IN THE HIGH COURT OF JUDICATURE AT BOMBAY BENCH AT AURANGABAD

WRIT PETITION NO.2214 OF 2020

M/S MAHAVEER GINNING AND PRESSING FACTORY JALNA THROUGH NARENDRAKUMAR KACHARULAL ABAD
VERSUS
THE ASSISTANT PROVIDENT FUND COMMISSIONER THE SUB REGIONAL PROVIDENT FUND OFFICE

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Advocate for the Petitioner : Shri Vidwauns Sagar S.
Advocate for the Respondent : Shri N.K.Choudhari

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CORAM: RAVINDRA V. GHUGE, J.
DATE :- 28th February, 2020

Per Court:

1 The petitioner is aggrieved by the order of dismissal of the appeal preferred by the petitioner before the Central Government Industrial Tribunal (CGIT), Nagpur vide order dated 29.08.2018.

2 The contention of the petitioner is that the petitioner/ Management was never issued with any notice and it was not aware that the CGIT at Nagpur was taking up the provident fund proceedings. The appeal was filed before the Provident Fund Appellate Tribunal at New Delhi and was transferred to the CGIT at Nagpur.

3 The Roznama/ Diary produced before the Court indicates at page 53-A that the advocate for the appellant was present on 12.01.2018. The learned advocate for the petitioner contends that he had not received any notice of the proceedings and the Roznama does not reflect the

correct picture.

4 Without going into the said aspect, I find that the submissions of the learned advocate for the respondent need consideration. He submits that the amount of Rs.4,35,340/- was the arrears of the provident fund contributions for the period March, 1992 to August, 1998. The first order under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 was passed on 27.08.1999. Since then the petitioner has engaged the respondent in litigation and by depositing a paltry amount of Rs.2,20,000/- while preferring the appeal before the Provident Fund Appellate Tribunal, the petitioner was successful in dragging the litigation for 21 years. Even that amount of Rs.2,20,000/- was deposited by the petitioner only after this Court directed the petitioner in the earlier Writ Petition No.5062/2013. Provident Fund contributions, as a matter of right of the employees, have not been deposited by the petitioner and the petitioner has made a mockery of the Employees Provident Funds and Miscellaneous Provisions Act, 1952, which is a part of Social Security Legislation. He submits that if the interest and damages are calculated, the amount would be somewhere around Rs.9 lakhs.

5 Considering the above, as the petitioner has deposited only Rs.2,20,000/- while preferring the appeal and has dragged the litigation for almost two decades, I deem it appropriate to direct the petitioners to deposit a further amount of Rs.2,15,340/- in view of the order dated

28.06.2011 directing the calculations of simple interest at the rate of 12% on the said amount until the actual payment. Consequentially, the amount of Rs.4,35,340/- as assessed by the impugned order with interest would have multiplied at least twice and would be somewhere around Rs.8.70 lakhs.

6 Hence, this Writ Petition is partly allowed. The order of dismissal in default dated 29.08.2018 is quashed and set aside. Case No.CGIT/NGP/EPFA/94/2017-18, shall stand remitted to the office of the CGIT, Nagpur. The litigating sides shall appear before the CGIT, Nagpur on 27.03.2020 at 11:00 am. The petitioner shall deposit Rs.2,15,340/- (Rupees Two Lakhs Fifteen Thousand Three Hundred Forty) with the respondent authority at Aurangabad, on or before 21.03.2020, failing which, the CGIT, Nagpur shall dispose off the proceedings on 27.03.2020.

7 If the petitioner remains absent on the date of appearance and further dates of hearing, the CGIT, Nagpur would be at liberty to proceed with the matter and pass appropriate orders.

8 After the proceedings are taken up by the CGIT, Nagpur subject to the compliance of the above directions, it shall endeavour to decide the same as expeditiously as possible and in any case, on or before 15.07.2020.

kps **(RAVINDRA V. GHUGE, J.)**