

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2019

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.Nos.3485 & 3486 of 2019
and
C.M.P.No.22322 of 2019

W.A.No.3485 of 2019

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

... Appellant /Respondent in W.A No.3485 of 2019/
Respondent/Petition in W.A.No.3486 of 2019

Vs

M/s.Aishwarya Feeds,
Rep. by its Authorised Signatory,
Mr.Rajiv Uthirapathi,
4/132, Mohanur Road,
Sanyasikaradu (PO),
Namakkal 637 002.

...Respondent /Petitioner in W.A
No.3485 of 2019
Appellant/Respondent
in W.P.No.3486 of 2019

COMMON PRAYER : Writ Appeals filed under Clause 15 of the
Letters Patent against the order made in W.P.No.19003 of 2019
dated 09.07.2019 on the file of this Court.

Prayer in W.P.No.19003 of 2019:

Petition filed under Article 226 of the Constitution of India
praying for issuance of a Writ of Certiorarified Mandamus
Calling for the entire 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 600006 and quash the same and direct the said Tribunal
to admit the Appeal filed by the Petitioner under Section 7-I of
EPF and MP Act in EPFA No.543 of 2017 without making any
condition for pre- deposit.

For Appellant in W.A.No.3485 of 2019
& For Respondent
in W.A.No.3486 of 2019 : Mr.R.Thirunavukarasu

For Appellant in W.A.No.3486 of 2019
& For Respondent
in W.A.No.3485 of 2019 : Mr.S.R.Raghunathan for
Mr.Rohan Rajasekaran

C O M M O N J U D G M E N T

(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

The appeals have been preferred by the company as well as by the authority challenging the order passed by the learned Single Judge. Since both the parties have preferred appeals, both the appeals are dealt with by this common Judgment.

2.The company viz., M/s.Aishwarya Feeds is covered under Employment Provident Fund & Miscellaneous Provisions Act, 1952. Based on a complaint stating that the company failed to submit statutory returns in accordance with Employees Provident Fund Scheme, an order was passed on 05.02.2016 directing the officials to conduct enquiry under Section 7A of the said Act. After conducting enquiry and after recording evidence, the enquiry officer viz., the Assistant Provident Fund Commissioner under Section 7A of the said Act determined the due payable by the company at Rs.1,84,05,194/- and directed the company to pay within a period of fifteen days by virtue of order dated 16.11.2017.

3.Against the said order, an appeal has been preferred before the Central Government Industrial Tribunal in E.P.F.A.No.543 of 2017 on 23.12.2017. The Tribunal taking into consideration of the financial crisis of the company, reduced the condition of pre-deposit from 75% to 40% of the assessed amount in the impugned order. The said order directing the company to deposit 40% of the amount has been challenged before this Court before the learned Single Judge.

4.After hearing the parties, the learned Single Judge considering the financial crisis of the company and they are finding it difficult to pay the funds to the extent of 40% of the pre-deposit amount, on equity, reduced the pre-deposit amount from 40% to 25% and observed that the said order is passed based on the peculiar facts and circumstances of the case. The said order is challenged before this Court by way of this appeal.

5.Heard Mr.R.Thirunavukarasu, learned Counsel for the authority and Mr.S.R.Raghunathan, learned Counsel for the company.

6.The appeal is still pending before the Tribunal and it is the question of only deposit and what has to be seen is equity. Considering the fact that the company is running a poultry and also manufacturing feeds for cattle and the financial crisis faced by the company, the learned Single Judge reduced the pre-deposit amount from 40% to 25%.

7.When the learned Single Judge in his discretion reduced the amount, this Court is not inclined to interfere with the discretionary order passed by the learned Single Judge in reducing the amount of pre-deposit from 40% to 25%. Therefore, the appeal filed by the authority viz., W.A.No.3485 of 2019 is dismissed. No costs.

8.As far as the appeal filed by the company viz., W.A.No.3486 of 2019 is concerned, though there is an argument put forth by the company that further reduction is needed, as already stated, the learned Single Judge in his discretion found that 25% is appropriate and therefore, this Court is not inclined to interfere with the said order.

9.However, considering the fact that the appellant has produced Demand Drafts viz., D.D.Nos.225386 & 225395 for Rs.5,00,000/- each, drawn on Indian Bank, Namakkal branch dated 11.10.2019 which are being handed over to the learned Counsel for the EPF authority, this Court directs the appellant / company to pay the balance amount of Rs.36,01,298/- in four installments by paying Rs.9,00,324.5/- each month commencing from November 2019 to be paid on or before 30.11.2019. In case of a single default in depositing the amount, the benefit conferred upon the company would be abated.

10.With the above direction, W.A.No.3486 of 2019 is disposed and W.A.No.3485 of 2019 is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

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

+1cc to Mr.R.Thirunavukkarasu, Advocate Sr.87545

W.A.Nos.3485 & 3486 of 2019
and
C.M.P.No.22322 of 2019

sr-II[co]
srg 26/03/2021