IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 698 OF 1997
WITH
CIVIL APPLICATION NO. 11789 OF 2014

Jain Spinners Ltd.
(A Company registered under the
Indian Companies Act, having its
factory office at C-1, MIDC, Paithan,
Through its General Manager
Shri S.Raghupati s/o S.K.Srinivasan). ..Petitioner

Versus

1. The Union of India

2. The Assistant Provident
Fund Commissioner,
Sub Regional Provident Fund Office,
Aurangabad. ..Respondents

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Advocate for Petitioner : Shri A.B.Chalak h/f Shri S.B.Talekar
Advocate for Respondent 2 : Shri K.B.Choudhary
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CORAM : RAVINDRA V. GHUGE, J.
Dated: October 15, 2016
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ORAL JUDGMENT :-

1. The petitioner / management has challenged the order dated 28.6.1996, by which, an amount of Rs.15,67,766/- is assessed as Section 7A dues under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (“1952 Act”). The period of coverage was April 1995 to November 1995.

2. By order dated 24.2.1997, this Court recorded the statement of the petitioner that an amount of Rs.11,45,055/- was already deposited with the respondent PF Department at Aurangabad. By order dated 28.8.1997, the petitioners were directed to deposit an amount of Rs.1,58,862/- with the respondent / PF Office at Aurangabad. Since the said amount was deposited, this Court admitted the matter on 7.10.1997 and granted interim relief.

3. I have considered the strenuous submissions of Shri Talekar, on behalf of the petitioner and Shri Chaudhary on behalf of the PF Department.

4. The grievance of the petitioner is that the amounts have been wrongly assessed under Account Nos. I, II, X, XXI and XXII. It is submitted that, if the petitioner is granted an opportunity, it would convince the petitioner / Department that the said amount as assessed is not recoverable. Shri Chaudhary strenuously opposes the request for remand.

5. Considering the above and the fact that the entire amount has already been deposited, this petition is partly allowed. The impugned order dated 28.6.1996 under Section 7A is quashed and set aside, on the following conditions:-

(A) The petitioner shall appear through its representative before Respondent No.2 / PF authority at Aurangabad on 18.11.2016.

(B) The petitioner shall file all such documents on which it desires to place reliance before respondent No.2 within four weeks from the date of appearance.

(C) The petitioner shall not seek an adjournment and shall participate in the hearing before respondent No.2 office on the dates on which the matter is posted for hearing.

(D) After the hearing is completed, respondent No.2 / authority shall pass a reasoned order and communicate the same to the petitioner expeditiously.

(E) In the event, the petitioner fails to appear before respondent No.2 on 18.11.2016, the hearing on the matter will stand closed and the impugned order dated 28.6.1996 shall then stand restored and the PF authorities would be at liberty to resort to Sections 14B and 7Q of the 1952 Act.

(F) If the petitioner duly participates in the proceedings as directed above, the amounts deposited shall be taken into account by respondent No.2 authority while passing a fresh order.

6. Rule is made partly absolute in the above terms.

7. Pending Civil Applications, if any, stand disposed off.

(RAVINDRA V. GHUGE, J.)

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