

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.05.2019

CORAM:

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN

W.P. No. 14046 of 2019

M/s. Hatsun Agro Product Ltd.,
Rep by its Authorised Signatory - P.Sivasakthivel,
No.144, Timmasamudram Village,
Chennai - Bangalore Highway,
Kancheepuram District - 631 502 ... Petitioner

vs

Regional P.F. Commissioner - I,
Employees' Provident Fund Organisation,
Regional Office,
S-1, TNHB, Phase - III, Sathuvachari,
Vellore - 632 009.Respondent

Prayer: Writ Petition filed under Article 226 of the
Constitution of India, praying to issue a writ of mandamus
forbearing the respondent from initiating recovery proceeding
against the petitioner in terms of its proceedings
No.TN/VLR/38321/Div.V/Compliance/508 dated 22.04.2019 till the
appeal filed by the petitioner is taken up for hearing by the
Central Government Industrial Tribunal cum Labour Court, Chennai.

For Petitioner : Mr.S.Bazeer Ahamed

सत्यमेव जयते

For Respondent : Mr.T.R.Sundaram

WEB ORDER COPY

This writ petition has been filed praying for issuance of a
writ of mandamus forbearing the respondent from initiating
recovery proceeding against the petitioner in terms of its
proceedings No.TN/VLR/38321/Div.V/Compliance/508, dated
22.04.2019, till the appeal filed by the petitioner is taken up
for hearing by the Central Government Industrial Tribunal cum
Labour Court, Chennai.

2. It is represented by the learned counsel for the petitioner that the petitioner company suffered an order of the Employees' Provident Fund Organisation, Chennai under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as "the Act"), dated 22.04.2019, whereby liability to an extent of Rs.50,94,310/- has been fastened on it.

3. He further submitted that the petitioner has got time to file an appeal and that the authorities are taking coercive steps to attach the property. It is further submitted that the Presiding Officer of the Industrial Tribunal, who is the appellate authority, has gone on leave and they are unable to present the appeal before the authority. He added that a waiver petition is also going to be filed seeking waiver of the deposit as contemplated under the provisions of the Act.

4. Mr.T.R.Sundaram, learned counsel appearing for the respondent would submit that even though the petitioner has got right to file an appeal, as on date, the appeal has not been filed and in any event without pre-deposit of 75% as contemplated under the Act, the appeal cannot be entertained. Since the petitioner is going to file an appeal, they may be directed to deposit 75% of the amount as contemplated under the Act, to avoid any action being initiated by the respondent.

5. Heard the learned counsel for both the parties.

6. It is not in dispute that the petitioner has suffered order dated 22.04.2019 under Section 7A of the Act, directing the petitioner to pay the amount. It is also not in dispute that the petitioner has got time to prefer the appeal.

7. In view of the judgment of this Court in Pyramid Saimira Theatre Ltd v. Regional Provident Fund Commissioner, Employees Provident Fund Organisation and others reported in (2009) IV LLJ 893 till the appeal time is over, no coercive steps can be taken.

8. Admittedly, the Tribunal is on leave. Without any pre-deposit being made, an appeal cannot be entertained. Unless pre-deposit is made, no interim order can be passed. That apart, the writ petition has to be dismissed on the ground of alternative remedy. At this stage, the petitioner submits that he will pay 30% of the amount demanded as liability. However, the petitioner disputes the liability fastened on it.

9. Taking note of the submission that the petitioner needs to pay 75% of the amount as per the Act, this Court directs the

petitioner to pay 40% of the amount determined under the order dated 22.04.2019 before the expiry of the appeal period and thereafter the Central Industrial Tribunal is directed to adjudicate the matter on merits without insisting of any further deposit. If the petitioner defaults in payment, as directed above, the authorities are at liberty to take coercive steps, including attachment of the personal property of the Directors of the petitioner company as well as the properties of the petitioner company.

In view of the above, this writ petition stands disposed of. No costs. Consequently, connected WMP No.14118 of 2019 is closed.

Sd/-
Assistant Registrar/Vacation Officer

//True Copy//

Sub Assistant Registrar

msv/ssm

To

1.The Regional Provident Fund Commissioner I,
Employees' Provident Fund Organisation,
Regional Office,
S-1, TNHB, Phase-III, Sathuvachari,
Vellore - 632 009.

2.The Central Government,
Industrial Tribunal,
Cum Labour Court,
Chennai.

+lcc to Mr.T.R.Sundaram, Advocate sr.43572

+lcc to Mr.S.Bazeer Ahamed, Advocate sr.43545

W.P. No. 14046 of 2019

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