HON'BLE SRI JUSTICE S.V. BHATT

W.P.No.4195 OF 2011

ORDER:

Heard Sri Ghanta Rama Rao, learned Senior Counsel for the petitioner and Sri R.N.Reddy, learned standing counsel for respondent No.2.

The petitioner prays for a writ of Certiorari to call for the records relating to and in connection with the order dated 11.10.2010 in ATA No.501(1) 2000 of the 1st respondent and quash the order as passed without examining the case by considering the objections raised against the order dated 17.03.1993 of the 2nd respondent.

Through the order dated 17.03.1993, the 2nd respondent has determined the provident fund dues amounting to Rs.5,93,501/- as payable by the petitioner and simultaneously rejected the argument of petitioner that M/s Krishna Ganga Spinning Mills, Thimmapuram Mandal, Guntur District is a separate and distinct entity for payment of provident fund.

The 1st respondent through the order impugned has referred to the principles of law enunciated by the Apex Court in reported decisions and referred to the circumstance of supply of power by the petitioner to M/s Krishna Ganga Spinning Mills/raw material and concluded that the distinctness of entities pleaded by the petitioner is unsustainable and thereby confirmed the order dated 17.03.1993 of the 2nd respondent.

Section 7-I of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 provides for appeal before the 1st respondent against the orders of primary authority. The right of appeal is conferred by the Act on the aggrieved party. The same right of appeal is a valuable right and the issue before Tribunal requires proper consideration, both on questions of fact and law. This Court, after perusing the order of primary authority, is of the view that the 1st respondent would have certainly discharged the duty of an Appellate Tribunal/Authority, had it referred to a few distinct circumstances on which the parties before it are at issue and what is the view/reason of Tribunal on these issues.

Having perused the order impugned, this Court has no hesitation to hold that the order impugned does not satisfy the requirement of adjudication by a Tribunal and the complaint of the petitioner that without examining the record or the contentions urged by it, the order impugned in the writ petition is passed. For all purposes, the order of Tribunal is too brief to consider the grievances now canvassed before this Court. This Court cannot, for want of reasons in the order of Tribunal, re-examine the issue to record independent findings.

On this short ground, the order impugned in the writ petition is set aside. The matter is remanded to the 1st respondent for fresh consideration and disposal after summoning the record from the 2nd respondent. At the time of hearing, it is brought to the notice of this Court that the petitioner has deposited a sum of 50% of the dues and the same is taken note.

The writ petition is allowed and the matter is remanded to the 1st respondent. The stay granted by this Court, pending disposal, is directed to be continued till the disposal of the appeal by the 1st respondent. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

S.V. BHATT, J

29th January, 2015

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