

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2020

CORAM

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

Review Application No. 121 of 2020
in
W.P. No. 12282 of 2020

M/s. Puducherry Management and
Productivity Council (PMPC), represented
by Secretary-cum-General Manager,
District Industries Centre,
NSIC Compund, Industrial Estate,
Thattanchavady, Pondicherry - 605 009.

... Petitioner

-vs-

1. Central Government Industrial Tribunal-cum-EPF
Appellate Tribunal at Chennai represented by
Shri Dipti Mohapatra, Presiding Officer,
'B' Wing, 1st Floor Shastri Bhawn,
26, Haddows Road, Chennai - 600 006.

2. Regional Provident Fund Commissioner-II/OIC,
Regional Office, No. 101, 100 Feet Road,
Sree Venni Commercial Complex,
Cholan Nagar, Olandaikerapalayam,
Puducherry - 605 004.

... Respondents

Prayer:- Review Application filed under Order XLVII Rule 1 read with
Section 114 of the Code of Civil Procedure, 1908, praying to review the order
passed in W.P. No. 12282 of 2020 dated 01.10.2020.

For Petitioner : Mr. Stalin Abhimanyu,
Government Advocate (Puducherry)
for Mrs. N. Mala,
Government Pleader (Puducherry)

For Respondents : R1 – Tribunal

Mrs. V.J.Latha
Standing Counsel (For R2)

ORDER
(through video conference)

Heard Mr. Stalin Abhimanyu, Learned Government Advocate (Puducherry) appearing for the Petitioner and Mrs. V.J.Latha, Learned Standing Counsel appearing for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner had preferred the appeal in EPFA No. 122 of 2019 before the First Respondent under Section 7-I of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as the 'EPF Act' for short), against the order No TN/RO/PDY/PC/1555/Comp/DIV-II/7A ORDER/2019-20/408 dated 10.06.2019 passed by the Second Respondent determining the liability of the Petitioner for Provident Fund dues for the period from November 2012 to May 2018 for Rs. 6,77,417/- under Section 7-A of the EPF Act. In the said appeal, the Petitioner had made an application in terms of Section 7-O of the EPF Act for waiver of the condition to deposit of 75% of the amount that had been determined in the order impugned in the appeal for

entertaining the same. The First Respondent by an order dated 14.08.2019 had reduced the amount required to be deposited from 75% to 40%, which was to be paid on or before 14.10.2019. The Petitioner did not satisfy with that requirement and ultimately the appeal has been dismissed by order dated 21.02.2020 for such non-compliance. The Petitioner challenged the said order in the Writ Petition in W.P. No. 12282 of 2020 before this Court, which was dismissed by order dated 01.10.2020. This Review Application has been filed to re-consider that order passed in that Writ Petition by this Court.

3. It is now brought to the notice of this Court by the Learned Counsel for the Petitioner that during the pendency of the said Writ Petition, action had been taken by the Petitioner for sanction of funds from the Government of Puducherry to make the pre-deposit of 40% of the determined amount, but it was only after the disposal of that Writ Petition on 01.10.2020 that the said amount has been received on 14.10.2020 from the District Industries Centre, Government of Puducherry. On that premise, it is submitted that the order dated 01.10.2020 passed by this Court in W.P. No. 12282 of 2020 may be recalled and the appeal in EPFA No. 122 of 2019 may be restored to file of the First Respondent by permitting the Petitioner to deposit the required amount with the Second Respondent. Learned Counsel for the Petitioner has produced a copy of

the interest fetching Fixed Deposit Receipt bearing No. 810145110002671 dated 18.12.2020 for Rs. 27,50,967/- representing the value of 40% of the determined amount, which has been invested with the Bank of India, Kadhirkamam Branch, Puducherry, in the name of the Second Respondent, and a memo has been filed to that effect, which has been placed on record.

4. Having regard to the aforesaid submissions made by the Learned Counsel for the Petitioner, which deserve acceptance and in consonance with the principles laid down by the Hon'ble Supreme Court of India in ***Shyam Kishore -vs- Municipal Corporation of Delhi*** [(1993) 1 SCC 22] explaining the manner in which the condition of pre-deposit for entertaining statutory appeal has to be effectuated, the order dated 01.10.2020 in W.P. No. 12282 of 2020 passed by this Court is recalled and the order dated 21.02.2020 in EPFA No. 122 of 2019 passed by the First Respondent is set aside and that appeal is restored to file. The Petitioner shall forthwith hand over the said Fixed Deposit Receipt for Rs. 27,50,967/- to the Second Respondent under written acknowledgement, and such proof shall be produced before the First Respondent by 18.01.2021 in compliance of its order dated 14.08.2019 in EPFA No. 122 of 2019 passed in that appeal. The Petitioner and the Second Respondent shall appear through their respective Counsel before the First Respondent for the next hearing on

28.01.2021. If the First Respondent is not in a position to take up the matter for hearing on that date, it shall inform to all parties concerned of the date of hearing to which it is adjourned in the prescribed manner. The First Respondent shall afford full opportunity of hearing to all parties concerned following the prescribed procedure in consonance with the principles of natural justice and shall pass reasoned orders dealing with each of the contentions raised by the parties on merits and in accordance with law. It is needles to add here that the First Respondent at that stage would also issue necessary directions relating to appropriation/refund of the pre-deposit amount in favour of the succeeding party depending upon the outcome of that appeal.

In the result, the Review Application is allowed and the Writ Petition is disposed on the aforesaid terms. No costs.

सत्यमेव जयते

21.12.2020

Maya/vjt

Index: Yes/No

Note: Issue order copy by 06.01.2021.

WEB COPY

P.D. AUDIKESAVALU, J.

Maya

To

1. The Presiding Officer,
Central Government Industrial Tribunal-cum-EPF
Appellate Tribunal at Chennai,
'B' Wing, 1st Floor Shastri Bhawn,
26, Haddows Road, Chennai - 600 006.
2. The Regional Provident Fund Commissioner-II/OIC,
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Copy to

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