

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.21114 & 21115 of 2019

Modern Spinning Mills

Rep.by its Managing Partner, Mr.Saravana

Mr.Saravana Kumar Govindaraj S/o.Late R.Govindaraj

S.F.No.151, Samathur, Pollachi-642 123

Coimbatore District. ...Petitioner in

W.P.No.21114 of 2019

Galiyar Textiles

Rep.by its Managing Partner,

Mr.Saravana Kumar Govindaraj S/o Late R.Govindaraj

S.F.No.117, Kottampatti Post, Vanjiapuram,

Suleswaranpatty, Pollachi-642 003,

Coimbatore District. ...Petitioner in

W.P.No.21115 of 2019

vs.

1. Presiding Officer

Central Government Industrial Tribunal

Provident Fund Appellate Tribunal

1st Floor, B-Wing, 26 Haddows Road,

Chennai-600 006.

2. The Assistant Provident Fund Commissioner

Employees Provident Fund Organisation

Bhavishyanidhi Bhavan

Dr.Balasundaram Road

Coimbatore-641 018.

3. Recovery Officer

Employees' Provident Fund Organisation

Regional Office, Coimbatore-641 018. ... Respondents in both

W.Ps

COMMON PRAYER:These Writ Petitions are filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of order dated 03.04.2019 in file EPFA.Nos.33 & 34 of 2019, and quash the order in so far as it relates to the pre-condition of deposit of balance 75% of amount assessed under 7-Q of the EPF & MP Act, 1952, and direct

the 1st respondent to admit the Appeal filed by the writ petitioner.

For Petitioners : M/s.A.Deivasigamani
in both W.Ps

For Respondents : Mr.C.Kulanthivel for R2 & R3.
In both W.Ps

C O M M O N O R D E R

The order dated 03.04.2019 in EPFA.Nos. 33 & 34 of 2019 is sought to be quashed in so far as it relates to pre-condition of deposit of balance 75% of the amount assessed under 7Q of EPF and MP Act, 1952 and further direction is sought for to direct the first respondent to admit an appeal filed by the petitioner and dispose of the same on merits and in accordance with law.

2. The writ petitioners are Modern Spinning Mills and Galiyar Textiles, represented by their Managing Partner.

3. The learned counsel for the writ petitioners states that the writ petitioners have to deposit 75% of the amount assessed under Section 7Q for the purpose of preferring an appeal, which is a pre-condition. However, in the impugned order dated 03.04.2019, the Central Government Industrial Tribunal-cum-Labour Court, Chennai directed the writ petitioners to deposit the amount assessed under Section 7Q by the respondent. In other words, 100% amount has been directed to be deposited by the petitioners.

4. The learned counsel appearing for the respondents has also no serious dispute in respect of the pre-condition of depositing 75% of the amount for the purpose of entertaining an appeal.

5. Under these circumstances, this Court is of the opinion that the writ petitioners have to deposit 75% of the assessed amount under Section 75Q for the purpose of entertaining an appeal by the Central Government Industrial Tribunal-cum-Labour Court, Chennai and in the event of depositing 50% of the balance, the appeal shall be entertained and adjudication is to be conducted on merits and in accordance with law and as expeditiously as possible. The writ petitioners are at liberty to deposit 50% of the balance amount within a period of eight weeks from the date of receipt of a copy of this Order. Consequently, the impugned order dated 03.04.2019 passed in EPFA.NO.34 of 2019 by the Central Government Industrial Tribunal-cum-labour Court, Chennai, stands quashed.

6. However, the respondents are directed not to take any coercive steps till the appeal is disposed of.

7. The learned counsel for the respondents raised an objection, however, this Court is of the opinion that such an objection is contrary to the provisions of the Act itself.

8. With these observations, the writ petitions stand allowed. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ssb

To

1. Presiding Officer
Central Government Industrial Tribunal
Provident Fund Appellate Tribunal
1st Floor, B-Wing, 26 Haddows Road,
Chennai-600 006.
 2. The Assistant Provident Fund Commissioner
Employees Provident Fund Organisation
Bhavishyanidhi Bhavan
Dr.Balasundaram Road
Coimbatore-641 018.
 3. Recovery Officer
Employees' Provident Fund Organisation
Regional Office, Coimbatore-641 018.
- +4 CCS to Mr.D.Deivasigamani, Advocate sr 76035, 76036.
+1 CC to Mr.C.Kulanthivel, Advocate sr 76049.

W.P.Nos.21114 & 21115 of 2019

SP(26/09/2019)

WEB COPY