

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 3275 of 2020

and

W.M.P. Nos. 3788 and 3790 of 2020

Kaizen Cold Formed Steel Pvt. Ltd.,
No. 14-A, Ennore High Road,
Thiruvottiyur,
Chennai - 600 019.

... Petitioner

-vs-

1. The Central Government Industrial Tribunal (CGIT),
1st Floor, B Wing, 26, Haddows Road,
Shastri Bhavan,
Nungambakkam,
Chennai - 600 034.

2. The Assistant Provident Fund Commissioner (C&R),
Employee's Provident Fund Organization,
Regional Office,
No. 37, Royapettah High Road,
Royapettah,
Chennai - 600 014.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the First Respondent relating to the impugned order 164/2019 dated 11.12.2019 passed by the First Respondent and quash the same as illegal, arbitrary and devoid of merit which is in accordance with the equity and law.

For Petitioner : Mr. M.V. Swaroop

For Respondents: Mr. A. Vijayakumar,

Central Government Standing Counsel
(for R1)

Mr. T.R. Sundaram, Standing Counsel
(for R2)

O R D E R
(through video conference)

Heard Mr. M.V.Swaroop, Learned Counsel for the Petitioner, Mr. A.Vijayakumar, Learned Central Government Standing Counsel for the First Respondent and Mr. T.R.Sundaram, Learned Standing Counsel for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner is aggrieved by the order No. 164/2019 dated 11.12.2019 passed by the First Respondent viz., Central Government Industrial Tribunal, Chennai, which is the Appellate Authority under Section 7-I of the Employee's ***Provident Funds and Miscellaneous Provisions Act 1952**, requiring the Petitioner to deposit 60% of the dues determined in the order that has been impugned in that appeal on or before 07.02.2020, as condition for entertaining the same in terms of the Second Proviso to Rule 7(2) of the Employees' ***Provident Fund Appellate Tribunal (Procedure) Rules 1997**. It is submitted by the learned Counsel for the Petitioner that the Petitioner is entitled to the benefit in terms of the order dated 06.06.2013 in W.P. (C) No. 13476 of 2013 (H) passed by the High Court of Kerala in respect of a similarly placed person, but that contention has not been considered while passing impugned order. In order to show bonafides, a copy of demand draft in favour of the First Respondent for the sum of Rs. 6,56,664/-, which is represented to be the amount that would be payable in terms of calculation made on that basis, has been produced.

3. Having regard to the aforesaid contention raised, this Court without expressing any view on the correctness or entitlement on the merits of the claim made by the Petitioner in that regard, sets aside the impugned order dated 11.12.2019 in EPFA No. 164 of 2019 dated 11.12.2019 and directs that the waiver/stay application in the appeal shall be restored to file and listed for hearing before the First Respondent on 01.10.2020, for affording opportunity of hearing to the Petitioner and the Second Respondent and pass fresh reasoned orders on merits and in accordance with law. The Petitioner shall hand over the said Demand Draft for the sum of Rs. 6,56,664/- to the Registry of the Central Government Industrial Tribunal on or before 21.09.2020 under written acknowledgment, which shall be encashed to the credit of that appeal. It is needless to add here that depending upon the outcome of the order to be passed by the First Respondent in the waiver/stay application, further proceedings in the appeal shall take place.

4.

In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar(CS III)

Dated: 15.09.2020

*** Corrected as per order
of this Court dated 30.09.2020
made in W.P. No. 3275/2020 and
W.M.P. Nos. 3788 & 3790/2020
sd/- Assistant Registrar(CS-III)
Dated: 13.10.2020**

//True Copy//

Sub Assistant Registrar

vjt/dm
To

To be Substituted to
the order already
despatched on
16/09/2020

1. The Central Government Industrial Tribunal (CGIT),
1st Floor, B Wing, 26, Haddows Road,
Shastri Bhavan,
Nungambakkam,
Chennai - 600 034.
2. The Assistant Provident Fund Commissioner (C&R),
Employee's Provident Fund Organization,
Regional Office,
No. 37, Royapettah High Road,
Royapettah,
Chennai - 600 014.

+1 cc to M/s.a.Vijayakumar, Advocate Sr.No. 29174

W.P. No. 3275 of 2020

SSV(CO)
RMP(15/09/2020)
SP(13/10/2020)

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