

Court No. - 6

Case :- WRIT - C No. - 37910 of 2023

Petitioner :- Kisan Sahkari Chini Mills Ltd.

Respondent :- Union Of India And 2 Others

Counsel for Petitioner :- Sandeep Pandey, Devesh Tripathi, Sunil Kumar Tripathi

Counsel for Respondent :- A.S.G.I., Jagdish Pathak

Hon'ble Mrs. Manju Rani Chauhan, J.

Heard Mr. Sandeep Pandey, learned counsel for the petitioner, Mr. Amit Kumar Singh, learned counsel for the respondent nos.2 and 3 and learned Additional Solicitor General of India for respondent no.1.

This writ petition has been filed by the petitioner with a prayer to quash the impugned orders dated 29.11.2022 passed u/s 14B & 7Q and recovery orders dated 15.05.2023, 20.07.2023 & 04.08.2023 passed u/s 8 of the Act of 1952 along with show cause for warrant of arrest dated 12.10.2023 passed by respondent no.2, Regional Provident Fund Commissioner-II, Varanasi and a further prayer to direct respondent no.2 not to take any coercive action against the petitioner during the pendency of the writ petition.

At the very outset, learned counsel for the respondent nos.2 and 3 points out that the writ petition is not maintainable as there is an alternative remedy of filing an appeal against the impugned order under Section 7(I) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

In view of the above, the relief as prayed cannot be granted.

However, it is open to the petitioner to file an appeal before the appellate authority alongwith stay application as well as certified copy of this order within a period of two weeks from today. If any such appeal alongwith stay application is filed, the appellate authority shall decide the stay application, in accordance with law, within a period of 15 days from the date of receipt of such application. The appellate authority is also directed to decide the said appeal, ignoring the delay and laches, after giving opportunity of hearing to all the parties, in accordance with law, by a reasoned and speaking order, preferably within a period of three months from the date of filing such appeal, if there is no other legal impediment.

With the aforesaid observation/directions, this writ petition is finally ***disposed of***.

It is made clear that this Court has not examined the merits of the claim of the petitioner and the authority concerned shall apply its own mind strictly in accordance with law.

Order Date :- 2.11.2023

Kalp Nath Singh