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CGIT-1/EPFA/Misc/38(W) and 38(S)OF 2021

03.08.2021

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1 MUMBAI

Present

Justice Ravindra Nath Kakkar

The Prag Bosimi Synthetic Ltd. ... Appellant

Vs

Regional Provident Fund Commissioner ...Respondent

Bandra

Presence:

For the Appellant : Mr.H.L.Chhedda (Authorized Legal Representative)

For the Respondent : Mr. Sunil Surana, Adv.

ORDER

The present appeal is filed by the Appellant under Section 7-I of the Employees' Provident Fund and Miscellaneous Provision Act, 1952 (hereinafter referred to as the 'Act') against the order dated 28-02-2020 passed by the Regional Provident Fund Commissioner, the Respondent under section 14-B of the Act.

Along with the appeal memo, the Appellant has filled applications for waiver of deposit under proviso to section 7-O of the Act and Stay application.

The impugned order was passed by the Respondent on 28-02-2020 and appeal was filed on 19.05.2021. The miscellaneous application for delay in filing this appeal has been allowed and the delay was condoned by a separate order.

Today, the matter is fixed for disposal of these miscellaneous waiver/reduction application u/s 7-O of the Act and Stay application.

Reply/say on the waiver application and Stay application has been filed by the Respondent.

Heard both the parties at length.

Authorized representative of the Appellant states that The Appellant was declared as a Sick Public "Relief Undertaking" under the Assam State Industrial Undertaking (Special Provisions) Act, 1984 from 2004 onwards.

The Appellant further stated that the Financial status of the company deteriorated and under the compelling circumstances has made default in remitting the monthly provident fund contributions during the month of March 2006.

The Appellant further submitted that the plant at Assam is closed since March 2020 due to spread of Covid-19 and the bad economical period due to lockdowns and restrictions.

It is next contended that the impugned order is neither a speaking order nor reasoned. Panel damages were levied mechanically. There was neither deliberate nor willful default on the part of Appellant establishment and lastly argued that the pre-deposit is not required if assessment is under section 14-B of the Act.

The learned counsel for the Respondent in reply stated that Appellant establishment has deposited the PF dues and allied dues belatedly during the period from 01/04/2010 to 31/03/2012 (Default period 12/2006 to 09/2011). The Respondent commissioner passed the order after following the due procedure of principle of natural justice. Further, it was stated that financial difficulty is not a relevant factor while levying damages. The Act is a beneficial piece of legislation for the welfare of the working class and for the purpose of social security.

Having considered the submissions as raised by both the parties, records available in appeal file, and facts and circumstances of the case, firstly I would like to mention that compliance of the provision of section 7-O of the Act are mandatorily required for the entertainability of the appeal filed against the order passed u/s 7-A of the Act and not for the appeal against the order passed u/s 14-B of the Act.

In view of the submissions with regard to consideration of financial hardships and other mitigating and aggravating circumstances in this appeal, serious arguable case being involved in this appeal so prima facie case as well as balance of convenience is in favor of the Appellant. However, since Appellant has made a prayer for the grant of stay of the impugned order in this appeal, considering which I am of the view stay should not be a blanket order but certain conditions are to be imposed. In this way, interest payment under section 7Q amounting to Rs.3,92,961/- is directed to be deposited by the Appellant with Respondent within a period of six weeks for entertainability of this appeal.

Appeal is admitted subject to deposit of interest amount of Rs.3,92,961/- under Section 7-Q of the EPF&MP Act. After depositing the assessed interest amount within six weeks, the impugned order shall remain stayed.

In light of the aforesaid, these miscellaneous applications no. 38(w)/2021 and 38 (S) are disposed of.

Sd/-

(JUSTICE RAVINDRA NATH KAKKAR)
PRESIDING OFFICER

राष्ट्रीय औद्योगिक अधिकरण NATIONAL INDUSTRIAL TRIBUNAL MUMBAI मुम्बई

सही प्रतिलिपि
TRUE COPY

Secretary to the Court
Central Government Industrial
Tribunal-cum-Labour Court No. I
Mumbai