

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2015

CORAM:

The Honourable Mr. SANJAY KISHAN KAUL, Chief Justice
and
The Honourable Mr. Justice M.M. SUNDRESH

Writ Appeal No. 1337 of 2009
and M.P. No. 1 of 2009

Regional Provident Fund Commissioner
Employees' Provident Fund Organisation
Regional Office
37, Royapettah High Road
Chennai 600 014.

.. Appellant/1st Respondent

vs.

1. Pyramid Salmira Theatre Ltd.
C-1, II Floor, Temple Tower
No.672, Anna Salai
Nandanam, Chennai 600 034
through the Official Liquidator
.. amended vide order dated
26.02.2015 made in M.P.No.1/2015

2. The Branch Manager
AXIS Bank
G.N. Chetty Road
Chennai 600 017.

.. Respondents/Petitioner
2nd respondent

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 29.07.2009 passed by the learned Single Judge, in Writ Petition No.14591 of 2009 on the file of this Court Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the 1st respondent from initiating recovery proceedings against the petitioner including the recovery proceedings No.CC1/4/TN/52226/Comp/Reg1/2009 dated 8.7.2009 issued to the 2nd respondent and lift the attachment in respect of petitioner's Current Account C.A.No.014010200027441 and further direct the 1st respondent to permit the petitioner to pay the admitted amount of contribution in monthly installments.

For Appellant : Mr. K. Ramu

For Respondents: Mr. B. Dhanaraj
for Official Liquidator-R1
Mr. V. Chinnasami for R2

J U D G M E N T

(Delivered by The Hon'ble The Chief Justice)

Learned counsel for the appellant submits that the appellant is only aggrieved by the general directions contained in para 8, which have been stayed during the pendency of the appeal. He submits that these directions are in contradiction with the judgment of the Division Bench of the Gujarat High Court in Letters Patent Appeal No.12 of 2010, dated 15.06.2011.

2. The general directions contained in para 8 of the impugned order read as under:

"8. Before parting with this matter, this Court is constrained to state that in view of the orders of attachment which are being passed even prior to the expiry of the period of appeal and revision, this Court is flooded with the filing of similar petitions. Therefore, in order to avoid the frequent filing of similar petitions and also with a view to secure the interest of the petitioner and the respondent/Employees' Provident Fund Organisation, this Court is constrained to make it clear that the orders passed under Section 7A and 14B of the Employees' Provident Fund Act and consequential order of attachment, if any to be issued by the respondent/Employees' Provident Fund Organisation, shall be kept in abeyance as per the terms of the Act and Rules under the following circumstances, namely,

(i) During the period of limitation prescribed under Section 7-I r/w Rule 7 of E.P.F. Appellate Tribunal (Procedure), Rules, 1998 and Sec.7B of E.P.F. Act for preferring the appeal before the Appellate Tribunal.

(ii) During the period of pendency of Review Petition before the authority.

(iii) Till the date of first actual hearing of the waiver petition filed along with the appeal filed before the Appellate Tribunal."

3. In our view, the aforesaid directions were issued by the learned single Judge on account of the exigency of the situation prevalent at that time, as he was faced with a number of petitions. These petitions possibly arose on account of the issue of interim relief not having been dealt with and certainly cannot be presumed to be directions for all times having universal application. We are informed that such exigency does not exist any more.

4. In view of the aforesaid factual situation, we are of the view that the general directions contained in para 8 have worked themselves out and thus, the grievance of the appellant does not survive.

5. The writ appeal accordingly stands closed. No costs. Consequently, M.P.No.1 of 2009 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ATR

TO

1. Regional Provident Fund Commissioner
Employees' Provident Fund Organisation
Regional Office
37, Royapettah High Road
Chennai 600 014.

2. The Branch Manager, Axis Bank, G.N. Chetty Road,
Chennai 600 017.

+ 1 cc to Mr.K. Ramu, Advocate SR.18686
+ 1 cc to Mr.B.Dhanaraj, Advocate SR.18618

UG(CO)
EU 16 .04.2015

W.A. No. 1337 of 2009