

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2016

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.No.22845 of 2003
and
W.P.M.P.No.28243 of 2003

Pentafour Products Ltd.,
Chitra Towers,
332-2, Arcot Street,
Chennai-24.

... Petitioner

Vs

The Regional Provident Fund Commissioner-II,
Employees Provident Fund Organisation,
Ministry of India,
Government of India,
Sub Accounts Officer,
3 Rajaji Salai,
Tambaram, Chennai-25.

... Respondent

Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records relating to the respondent's notice bearing No.TN/30001 SAO/TBM/Recy/2003, dated 17.06.2003 quash the same and direct the respondent to join the scheme before the BIFR.

For Petitioner : Mr.T.K.Bhaskar

O R D E R

The petitioner has filed this writ petition challenging the order passed by the respondent dated 17.06.2003.

2. By the impugned proceedings, the petitioner has been directed to clear the Employees Provident Fund dues. At the time when the writ petition was entertained, a conditional interim order was passed on 14.08.2003. As against which, the petitioner preferred an appeal before the Hon'ble Division Bench and the Hon'ble Division Bench in W.A.No.3010 of 2003 after

referring the decision of the Hon'ble Supreme Court in the case of Tata Davy Ltd. Vs State of Orissa and others [1997] 6 SCC 669 interpreting Section 22 of the Sick Industries Companies [Special Provisions] Act, 1985 and following the same, disposed of the Writ Appeal, observing that the money claimed by the respondent organisation is to be enforced against the petitioner/appellant, only after taking prior permission of the Board for Industrial Financial Reconstruction [BIFR] as contemplated under Section 22 of the Sick Industries Companies [Special Provisions] Act, 1985.

3. In the light of the order passed by the Hon'ble Division Bench and taking note of the fact that the petitioner is before the Board for Industrial Financial Reconstruction [BIFR], the impugned proceedings cannot be enforced at this juncture and accordingly, the writ petition is allowed, leaving open to the respondent organisation to seek appropriate permission of the Board for Industrial Financial Reconstruction [BIFR] as required under Section 22 of the Sick Industrial Companies [Special Provisions] Act, 1985. It is made clear that this opportunity could be exercised, only if there is any money is due and payable by the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

The Regional Provident Fund Commissioner-II,
Employees Provident Fund Organisation,
Ministry of India,
Government of India,
Sub Accounts Officer,
3 Rajaji Salai,
Tambaram, Chennai-25.

+1cc to Mr.T.K.Bhaskar, Advocate, S.R.No.8678

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and
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SK(CO)
CA(22/02/2016)