811 of 2021 "ESIC Vs. M/s Texmo Industries"- Consequences thereof for ESIC.

**B.** Whether ESIC should file Review Petition against the above mentioned Judgment dated 08.03.2021 or in alternative file an Application for clarification of the same?

## **Opinion**

I have perused the Judgment and order dated 08.03.2021 as passed by Hon'ble Supreme Court in SLP (Civil) No. 811 of 2021 (ESIC Vs. M/s Texmo Industries).

A) It is settled law that the Judgments are always prospective in operation unless otherwise directed by Hon'ble Court while passing the Judgment. In the present case the Judgment was pronounced on 08.03.2021 and as such the consequences arising out of the said Judgment and Order whether for ESIC or for the Principal Employers commences from the said date and in that regard the Order dated 08.11.2021, issued by ESIC to all its ACs and RDs, is

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विधि शाखा  
Legal Branch  
डायरी सं. / Dy. No. 716  
दिनांक / Date 12/03/22

perfectly in accordance with law and the same is amply clear.

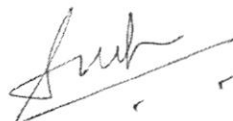
As far as queries raised in the file notings of the Revenue Branch dated 23.12.2021 whereby my opinion has been sought, I am of the considered view that once the Judgment holds good with effect from 08.03.2021, the other issues totally falls within the domain of ESIC, as it involves the operational aspects which is for the ESIC to work it out and it can conduct inspection on case to case basis as and when occasion arises.

B) (i) As far as preferring of Review Petition against the Judgment dated 08.03.2021 is concerned, I don't find any reason to prefer the same.

The Judgment dated 08.03.2021 has been passed after detailed hearing whereby the counsel for ESIC was also heard at length. Moreover, there is nothing in the note-sheet which has been sent to me for seeking opinion to indicate that any document escaped the attention of the Hon'ble Court while passing the said Judgment which if taken into consideration could have had its impact on the said Judgment. Moreover, as per Supreme Court Rules 2013, Review Petition is heard by the same Bench and is decided by Circulation in Judge's Chamber whereby no oral hearing is allowed.

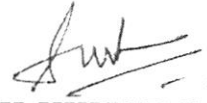
In view of the above and for the reason, no ground is made out to file Review Petition.

(2)



(ii) As far as filing of Application seeking clarification of the Judgment and Order is concerned, there is no ground for the same. Whatever issues which have been raised in the note of the Revenue Branch dated 23.12.2021 pertains to the operationalization of the Judgment and Order. Once Judgment is pronounced it is for the ESIC to work out the modalities for the implementation of the same.

Opined accordingly



**(MANISH KUMAR SARAN)**

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