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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 23rd October, 2018

+ W.P.(C) 11422/2018 & CM Nos. 44159-44160/2018

RFB LATEX PRIVATE LIMITED Petitioner
Through: Mr. B.B. Pradhan and
Mr.Kishore Kumar Behuria, Advs.

versus

CENTRAL BOARD OF TRUSTEES (CBT)
& ANR Respondents
Through: Mr. Satpal Singh, SC-EPFO

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR

J U D G M E N T (O R A L)

1. The prayers in this writ petition read thus:

“a. Issue a writ order or direction in the nature of certiorari to the Ld. Presiding Officer Central Government Industrial Tribunal, New Delhi, to allow the Application for condonation of delay in complying the order dated 19.07.2018 passed in Appeal No. D-2/15/2018, titled as “M/s. RFB Latex Limited V/s Central Board of Trustees and another”.

b. Allow extension of time for deposit of Rs. 12,00,000/- as per the order dated 19.07.2018 and grant stay against the order dated 06.06.2018 passed by the Respondent no.2.

c. passed an order for de-attach the Bank account of Petitioner.

d. Pass any other further order /relief as this Hon'ble Court deem fit and proper in favour of the petitioner and

against the respondents in the present facts and circumstances of the case”

2. The petitioner had appealed, to the Employees Provident Fund Appellate Tribunal (hereinafter referred to as the “learned Tribunal”), challenging the order dated 24th April, 2014, passed by the learned Assistant Provident Fund Commissioner, Noida, whereby the petitioner was directed to deposit Rs.18,84,480/-, under Section 14B of the Employees Provident Fund Act, 1952, and Rs.9,28,717/- under Section 7Q of the said Act, in respect of the short paid dues of provident fund in respect of the period February, 2003 to July, 2013.

3. *Vide* order dated 19th July, 2018, the learned Tribunal granted stay of operation of the order of the Assistant Provident Fund Commissioner subject to deposit, by the petitioner, of Rs.12 lakhs, within two months. The matter was directed to be renotified on 9th October, 2018, for reporting compliance.

4. It appears that, though pre-deposit of Rs.12 lakhs, as directed by the learned Tribunal, in fact, was deposited by the petitioner, the deposit was effected 20 days late, i.e. on 9th October, 2018.

5. The petitioner, in these circumstances, moved an application, before the learned Tribunal, for condonation of delay of 20 days in making pre-deposit of Rs.12 lakhs.

6. The said application came up before the learned Tribunal on 9th October, 2018. *Vide* an order passed on the said date, the learned

Tribunal issued notice on the application and directed that the application be put up on 13th December, 2018 “for reply and consideration”.

7. As the learned Tribunal is seized, at the instance of the petitioner itself of the issue of the delay in effecting pre-deposit, and the justifiability, or otherwise of the condonation thereof, it is obvious that the petitioner cannot maintain a parallel proceeding before this Court on the same issue.

8. As such, this writ petition does not appear to be maintainable.

9. Learned counsel for the petitioner, however, submits that he moved this Court only because coercive steps are being initiated against his client, as the learned Tribunal did not extend the earlier order of stay granted by it.

10. I do not see how there could be any question of extending the earlier order of stay, when the Tribunal has fixed the issue of delay in effecting pre-deposit, for consideration on 13th December, 2018. *Prima facie*, it appears that the question of extending stay, would arise only once the said delay was condoned and the pre-deposit was accepted, as stay was granted conditional to effecting pre-deposit.

11. Nevertheless, it would be open to the petitioner, in case any coercive steps are being taken, to move the Tribunal in that regard.

This Court cannot, in the above fact situation, pass any orders granting relief to the petitioner against such coercive steps.

12. Learned counsel for the petitioner seeks leave to withdraw this writ petition with liberty to move the Tribunal seeking ad interim relief against coercive steps, which, according to him are being initiated against his client.

13. Leave and liberty as prayed for is granted. The petitioner may move the learned Tribunal, if so advised, seeking ad interim relief in respect of the coercive steps, which according to him, his client is being subjected.

14. It is made clear that this order does not amount to be an opinion, an expression of opinion, one or the another, on the petitioner, would not be entitled to ad interim relief, or for stay of any coercive steps being taken against it. This is an aspect which would have to be decided by the learned Tribunal on the petitioner making an appropriate application before it in that regard.

15. Subject to the above observations, this writ petition is disposed of with no orders as to costs.

16. Copy of this order be given *dasti* under signatures of the Court Master.

C. HARI SHANKAR, J

OCTOBER 23, 2018/kr