IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :09.07.2019

CORAM
THE HONOURABLE Mr. JUSTICE V.PARTHIBAN

W.P.No.19003 of 2019
and
W.M.P.No.18348 of 2019

M/s.Aishwarya Feeds,
Rep. By its authorized Singatory,
Mr.Rajiv Uthirapathi
4/132, Mohanur Road,
Sanyasikaradu (PO),
Namakkal- 637 002. ... Petitioner

Vs.

Asst. Provident Fund Commissioner,
Employees Provident Fund Organisation,
Regional Office,
S.J.Plaza, Swarnapuri,
Salem – 636 004. ... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records ending with the order dated 22.05.2019 in EPFA No.543/2017 passed by the Presiding Officer, The Central Government Industrial Tribunal-cum-Labour Court, Chennai – 600 006 and quash the same and direct the said Tribunal to admit the Appeal filed by the petitioner under Section 7-I of EPF & MP Act in EPFA No.543 of 2017 without making any condition for pre-deposit.

For Petitioner : Mr.Pappiah T.M.

For Respondents : Mr.R.Thirunavukkarasu

ORDER

What is impugned in this writ petition, is the order passed by the Industrial Tribunal in E.P.F.A.No.543/2017 directing the management to pay 40% from the assessed amount on or before 05.07.2019 as pre-deposit.

2.Mr.T.M.Pappiah, learned counsel for the petitioner/ management would submit that the management is going through severe financial crisis and is unable to cough up the funds towards the payment of 40% of the assessed amount. According to him, the management has got a good case in the appeal. According to him, substantial loans have been sanctioned and therefore, a direction for payment of 40% to deposit is little more onerous while considering the financial status of the Corporation.

3.At this, the learned counsel appearing for the respondent organisation would stoutly oppose for interfering with the quantum of percentage arrived at by the Tribunal since the Tribunal having considered the financial status of the petitioner/management, thought it fit to reduce the deposit from 75% to 40% and this by itself is a concession and indulgence shown by Tribunal. Over and above, the petitioner/management cannot be extended any other concession. According to him, the petitioner/management has to pay huge amount towards contribution and also interest accrued thereon. Therefore, he would submit that the order per se passed by the Tribunal does not suffer from any infirmity, calling for interference by this Court.

4.Heard the submissions made by the learned counsel for the petitioner as well as the learned counsel for the EPF Organisation.

5.Although there is force in the argument put forth on behalf of the respondent Organisation that the Tribunal has in fact been considerate to the petitioner for having reduced the pre-deposit amount from 75% to 40%, yet, considering the financial difficulties faced by the company, as a matter of equity, this Court feels it appropriate to reduce the pre-deposit from 40% to 25%. It is made clear that this order is passed considering the peculiar facts and circumstances of the case and cannot be cited as precedent in any other case.

6.In view of the above, the petitioner is directed to pay 25% of the assessed amount, within a period of six weeks from the date of receipt of a copy of this order.

7.The Writ Petition is allowed to the extent as indicated above and the impugned order of the Tribunal in EPFA No.543/2017 dated 22.05.2019 is modified to the extent that instead of 40%, directed to be deposited, is reduced to 25% as substituted. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//
Sub Assistant Registrar

Sgl

To

Asst. Provident Fund Commissioner,
Employees Provident Fund Organisation,
Regional Office,
S.J.Plaza, Swarnapuri,
Salem - 636 004.

+1cc to Mr.R.Thirunakarasu, Advocate, S.R.No.57542
+2ccs to Mr.T.M.Pappiah, Advocate, S.R.No.57519

W.P.No.19003 of 2019

RRS(20/08/2019)