

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.63 OF 2017
IN
WRIT PETITION NO.2363 OF 2012

M/s.Diastar Jewellery Pvt.Ltd.

.. Applicant
(Org.Petitioner)

In the matter of

M/s.Diastar Jewellery Pvt.Ltd.

.. Petitioner

Vs.

The Regional Provident Fund
Commissioner R.O. Mumbai-III

.. Respondent

Mr.S.C.Naidu a/w Mr.T.R.Yadav alw Mr.Aniketh Poojari i/b
M/s.C.R.Naidu and Co. for the applicant

Mr.Suresh Kumar for the respondent

CORAM : K. K. TATED, J.
DATE : FEBRUARY 23, 2017

PC.:

1 Heard the learned counsel for the parties.

2 This Notice of Motion is preferred by the petitioner for extension of time to comply the order dated 5.12.2016 passed in Writ Petition No.2363 of 2012 and order dated 11.4.2014 in Notice of Motion No.29 of 2014.

3 The learned counsel for the applicant submits that this court by order dated 5.12.2012 granted interim relief in terms of prayer clause (b) of Writ Petition on condition to deposit a sum of Rs.20,00,000/- as per order dated 15.7.2010 under section 14-B of the Employees Provident Fund & Miscellaneous Provisions Act, 1952 and sum of Rs.10,31,385/- under section 7-Q of the Act. He submits that there was delay on their part to deposit the said amount. He submits that applicant deposited a sum of Rs.10,31,385/- with the respondent within time as granted by this court. He submits that sum of Rs.20,00,000/- deposited by them as under:

a)	14.3.2014	- Rs. 2,00,000
b)	10.4.2014	- Rs. 4,65,000
c)	14.5.2014	- Rs. 4,45,000
d)	19.6.2014	- Rs. 4,45,000
e)	03.07.2014	- Rs. 4,45,000

 - Rs.20,00,000
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4 The learned counsel for the applicant submits that after depositing entire amount, they met Mr.H.M.Raut, Asst. Provident Fund Commissioner along with original Challan evidencing deposit of the balance amount. At that time, the Asst.Provident Fund Commissioner after perusing the orders and filing, opined that in view of the compliance of the orders of the Hon'ble Court, no further action was required. He submits that applicant was under impression that respondent was satisfied about the deposit of amount by them, and they are not going to take any action. He submits that thereafter the

department issued show cause notice dated 17.1.2017 calling upon the applicant to deposit remaining amount of Rs.10,86,735/- also. Hence, they moved before this court immediately for extension of time.

5 The learned counsel for the applicant submits that there was delay on their part in compliance of the said order dated 11.4.2014 because the applicants Bank accounts were frozen by department. The learned counsel for the applicant submits that as they have already complied the order passed by this court, respondents may be restrained from taking any action against them on the basis of show cause notice dated 17.1.2017. He further submits that this Hon'ble Court be pleased to extend the time for compliance of the said order.

6 On the other hand, the learned counsel for the respondent vehemently opposed the present Notice of Motion. He submits that this court by order dated 5.12.2012 directed applicant to deposit sum of Rs.20,00,000/- within 8 weeks. As they failed and neglected to comply the said order, respondents preferred Notice of Motion No.29 of 2014. In that Notice of Motion, this court by order dated 11.4.2014 directed applicant to comply the said order within a period of four weeks. In spite of that, they failed and neglected to comply the same within stipulated time. He submits that the reason disclosed by the applicant in affidavit in support of Notice of Motion do not show sufficient ground for allowing the present Notice of Motion. Hence, there is no substance in the present Notice of Motion and same be dismissed with costs.

7 I have heard both the sides. It is to be noted that the applicant complied the said order by depositing entire amount by 3.7.2014.

8 Considering the submissions made by the learned counsel for the Applicant and the reason disclosed in paragraph 8 and 9 of affidavit in support of Notice of Motion, I am satisfied that the Applicant has made out a case for extension of time to comply the orders dated 5.12.2012. and 11.4.2015. For extension of time, applicant have to pay cost of Rs.20,000/- to the respondents. Hence, following order is passed:

- a) Time to comply the order dated 5.12.2015 in Writ Petition No.2363 of 2012 and order dated 11.4.2014 in Notice of Motion No.29 of 2017 is extended till 3.7.2014 when the applicant paid last instalment.
- b) Respondents are restrained from taking any action against the applicant pursuant to the show cause notice dated 17.1.2017 till the hearing and final disposal of Writ Petition.
- c) Applicant either to pay cost of Rs.20,000/- to the respondent within four weeks from today or deposit in the Registry.
- d) If cost is deposited in the Registry within stipulated time, respondent Authority is entitled to withdraw the same without furnishing any security.
- e) Writ Petition stands disposed of accordingly.

JUDGE