IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.27942 of 2019
W.M.P.No.27529 of 2019

M/s.Mccoy Clothing (P) Limited
3rd Floor, No.2, Thiruvallur Nagar
1st Main Road, Thiruvanmiyur Chennai-600 041
Rep.by its Manager-HR & Admin
Mr.K.Ramanathan

...Petitioner

vs.

The Regional Provident Fund Commissioner-II(PDC),
Employees Provident Fund Organisation,
Regional Office, Tambaram, No.3, Rajaji Salai,
Chennai-600 045.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court, Chennai, Tamil Nadu in EPFA.No.581/2018 quash its order dated 24.07.2019, direct the Central Government Industrial Tribunal-cum-Labour Court to entertain the appeal filed by the petitioner without any pre-deposit.

For Petitioner : Mr.Anand Gopalan
for M/s.T.S.Gopalan & Co.

For Respondents : Mr.R.Vishnu
for Mr.K.Ramu

O R D E R

The order dated 24.07.2019 in EPFA.581 of 2018 is sought to be quashed in the present writ petition and a direction is sought for to direct the Central Government Industrial Tribunal-Cum-Labour Court, Chennai, to entertain the appeal filed by the petitioner without any pre-deposit.

2. It is an admitted fact that the writ petitioner Company is liable to pay damages to the tune of Rs.18,00,000/- as per the order of the respondent. The writ petitioner has preferred an appeal, challenging the imposition of damages in EPFA No.581 of 2018 dated 17.09.2019. The Central Government Industrial Tribunal Cum Labour Court granted interim order on the condition that the petitioner company has to deposit a sum of Rs.5,00,000/-. The said order imposing a pre-condition is under challenge in the present writ petition.

3. First of all, the order under challenge is an interim order passed pending disposal of the main appeal.

4. The learned counsel for the writ petitioner states that the company is in financial crisis and they are not in a position to deposit even Rs.5,00,000/-. Thus, they are constrained to move the present writ petition. This apart, the petitioner company has already deposited the contributions as well as interest in its entirety. As far as the damages are concerned, normally the Central Government Industrial Tribunal Cum Labour Court would not impose such a condition and therefore, the present writ petition deserves to be considered. Pre-deposits are imposed only in case where the contributions are not deposited or the interest is not deposited. In the present case, the issue is only damages, and the said amount is in no way connected with the disbursement to the employees of the petitioner's company.

5. The learned counsel appearing on behalf of the respondent disputed the contention by stating that Rs.18,00,000/- of damages are yet to be cleared by the petitioner company. In order to adopt a balancing approach, the Central Government Industrial Tribunal Cum Labour Court imposed the condition to pay a sum of Rs.5,00,000/- for the purpose of continuing the appeal. Thus, there is no infirmity and further, it is an interim order and if the writ petitioner succeed, the amount will be adjusted or refunded. Under these circumstances, no interference is required in respect of the interim order passed by the Labour Court.

6. This Court is of the considered opinion that interference at this stage may not be required and it is only an interim order of stay granted on condition to pay

a sum of Rs.5,00,000/-. However, this Court has to consider the financial crisis expressed by the writ petitioner, in view of the fact that the interest of the industry is also to be looked into. Industrial development is the backbone of the development of the country and a balancing approach in this regard is highly eminent. It is not as if we can crush an industry by imposing enormous interest and damages. The Court has to take a balanced view to safeguard the interest of both the parties.

7. Under these circumstances, this Court is inclined to pass the following orders:

i) The order impugned dated 24.07.2019 passed in EPFA.No.581 of 2018 is modified to an extent that the pre-deposit of Rs.5,00,000/- is directed to be paid by the writ petitioner company in five equal installments commencing from 01.11.2019 within a period of five months. If any, default in payment of monthly installments, the stay granted by the Labour Court would stand vacated automatically.

ii) The Labour Court is directed to proceed with the main appeal and dispose of the same as expeditiously as possible, without granting any unnecessary adjournments. The parties are also directed to co-operate for an early disposal of the appeal.

8. With these directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CJ CONF)

//True Copy//

Sub Assistant Registrar

ssb
To
The Regional Provident Fund Commissioner-II(PDC),
Employees Provident Fund Organisation,
Regional Office, Tambaram, No.3, Rajaji Salai,
Chennai-600 045.
+1cc to Mr.K.Ramu , Advocate SR.No. 81658
+1cc to Mr.T.S.Gopalan , Advocate SR.No. 80557

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A.SK(23/10/2019)